

ORDINANCE NO. 2023-2912



An Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.100.030, 15.100.050, 15.100.140, 15.235.020, 15.235.030, 15.235.040, 15.235.050, 15.240.060, 15.326.040, 15.346.080, 15.405.050, 15.410.080, 15.415.070, 15.505.020, 15.505.030

Recitals:

1. The Oregon Legislature adopted SB 458 during the 2021 Legislative Session.
2. After proper notice, the Newberg Planning Commission opened a hearing on February 9, 2023, considered public testimony and deliberated. They found that the proposed amendments were in the best interests of the City and adopted Resolution No. 2023-383.
3. After proper notice, the Newberg City Council opened a hearing on March 6, 2023, considered public testimony and deliberated. A first reading of the ordinance was conducted.
4. City Council conducted a second reading of the ordinance on May 1, 2023. They found that the proposed amendments were in the best interests of the City.

The City of Newberg Ordains as Follows:

1. The Newberg Development Code is amended and shown in Exhibit "A".
2. The adoption is based upon the findings in Exhibit "B".
3. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

Effective Date of this ordinance is the day after the adoption date, which is: May 31, 2023.

Adopted by the City Council of Newberg, Oregon, this 1st day of May, 2023, by the following votes:

AYE: 6 NAY: 0 ABSTAIN: 0 ABSENT: 1 [Carmon]

Zaira Robles Muñiz, Administrative Specialist

Attest by the Mayor this 1st day of May, 2023.

Bill Rosacker, Mayor

Exhibit “A” to Ordinance No. 2023-2912
Development Code Amendment – File DCA22-0001

Note: Existing text is shown in regular font.
Added text is shown in double underline
Deleted text is shown in ~~strikethrough~~.

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, 15.05.030 shall be amended to read for the following definitions:

“Expedited land division” means a division of land under ORS 92.010 to 92.205, 92.205 to 92.245 or 92.830 to 92.845 by a local government that includes land that is zoned for residential uses and is within an urban growth boundary, is solely for the purposes of residential uses, and does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals.”

“Middle Housing Land Division” means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).

Section 2. Subsection B of Section 15.100.030 is amended to read:

B. Type II actions include, but are not limited to:

1. Site design review.
2. Variances.
3. Manufactured dwelling parks and mobile home parks.
4. Partitions, including Middle Housing Land Divisions.
5. Subdivisions, including Middle Housing Land Divisions, except for subdivisions with certain conditions requiring them to be processed using the Type III process, pursuant to NMC 15.235.030(A).

Section 3. Subsection B of Section 15.100.050 is amended to read:

B. Type III actions include, but are not limited to:

1. An appeal of a Type I or Type II decision: This action of the planning commission is a final decision unless appealed to the city council.
2. Conditional use permits: This action is a final decision unless appealed.

3. Planned unit developments: This action is a final decision unless appealed.
4. Substantial change to the exterior appearance of a historic landmark: This action is final unless appealed.
5. Establishment of a historic landmark: This is a final decision by the planning commission, unless appealed.
6. Establishment of a historic landmark subdistrict: This is a recommendation to the city council.
7. Comprehensive plan map amendments: This action is a recommendation to the city council.
8. Zoning map amendments and designation of subdistricts: This action is a recommendation to the city council.
9. Annexation: This action is a recommendation to the city council.
10. Subdivisions, including Middle Housing Land Divisions, with certain conditions requiring them to be processed using the Type III process, pursuant to NMC 15.235.030(A).

Section 4. Subsection A of Section 15.100.140 is amended to read:

A. The director shall approve or deny the development permit for a Type II action within 60 days, except for a Middle Housing Land Division which is 63 days, of accepting a complete permit application, unless it is a subdivision or a Middle Housing Land Division which has been converted to a Type III process pursuant to NMC 15.235.030(A).

Section 5. Subsection A of Section 15.235.020 is amended to read as follows:

A. Subdivision, ~~and Partition~~, and Middle Housing Land Division Approval through a Two-Step Process. Applications for subdivision, ~~or partition~~, or middle housing land division approval shall be processed by means of a preliminary plat evaluation and final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Section 6. Subsection B of Section 15.235.030 is amended to read as follows:

B. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval except for middle housing land divisions which are subject to 15.235.050. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to NMC 15.235.070. Phased subdivisions may be approved, pursuant to subsection (E) of this section, with

an overall time frame of not more than two years between preliminary plat and final plat approvals. In no case shall phased subdivision approval extend for more than five years from the approval date.

Section 7. Section 15.235.030 is amended to add a new subsection F to read as follows:

F. Middle Housing Land Division. Unless an applicant requests that an application be reviewed under the procedures set forth in NMC Chapter 15.235, a middle housing land division shall be processed as provided under ORS 197.360 through ORS 197.380, and are subject to the following:

1. Lots in the following districts or portions of districts may be divided for middle housing development: R-1, R-2, R-3, RP, AR, SD.
2. Middle Housing requirements found in NMC Chapter 15.235 only apply to middle housing land divisions permitted on or after June 30, 2022.
3. An application for a middle housing land division may be submitted at the same time as the submittal of an application for building permits for middle housing.
4. Applications for a middle housing land division shall be processed by means of a preliminary plat evaluation and a final plat evaluation.
5. If the application for a middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. Determination that an application is complete indicates only that the application contains the information necessary for a qualitative review of compliance with the Municipal Code standards.
6. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
7. The tentative approval of a middle housing land division is void if and only if a final plat is not approved within three years of the tentative approval.

Section 8. Section 15.235.040 is amended to read as follows:

Applications for preliminary plat approval, and middle housing land division preliminary plat approval, shall contain all of the following information:

A. General Submission Requirements.

1. Information required for a Type II application.
2. Traffic Analysis. A traffic analysis shall be submitted for any project that generates in excess of

40 trips per p.m. peak hour. A traffic analysis may be required for projects below the 40 trips per p.m. peak hour threshold when the development's location or traffic characteristics could affect traffic safety, access management, street capacity or a known traffic problem or deficiency. The traffic analysis shall be scoped in conjunction with the city and any other applicable roadway authority.

3. Public Utilities Analysis. The public facilities analysis shall be scoped with the city, and shall address the impact of the proposed development on the public wastewater and water systems. The analysis shall identify any mitigation or improvements necessary to the public facilities to adequately serve the development per city standards under adopted ordinances and master plans.

4. Stormwater Analysis. The stormwater analysis shall address the criteria listed in Chapter 13.25 NMC.

5. Wetland Delineation Approved by the Department of State Lands (DSL). An approved wetland delineation shall be submitted for any property listed in the National Wetlands Inventory (NWI) or that is located within the city's mapped stream corridor.

6. Future Streets Concept Plan. The future streets concept shall show all existing subdivisions, streets, and unsubdivided land surrounding the subject property and show how proposed streets may be extended to connect with existing streets. At a minimum, the plan shall depict future street connections for land within 400 feet of the subject property.

B. Preliminary Plat Information. In addition to the general information described in subsection (A) of this section, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all of the following information, in quantities required by the director:

1. General Information.

- a. Name of subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division in Yamhill County;
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- d. Zoning of tract to be divided, including any overlay zones;
- e. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a "preliminary plat."

2. Existing Conditions. Except where the director deems certain information is not relevant, applications for preliminary plat approval shall contain all of the following information on existing

conditions of the site:

- a. Streets. Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements. Width, location and purpose of all existing easements of record on and abutting the site;
- c. Public Utilities. Location and identity of all public utilities on and abutting the site. If water mains, stormwater mains, and wastewater mains are not on or abutting the site, indicate the direction and distance to the nearest utility line and show how utilities will be brought to standard;
- d. Private Utilities. Location and identity of all private utilities serving the site, and whether the utilities are above or underground;
- e. Existing Structures. Show all structures on the project site and adjacent abutting properties;
- f. Ground elevations shown by contour lines at a minimum two-foot vertical interval for slopes up to 10 percent and five feet for slopes over 10 percent. Show elevations for the subject property and within 100 feet of the subject property. Such ground elevations shall be related to some established benchmark or other datum approved by the county surveyor; the city engineer may waive this standard for partitions when grades, on average, are less than six percent;
- g. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- h. Wetlands and stream corridors;
- i. The base flood elevation, per FEMA Flood Insurance Rate Maps, as applicable;
- j. North arrow and scale; and
- k. Other information, as deemed necessary by the director for review of the application. The city may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed Development. Except where the director deems certain information is not relevant, applications for preliminary plat approval shall contain all of the following information on the proposed development:

- a. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street centerline grades. All tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;

- b. Easements. Location, width and purpose of all proposed easements;
- c. Lots and private tracts (e.g., private open space, common area, or street) with approximate dimensions, area calculation (e.g., in square feet), and identification numbers. Through lots shall be avoided except where necessary to provide separation of residential development from major traffic routes, adjacent nonresidential activities, or to overcome specific issues with topography or orientation;
- d. Proposed uses of the property, including total number and type of dwellings proposed, all existing structures to remain, areas proposed to be dedicated as public right-of-way or preserved as open space for the purpose of stormwater management, recreation, or other use;
- e. Proposed grading;
- f. Proposed public street improvements, pursuant to NMC 15.505.030, including street cross sections;
- g. Information demonstrating that proposed lots can reasonably be accessed and developed without the need for a variance and in conformance with applicable setbacks and lot coverage requirements;
- h. Preliminary design for extending city water and wastewater service to each lot, per NMC 15.505.040;
- i. Proposed method of stormwater drainage and treatment, if required, pursuant to NMC 15.505.050;
- j. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- k. Evidence of compliance with applicable overlay zones; and
- l. Evidence of contact with the applicable road authority for proposed new street connections. [Ord. 2880 § 2 (Exh. B § 7), 6-7-21; Ord. 2813 § 1 (Exh. A § 7), 9-5-17.]

Section 9. Section 15.235.050 is amended to read as follows:

A. Approval Criteria. By means of a Type II procedure for a partition, or a Type II or III procedure for a subdivision per NMC 15.235.030(A), the applicable review body shall approve, approve with conditions, or deny an application for a preliminary plat. The decision shall be based on findings of compliance with all of the following approval criteria:

1. The land division application shall conform to the requirements of this chapter;
2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of NMC Division 15.400, Development Standards;

3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, wastewater, stormwater, and streets, shall conform to NMC Division 15.500, Public Improvement Standards;
4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
5. The proposed streets, utilities, and stormwater facilities are adequate to serve the proposed development at adopted level of service standards, conform to city of Newberg adopted master plans and applicable Newberg public works design and construction standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through the appropriate legal instrument;
7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and
8. Evidence that improvements or conditions required by the city, road authority, Yamhill County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.

B. Middle Housing Land Division Criteria. The decision to approve a middle housing land division, processed as either a Type II or Type III procedure per 15.100.030 (B), shall be based on the following:

1. In addition to 15.235.050A, a Middle Housing Land Division shall comply with the following:
 - i. A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5)
 - ii. Separate utilities for each dwelling unit;
 - iii. Proposed easements necessary for each dwelling unit on the plan for:
 - a. Locating, accessing, replacing and servicing all utilities;
 - b. Pedestrian access from each dwelling unit to a private or public road;
 - c. Any common use areas or shared building elements;
 - d. Any dedicated driveways or parking; and
 - e. Any dedicated common area;
 - iv. Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas.
 - v. Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines.
 - vi. Notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.
 - vii. Conditions may be added to the approval of a tentative plan for a middle housing land division to:

- a. Prohibit the further division of the resulting lots or parcels.
 - b. Require that a notation appear on the final plat indicating that the approval was given under this section.
- viii. In reviewing an application for a middle housing land division, the city shall:
 - a. Apply the procedures under ORS 197.360 to 197.380.
 - b. Require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197.758.
 - c. May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.
 - d. May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or ORS 197.360 to 197.380.
 - e. May allow the submission of an application for a middle housing land division at the same time as the submission of an application for building permits for the middle housing.
 - f. May require the dedication of right of way if the original parcel did not previously provide a dedication.
 - g. The type of middle housing developed on the original parcel is not altered by a middle housing land division.
 - h. Notwithstanding ORS 197.312 (5), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.
 - i. The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval.
 - j. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.

CB. Conditions of Approval. The city may attach such conditions as are necessary to carry out provisions of this code, and other applicable ordinances and regulations. [Ord. 2880 § 2 (Exh. B § 8), 6-7-21; Ord. 2813 § 1 (Exh. A § 7), 9-5-17.]

Section 10. Section 15.240.060 is added to read as follows:

15.240.060 Middle Housing Land Divisions.

Middle Housing Land Divisions proposed as part of a planned unit development shall follow the lot requirements set forth in NMC 15.405.050 and 15.410.080.

Section 11. Subsection B of Section 15.326.040 is amended to read as follows:

B. Land Division.

1. Applicability. All land division proposals will follow the Type II procedure identified in NMC 15.100.030.

2. Requirements and Criteria.

- a. Partition applications shall meet the criteria set forth in NMC 15.235.030 and 15.235.050, Type II process and criteria.
- b. Subdivision applications shall meet the criteria set forth in NMC 15.235.030 and 15.235.050, Type II, or NMC 15.235.030 (F) and 15.235.050 (B) for Middle Housing Land Divisions, unless otherwise set forth in the “Development Standards Matrix” in the Springbrook master plan with the following exceptions:
 - i. Subdivisions within the Springbrook district are subject to the lot area and dimensional requirements set forth in the Springbrook master plan.
 - ii. Subdivisions within the Springbrook district are not subject to development standards otherwise administered by the site design review process in this section. [Ord. 2678 § 4 (Exh. 6(1)), 9-4-07. Code 2001 § 151.429.]

Section 12. Section 15.346.080 is added to read as follows:

15.346.080 Middle Housing Land Divisions.

Middle housing land divisions proposed in either the Northwest Newberg Specific Plan or Springbrook Oaks Specific Plan areas shall follow the lot requirements set forth in this chapter.

Section 13. Section 15.405.050 is added to read as follows:

15.405.050 Middle Housing Land Divisions.

Applications for middle housing land divisions shall follow the lot requirements set forth in this chapter.

Section 14. Section 15.410.080 is added to read as follows:

15.410.080. Middle Housing Land Divisions.

Applications for middle housing land divisions shall follow the yard setback requirements set forth in this chapter.

Section 15. Section 15.415.070 is added to read as follows:

15.415.070 Middle Housing Land Divisions:

Applications for middle housing land divisions shall follow the building and site design standards set forth in this chapter.

Section 16. Section 15.505.020 is amended to read as follows:

15.505.020 Applicability.

The provision and utilization of public facilities and services within the City of Newberg shall apply to all land developments in accordance with this chapter. No development shall be approved unless the following improvements are provided for prior to occupancy or operation, unless future provision is assured in accordance with NMC 15.505.030(E).

A. Public Works Design and Construction Standards. The design and construction of all improvements within existing and proposed rights-of-way and easements, all improvements to be maintained by the city, and all improvements for which city approval is required shall comply with the requirements of the most recently adopted Newberg public works design and construction standards.

B. Street Improvements. All projects subject to a Type II design review, partition, ~~or subdivision approval,~~ or Middle Housing Land Division approval must construct street improvements necessary to serve the development.

C. Water. All developments, lots, and parcels within the City of Newberg shall be served by the municipal water system as specified in Chapter 13.15 NMC.

D. Wastewater. All developments, lots, and parcels within the City of Newberg shall be served by the municipal wastewater system as specified in Chapter 13.10 NMC.

E. Stormwater. All developments, lots, and parcels within the City of Newberg shall manage stormwater runoff as specified in Chapters 13.20 and 13.25 NMC.

F. Utility Easements. Utility easements shall be provided as necessary and required by the review body to provide needed facilities for present or future development of the area.

G. City Approval of Public Improvements Required. No building permit may be issued until all required public facility improvements are in place and approved by the director, or are otherwise bonded for in a manner approved by the review authority, in conformance with the provisions of this code and the Newberg Public Works Design and Construction Standards. [Ord. 2810 § 2 (Exhs. B, C), 12-19-16.]

Section 16. Subsection E of Section 15.505.030 is amended to read as follows:

E. Improvements to Existing Streets.

1. All projects subject to partition, subdivision, ~~or~~ Type II design review, or Middle Housing Land Division approval shall dedicate right-of-way sufficient to improve the street to the width specified in subsection (G) of this section.
2. All projects subject to partition, subdivision, or Type II design review approval must construct a minimum of a three-quarter street improvement to all existing streets adjacent to, within, or

necessary to serve the development. The director may waive or modify this requirement where the applicant demonstrates that the condition of existing streets to serve the development meets city standards and is in satisfactory condition to handle the projected traffic loads from the development. Where a development has frontage on both sides of an existing street, full street improvements are required.

3. In lieu of the street improvement requirements outlined in NMC 15.505.040(B), the review authority may elect to accept from the applicant monies to be placed in a fund dedicated to the future reconstruction of the subject street(s). The amount of money deposited with the city shall be 100 percent of the estimated cost of the required street improvements (including any associated utility improvements), and 10 percent of the estimated cost for inflation. Cost estimates used for this purpose shall be based on preliminary design of the constructed street provided by the applicant's engineer and shall be approved by the director.

Exhibit “B” to Ordinance No. 2023-2912 Findings – File DCA22-0001

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on February 9, 2023, and Newberg City Council on March 6, 2023, which provided the opportunity for public comment. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendments are subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and is required by SB 458 and has been thoroughly described in this application.

The alternatives to amending the Municipal Code text would be to: 1) deny the application and follow the SB 458 requirements.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings.

The Goal is met.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to

agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

This Goal is met.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goals and policies. Complying with SB 458 does not negatively impact Goal 6.

This Goal is met.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's recreational goals and policies.

This Goal is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The implementation of SB 458 for Middle Housing Land Divisions does not apply to lands that are zoned for employment uses on Commercial, Industrial or Public lots or parcels with the primary use intended for those activities. These lands are held for employment or public improvements to further Goal 9 activities pursuant to Newberg's Economic Opportunities Analysis. Compliance with OAR Chapter 660 Division 046 will provide additional housing opportunities within the City of Newberg to support workers on employment designated lands.

The Goal is met.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: The City of Newberg is experiencing a variety of housing supply and costs issues. A Housing Needs Analysis was accepted by the City Council on July 19, 2021. That report indicates a lack of Medium Density and High-density residential land, significant increase in the median home price between 2018 and 2020 of \$90,000 and that over 50% of the households are cost burdened related to housing. Newberg is also a Severely Rent Burdened community as identified by HB 4006 where 28.5 percent of rental households pay 50% or more of their income towards housing costs. The hope is that implementation of SB 458 for Middle Housing Land Divisions will assist in meeting the housing needs and price point to so that the development community can provide other housing types (triplex, quadplex, cottage clusters, and townhouses) in an efficient manner for current and future citizens.

Newberg's adopted HNA dates to 2005 as an attachment updating the Population and Land Needs Projections element of the Comprehensive Plan as part of Ordinance No. 2005-2626. This document is now 21 years old. An update was prepared in 2019 but that report was only accepted by the City Council (Resolution No. 2019-3582) and not adopted. Newberg further updated the HNA in 2021 (Resolution No. 2021-3718 and Resolution No. 2021-3752) and that report has only been accepted and not adopted. The City Council has not set a date specific as to when they will adopt the 2021 HNA but is anticipated by the end of 2022 and they are aware that HB 2003 has a date set for December 31, 2024.

The Goal is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Not applicable as the proposed amendment does not effect public facilities and services.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: The City of Newberg has an adopted Transportation System Plan from 2016 which includes the Addendum Riverfront Master Plan 2021 which has gone through the Post Acknowledgment Amendment process. The transportation system is planned to accommodate the population growth of the community

for a 20-year planning period.

The proposal meets the Goal.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: Not applicable as the proposed amendment does not affect energy conservation.

This Goal is met.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the existing Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

This Goal is met.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding:

This Goal is met.

B. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on February 9, 2023, and Newberg City Council on March 6, 2023, which provided the opportunity for public comment. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendments are subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

B. LAND USE PLANNING

GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and is required by SB 458 and has been thoroughly described in this application.

The alternatives to amending the Municipal Code text would be to: 1) deny the application and follow the SB 458 requirements.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings.

The Goal is met.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICY: 1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goals and policies. Complying with HB 2001, ORS 197.758, and OAR 660 Division 46 does not negatively impact Goal 6.

This Goal is met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goals and policies.

Triplex, quadplex, cottage cluster and townhouse dwellings are required to follow the same regulations as single-family detached dwellings for development under NMC 15.343 AREAS OF SPECIAL FLOOD HAZARD OVERLAY (FHO).

This Goal is met.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: The proposed amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans, and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

This Goal is met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICY: 1. General Policies. b. The City shall encourage economic expansion consistent with local needs.

Finding: The implementation of SB 458 for Middle Housing Land Divisions do not apply to lands that are zoned for employment uses on Commercial, Industrial or Public lots or parcels with the primary use intended for those activities. These lands are held for employment or public improvements to further Goal 9 activities pursuant to Newberg's Economic Opportunities Analysis. Compliance with OAR Chapter 660 Division 046 will provide additional housing opportunities within the City of Newberg to support workers on employment designated lands.

The Goal is met.

I. HOUSING

GOAL: To provide for diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels. (Ordinance 2006-2634)

Finding: The City of Newberg is experiencing a variety of housing supply and costs issues. A Housing Needs Analysis was accepted by the City Council on July 19, 2021. That report indicates a lack of Medium Density and High-density residential land, significant increase in the median home price between 2018 and 2020 of \$90,000 and that over 50% of the households are cost burdened related to housing. Newberg is also a Severely Rent Burdened community as identified by HB 4006 where 28.5 percent of rental households pay 50% or more of their income towards housing costs. The hope is that implementation of SB 458 for Middle Housing Land Divisions will assist in meeting the housing needs and price point to so that the development community can provide other housing types (triplex, quadplex, cottage clusters, and townhouses) in an efficient manner for current and future citizens.

Newberg's adopted HNA dates to 2005 as an attachment updating the Population and Land Needs Projections element of the Comprehensive Plan as part of Ordinance No. 2005-2626. This document is now 21 years old. An update was prepared in 2019 but that report was only accepted by the City Council (Resolution No. 2019-3582) and not adopted. Newberg further updated the HNA in 2021 (Resolution No. 2021-3718 and Resolution No. 2021-3752) and that report has only been accepted and not adopted. The City Council has not set a date specific as to when they will adopt the 2021 HNA but is anticipated by the end of 2022 and they are aware that HB 2003 has a date set for December 31, 2024.

The Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.

GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: Not applicable because the proposal does not propose any land use regulation changes to urban design policies or regulations.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development,

operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

GOAL 9: Create effective circulation and access for the local transportation system.

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: The City of Newberg has an adopted Transportation System Plan from 2016 which includes the Addendum Riverfront Master Plan 2021 which has gone through the Post Acknowledgment Amendment process. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period.

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Finding: Not applicable as the proposed amendment does not effect public facilities and services.

M. ENERGY

GOAL: To conserve energy through efficient land use patterns and energy- related policies and ordinances.

Finding: Not applicable as the proposed amendment does not affect energy conservation.

N. URBANIZATION

GOALS:

1. To provide for the orderly and efficient transition from rural to urban land uses.
2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the existing Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and

providing cultural activities.

The Goals are met.

C. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

- 1. Amendments to the Newberg comprehensive plan text;*
- 2. Amendments to the Newberg development code;*
- 3. The creation of any land use regulation.*

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendments to the Comprehensive Plan and Development Code.

This requirement can be met.

Conclusion: The proposed Development Code amendment meets the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.