

EXHIBIT A

**City of Newport
Municipal Code Title 17
Development Regulations**

December 2001

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Amended December 2, 2019

with Interim Zoning Controls approved January 20, 2021.

This document includes Interim Zoning Controls to protect environmentally sensitive areas, also known as critical areas, as well as to address recent changes in state law. The provisions in Chapter 17.03.150 governing Electric Charging Vehicle Stations, Chapters 17.10 Environmentally Sensitive Areas, and 17.11 Shorelines shall be in effect for up to one year, pending the preparation of further revisions to Title 17. All revisions will be subject to environmental review, state agency review, and public review prior to final adoption.

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CHAPTER 17.01
GENERAL PROVISIONS

Sections:

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Section 17.01.010 – Title. The provisions of Title 17 of the City of Newport Code shall be known as the City of Newport Development Regulations. These regulations shall be administered in conjunction with the map entitled “The Official Zoning Map for the City of Newport” as approved by the Newport City Council.

Section 17.01.020 – Purpose. The purpose of these development regulations is to implement the Newport Comprehensive Plan and to comply with the provisions and objectives of RCW Chapter 36.70 and RCW Chapter 36.70A as now or hereafter amended.

A. The objectives of this Title are:

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

Section 17.01.030 – Scope and Compliance.

A. In their interpretation and application, the provisions of this Title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of this Title differ from the requirements of any of the lawfully adopted rules, regulations, ordinances, or deed restrictions, the City shall make an administrative code interpretation and/or take appropriate legislative action to provide clear direction.

- B. Upon request and as determined necessary, the City shall interpret the meaning or application of the provisions of this Title and issue a written administrative interpretation within thirty (30) days.
- C. No building, structure, or lot shall be used or occupied, and no building permit for the erection, relocation, alteration or expansion of any building or structure shall be granted, unless compliance with the provisions of this Title have been satisfied.

Section 17.01.040 - Building Construction Restrictions.

- A. No building or structure shall be erected, reconstructed, or structurally altered, nor shall any building, structure, or premises be used for any purpose other than is permitted in the zone in which the building, structure, or premises is located, except as permitted by this Title.
- B. No building shall be erected or structurally altered to exceed in height the limit established in this Title for any zone in which the building is located.
- C. No lot area shall be so reduced or diminished that the yards or other open spaces are smaller than prescribed by this Title, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations established for the zone in which the building is located.
- D. Only one building may be constructed on a lot unless otherwise authorized by this Title. Exceptions include:
 - 1. Approved accessory structures;
 - 2. Multi-family developments;
 - 3. Master planned developments;
 - 4. Public facilities;
 - 5. RV Parks; and
 - 6. Commercial or industrial developments built in accordance with an approved site plan, binding site plan, and/or development agreement.
- E. Only structures built and maintained in accordance with the provisions of the International Building Code as adopted by the City of Newport and approved mobile homes may be used as residential dwelling units. RV's, trailers, tents, campers, park models, and related temporary or recreational facilities or non-conforming structures may not be used for residential purposes in any zone, provided that:

1. Family members and visitors may stay in an RV, travel trailer, etc on site with their hosts for up to two weeks.

Section 17.01.050 – Annexations. Annexation requests shall be made to the City of Newport. All land proposed to be annexed to the City must be within the Urban Growth Area (UGA) and shall be zoned in accordance with the Future Land Use Map and Comprehensive Plan of the City of Newport.

- A. The annexation of any property into the City which has not been platted or developed in a manner that is consistent with City platting requirements or development standards may be conditioned by a pre-annexation agreement to bring the subject property into compliance with current City platting requirements and development standards. The City Council may further condition acceptance of any annexation petition upon the completion of utility, street, sidewalk or other improvements to City standards to insure compatibility of the annexation area with existing City utilities, streets, sidewalks or other improvements.
- B. All annexed lands shall be zoned R-1 unless otherwise depicted on the Future Land Use Map or otherwise approved by the City Council.

17.01.060 - Reasonable Use Exception. If the application of the regulations in this Title would deny all reasonable economic use of the subject property, the property owner may apply for an exception pursuant to this Section.

- A. Criteria for review and approval of reasonable use exceptions follow:
 1. The application of the standards and provisions of this Title would deny all reasonable economic use of the property;
 2. There are no other practical alternatives to the proposed action that would have less impact;
 3. The inability to derive reasonable economic use of the property is not the result of subdivision or other actions by the Applicant;
 4. No other reasonable economic use has less adverse impact(s);
 5. The proposal protects and mitigates impacts to the functions and values of critical areas to the greatest extent feasible, consistent with the best available science, allowing for reductions of up to fifty (50) percent in critical area buffers and setbacks, with mitigation;
 6. The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site; and
 7. The proposal is consistent with other applicable regulations and standards.

- B. **Burden of Proof.** The burden of proof shall be on the Applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

17.01.070 - Liability. The granting or approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind or nature by the City or any official or employee thereof on the practicality or safety of any structure or use proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result therefrom.

17.01.080 - Severability. If any provision of this Title or its application to any person or legal entity is held to be invalid, the remainder of this Title, or the application of this Title or the application of the provision to other persons or entities or circumstances shall not be affected.

Section 17.01.090 - Definitions.

A. General Provisions.

1. The purpose of these definitions is to help understand the provisions of this Title. Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word "shall" is always mandatory and not merely directive.
2. Terms that are not specifically defined below are to be understood according to the common meaning within the context in which they are used as determined by the City.

B. Specific Provisions.

1. *Accessory Use or Structure.* A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot.
2. *Adult Entertainment Uses.* Any establishment wherein any portion of total revenues at or above twenty percent (20%) comes from, or a substantial portion of interior business or advertising is devoted to the sale or rental for any form of consideration of any one or more of the following which depicts or describes sexual activities or anatomical areas represented in a sexual context; books, magazines, periodicals, other printed matter, photographs, films, video cassettes, slides or any other visual representation; nightclubs, bars or similar establishments which feature persons who appear nude or semi-nude; live performances which are characterized by the exposure of sexual activities or anatomical areas; any motel or hotel which offers accommodations to its patrons with closed-circuit television transmissions, videos, films, or other photographic reproductions of sexual activities or anatomical areas, or offers accommodations for a period of time less than twenty (20) hours; any adult motion picture theatre or any model studio wherein persons

may appear nude or semi-nude to be drawn, sketched, observed, photographed, painted or similarly depicted.

3. *Adult Family Care.* Homes providing shelter and twenty-four (24) hour care for adults.
4. *Alley.* A public right-of-way not over thirty (30) feet wide which affords, generally, an accessory means of access not intended for general traffic circulation.
5. *Apartment House.* A building or portion of a building designed for the occupancy of three (3) or more families living independently in three (3) or more dwelling units.
6. *Area, sign.* For regularly shaped signs, the simple area of the sign. For irregularly shaped signs, the area shall be that of the rectangle, triangle, or circle (whichever is smaller), which will wholly contain the sign. The structure supporting a sign shall not be included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. In the case of a wall mural incorporating commercial wording, the sign area includes only the portion of the mural which contains the wording circumscribed as set forth in this definition.
7. *Auto Wrecking Yard.* An open area used for dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles for their parts.
8. *Battery charging station.* An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth.
9. *Battery exchange station.* A fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meet or exceed any standards, codes, and regulations set forth.
10. *Basement.* Any level below the ground floor of a building.
11. *Building Site Plan.* A drawing to a scale specified by local ordinance which identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by the local regulations; contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the City in approving the site plan; and contains provisions making any development be in conformity with the site plan.
12. *Boardinghouse.* A building or portion of a building other than a hotel where lodging and meals are provided for compensation.

13. *Bulk Plant.* An establishment where flammable liquids are received by pipeline, tank car or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by pipeline, tank car, tank vehicle or container, to users or distributors.
14. *Business or Commerce.* The engaging in the purchase, sale, barter or exchange of goods, wares or merchandise; and the maintenance or operation of offices or recreational or amusement enterprises.
15. *Camper.* A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational and vacation uses.
16. *Charging levels.* The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. Levels 1, 2, and 3 are the most common EV charging levels, and include the following specifications:
 - a. Level 1 is considered slow charging.
 - b. Level 2 is considered medium charging.
 - c. Level 3 is considered fast, or rapid, charging.
17. *Convalescent Home.* Any building or premises in and on which two (2) or more sick, injured, or infirm persons are housed, for a period in excess of twenty-four (24) consecutive hours and furnished with meals and nursing care for hire.
18. *Critical Areas.* Include the following areas and ecosystems: a) wetlands; b) areas with a critical recharging effect on aquifers used for potable water; c) fish and wildfire habitat conservation areas; d) frequently flooded areas; or e) geologically hazardous areas.
19. *Critical Area Buffer.* An area that surrounds and protects a critical area from adverse impacts to the functions and values of the resource.
20. *Cul-de-sac.* A road closed at one end by a circular area of sufficient size for turning vehicles around, and for purpose of definition, may include the "hammerhead" configuration at the closed end rather than the conventional circular turnaround.
21. *Dangerous Waste.* Those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste.
22. *Day Care Facility.* An agency that regularly provides care for a group of children for periods of less than twenty-four (24) hours. Separate requirements are adopted for the following subcategories of day care centers:
 - a. A day care center provides for the care of thirteen (13) or more children. No such center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

- b. *Mini Day Care Program.* A day care center for the care of twelve (12) or fewer children cared for on a full-time basis and such other children cared for on a part time basis, characterized as drop ins, as is allowed by the rules of the State of Washington, Department of Social and Health Services in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed.
 - c. For the care of from seven (7) through twelve (12) children cared for on a full-time basis and such other children cared for on a part time basis, characterization as drop ins, as is allowed by the rules of the State of Washington, Department of Social and Health Services in the family abode of such person or persons.
 - d. A family day care home means a home regularly providing care during part of the twenty-four (24) hour day to six (6) or fewer children cared for on a full-time basis and such other children cared for on a part time basis, characterized as drop ins as is allowed by the rules of the State of Washington, Department of Social and Health Services.
23. *Dedication.* The deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat in the manner provided in this Title.
24. *Development.* Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
25. *Division of Land.* Any conveyance, not otherwise exempt or provided for in this Title, which alters or affects the shape, size or legal description of any part of an owner's original tract.
26. *Dwelling Unit.* One (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and bathroom facilities for use by a family or household.
27. *Dwelling, Single-Family.* A structure containing one (1) dwelling unit.
28. *Dwelling, Duplex.* A structure containing two (2) dwelling units.
29. *Dwelling, Multiple-Family.* A structure containing three (3) or more dwelling units.
30. *Easement.* A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

31. *Electric vehicle infrastructure.* Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.
32. *Family.* An individual or group of individuals not necessarily related by blood, marriage or legal custody, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.
33. *Fish and wildlife habitat conservation areas.* Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. The City may also designate locally important habitats and species. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.
34. *Final Plat* The final drawing of the subdivision and dedication prepared for filing for record with the Pend Oreille County Auditor and containing all elements and requirements as set forth in this Title.
35. *Flood.* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
36. *Flood Insurance Rate Map (FIRM).* The official map of Newport on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to Newport.
37. *Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
38. *Garage, Private.* An accessory building or part of a main building intended primarily for the storage of motor vehicles as an accessory use, and when the storage space does not exceed the following:
 - a. For single family dwelling: three (3) vehicles, not more than one (1) of which may be a non-passenger vehicle;
 - b. For any other dwelling: passenger vehicles equal to one hundred fifty percent (150%) of the number of dwelling units of the dwelling;

- c. For any other use: no limitation.
39. *Geologically Hazardous Area.* Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.
40. *Habitat Conservation Area.* Includes: a) areas with which species designated as endangered, threatened, and sensitive under Section 7 of the Endangered Species Act have primary association; b) habitats and species of local importance; c) naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide wildlife habitat; d) waters of the state; and e) state natural area preserves and natural resource conservation areas.
41. *Hazardous Substance.* Any liquid, solid, gas, sludge, including any material, substance, product, commodity or waste regardless of quantity, which exhibits any of the characteristics or criteria of hazardous waste (RCW 70.105.010).
42. *Hazardous Waste.* All dangerous and extremely hazardous waste as defined in RCW Section 70.105.010(11), except for moderate-risk waste as set forth in RCW Section 70.105.010(13).
43. *Hazardous Waste Storage.* The holding of hazardous waste for a temporary period. Accumulation of hazardous waste by the generator on the site of generation is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.
44. *Hazardous Waste Treatment.* The physical, chemical or biological processing of hazardous waste to make such waste less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.
45. *Home Business.* A business conducted within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential zone was created and primarily intended
46. *Hospitals.* Any institution established for the diagnosis, treatment and care of human ailments, and shall not include convalescent homes, rest homes, or nursing homes.
47. *Hotel.* A building containing five (5) or more guest rooms for lodging with or without meals for compensation and which contain no cooking facilities for the lodgers but may contain an apartment for the manager. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

48. *House Trailer*. A vehicle that is self-propelled or propelled by another vehicle, for use or capable of being used for living and/or sleeping quarters, and not conforming to any schedule operating between fixed termini.
49. *Household Pets*. Dogs, cats, rabbits, pigeons, chickens, ducks, mice, hamsters, gerbils, parakeets, canaries, finches and other similar exotic fowl and songbirds, reptiles, amphibians, fish and other similar animals and fowl kept for companionship or for personal enjoyment.
50. *Junkyard (Salvage Yard)*. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, and yards for use of salvaged house wrecking and structural steel materials and equipment.
51. *Kennel*. A commercial establishment in which four (4) or more dogs or domesticated animals which are five (5) months old or older are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.
52. *Livestock*. Horses, bovine animals, sheep, goats, swine, donkeys, mules, and other similar animals.
53. *Lot*. A fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.
54. *Lot Coverage*. The percentage of the total lot area covered by structures, including all projections except eaves.
55. *Lot Width*. The horizontal distance between side lot lines measured at the front yard building line.
56. *Marijuana-Medical Cooperative or cooperative* means a group of more than one, but no more than four, qualified medical marijuana patients and/or designated providers registered with the Washington State Liquor and Cannabis Board who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative, in accordance with the provisions of RCW Title 69 and WAC 314.
57. *Marijuana-Processing or processor* means a person licensed by the Washington State Liquor and Cannabis Board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers, in accordance with the provisions of RCW Title 69 and WAC 314.

58. *Marijuana-Production or producer* means a person licensed by the Washington State Liquor and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers, in accordance with the provisions of RCW Title 69 and WAC 314.
59. *Marijuana-Retails Sales* means a person licensed by the Washington State Liquor and Cannabis Board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet, in accordance with the provisions of RCW Title 69 and WAC 314.
60. *Mixed Use*. The combination of uses in a single zone. Such as a combination of office, commercial, and residential uses on the same lot or in the same structure.
61. *Mobile Home*. A factory built dwelling fabricated prior to June 15, 1976, to standards other than the Housing and Urban Development (HUD) Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For floodplain management purposes, the term “mobile home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term “mobile home” does not include park trailers, travel trailers, recreational vehicles or other similar vehicles.
62. *Manufactured or Modular Home*. A dwelling unit assembled off-site in one (1) or more sections, which complies with all local building codes (for on-site construction) when transported to and mounted on a permanent foundation.
63. *Motel*. A group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside and are available to the public for rental.
64. *Nonconforming Lot*. A lot of record, which was lawfully established, existing and maintained at the effective date of the provisions of this Title but which, because of application of this Title to it, no longer conforms to the regulations prescribed in this Title for the district in which it is located.
65. *Nonconformity*. A building, structure, or land use, which was lawfully established or existing and maintained at the effective date of the provisions of this Title but which, because of the application of this Title to it, no longer conforms to the regulations prescribed in this Title for the district in which it is located.
66. *People with Functional Disabilities*. A person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:
- a. needing care, supervision or monitoring to perform activities of daily living;

- b. needing support to ameliorate or compensate for the effects of the functional disability to lead as independent a life as possible;
 - c. having a physical or mental impairment which substantially limits one (1) or more of the person's major life activities;
 - d. having a record of having such an impairment, or
 - e. Being regarded as having such an impairment. Functional disabilities do not include current, illegal use of or active addiction to a controlled substance.
67. *Performance Bond.* That security which may be accepted in lieu of a requirement that certain improvements be made before the City Council approves the final plat, including performance bonds, escrow agreements, and other similar collateral or surety agreements.
68. *Planned Development.* A process allowing for flexibility in the grouping, placement, size and use of structures on a fairly large tract of land. A planned development is developed as a single proposal, using a process which incorporates design review and public participation.
69. *Plat.* A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys or other divisions and dedications.
70. *Plat, preliminary.* A neat and accurate drawing of a proposed subdivision or short plat, showing the layout of streets and alleys, lots, blocks, restrictive covenants and similar elements, in accordance with this title, submitted for review by the City. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.
71. *Plat, final.* Final drawing of a subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements of this Title and RCW Chapter 58.17.
72. *Public Facilities.* Facilities owned by the public or private enterprise and operated for the benefit of the community. This also includes, but is not limited to schools, libraries, fire stations, water and sewage systems, police stations, cemeteries, refuse disposal and power systems.
73. *Public Facilities, Essential.* Essential public facility means a facility, conveyance, or site whose services are provided by a governmental agency, a private or nonprofit organization under contract to or with substantial funding from government agencies, or a private organization subject to public service obligations, which is necessary to adequately provide a public service and which is typically hard to site.

74. *Rapid charging station.* An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth.
75. *Recreational Vehicle.* A vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel, recreational or vacation use. Recreational vehicles shall include, but are not limited to, campers, motor homes, camping trailers and travel trailers; tents are excluded. A recreational vehicle shall have a body width of no more than eight (8) feet and a body length of no more than thirty-five (35) feet when factory equipped for the road.
76. *Recreational Vehicle Park.* A tract or parcel of land upon which two (2) or more recreational vehicle sites are located for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes.
77. *Right-of-Way.* A publicly owned strip of land to be used for public roads, bikeways, sidewalks, public transportation, utilities or similar related public uses.
78. *Sanitary Station.* A facility used for removing and disposing of wastes from recreational vehicle sewage holding tanks.
79. *Setback.* The horizontal distance in feet as measured from a lot line or right-of-way to the nearest vertical wall of a structure.
80. *Short Subdivision.* The division of land into four (4) or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.
81. *Sign.* Any letters, figures, design, symbol, trademark, or any illuminating device or structure, or any part thereof, intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever and painted, printed, or constructed and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem, or insignia of the government, school, or religious group when displayed for official purposes. Interior signs, if located on a window or within a distance equal to the greatest dimension of the window and if obviously intended for viewing from the exterior, shall be considered an exterior sign for purposes of this sign code.
82. *Structure.* Anything constructed or erected which requires location on the ground or is attached to something having location on the ground.
83. *Subdivision.* The division or re-division of land into five (5) or more lots, tracts, parcels, sites, or divisions.

84. *Substantial Damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
85. *Substantial Improvement.* Any repair, reconstruction, or improvement of a structure where the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
86. *Temporary Use or Seasonal Sales Facilities.* This includes uses of a limited duration that do not involve the construction or occupation of a building, as determined by the City, including, but not limited to, mobile food carts, fireworks stands, Christmas tree lots, sidewalk sales, traveling carnivals or circuses, and seasonal or temporary outdoor retail sales such as nursery sales yards or farmer’s markets.
87. *Wetlands.* Includes areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands, if permitted by the City.
88. *Wellhead Protection Area.* The surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well or well field, as has been designated pursuant to WAC 246-290.

**CHAPTER 17.02
ZONING DISTRICTS**

Sections:

- 17.02.010 – Official Zoning Map.**
- 17.02.020 – Use Classifications.**
- 17.02.030 – Single Family (R-1) Residential Zone.**
- 17.02.040 – Single Family (R-2) Residential Zone.**
- 17.02.050 – Multi-Family (R-3) Residential Zone.**
- 17.02.060 – Mobile Home (R-4) Residential Zone.**
- 17.02.070 – Central Business District (C-1) Zone.**
- 17.02.080 – Highway Commercial (C-2) Zone.**
- 17.02.090 – Industrial (I) Zone.**
- 17.02.100 – Public Facilities (PF) Zone.**
- 17.02.110 – Essential Public Facilities.**

Section 17.02.010 – Official Zoning Map. The City of Newport is divided into zones or use districts as shown on the Official Zoning Map, which together with all notes on the map, is adopted by reference and declared to be part of this Title.

A. The districts shown on the map and described in this Title are:

- R-1: Single Family Residential Zone
- R-2: Single Family Residential Zone
- R-3: Multi-Family Residential Zone
- R-4: Mobile Home Residential Zone
- C-1: Central Business District Zone
- C-2: Highway Commercial Zone
- I: Industrial Zone
- PF: Public Facilities Zone

B. The Official Zoning Map shall be the final authority as to the current zoning status of land in the City.

C. Parcels not classified on the Official Zoning Map are subject to an Administrative Code interpretation and shall be subject to the regulations of the R-1 District pending further classification.

D. In case uncertainty exists regarding the location of zoning boundaries, the Mayor or his/her designee may determine the location of such boundaries.

Section 17.02.020 – Use Classifications.

A. Table 17.02.020 indicates permitted, conditionally permitted and prohibited uses in the various zoning districts. Permitted uses may be approved by the City in accordance with the

provisions of this Title. In consideration of traffic, noise, lighting, hazards, health, environmental and other issues, certain uses may be permitted subject to special conditions through the issuance of a Conditional Use Permit. Prohibited uses are those uses not permitted within a zone at any time under any circumstances. For purposes of this section the following apply:

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

- B. The City may permit any use not specifically described in this Title, based on a finding that the proposed use is substantially similar to uses permitted in the zone in question. The City shall keep a record of such interpretations to facilitate equitable future administration and to permit periodic amendments to this Title.

Table 17.02.020

Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF
Accessory dwelling unit	N	N	N	N	N	N	N	N
Adult Entertainment Uses	N	N	N	N	N	C	N	N
Adult Family Homes	C	C	C	C	N	N	N	N
Automotive sales and service	N	N	N	N	P	P	P	N
Automotive towing/storage facility	N	N	N	N	N	C	P	N
Bed and Breakfast	C	C	N	N	N	N	N	N
Boardinghouse	P(1)	P(1)	P(2)	C	C	N	N	N
Bottling plant	N	N	N	N	N	C	P	N
Breweries, wineries	N	N	N	N	C	P	P	N
Bulk Plant	N	N	N	N	N	N	C	N
Business schools, dance and music schools	C	C	C	C	P	P	C	P
Cell Towers	N	N	N	N	N	C	P	C
Cleaning and laundry establishment	N	N	N	N	C	P	P	N
Clinic, hospital and convalescent facilities	C	C	C	C	P	P	C	P
Clothing fabrication and assembly	N	N	N	N	P	P	P	N
Commercialized form of recreation (bowling alley, theater)	N	N	N	N	P	P	N	N
Communication facilities	C	C	C	C	P	P	C	C

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Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF
Concrete Plants or accessory uses	N	N	N	N	N	C	C	N
Confidential social service facilities (4)	P	P	P	P	P	P	P	P
Convalescent Homes & nursing homes	N	N	P	P	C	C	N	P
Day Care - (13 or over) child & adult	C	C	C	C	C	C	C	C
Department stores, specialized service stores, specialty retail stores (shoe, sporting goods, gifts, hardware)	N	N	N	N	P	P	C	N
Detention Centers	N	N	N	N	N	N	C	C
Drive-thru businesses	N	N	N	N	C	P	P	N
Duplex	P	P	P	N	N	N	N	N
Electronics manufacturing	N	N	N	N	N	P	P	N
Electric Vehicle Charging Station - Level 1	P	P	P	P	P	P	P	P
Electric Vehicle Charging Station - Level 2	P	P	P	P	P	P	P	P
Electric Vehicle Charging Station - Level 3	N	N	N	N	C	C	P	N
Electric Vehicle - Battery Exchange Station	N	N	N	N	C	C	C	N
Essential Public Facilities	C	C	C	C	C	C	C	C
Family daycare home	P	P	C	C	C	C	C	C
Feed and seed stores	N	N	N	N	P	P	P	N
Financial institutions	N	N	N	N	P	P	C	N
Golf Course	C	C	C	N	N	N	N	C
Gravel pits/rock crushing operations	N	N	N	N	N	N	C	N
Grocery stores	N	N	N	N	P	P	N	N
Hazardous waste storage & treatment (offsite)	N	N	N	N	C	C	C	N
Hazardous waste storage & treatment (onsite)	N	N	N	N	C	C	C	N
Home business	P	P	P	P	P	N	N	N
Hotel or motel	N	N	N	N	P	P	C	N
Insurance, real estate, legal & abstract offices	N	N	N	N	P	P	C	C
Jewelry stores	N	N	N	N	P	P	N	N
Junkyard	N	N	N	N	N	N	C	N

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Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF
Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills.	N	N	N	N	N	N	N	N
Light industrial uses	N	N	N	N	N	C	P	N
Liquor stores	N	N	N	N	P	P	N	N
Lumber and building materials sales yards	N	N	N	N	C	P	P	N
Machine Shops	N	N	N	N	N	P	P	N
Manufacture of explosive or highly flammable material operations	N	N	N	N	N	N	C	N
Manufacture or refining of products such as acetylene; asphalt or tar; kiln fired brick, tile terra cotta; fats, oils or soap; oilcloth or linoleum; paint, shellac, turpentine, lacquer, or varnish, etc.	N	N	N	N	N	C	C	N
Marijuana - Medical Cooperative	X	X	X	X	X	X	X	X
Marijuana - Processing	X	X	X	X	X	X	C (5)	X
Marijuana - Production	X	X	X	X	X	X	C (5)	X
Marijuana - Retail Sales	X	X	X	X	C (6)	C (5)	C (5)	X
Mini day care (12 or under)	P	P	P	P	P	P	C	C
Mini storage	N	N	N	N	N	C	P	N
Mixed use (office, commercial and/or residential on a single parcel or in a single structure)	N	N	N	N	P	N	N	N
Mobile home as a residence	N	N	N	P	N	N	N	N
Multi-family residence	N	N	P	N	P(3)	P	N	N
Museum, art galleries	C	C	C	C	P	P	C	P
Newspaper and printing shops	N	N	N	N	P	P	P	N
Nurseries, garden supplies, and greenhouses	N	N	N	N	C	P	P	C
Nursery schools, day nurseries, childcare centers	C	C	C	C	P	P	N	P
Paper or pulp manufacture	N	N	N	N	N	C	C	N
Parking Lot	P	P	P	P	P	P	P	P
Passenger transportation depots	N	N	N	N	P	P	P	P

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Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF
Pet shops, small animal hospitals, kennels	N	N	N	N	C	C	C	C
Petroleum Processing	N	N	N	N	N	C	C	N
Police and fire station, branch utilities	C	C	C	C	C	C	C	P
Professional and general offices	N	N	N	N	P	P	P	C
Public garages or parking lots	C	C	C	C	P	P	C	C
Public uses (school, library, park, playground, social centers, water reservoir, waste water treatment plant)	C	C	C	C	C	C	C	P
Radioactive substance facilities	N	N	N	N	N	N	N	N
Railroad rights-of-way (not including yards)	N	N	N	N	N	P	P	P
Recreational vehicle park	N	N	N	C	N	C	C	C
Religious and charitable institutions	C	C	C	C	P	P	N	P
Restaurants	N	N	N	N	P	P	P	N
Service station	N	N	N	N	P	P	C	N
Shared parking	N	N	N	N	C	C	C	N
Single family residence	P	P	P	N	P	N	N	N
Slaughter houses, stockyards, or feedlot operations	N	N	N	N	N	N	C	N
Social Services	N	N	N	N	C	C	C	C
Stone and monument businesses	N	N	N	N	C	P	P	N
Tannery or curing of raw hides	N	N	N	N	N	C	C	N
Tavern or nightclub	N	N	N	N	P	P	N	N
Temporary Uses/Seasonal Sales	N	N	N	N	T (7)	T (7)	T (7)	T (7)
Truck terminals	N	N	N	N	N	P	P	N
Upholstery shops	N	N	N	N	P	P	P	N
Underground injection wells	N	N	N	N	N	N	N	N
Utility service yard	N	N	N	N	N	P	P	C
Warehouse and wholesale	N	N	N	N	C	P	P	N
Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces	N	N	N	N	N	N	N	N

Footnotes:

(1) Accommodating not more than two (2) persons in addition to residents.

- (2) Accommodating not more than ten (10) persons in addition to residents.
- (3) Above the ground floor.
- (4) Location will be kept confidential from public disclosure.
- (5) See Section 17.03.140 for additional requirements.
- (6) Only on parcels east of Union Avenue/Highway 2 in accordance with the provisions of Section 17.03.140
- (7) See Section 17.05.030 for permitting requirements.

Section 17.02.030 - Single Family Residential (R-1) Zone.

A. Purpose. The purpose of the Single Family Residential (R-1) Zone is to provide a single-family residential area that promotes and encourages an environment favorable for family life. Residential development is encouraged to blend with the existing character of the neighborhood and provide for adequate open space. The permitted uses include, but are not limited to, single family dwellings, duplexes, and home businesses. This area is encouraged to develop at a medium density (net 5-6 units per acre).

B. Accessory Uses. The following accessory uses are permitted in an R-1 Single-Family Residential Zone:

- 1. Private garages having space to accommodate not more than three (3) automobiles;
- 2. Tool sheds;
- 3. Outdoor patios;
- 4. Hobby shops and greenhouses relating only to the hobbies of the occupants;
- 5. Approved home businesses ; and
- 6. Gardening and fruit raising.

C. Development Standards.

Minimum lot size	6,000 square feet
Minimum lot depth	120 feet
Minimum lot width	50 feet
Minimum building setback, front yard Front door faces front of lot. Corner lots the front setback is determined by the location of the front door.	20 feet
Minimum building setback, side yard	10 feet
Minimum building setback, street side yard	20 feet
Minimum main building setback, rear yard	20 feet

Maximum main building height	30 feet
Minimum main building size	24' long by 20' wide
Maximum accessory building height	20 feet
Accessory buildings in rear yard a minimum setback from all lot lines	5 feet (20' from adjoining street or alley if the roof slopes in that direction)
Maximum lot coverage	80%
Maximum Residential Density	6 dwelling units/acre

D. Other Applicable Regulations. In addition to the requirements contained in this Section, the requirements contained in Chapter 17.03, Supplementary Standards, shall also apply in the R-1 Zone.

Section 17.02.040 - Single Family Residential (R-2) Zone.

A. Purpose. The purpose of the R-2 Zone is to provide for higher intensity, less restrictive single and double-family residences. Permitted uses include, but are not limited to, single-family dwellings, duplexes, and home businesses. This area is encouraged to develop at a medium density (net 8-10 units per acre).

B. Accessory Uses. The following accessory uses are permitted in an R-2 Single-Family Residential Zone:

1. Private garages having space to accommodate not more than three (3) automobiles;
2. Tool sheds;
3. Outdoor patios;
4. Hobby shops and greenhouses relating only to the hobbies of the occupants;
5. Approved home businesses; and
6. Gardening and fruit raising.

C. Development Standards.

Single-family residence - no minimum lot size, as long as all the following standards are met	None
Duplex minimum lot area	6,000 sq. ft.
Minimum lot depth (each lot must have 25' of street frontage)	None

Minimum lot width (each lot must have 25' of street frontage)	None
Minimum building setback, front yard. Front door faces front of lot. Corner lots, the front setback is determined by the location of the front door.	15 feet
Minimum building setback, side yard	5 feet
Minimum building setback, street side yard	15 feet
Minimum building setback, rear yard	15 feet
Maximum main building height	30 feet
Minimum main building size	24' long by 20' wide
Maximum accessory building height	20 feet
Accessory buildings in rear yard a minimum setback from all lot lines	5 feet (20' from adjoining street or alley if the roof slopes in that direction)
Maximum lot coverage	80%
Maximum Residential Density	10 dwelling units/acre

D. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to the R-2 Zone.

Section 17.02.050 – Multi-Family Residential (R-3) Zone.

A. Purpose. The purpose of the R-3 Zone is to provide for multi-family affordable housing. Permitted uses include, but are not limited to apartment buildings, accessory buildings, and home businesses. This area is encouraged to develop at a high density of 10-12 units per acre.

B. Accessory Uses. The following accessory uses are permitted in an R-3 Multi-Family Residential Zone:

1. Private garages;
2. Tool sheds;
3. Outdoor patios;
4. Hobby shops and greenhouses relating only to the hobbies of the occupants;
5. Approved home businesses; and
6. Gardening and fruit raising.

C. Development Standards.

Minimum lot size	6,000 sq. ft.
Minimum lot depth	100 feet
Minimum lot width	60 feet
Minimum building setback, front yard. Front door faces front of lot. Corner lots, the front setback is determined by the location of the front door.	20 feet
Minimum building setback, side yard and may be used as parking lot, which shall be separated from any adjacent development by a fence or hedge six feet in height and shall be well maintained.	15 feet
Minimum building setback, street side yard	15 feet
Minimum building setback, rear yard and may be used as parking lot	20 feet
Maximum building height	40 feet
Maximum accessory building height	20 feet
Minimum accessory building setback, rear yard	20 feet
Maximum lot coverage	80%
Maximum Residential Density	12 dwelling units/acre

D. Site Plan Review. Prior to the development of any lot in the Multi-Family R-3 Zone, approval of a Site Plan Review consistent with Section 17.05.040 is required.

E. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to the R-3 Zone.

Section 17.02.060 – Mobile Home Residential (R-4) Zone.

A. Purpose. The purpose of the R-4 Zone is to provide residential areas suitable for mobile homes and to ensure that mobile home parks are designed, developed and maintained to provide safety for their residents, to provide affordable, single-family style housing, and to be compatible with the character and scale of surrounding residential neighborhoods.

B. Accessory Uses. The following accessory uses are permitted in an R-4 Zone:

1. Private garages;
2. Tool sheds;
3. Outdoor patios;
4. Hobby shops and greenhouses relating only to the hobbies of the occupants;

5. Approved home businesses; and
6. Gardening and fruit raising.

C. Development Standards. All new development in the R-4 Zone must meet the following standards:

1. All mobile homes must be skirted to conceal the undercarriage within 30 days of occupancy.
2. All utility lines shall be undergrounded.
3. Each mobile home site must have two off-street parking spaces. At least one parking space must be located on-site and the other space may be located in a shared facility not more than 200' from the site.
4. Only one mobile home may be located on a lot unless approved through a binding site plan.

Minimum lot size	4,050 sq. ft.
Minimum lot depth	90 feet
Minimum lot width	45 feet
Minimum building setback, front yard. Front door faces front of lot. Corner lots the front setback is determined by the location of the front door.	10 feet
Minimum building setback, side yard	10 feet
Minimum building setback, rear yard	10 feet
Minimum building setback, rear yard accessory structures	5 feet (20' from adjoining street or alley if the roof slopes in that direction)
Maximum building height	30 feet
Maximum accessory building height	20 feet
Maximum lot coverage	50%
Maximum Residential Density	7 dwelling units/acre

D. Site Plan Review. Prior to the development of any lot in the Mobile Home Residential R-4 Zone, approval of a Site Plan Review consistent with Section 17.05.040 is required.

E. Other Applicable Regulations. In addition to the requirements contained in this Section, the requirements contained in Chapter 17.03, Supplementary Standards, particularly Section

17.03.100, shall also apply to the R-4 Zone. In addition, all mobile homes must meet the provisions of WAC Sections 296-150C, 296-150F, 296-150M, 296-150P, and 296-150R.

Section 17.02.070 – Central Business District (C-1) Zone.

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

B. Development Standards.

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

C. Site Plan Review. Prior to the development of any lot in the Central Business district C-1 Zone, approval of a Site Plan Review consistent with Section 17.05.040 is required.

D. Other Applicable Regulations.

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

2. In addition to the requirements contained in this Section the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to development in the C-1 Zone.

Section 17.02.080 – Highway Commercial (C-2) Zone.

A. Purpose. The purpose of the Highway Commercial (C-2) Zone is to provide for a broader type of commercial uses than those permitted in the Central Business District (C-1) Zone. Permitted uses include, but are not limited to retail, office complexes, and wholesale. This zone is more auto related than the central business district. The C-2 Zone may be characterized by shopping centers, gasoline service stations, automobile sales lots and other general or service commercial uses requiring more land and increased automobile access than would be available in the Central Business District.

B. Development Standards.

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

C. Site Plan Review. Prior to the development of any lot in the Highway Commercial C-2 Zone, approval of a Site Plan Review consistent with Section 17.05.040 is required.

D. Other Applicable Regulations. In addition to the requirements contained in this section the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to development in the Highway Commercial (C-2) Zone.

Section 17.02.090 – Industrial (I) Zone.

A. Purpose. The purpose of the Industrial (I) Zone is to provide standards for the location of non-polluting, light industrial uses. Typical uses in this zone include, but are not limited to fabrication, assembly, and manufacturing or processing. The zoned industrial areas take advantage of rail and highway access points and use fencing and landscaped screens to help buffer the uses from residential, public and commercial land uses. In addition, design standards are incorporated into the code to insure compatibility with adjacent uses.

B. Development Standards.

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

Minimum property boundaries setback, side	0 feet, except 50 feet where adjoining a residential district
Minimum property boundaries setback, rear	0 feet, except 50 feet where adjoining a residential district

- C. Site Plan Review. Prior to the development of any lot in the Industrial Zone, approval of a Site Plan Review consistent with Section 17.05.040 is required.
- D. Operating Standards. The following provisions shall apply to all uses within this zone:
 1. Storage, handling, and use of hazardous substances, materials and devices shall comply with the International Fire Code.
 2. Sound levels shall not exceed levels established by noise control regulations of the Department of Labor and Industries. Maximum permissible environmental noise levels to be emitted to adjacent properties are not to exceed levels of the environmental designations for noise abatement (EDNA) as established by the State of Washington, Department of Ecology (WAC 173-60-040).
 3. Pollution standards set up by regional, state or federal pollution control commissions or boards shall apply to all uses.
- E. Other Applicable Regulations. In addition to the requirements contained in this section the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to development in the Industrial Zone.

Section 17.02.100 - Public Facilities (PF) Zone.

- A. Purpose. The purpose of the Public Facilities (PF) Zone is to provide an area for those lands serving the needs of the general public, such as, but not limited to, land for a courthouse, school, health clinic, or park. This zone is reserved for designated public facilities and generally includes lands owned or reserved for governmental use.
- B. Development Standards. Development standards in the Public Facilities Zone shall be determined on a case by case basis and may be subject to public review and comment.
- C. Other Application Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03, Supplementary Standards shall also apply to development in the PF zone.

Section 17.02.110 Essential Public Facilities.

- A. Purpose. The Washington State Growth Management Act directs that no comprehensive plan or development regulation may preclude the siting of essential public facilities. The purpose

of this Section is to establish procedures and criteria to guide the review of necessary public uses that may otherwise be difficult to site.

B. **Applicability.** The location, review, and potential permitting of essential public facilities shall be guided by the provisions of the Newport Comprehensive Plan and the provisions of this Title.

1. Proposed public facilities that are on a list of essential public facilities maintained by the Washington State Office of Financial Management or the City of Newport, or that otherwise meet the definition of essential public facilities, as determined by the City, must comply with the provisions of this Section.

C. **Review Criteria.**

1. Essential public facilities may be permitted through a Type 2 Review and the issuance of a conditional use permit, provided that:

- a. The City may require that alternative sites be identified and evaluated;
- b. The City may require an extensive public involvement process to ensure that the public and affected property owners are actively involved throughout the pre-application and application review;
- c. The City may require a multi-jurisdictional review process if the facility serves a regional, state-wide, or national need;
- d. An analysis of the facility's impact on City finances shall be undertaken. Mitigation of adverse financial impacts shall be required; and
- e. All costs associated with the processing of the required permits and approvals of an essential public facility shall be paid by the applicant.

2. In addition to the general criteria for conditional uses, the following criteria shall be used to evaluate applications involving essential public facilities:

- a. Whether there is a public need for the facility;
- b. The extent to which the proposed essential public facility is consistent with the City Comprehensive Plan;
- c. The impact of the facility on the surrounding uses and environment;
- d. Whether the design of the facility and operation of the facility can be conditioned, or the impacts otherwise mitigated, to make the facility compatible with the character of the City, surrounding land uses, and the environment;

- e. The fiscal impact on the City including the impact on City services;
- f. Whether a package of incentives can be developed that would make siting the facility within the community more acceptable;
- g. Whether the factors that make the facility difficult to site can be modified to increase the range of available sites or to minimize impacts on affected areas and the environment; and
- h. The extent to which the proposed essential public facilities complies with any applicable State siting and permitting requirements.

**CHAPTER 17.03
SUPPLEMENTARY STANDARDS**

Sections:

- 17.03.010 – Access, Alleys, Off-Street Parking, and Loading.**
- 17.03.020 – Landscaping, Screening, and Property Maintenance.**
- 17.03.030 – Exceptions / Projections.**
- 17.03.040 – Fences.**
- 17.03.050 – Signs.**
- 17.03.060 – Utility Installations.**
- 17.03.070 – Clearing, Grading, and Stormwater Management.**
- 17.03.080 – Concurrency Management.**
- 17.03.090 – Accessory Structures**
- 17.03.100 – Home Businesses.**
- 17.03.110 – Recreational Vehicle Parks.**
- 17.03.120 – Nonconforming Uses and Structures.**
- 17.03.130 – Adult Entertainment Uses.**
- 17.03.140 – Marijuana Related Uses**

Section 17.03.010 – Access, Alleys, Off-Street Parking, and Loading.

- A. Purpose. The provision of alleys, off-street parking and loading space in accordance with the needs and requirements of particular property uses is necessary to promote traffic safety, minimize congestion, while maintaining neighborhood or district character.
- B. General Provisions. Where the parking requirements for a use are not specifically defined in this Chapter, the parking requirements for such use shall be determined by the City, and such determination shall be based upon the requirements for the most comparable use defined in this Chapter and/or the appropriate standards derived from the Institute of Transportation Engineers (ITE)'s Parking Generation Manual, as adopted by the City.
- C. Parking Spaces Required. New uses or development activities in all districts shall meet the minimum standards below.
 - 1. Whenever a building is enlarged or altered, or whenever the use of a building or property is changed, off-street parking shall be provided for such expansions, enlargement, or change in use in accordance with the requirements of this Title.
 - 2. Off-street parking shall be provided in accordance with the following:
 - a. All parking spaces shall be provided with adequate ingress and egress.
 - b. Each off-street parking space shall be a minimum of 18 feet in length and 8 feet in width for a standard space.

- c. Except for one (1) dwelling and two (2) dwelling units, groups of more than two (2) parking spaces shall be located and served by a driveway that will require no backing movements or other maneuvering within a street or right-of-way other than an alley.
 - d. Required parking shall not be located in a required front or required side yard along flanking streets on corner lots.
3. Where parking is provided off-site the distance shall be measured from the closest point of the parking area or lot to the closest point of the nearest building that such parking area or lot is required to serve. Off-street parking facilities shall be located in accordance with the following:
- a. For single family, manufactured housing units, duplexes, or motels: on the same lot as the use it serves.
 - b. For multiple family dwellings or boardinghouse: within two hundred (200) feet of the building it serves.
 - c. For hospital, convalescent facility: within three hundred (300) feet of the building it serves.
 - d. For uses other than those specified above: within five hundred (500) feet of the building it serves.

D. Size and Location of Parking Spaces.

Land Use	Parking Requirement
Residential	One (1) space per dwelling unit
Senior housing developments	One (1) space per unit
Motel, tourist home or boardinghouse	One (1) space per sleeping unit, guestroom or suite
Hospital, nursing home or institution	One (1) space for every four beds
Theater	One (1) space for each four (4) seats, except one space for each six (6) seats in excess of 800 seats
Church, auditorium, or similar place of assembly	One (1) space for each four (4) seats or 8' of bench length. 75 sq. ft. of gross floor space if chairs are removable
Medical or dental clinic	One (1) space for each 250 square feet
Bank, business or professional office with on-site customer service	One (1) space for each 300 square feet
Warehouse, storage	One (1) space per 1,000 square feet
Food and beverage place with sales and consumption on premises	One (1) space for each four (4) seats plus one for each two employees

Fast food / drive through businesses	One (1) space for each 250 square feet
Grocery store & retail	One (1) space for each 200 square feet
Retail: Selling bulky items such as furniture, appliance, automobiles	One (1) space for each 500 square feet of gross floor area
Manufacturing uses and all industries	One (1) space for each two (2) employees based on the maximum employment in any one (1) shift with a minimum of two (2) spaces
Recreational vehicle parks	One (1) space for each recreational vehicle space plus one (1) guest space for each three (3) recreational vehicle spaces

E. Shared Parking.

1. The City may, upon application for a conditional use by owner or lessee of any property, authorize the joint use of parking facilities by the following uses or activities under the conditions specified in this section:
 - a. Up to fifty percent (50%) of the parking facilities required by this Chapter for a use considered to be primarily a nighttime use or vice versa, provided that such reciprocal parking area shall be subject to the conditions set forth in this section.
 - b. Up to one hundred percent (100%) of the parking facilities required by this Chapter for a church or auditorium incidental to a public or parochial school may be supplied by parking facilities for a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in this section.
 - c. For the purposes of this section, the following uses are typical daytime uses: business offices, retail, manufacturing or wholesale buildings. The following uses are considered typical or nighttime and/or Sunday uses: residential, auditoriums incidental to public or parochial schools, churches, dancehalls, theaters, restaurants and taverns.
2. The conditions required for shared parking are as follows:
 - a. The building or use for which application is made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.
 - b. The applicant shall show that there is not substantial conflict in the principal operating hours of the buildings or uses for which the shared use of the parking facilities is proposed.

- c. Parties concerned in the shared use of off-street parking facilities shall evidence agreement for such use joint use by proper legal instrument approved by the City.

F. Development and Maintenance of Parking Facilities.

- 1. When five (5) or more new parking spaces are required, the spaces shall be developed and maintained in the following manner:
 - a. Off-street parking areas shall be paved or surfaced with screened gravel, crushed rock or better, and shall be graded and drained to dispose of all surface water. In no case shall such drainage be allowed across a public sidewalk or street.
 - b. Off-street parking areas which adjoin a residential use on adjoining property shall be separated from such property by an approved sight-obscuring fence or landscaping, such as a hedge.

G. Loading Space Required.

- 1. In all districts, buildings or structures to be built which receive and distribute material and merchandise by truck shall provide and maintain one (1) off-street loading berth for each twenty thousand (20,000) square feet of gross floor area or fraction thereof, which space shall be of sufficient length and width to accommodate the largest vehicle loading or unloading, but in no case less than ten (10) feet in width and twenty-five (25) feet in length and fourteen (14) feet in height.
- 2. Access to the loading space shall be from alleys when possible.
- 3. No off-street loading area shall be located in a required front yard.
- 4. Each berth or berths shall be surfaced and maintained so as to eliminate dust and mud.

Section 17.03.020 - Landscaping, Screening and Property Maintenance.

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

B. Landscape Screening.

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

2. Perimeter Screening shall be provided as follows:
 - a. An all-season visual separation and windbreak shall be provided between commercial uses when adjacent to a residential use or district. Perimeter landscaping shall be provided along the side and rear property lines and shall shield the views of industrial or commercial land uses, including outdoor storage, service, parking and loading areas, from roads and adjacent uses. If, however, the rear of the site is adjacent to an agricultural use, no rear yard perimeter screening is required.
 - b. A fifty (50) foot wide minimum vegetative buffer strip shall be provided between an industrial use and a residential district. The vegetative buffer shall consist of trees that attain a minimum of seven (7) feet in height. Additional screening may be required between dissimilar land uses.
 - c. If a parking lot is located adjacent to a street, a perimeter-screening minimum of ten (10) feet in width shall be provided between the street and the parking lot.
 - d. Trees and columnar shrubs shall be a minimum of four (4) feet in height at the time of planting and should grow to a minimum of eight (8) feet at maturity.
 - e. Screening requirements may be relaxed if warranted by the use of clustering or shared access, at the discretion of the City.
 3. Interior screening shall be required for parking areas according to the following minimum requirements:
 - a. Landscaping shall be provided at a minimum of ten percent (10%) of the parking area.
 - b. One (1) tree for every 10/20 (single/double) row parking spaces shall be provided, for summer shade.
 - c. Minimum tree size at planting shall be two (2) inch caliper.
 - d. Screening shall include shrubs suitable to be maintained at a height of three (3) feet.
 - e. Avoid obstructing views of crosswalks, intersections, and streetlights.
- C. Landscape Materials and Design Requirements.
1. The use of plant materials to achieve a variety of heights, shapes and/or textures upon maturity is encouraged.
 2. A combination of evergreen and deciduous trees, shrubs and groundcover shall be used.
 3. The use of drought-tolerant plant materials is encouraged.

4. The retention of existing trees is encouraged.
5. Fencing materials shall be attractive, durable, and complement or blend with the natural colors of the surrounding environment.

D. Maintenance.

1. Provisions shall be made for the on-going maintenance, including irrigation as necessary, of required landscape areas.
2. Trees and shrubs in required landscaped areas, which die, shall be replaced by the property owner.
3. All yards shall be maintained such that there will be no accumulation of silt, mud or standing water causing unsightly or hazardous conditions either within the yard or on adjacent properties.
4. All yards and buildings shall be maintained in a neat, tidy manner, including trimming and upkeep of all landscaped areas, and the removal of debris and unsightly objects.
5. All undeveloped land areas shall be maintained in permanent vegetative cover, or alternatively be landscaped with an approved combination of materials to control runoff.
6. All yards shall be maintained free of noxious weeds consistent with the regulations of the Pend Oreille County Weed Board.

Section 17.03.030 - Exceptions / Projections.

- A. Eaves, cornices, awnings and permitted signs may project not more than two (2) feet into a required yard.
- B. Steps, terraces, platforms and porches having no roof coverings, provided that they do not exceed two hundred forty-two (242) inches in height above the finished grade, may occupy the front or side yard.
- C. Smokestacks, chimneys, and flagpoles may exceed the height limit for the district in which they are located.
- D. Porches, decks, and building appendages in all residential zones must be set back at least ten feet from the front property line.

Section 17.03.040 - Fences.

- A. No fencing or other sight obstruction which constitutes a hazard to the traveling public within the area designated as the "Clear View Area" shall be allowed on a corner lot. The Clear View

Area is determined by measuring ten (10) feet from the point of two (2) intersecting streets along the property lines and then connecting the two (2) end points with a straight line forming the hypotenuse of the Clear View Area. Branches on trees within the area shall be removed at the trunk up to a minimum level of seven (7) feet above finished ground level. Shrubs shall be maintained no higher than three (3) feet above finished ground level within the area.

- B. Within one (1) year after development of the first business in an area zoned for industrial uses, a fence or wall shall be installed along the side of any part of the property adjoining an R, C-1, PF or C-2 Zone. The fence shall not exceed six (6) feet in height.
- C. Hedges and fences shall not exceed six (6) feet in height, provided that fences shall not exceed four (4) feet in front yard setbacks.
- D. No electrical or barbed wire fences are permitted, except security fences approved by the City.
- E. The height of fences shall be measured from existing grades.

Section 17.03.050 - Signs.

- A. Purpose. The purpose of this Section is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, help preserve the historic buildings and areas, preserve the scenic and natural beauty of designated areas, and provide a more enjoyable and pleasing community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-way, provide more open space, and curb the deterioration of natural beauty and community environment.
- B. General.
 - 1. The following sign standards by zone district are intended to include every zone in the City. Only signs as described herein and as may be described under “temporary signs” and “exceptions” will be permitted in each particular zone.
 - 2. If any zone is omitted from this ordinance or if a new zone is created after the enactment of this chapter, no sign shall be permitted therein until this ordinance shall be amended to include this zone.
 - 3. In addition to the provisions of this Chapter, signs must comply with the applicable provisions of state and federal laws, this may include but is not limited to:

- a. Signs in or visible from the right-of-way for State Route 20/US Highway 2 must comply with the regulations of the Washington State Department of Transportation and the US Scenic Byways, as appropriate; and
- b. Signs advertising liquor and marijuana must comply with the requirements of the Washington State Liquor Control Board.

C. Signs in Residential Zones.

1. General. The term residential shall apply to all zones designated as R-1, R-2, R-3 and R-4.
2. Size. One (1) sign not exceeding two (2) square feet in area shall be permitted per dwelling unit. For multiple dwellings, one (1) or more additional signs totaling twelve (12) square feet shall be permitted.
3. Location. Permitted signs may be anywhere on the parcel, except as noted below:
 - a. Signs may not be erected in areas restricted as noted elsewhere in this title.
 - b. Signs may not project beyond any property lines.
4. Ground Signs. Ground mounted signs shall not exceed five (5) feet in height, and not to exceed fifteen (15) square feet.
5. Wall Signs. Signs mounted on the building shall be flush with the wall surface and shall not project above the eave or roof line.
6. Content. The sign per dwelling unit shall indicate only the name of the occupant and may include the address. The additional sign area permitted for multiple dwellings shall be only for the identification of the building. In the case of an approved home occupation, the sign may bear the name of the business or service offered.
7. Illumination. Illumination, if used, shall be what is known as white and not colored light and shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign or upon the property on which the sign is located and shall not spill over the property lines in any direction except by indirect reflection.

D. Signs in Commercial Zones, Industrial and Public Facility Zones.

1. Signs in the C-1 and C-2 Zones shall comply with the following standards:
 - a. Wall signs. The total area for all wall signs shall not exceed seventy-five (75) square feet. In the case of projecting signs, sign area shall be calculated for one (1) side of the sign. Signs flush against the building face may be located anywhere on the surface of the building. Signs projected from the building face may project no more than six (6)

- feet from the face of the building, have a maximum height of five (5) feet and must have a minimum clearance of eight (8) feet above a public sidewalk and fifteen (15) feet above public driveways or alleys.
- b. Pole signs. Pole or ground-mounted signs are permitted when the building does not cover the full width of the parcel upon which it is located. The total area for a pole sign shall not exceed to sixty (60) square feet. Such a sign may extend up to twenty (20) feet above the ground level to the top of the sign, except as may be required by this title.
 - c. Marquee signs. Marquee signs may be on the vertical faces of marquees and may project below the lower edge of the marquee not more than twelve (12) inches. The bottom of the marquee signs shall be no less than eight (8) feet above the sidewalk or grade at any point.
 - d. Sidewalk signs. Sidewalk signs no larger than twelve (12) square feet per side, containing no moving parts and no lights, may be allowed during business hours. Sidewalk signs must be placed immediately in front of its place of business so as not to be a hazard to either pedestrians or vehicles.
 - e. Identity signs. One (1) ground-mounted identity sign is permitted not exceeding six (6) feet in height with a maximum sign area of sixty (60) square feet.
 - f. Miscellaneous signs. All other signs on the property indicating services, products, prices, trade information, or other information shall not exceed, in total, eighty (80) square feet in area.
 - g. Special advertising devices such as inflatables, floating signs and search lights, shall require a temporary permit.
- E. Nonconforming Uses and Nonconforming Signs.
- 1. Any building or land use not conforming to the provisions for the zone in which it is located shall, nevertheless, comply with all the provisions of this sign code for the conforming zone.
 - 2. Signs existing and not conforming to the provisions of this Chapter, but which were constructed in compliance with previous regulations shall be regarded as nonconforming signs. Such signs may be maintained in their present condition unless hazardous but may not be altered to size or relocated unless in conformity with the sign code.
- F. Exemptions. The following types of signs are exempted from all the provisions of this chapter, except for construction and safety regulations and the following requirements:

1. Public signs. Signs of a noncommercial nature and in the public interest erected by or on the order of a public officer in the performance of his public duty; such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, and the like.
2. Institutional. Signs setting forth the name or any simple announcement for any public, charitable, educational, or religious institution located entirely within the premises of that institution up to an area of twenty-four (24) square feet. Such signs may be illuminated in accordance with the regulations contained hereinafter. If building mounted, these signs shall be flat wall signs and shall not project above the roofline. If ground mounted, the top shall be no more than six (6) feet above ground level.
3. Integral. Names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
4. Private traffic direction. Signs directing traffic movement onto premises or within premises not exceeding three (3) square feet in area for each sign. Illumination of these signs shall be permitted in accordance with subsection (C)(7) of this section on illumination. Horizontal directional signs on and flush with paved areas are exempt from these standards.
5. Small signs. Signs not exceeding two (2) square feet in area attached flat against the building, stationary, and not illuminated announcing only the name and occupation of building tenant.
6. Rental. Signs on the premises announcing rooms for rent, room and board, apartment or house for rent and not exceeding four (4) square feet in area.
7. Vehicles. Signs on vehicles of any kind, provided the sign is painted or attached directly to the body of the original vehicle and does not project or extend beyond the original manufactured body proper of the vehicle.

G. Prohibited Signs. Prohibited are signs which:

1. Contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.
2. Contain or are an imitation of an official traffic sign or signal or contain the words "stop", "go slow", "caution", "danger", "warning", or similar words.
3. Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.

4. May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment.
5. Are erected in such a position as to completely blanket another sign already in place on either side. A sign is said to be blanketing when it hides other signs or a substantial portion thereof at a distance of twenty-five (25) feet.
6. Off-premises signs, including billboards, except directional signs and signs of public interest.

Section 17.03.060 - Utility Installation.

- A. Purpose. The purpose of this Section is to provide standards for the installation and maintenance of needed utility facilities in order to provide a safe and efficient municipal service system while ensuring compatibility with surrounding uses.
- B. Standards
 1. Whenever the lot on which the utility use is located is in or adjoins a residential zone, it shall be suitably landscaped so as to screen it from view from properties in the vicinity. Such landscaping shall be continually maintained by the utility provider.
 2. Safety fencing shall be erected and maintained around utility installations and structures in which there is any safety hazard whatsoever for children. All structures shall be located such that the safety fence does not encroach on any yard requirements in the district in which the use is located.
 3. The utility station shall not be used for offices, servicing of trucks, storage of equipment, or such similar uses unless it is a use permitted outright in the district.
 4. Lighting shall be directed away from adjacent properties, streets, and sidewalks to eliminate glare to surrounding properties, pedestrians, and drivers.
 5. No objectionable odor is permitted.
 6. All lots, including Mobile Home Parks, shall have a separate water meter and a separate sewer hook-up.

Section 17.03.070 - Clearing, Grading, and Storm Water Management.

- A. Purpose. The purpose of this section is to provide standards to govern clearing and grading activities in order to protect private property, water quality, environmentally sensitive areas, and shorelines.

- B. **Applicability.** All development activities must comply with the provisions of this Chapter unless specifically exempted.
1. It is the responsibility of the Applicant to demonstrate compliance with the provisions of this Chapter.
 2. The following clearing and grading activities are exempt from this section:
 - a. Any landfill or excavation of 100 cubic yards or less throughout the total lifetime of the fill or excavation.
 - b. Routine yard maintenance activities.
- C. **Storm Water Management Standards.** The City hereby adopts the most recent version of the Storm Water Manual for Eastern Washington prepared by the Washington State Department of Ecology, except as follows:
1. Exemptions. None.
- D. **Clearing and Grading Standards.** The following clearing and grading standards shall apply to development activities in all zones and shall be processed as a Type 1 permit:
1. All clearing and grading activities shall be conducted so as to minimize potential adverse effects on off-site property, surface water quality, critical areas, and shorelines.
 2. Storm Water runoff from new developments shall not adversely affect off-site property, surface water quality and quantity, and/or critical areas. Provisions shall be made to control the release of surface water runoff from the development both during and following construction.
 3. Clearing and grading, including drainage and erosion control measures, shall conform to the requirements of the Washington State Department of Ecology Storm Water Management Manual for Eastern Washington as adopted by the City of Newport, or alternative measures that meet or exceed these standards as determined by the City.
 4. All development shall ensure that soil erosion and sedimentation of drainage ways will be controlled to prevent damage to adjoining property and downstream drainage channels and receiving waters.
 5. Surface drainage shall not be directed to or discharged onto city roads or ditches within city rights-of-way unless approved by the City.
 6. Drainage controls may be required to regulate velocities of runoff water and to control pollutants, erosion, and sedimentation if the City determines that it is probable that damage could occur downstream to property or water quality of receiving water bodies.

Such controls may include landscaping or re-establishing native vegetation, ponds, catch basins, bio-filters, and other control structures or systems.

7. If required by the City, a drainage analysis shall be prepared. A drainage report, prepared under the direction of and sealed by a professional engineer, shall be submitted by the applicant for review as part of the permit application. The drainage report shall clearly define the measures proposed to control storm water runoff so as to avoid offsite, downstream impacts to adjacent property and receiving water bodies. The City shall have the authority to approve or reject the adequacy of drainage reports and storm water control measures, which decision is final and not subject to administrative appeal.
8. The City may condition any approval of a development permit so as to require clearing, grading and drainage controls to meet the requirements of this section.

Section 17.03.080 - Concurrency Management

- A. Purpose. The purpose of this Chapter is to ensure that adequate public facilities are available when the impacts of development occur. This means that facilities will have the capacity to serve development without decreasing levels of service below locally established minimums, and that the facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time.
- B. Applicability. All proposed projects or development activities must be reviewed for transportation and utility concurrency, provided that the City may establish an expedited concurrency review process for activities that do not meet SEPA Thresholds. Development is prohibited if the level of service for transportation facilities cannot be met.
- C. Transportation Concurrency Review Procedures. The City shall utilize the following procedures for evaluating all projects or development activities for concurrency, unless the Applicant otherwise noted in writing:
 1. Certificate of Concurrency.
 - a. The City shall complete a transportation concurrency evaluation at the time a development permit is applied for or during the course of permit review. The review shall conclude with a determination that the proposed project meets the level of service standards whereby a Certificate of Concurrency shall be issued and attached or incorporated to the development permit approval. When a project is determined to have not passed level of service standards the Certificate of Concurrency shall be conditioned in a manner that satisfies the requirements of this Chapter, or the project shall not be approved.
 - b. The Applicant shall provide the City with all information necessary to complete the concurrency evaluation on the proposed development. It shall be the responsibility of

the applicant to provide studies, surveys, traffic counts, engineering review or any other items determined to be necessary for an accurate concurrency evaluation.

- c. A Certificate of Concurrency shall be accorded the same terms and conditions as those for the underlying development permit. If a development permit timeline is extended the certificate shall also be extended for the same time duration. A Certificate of Concurrency shall be valid only for the development permit approved for the same parcel and may be transferable to any new owner(s) of the parcel to which it was issued.
- d. A Certificate of Concurrency shall apply only to the specific land uses, densities, intensities and project described in the application and project permit. A concurrency certificate is valid for any modification of the permits for which the certificate was issued so long as such modification does not require the applicant to obtain a new project permit.

2. Traffic Impact Calculations.

- a. Trip Generation. Traffic calculations shall be based on the trip generation average described within the latest available edition of the Institute of Transportation Engineers (ITE) trip generation manual for the particular type and extent of the development being proposed.
- b. Concurrency Test. The projected number of trips generated by a proposed development shall be subtracted from existing or new transportation capacity of the impacted transportation facility. If projected demand is less than available capacity the project is not adverse to level of service standards and shall be issued a Certificate of Concurrency.

D. Transportation Concurrency Mitigation Methods. The City shall use the following procedures and criteria to review and approve the adequacy of mitigation methods unless the applicant is otherwise noted in writing:

- 1. If mitigation is determined necessary to maintain level of service standards for an impacted transportation facility the Applicant may choose among the following actions subject to City review and approval:
 - a. Reduce the size of the project until levels of service standards are met;
 - b. Enter into a legally binding development agreement with the City whereby all required improvements will be constructed and completed within six years of the development approval date which also ensures that the financing will be available to pay for the improvements;

- c. Be subject to a development approval conditioned that the required improvements be completed prior to the issuance of building permits, final plat or site plan approvals associated with the development;
 - d. Propose transportation demand management strategies to reduce vehicle trips generated by the project development;
 - e. Await the City's completion of mitigating improvements if such improvements are underway or planned as part of the City six-year transportation improvement plan;
 - f. Any combination of the above.
2. Acceptable impact mitigation requires a finding of the following:
- a. The mitigation contributes to transportation facility performance and established level of service standards;
 - b. The mitigation is consistent with the City's Comprehensive Plan;
 - c. Any improvements to an intersection or roadway do not shift traffic to residential areas or to other intersections where there is no mitigation being proposed;
 - d. Any adverse environmental impacts of the facility improvements may be reasonably minimized or eliminated; and
 - e. The improvements are consistent with the City's engineering standards.
- E. Public Facilities and Utilities Concurrency. All Applicants shall submit, subject to City review and approval, documentation that adequate provisions have been made to ensure that public facilities and utilities are in place or can reasonably be provided to serve the proposed development. This shall include but is not limited to: fire and emergency medical services, law enforcement, electrical service, sewer services, water services, and public health facilities.

Section 17.03.090 - Accessory Structures.

- A. An accessory structure shall comply with the front and side yards setbacks required in the district in which the structure is located.
- B. An accessory structure may be located in a required rear yard, but shall be at least five (5) feet from any lot line and at least 20' from adjoining street or alley if the roof slopes in that direction.

Section 17.03.100 - Home Businesses.

- A. Purpose. The provision for home businesses is to allow for gainful employment within the home while maintaining the residential character of the dwelling and surrounding neighborhood.
- B. Standards.
1. Home businesses may be conducted in any zoning district provided that the home business complies with the following standards:
 - a. The home business shall be conducted entirely within the residence;
 - b. No more than an area equal to, but not exceeding, twenty-five percent (25%) of the main structure's footprint or five hundred (500) square feet, whichever is less, shall be devoted to the business;
 - c. No alteration to the appearance of the dwelling unit shall be made which is non-residential in nature;
 - d. No more than two (2) people in the home shall be employed in the business;
 - e. The home business shall not generate vehicular traffic, which will interfere with residential traffic circulation;
 - f. There shall be no commercial advertising, except one (1) non-luminous sign bearing the name and occupation of the resident not exceeding six (6) square feet in area and placed flat against the building may be permitted;
 - g. There shall be no window display nor shall sample commodities be displayed outside the buildings;
 - h. The home business shall not create or cause hazards or nuisances due to noise, dust, vibration, odors, smoke, glare, electrical interference, radio or television reception or other adverse impacts;
 - i. The home business shall not involve the use or storage of explosive, toxic, combustible or flammable materials in a quantity that exceeds the amounts incidental to normal residential use;
 - j. Materials or commodities delivered to or from the residence which are of such bulk or quantity as to require delivery by a commercial motor vehicle or a trailer, or the parking of customer's automobiles in a manner or frequency causing disturbance or inconvenience to nearby residents or so as to necessitate a public parking lot shall be prima facie evidence that the occupation is a primary business and not a home business.

2. The number of home businesses at any one (1) address is not limited, except that the cumulative impact of all such businesses shall not exceed the standards in this Section.

Section 17.03.110 – Recreational Vehicle Parks.

- A. Purpose. Recreational vehicle parks provide commercial transient housing to allow people to enjoy the outdoors. The purpose of this section is to provide standards for recreational vehicle parks, including campgrounds to ensure that such operations are compatible with the surrounding uses.
- B. Development Standards.
 1. The minimum size of a recreational vehicle park shall be one (1) acre.
 2. The maximum gross density shall be one (1) recreational vehicle space per each two thousand (2,000) square feet of land area.
 3. No less than ten percent (10%) of the total site area shall be provided as defined recreational space. The recreational space shall be easily accessible and shall be improved and maintained in such a manner so as to provide adequate recreational facilities for the users of the recreational vehicle park. The City may waive this requirement if it determines that recreational facilities located adjacent or in close proximity to the site will be sufficient to satisfy the recreational needs of users of the park.
 4. Each recreational vehicle space shall have a minimum width of twenty (20) feet.
 5. There shall be a minimum side-to-side dimension of eight (8) feet between units and a minimum end-to-end dimension of ten (10) feet between units.
 6. Vehicles spaces shall be sited so that the following minimum setbacks shall be maintained:
 - a. Twenty-five (25) feet from a public right-of-way.
 - b. Five (5) feet from an interior private street; and
 - c. Fifteen (15) feet from adjacent properties.
 7. Five (5) foot wide pedestrian walkways shall be provided from the recreational vehicle spaces to all service buildings and facilities, and refuse collection areas. The walkways shall be hard surfaced, well drained, and well lighted.
 8. All interior streets shall comply with adopted City standards for streets of that class. Paving on park streets shall comply with city street design standards. All interior streets shall be well drained, well lighted, and continuously maintained in operable condition.

9. No recreational vehicle shall remain in place in a recreational vehicle park for more than one hundred (120) days in any one (1) year period.
 10. Solid waste shall be collected, stored, and disposed of regularly to prevent health hazards, rodent infestation, breeding insects, or accident or fire hazards. Individual or grouped refuse containers must be screened from view except on collection day.
 11. All utilities shall be constructed and maintained in accordance with all applicable state and local codes and regulations. The following requirements for utilities shall apply:
 - a. A water supply system shall be provided for each space and shall be connected to the City of Newport's water supply system and metered.
 - b. Each recreational vehicle park shall be provided with one (1) or more easily accessible water supply outlets for filling recreational vehicle water storage tanks.
 - c. An adequate and safe sewage disposal system for emptying sewage holding tanks/containers shall be provided to accommodate each space and shall be connected to the City's sewer system.
 12. Restroom facilities shall be provided for each gender, shall be properly identified and each shall contain showers and toilets connected to the City's sewer utility, the minimum number of which shall be one commode and one shower for each twenty (20) recreational vehicle sites and shall be installed in accordance with IBC and local regulations.
 13. Refuse containers for solid waste shall be sized and provided in sufficient quantity to adequately handle one (1) week of generated refuse. Park garbage shall be picked up at least once a week. Park personnel shall monitor garbage containers for cleanliness and maintain the park free of any uncontrolled garbage or refuse.
 14. Each space shall be provided with an underground electrical system.
 15. All recreational vehicle spaces shall be well marked and numbered.
 16. In addition to the regulations above, all recreational vehicle parks shall comply with rules and regulations of the Washington State Department of Health and the N.E. Tri-County Health District.
- C. Procedures for Review and Approval. A recreational vehicle park will require approval of a binding site plan in accordance with the provisions of this Title.

Section 17.03.120 - Nonconforming Uses and Structures.

- A. Purpose. The purpose of this section is to define the conditions under which a lawfully constructed building or the lawful use of any building or lot existing at the time of passage of

this ordinance may be continued, although such building or use does not conform to the provisions of this Title.

- B. Nonconforming Uses. If a nonconforming use is discontinued for a period of six (6) months or more, future use of the land or building shall be in conformity with the uses permitted in the district in which the property is located.
- C. Expansion of Nonconforming Uses of Land. Nonconforming uses of land shall not be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption of this Chapter, unless such use is authorized under conditional use provisions of the applicable district and a Conditional Use Permit has been issued.
- D. Nonconforming Structures.
 - 1. Nonconforming buildings and structures shall not be enlarged or altered in any way that increases the nonconformity without the issuance of a variance in accordance with the provisions of this Title.
 - 2. In the event that a nonconforming structure is destroyed by any means to an extent of more than fifty percent (50%) of its actual value at the time of its destruction as determined by a licensed appraiser paid by the owner; the use of the structure and the lot upon which it is located shall thereafter conform to all requirements of the use district within which it is located. However, property zoned residential which has been continuously used for residential purposes that is later rezoned commercial, may be rebuilt to its original size and used for residential purposes if destroyed by catastrophic event. Any building sought to be repaired or restored after being damaged by fire, shall be restored and repaired within six (6) months in order to be entitled to the provisions of this section.

Section 17.03.130 – Adult Entertainment Uses.

- A. Purpose. The purpose of adult entertainment regulations is to establish a protection setback for adult entertainment uses to minimize impacts to schools, public parks, public libraries, state-licensed day care facilities, youth centers, churches and residential uses. It is also intended to disperse adult concessions, avoiding a concentration of these uses in any one area.
- B. Adult Entertainment Permitted. Adult entertainment uses shall be permitted by a conditional use permit in the C-2 Zone pursuant to the zoning standards listed for those zones and the additional standards included in this Chapter, provided the following findings are met:
 - 1. The proposed use is compatible with surrounding planned and existing uses.
 - 2. The proposed use poses no threat to the public’s health, safety or general welfare.
 - 3. The proposed use shall be sited, designed and operated in a manner consistent with the goals, policies and programs of the comprehensive plan.

C. Location Standards.

1. Any adult concession located in the City shall maintain a minimum distance of six hundred (600) feet from the following:
 - a. Property used for the schools, both public and private.
 - b. All residential zones.
 - c. Property used for public parks and/or public libraries.
 - d. State-licensed day care facilities.
 - e. Youth or community centers.
 - f. Churches, cemeteries or other religious facilities.
 - g. Other adult entertainment uses.
 - h. Other facilities or land uses which provide as a substantial portion of their activities, the provision of services to children and/or youth.
2. The six hundred (600) foot distance shall be measured by following a straight line, without regard to intervening structures or obstacles, from the nearest point of the property line upon which the proposed use is to be located, to the nearest point of the property from which the proposed land use is to be separated.

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

1. No electronic reader boards shall be allowed. Illustrations depicting partially or totally nude males or females shall not be posted or painted on any exterior wall of a building, door or any apparatus attached to such a building.
2. Parking areas shall be adequately illuminated to discourage loitering.
3. Landscaping and building lighting shall be designed to enhance the site's appearance.
4. Exterior building colors and materials shall be of natural or earth tones and be consistent with the character of the buildings within the same district.

E. Violations. Any person, co-partnership, association, firm or corporation violating any of the provisions of this Chapter shall be guilty of a gross misdemeanor and upon conviction shall be punished by fine or imprisonment in accordance with the provisions of the Newport Municipal Code and Ordinances.

Section 17.03.140 Marijuana Related Uses

- A. The purpose of this Section is to establish standards to govern the permitting of state-licensed facilities to produce, process, or sell marijuana as well as medical marijuana cooperatives in accordance with the provisions of the Laws of Washington State, including but not limited to RCW 69.50 and WAC 314-55, and all other applicable rules promulgated by the State of Washington.
1. The City may require such information as may be necessary to ensure full compliance with the provisions of State and local laws. Failure to provide required information may be the basis for the disapproval of the required City permits, licenses, and/or approvals.
 2. In the event that a court with jurisdiction declares some or all of the state or local laws or regulations governing marijuana related uses invalid, then the City may, upon advice of the City Attorney, suspend the acceptance of applications or the renewal of permits pending the resolution of the legal issue in question.
 3. Any marijuana related use or activity operating without a valid state license is an illegal use and must be terminated.
 4. Collective gardens are no longer permitted, and any collective garden established prior to July 1, 2016 must cease and desist.
 5. Failure to comply with the provisions of this Section or the Laws of Washington State may result in the suspension or revocation of permits, as well as criminal and/or civil penalties.
- B. Permitted Uses.
1. Any uses or activities found by the State of Washington, or a court with jurisdiction, to be unconstitutional or otherwise not permitted by State law, shall not be permitted by the City.
 2. Facilities associated with the production, processing, or retail sales of marijuana, or medical marijuana cooperatives authorized and licensed by the State of Washington may be permitted by the City in accordance with the provisions of this Section, provided that:
 - a. The proposed facility must be licensed by the State of Washington, and must be in compliance, at all times, with the laws and rules of the State, including but not limited to WAC Section 314-55;
 - b. The use or facility must be in full compliance with the ordinances and regulations of the City of Newport, at all times;

- c. Licensees must maintain documentation demonstrating that all required federal, state, and local taxes, fees, fines, and penalties have been paid and that there are no past due obligations;
 - d. No activities associated with the production, processing, transport, or sales of marijuana may be permitted as a home business or accessory use;
 - e. The City may suspend or revoke a city permit based on a finding that the provisions of this Section have not been met.
- C. Location Standards. New marijuana production, processing, or retail sales facilities shall not be located within the noted distance for each of the following uses. The distance shall be measured as the shortest straight-line distance between the property line of the proposed licensed premises to the property line of the location of the following uses and facilities:
- 1. Elementary or secondary schools (1,000 feet), including:
 - a. Stratton Elementary School;
 - b. Sadie Halstead Middle School;
 - c. Newport High School;
 - d. Pend Oreille River School (alternative high school);
 - e. State authorized charter schools; and
 - f. Private schools recognized by the Superintendent of Public Instruction.
 - 2. City-owned playgrounds with a public outdoor recreation area for children, equipped with swings, slides, and other playground equipment (1,000 feet), including:
 - a. Little People's Park;
 - b. Newport City Park; and
 - c. Newport Spray Park.
 - 3. For the following uses (1,000 feet), provided that the City may reduce the standard to not less than 100 feet based on a finding by the City that that such a distance reduction will not negatively impact the City's civil or criminal law enforcement interests, public safety, or public health.
 - a. Recreation centers or facilities;

- b. Childcare centers;
 - c. Public parks without playgrounds;
 - d. Public transit centers;
 - e. Public libraries including the Newport Branch Library;
 - f. Any arcade game where admission is not restricted to persons twenty-one years or older.
4. Social service providers that support at-risk teens, young adults, and families (100 feet), including:
- a. Youth Emergency Services (YES);
 - b. Young Adult Program; and
 - c. The Family Crisis Network.
5. Any parcel zoned R-1, R-2, R-3, or R-4 (60 feet), provided that this requirement does not apply to the rear property line if the parcel abuts an alley.
6. New marijuana facilities must be located at least 1,000 feet from existing marijuana facilities.
- D. Development Standards. All marijuana facilities must comply with all provisions of this Section and in addition, must comply with the following development standards:
- 1. The development standards in Chapter 17.02 applicable to the zoning district of the proposed marijuana facility.
 - 2. The supplemental development standards contained in Chapter 17.03, including, but not limited to:
 - a. 17.03.010 - Access, Alleys, Off-Street Parking, and Loading;
 - b. 17.03.020 - Landscaping, Screening, and Property Maintenance; and
 - c. 17.03.040 - Fences.
 - 3. Two signs, neither larger than 1,600 square inches, permanently affixed to the building, and that otherwise complies with all provisions of the Revised Code of Washington and the Washington Administrative Code as adopted or subsequently amended by the State,

and the International Building and related codes, as adopted or subsequently amended by the City, may be permitted, provided that:

- a. No billboards or off-site signs shall be permitted.
4. All production and processing shall be indoors and buildings where cannabis is grown and stored must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
5. All buildings and structures shall be permanent and must comply with all provisions of the International Building Codes as adopted by the City.
 - a. This shall include, but is not limited to, an inspection(s) by the City and the issuance of a Certificate of Occupancy by the City prior to use of the facility.
 - b. In addition, the City Fire Department and/or Building Official may periodically inspect approved facilities to ensure ongoing compliance.
6. No sales of marijuana shall occur outside, off-site, or from drive-thru windows.
7. No marijuana retailer shall be located within any other business and may be located in a building with other uses only if the marijuana business is separated by full walls and has a separate entrance.
8. Marijuana producers and processors must provide documentation that the Pend Oreille PUD has reviewed and approved a copy of their operating plan, site plans, building plans/layout, and calculations for electrical service based on the size category of their production or the proposed method of processing prepared by a licensed electrician.
 - a. The PUD may require the improvement or installation of electrical facilities sufficient to meet levels of production.
 - b. Increases in levels of production may require upgrades in the capacity of electrical facilities by the licensee.
 - c. All electrical wiring and facilities must comply with the provisions of State law and shall be inspected by the Washington State Department of Labor and Industries prior to commencing operations.
9. Only water or alcohol-based extraction processes are allowed. Flammable, explosive, or chemical based extraction processes, including the use of butane or CO₂, are not permitted.
10. Licensees shall provide such documentation as may be required by the State and City to confirm that liquid and solid wastes generated during production and processing can be

safely disposed of in accordance with applicable state and local laws and regulations, including but not limited to WAC 314-55-097.

- E. **Supplemental Application Requirements.** In addition to the general requirements in this Title, the following shall apply to applications for marijuana facilities submitted to the City:
1. The Notice of Application shall be mailed to the owners of all properties and businesses located within 1,000 feet of the boundary of the site; and
 2. A site plan review shall be required for all lots proposed for use by marijuana producers, processors, retail sales facilities, and medical marijuana cooperatives. The requirements for a complete site plan application will be determined by the City and at a minimum shall include:
 - a. The location of all existing and proposed buildings on and adjacent to the site;
 - b. Building heights and setbacks;
 - c. Identification of all uses within 1,000 feet of the property boundary;
 - d. The location of environmentally sensitive areas on or adjacent to the site;
 - e. Existing and proposed access, parking, and unloading;
 - f. Existing and proposed fencing and landscaping; and
 - g. The size and location of any proposed signs.
- F. **Revisions to State Licenses.** Marijuana licensees shall report any changes to their State licenses to the City. Increases in authorized production levels or changes in processing techniques may require additional improvements and/or changes to the conditions of City approval.
1. Failure to report changes or to comply with this provision may result in the revocation of City permits, licenses, and/or approvals.
 2. Facilities that have had their State license or City permits, licenses, or approvals revoked shall cease operations immediately.

Section 17.03.150 Electric Vehicle Charging Stations

- A. The purpose of this chapter is to ensure the effective installation of electric vehicle charging stations.
- B. **Designation of electric vehicle charging stations.** An electric vehicle charging station is a public or private parking space that is served by battery charging equipment with the purpose

of transferring electric energy to a battery or other energy storage device in an electric vehicle and is classified based on the following levels:

1. Level 1 is considered slow charging.
2. Level 2 is considered medium charging.
3. Level 3 is considered fast charging. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.
4. Battery Exchange Station is considered a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process.

C. **Standards for electric vehicle charging stations.** Electric vehicle charging stations utilizing parking stalls located in a parking lot or parking garage or in on-street parking spaces shall comply with the following standards. Due to the fact the technology associated with electric vehicles, batteries and electric vehicle charging stations is relatively new and is anticipated to change, and that there is a lack of municipal experience on consumer and community preferences and attitudes with regard to electric vehicles, the Planning Commission may authorize variations from these standards, so long as the intent and goal of the standards and this chapter are addressed.

1. Except when located in conjunction with single-family residences, electric vehicle charging stations shall be reserved for parking and charging of electric vehicles only.
2. Signage. Each electric vehicle charging station shall be posted with signage indicating the space is only for electric vehicle charging purposes. Wayfinding signs conveniently located to guide motorists to the charging stations are permitted with approval of the Planning Commission.
3. Accessibility. The design and location of the electric vehicle charging stations shall comply with the following barrier-free accessibility requirements:
 - a. Accessible charging stations shall be located in proximity to the buildings or facility entrances and shall be connected to a barrier-free accessible route of travel.
 - b. Accessible charging stations shall comply with the requirements of WAC [51-50-005](#).

**CHAPTER 17.04
LAND DIVISION**

Sections:

17.04.010 - Purpose.

17.04.020 - Scope and Compliance.

17.04.030 - Lot Line Adjustments.

17.04.040 - Short Plats.

17.04.050 - Design Standards.

17.04.060 - Plat Vacation and Alteration.

17.04.070 - Bonds.

17.04.080 - Monumentation.

17.04.090 - As Built Drawings.

Section 17.04.010 - Purpose. The purpose of Chapter 17.04, Land Division, is to:

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

Section 17.04.020 - Scope and Compliance.

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

- B. The provisions of this Chapter shall not apply to the following:
1. Cemeteries and burial plots while used for that purpose.
 2. Division of land into lots or tracts, each of which is one sixty fourth (1/64) of a section of land or larger, or ten (10) acres or larger, if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this item which borders on a street or road, excluding limited-access streets or roads, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street, and the side lot lines of the lot running perpendicular to the centerline.
 3. Divisions of land, which are the result of the actions of governmental agencies, such as condemnation for road construction purposes.
 4. Division of land made by testamentary provisions, or the laws of descent.
 5. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width, depth, and area for a building site.
 6. Divisions of land into lots or tracts classified for industrial or commercial use when the City has approved a binding site plan for the use of the land in accordance with City regulations;
 7. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are to be placed upon the land when a binding site plan has been approved for the use of the land;
 8. A division for the purpose of alteration by adjusting boundary lines, between platted or un-platted lots or both, which does not create any additional lot, tract, parcel, site, or division which contains insufficient area for a building site; and
 9. Divisions of land into lots or tracts if:
 - a. The improvements constructed or to be constructed thereon will be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;
 - b. A city, town or county has approved a binding site plan for such land; and
 - c. The binding site plan contains thereunto the following statement:
"All development of the land described herein shall be in accordance with the binding site plan, as it may be amended. Upon completion, the improvements on the land

shall be included in one (1) or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest."

Section 17.04.030 - Lot Line Adjustments.

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

Section 17.04.040 - Short Plats. Short Plats shall involve the division of land into four (4) or fewer parcels.

- A. Prohibition on Further Division. Property in Short Plat subdivision shall not be further divided in any manner within a period of five (5) years, except if the Short Plat contains fewer than four (4) lots. If the Short Plat contains fewer than four (4) lots, the property owner may alter the Short Plat within the five-year (5) period to create up to a total of four (4) lots within the original Short Plat boundaries. Under no circumstances may a short plat containing four (4) lots be further divided.

Section 17.04.050 - Design Standards.

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

B. General Provisions.

1. Land, which is found to be unsuitable due to bad drainage, slopes of more than twenty percent (20%) or land with rock or unstable soil conditions, shall not be subdivided unless the plans include the design and installation of devices necessary for correction or control of conditions.
2. If existing utilities are not adequate or cannot be practically installed, a proposed land division may be rejected until such time as necessary modifications to the system(s) are made to allow for adequate service. As a condition of a land division approval, the City may require the costs of modification be borne by the developer.
3. The developer will be required to provide utilities on-site and off-site to meet the minimum level of service established in the Newport Comprehensive Plan.

C. Streets.

1. The on-site street system shall be coordinated with existing, proposed, and anticipated streets beyond the land that is being divided into lots. The arrangement of streets shall

provide for the continuation of principal streets and adjacent properties for the convenient movement of traffic, effective fire protection, efficient provision of utilities and conformance with the Comprehensive Plan.

2. Whenever connections to anticipated or proposed surrounding streets are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property, or to the edge of the undeveloped portion of a single tract, at the point where the connection to the anticipated or proposed street is expected. In addition, the City may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles.
3. Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff and to conform as closely as practicable to the original topography.
4. All intersecting streets shall be arranged to intersect as nearly at right angles as possible.
5. Street jobs with centerlines offset by less than one hundred (100) feet shall not be allowed.
6. Clear visibility shall be provided for a minimum distance of ten (10) feet at intersections, as measured along the property line of the streets based on street alignment and gradients.
7. All streets will be designed by a professional engineer.
8. The following design standards shall apply for dedicated right-of-way:

	Local or Residential	Collector	Arterial
Required Right-of-Way	60 feet	60 feet	60 feet
Required Pavement Width	36 feet	36 feet	36 feet
Design Speed	25 miles per hour	35 miles per hour	35 miles per hour
Minimum Diameter of Turn-Around for Cul-de-Sacs	60 feet	Not Allowed	Not Allowed
Minimum length of Cul-de-Sacs	300 feet	N/A	N/A
Street Grades not to Exceed	6%	6%	6%

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

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

D. Block Sizes.

1. Blocks shall have sufficient depth to provide for two (2) tiers of lots, which meet the development standards of the district in which the property is located. The lengths, widths and shapes of blocks shall be such as are appropriate for the location but block lengths in residential zones shall not be less than three hundred (300) feet except where possible, block length, width, and layout shall be consistent with that of adjacent layouts unless topographical conditions justify variation.
2. The developer may be required to provide an easement through a block to create pedestrian connectivity at a mid-block point when determined to be essential to provide circulation or access to schools, parks, retail areas, or other destination points. Minimum width of a pedestrian walkway placed in the easement shall be four (4) feet.

E. Access.

1. Every lot shall be provided with frontage on or access to a public street via a private street.
2. If access to the subdivision is required across land under the jurisdiction of another local government, the City may request assurance from the local government that access is legally established, and that the access road is adequately improved, or that a guarantee has been executed and is sufficient to assure the construction of the access road.

F. Lot Frontage.

1. All lots shall have a minimum lot frontage of twenty (20) feet.
2. Flag lots shall not be approved unless the frontage and lot width standards are met. No more than two (2) lots may be accessed from a single flag stem.

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

H. Curbs, Sidewalks, and Planter Strips.

1. Concrete curbs and sidewalks shall be constructed in accordance with the American Public Works Association Standards or as required and approved by the City.
2. ADA compliant ramps shall be provided in sidewalks at all intersections.
3. Curbs and sidewalks shall be constructed in accordance with the following:

- a. Concrete curbs shall be six (6) inches high or shall have a rolled profile as approved by the City.
- b. Sidewalks and planter strips shall be included within the dedicated non-pavement right-of-way of all streets as follows:
 - i. Sidewalks in residential zones shall be a minimum of four (4) feet in width, unless along a principal arterial where the sidewalk shall be five (5) feet in width. In addition, a four (4) foot planter strip shall be provided between the curb and the sidewalk.
 - ii. Sidewalks in commercial zones shall be a minimum of ten (10) feet in width, unless otherwise specified by the City.
 - iii. Sidewalks in industrial zones shall be a minimum of five (5) feet in width.

I. Street Amenities.

1. One (1) street tree shall be planted within the planting strip of the public right-of-way for every forty (40) feet of lot frontage along the existing or proposed road. A waiver may be granted by the City Council if:
 - a. There are trees growing along the right-of-way or on the abutting property, which, in the judgment of the City Council, comply with this regulation; or
 - b. A finding is made that the planting of trees will adversely affect street pavement or sidewalks, or otherwise adversely affects the public health and safety.
2. Streetlights shall be provided so as to provide a safe environment for the residents and visitors to the subdivision. The location and amount of lighting shall be approved by the City. The developer shall be responsible for the cost of installation of all required lights.
3. Before occupancy of any building, the City will install all required street signs. The developer shall be responsible for the cost of installation of all required signs.

J. Water Facilities.

1. All lots shall be connected to city water. The developer shall ensure that necessary improvements and extensions are made so as to provide water sufficient for domestic use and fire protection. All water extensions shall be approved by the City.
2. All water utility installations including fire hydrants shall be designed in accordance with the American Public Works Association Standards or as required by the City. All materials shall be American Water Works Association approved.

3. Any water main shall be a minimum of eight (8) inches in diameter. In deciding the size of a new water line, the size shown in the Newport Water System Plan and the planned growth of the surrounding area shall be considered.
4. Fire hydrants are required in all subdivisions. They shall be spaced at distances not to exceed five hundred (500) feet in single-family residential areas and at distances not to exceed three hundred (300) feet in all other areas, per International Fire Code.

K. Drainage and Storm Sewers.

1. Lots shall be graded so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the proposed storm drain pattern of the area. Stormwater runoff from individual lots shall be detained and treated on-site, so that the general storm drainage pattern in the area will not be disrupted.
2. A drainage plan will be prepared by a professional engineer.
3. Drainage control and storm water easements shall be provided for in the proper locations, with sufficient width in accordance with professional engineering standards.

L. Sanitary Sewer Facilities.

1. The developer shall install sanitary sewer facilities to all lots in accordance with the American Public Works Association Standards or as required and approved by the City.
2. Sanitary sewers shall be installed to serve every lot. No individual disposal systems or treatment plants shall be permitted.
3. No gravity sewer main shall be less than eight (8) inches in diameter unless justified and approved by the City and the Washington State Department of Ecology.

M. Public Utilities and Easements.

1. All existing and proposed utilities and easements shall be shown on the preliminary plat.
2. All new utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground.
3. Underground service connections to the property line of each platted lot shall be installed by the developer. The developer shall coordinate with the City and utility companies for the establishment of easements within the subdivision.

- N. Dedication of Public Parks. If the preliminary plat includes a dedication of a public park with an area of less than two (2) acres and the donor has designated that the park be named in honor of a deceased individual of good character, the City Council may adopt the designated name.
- O. Naming of Divided Land. The proposed name of a short plat or subdivision shall not duplicate, or closely approximate phonetically, the name of any other division of land.
- P. Protective Covenants. If a property owner has covenants or deed restrictions on a proposed short plat or subdivision, the recording date of said covenants or deed restrictions shall be on the face of the plat.
- Q. Solar Access. The lots and building pads shall be oriented to maintain solar access to properties within and adjacent to the subdivision.
- R. Flood, Inundation or Swamp Conditions. A proposed plat may be denied because of flood, inundation, or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat. No plat shall be approved covering any land situated in a flood control zone as provided in RCW Chapter 86.16 without the prior written approval of the State Department of Ecology.

Section 17.04.060 – Plat Vacation and Alteration. A Plat Vacation or Alteration shall be processed in accordance with Section 17.05.110.

- A. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner(s), unless the plat or other document creating the dedicated easement provides for an alternative method(s) to vacate or alter the easement.
- B. After approval of an alternation, the applicant shall produce a final drawing of the approved alteration which shall be filed with the County Auditor to become the lawful plat of the property.
- C. If any land within the alteration is part of an assessment district, any outstanding assessment shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.
- D. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

Section 17.04.070 – Bonds.

- A. In lieu of the completion of the actual construction of any required improvements or monumentation, prior to the approval of a short or final plat, the City may accept a bond,

approved as to form by the City Attorney, in an amount and with surety and conditions satisfactory to it, or other secure method, providing for and securing to the City the actual construction and installation of such improvements within a period specified by the City and expressed in the bonds. In addition, the City may require the posting of a bond securing to the City the successful operation of improvements for up to two (2) years after final approval.

- B. All bonded improvements shall be designed and certified by or under the supervision of a registered civil engineer prior to the acceptance of the improvements.

Section 17.04.080 - Monumentation.

- A. All front and rear corners shall be set with monuments, except as provided in Subsection B of this section.
- B. All monuments for the exterior boundaries of the subdivision shall be set and referenced on the plat prior to plat recording. Interior monuments need not be set prior to recording if the developer certifies that the interior monuments shall be set within ninety (90) days of final subdivision construction inspection by the City, and if the developer guarantees and certifies the interior monumentation.

Section 17.04.090 - As Built Drawings. Upon completion of the installation of all infrastructure improvements, two (2) copies of infrastructure as built plans shall be filed with the City Superintendent. The maps shall show information required by the City, but not limited to location of all utilities, sewer grades, manholes, fire hydrants, storm sewer main size and location, and catch basin location. The City shall withhold final acceptance of the utility installation until the as-built drawings are filed.

**CHAPTER 17.05
APPLICATIONS**

Sections:

- 17.05.010 – Purpose.**
- 17.05.020 – Conditional Use Permit.**
- 17.05.030 – Temporary Use Permit.**
- 17.05.040 – Site Plan Review.**
- 17.05.050 – Variance.**
- 17.05.060 – Planned Development (PD).**
- 17.05.070 – Lot Line Adjustments.**
- 17.05.080 – Short Plat.**
- 17.05.090 – Preliminary Subdivision Plat.**
- 17.05.100 – Binding Site Plan.**
- 17.05.110 – Final Plat.**
- 17.05.120 – Vacation and Alteration.**

Section 17.05.010 – Purpose. This Chapter describes the land use applications for development subject to review under this Title. The intent is to describe the framework of the various types of development applications, the criteria and time frame for approvals. The procedures for the land use applications are described in the following Chapter.

Section 17.05.020 – Conditional Use Permit. It is the purpose of this section to allow for the review of proposed uses which, because of considerations of traffic, noise, lighting, hazards, health and environmental issues, require a case-by-case review to determine if the use is appropriate on the site and in the vicinity. The imposition of conditions on the approval of an application can occur in order to reduce impacts to adjacent properties and uses.

- A. The City may approve a Conditional Use Permit in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
1. The project is consistent with the Newport Comprehensive Plan and meets the requirements and intent of this Title, including the type of land use; the density/intensity of the proposed development; and the protection of critical areas, if applicable.
 2. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health and safety.
 3. The project adequately mitigates impacts identified through the SEPA review process, if required.
 4. The project is beneficial to the public health, safety, and welfare, and is in the public interest.

- B. A Conditional Use Permit shall be valid for up to five (5) years and may be renewed every five (5) years thereafter.
- C. A Conditional Use Permit is issued to the applicant and is only valid for that applicant. A Conditional Use Permit is not assignable to another party. If that applicant should move, or pass away, a new application must be made within one (1) month of the change in ownership.
- D. If the use authorized under a Conditional Use Permit ceases or is interrupted for six (6) consecutive months or more, then a new Conditional Use Permit will be required.

Section 17.05.030 – Temporary Use Permit. It is the purpose of this section to allow for the review of proposed uses on a temporary basis which, because of considerations of traffic, noise, lighting, hazards, health and environmental issues, require a case-by-case review to determine if the use is appropriate on the site and in the vicinity. The imposition of conditions on the approval of an application can occur in order to reduce impacts to adjacent properties and uses.

- A. Temporary Use Permit may be approved, in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
 - 1. The Temporary Use shall occur for a maximum of six (6) months in a calendar year, provided that a Temporary Use Permit may be renewed annually for not more than six months at a time, based on a review of such information as may be required by the City.
 - 2. The proposed temporary use shall not involve the construction or occupation of a building, as determined by the City.
 - 3. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.
 - 4. The proposed site is adequate in size and shape with appropriate screening or landscaping to accommodate the temporary use without detriment to the use and enjoyment of other properties in the project vicinity.
 - 5. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection as determined by the City.
 - 6. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the review authority.
- B. Applicants for a Temporary Use Permit must be current in any tax obligation to the State of Washington, Pend Oreille County, and the City of Newport as an individual or as part of any entity in which they have an ownership interest, and shall provide such documentation as may be required by the City. In order to facilitate the timely review and potential approval of

a temporary use the City may require a site plan prepared in accordance with the provisions of Section 17.05.040 and other application materials.

- C. The fee for a Temporary Use Permit or renewal shall be determined in accordance with the adopted City Fee Schedule.

Section 17.05.040 – Site Plan Review. The purpose of a Site Plan Review is to ensure that new development is not a threat to the public health, safety and welfare of residents of Newport and that it is compatible with existing patterns of development. The intent of design review is to ensure that the site plan, landscaping, architecture, orientation, circulation, lighting and site development of large multi-family and non-residential projects be designed in such a manner that they minimize negative effects to adjoining properties, enhance the overall community image and respect the turn-of-the-century character of the City of Newport. Design review shall be incorporated into all site plan reviews.

- A. A Site Plan Review application shall include the following on plans that are drawn to scale:

1. The location and dimension of the lot(s).
2. Existing topography and natural features.
3. Existing and proposed structures and the proposed uses.
4. Proposed grading, drainage facilities, and location of storage, if applicable.
5. The location of existing and proposed roads, parking facilities, loading areas, curbs, drains, paving, sign and light pole locations, walls, fences, walks, approaches, and plantings within the area.
6. The location of existing and proposed water, storm, and sanitary sewer lines.
7. The nature, location, dimensions of the critical resource area or floodplain area, if any, on or adjacent to the site.
8. All required technical reports prepared by experts with demonstrated qualifications in the area(s) of concern.
9. Drawings of proposed building elevations, noting material types and color.
10. Any additional information deemed necessary by the City.

- B. Design of new development should be consistent with the rooflines, setbacks, window types and building materials of the turn-of-the-century theme already established. New development is encouraged to employ enhanced pedestrian elements, decorative lighting,

seating, planters and to incorporate works of art in public spaces, exterior facades and entrance lobbies.

1. Multi-Family Residential Development

- a. Integrate the site plan of the multi-family residential development with the surrounding neighborhood.
- b. Design the project in response to specific site conditions, including trees, streams and other significant natural features.

2. Commercial Development

- a. Develop the site plan in response to specific site characteristics, including natural features and location within the community.
- b. Use traditional storefront components and proportions on the ground-floor levels.
- c. Include windows on the second-floor levels of street-facing facades.
- d. Modulate, or break up, blank street-facing walls over forty (40) feet in width with recesses, columns, bands, or textural treatment.
- e. Give special architectural treatment to primary building entrances.
- f. Select exterior color schemes that are consistent with the turn-of-the-century rural town.
- g. Integrate all commercial signage with the architectural design of the building.

C. The City may approve a Site Plan Review in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The project is consistent with the Newport Comprehensive Plan and meets the requirements and intent of the Newport Development Regulations, including the type of land use and the intensity/density of the proposed development.
2. The physical location, size, and placement of the development on the site and the location of the proposed uses within the project minimize impacts to any critical resource or flood plain area to the greatest extent possible or are compatible with the character and intended development pattern of the surrounding properties.
3. The project makes adequate provisions for water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health and safety.

4. Public access and circulation are adequate to and on the site. In addition, the access and circulation allow for multiple forms of transportation.
 5. Adequate setbacks and buffering have been provided. Any reduction to setbacks or buffer widths is the minimum necessary to allow for reasonable economic use of the lot and does not adversely impact the functional value of the critical resource area or adjoining land uses.
 6. The physical location, size, and placement of proposed structures on the site and the location of proposed uses within the project are compatible with and relate harmoniously to the surrounding area.
 7. The project adequately mitigates impacts identified through the SEPA review process, if required.
 8. The project would not be detrimental to the public interest, health, safety, or general welfare.
- D. Authorization of a Site Plan Review shall be valid for one (1) year after the effective date, and shall lapse at that time unless a building permit has been issued and substantial construction has taken place.
1. The City may extend the Site Plan Review one (1) year longer if it finds that the facts on which the site plan review is approved have not changed substantially.

Section 17.05.050 - Variance. The purpose of a variance is to provide relief in cases where the strict application of the development standards would result in undue hardship by virtue of physical peculiarity of a parcel of land. The purpose is to ensure that because of physical characteristics of a property, the property is not deprived privileges commonly enjoyed by other properties in the same zone. A variance shall not allow a use in a zone where otherwise prohibited.

- A. Requests for variances shall be processed in conjunction with any associated permits or approvals that may be required.
- B. The City may approve a variance request in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
 1. The strict application of the development standards to a property would result in extreme difficulty, unnecessary hardship, or the inability of an owner to use land for the purposes allowed in the zone in which it is located for reasons of physical peculiarity.
 2. The granting of such variance would not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located.

3. The granting of the variance would not grant special privileges to a landowner that is in conflict with the purposes of these regulations and the Goals and Policies of the Comprehensive Plan.

Section 17.05.060 – Planned Development (PD). The purpose of Planned Development (PD) is to permit more flexibility in site planning and the design of structures in situations where modification of specific provisions of this title will not be contrary to the intent and purpose of the zone and will not be harmful to the neighborhood in which the development occurs. The Planned Development is intended to achieve land economies in development, maintenance, street systems and utility networks, while allowing for the grouping of buildings for privacy, usable and attractive open spaces, safe circulation, mixed uses when in conformance with the Comprehensive Plan and the general wellbeing of the residents.

- A. All permitted and conditional uses in the district in which the site is located shall be allowed. If a Conditional Use Permit is required, the application shall be processed simultaneously with the PD application.
- B. The PD process shall be used only on five (5) acres or more of land which is of sufficient size to be planned and developed in a manner consistent with the purpose of this section and warrants the use of a PD, unless the City finds that a smaller site is suitable because of its unique character, topography, landscaping features or because it constitutes an isolated problem area.
- C. All standards and requirements of this Title and all other City ordinances shall apply in a PD unless a modification is specifically granted by the City. Modification may be granted for standards such as lot size, lot dimension, setbacks, height, coverage, parking, and landscaping. The application submitted to the City shall clearly identify all requested modifications and shall justify the reason for the request.
- D. Intensity of development shall be determined by the development standards in the zone in which the property is located.
- E. Open space shall constitute at least fifteen percent (15%) of the land area of the project. The development plan shall provide for the landscaping and/or preservation of the natural features of the land. In order to ensure that the open space will be permanent, deeds or dedication of easements or development rights to the City may be required. Instruments and documents guaranteeing the maintenance of open space shall be recorded with the County Assessor's office.
- F. If the development will require a subdivision of land, the subdivision application shall be processed concurrently with the preliminary PD application. If the subdivision application is submitted after PD approval, the proposed subdivision shall be processed in accordance with Chapter 17.04 NMC.

1. A PD may be approved in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
 2. The project is consistent with the Newport Comprehensive Plan and meets the requirements and intent of the City of Newport Development Regulations, including land use type; intensity/density of the proposed development; and the protection of critical resource areas; if applicable.
 3. The project is compatible with the existing or known proposed development on properties in the project vicinity.
 4. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.
 5. The project adequately mitigates impacts identified through the SEPA review process, if any.
 6. The project is beneficial to the public health, safety, and welfare, and is in the public interest.
- G. A PD approval shall be valid for two (2) years from the effective date, and shall lapse at that time unless a building permit has been obtained and substantial construction has begun.
1. A written request for up to a one (1) year extension for the PD, submitted prior to the expiration date of the PD may be approved by the City based on a finding that the facts on which the PD was approved have not changed substantially.

Section 17.05.070 - Lot Line Adjustments. The purpose of a Lot Line Adjustment is to allow for minor changes in the configuration of property line.

- A. A Lot Line Adjustment application shall include the following:
1. A map which clearly depicts the existing and proposed property configuration, including all lot line dimensions and distances to all existing structures.
 2. A legal description of the existing and proposed property configuration.
 3. A complete application with applicable fees in accordance with the fee schedule adopted by the City Council.
 4. Written authorization by the owners of all property directly affected by the proposed adjustment.
- B. The City may approve a Lot Line Adjustment without a public hearing, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. Any lot changed by the lot line adjustment shall comply with all of the applicable development standards, such as lot area, lot dimensions, and setbacks in the district in which the property is located. In addition, off-street parking on any lot affected by the Lot Line Adjustment shall not be reduced below the required number of spaces for the use located on the lot.

Section 17.05.080 – Short Plat. The purpose of a Short Plat is to provide a simplified process to divide property into four (4) or fewer lots with a level of review that is proportional to the effect those lots may have on the surrounding area.

- A. Please note that property contained within an approved short plat may not be further divided in any manner, except if the short plat contains fewer than four lots, in which case another short plat may be approved to create a total of four lots within the original short plat boundaries. Under no circumstances may a short plat containing four (4) lots be further divided
- B. A Short Plat application shall include the following:
 1. Three (3) copies of a map, which clearly indicates the proposed short plat, with north arrow, date, existing topography, buildings and easements and the proposed lot configurations with square footage calculations, water and sewer lines, easements, and dedications.
 2. A legal description of the property. In the event that the boundaries are described by metes and bounds, the accuracy of the description shall be attested to and signed by a registered land surveyor.
 3. The total property, owned by the Applicant, which is contiguous to the parcel being subdivided, shall be accurately indicated on the drawing.
 4. All adjacent property and owners shall be clearly shown on the drawing.
 5. A completed environmental checklist or documentation, if applicable.
 6. A complete application with applicable fees in accordance with the fee resolution adopted by the City Council.
- C. The City may approve a Short Plat, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
 1. The proposed Short Plat is in compliance with the Newport Comprehensive Plan and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed Short Plat is in compliance with any rules of Washington State Department of Transportation.

2. The physical characteristics of the site, including but not limited to topography, soil conditions, or unique natural features such as susceptibility to flooding, wildlife habitat, or wetlands, have been considered in the project design.
3. The proposed Short Plat is in compliance with all applicable standards in the Development Regulations.
4. The appropriate provisions have been made for dedications, easements, and reservations.
5. The public use and interest will be served by the subdivision.
6. The following facilities are adequate to serve the proposed short plat before or concurrent with development of the preliminary plat:
 - a. Public and private streets and roads;
 - b. Water;
 - c. Stormwater drainage;
 - d. Sanitary sewage collection and treatment;
 - e. Schools and educational services;
 - f. Fire and police service; and
 - g. Pedestrian and bicycle facilities.
7. If applicable, the terms and conditions of the approved subdivision, within which the short plat is located, have been met.

D. Approval of a Short Plat shall be valid for three (3) years, during which time all conditions shall be satisfied and the map shall be recorded with the County Auditor.

Section 17.05.090 – Preliminary Subdivision Plat. The purpose of a Preliminary Subdivision Plat is to provide a simplified process to divide property into five (5) or more lots with a level of review that is proportional to the effect those lots may have on the surrounding area.

- A. A Preliminary Subdivision Plat application shall include the following and shall be submitted to the City no less than thirty (30) days prior to the public hearing at which it is to be considered:
 1. Two (2) copies of the map which clearly indicates the proposed Preliminary Subdivision Plat, with north arrow, date, existing topography, buildings, monuments, markers, boundary lines and easements and the proposed lot configuration with square footage

computations, infrastructure, easements, and dedications prepared by a registered land surveyor.

2. A vicinity map.
 3. A legal description of all lands included in the proposed Preliminary Subdivision signed by a licensed land surveyor.
 4. Name of the proposed subdivision, name of the subdivider, and name of the person preparing the Preliminary Plat.
 5. Location of adjacent and adjoining platted areas and subdivisions showing relationships and match to all connecting streets, rights-of-way, utilities and easements.
 6. All land that the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet in all directions from the site perimeter.
 7. All adjacent land owned by the applicant on which future additional plat applications may be submitted together with general information as to the location and estimated extent of each additional plat which may be submitted.
 8. Completed SEPA checklist or documentation.
 9. A complete application form with applicable fees in accordance with the fee resolution adopted by the City Council.
 10. Additional information deemed necessary by the City including, but not limited to, supplemental technical or environmental studies or reports, topography, easements, applicable codes, covenants and restrictions, proposed roadway layouts and sections and other information to ensure a thorough and complete review of the proposed subdivision.
- B. The City may approve a Preliminary Subdivision Plat, with or without conditions, if all of the following findings of fact can be made in an affirmative manner.
1. The proposed Preliminary Subdivision is in compliance with the Newport Comprehensive Plan, any requirements of the N.E. Tri-County Health District, and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed Preliminary Subdivision is in compliance with any rules of Washington State Department of Transportation.
 2. The physical characteristics of the site, including but not limited to topography, soil conditions, or unique natural features such as susceptibility to flooding, wildlife habitat, or wetlands, have been considered in the project design.
 3. The appropriate provisions have been made for dedications, easements, and reservations.

4. The public use and interest will be served by the subdivision.
 5. The following facilities are adequate to serve the proposed short plat or subdivision before or concurrent with development of the preliminary plat:
 - a. Public and private streets and roads;
 - b. Water;
 - c. Drainage;
 - d. Sanitary waste collection and treatment;
 - e. Schools and educational services;
 - f. Fire and police service; and
 - g. Pedestrian and bike facilities.
 6. If phasing is proposed:
 - a. The phasing plan includes all land within the preliminary plat;
 - b. Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire plat; and
 - c. All road improvement requirements are assured.
- C. Approval of a Preliminary Subdivision Plat shall be valid for five (5) years, during which time an application for a Final Subdivision meeting all the requirements of Chapter 17.04 NMC and of the Preliminary Subdivision approval shall be made.
1. The applicant may request one (1) two-year extension prior to the expiration of the preliminary approval. The request for extension may be granted by the City provided that an attempt in good faith has been made to submit the Final Plat within the preceding period and that there have been no significant changes to the City's policies or Development Regulations.

Section 17.05.100 - Binding Site Plan.

- A. The procedures regulating Binding Site Plans are established in accordance with RCW 58.17.100 for the purpose of:
1. Providing an alternative procedure for the orderly and efficient division of land into lots for the purpose of lease or sale for industrial or commercial uses of the land (upon which

- no residential structures will be placed) when more than one (1) principal building is to be constructed on one (1) lot of record.
2. Providing the sole and mandatory procedure for the orderly and efficient division of land into lots for the purpose of lease for manufactured housing or recreational vehicles; and
 3. Promoting the general health, safety, and welfare.
- B. The Binding Site Plan process and procedures specified in this Chapter may only be used for the following:
1. The division of land for the sale or lease of commercially or industrially zoned property (upon which no residential structures will be placed) when more than one (1) principal building is to be constructed on one (1) lot of record. The Binding Site Plan process is an alternative method of subdividing commercial or industrial property.
 2. The division of land for the purposes of leasing lots for recreational vehicles. The Binding Site Plan process is the sole and mandatory method of subdividing land for purpose of leasing lots for recreational vehicles.
- C. Binding Site Plan applications and maps shall be submitted on forms prescribed by the City and shall contain the following:
1. All documents, maps, and survey notes shall clearly show the name of the Binding Site Plan, the name(s) of the applicant(s) and the name of the registered land surveyor responsible to the applicant(s).
 2. The title shall include the type of Binding Site Plan (commercial, industrial, mobile home park, or recreational vehicle park).
 3. The lines and names of all existing or platted streets or other public ways, parks, playgrounds, easements, and dedications, including municipal boundaries, township lines, and section lines adjacent to or within the Binding Site Plan.
 4. The names, locations and purposes of all existing and proposed easements.
 5. The location and dimensions of all existing and proposed water and sewer mains, public or private, and all existing and proposed streets and rights-of-way to be held privately or dedicated to the City.
 6. Parking areas, loading areas, and landscaping areas.
 7. The location of all access points which access a public street or right-of-way.
 8. Block and lot locations including dimensions and number or letter designations.

9. The lengths and bearings of all straight lines, curve radii, arcs, and semi-tangents of all curves.
10. All dimensions along the lines of each lot with the true bearings and also any other data necessary for the location of any lot in the field.
11. Suitable primary control points, approved by the City or descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data given on the plan shall be referred.
12. The location of all permanent monuments, property corners, and lot corners.
13. The names of all immediate adjacent subdivisions.
14. The date, true north point, scale, datum plane, and date of survey.
15. The boundary of the Binding Site Plan, the courses and distances marked thereon, as determined by a field survey made by a registered and qualified land surveyor of the state, and with an allowable error not to exceed one (1) foot in five thousand (5,000) feet.
16. The elevations of all permanent monuments based on datum plane approved by the City.
17. Certification by a registered land surveyor of accuracy of the Binding Site Plan map and survey.
18. Location and dimensions of all irrigation water rights-of-way.
19. All linear dimensions shall be given in feet and decimals of a foot to the nearest hundredth.
20. The scale of the Binding Site Plan shall be not more than one hundred (100) feet to the inch. Except that the City, subject to a request prior to Binding Site Plan submittal, may approve an alternative Binding Site Plan map scale not to exceed two hundred (200) feet to the inch.
21. If the Binding Site Plan is a redivision or amendment to or alteration of an existing Binding Site Plan, the parcels or lots, of the preceding Binding Site Plan shall be shown by dotted lines in their proper positions in relation to the new arrangement of the Binding Site Plan, the Binding Site Plan being so clearly shown in solid lines as to avoid ambiguity.
22. The applicant's land surveyor shall set all required monuments and shall stake all lot corners as shown on the Binding Site Plan before the Binding Site Plan is submitted for approval.

23. A vicinity map at a scale of not more than four hundred (400) feet to the inch. Except that the City, subject to a request prior to plat submittal, may approve an alternative vicinity map scale exceeding four hundred (400) feet to the inch. The vicinity map shall show all adjacent parcels. It shall show how the streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring subdivisions or unplatted property to produce an advantageous development of the entire neighborhood.
 24. The street address for the Binding Site Plan will be assigned by the City.
 25. United States Bureau of Reclamation horizontal and vertical data including benchmarks.
- D. Any deed restrictions or covenants existing or proposed shall be described and drawn on the Binding Site Plan map and/or in the other documents submitted with the Binding Site Plan application and map.
- E. The applicant shall submit all parcel and boundary closures to the City at the time the applicant submits the Binding Site Plan map and application.
- F. The Binding Site Plan application shall be accompanied by the following:
1. A plat certificate from a title company licensed to do business in the State of Washington and dated within thirty (30) days of the date of submitting the Binding Site Plan application to the City confirming that the title of the land as described and shown on the Binding Site Plan is in the name of the owners signing the Binding Site Plan and the developer agreement.
 2. A certificate from the Pend Oreille County Treasurer indicating that all taxes and assessments on the land and improvements included in the Binding Site Plan have been paid according to the provisions of RCW 58.08.030 and RCW 58.10.040 as not enacted or hereafter amended.
 3. All easements and covenants proposed to run with the land.
 4. A completed SEPA Environmental Checklist as required by law.
 5. A non-refundable filing fee as provided in the City's fee schedule.
- G. The Binding Site Plan application shall also be accompanied by twelve (12) copies of the Binding Site Plan and map.
- H. General Requirements – All Binding Site Plans:
1. Binding Site Plans shall be filed as a record of survey in the Pend Oreille County Auditor's Office.

2. The Binding Site Plan shall connect to municipal utilities (sewer and water) in the existing dedicated streets that adjoin the Binding Site Plan, drainage ways, and other public ways, or municipal improvements shall be provided in conformance with the City of Newport standards in effect at the time of the Binding Site Plan approval.
 3. The Binding Site Plan shall front on an existing dedicated street. There shall be adequate access to a public way from all lots within the Binding Site Plan. Existing dedicated streets shall be improved to the City of Newport's standards. Private streets shall have direct access onto a dedicated street.
 4. The Binding Site Plan shall comply with all applicable zoning and health regulations, including but not limited to those regulations set forth in this title.
 5. The Binding Site Plan shall be consistent with the City of Newport's Comprehensive Plan.
 6. The Binding Site Plan shall conform to the requirements and standards set forth in Section 17.04.050 of the Newport Municipal Code. The requirements and standards set forth in said Chapters shall be applicable to each and every Binding Site Plan. A Binding Site Plan shall be considered a subdivision for purposes of those Chapters.
 7. The Binding Site Plan shall provide for irrigation water rights-of-way pursuant to RCW 58.17.310 as now enacted or hereafter amended.
 8. Environmental information shall be prepared and submitted in accordance with the guidelines established under the State Environmental Policy Act of 1971, as amended. Said information is a part of and must accompany the Binding Site Plan application.
 9. A Binding Site Plan shall be processed simultaneously with the application for platting, rezones, variances, planned unit developments, site plan approvals, and similar legislative quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing.
 10. The Binding Site Plan shall contain provisions making all development conform to the Binding Site Plan.
 11. Requests for alteration of an approved Binding Site Plan shall be submitted to the City for preliminary review. Minor revisions to the Binding Site Plan, including lot line adjustments, may be approved by the Mayor or his/her designee. All other revisions to approved Binding Site Plans are subject to City Council review and approval. The amended Binding Site Plan shall be processed subject to all the procedures and requirements of this Chapter.
- I. General Requirements – Commercial or Industrial Binding Site Plans:

1. A commercial or industrial Binding Site Plan authorizes a sale or transfer of a lot within the Binding Site Plan. The Binding Site Plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot within the Binding Site Plan. The sale or transfer of such lot in violation of the Binding Site Plan, or without obtaining a Binding Site Plan approval, shall be considered a violation of RCW Chapter 58.17 and shall be restrained by injunctive action and be illegal as provided in RCW Chapter 58.17.
2. A commercial or industrial Binding Site Plan shall make adequate provisions for public streets, roads, rights-of-way, other public ways, curbs, gutters, sidewalks, street lighting circuits, alleys, transit stops, irrigation rights-of-way, the extension of municipal utilities, including water and sewer services, and any other municipal improvement deemed necessary in conformance with the City standards in effect at the time of the approval of the Binding Site Plan application.
3. All lots within a commercial or industrial Binding Site Plan shall have direct access to a public street. Street lighting shall be provided.

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

1. Mobile home and recreational vehicle Binding Site Plans shall authorize the leasing of lots therein but shall not authorize the sale or transfer of ownership of a lot within the Binding Site Plan.
2. All improvements (i.e., all water services, fire lines, sewers, private access streets) within the mobile home or recreational vehicle park Binding Site Plan boundaries shall be privately held and maintained by the property owner(s)/applicant(s). The Binding Site Plan shall make adequate provisions for internal private access streets, curbs, gutters, sidewalks, street lighting circuits, and alleys. The Binding Site Plan shall make provisions for adequate easements within the Binding Site Plan for major municipal utility lines.

K. Specific Conditions and Requirements – All Binding Site Plans:

1. Pre-application conference. Prior to submission of a Binding Site Plan application and map, the applicant or the applicant's representative shall schedule a pre-application conference with City.
 - a. The Mayor or his/her designee will coordinate the conference with representatives of affected City of Newport departments and other public agencies.
 - b. The applicant shall present a conceptual idea of the Binding Site Plan.
 - c. Representatives of affected City of Newport departments will respond informally and address potential items of concern to aid the applicant in preparing the Binding Site Plan.

2. The Binding Site Plan shall contain the legal description of the land within the Binding Site Plan and such declarations as may be prescribed by the City.
- L. The City may approve a Binding Site Plan, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
1. The proposed Binding Site Plan is in compliance with the Newport Comprehensive Plan and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed Binding Site Plan is in compliance with any rules of the Washington State Department of Transportation.
 2. The physical characteristics of the site, including but not limited to topography, soil conditions or unique natural features, such as susceptibility to flooding, wildlife habitat or wetlands, have been considered in the project design.
 3. The proposed Binding Site Plan is in compliance with all applicable standards in the Newport Zoning Ordinance and in this title.
 4. The appropriate provisions have been made for dedications, easements and reservations.
 5. The public use and interest will be served by the Binding Site Plan.
 6. The following facilities are adequate to serve the proposed Binding Site Plan or will be improved concurrent with development of the Binding Site Plan.
 - a. Public and private streets or roads;
 - b. Water;
 - c. Drainage;
 - d. Sanitary waste collection and treatment;
 - e. Schools and educational services;
 - f. Fire and police service, and
 - g. Pedestrian and bike facilities.
 7. If phasing is proposed:
 - a. The phasing plan includes all land within the Binding Site Plan.

- b. Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire plat, and
 - c. All road improvement requirements are assured.
- M. City approval of the Binding Site Plan shall be valid for a period of one (1) year from the date of approval.
- N. Upon approval of the Binding Site Plan by the City, the Applicant shall:
- 1. Pay the appropriate fees to record the approved Binding Site Plan with the Pend Oreille County Auditor.
 - 2. Sign and submit to the City a developer agreement in a format prescribed by the City which: (a) dedicates to the City all streets required to be dedicated to the City as a condition of Binding Site Plan approval; (b) grants to the City all easements required to be granted as a condition of Binding Site Plan approval; (c) describes and shows the precise location of all granted easements and dedicated streets; (d) imposes an obligation on the applicant to install and construct, or post a bond or cash equivalent for, all utility and street improvements required as a condition of the Binding Site Plan; and (e) sets forth any other conditions of Binding Site Plan approval. The signature of the applicant shall be notarized. The approved Binding Site Plan shall not be signed by the Clerk/Treasurer or filed for recording with the Pend Oreille County Auditor's Office until signed and acceptable developer agreement is approved by the City.
- O. Upon receipt of all required final fees and an acceptable and signed developer agreement, the approved Binding Site Plan and the developer agreement shall be signed by the City.
- 1. The City shall transmit the original developer agreement and three (3) copies of the Binding Site Plan to the Pend Oreille County Auditor for final filing and recording. One (1) reproducible conformed copy of the Binding Site Plan shall be retained by the City. One (1) conformed copy of the Binding Site Plan shall be returned to the applicant.
 - 2. Any record of survey filed as a Binding Site Plan which does not bear the appropriate signature of the City is not a valid Binding Site Plan and shall not confer any rights or privileges upon the property or its owners.
- P. Once the Binding Site Plan and developer agreement are filed for recording with the Pend Oreille County Auditor's Office, the Binding Site Plan and developer agreement shall be binding upon and be enforceable against the applicant, the applicant's heirs and personal representatives, and the applicant's successors and assigns, including any person or entity which obtains an ownership interest in all or any portion of the land within the Binding Site Plan.

- Q. Prior to the issuance of any building permit for construction within an approved Binding Site Plan, that portion of the Binding Site Plan for which the building permit is requested must be legally described and receive a certificate of segregation from the City. Said certificate shall ensure the segregation of construction complements the approved Binding Site Plan.
- R. Approval of the Binding Site Plan shall constitute approval for the Binding Site Plan applicant to develop construction plans and specifications for all on-site street and utility improvements.
- S. No building permits or certificates of occupancy shall be issued by the City with respect to any lots or land within an approved Binding Site Plan until all required street and utility improvements have been completed and approved and a one (1) year maintenance bond posted.
- T. Following the approval of a Binding Site Plan, the applicant shall submit to the City three (3) complete sets of construction plans and specifications prepared by a professional engineer licensed by the State of Washington showing all street and utility improvements as required by the City in approving the Binding Site Plan. The construction plans and specifications shall be accompanied by a plan check fee as per the rate schedule established by the City. All construction plans and specifications shall be in conformance with City standards. Sheet size shall be twenty-four (24) inches by thirty-six (36) inches and shall have a border of one (1) inch on the left margin and one-half (½) inch on the remaining three (3) margins. The scale shall be five (5) feet vertically and forty (40) feet horizontally.
- U. After the City approves the construction plans and specifications, the Applicant shall complete and install all street and utility improvements required by the City in granting approval of the Binding Site Plan within one (1) year of the date upon which the City approves the construction plans and specifications. A one (1) year performance or subdivision bond or other security in a form satisfactory to the City Attorney shall be required in the amount of one hundred and fifty percent (150%) of the construction costs as determined by the City. After the street and utility improvements are constructed and approved, a one (1) year maintenance bond shall be required in the amount of one hundred percent (100%) of the construction costs as determined by the City.
 - 1. In the event that all street and utility improvements are not completed within one (1) year of the date upon which the City approves the construction plans and specifications, the bond or security may be forfeited and the City may undertake the installation and completion of all required street and utility improvements. In the alternative, the Clerk/Treasurer may grant one (1) extension of the performance or subdivision bond or security for a period not to exceed one (1) year provided that the request for an extension is filed with the City at least sixty (60) days prior to the expiration of the bond or security. If the request for a time extension is granted, a new performance or subdivision bond or security shall be submitted in an amount sufficient to cover one hundred fifty percent (150%) of the cost of completing street and utility improvements. The bond will be updated with new estimates of costs on all uncompleted improvements and all increased

costs shall be passed onto the bond. If the surety does not accept these increased costs, then the City will foreclose on the bond and the Binding Site Plan will be held in abeyance. Departments issuing recommendations for new performance or subdivision bonds or other approved security shall not modify the terms and requirements of the bond or security other than to pass on all increased cost estimates as determined by the City to the bond or security to cover the costs of completing utility and street improvements without the written consent of the applicant. After the street and utility improvements are constructed and approved, a one (1) year maintenance bond shall be required in the amount of one hundred percent (100%) of the construction costs as determined by the City.

2. The City or a licensed professional engineer or engineering firm hired by the City shall be responsible for the inspection of all street and utility improvements to insure conformance with the approved plans and specifications.
- V. No lots within a Binding Site Plan may be sold or leased until the approved Binding Site Plan and the signed developer agreement are recorded by the Pend Oreille County Auditor's Office.
- W. A Binding Site Plan shall be governed by the terms of approval of the Binding Site Plan. Lots in a Binding Site Plan filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five (5) years from the date of filing.
- X. Any decision approving, approving with conditions or disapproving any Binding Site Plan may be appealed in accordance with the provisions of the Newport Municipal Code.

Section 17.05.110 - Final Plat. The purpose of a Final Plat is to ensure that all conditions of the Preliminary Short Plat or Preliminary Subdivision Plat approvals have been satisfied prior to the recordation of the map.

- A. Every Final Plat document shall include an accurate map of the divided land, based upon a legal survey, including the following information:
1. All sections, including quarter section and quarter quarter section, township, municipal and county lines lying within or adjacent to the land.
 2. The location of all monuments, found or set, or other evidence used as ties to establish the subdivision boundaries. The location of all monuments found and established within the subdivision.
 3. The boundary of the divided land with complete bearings and lineal dimensions.
 4. The length of each block and lot line, together with bearings and other data necessary for the location of any block or lot line in the field.

5. The location, width and centerline of all streets and alleys within and adjoining the subdivision.
 6. The location and width, shown with broken lines, and description of all easements, including a statement of their designated use.
 7. Lot areas in square feet and lot and block numbers where applicable.
 8. Location of all adjoining and adjacent existing plats and unplatted property, indicated by broken lines, together with recording data.
- B. The City shall approve the Final Subdivision Plat if all of the following findings of fact can be made in an affirmative manner:
1. The Final Plat meets the requirements of RCW Chapter 58.17, other applicable state laws, and all requirements for plat approval in this title.
 2. The Final Plat has met all the conditions and conforms to all terms of the preliminary approval.
 3. The Pend Oreille County Treasurer certifies that all taxes and delinquent assessments for which the property may be liable have been duly paid, satisfied or discharged.
- C. A subdivision shall be governed by the terms of approval of the Final Plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3).
- D. The Final Plat shall be filed with the City upon receipt of the filing fee from the Applicant and shall be recorded by the County Auditor.

Section 17.05.120 – Vacation and Alteration. The purpose of a vacation and alteration procedure is to allow for the vacation, deletion, or alteration of a dedicated right-of-way or easement.

- A. The City at a public hearing may approve a vacation and alteration request, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:
1. The alteration to the previously approved subdivision is in compliance with the Newport Comprehensive Plan and the Development Regulations.
 2. The public use will be served by the alteration to the previously approved subdivision.
- B. After approval of an alteration request, a revised plat shall be filed with the County Auditor.

**CHAPTER 17.06
PROCESSING PROCEDURES**

Sections:

- 17.06.010 - Purpose.**
- 17.06.020 - Project Review Classifications.**
- 17.06.030 - Procedures for Type 1 Review.**
- 17.06.040 - Procedures for Type 2 Review.**
- 17.06.050 - Procedures for Type 3 Review.**
- 17.06.060 - Procedures for Type 4 Review.**
- 17.06.070 - Consolidated Permit Processing.**
- 17.06.080 - Completeness Review.**
- 17.06.090 - Notice of Application.**
- 17.06.100 - Preliminary SEPA Determination.**
- 17.06.110 - SEPA Threshold Determination.**
- 17.06.120 - Determination of Consistency.**
- 17.06.130 - Notice of Decision.**
- 17.06.140 - Public Notice Requirements.**
- 17.06.150 - Appeals.**

17.06.010 - Purpose. The purpose of this Chapter is to provide for effective and efficient administrative review of land use and development applications with consistent procedures for similar projects, and to combine procedural and substantive environmental reviews with the review of project permit applications under other applicable requirements. This Chapter is intended to provide a framework within which the consistency of project permit applications with the Comprehensive Plan and development regulations shall be determined.

A. The following is a brief summary of key land use decision-making roles:

1. The City Council is the legislative body of the City and is the only body which can adopt or amend an ordinance. The City Council shall make the final decisions on Type 3 and Type 4 applications;
2. The City Planning Commission is the planning advisory body to the Mayor and City Council and shall have the authority to make recommendations on long range planning matters and shall perform other duties as assigned by the Mayor and City Council;
3. The Mayor or his/her designee shall have the authority to make decisions on Type 1 applications. It shall be the duty of the Mayor and his or her designee(s) to administer the provisions of this Title and to coordinate the implementation of all planning requirements and activities in the City, and to interpret the provisions of this Code. The Mayor and all authorized City representatives are hereby empowered to cause any structure or tract of land to be inspected and examined, and to order, in writing, the remedying of any condition found to exist in violation of any provision of the Newport Municipal Code or ordinances;

- a. The designees of the Mayor may include, but is not limited to, the City Administrator, the City Clerk/Treasurer, and/or the City Building Official.
4. The City Hearing Examiner shall conduct the required public hearings and make decisions on Type 2 applications, shall hear appeals of decisions on Type 1 applications,
5. The City Attorney shall advise the Mayor and City Council, the Planning Commission, and City Staff regarding the legal interpretations, applications, and the enforcement of this Title; and may conduct public hearings or perform such other duties as may be assigned by the Mayor and City Council.

17.06.020 - Project Review Classifications. Four types of review are established for the purposes of administering this Title. These four types, their appropriate decision-maker, hearing body, appellate body, and the permits included in each type of review are contained in the following Table:

Type of Review	Permit/Action/Approval	Hearing Body	Decision Maker	Appellate Body
Type 1	-Boundary Line Adjustment -Building Permits (including signs) -Clearing and Grading Permit -Certificates of Occupancy -Code Enforcement Action -Code Interpretation -SEPA Action -Shoreline Authorization -Short Plat Approval (4 lots or less) -Site Plan -Temporary Use Permit	None	Mayor or his/her designee	Hearing Examiner
Type 2	-Conditional Use Permit -Preliminary Binding Site Plan Approval -Preliminary Plat Approval (5 or more lots) - Preliminary Planned Development Approval -Reasonable Use Exception -RV Parks -Shoreline Conditional Use Permit	Hearing Examiner	Hearing Examiner	Superior Court

	-Shoreline Substantial Development Permit -Shoreline Variance -Variances			
Type 3	-Final Plat Approval (5+ lots) -Final Binding Site Plan Approval -Final Planned Development Approval -Plat Vacation or alteration (2) -Street Vacations (2)	None	City Council	Superior Court
Type 4	-Annexation -Comprehensive Plan Amendment - Future Land Use Map Amendment -Development Regulation Revision -Site Specific Rezone (1)	Planning Commission	City Council	Growth Management Hearings Board/ Superior Court

(1) Appeals of site specific rezones must be filed in Superior Court.

(2) A public hearing shall be conducted by the City Council.

17.06.030 - Procedures for Type 1 Review. Type 1 permit applications involve administrative action by the Mayor or his/her designee without a prior open record public hearing. The Hearing Examiner shall conduct an open record public hearing for appeals of decisions on Type 1 permits unless otherwise noted in this Title.

A. Applications for Type 1 permits shall be processed by the City in accordance with the following general procedures unless the Applicant is notified in writing by the City:

1. Completeness review and Issuance of a Determination of Completeness;
2. Determination of Consistency; and
3. Notification to the Applicant of approval or denial of the application.

17.06.040 - Procedures for Type 2 Review. Type 2 reviews involve project specific development proposals and shall include an open record public hearing before a decision is made. Please note that only one open record public hearing may be conducted for a proposed development.

A. Applications for Type 2 permits shall be processed by the City in accordance with the following general procedures, unless the applicant is notified in writing by the City:

1. Preliminary site visit/inspection (optional);
2. Completeness review and Determination of Completeness;
3. Issuance of a SEPA Threshold Determination, if required (may be combined with Notice of Application);
4. Distribution of a Notice of Application;
5. Preparation of a staff report containing relevant information about the application and a Determination of Consistency. This report may also include a staff recommendation and shall be distributed before the open record public hearing;
6. An open record public hearing shall be conducted, during which the applicant shall be given the opportunity to present the proposed project and interested parties shall be allowed to make comments and submit written testimony;
7. City action to approve, approve with conditions, or deny application; and
8. Issuance of a Notice of Decision.

17.06.050 - Procedures for Type 3 Review. Decisions on all Type 3 permit applications shall be made by the City Council.

- A. Applications subject to a Type 3 review shall be processed by the City in accordance with the following general procedures, unless the Applicant is notified in writing by the City:
 1. Preparation of a staff report identifying all conditions of approval, documenting that all conditions have been met, and identifying the steps that must be taken to finalize and record the proposed action.
 2. City Council review and final action.

17.06.060 - Procedures for Type 4 Review. Decisions on all Type 4 permit applications shall be made by the City Council following an open record public hearing conducted by the Planning Commission.

- A. Except under limited circumstances identified in state law, the City's Comprehensive Plan and Future Land Use Map may be amended no more than once a year. As a result, it is the intent of the City to process applications for Comprehensive Plan and Future Land Use Map amendments in accordance with an annual schedule.
 1. Unless alternative dates are established and advertised through appropriate public notice, public requests for Comprehensive Plan or Future Land Use Map amendments, must be

submitted no later than June 30th, for potential processing during that calendar year. Applications submitted after that date may be held over until the following year.

2. Docketing Process. Written requests to amend the Comprehensive Plan, or Future Land Use Map together with all relevant supportive or explanatory material as determined to be applicable by staff in the application packet, shall be submitted to the City. All plan amendment requests deemed to be complete shall be docketed for possible consideration for inclusion in the Comprehensive Plan. The docketed list of proposed amendments shall be presented to the Planning Commission within 60 days of the closing date. The Planning Commission shall make a recommendation to the City Council whether or not to move forward on consideration of docketed amendments.
 3. The City Council, after a recommendation from staff and the Planning Commission, can recommend that an amendment be processed in the current amendment cycle, that the amendment remain on the docket list for future consideration, or that the amendment be denied further consideration.
- B. Type 4 applications that do not involve a Comprehensive Plan amendment may be submitted for processing at any time.
- C. In general terms, applications for Type 4 permits shall be processed by the City in accordance with the following procedures, unless the applicant is notified in writing by the City:
1. Determination of complete application;
 2. Issuance of a SEPA Threshold Determination, if required; (may be combined with Notice of Application);
 3. Distribution of a Notice of Application;
 4. Preparation of a staff report containing relevant information about the application and a Determination of Consistency. This report may also include a staff recommendation and shall be distributed to the Planning Commission before the open record public hearing;
 5. An open record public hearing shall be conducted by the Planning Commission, during which the applicant shall be given the opportunity to present the proposed amendment, and interested parties shall be allowed to make comments and submit written testimony;
 6. Distribution of the proposed amendments to state agencies, as appropriate, for review and comment;
 7. The recommendation of the Planning Commission along with a complete copy of the record shall be provided to the City Council for review prior to their decision; and
 8. City Council review and action.

17.06.070 - Consolidated Permit Processing. It is the goal of the City to consolidate the permit processing for projects or development activities that require two or more permits or approvals. The Mayor or his/her designee shall determine the appropriate means of consolidating the processing of all permits and shall assign the highest-type review classification of the individual permits being sought to the consolidated permit application (with Type 4 being the highest followed by Type 3, 2, and 1). This consolidation may include integrating public hearings, establishing unified comment periods, and/or concurrent reviews. The Mayor or his/her designee is authorized to make modifications to the procedural requirements of this Title in order to effectively consolidate project reviews.

17.06.080 - Completeness Review. All applications shall be submitted on such forms and in accordance with such procedures as may be prescribed by the City, provided that:

- A. All applications shall be signed by the property owner or show owner consent of the application by the agent acting on the owner's behalf;
- B. All applicable fees shall be submitted at the time of application unless otherwise specified;
- C. For site specific applications that involve a public notice, the Applicant shall provide mailing labels for all property owners within 300' of the parcel in question and any adjoining parcels also owned or under the control of the Applicant and make a payment to the City sufficient to cover the cost of postage and advertising;
- D. Prior to submitting any Type 2 applications, applicants shall make an appointment for and attend a pre-application meeting with city staff. The purpose of this meeting is to identify and discuss the proposed project or development activities, permit procedures, processing requirements, permit fees, schedules, and information that will be necessary for project review. The Mayor or his/her designee may invite representatives from city departments and other affected agencies to attend;
- E. A completed SEPA checklist shall be filed at the same time as an application for all permits, except when the City has determined the activity to be Categorically Exempt from the requirements of SEPA, when the City and applicant agree that an EIS is required, the SEPA compliance for the proposed project has already been completed, or SEPA compliance has been initiated by another agency;
- F. Within 28 days of submittal, the City shall conduct a review of all application materials to determine if the application is complete and ready for processing. The City shall then make a Determination of Completeness and shall provide the applicant with written notification which states:
 - 1. That the application is complete and ready for processing or that the application is incomplete and what is necessary to make the application complete;

2. To the extent known by the City, the identity of other permits required by the project application; and
 3. To the extent known by the City, the identity of other agencies with jurisdiction over the application.
- G. Nothing in this Title shall limit the City from incorporating the Notice of Application, the Determination of Completeness, and/or the SEPA determination into one document.
- H. The Issuance of a Determination of Completeness shall not preclude the City from requesting additional information from the applicant in order to complete the processing of an application.
- I. If the City determines an application is not complete, or that additional information is necessary to complete the review of the application, and the applicant fails to respond to the request from the City in the established time frames, the City shall notify the applicant in writing that the application has lapsed and become void.

17.06.090 - Notice of Application. Following the issuance of a Determination of Completeness, the City shall issue a Notice of Application for all Type 2, and Type 4 project permit applications.

A. Notices of Application shall include:

1. A description of the proposed action;
2. Identification of the permits and approvals that may be required and opportunities for public review and comment; and
3. SEPA actions taken or preliminary SEPA threshold determinations, if any.

17.06.100 - Preliminary SEPA Determination. A preliminary SEPA threshold determination or preliminary SEPA action may be included with Notice of Application if such preliminary actions have been made at the time the Notice of Application is issued. A preliminary SEPA threshold determination, or preliminary SEPA action, does not substitute, or in any way circumvent, the process for making a final SEPA threshold determination or in taking a SEPA action. Preliminary SEPA determinations are intended to encourage early public comment on project applications.

17.06.110 - SEPA Threshold Determinations. A threshold determination is required for any proposal that is not categorically exempt within ninety days that an application has been deemed complete. All threshold determinations shall result in a Determination of Non-significance (DNS), or a Determination of Significance (DS), provided that the City may also issue a Mitigated Determination of Non-Significance (MDNS) based on conditions attached to the proposal, or on changes to, or clarifications of, the proposal made by the applicant:

- A. After submission of an environmental checklist and prior to a threshold determination, the City shall notify the applicant if it is considering issuing a DS. As a result, the applicant may clarify or change features of the proposal to mitigate the impacts which make the DS likely. If a proposal continues to have a probable significant adverse environmental impact, even with the mitigating measures, an EIS shall be prepared.
- B. If a preliminary SEPA threshold determination was not made in conjunction with a notice of application, and no probable significant adverse impacts are anticipated, a determination of non-significance shall be issued and a 15-day comment period may be required.
- C. If a pre-decision open record public hearing is required; the SEPA threshold determination must be issued at least 15 days before the hearing.
- D. If the City makes a SEPA determination of significance (DS) concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice.
- E. Whenever the City makes a threshold determination, it shall seek to include the public notice for this SEPA action with the notice of application or notice of decision for any associated land use application(s) or permits, provided that:
 - 1. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by publishing a notice in the City's newspaper of record;
 - 2. Whenever the City issues a DS, all public notices shall state the scoping procedure for the required EIS; and
 - 3. Whenever the City issues a DEIS (Draft EIS), or SEIS (Supplemental EIS), notice of the availability of those documents shall be given by at least 2 of the following methods:
 - a. Indicating the availability of the DEIS or SEIS in any public notice required for an associated land use application or permit;
 - b. Posting the property, for site-specific proposals;
 - c. Publishing notice in the City's newspaper of record;
 - d. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered; and/or
 - e. Notifying the news media
- F. Mitigation measures incorporated in the MDNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit or enforced in any manner specifically prescribed by the City.

17.06.120 - Determination of Consistency. As part of all project and application reviews, the City shall determine if a proposed project or development activity is consistent with applicable city development regulations, Municipal Code provisions, ordinances, and the goals and policies of the adopted Comprehensive Plan.

- A. Nothing in this section shall limit the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.
- B. The City may determine that adopted comprehensive plans, sub-area plan elements of a comprehensive plan, development regulations, or other local, state or federal rules or laws provide adequate environmental analysis and mitigation of some or all specific probable adverse environmental impacts of a proposed action.

17.06.130 - Notice of Decision. A Notice of Decision shall be issued for all Type 2 applications. A Notice of Decision may not be issued until the expiration of the comment period on the Notice of Application.

- A. Notices of Decision shall include:
 - 1. A description of the decision or actions taken;
 - 2. Any mitigation or conditions of approval required under applicable development regulations or under SEPA;
 - 3. If a SEPA threshold determination has not been issued previously, the Notice of Decision shall state this determination; and
 - 4. A description of applicable appeal procedures.

17.06.140 - Public Notice Requirements. For permit applications that require public notice the following provisions shall apply:

- A. These public notice requirements shall apply to the following unless otherwise specified:
 - 1. Notices of Application;
 - 2. Notices of Decisions;
 - 3. Public Hearing notices;
 - 4. SEPA Threshold Determinations; and
 - 5. Notices of Appeals.

- B. All public notices will be mailed at least fifteen days prior to the date of any required public hearing and/or comment period to the:
 - 1. Applicant;
 - 2. Owners of all parcels within 300 feet of the boundaries of the parcel in question and any adjacent parcels under the ownership or control of the project sponsor;
 - 3. Agencies with jurisdiction;
 - 4. Parties who have provided oral or written testimony on the permit and requested to be on the mailing list;
 - 5. Parties who have submitted written requests to receive notice; and
 - 6. Parties of Record.
- C. Public notices shall be published in the general newspaper of record at least fifteen days prior to the date of any public hearing and/or any public comment periods.
- D. Copies of public notices shall also be posted or available for review at City Hall.
- E. In addition, the applicant may be required to post notices of applications may in a highly visible location(s) on the site of the proposed activities in accordance with procedures established by the City.

17.06.150 - Appeals. All appeals of interpretations or actions regarding Type 1 reviews shall be filed in a format prescribed by the City along with the required fee, within 10 days of the date of the interpretation or action. If the deadline to file an appeal falls on a weekend or on a city holiday, the deadline shall become the next business day. The City shall mail written notice to all parties of record to apprise them of all open and closed record public appeal hearings and shall place a public notice in the City's newspaper of record at least fourteen days before the open record appeal hearing.

- A. The following provisions shall apply to all Type 1 appeals unless otherwise noted:
 - 1. The Notice of Appeal shall specify the claimed error(s) and issue(s) which the appellate body is asked to consider and shall specifically state all grounds for such appeal. Issues or grounds of appeal which are not so identified need not be considered by the appellate body. In addition, the applicant must state the specific relief being sought;
 - 2. The City shall have no obligation to the applicant or any party to defend an appeal;
 - 3. The appellants and any respondents to the Notice of Appeal shall have the opportunity to present oral and written arguments during open record appeal hearings. For all closed

record appeals, the record shall be limited to information presented during the preceding open record hearing. Oral argument shall be confined to the established record and to any alleged errors in the decision;

4. The Appellant shall have the burden of proving that the land use decision was:
 - a. Made through an unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
 - b. Based on an erroneous interpretation of the law;
 - c. Not supported by substantial evidence when viewed in the light of the entire record;
 - d. A clearly erroneous application of the law to the facts;
 - e. Outside of the authority or jurisdiction of the decision-maker; and/or
 - f. A violation of the constitutional rights of the party seeking relief.
 5. Following an appeal hearing, the appellate body may affirm, reverse, remand, or modify the decision of record and shall adopt its own written findings and conclusions in support of its decision; and
 6. The City may require an applicant and/or the appellant to reimburse the City for the cost of preparing materials to be used during open or closed record hearings including but not limited to the cost of copying, taping, and/or transcribing a certified record of the proceedings.
- B. Appeals of SEPA threshold Determinations or SEPA actions shall be combined with any appeals of associated applications or permits.
- C. Except for the appeal of a SEPA Determination of Significance, no more than one open public record hearing and no more than one closed record appeal may occur on a single permit application or master application:
1. A public meeting(s) may be held prior to the open record hearing. A public meeting may include but is not limited to: a scoping meeting for the preparation of a draft environmental impact statement or presentation of a final environmental impact statement, an informational meeting, and/or or neighborhood meeting. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.
 2. The City shall mail written notice to all parties of record to apprise them of all open and closed record public appeal hearings and shall place a public notice in the City's newspaper of record at least fourteen days before the appeal hearing.

- D. Appeals of Type 2 and Type 3 decisions must be filed with the Pend Oreille County Superior Court 21 days in accordance with court procedures and the provisions of state law.
- E. Appeals of Type 4 decisions must be filed with the Washington State Growth Management Hearings Board or Pend Oreille County Superior Court in accordance with the provisions of state law.

**CHAPTER 17.07
ENFORCEMENT**

Sections:

17.07.010 - General Provisions.

- A. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Title shall be subject to a civil fine of not more than five hundred dollars (\$500.00) for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. Subsection A of this section does not preclude the City Attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, addition, alteration, conversion, removal, demolition, maintenance or use or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about any premises.

**CHAPTER 17.08
ENVIRONMENTAL REVIEW**

Sections:

- 17.08.010 - Purpose.**
- 17.08.020 - Substantive Authority.**
- 17.08.030 - Adoption of SEPA Rules.**
- 17.08.040 - Designation of SEPA Responsible Official.**
- 17.08.050 - Categorical Exemptions.**
- 17.08.060 - Preparation of EIS.**

17.08.010 - Purpose. The purpose of this Chapter is to highlight the environmental review requirements of the City and to integrate the provisions of the Washington State Growth Management Act and the Washington State Environmental Policy Act.

17.08.020 - Substantive Authority. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city.

- A. The City may attach conditions to a permit or approval for the proposal so long as:
 - 1. Such conditions are necessary to mitigate specific probable adverse environmental documents prepared pursuant to this chapter;
 - 2. Such conditions are in writing;
 - 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
 - 4. The City has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - 5. Such conditions are based on one or more policies in this Title and cited in the license or other decision document.

- B. The City may deny a permit or approval for a proposal on the basis of a SEPA review so long as:
 - 1. A finding is made that approving the proposals would result in probable significant adverse environmental impacts that are identified in a FEIS (Final EIS) or final SEIS prepared pursuant to this chapter;
 - 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in this Title and identified in writing in the decision document.
- C. The City designates and adopts by reference the following policies and documents as the basis for the county's exercise of authority pursuant to this section:
1. The City of Newport Comprehensive Plan as it now exists or is subsequently amended;
 2. The Pend Oreille County Shoreline Management Plan as it now exists or is subsequently amended;
 3. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:
 - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - b. Assure for all people safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - d. Preserve important historic, cultural and natural aspects of our national heritage;
 - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

17.08.030 - Adoption of SEPA Rules. The City adopts Chapter 197-11 of the Washington Administrative Code (WAC) by reference unless otherwise noted or modified by the provisions of this Title.

17.08.040 - Designation of SEPA Responsible Official. For those proposed projects, development activities, or actions for which the City is the Lead Agency, the SEPA Responsible Official shall be the Mayor or his/her designee.

17.08.050 - Categorical Exemptions. All proposed projects or development activities are subject to the provisions of this Chapter and WAC 197-11 except those activities that are identified in WAC 197-11-800 as being categorically exempt from SEPA, provided that:

- A. The following new construction activities are exempt from the provisions of this Chapter and WAC 197-11 unless the site contains critical areas:
 - 1. The construction or location of up to four (4) dwelling units;
 - 2. The construction of a barn, loafing shed, farm equipment storage building, produce storage, or packing structure, or similar agricultural structure, covering up to 10,000 square feet, provided that said structure complies with all other provisions of the City code and is to be used by the property owner or his or her agent in the conduct of permitted farming of the property;
 - 3. The construction of an office, school, commercial, recreational, service, or storage building with up to 12,000 square feet and associated parking facilities designed for no more than 40 automobiles;
 - 4. The construction of a parking lot designed for up to twenty (20) automobiles; or
 - 5. Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation.

- B. The City's determination that a proposal is exempt shall be final and not subject to appeal. If a proposal is exempt, none of the procedural requirements of this Chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

- C. If a proposal includes exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this Chapter, except that the City shall not give authorization for:
 - 1. Any nonexempt action;
 - 2. Any action that would have an adverse environmental impact; or
 - 3. Any action that would limit the reasonable choice of alternatives.

17.08.060 - Preparation of EIS. Preparation and issuance of a draft and final EIS (DEIS and FEIS) or a draft and final supplemental EIS (SEIS) is the responsibility of the City. The DEIS and FEIS or draft and final SEIS shall be prepared by a qualified consultant selected by the City in consultation with the proposed project sponsor. All costs associated with the preparation and issuance of an EIS document shall be the responsibility of the applicant or proposed project

sponsor in accordance with the provisions of the City Fee Schedule and/or voluntary cost sharing agreement.

Chapter 17.10
Environmentally Sensitive Areas

Sections:

17.10.010	Introduction.
17.10.020	General Provisions.
17.10.030	Critical Aquifer Recharge Areas.
17.10.040	Special Flood Hazard Areas.
17.10.050	Geologic Hazard Areas.
17.10.060	Wetlands.
17.10.070	Fish and Wildlife Habitat Conservation Areas; and
17.10.080	Enforcement.

17.10.010 Introduction. The purpose of this Chapter is to establish criteria to identify environmentally sensitive areas, also known as critical areas, and to establish standards to preserve and protect the natural environment, maintain fish and wildlife habitat, protect drinking water, and to supplement the City's development regulations governing land use.

- A. All proposed uses and development activities on a lot, parcel, or tract that contains environmentally sensitive areas, also known as critical areas, must comply with all provisions of this Chapter and this Title, as well as all other applicable provisions of local, state, and federal law, unless specifically exempted, or otherwise provided. This shall include, but is not limited to:
1. Clearing, grading, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind.
 2. Dumping, discharging, or filling with any material.
 3. Subdivisions, short subdivisions, master planned developments, mobile home parks, and RV parks.
 4. Construction, reconstruction, demolition, or alteration of the size of any structure or infrastructure.
 5. Construction of any new public or private road or driveway.
 6. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or
 7. Activities that reduce the functions of buffers.

B. Critical areas subject to the provisions of this Chapter include:

1. Critical Aquifer Recharge Areas.
2. Special Flood Hazard (Frequently Flooded) Areas.
3. Geologic Hazard Areas.
4. Wetlands; and
5. Fish and Wildlife Habitat Conservation Areas.

C. *Shoreline areas within 200' of the ordinary highwater mark of the Pend Oreille River and any associated wetlands are under the jurisdiction of the Washington State Shoreline Management Act.*

1. *Proposed development activities in these areas must comply with the applicable provisions of the Pend Oreille County Shoreline Master Program, as approved by the Washington State Department of Ecology.*
2. *Critical areas under the jurisdiction of the County's Shoreline Master Program, as adopted by the City of Newport, are exempt from the provisions of this Chapter and shall comply with the provisions of Newport Municipal Code Chapter 17.11.*
3. *Please refer to the City's website or contact the Newport City Clerk's Office for more information about the areas under the jurisdiction of the Shoreline Management Act.*

D. The following activities may be determined by the City to be exempt from the provisions of this Chapter:

1. Emergency actions necessary to prevent an immediate threat to life, or to public health, safety, or welfare, or that pose an immediate risk of damage to private structures or improvements and that require remedial or preventative action in a time frame too short to allow for compliance with the procedural requirements of this Chapter.
 - a. Emergency actions that create an impact on a critical area or its buffer shall be limited to those actions that are required to address the emergency and generally are limited to the actions necessary to remove the immediate threat. Additional actions to permanently address a deficiency generally do not qualify as emergency actions and require full compliance with the procedural requirements of this chapter. Emergency actions should be carried out in a manner that has the least feasible impact on the critical area or its buffer.

- b. The person or agency undertaking emergency action shall notify the City within five (5) working days following commencement of the emergency activity. Within thirty (30) days, the City shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the City determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement actions may be initiated.
 - c. After the emergency, the person or agency undertaking the action shall submit a critical area report assessing effects on critical areas and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for all approvals required by this Chapter. Restoration and/or mitigation activities must be initiated within one hundred eighty (180) days of the date of the emergency, unless an extension is approved by the City, and completed in a timely manner.
2. Maintenance, operation and/or repair of rights-of-way, trails, roads, utilities, buildings and other facilities within critical areas and buffers; provided, that the activity does not further alter, impact, or encroach upon the sensitive area or buffer or further affect the functions of sensitive areas, and there is no increased risk to life, property, or the environment, as a result of the proposed operation, maintenance, or repair.
 3. Maintenance of existing, lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code; provided, that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.
 4. Maintenance, repair or replacement of an existing legal, nonconforming structure that does not immediately, or is not likely in the future to further alter or increase the impact to the sensitive area or buffer and results in no increased risk to life, property, or the environment, as a result of the proposed modification or replacement, or reconstruction of unintentionally damaged nonconforming structures provided structures are not expanded or reconstructed for a new use.
 5. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the existing improved portion of the public right-of-way (road surface, shoulder, sidewalks, and slopes) or the improved portion of City-authorized private roadway; provided, that no fill or discharge occurs outside the existing improved area and with appropriate best management practices to control erosion, sedimentation and

- other potential impacts. Excluded is work within a water body or wetland, including but not limited to culverts or bridge replacement or construction.
6. Utility projects that have minor or short duration impacts to critical areas and buffers, as determined by the City in accordance with the criteria below, and which do not significantly impact the functions or values of a sensitive area(s); provided, that such projects are constructed with best management practices and appropriate restoration measures are provided. These activities shall not result in the transport of sediment or increased stormwater, or adversely affect health, property, or the environment. Such allowed minor utility projects shall meet the following criteria:
 - a. There is no practical or feasible alternative to the proposed activity with less impact on sensitive areas.
 - b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
 - c. The activity involves disturbance of less than two hundred (200) square feet of the sensitive area and/or buffer, exclusive of any equipment and/or vehicles needed to perform the activity.
 7. Low-impact activities such as hiking, canoeing, nature study, photography, fishing, education or scientific research.
 8. Public and private pedestrian trails, provided that:
 - a. The trail surface consists of uncompacted gravel or pervious materials, including boardwalks.
 - b. The trail meets all other City, state, and federal requirements, including state water quality standards.
 9. The following non-aquatic vegetation removal activities:
 - a. The removal of the noxious weed species designated by Washington State or the local weed control authority with hand labor and light equipment, or other invasive species.
 - b. The removal of hazard trees from sensitive areas and buffers that are posing a threat to public safety, or an imminent risk of damage to a permanent structure.
 10. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads, removal of native trees or shrubs, or displacement of more

- than five (5) cubic yards of material. Investigations involving displacement of more than five (5) cubic yards of material, including geotechnical soil borings, groundwater monitoring wells, percolation tests, and similar activities shall require submittal of specific plans and restoration plans to the City prior to commencement of any activity. In every case, impacts to the sensitive area shall be minimized and disturbed areas shall be immediately restored. No activity shall commence or occur without City written approval.
11. The application of herbicides, pesticides, fungicides, organic or mineral-derived fertilizers, or other hazardous or potentially hazardous substances, if necessary, provided that their use shall be conducted in accordance with applicable local, state and federal law.
 12. Activities undertaken to comply with a United States Environmental Protection Agency superfund related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act that specifically preempts local regulations in the findings of the order.
 13. Project and facilities for restoration and enhancement of ecological functions of critical areas and related resources may be allowed within critical areas and buffers, upon City approval of a restoration and mitigation plan in accordance with the provisions of this Chapter, or for restoration or enhancement programs in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.181.
 14. The repair and maintenance of drainage ditches.
 15. The installation of individual service lines for agricultural purposes and to existing uses.
 16. Reasonably necessary activities conducted by a public agency to control mosquitoes, pests, rodents, weeds, invasive species, and the like.
 17. Agricultural activities including farming, horticulture, normal maintenance and repair of irrigation delivery systems and drainage systems, ranching, and grazing of animals and pest and weed control. This includes land lying idle under a government program, agricultural set-aside land and changes between agricultural activities.
 18. Normal and routine maintenance of agricultural ponds, livestock watering ponds, and fishponds.

19. Intentional construction of artificial structures from upland areas for purposes of stormwater drainage or water quality control, grassy swales or ornamental landscape ponds, which are not a part of a critical mitigation plan and are consistent with the Washington State Department of Ecology Stormwater Management Manual, as adopted and implemented by the City.
20. Normal dredging required to maintain flows and minimize flooding, provided that other applicable local, state, and federal permits are obtained.
21. Cases where a federal agency has jurisdictional control over a wetland and the City determines that those permit conditions would satisfy the requirements of this Chapter.

17.10.020 General Provisions.

- A. It is the responsibility of Property Owners and Project Sponsors to know and/or to identify the location of critical areas on and near their property and to comply with the provisions of this Chapter at all times.
 1. Property Owners and Project Sponsors that may be proposing development activities in proximity of critical areas are strongly encouraged to schedule a conference with City staff to discuss the applicability of these regulations prior to preparing and submitting land use applications to the City.
 2. The City maintains public maps that may assist in the identification of critical areas.
 - a. It is the responsibility of the Property Owner/Project Sponsor to identify and map all critical areas on their property.
 - b. The presence of a critical area and/or its associated buffer on a parcel triggers the requirements of these regulations, regardless of whether a critical area or buffer is depicted on a City map.
 3. Reasonable access to the project site shall be provided to the City, state, and federal agency staff for the purpose of inspections and compliance review during any proposal review, restoration, emergency action, new construction, or monitoring period.
- B. These regulations shall apply in addition to the other applicable provisions of this Title, as well as applicable local, state, and federal regulations.
 1. Compliance with the provisions of this Chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Project Approvals permits, Army Corps of Engineers Section 404 permits, National Pollutant Discharge Elimination System permits).

2. The Project Sponsor shall be responsible for obtaining all required permits and approvals before initiating any action.
- C. The City, when regulating uses, activities, and developments within or adjacent to, and likely to affect one or more critical areas, shall do so consistent with the best available science and the provisions of this Chapter.
1. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified professional, or team of qualified professionals that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.
 2. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include anecdotal information, non-expert opinion, and hearsay.
 3. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the City may:
 - a. Take a "precautionary or a no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and/or
 - b. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - (1) Address funding for the research component of the adaptive management program.
 - (2) Change course based on the results and interpretation of new information that resolves uncertainties; and
 - (3) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries.
- D. Property Owners and Project Sponsors shall, when designing development activities and uses that may affect geologic hazard areas, wetlands, and fish and wildlife habitat conservation areas, use the following measures, listed in priority order:

1. Avoid the adverse impact altogether by not taking a certain action or parts of an action or moving the proposed action.
 2. Minimize adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 3. Rectify the adverse impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project.
 4. Reduce or eliminate the adverse impact over time by preservation and maintenance activities during the life of the action.
 5. Compensate for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments.
 6. Monitor the impact for a reasonable period and taking appropriate corrective measures; and
 7. Mitigate the adverse impact through a combination of measures.
- E. A Critical Area Authorization or Permit is required before any construction or development activity may be initiated on a site with an area that meets the criteria for designation as a Special Flood Hazard Area, Geologic Hazard Area, Wetland, or Fish and Wildlife Habitat Conservation Area(s) or their associated buffers.
1. A Critical Area Authorization must be based on a written finding by the City that the proposed activity meets one of more of the following criteria:
 - a. The proposed activity is exempt.
 - b. The proposed activity only occurs outside of the critical area and the associated buffer.
 - c. The City has adequate information to determine that the proposal will not have an adverse impact on the Critical Area; or
 - d. The proposed activity will not have an adverse impact on the critical area and otherwise complies with the provisions of this Section.
 2. A Critical Area Permit shall be based on the findings and recommendations contained in a Critical Area Report(s).

- F. In order to receive a required Critical Area Permit, Project Sponsors must prepare and submit for City review and approval a critical area report(s) in a format prescribed by the City.
1. The City shall determine the scope, content, and format for a Critical Area Report based on pre-application consultation with the Project Sponsor and their consultants, resource agencies, and qualified professionals. Individual critical areas reports may be combined into a single comprehensive report, in a format approved by the City.
 - a. Please refer to the City of Newport Critical Areas Manual for information on how to identify and protect critical areas and for guidelines for the preparation critical areas reports. Copies are available online through the City's website and from the City Clerk's Office.
 2. Critical Area Reports shall be prepared by a qualified professional, as determined by the City.
 - a. The cost of preparing required critical areas report(s) shall be borne by the Applicant/Project Sponsor.
 - b. The cost of a professional peer review of any required critical areas report, if required by the City, shall be borne by the Applicant/Project Sponsor.
 3. Critical Area Reports shall be submitted to the City in draft form for City review and comment. Following this review, the City shall notify the Applicant in writing:
 - a. That the report complies with City guidelines and that it may be submitted in final form.
 - b. That additional information is necessary and/or revisions must be made before the report can be accepted for processing, and that identifies the corrective actions that must be taken; or
 - c. That the report does not comply with City guidelines and that identifies the corrective actions that must be taken.
 4. Upon acceptance of the Critical Area Report(s), the City shall utilize the report to evaluate the proposed development activity and to establish conditions of approval. In addition, the City may require the Project Sponsor to:
 - a. Submit detailed construction plans and drawings prepared by a qualified professional necessary to implement mitigating measures and other conditions of approval.

- b. Conduct or permit to be conducted on-going monitoring and evaluation.
 - c. Install protective fencing and signage.
 - d. Provide the City with financial guarantees; and/or
 - e. Demonstrate compliance with the provisions of the applicable local, state, and federal laws.
- G. The City may require, as a condition of approval, that temporary or permanent fencing and signage may be installed to protect critical areas and their buffers from inappropriate uses, unauthorized development activities, intrusion, or accidental encroachment.
- 1. The outer perimeter of the critical area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the City prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
 - 2. Fencing installed as part of a proposed activity or as required in this Section shall be designed so as to not interfere with native species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to critical areas and buffers.
1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of private property containing a critical area or buffer on which a development proposal has been approved, may be required to file a Notice to Title with the Pend Oreille County Auditor's Office. The notice shall state the presence of the critical area or buffer on the property, the application of this Chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

17.10.030 Critical Aquifer Recharge Areas. Critical aquifer recharge areas (CARAs) are lands with prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

- A. The entire City of Newport is hereby designated as a critical aquifer recharge area and the provisions of this Chapter shall apply to all proposed development activities unless specifically exempted, or otherwise provided.
- B. All uses and development activities shall comply with local, state, and federal laws and regulations to protect groundwater. This shall include, but is not limited to:

1. Washington Administrative Code Chapters 173-216, 173-218, 173-240, 173-303, 173-304, 173-360A.
 2. The water source protection requirements and recommendations of the Washington State Department of Health and the Pend Oreille County Health Department.
 3. The City of Newport Storm Water Management Regulations.
 4. The U.S. Clean Water Act.
- C. Uses and activities may only be permitted if the Project Sponsor can show that the proposed use or activity will not cause contaminants to enter local aquifers, adversely affect the recharging of the aquifer, or adversely affect the quantity or quality of groundwater.
1. Depending on the location and nature of the proposed use, the City may require a critical area report prepared by a qualified professional and supported by best available science, to identify design features and best management practices necessary to protect the quality and quantity of groundwater.
 2. Where these uses are permitted, the following special development standards shall also apply:
 - a. Aboveground or underground storage tanks or vaults for the storage of hazardous substances or dangerous wastes as defined in Chapter 173-303 WAC, Dangerous Waste Regulations, or any other substances, solids, or liquids in quantities identified by the City, consistent with Chapter 173-303 WAC, as a risk to groundwater quality, shall conform to the International Building and Fire Code, and Chapter 173-360A WAC, Underground Storage Tank Regulations.
 - b. Vehicle repair and servicing activities must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing or accessory uses must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - c. No dry wells shall be allowed in CARAs on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

17.10.040 Special Flood Hazard Areas.

- A. All Special Flood Hazard Areas in the City of Newport, as determined by utilizing data obtained from the Federal Emergency Management Agency (FEMA) Flood Insurance Rate

Maps (FIRM), are subject to the provisions of this Section. Special Flood Hazard Areas are subject to inundation by 1-percent-annual chance flood and shall include Zones A and, AE.

- B. No development activities or new uses may be permitted on sites with designated Special Flood Hazard Areas without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter.
- C. All proposed development activities and new uses on sites with designated Special Flood Hazard Areas must comply with:
 - 1. The Newport Municipal Code.
 - 2. FEMA regulations and standards.
 - 3. Other applicable federal, state, and local laws and regulations.

17.10.050 Geologic Hazard Areas. The purpose of these regulations is to maintain the integrity of designated geologic hazard areas and their buffers in order to protect adjacent lands from the impacts of landslides, mudslides, subsidence, excessive erosion and seismic events, and to safeguard the public from these threats to life or property.

- A. Geologic hazard areas in the City of Newport shall include those areas that are susceptible to one or more of the following types of hazards:
 - 1. Erosion hazard;
 - 2. Landslide hazard;
 - 3. Seismic hazard;
 - 4. Mine hazard;
 - 5. Volcanic hazard; or
 - 6. Other geological events including, volcanic hazards, mass wasting, debris flows, rock falls, and differential settlement.
- B. No development activities or new uses may be permitted on sites with areas that meet the criteria for designation as a Geologic Hazard Area or an associated buffer without a Critical Areas Authorization or Permit.
 - 1. The City may waive or reduce engineering study and design requirements in geologic hazard areas for:

- a. Additions or alterations to existing structures that do not increase occupancy or significantly affect the risk of structural damage or injury; or
- b. New buildings that are not dwelling units or used as places of employment or public assembly and do not pose a significant threat to a dwelling unit(s) or places of employment or public assembly.

17.10.060 Wetlands. Wetlands are areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

- A. All areas within the City of Newport meeting the wetland designation criteria in the approved federal wetland delineation manual and applicable regional supplements, as amended, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.
 1. Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029), or as revised and adopted by the City.
 2. A buffer area shall be established for all designated wetlands to protect the function and values of the wetland.
 3. For more information on the rating of wetlands as well as the criteria and standards for establishing buffer areas, please refer to the City of Newport Critical Areas Manual.
- B. No development activities or new uses may be permitted on sites that meet the criteria for designation as a wetland or an associated buffer without a Critical Areas Authorization or Critical Areas Permit in accordance with the provisions of this Chapter.
 1. The following uses and activities may be permitted by the City in wetlands through a Critical Areas Authorization:
 - a. Conservation or preservation of soil, water, vegetation, fish, and other wildlife that does not entail changing the structure, or functions of the existing wetland.

- b. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources.
- c. Recreational and educational activities.
- d. Research.
- e. Drilling for utilities under a wetland provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. The City may require the Project Sponsor to submit a special study prepared by a qualified professional to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed prior to any drilling or drilling associated activities.
- f. Enhancement of a wetland through the removal of non-native invasive species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be re-vegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native plants.

17.10.070 Fish and Wildlife Habitat Conservation Areas.

- A. All areas within the city meeting one or more of the following criteria, regardless of any formal designation, are hereby designated Fish and Wildlife Habitat Conservation Areas and are subject to the critical area provisions of this Chapter:
 - 1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.
 - a. Federal designated endangered and threatened species are those fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.
 - b. State designated endangered, threatened, and sensitive species are those fish, wildlife and plant species native to the State of Washington identified by the state Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 220-610-020

(state endangered species), and WAC 220-200-100 (state threatened and sensitive species).

- c. Priority habitats and species identified by the state Department of Fish and Wildlife. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.
2. Priority habitats and species identified by the Washington State Department of Fish and Wildlife, and as subsequently amended.
3. Habitats and species designated by the County as being of local importance and warranting protection, based on provisions of Best Available Science.
4. Herring, smelt, or other forage fish spawning areas.
5. Naturally occurring ponds are those ponds under twenty (20) acres and their submerged aquatic beds that provide native fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
6. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-030 and WAC 222-16-031.
7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
8. State natural area preserves, natural resource conservation areas, and state wildlife areas.
9. Streams shall be designated in accordance with the Washington State Department of Natural Resources (DNR) stream type as provided in WAC 222-16-030.
10. Areas of rare plant species and high-quality ecosystems that are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

- B. No development activities or new or modified uses may be permitted on sites that meet the criteria for designation as a Fish and Wildlife Habitat Conservation Area or an associated buffer without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter.

17.10.080 Enforcement.

- A. When a critical area or its buffer has been altered in violation of this Chapter, the City shall have the authority to issue a stop work order to cease all development activities, and order restoration, rehabilitation, replacement, or where determined appropriate, mitigation measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter and other applicable City codes.
 - 1. All development work shall remain stopped until a restoration and/or mitigation plan is prepared at the Project Sponsor's expense and approved by the City. The plan must be prepared by a qualified professional and shall describe how the actions proposed meet the minimum requirements of this Section.
 - 2. The City may, at the violator's expense, seek expert advice in determining the adequacy of the plan.
 - 3. Inadequate plans shall be returned to the violator for revision and resubmittal, with a written explanation regarding any deficiencies and/or additional information that may need to be submitted.
 - 4. Any work recommenced shall be done in accordance with the approved restoration/mitigation plan.
 - 5. For alterations to frequently flooded areas, wetlands, and habitat conservation areas the following minimum performance standards shall be met for the restoration of a critical area to the condition and state pre-existing the violation provided that if the violator can demonstrate in a restoration/mitigation plan that greater functional and habitat values can be obtained, these standards may be modified by the City:
 - a. The function and values of the affected area shall be restored, including water volumes, quality, and wildlife habitat.
 - b. The soil types and configuration shall be replicated; and
 - c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation typically found on the site in species types, sizes, and densities.

6. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard.
 - b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
 - c. The hazard area and any buffers shall be replanted with native vegetation sufficient to minimize the hazard.
- B. Representatives of the City are authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The authorized representatives shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
- C. Any violation of this Chapter shall be enforced in accordance with the provisions of the Newport Municipal Code.
 1. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be subject to civil or criminal penalties.
 2. Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense.
 3. Any development activity carried out contrary to the provisions of this Chapter shall constitute a public nuisance in accordance with the provisions of NMC 8.36 and may be enjoined as provided by the statutes of the State of Washington.

Chapter 17. 11 Shorelines

Sections:

17.11.010 - Introduction.

17.11.020 - Shoreline Master Program Adopted.

17.11.030 - Future Annexations.

17.11.040 - {Open}.

17.11.050 - {Open}.

17.11.060 - {Open}.

17.11.010 Introduction. The Pend Oreille River is the only body of water within the City of Newport that is under the jurisdiction of the Washington State Shoreline Management Act and there are only two (2) parcels within the city that contain jurisdictional shorelines: the City Sewage Treatment Plant and an island owned by the City. No other public or privately owned property within the City appears to contain jurisdictional shorelines, although there are approximately four (4) parcels within the City's Urban Growth Area that may contain jurisdictional shorelines.

17.11.020 Shoreline Master Program. The City hereby adopts the Pend Oreille County Development Regulations Chapter XX. 34 Shoreline Regulations as it now exists and as subsequently amended, to preserve and protect jurisdictional shorelines within the City and the City's Urban Growth Area.

17.11.030 - Future Annexations. In the event that a future annexation contains jurisdictional shorelines designated by Pend Oreille County, such lands shall retain their County shoreline environment designation and protections afforded through the County Shoreline Master Program, until such time that the property is re-designated and/or a new Shoreline Master Program or Shoreline Regulations that supersede the County Shoreline Master Program and Shoreline Regulations are adopted by the City.