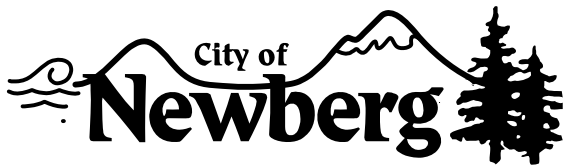


**NEWBERG HISTORIC
PRESERVATION COMMISSION
Tuesday, October 21, 2014
7:00 p.m., Newberg City Hall
Permit Center Conference Room
414 E. First Street, Newberg, OR**

- I. Open Meeting**
- II. Roll Call**
- III. Approval of September 16, 2014 Meeting Minutes**
- IV. Certified Local Government Conference**
- V. Quasi-judicial hearing training**
- VI. Next Meeting – November 18, 2014**
- VII. Other Business**
- VIII. Adjourn**

ATTACHMENTS

- A. Draft meeting minutes for September 16, 2014Pg. 2 - 3
- B. Introductory Guide to Land Use Planning for Small Cities and Counties in Oregon...Pg. 4 - 8
- C. Ex parte contacts, conflicts, bias definitionPg. 9
- D. City of Newberg Planning Commission Participation GuidePg. 10 - 27
- E. Ordinance No. 2013-2764Pg. 28 - 39



**NEWBERG HISTORIC
PRESERVATION COMMISSION
Tuesday, September 16, 2014
7:00 p.m., Newberg City Hall
Permit Center Conference Room
414 E. First Street, Newberg, OR**

I. Open Meeting – 7:00 p.m.

II. Roll Call – Commissioner Attendees included Chairman Rick Fieldhouse, Vice-Chairman Chuck Zickefoose, Geary Linhart and Barbara Doyle. Commissioner Isamar Ramirez was absent.

Staff present included Associate Planner David Beam, Interim Building and Planning Director Steve Olson and Interim City Recorder Sue Ryan.

Associate Planner David Beam announced Commissioner George Edmunston had resigned due to personal reasons. There was a brief discussion on the committee vacancy.

III. Approval of August 19, 2014 Meeting Minutes

There were minor amendments to the minutes. Zickefoose moved, seconded by Linhart to approve the minutes as amended. The motion carried unanimously.

IV. Define project for CLG grant application

Chair Fieldhouse said he wanted to remind the committee of what their purpose is under the Municipal Code. He read from Ordinance 2013-2764 , the establishing ordinance for the committee.

He explained the requirements for the CLG grants, which can range between \$5,000 to \$20,000. He shared some information on what other communities had applied for as examples of what the committee could consider.

Associate Planner David Beam explained the procedure for applying for the CLG grants. There was discussion on the four items the commissioners had focused on at their last meeting including: research historic district (downtown area), preserve historical items on 1st Street, receive some training from SHPO, and research other communities who had a bypass developed around them. Vice-Chair Chuck Zickefoose suggested adding a fifth item: plaques for downtown buildings.

There was discussion on the plaques and what work would qualify for CLG grants. The plaques could be part of the researching the historic district option and how to achieve their goals.

Interim Building and Planning Director Steve Olson explained the early research on the bypass showed a projection of an initial 20 % drop in traffic through the downtown area.

There was a discussion on the benefits of historic districts and how to define its boundaries in the Newberg downtown area.

Commissioner Linhart suggested that the information about listing an historic district on page 8 in the meeting packet could be what the commission could do with the CLG grant funding.

Associate Planner Beam asked if he was hearing consensus about what the Commission would like to focus on for their CLG application. He wrote on the board – Research Downtown: create historic resources record (beginnings of possible historic district designation), make downtown stand out from historic lens (e.g. catchy name, signage and wayfinding, façade improvements/historical restorations, hire expert to identify projects), historic brochures on the history buildings and area, historic brochure of unique items, mapping items through a survey as a process to preserve/locate historical features. Work could include collaborating with NDC, use of GFU grad students and other partners. Also include a survey of historic property owners.

Commissioner Linhart said the state had to recognize that it was even feasible for Newberg to maybe get an historic district. The first step was setting up an Historic Research Record.

Commissioner Doyle said national historic district was not be her primary reason for doing all this historic research and work.

There was discussion on whether the City could even designate the downtown to be a historic district under the Municipal Code without the state approving it through the SHPO process. The commission discussed the strategy for carrying out their goals.

Commissioner Linhart said he would like to add to the list historical tours or brochures as part of the way to educate the public about the buildings and area.

V. Next Meeting – October 21, 2014

VI. Other Business

Commissioner Vacancy

VII. Adjourn

An Introductory Guide to Land Use Planning for Small Cities and Counties in Oregon



**Produced by the
Oregon Department of Land Conservation and Development**

January 2007

Chapter 11

Types of Public Hearings

In processing land use actions in Oregon, there are two types of public hearing procedures: legislative and quasi-judicial. The two-hearing processes differ significantly in the procedural and public notice requirements.

A legislative hearing is a public hearing in which the planning commission, city council, board of commissioners, or county court is acting as a legislator, making new law. A quasi-judicial hearing is a type of land use proceeding in which the decision maker is acting in the capacity of a judge.

When deciding whether a particular matter is legislative or quasi-judicial, ask three questions:

- Does the issue being considered affect only one or a few parcels and a small number of property owners?
- Does the decision have to comply with existing approval criteria?
- Is the jurisdiction required to make a decision on the matter?

If the answers to these questions are yes, then use quasi-judicial procedures. If the answers to all the questions are no, it is a legislative matter. Sometimes the answers are mixed and it is not clear which hearing procedure should be employed. Legal counsel will be able to help decide ambiguous cases.

Legislative Hearings

Legislative hearings typically occur when considering amendments to the goals and policies in the comprehensive plan, to major map amendments, and to changes to the zoning ordinance. They are generally initiated by the local government.

Zoning ordinances usually provide procedures for sending notice of legislative hearings. Procedures generally include providing notice of the hearing in a newspaper of general circulation at least 10 days before the hearing. Local provisions may include additional requirements.

There can be pre-hearing contact between citizens and the decision makers on legislative matters. That is, “*ex parte* contact” is not a concern. Decision makers are seeking all the input they can get on the issues in order to make a reasonable decision on the proposed amendments.

During the process of the hearing, it is appropriate for the presiding officer to explain the nature of the hearing, and ask for a staff report from the planner. Some jurisdictions ask people in favor of the proposed amendment to testify first, followed by those opposed to the amendment. This may not be appropriate for a legislative matter. Rather, it may be advisable simply to ask people to testify in the order they signed up. The proposal may be complex and the issues diverse.

A party may be in favor of parts of the proposal and opposed to others.

It is also advisable for decision makers to prepare a series of findings indicating the rationale for adopting or denying the proposed amendments.

Quasi-Judicial Hearings

A quasi-judicial hearing is a type of land use proceeding in which the decision maker addresses a narrow land use issue, normally related to one or a limited number of parcels, and apply existing criteria.

Typical variance, conditional use permit, and zone change hearings are all quasi-judicial hearings. They are generally initiated by an applicant. Appeals of an administrative decision on these types of applications are also quasi-judicial.

In Oregon, the quasi-judicial hearing has assumed a major importance in the land use arena. There are certain procedural steps that must be taken, including the notice of the hearing, announcements at the beginning of the hearing, testimony during the hearing, and process after the decision. (Public Notice is covered in the next chapter, but some of the state requirements overlap.)

It is suggested that you be familiar with several of the Oregon Revised Statutes. In particular, ORS 197.763, "Conduct of Local Quasi-Judicial Land Use Hearings, Notice Requirements, Hearing Requirements" (see Exhibit B). The requirements of ORS 197.763 mandate a certain procedure at the beginning of a quasi-judicial hearing.

At the outset of the hearing, the chairperson or designee announces the

nature of the hearing; indicates the review criteria; and polls the decision-making body for *ex parte* contact, pre-hearing bias, or other factors that would preclude an individual decision maker from sitting in on the case. These are situations in which the individual decision maker is asked to determine whether he or she will be able to render an unbiased decision because of contact with parties outside the hearing (*ex parte* contact), pre-hearing bias, or a conflict of interest.

In many cases, pre-hearing contact is difficult to avoid. It simply should be reported at the outset of the hearing, and the decision maker can remain on the board. It is very important that the report of *ex-parte* contact include a summary of what the person learned from the contact. This gives the other members of the decision-making body access to all of the information, and also allows an opportunity for rebuttal of the information if other parties disagree. For the same reason, if any member of the decision-making body has made a visit to the site, he or she should report on the visit and what was observed on the site.

A pre-hearing bias or conflict of interest, on the other hand, should cause the decision maker to step down from that particular hearing issue. A conflict of interest occurs in cases where a member of the decision-making body, or a member's family, stands to profit from the outcome of the decision.

The chairperson must advise the audience of the provisions of ORS 197.763, including statements that testimony, arguments, and evidence must be directed toward the criteria and that failure to raise an issue with

sufficient specificity to afford the decision maker and other parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue (the so-called "raise it or waive it" requirement).

The hearing normally begins with the staff report, followed by the proponent's case, the opponent's case, and rebuttal from the applicant, if necessary. Public agencies wishing to comment may follow.

The public hearing is then closed and the matter goes to deliberations. During deliberations, the decision-making body has essentially three options:

- Make a decision with findings documenting how the application satisfied or did not satisfy appropriate criteria;
- Determine that there is not enough information to make a decision and continue the hearing to a specified date and time; or
- Schedule deliberations for a specified date and time.

If the hearing or the deliberations are continued to a specified date and time, no additional advertising or notice is necessary. ORS 197.763 includes specific rights regarding who may ask for a continuance or for the record to be left open.

Findings

There are entire books written on preparing findings of fact for decisions. Essentially, what needs to be done in any quasi-judicial land use case is to make findings to support the decision.

Basic facts need to be enumerated (facts such as who, what, where, when, and why). The review criteria need to be spelled out and findings evaluating whether the proposal complies with the review criteria must be outlined. These do not have to be lengthy documents in legal jargon. They need to simply state how the facts of the situation relate to the review criteria. These findings need to be included in the files as part of the hearing body's decision.

For variances and conditional use permits, a simple order (such as the sample in Exhibits) is all that is needed. For Zoning Ordinance and Comprehensive Plan Map Amendments, an ordinance approved by the city council or board of commissioners is required.

Tips on Running Public Hearings

- Introduce the body (planning commission, council, board, or court) and staff at the outset of the hearing.
- Use a sign-up sheet that requires names and addresses to keep track of proponents and opponents who wish to speak or receive notice of the decision or both.
- Set a time limit for each speaker, if necessary. Try to keep speakers focused on relevant criteria.
- Keep control of the hearing. There are several short courses available for planning commissioners. New planning commissioners and other elected officials are encouraged to attend.
- Record names and mailing addresses of all hearing participants. These people qualify as "parties" to the hearing and must be notified of the decision.

Final Decision

A final decision is one made by the planning commission or council/board that stands unless appealed. The decision must be put in writing and signed by the appropriate city or county official.

Notice of Decision

Once the final decision has been made, a written notice of the decision must be mailed to the applicant, all parties at the public hearing, and those who requested it. In the case of a comprehensive plan text or map amendment or a zoning change, where the 45-day notice was

sent to DLCD, a notice of the decision must be given to DLCD within five working days of the final decision.

Appeals

The zoning ordinance has an appeal process, usually in the administrative provisions section. An appeal of the planning commission decision will generally go to the elected officials, but some jurisdictions use a hearings officer. A final local decision can be appealed to LUBA. LUBA appeals must be filed within 21 days of the final local decision.

Jefferson Municipal Code

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Title 3 REVENUE AND FINANCE
[Chapter 3.20 MEASURE 49 CLAIMS](#)

3.20.100 Ex parte contacts, conflict of interest, bias.

The following rules govern any challenges to a councilmember's participation in the processing of any claim:

- A. Any factual information obtained by a councilmember outside the information provided by city staff, or outside the formal written comments process or hearing will be deemed an ex parte contact. The council-member that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and councilmembers.
- B. Whenever a member of the city council, or any member of their immediate family or household, has a direct financial interest in the outcome of a particular claim or lives within the area entitled to notice of the claim, that councilmember shall not participate in the deliberation or decision on that claim.
- C. All decisions on claims must be fair, impartial and based on the applicable review standards and the evidence in the record. A councilmember who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that claim. (Ord. 663 § 10, 2009)

CITY OF NEWBERG PLANNING COMMISSION PARTICIPATION GUIDELINES

Adopted January 12, 2012

NEWBERG PLANNING COMMISSION PARTICIPATION GUIDELINES

Newberg planning commission members will strive to:

- 1) Trust and respect the opinions of fellow commission members, staff, and the public and actively participate in the decisions of the planning commission.
- 2) Attend all planning commission meetings.
- 3) Notify the planning staff of an absence as soon as practical prior to the meeting time.
- 4) Make every attempt to resolve any personal conflict with a fellow planning commissioner prior to bringing the conflict to the attention of the planning commission.
- 5) Study material presented in a timely manner and be informed on the issues that come before the commission.
- 6) Follow the commission rules.

NEWBERG PLANNING COMMISSION MEETING EXPECTATIONS

Newberg planning commission members will:

- 1) Be courteous and respectful of citizens and create a welcoming environment that actively involves citizens in the governmental process.
- 2) Communicate in clear, concise and audible verbal and written communications.
- 3) Use a friendly and sincere tone of voice.
- 4) Honor and act on all requests for action and/or information in a timely and courteous manner.
- 5) Discuss issues, but not personalities, with non-commission members.
- 6) After an issue has been voted on, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the planning commission, even if their personal opinion differs from the planning commission's decision.
- 7) Vote on all motions before the commission, or explain the reasons for abstaining.

CITY OF NEWBERG PLANNING COMMISSION RULES

Adopted January 12, 2012

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Newberg Planning Commission Rules

SECTION 1 – AUTHORITY

Rule 1.1 Authority of Rules

The planning commission will adopt commission rules by resolution to govern its meetings and proceedings. These rules will decide questions and give direction on debating, voting, membership, attendance, agendas, and other matters. The rules are intended to serve as a guide for the planning commission. One of the goals of the planning commission is to work with the residents of Newberg and provide a positive atmosphere at planning commission meetings. These rules provide the basic outline required to work together. The commission may need to vary from these rules from time to time to best serve the public interest.

Rule 1.2 Questions about these Rules

All questions regarding these rules will be resolved by majority vote of the commission.

Rule 1.3 Presentation of Rules to Planning Commission Members

These planning commission rules will be presented to all planning commission members at or before the time they take the oath of office.

Rule 1.4 Amendments to Planning Commission Rules

Amendments to these planning commission rules will be made by resolution.

SECTION 2 – GENERAL RULES

Rule 2.1 Public Meetings Law

All planning commission meetings will be held in accordance with the Oregon Public Meetings Law (“OPML”). The meetings of the commission, including regular meetings, special meetings, work sessions and emergency meetings are open to the public. The meetings are considered a limited public forum at which planning commission business is conducted in accordance with the agenda and rules of the planning commission. The chair, along with the commission, has the authority to require discussion at the meetings be addressed to the matters that are appropriate to be considered, to limit the time for discussion, and to restrict input concerning the matters to be discussed. The planning commission has the right to require persons attending the meeting, addressing the commission or participating in the meeting to conform to the rules of the commission and directions of the chair.

Rule 2.2 Quorum

Section 2.15.280 of city’s municipal code provides that a majority of the voting members of the planning commission constitutes a quorum to conduct business.

Rule 2.3 Lack of Quorum

If there is a lack of quorum at any scheduled meeting, any hearings scheduled shall be continued to the next scheduled meeting of the commission by announcement to those present, or by posting notice of such continuance prominently at the meeting location.

Rule 2.4 Rules of Order

"Robert's Rules of Order, Newly Revised, Tenth Edition" or the latest editions published thereafter hereafter referred to as "Robert's Rules of Order" will govern all planning commission proceedings unless they conflict with these rules. The chair will have the authority to appoint a parliamentarian for the commission. If there is no person appointed as parliamentarian or that person is absent, the city attorney or planning director will advise the chair concerning parliamentarian matters.

Rule 2.5 Enforcement of Rules

The chair will enforce the planning commission rules. In addition, the chair has the authority to preserve decorum and will determine all points of order, subject to the right of any planning commissioner to appeal to the commission. The chair will enforce order, prevent attacks on personalities or the impugning of members' motives, and keep those in debate to the question under discussion.

Rule 2.6 Suspension of Rules

The vote to suspend commission rules, including Robert's Rules of Order, requires a majority vote of those members of the planning commission who are present. If the motion is carried, the rules will be suspended for that item only.

Rule 2.7 Commissioners Duties to Uphold Rules and Decorum

Commissioners will preserve order and decorum during planning commission meetings, and will not by conversation or other action delay or interrupt the proceedings or refuse to obey the orders of the chair and commission rules. Commissioners will, when addressing staff or commissioners, confine themselves to questions or issues that are under discussion, will not engage in personal attacks, will not impugn the motives of any speaker, and will at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of office. Commissioners will not attack the knowledge, skills, abilities and personalities or impugn city staff members' motives in commission or at any city meetings.

Rule 2.8 Removal of Any Person for Violation of Rules

Any persons making disruptive or threatening remarks or actions during a meeting will forthwith be barred from further audience at that meeting, unless permission to continue is granted by a majority vote of the commissioners present. The planning director or chair may summon the assistance of the police or other administrative staff to prevent further interruption by such person by any action necessary, including the removal of that individual. In case the planning director or chair should fail to act, any commissioner may obtain the floor and move to require enforcement of this rule, upon an affirmative vote of the majority of the commissioners present, the police or administrative staff will be authorized to remove the person(s) as the chair so directs.

Rule 2.9 Records of Proceedings

The city recorder will provide a secretary for the commission who will keep a record of commission proceedings. The records of the proceedings are to be known as "minutes." The minutes will be kept in accordance with the Oregon Public Records and Meetings Law.

SECTION 3 – PLANNING COMMISSION MEMBERS

Rule 3.1 Attendance

It is the duty of each commissioner to attend all meetings of the planning commission unless excused. A member of the commission may be removed by the city council after hearing for misconduct or nonperformance of duty. Per Newberg Code 2.15.250(C), a member who is absent from two consecutive meetings without an excuse as approved by the planning commission is rebuttably presumed to be in nonperformance of duty and the city council shall declare the position vacant unless finding otherwise following the hearing.

Rule 3.2 Excused Absences

When a commissioner cannot attend a meeting, the member is to notify the planning director prior to the meeting. Absences will be considered excused when such notice is given. An absence will be considered unexcused if there is no notification of the absence prior to the meeting, unless otherwise determined by vote of the commission.

Rule 3.3 Report of Absences

The planning director will report to the city council any time a commissioner has four or more absences in a twelve-month period, along with the reasons for any excused absences. The planning director also will report to the city council any time a commissioner has two or more unexcused absences in a twelve-month period. The purpose of this notice is to inform the council of the member's attendance, and does not require any particular action by the council unless they so elect.

Rule 3.4 Mayor as Ex-Officio Member of the Planning Commission

By code, the mayor serves as a non-voting ex-officio member of the planning commission. The mayor shall be invited to, but is not obligated to, attend all meetings and activities of the planning commission. When attending, the mayor shall sit with the commission.

When participating in legislative matters, the mayor shall be invited to participate in the discussion. The mayor shall recuse himself/herself from quasi-judicial matters that eventually may be before the council for decision. This is to avoid questions of ex parte contact or bias in the decision.

Rule 3.5 Student Planning Commissioner

The student planning commissioner is a high school student who applies for the position by filling out an application for the city committee and gives the City of Newberg a letter of recommendation from a teacher. The mayor selects an individual student and the city council approves the mayor's nomination. The student planning commissioner is expected to attend all planning commission meetings, unless excused by the planning commission. The student commissioner serves a one year term and is allowed and encouraged to participate in all planning commission events and activities except for voting. The chair shall seek the opinion of the student prior to any significant votes.

Rule 3.6 Planning Commissioner Training

The City shall offer training to planning commissioners to educate them in their duties. It shall be the duty of any newly appointed planning commissioner to attend a basic training session from staff within 30 days of his or her appointment. It shall be the duty of any re-appointed planning commissioner to attend at least a one-hour training session from staff or offered by the city within 12 months of the beginning of that person's appointed term. Planning commissioners are strongly encouraged to attend training of some kind annually.

SECTION 4 – PRESIDING OFFICER**Rule 4.1 Chair**

The chair will preside over and facilitate all planning commission meetings, preserve order, enforce commission rules, and determine the order of business pursuant to planning commission rules. The chair is a voting member of the commission and will sign all records of planning commission decisions.

Rule 4.2 Vice Chair

In the absence of the chair, or if the chair is unable to perform the chair's duties, the vice chair will act as the presiding officer. Whenever in these rules the chair is mentioned, the vice chair acting as presiding officer can exercise the same authority as the chair. The vice chair also assists the chair in his/her duties, such as keeping time, maintaining order, and determining order of speakers.

Rule 4.3 Chair Pro Tem

In the absence of the chair and vice chair at any meeting of the planning commission where a quorum is present, the planning commission members present shall appoint a chair pro tem who will act as presiding officer. The chair pro tem will exercise all the authority of the chair during that meeting.

Rule 4.4 Election of Chair and Vice Chair

At the first meeting of each year, or upon vacancy of the current chair or vice chair, the commission shall elect a chair and vice chair for the remainder of the calendar year. The commission's policy is to rotate the positions by seniority in such a fashion that each member has the opportunity to serve first as vice-chair, and then the following year as chair. Newly appointed members will be placed at the bottom of the current rotation to allow them to serve a few years first as commissioner then later as chair and vice chair. In case multiple members are appointed at the same time, the commission will decide seniority by vote. The policy does not compel any member to serve as chair who is unwilling, nor does it compel election when the majority determines the commission would be better served by election of different officers. The commission shall consent to the election of each chair and vice chair and absent such consent, shall elect positions by majority vote.

SECTION 5 – PLANNING COMMISSION MEETINGS

Rule 5.1 Regular Meetings

Section 12 of the city charter provides that the planning commission must meet at least once a month at a time and place designated by the planning commission. The planning commission designates through these rules that the regular meetings of the commission will be held on the second Thursday of each month, except on holidays in which event the commission will meet on the second Wednesday. The commission also will meet on the fourth Thursday if business so requires.

Rule 5.2 Meeting Times and Places

The regular meetings of the commission will begin at 7:00 p.m. Regular planning commission meetings will take place in the Public Safety Building in the training room at 401 E. Third St., unless specifically designated to occur at another location. Any other such location will be noted in the notice of the meeting. There will be no new items presented after 10:00 p.m. except by vote of the planning commission.

Rule 5.3 Notice of Meeting

The notice of the regular meeting of the planning commission, including the agenda which lists items to be considered by the planning commission, will be given in accordance with the OPML. However, the notice does not limit the matters that can be considered by the planning commission nor prevent the commission from taking up any matter brought before the commission in accordance with the OPML.

Rule 5.4 Special Meetings

The chair, upon the chair's own motion and after consulting the planning director, may, or at the request of three members of the commission, shall, by giving notice to the members of the commission, call a special meeting of the commission for a time not earlier than 24 hours after the notice is given. Notice of a special meeting shall be posted at City Hall and to the extent feasible, provided to interested persons and the local newspaper at least 24 hours prior to the meeting.

Rule 5.5 Cancellation of Meeting

Upon a majority vote of the planning commission members present, a meeting may be canceled when deemed appropriate. If there is no business to transact or a quorum of the planning commission cannot attend and there is no urgent necessity to have the meeting, the planning director with advice and consent of the chair may cancel the meeting. Planning commission members will be notified of the cancellation prior to notice being given to the public. Notice of cancellation will be given as soon as possible to the public in a manner aimed at giving adequate notice.

SECTION 6 – AGENDAS AND ADDITIONAL ITEMS FOR CONSIDERATION

Rule 6.1 Preparation of Agenda

The planning director with the advice and consent of the chair will prepare the agenda along with appropriate documentation for planning commission meetings. Any member of the planning commission may request, through the chair, for a matter to be placed upon the agenda. Such request is subject to the advice of the planning director. Each meeting agenda's format will be prepared as prescribed in the rules. If there is no item to be considered under a section of the agenda, that section will be omitted from the agenda and the agenda will be renumbered accordingly. The final authority on the agenda matters is the planning commission.

Rule 6.2 Non-Agenda Items

Prior to the meeting, the planning director may send out additions to the agenda with the appropriate documentation. The planning commission may consider the items which are not listed on the published agenda. The planning commission must, by a majority, place the item on the agenda. Action may then be taken on the item.

Rule 6.3 Time for Submission of Items

Items for the planning commission agenda will be submitted in time to allow for sufficient research by staff.

Rule 6.4 Staff Reports

Normally the staff will send a report of each planning commission item to be considered by the planning commission at least eight days prior to the commission meeting.

Rule 6.5 Agenda Availability

Planning commission agendas and the accompanying documents are available at the city planning office and are posted on the city website normally eight days prior to the planning commission meeting. Interested persons are encouraged to read the agenda along with supporting material, and address questions to the planning director or city staff prior to the meeting. The planning director and planning commission value public input. In order to efficiently conduct city business, those who have concerns are encouraged to address these issues prior to the planning commission meeting.

Rule 6.6 Regular Meeting Agenda

The regular meeting agenda will be as follows:

- I. Call Meeting to Order
- II. Administration of Oath of Office (if needed)
- III. Roll Call
- IV. Public Comment (30 minutes maximum which may be extended at the chair's discretion; an opportunity to speak for not more than five minutes per speaker allowed)
- V. Consent Calendar
- VI. Public Hearings
- VII. Continued Business
- VIII. New Business
- IX. Items from Staff
- X. Items from Commissioners
- XI. Adjournment

At the chair's discretion, the chair may change the order of the agenda and allow communications concerning items on the agenda or other commission business.

Rule 6.7 Consent Calendar

The director will place items which have been previously reviewed by the planning commission or items which are routine in nature on the consent calendar. Items may be removed from the consent calendar by the chair or by request of a planning commission member. Public comments will be held prior to the approval of the consent calendar to allow the public to address items under consent calendar.

SECTION 7 – PROCEDURES AT MEETINGS

Rule 7.1 Call to Order

The chair will call the planning commission members to order at the hour designated for the meeting. The secretary will call roll. Should there not be a quorum within 15 minutes, the members present will adjourn until a quorum can be gathered or until the next scheduled meeting time established by the planning commission or to the next regular meeting time.

Rule 7.2 Public Comment on Non-Agenda Items

Persons speaking to the planning commission concerning items not on the agenda or items that are on the consent calendar would speak under the public comment period. Those persons will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair. The maximum time allowed for public comment, including all speakers, is 30 minutes. The chair has the discretion to extend these time limits. Speakers may address the planning commission for less than their allotted time. Speakers may also submit information at the meeting. The commission normally will not take immediate action on any request raised, but may consider acting on a request during items from commissioners.

Rule 7.3 Legislative Public Hearings

For legislative hearings, the commission will follow the legislative hearing format shown in Exhibit “1”. The planning commission’s legislative authority is usually exercised by the adoption of a resolution.

Rule 7.4 Quasi-judicial Public Hearings

For quasi-judicial hearing, the commission will follow the quasi-judicial hearing format shown in Exhibit “2”. The planning commission’s quasi-judicial authority is usually exercised by adoption of an order when the commission is the final decision maker, and by adoption of a resolution when the commission is a recommending body only.

Rule 7.5 Public Comment Registration

In order to properly notify persons who participate in the hearing and to be able to send them information, it is necessary for the interested person to register at the planning commission meeting before making oral comments and/or providing input at the meeting. The interested person shall register for each subject under which they wish to provide comment. The public comment registration forms will be made part of the meeting records in accordance with OPML. The registration forms will contain a provision by which a person may indicate that they do not wish for their address, phone number, and email address to be released in any public records request. When the interested person addresses the commission or gives oral comments, that person should state their name, but does not need to state their mailing address, phone number, or email address. A form complying with this rule will be available at all meetings of the planning commission. The planning director may produce and revise the necessary form that complies with this rule.

Rule 7.6 Public Testimony

Each interested person addressing the commission should do so in a courteous and considerate manner. The person needs to register and follow other rules as provided in the commission rules. The public will be furnished guidelines and should comply with these guidelines for testifying before the planning commission.

Rule 7.7 Time Limits for Testimony

The principal applicant for a proposal will be allotted 15 minutes for an initial presentation. Prior to the meeting the applicant may petition the planning director for additional time for the initial presentation, not to exceed 30 minutes.

A principal opponent, if any, will be allotted time in the same manner as the principal applicant.

All other speakers will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair.

The chair has the discretion to extend these time limits.

Rule 7.8 Written Testimony

In order to be considered at a hearing, written testimony must be received at the Planning and Building Department by noon on the third business day (typically Monday) prior to any meeting. Written testimony received after that date will be read out loud at the meeting, subject to time limits for speakers, and will be included in the record if there are future proceedings.

Rule 7.9 Ex parte Contact

Whenever the planning commission conducts a quasi-judicial public hearing, the planning commission must declare any ex parte contact. Rules concerning ex parte contact are set forth in state law.

Commissioners may visit a site individually prior to hearing an application, and shall declare the substance of that visit as ex parte contact. Otherwise, planning commissioners should avoid ex parte contacts.

Rule 7.10 Questions of Speakers

Commissioners may ask questions of speakers following their testimony. Such questions should be directed to elicit information that will help the commission reach a decision. Commissioners should avoid debating or arguing with speakers.

Rule 7.11 Order of Deliberation

The commission's deliberation on an agenda item may begin with a formal motion, or an informal discussion. If the informal discussion is not leading toward a decision, the chair shall call for a formal motion.

The chair shall determine the order of speakers to a motion. Except as otherwise determined by the chair, the maker of the motion will speak first to the motion, followed by the second, and then by other commissioners in the order they request to speak.

Rule 7.12 Speaking and Addressing the Chair

When any commissioner is about to speak in debate or deliver any matter to the planning commission, that commissioner should respectfully address the chair, and be given the floor before speaking. The commissioner should confine the remarks to the question under consideration.

The commissioner should use electronic speaking equipment provided to insure his or her comments are recorded.

Rule 7.13 Motions, Seconds, and Decisions by Unanimous Consent

Generally, no motion will be considered unless it has been seconded. However, routine motions that have the general consent of the planning commission do not require a second, unless requested by any member of the planning commission. Motions brought forth by the chair, which receive no seconds, but also no objections, will be passed by unanimous consent.

Rule 7.14 Voting and Abstaining from Voting

Commissioners shall vote on each motion brought before the commission, or shall explain the reason for abstaining.

Commissioners who abstain from participating in a matter due to a conflict of interest shall retire to the lobby during the time the matter is under consideration. A commissioner in the lobby will continue to be counted in the quorum. Commissioners may not provide testimony before the commission on any matter from which they abstain, but may designate a representative to speak to their interests.

Rule 7.15 Tabled Items

Items that are tabled may be taken from table by majority vote any time during the calendar year, but no later. Items may be postponed to a time certain, including to a following year.

Rule 7.16 Reconsideration

When a question has been decided, it will be in order for a member who voted on the prevailing side to move for reconsideration at the same meeting or next meeting only. For quasi-judicial matters, a motion for reconsideration at the next meeting only may be made upon request of the applicant, having waived rights to the time limits for decisions, and only to correct any technical issue in a decision and not to reverse a decision or decide again any substantive issue.

SECTION 8 – ELECTRONIC MAIL AND ELECTRONIC COMMUNICATION

Rule 8.1 Electronic Mail and Electronic Communication

E-mail or other forms of electronic communication may be used to schedule meetings, send informative messages, or request information from other planning commissioners or the planning director, except as limited by these rules or other applicable law. E-mail or other electronic communication may not be used to discuss policy issues with a quorum of the planning commission at one time or a quorum of a standing advisory body in any manner which would be in violation of the OPML. All planning commission e-mail correspondence is subject to the Oregon Public Records and Meetings Laws and is subject to disclosure.

Rule 8.2 Electronic Mail and Electronic Communication Regarding Quasi-Judicial Items

Commissioners shall refrain from sending electronic communication regarding the substance of any quasi-judicial item. If commissioners receive e-mail or electronic communication concerning the substance of any quasi-judicial item, they shall forward the communication to the planning director.

As such information may be ex parte contact, commissioners shall avoid reading such communication outside the period the record is open for written comment. If reading such items is unavoidable, the commissioner shall declare the ex parte contact.

SECTION 9 - RELATIONSHIP WITH THE CITY COUNCIL

Rule 9.1 Role of Planning Commission in Relation to the City Council

Members of the planning commission are appointed by the mayor with consent of the city council. The mayor and council appoint them to provide study and perspective on issues beyond what the council can provide. Commissioners provide the highest value providing independent recommendations and not anticipating or mimicking what they feel the council's decision on a matter would be.

After the city council has voted on an issue that previously has been before the planning commission, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the city council, even if the their personal opinions or the commission's decisions differ from the city council's decision.

Rule 9.2 Joint Meetings with City Council or Other Boards

The commission should periodically hold joint meetings with the city council to share directly information and perspectives regarding particular issues. The mayor shall preside at such joint meetings.

The commission also may have joint meetings with other boards or commissions, such as the traffic safety commission. The chairs of the boards shall determine the agenda and the manner of facilitating the meeting.

Rule 9.3 Planning Commission Presentations at City Council Work Sessions

The city council has established a work session before council meetings, and has invited the planning commission to make presentations on any matter during that meeting. The commission may appear as a whole, the chair or vice-chair may represent the commission, or the commission may appoint one or more members to represent the commission to the council. The planning commission chair shall notify the mayor as far in advance as possible and at least one week in advance of the meeting if the commission wishes to make use of this time

Rule 9.4 Attendance at and Participation in City Council Meetings

In legislative matters, after the planning commission has taken action on an item, the mayor or city manager may request that the chair or chair's designee attend a city council meeting to report the commission's recommendation. The planning commission also may appoint a representative to attend the city council meeting and convey the commission's recommendation.

On quasi-judicial items, the planning commission's report to the council consists of their written decision, findings and the record. Commission members do not speak at the council meeting unless requested by the city council or mayor.

Otherwise, planning commissioners may attend any meeting of the city council. They may speak to the council for themselves as a citizen on any item.

Exhibit "1"
To Planning Commission Rules

OUTLINE FOR LEGISLATIVE PUBLIC HEARING

Newberg Planning Commission

- 1. CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS AND OBJECTIONS TO JURISDICTION**
- 3. STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 4. PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S) (IF ANY)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT (IF ANY) REBUTTAL
- 5. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 6. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 7. PLANNING COMMISSION DELIBERATION**
- 8. ACTION BY THE PLANNING COMMISSION**
 - A. RESOLUTION – Usually requires passage of resolution.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

Exhibit "2"
To Planning Commission Rules

OUTLINE FOR QUASI-JUDICIAL PUBLIC HEARING

Newberg Planning Commission

- 1. CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION**
- 3. LEGAL ANNOUNCEMENT**
READ "QUASI-JUDICIAL ANNOUNCEMENTS" SHEET
- 4. STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 5. PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT REBUTTAL
- 6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 7. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 8. PLANNING COMMISSION DELIBERATION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT**
- 9. ACTION BY THE PLANNING COMMISSION**
 - A. ORDER OR RESOLUTION – Usually requires passage of order if the commission is the final decision maker, or a resolution if the commission is only advisory to the council.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.



ORDINANCE NO. 2013-2764

**AN ORDINANCE AMENDING THE NEWBERG MUNICIPAL CODE
ESTABLISHING A HISTORIC PRESERVATION COMMISSION AND
ASSIGNING POWERS AND DUTIES OF THE COMMISSION**

RECITALS:


1. On April 1, 2013, the Newberg city council heard a presentation by Kuri Gill of the Oregon Parks and Recreation Department – Heritage Programs regarding their Certified Local Government program (CLG). After hearing of the CLG program and discussion, the council instructed city staff to bring to council a proposal regarding the designation of Newberg as a CLG.
2. The establishment of a historic preservation commission is an important first step in complying with many of the criteria needed to be met in becoming a designated CLG. City staff has worked with the Heritage Program in the development of the proposed recommended municipal code changes for the establishment of a historic preservation commission.
3. On September 12, 2013, the Newberg planning commission held a public hearing regarding the proposed amendments to the Newberg Municipal Code establishing a historic preservation commission and assigning powers and duties of the commission. At that meeting, the Newberg planning commission approved Resolution No. 2013-300, recommending that the city council approve the proposed amendments.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

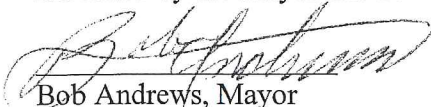
1. The Newberg Municipal Code is amended and shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings in support of these amendments are adopted and shown in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: November 6, 2013.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of October, 2013, by the following votes: **AYE: 7 NAY: 0 ABSENT: 0 ABSTAIN: 0**


Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 10th day of October, 2013.


Bob Andrews, Mayor

Establishment of Newberg Historic Preservation Commission Newberg Code Amendments

Legend for proposed development code changes:

Red lettering = directions for code changes

Black lettering = existing code language

~~Black strikeout~~ = proposed language deletion

Black double underline = proposed language addition

Section 1: The following shall be added to Chapter 15.05.030 Definitions of the Newberg Code.

“Historic preservation commission” means the historic preservation commission of the City of Newberg, a body of officials appointed by the mayor with the consent of the city council, serving the city council by overseeing historic preservation issues affecting the city.

Section 2: The following shall be added as Chapter 2.15, Article VI of the Newberg Code.

Article VI. Historic Preservation Commission

2.15.500 Establishment.

There is hereby established a historic preservation commission for the City of Newberg, Oregon.

2.15.510 Purpose.

The historic preservation commission for the City of Newberg is established to identify, recognize, and preserve significant properties related to the community’s history, encourage the rehabilitation and ongoing viability of historic buildings and structures, strengthen public support for historic preservation efforts within the community, foster civic pride, and encourage cultural heritage tourism.

2.15.520 Membership.

A. The commission shall consist of five members who are not officials or employees of the city and an ex officio nonvoting member who shall be a student from one of the local high schools.

B. Members should have a demonstrated competence, knowledge, or interest in historic preservation with preference given to those with professional experience in the fields of preservation, architecture, archaeology, community history, building trades, real estate, or related specialties.

C. Three of the five members shall have their principal place of residency inside the city limits. One member may have their principal place of residency outside city limits provided it is within one mile of the urban growth boundary of the city at the time of their appointment and during the term that they serve on the historic preservation commission. There is no residency requirement for the one remaining member or the ex officio student.

2.15.530 Term of office.

A. Members of the historic preservation commission shall be appointed by the mayor with the consent of the city council for a term of three years from the first calendar day of the year. The appointments of some members shall be for other than specified terms in order to establish an approximately equal expiration of terms each year. The term of the student member will begin June 1st of each calendar year and end May 31st of succeeding calendar year with reappointment not to exceed three years. Members of the historic preservation commission shall continue after expiration of their term until such time as their successors are appointed.

B. The term of each member shall continue until such time as their successors are appointed.

2.15.540 Vacancies and removal.

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

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

C. A member who is absent from two consecutive meetings without an excuse as approved by the historic preservation commission is rebuttably presumed to be in nonperformance of duty and the city council shall declare the position vacant unless finding otherwise following the hearing.

2.15.550 Presiding members.

At the commission's first meeting of each calendar year, the commission shall elect a chair and vice chair to serve one-year terms.

2.15.560 Staff services.

The city recorder shall provide a secretary to the commission and such other staff and consultation services as may be appropriate. The secretary shall keep a record of commission proceedings.

2.15.570 Meetings.

A. A majority of the voting members of the historic preservation commission shall constitute a quorum. The commission shall meet at least meet at least four times a year, and as required to conduct business in a timely fashion. Meetings of the commission shall be open to the public and shall be subject to the Open Meetings Law. Meetings other

than the regularly scheduled times may be announced at a prior meeting and thereby be made a part of the meeting records.

B. The chair, upon the chair's own motion, may, or at the request of two members of the commission, shall, by giving notice to the members of the commission, call a special meeting of the commission for a time not earlier than 24 hours after the notice is given. Notice of a special meeting shall be posted at City Hall and to the extent feasible, provided to interested persons and the local newspaper at least 24 hours prior to the meeting.

C. Meeting minutes, applications for historic review, landmark nominations, records of landmark designation, staff reports, and decisions of the commission shall be created and maintained as public records in accordance with applicable local state laws.

2.15.580 Powers and duties.

A. The commission shall have the powers and duties which are now and may hereinafter be assigned to it by Charter, ordinances or resolutions of the city and general laws of the state.

B. The commission shall identify and evaluate properties in the City of Newberg and maintain a Historic Resource Survey consistent with the standards of the Oregon State Historic Preservation Office, hereinafter referred to as "SHPO."

C. The commission shall make recommendations to the city council regarding properties to be designated to the list of designated landmarks

D. The commission shall review and act upon applications for the alteration, relocation, or demolition of designated landmarks.

E. The commission shall support the enforcement of all state laws relating to historic preservation.

F. The commission shall perform any other functions that may be designated by resolution or motion of the city council.

G. The commission may publish and adopt written and graphic guidelines and example materials to clarify the criteria in the historic landmarks section of this code and to assist applicants in developing complete and viable applications to designate, alter, rehabilitate, relocate, or demolish landmarks. The commission may make recommendations to the city council regarding changes to regulations of designated landmarks within Newberg development code using the established procedures for amendments.

H. The commission may undertake to inform the citizens and visitors to the City of Newberg of the community's history and prehistory, promote research into its history and prehistory, collect and make available materials on the preservation of designated landmarks, provide information on state and federal preservation programs, and document designated landmarks prior to their alteration, demolition, or relocation and archive that documentation.

I. The commission may make recommendations to the city council regarding expenditures for historic preservation activities and potential funding source in which to pay for the recommended expenditures.

J. The commission may recommend incentives and code amendments to the city council and planning commission to promote historic preservation in the community.

K. The commission may comment on local, state, or federal issues, laws, and requests relating to historic preservation.

L. The commission may adopt rules to conduct its business meetings.

2.15.590 Application for membership.

A. The city shall give public notice of any vacancy of the historic preservation commission and accept such application for such vacancies.

B. The application for membership on the historic preservation commission shall state the principal occupation of the applicant, the principal residence of the applicant, and give other information and qualifications as the city may deem necessary.

2.15.600 Conflict of interest.

A member of the historic preservation commission shall abide by and be in accordance with the State Ethics Code.

2.15.610 Training.

The city shall offer training to historic preservation commissioners to educate them in their duties. It shall be the duty of any newly appointed historic preservation commissioner to attend a basic training session from staff within 30 days of the historic preservation commissioner's appointment. It shall be the duty of any reappointed historic preservation commissioner to attend at least a one-hour training session from staff or offered by the city within 12 months from the beginning of that person's appointed term.

Section 3: Chapter 2.15, Article VI of the Newberg Code, "Penalty" shall be renumbered as Article VII, and the current Section 2.15.490 and all cross references to this section shall be renumbered as Section 2.15.900.

Section 4: The following amendments shall be made to Chapter 15.344 of the Newberg Development Code.

**Chapter 15.344
HISTORIC LANDMARKS (H) SUBDISTRICT**

Sections:

15.344.010	Purpose.
15.344.015	<u>Historic preservation commission review.</u>
15.344.020	Landmark designation.
15.344.030	Alteration, new construction, demolitions.
15.344.040	Exceptions for economic hardship.
15.344.050	General administration.

15.344.010 Purpose.

The purpose of the H overlay zone is to:

A. Safeguard the historic landmarks, buildings and sites representing significant elements of Newberg history;

- B. Promote the historic, educational, cultural, economic and general welfare of the public through the preservation, restoration and protection of these buildings, structures, sites, and objects of historic interest within the city;
- C. Foster civic pride in the accomplishments of the past;
- D. Protect and enhance the city's attractions to tourists and visitors;
- E. Carry out the provisions of the Land Conservation and Development Commission Goal 5. [Ord. 2451, 12-2-96. Code 2001 § 151.490.]

15.344.015 Historic preservation commission review.

The historic preservation commission shall review applications for landmark designation, alteration, new construction, and demolition requiring Type III review as outlined in this chapter. In conducting a Type III review, the commission shall have all powers and duties of the planning commission. The notice, review, and appeal provisions of this code that apply to Type III planning commission reviews shall apply equally to Type III historic preservation commission review. In cases where an application requires both historic preservation commission and planning commission review, such as for a modification to a landmark for a conditional use, the two commissions may hold a combined hearing. However, the two commissions shall make separate decisions.

15.344.020 Landmark designation.

A. Institution of Proceedings. The owner(s) of record may initiate the proceedings for designation of a historic landmark. Initiation of an application by a property owner is voluntary and landmark designation may not occur without an owner's consent. Applications for designation shall be made available by the director. No fee shall be charged for the application.

B. Application Information. The following information shall be provided for designation or modification of a historic landmark:

1. Site plan indicating the existing and/or proposed building or buildings.
2. Architectural elevations or pictures of the structure and, if appropriate, elevations of any proposed additions or revisions.
3. Information regarding the age and historic character of the landmark. Where available, information indicating its association with historic events, former residents or users of the landmark, and the period or style of the landmark.

C. Designation Procedure Type III. Designation of a (H) historic landmarks subdistrict will be treated as a zoning map amendment and shall be processed under the Type III procedure. The designation of a site-specific historic landmark shall be processed under a Type III procedure and reviewed by the ~~planning commission~~historic preservation commission. Sites or buildings identified as historic landmarks shall be subject to this chapter.

D. Designation Criteria. If the building, structure, site, or object is currently listed in the National Register of Historic Places of the United States of America, the property or properties shall be designated as a local landmark. In addition, landmarks shall include those buildings, structures, sites, or objects which have been identified as landmarks in the historic resources element of the comprehensive plan. The following criteria will be used by the ~~planning commission~~historic preservation commission and city council in considering other properties:

1. The evaluation criteria used in the 1990 historic resources evaluation shall be considered. Any or all of the criteria may be satisfied for designation:

a. The landmark is associated with natural history, historic people, or with important events in national, state or local history. The age of a specific building shall be considered but shall not be deemed sufficient in itself to warrant designation as a significant historic resource.

b. The landmark embodies distinguishing characteristics of architectural specimens inherently valuable for a study of a period, style, or method of construction.

c. The landmark is a notable work of a master builder, designer or architect, or the structure represents a rarity of type, style, or design in the community.

d. The landmark retains a high degree of original design, crafting, materials, and original site features.

e. The landmark contributes to the immediate environment and the character of the neighborhood or city.

2. The proposed landmark will serve the purpose of this section as stated in NMC 15.344.010.

3. The economic, social, environmental, and energy consequences of conflicting uses shall be considered.

E. Designation Removal. Request for removal of a historic landmark designation may be made by the property owner and shall follow the same procedures as required for inclusion by this code. The ~~planning commission~~historic preservation commission is not obligated to remove a historic landmark designation if the landmark still meets the criteria contained in subsection (D) of this section. If a historic landmark designation is removed from the register, the ~~planning commission~~historic preservation commission or city council is authorized to require that all city fees that were waived during the time period that the landmark was designated be repaid to the city prior to the landmark designation being removed. [Ord. 2451, 12-2-96. Code 2001 § 151.491.]

15.344.030 Alteration, new construction, demolitions.

A. Exterior Alterations.

1. Application Process. Application for permit approval shall be made to the director. The application shall include site plans, floor plans, elevations, materials, textures, and other information deemed necessary by the director to determine the appropriateness of the alterations of the designated landmark.

2. Director Review of Minor Alterations Type I.

a. The director shall approve minor alteration requests through the Type I procedure if there is no significant change in appearance, or in original material integrity, from the existing structure or site. The director's approval may include conditions to ensure compatibility. Minor alterations meeting the following standards shall be approved and shall be documented by written findings:

i. The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials;

ii. The proposed alteration results in new siding, roofing, or foundation skirting which matches materials used on the structure or is typical in terms of material and texture for the style of the landmark;

iii. The proposed alteration results in the replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match or appear to match those typically used on similar-style buildings;

iv. The proposed alteration results in a new foundation that does not raise or lower the building elevation, provided the foundation materials and/or craftsmanship do not contribute to the historical and architectural significance of the landmark;

v. The proposed alteration results in the application of storm windows made with wood, bronze or flat-finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building;

vi. The proposed alteration results in replacement of existing sashes with new sashes, when using material which is consistent with the original historic material and appearance;

vii. The proposed alteration results in modifications to the porch which imitate or restore railings, posts, steps, and skirting which were typical for the style of the landmark;

viii. The proposed alteration results in construction of a wood fence in the front yard which was typical for the style of the landmark. Solid wood fences shall be permitted along side and rear property boundaries;

ix. The proposed alteration results in the installation of permanent air conditioning or heating facilities, including solar panels, which do not result in the destruction or removal of original architectural features. If possible, facilities should be located in such a manner that they are not readily visible from the public right-of-way, excluding alleys;

x. The proposed alteration results in new awnings or signage which were typical for the style of the landmark.

b. ~~The planning commission~~historic preservation commission may develop additional standards to guide the director in determining what constitutes a significant change.

3. ~~Planning Commission~~Historic Preservation Commission Review Criteria and Guidelines Type III. Excluding routine maintenance and minor alterations subject to director review, requests to alter a designated landmark in such a manner as to affect its exterior appearance shall be reviewed for permit approval by the ~~planning commission~~historic preservation commission using the Type III procedure. The ~~planning commission~~historic preservation commission, in considering applications for permit approval for any alteration, shall base their decision on substantial compliance with the following criteria and guidelines:

a. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided. Specific design elements which must be addressed include:

i. Average Setback. When a new structure is being constructed on an infill lot, the front yard setback shall be the same as the buildings on either side. When the front setbacks of the adjacent buildings are different, the front setback of the new structure shall be an average of the two.

ii. Architectural Elements. The design shall incorporate architectural elements of the city's historic styles, including Queen Anne, colonial revival, Dutch colonial revival, and bungalow styles. Ideally, the architectural elements should reflect

and/or be compatible with the style of other nearby historic structures. Typical design elements which should be considered include, but are not limited to, "crippled hip" roofs, Palladian-style windows, roof eave brackets, roof dormers, and decorative trim boards.

iii. Building Orientation. The main entrance of the new structure shall be oriented to the street. Construction of a porch is encouraged but not required. Such a porch shall be at least six feet in depth.

iv. Vehicle Parking/Storage. Garages and carports shall be set back from the front facade of the primary structure and shall relate to the primary structure in terms of design and building materials.

v. Fences. Fences shall be built of materials which are compatible with the design and materials used in the primary structure.

b. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

c. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

d. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved to the extent possible.

e. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall reasonably match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

f. Chemical or physical treatments, such as sandblasting, that cause extensive damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

g. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

h. New additions, exterior alterations, or related new construction shall not destroy the historic character of the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

i. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

B. New Construction Type III Review Criteria.

1. Review Required. If an application is made to build a new building on a landmark site, the ~~planning commission~~ historic preservation commission shall review the request through the Type III procedure to assure the plans are compatible with any existing landmark structures on the site. No new structure or major public improvement shall be constructed without review pursuant to the following criteria.

2. Review Criteria. Designs shall be compatible with any existing landmark structures on the site in terms of size, scale, material and character. Contemporary

designs shall not be discouraged when they do not destroy significant historical, architectural, or cultural material. Review criteria shall include consideration of the guidelines listed in subsection (A)(3) of this section.

C. Demolition and Moving Review.

1. Building Director Review Type I. The building director shall issue a permit for moving or demolition if any of the following conditions exist:

a. The building is not a designated landmark. If the landmark is pending review under NMC 15.344.020, no permit shall be issued; and/or

b. The landmark has been damaged beyond reasonable repair through fire, flood, wind or other acts of God, vandalism, or neglect, and poses an immediate threat to public safety. For any demolition or moving which does not comply with the above criteria, it shall be referred to the ~~planning commission~~historic preservation commission under the Type III procedure.

2. ~~Planning Commission~~Historic Preservation Commission Review Process Type III. The process and public notice for review of a demolition permit shall be conducted under the Type III procedure. Unless extended by mutual consent of the applicant and the ~~planning commission~~historic preservation commission, the ~~planning commission~~historic preservation commission shall complete any review within 45 days of the date the city received a complete application, with the intent that the ~~planning commission~~historic preservation commission and applicant seek alternatives such as sale, salvage, relocation or donation to historic or interested groups, not simply to delay the demolition or moving.

3. Review Criteria. In reviewing an application for a demolition permit or moving permit, the commission shall consider the purpose of this chapter as stated in NMC 15.344.010 and the criteria used in the original designation of the landmark as stated in NMC 15.344.020(D).

D. City Council Review of Dangerous Structures. The city council may order the removal or demolition of any structure determined to be dangerous to life, health, or property.

E. Documentation. In the event of the demolition or moving of a landmark, building, structure, site or object, the history of such landmark shall be documented and kept on file with the city. [Ord. 2505, 2-1-99; Ord. 2451, 12-2-96. Code 2001 § 151.492.]

15.344.040 Exceptions for economic hardship.

A. When the applicant has demonstrated an economic hardship as a result of the provisions of this code, the commission or city council may relax the requirements of the ordinance, provided the relaxation is consistent with the purpose of this chapter as stated in NMC 15.344.010. Any relaxation of requirements shall be the minimum necessary to alleviate the economic hardship. In determining whether an exception due to economic hardship is justified, the commission or city council shall consider the following factors:

1. Estimated cost of rehabilitation;
2. Estimated market value of property in current condition and after proposed construction;
3. Potential income from property if income-producing;
4. Any other economic information deemed relevant to the decision; and
5. Economic, social, environmental, and energy consequences of the exception.

B. The applicant shall provide adequate documentation to justify an economic hardship. The information shall be provided on a form available from the director. [Ord. 2451, 12-2-96. Code 2001 § 151.493.]

15.344.050 General administration.

A. Signs. One sign no larger than 200 square inches is permitted in addition to other permitted signs.

B. Maintenance. Nothing in this code shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features which does not involve a change in design, material or the outward appearance of such feature, nor to prevent the construction, reconstruction, alteration or demolition of such feature which the city's building director shall certify is required by the city's building and development codes. Maintenance and repair actions include, but are not limited to:

1. Repair of siding, roofing, foundations, and gutters or downspouts when required due to deterioration, with materials that match the original materials or are in character with materials typically used on similar-style buildings;

2. Painting and related preparation;

3. Water quality protection actions;

4. Installation of air conditioners, provided the units are removable and no architectural alterations are necessary;

5. Site maintenance such as pruning, landscaping maintenance, brush clearing and removal of debris;

6. Temporary removals of roofs or other access obstructions for purposes of repair or maintenance of interior components of industrial or power generation facilities. [Ord. 2521, 11-15-99; Ord. 2499, 11-2-98; Ord. 2451, 12-2-96. Code 2001 § 151.494.]

I. Statewide Planning Goal 5

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

Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

II. Newberg Comprehensive Goal G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.

Policy 3 - Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

b. Newberg's Historic Inventory shall be updated as needed to reflect new information.

c. The City will encourage the establishment of a museum for the housing of historic artifacts, the sponsorship of touring exhibits, seminars and oral history, archival research, etc.

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

e. The City will encourage identification and/or preservation of significant historic landmarks, archaeological or architectural sites which meet criteria established by the City.

Finding: The creation and implementation of a historic preservation commission will strengthen the effort to achieve these goals and policies. It will be a commission specifically tasked to work towards the preservation of local historic resource and it will have members with strong interests and special skills that will be especially useful in achieving these goals and policies. In addition, forming this commission may lead to the city becoming a Certified Local Government, which will provide the city with a variety of new resources intended to assist with the preservation of local historic resources.

II. Conclusion: The proposed development code amendments meet the applicable requirements of state law, state rules, the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.