



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
DECEMBER 12, 2013 – 6:00 P.M.**

Chairperson:	Dan Lund	City Administrator:	Deb Hill
Vice-Chair:	Matt Prestegaard	Executive Analyst:	Renee Helm
Commissioner:	Janice Anderson	Council Liaison:	Tom Ingemann
Commissioner:	Susan Lindoo		
Commissioner:	Anthony Mahmood		

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

A. Planning Commission Minutes of November 14, 2013

**4. APPOINTMENTS WITH COMMISSION**

A. **Public Hearing** – To consider an application from Gary Banaszewski for Approval of a Variance for Property Located at 1970 8th Avenue

1. Memo from Sherri Buss
2. Application
3. Notice of Public Hearing
4. Resolution No. P.C. 2013-12

B. **Public Hearing** – To consider amendments to the Zoning Code, Chapter 1300, Section 1300 General, Section 1340 Residential Districts, and Section 1350 Nonresidential Districts

1. Memo from Sherri Buss and Renee Helm
2. Resolution No. P.C. 2013-13

**5. COMMISSION & STAFF REPORTS**

A. Invitation from the Heritage Preservation Commission to their Annual Meeting on January 8, 2013 at 5:30 p.m.

B. 2014 Vacancy

**6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

A. Upcoming Meetings and Events:

1. City Council Meeting December 19, 2013 5:30 p.m.
2. City Offices Closed for Christmas Holiday December 24 - 26, 2013

**8. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
November 14, 2013**

**1. CALL TO ORDER**

Chairperson Lund called the meeting to order at 6:03 P.M.

**2. ROLL CALL -**

Commissioners present – Dan Lund, Matt Prestegaard, Janice Anderson, Susan Lindoo, Anthony Mahmood

Commissioners absent –

Also present – Deb Hill, City Administrator; Renee Helm, Executive Analyst; Tom Ingemann, Council Liaison; Sherri Buss, TKDA Planner

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

**A. Planning Commission Minutes of October 10, 2013**

**Vice-Chair Prestegaard** - I have a couple. On the bottom of page 1, it seems that Chairperson Lund is unwilling to give up his blanket, I think it should be "blanket approval." Another one, on the middle of page 10, where I said "That was my feeling too," it should be "t-o-o."

**Chairperson Lund** - That's all I found too. Well done, they're extensive minutes.

**Motion by Mahmood, seconded by Anderson, to approve the October 10, 2013 minutes as amended. With 5 Ayes, 0 Nays, the motion carried.**

**4. APPOINTMENTS WITH COMMISSION**

**A. Discussion Regarding Accessory Structure Size in the RE District**

Sherri Buss, TKDA Planner, presented on this item as outlined in the November 14, 2013 Planning Commission Packet.

**Susan Lindoo** - A couple of minor things. One is on that table, could it be "Minimum 500 square feet of accessory structure is permitted on all parcels, regardless of house size, if required setbacks are met?" I read that twice to think it through and realize what you were saying so I thought this would make it clearer.

**Chairperson Lund** - There's not a maximum limit for less than two acres. So to get to a maximum limit, that would be based on the size of the principal structure?

**Ms. Buss** - And of lot coverage, in the RE District, it's 20%. That typically controls the size of structure.

**Chairperson Lund** - So 20% of two acres is 8,000 square feet so we should have a maximum cap for less than two acres.

**Ms. Buss** - Ok, so somewhere we need to say the maximum accessory structure size in all districts is 2,500 square feet.

**Chairperson Lund** - Let's just add it to the table unless there's a smaller maximum. Our intent for less than two acres was to make it similar to the other districts.

**Executive Analyst Helm** - The R1 District is 25% coverage. An accessory structure cannot be larger than the house.

**Ms. Buss** - In this table, we're going up to 1.99 acres. What we could say is "A total footprint of all structures may be no larger than the square foot of the principal structure or no larger than 2,500 square feet."

**Vice-Chair Prestegaard** - I would say 2,000 square feet.

**Chairperson Lund** - I think we should have a maximum for all of the districts. It could be a smaller maximum outside of the RE District.

**Ms. Buss** - In the R-1 District, there are some bigger lots so we probably should add a subdivision 4 stating that in all districts outside of the RE District, the maximum accessory structure size shall be 2,000 square feet.

**Chairperson Lund** - Do we mean that for all districts?

**Ms. Buss** - No, I would say just residential districts.

**Executive Analyst Helm** - There are some houses in the mixed-use districts.

**Ms. Buss** - So we could say the maximum is for wherever we allow a residential use.

**Susan Lindoo** - I have one other thing. On page 1340-5, where you say "No accessory building shall at any time be used as a habitable building," could we put in there that it couldn't be used as manufacturing or industrial use? Just to make it really clear.

**Ms. Buss** - Then we would need to say that no accessory building in a residential district may be used for a manufacturing or industrial use.

**Susan Lindoo** - I'm good with that because people don't read the whole ordinance.

**Ms. Buss** - We did have a question about whether or not someone could build a 2,000 square foot woodshop in their backyard.

**Janice Anderson** - Why would you deny that?

**Ms. Buss** - If they were using it for their own personal use, you couldn't, but if they're using it as a business you could. It could also be a home occupation but there are conditions on that as well.

**Janice Anderson** - For my own clarification, we're just talking about the R1, R2 and R3 Districts correct?

**Ms. Buss** - The table on page 1340-3 is the RE District.

**Chairperson Lund** - For the setbacks on 1340-4, we have a formula for structures larger than 2,000 square feet.

**Ms. Buss** - That's not a change.

**Chairperson Lund** - The part I would like to open to discussion is that we don't have a similar formula for the rear setback but we do have a maximum of 50 feet for the rear setback. Do we want to make the rear different from the side and do we want to use the same formula to the rear?

**Susan Lindoo** - That might be especially relevant with the RE District because our lots are so irregular.

**Chairperson Lund** - I think the setback should be the same for the side and rear. What's a maximum amount for the rear setback? What are the regular setbacks?

**Executive Analyst Helm** - For the RE, the side yard is 20 feet, the rear yard is 10 feet, and the front yard is 40 feet.

**Chairperson Lund** - So the 100 feet limit won't mean anything because to get that would be a 5,000 square foot building, which won't be aloud. I think we can get rid of the maximum.

**Ms. Buss** - So you want to take out the maximum and have the formula be for the rear too?

**Chairperson Lund** - Yes. So anything above 2,000 square feet needs to deal with the formula. I think we also need to specify that we'll round up with the formula. I think we should change the rear setback to 20 feet as well for the RE District or it should at least be the same as the side.

**Ms. Buss** - I think that makes sense. We'll change it to 20 feet so that it's the same as the side. We'll have the public hearing at the December meeting.

## **B. Discussion Regarding Breweries**

Sherri Buss, TKDA Planner, and Executive Analyst Helm presented on this item as outlined in the November 14, 2013 Planning Commission Packet. There are State regulations regarding breweries and what licenses they would need. A taproom license would allow the owners to sell only their brew, whereas a brew pub license would allow the owner to sell their brew and other liquor. The City Council will be discussing amending Chapter 5, Alcoholic Beverages, of the City Code to allow for these different licenses at a future meeting.

**Susan Lindoo** - Would we also allow for the micro-distilleries or wineries?

**Ms. Buss** - In Stillwater, there's a winery where all of the grapes are grown in other parts of Washington County and they bring the grapes in and make the wine there.

**Janice Anderson** - There are a lot of standing wineries where all they do is bring in other crops and brew the wine.

**Ms. Buss** - That's the question for you. We've had a question about a use and we could amend to only allow that use or expand it further and allow the other types of businesses.

**Chairperson Lund** - I don't have any problem with these anywhere that we allow a bar. Is there a limit on the number of liquor licenses we can issue?

**Executive Analyst Helm** - Yes, it's five on-sale liquor licenses. We have three on-sale currently.

**Janice Anderson** - I think there's a question of distance though too.

**Executive Analyst Helm** - There's a regulation for off-sale.

**Susan Lindoo** - This isn't a bar though.

**Executive Analyst Helm** - There's a limit for on-sale and the brew pub is an on-sale. There isn't a limit for off-sale but we do have a distance regulation of 1,000 feet. They would like to sell off-sale as well but the Red Rock Saloon does that right now and they're 1,000 feet away from Newport Liquor.

**Chairperson Lund** - Maybe we could ease that restriction for selling their own product.

**Executive Analyst Helm** - That would need to be a Council discussion. They just approved an ordinance this last year for that regulation.

**Ms. Buss** - Is there a general agreement that we would like to allow micro-breweries?

**Janice Anderson** - Yes.

**Susan Lindoo** - I would like to allow more. These would be craft breweries because it's more than 5,000 barrels? The micro-breweries are the really small. They were recommending a limit of 20,000 barrels. It would be also the craft distilleries and wineries. At the very end, their recommendation is to use the term "craft brewery," which is the capacity to manufacture 20,000 or less barrels per year.

**Ms. Buss** - And brew pubs, by the State, are regulated to 3,500 barrels per year.

**Vice-Chair Prestegaard** - It says that the State recently increased it to 20,000 barrels so that would apply to brew pubs, taprooms and growlers. I think 20,000 seems reasonable.

**Ms. Buss** - So we would update the Code to allow any of these things?

**Susan Lindoo** - Would it be the mixed-use and business districts?

**Janice Anderson** - Mixed-use also allows residential.

**Susan Lindoo** - But in here they talk about the traditional neighborhoods and aren't those similar to our mixed-use?

**Ms. Buss** - Yes and if you look at the table, you'll see that St. Paul allows them if they're small enough in the traditional districts. Do you like how St. Paul has set it up?

**Susan Lindoo** - I'm looking at the very last pages and notice that they're allowing it in three of the four traditional districts. Didn't we combine some of the mixed-use districts?

**Ms. Buss** - No, there are four.

**Susan Lindoo** - Are there any of those where we don't want to allow them? I think it makes sense for the transit-oriented mixed-use and the commercial areas.

**Ms. Buss** - St. Paul's T-1 is almost like your residential districts.

**Susan Lindoo** - Do we feel our mixed-use is really mixed-use?

**Ms. Buss** - Think of the area around here, this building is in a mixed-use district.

**Janice Anderson** - Aren't there regulations regarding distances from schools?

**Executive Analyst Helm** - Yes, it's 800 feet.

**Ms. Buss** - If we were going to allow it in the MX-4 District, you would want to invoke that.

**Executive Analyst Helm** - And that's a State Regulation.

**Susan Lindoo** - St. Paul has them in the business and industrial districts.

**Ms. Buss** - I don't think we permit restaurants in the industrial districts. You could allow an actual brewery in the industrial districts. You probably want to allow brew pubs wherever you allow restaurants.

**Susan Lindoo** - Are we talking about making changes for the brew pubs and breweries? We might as well do all of them.

**Chairperson Lund** - Are there any type of restrictions we would like to add over a normal bar? I'm inclined to say that they need to meet the restrictions of a normal bar and then I would be willing to have the Council remove the regulation for 1,000 feet for off-sales.

**Ms. Buss** - If someone wanted to do off-sale for just their growlers, would the Council be willing to waive that regulation?

**Councilman Ingemann** - What we don't want is another liquor store 200 feet away from an existing liquor store. It would eliminate the liquor store if it was just their own product.

**Chairperson Lund** - I guess there's no reason to ask if we need more than five liquor licenses if we're only using three.

**Executive Analyst Helm** - The limit is a State Regulation and is determined by our population. I would have to check with the State but I don't believe a taproom license would be considered an on-sale license.

**Susan Lindoo** - There were a couple other things that were brought up in the St. Paul ordinance including odor. I don't think they recommended a specific restriction but there was something about it coming from the by-products drying. We might want to look at that. They also said something about restricting events that a brew pub could have.

**Ms. Buss** - That's a big discussion in Minneapolis and St. Paul. There are a number of brew pubs that are holding regular events and neighbors are getting frustrated. They're discussing whether or not they should limit the number of events for a brew pub. A restriction like that is a good thing to think about if it's close to a residential area.

**Vice-Chair Prestegaard** - I understand your concerns but I wouldn't know where to set the value on the number of events or a minimum number of barrels.

**Susan Lindoo** - We might want to wait and see.

**Ms. Buss** - Other cities require a permit for the event.

**Executive Analyst Helm** - I've never issued one.

**Susan Lindoo** - Do we need to have something in the code about odor?

**Ms. Buss** - I can ask St. Paul about what they are going to do.

**Chairperson Lund** - Are we going to allow conditional use permits for these?

**Ms. Buss** - That's up to you. St. Paul does it at a certain size. 5,000 square feet wouldn't require one but anything above 15,000 square feet do. That's consistent with what we've done in other districts.

**Chairperson Lund** - My concern would be related to smell mitigation but that could be a condition.

**Ms. Buss** - You might want to require one for a distillery because I think that's where the odor comes from.

**Susan Lindoo** - I can see requiring one for a mixed-use district but not the business district.

**Ms. Buss** - If you look at St. Paul's chart, they don't require conditional use permits in business districts.

**Chairperson Lund** - Renee, can you give a brief explanation of the procedure and cost for a conditional use permit?

**Executive Analyst Helm** - We typically need the application about six weeks prior to the public hearing because of publication notices and review. In regards to cost, it's \$450 for the application plus a minimum of \$2,000 escrow. If they don't need a conditional use permit, it typically takes about three weeks for review and is based on the value of the project. The conditional use permit takes about six to eight weeks.

**Chairperson Lund** - So it is a burden to require a conditional use permit. Do we require one for bars now?

**Ms. Buss** - Yes, for a restaurant that is serving liquor. We return any escrow amount that we don't use.

**Vice-Chair Prestegaard** - So they're allowed in all of the mixed-use and business districts with a conditional use permit, not to exceed 20,000 barrels.

**Susan Lindoo** - And they have a limit for distilleries. It seems like St. Paul did quite a bit of background in this.

**Ms. Buss** - So if you wanted to go ahead with this, we can start creating a draft and look up a couple of those issues. Mostly, I think it'll be changing the tables.

**Chairperson Lund** - Maybe the only difference between these and a regular bar would be related to smell. I think we can just use our regular bar regulations and have one extra provision regarding smell.

**Ms. Buss** - So based on that, we'll bring back a draft at the next meeting.

## **5. COMMISSION AND STAFF REPORTS**

**Admin. Hill** - There will be a ceremony for the Transit Station on November 25. The demolition should be done by the end of January and they'll start construction in May depending on frost. They're hoping to be done by the end of October 2014.

**Ms. Buss** - We've also been working on an issue with Aggregate Industries, which is just across Maxwell. We've had a number of complaints in regards to dust. We've taken this opportunity to talk to them about the coming Transit Station and that when we bring developers out, it's their site that make people worried about putting housing up in that area. They came in to talk to us this week about what they can do to come into compliance. They agreed that their site is a problem. Some of the stuff is debris from the Wakota Bridge. They'll also start building landscaped berms west of Maxwell. I think that's a real plus to get them screened. We said that we needed a plan within 30 days from when they received the letter.

**Chairperson Lund** - Are we doing any monitoring of the garbage-sorting facility? People always blame the smell on the South St. Paul rendering plant but I don't believe that they don't contribute to the odor.

**Ms. Buss** - We don't. I'm not sure if the State monitors them.

**Chairperson Lund** - There's a State mandate but if we don't complain, the State might not be so inclined to fight against it. I know the County spent \$9 million last year to subsidize it because it's cheaper. Now there are some environmentalists saying that it's better for the environment not to burn garbage. I don't think that's a good location for it and unless someone can tell me why we want them I would be happy to chase them out of here whether that means talking to the County or complying with the Clean-Air Act. That's what is going to kill the project because no one is going to put residences there when it stinks of garbage.

**Anthony Mahmood** - They built a baseball field next to one.

**Chairperson Lund** - That one has scrubbers and they keep it enclosed. A lot of people say that the smell is not coming from there but I find that hard to believe.

**Susan Lindoo** - We don't smell it on this side but I've driven across the bridge and can smell something.

**Councilman Ingemann** - There's a rendering plant in South St. Paul.

**Ms. Buss** - In seriousness, Barb Dacy from the County HRA said that has they have been out talking about this, that has been a question. They're putting together an idea for how to market this area and she feels that one of the big messages we need to get out is that there aren't bad smells.

**Councilman Ingemann** - The garbage plant as a sweet smell, not the one you smell when you go across the bridge.

**Susan Lindoo** - Tony, you're saying that it does smell?

**Anthony Mahmood** - Yes. Certain nights during the winter, I can smell the garbage plant and I know the difference between the two smells.

**Chairperson Lund** - Is there a reason we don't want to put the screws to them on their smell emissions?

**Councilman Ingemann** - Taxes.

**Susan Lindoo** - But if they prevent the development of the other area, which is going to be greater in the long run?

**Ms. Buss** - If they have a conditional use permit, it would be very hard to take it away.

**Chairperson Lund** - But if we start enforcement actions under environmental policies...

**Ms. Buss** - If you can get the PCA to monitor it and they are violating the policies than they could remove the permit.

**Chairperson Lund** - Not in such a direct way but if the County knows that we don't like it. Washington County subsidized it for \$9 million.

**Susan Lindoo** - Maybe they would need to use scrubbers or whatever. If Barb Dacy is running into these issues maybe that's enough of a case to ask the PCA to monitor it. If they determine there is a smell they could be asked to come into compliance.

**Ms. Buss** - I'll ask Barb what she thinks about it.

**Anthony Mahmood** - The main smell is coming from across the road.

**Chairperson Lund** - They're under the spotlight over there.

**Ms. Buss** - What Barb has been wanting to say is that the rendering guys are being forced to clean up their act so that it won't be an issue in the future but if the garbage plant is causing a smell as well she can bring that to the County Board. I'll talk with Barb about it.

**Vice-Chair Prestegaard** - How did the deer hunt go?

**Admin. Hill** - They took six or eight.

**Susan Lindoo** - Will they do it again next year?

**Admin. Hill** - If the Council decides to.

## **6. NEW BUSINESS**

**Chairperson Lund** - I've been trying to figure out how we can apply for Parks and Trails money. There has been some talk about the island and acquiring that.

**Admin. Hill** - I actually spoke with a representative of the family that owns it and they were going to have a meeting this month to discuss it.

**Chairperson Lund** - I'm trying to figure out how we can apply for the dedicated funding for parks and trails.

**Admin. Hill** - I have an email that I received in the last day or two and I was going to talk to Barb Dacy about it.

**Chairperson Lund** - Great.

**Susan Lindoo** - Does that go along with the passive park along Cedar Lane?

**Admin. Hill** - From what I understand, yes.

**Chairperson Lund** - And then hopefully get the fishing pier back. So the City is acquiring all of those properties?

**Admin. Hill** - That's the plan.

**Chairperson Lund** - It looked like someone was raising some land.

**Executive Analyst Helm** - Do you know where it was? We're not acquiring all of the properties on Cedar Lane.

**Chairperson Lund** - It was on the west side, it looked like someone was bringing in a bunch of dirt.

**Admin. Hill** - That was to fill the basement. We've had meetings with the National Park Service about it.

**Ms. Buss** - We've also talked with Washington County because one of the planners is thinking about a long-range plan for sites all around Washington County, especially on the Mississippi and St. Croix Rivers for kayaking. We're trying to get it in front of people as much as we can.

**Chairperson Lund** - All of that Park and Trail money can't be gone can it?

**Ms. Buss** - A lot of it goes through State and metro parks. My impression is that cities haven't been going after it because it goes towards a regional park.

**Admin. Hill** - They also issue money to those projects that have a plan.

**Ms. Buss** - But we can try to find out the rules.

## **7. ANNOUNCEMENTS**

### **A. Upcoming Meetings and Events:**

- |  |                        |           |
|--|------------------------|-----------|
| 1. City Council Meeting                            | November 21, 2013      | 5:30 p.m. |
| 2. City Offices Closed due to Thanksgiving Holiday | November 28 - 29, 2013 |           |
| 3. City Council Meeting                            | December 5, 2013       | 5:30 p.m. |
| 4. Planning Commission Meeting                     | December 12, 2013      | 6:00 p.m. |

## **8. ADJOURNMENT**

**Motion by Prestegaard, seconded by Lindoo, to adjourn the Planning Commission Meeting at 7:35 P.M. With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Dan Lund, Chairperson

Respectfully submitted,

Renee Helm  
Executive Analyst



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## Memorandum

**To:** City of Newport Planning Commission      **Reference:** Banaszewski Variance Request

**Copies To:** Deb Hill, City Administrator      \_\_\_\_\_  
Renee Helm, Executive Analyst      **Project No.:** 15258.008  
Gary Banaszewski, applicant and property owner      \_\_\_\_\_

**From:** Sherri Buss, RLA AICP, Planner      **Routing:** \_\_\_\_\_

**Date:** December 2, 2013      \_\_\_\_\_

**SUBJECT:** Banaszewski Variance Request for Entry Addition

**MEETING DATE:** December 12, 2013

**LOCATION:** 1970 8<sup>th</sup> Avenue

**APPLICANT:** Gary Banaszewski  
1970 8<sup>th</sup> Avenue  
Newport, MN

**OWNER:** Gary Banaszewski

**ZONING:** R-1 Low-Density Single-Family Residential

**60-DAY PERIOD:** December 28, 2013

**ITEMS REVIEWED:** Application Form, narrative, certificate of survey, architectural plan and aerial photo

### BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting a variance from the required front yard setback to construct an entrance addition to the home that would be 17 feet from the property line rather than the 30 feet required by the Zoning Ordinance. The addition of the entry and landing also requires a variance from the lot coverage standard for the R-1 District.

## **BACKGROUND**

A previous owner of the home at 1970 8<sup>th</sup> Avenue remodeled the kitchen and reconstructed the stairway that went from the first floor to the basement in a location near the front entry to the home. The stairway that he installed is illegal. It does not meet Building Code requirements because the treads are too short (7" rather than the required 9") and the stairway is too steep.

The current owner has applied for a variance to rebuild the stairway to meet the Building Code requirements and create a safe stairway. His architect recommended that the stairway should be rebuilt in the current location. The footprint of the home is relatively small, and moving the stairway to another location within the home would require major changes to the existing plumbing. The stairway and entry cannot be expanded to the north due to the location of the existing garage.

Installation of a stairway that is lengthened to meet code requirements will require expanding the stairway toward the front of the home and into the proposed entry addition (see plan submitted by the applicant). The applicant is requesting a variance to build a new entry structure at the front of the home to accommodate the stairway and a new entry area. The proposed structure includes an exterior landing/stair as well as the entry structure.

The new entry requires a variance from the front setback and the lot coverage requirement. The size of the proposed entry area is 10'x7'6". The proposed landing/stair is 3'x9'6". The area proposed to be added to the home therefore extends 13' from the front of the house toward the street. The proposed structure setback is 17' from the front property line. The expansion of the structure also requires a variance from the requirement that lot coverage (maximum 25% in the R-1 District).

## **EVALUATION OF THE REQUEST**

### ***Comprehensive Plan***

The property at 1970 8<sup>th</sup> Avenue is located in the R-1 Low-Density Single-Family Residential District. The Comprehensive Plan goals for the City's residential districts support protecting the character of existing residential neighborhoods and encourage reinvestment in those neighborhoods. The proposed use is consistent with the Comprehensive Plan.

### ***Development Code Requirements: Lot sizes and Setbacks***

The minimum lot size in the R-1 Zoning District is currently 9,100 square feet. The applicant's lot is 10,455 square feet in size, and meets the ordinance requirement.

The setback requirements in the R-1 Zoning District are as follows:

- Front yard setback: 30 feet
- Side yard setback for dwellings: 10 feet
- Side yard setback for garages: 5 feet
- Rear yard setback for dwellings: 30 feet
- Rear yard setback for garages: 5 feet



The applicant is requesting a variance to locate the new entry structure 17 feet from the property boundary on 8<sup>th</sup> Avenue rather than the required 30 feet. The existing home and garage (shown as “proposed” on the survey and constructed in October 2013 to replace the previous garage) meet the other setback requirements.

### ***Building Height***

The maximum building height in the R-1 District is 35 feet. The height of the proposed entry structure is approximately 14 feet, and the roof peak of the addition will be lower than the height of the dwelling. The height of the proposed addition meets the ordinance requirement.

### ***Lot Coverage***

The zoning ordinance allows a maximum 25% lot coverage in the R-1 District. The existing lot coverage on the parcel is approximately 38%, based on the survey submitted with the application. The existing lot coverage is therefore nonconforming.

The proposed entry structure is 10'x7'6". The proposed landing is 3'x9'6". The total impervious surface that the applicant proposes to add is 103.5 square feet. Nonconforming buildings may be expanded up to 20% of the area of the building footprint without a variance if the proposed expansion meets all of the setback and dimensional requirements of the zoning district. The footprint of the existing home is 793 square feet. While the proposed expansion is less than 20% of the footprint of the home, it does not meet the front setback requirement. The proposed expansion would expand the lot coverage to 39.8% of the lot. Since the proposed expansion does not meet the setback requirement, the applicant must also obtain a variance from the lot coverage standard for the proposed addition.

### ***Stormwater Management***

The Planner discussed the request for a variance from the coverage requirement with the City Engineer. The Engineer concluded that if the City grants the variance, it would not be practical to require stormwater management practices on the small parcel in order to mitigate for the additional lot coverage. Therefore, based on the Engineer's recommendation, the Planner has not included conditions related to stormwater management for the variance.

## **ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST**

Section 1310.11 of the Zoning Ordinance states that the City may approve variances if they meet the following criteria:

- Granting the variance is consistent with the Comprehensive Plan, and in harmony with the general purposes and intent of the zoning ordinance.
- Strict enforcement of the zoning ordinance would result in “practical difficulties, “ which are defined as follows:
  - The property owner is proposing to use the property in a reasonable manner that is not permitted by the Zoning Ordinance.
  - The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
  - Granting the variance will not alter the essential character of the locality.
  - Economic conditions alone shall not constitute the practical difficulties.



- Granting the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger public safety, or substantially diminish or impair property values within the neighborhood.
- The requested variance is the minimum action required to eliminate the practical difficulty.
- Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

### ***Findings***

The following are the Planner's findings based on the request and the conditions for approving a variance

- *Variances shall only be permitted when they are consistent with the Comprehensive Plan and in harmony with the general purposes and intent of the official control.*

The purpose of the R-1 District is to preserve, create and enhance areas for low-density single-family residential dwellings in areas identified in the Comprehensive Plan. The Plan encourages reinvestment in the existing single family homes in the R-1 District. The purpose of the Zoning Ordinance is to promote the health, safety and welfare of the residents of Newport. Granting the variance request will allow an investment that will bring the home into compliance with the Building Code and allow for safe occupancy of the dwelling for the current and future owners. The requested variance is therefore consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance.

- *The proposed use is reasonable.*

Single family homes are permitted uses in the R-1 Zoning District. The City requires that homes comply with the Building Code. Therefore, the proposed use is a reasonable use.

- *The request is due to circumstances that are unique to the property, and were not created by the landowner.*

The practical difficulties related to the addition of the entry structure were caused by the actions of a previous owner, who constructed a stairway that does not meet building code requirements and is unsafe. The proposed addition will permit construction of a stairway that meets the code requirements and will not require major structural alteration to the plumbing of the home. The entry cannot be located to the north side of the structure due to the location of the garage. The practical difficulties are therefore related to the actions of a previous owner and the locations of the existing home and garage. The owner/applicant did not create the practical difficulties.

- *The variance, if granted, will not alter the essential character of the area.*

The home will remain a single-family residence. While the setback of the Banaszewski home will vary from surrounding homes with the addition of the entry structure, it is



relatively small, and the Planner suggests that the addition will not alter the essential single-family character of the area.

- *Economic considerations alone do not constitute practical difficulties.*

The variance request is based on the need to replace an existing stairway that is illegal and unsafe, not on economic considerations.

- *The proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion of public streets, increase the danger of fire or endanger public safety, or substantially diminish or impair property values within the neighborhood.*

The addition of an entry structure in the proposed location will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.

- *The requested variance should be the minimum action required to eliminate the practical difficulty.*

The proposed addition is the minimum size needed to accommodate a new stairway that meets code requirements and to replace the existing small entry area. The new stairway cannot be accommodated in another location where a larger setback could be maintained due to the location of the existing driveway and plumbing within the home. The variance is the minimum action required to eliminate the practical difficulty.

- *Practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems.*

Granting the variance request will not affect access to direct sunlight for solar energy systems.

The findings support granting the variance. The Planning Commission should listen to comments at the public hearing, discuss the Planner's findings, and make its recommendation to the Council regarding the variance request.

### **ACTION REQUESTED**

The Planning Commission should listen to public comments at the hearing on December 12 and discuss the application. The Commission can recommend to the City Council:

1. Approval
2. Approval with conditions
3. Denial with findings
4. Table the request, if additional information is needed to make a decision



## **PLANNING STAFF FINDINGS AND RECOMMENDATIONS**

The Planner recommends that the Planning Commission recommend to the City Council approval of a variance for the property at 1970 8<sup>th</sup> Avenue to construct an entry addition a minimum of 17 feet from the front property line, and to permit up to 40 percent lot coverage by impervious surfaces on the parcel.

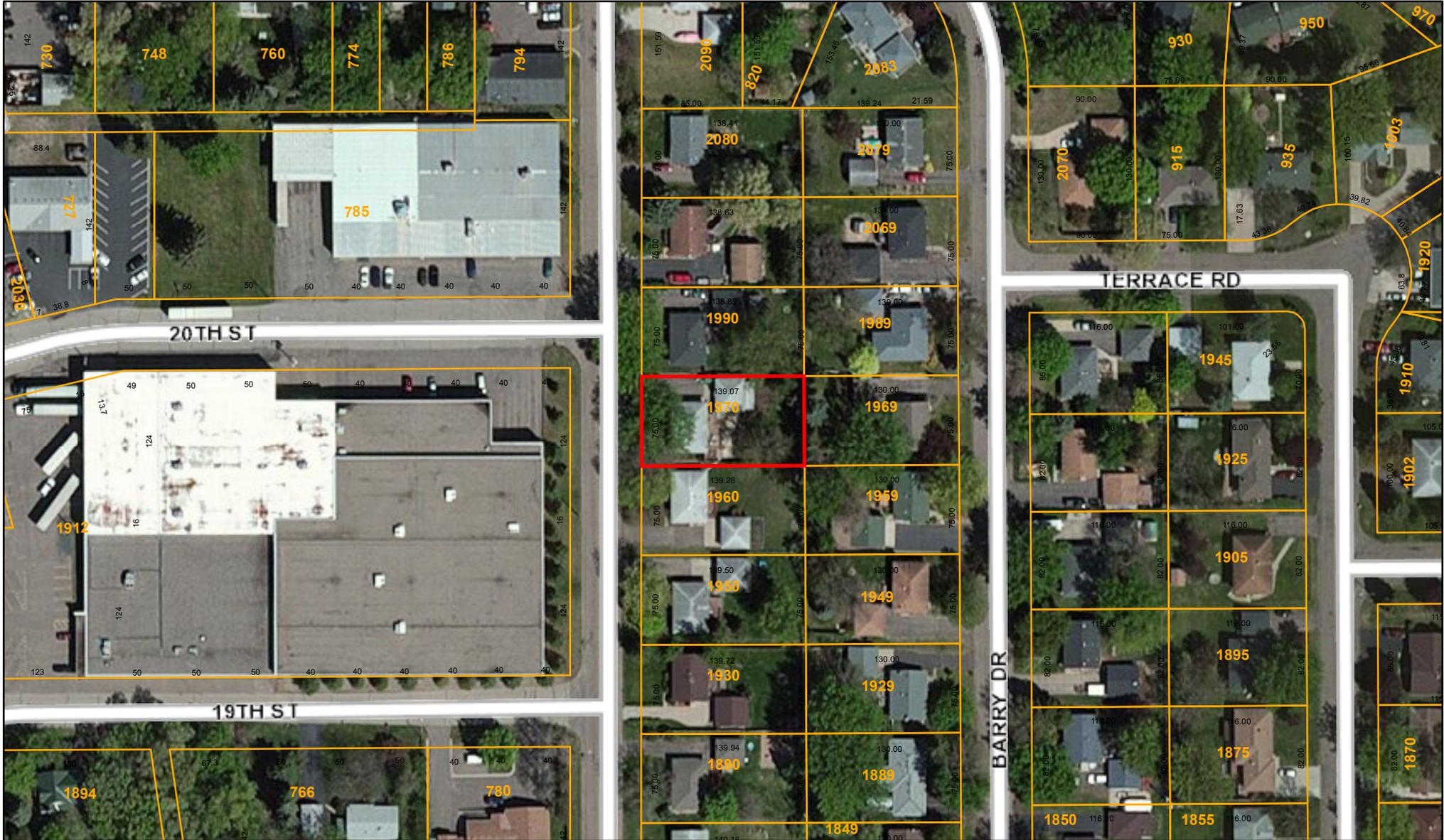
The Planner finds the following:

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the R-1 Zoning District and encourage reinvestment in those uses. It is also in harmony with the purpose of the Zoning Ordinance to promote the health, safety and welfare of the residents of Newport. Granting the variance request will allow an investment in the existing single-family home that will bring the home into compliance with the Building Code and allow for safe occupancy of the dwelling for the current and future owners.
2. The proposed single-family use is a reasonable use in the R-1 District.
3. The practical difficulties were created by a previous owner who constructed a stairway that does not meet Building Code requirements and is unsafe. The location of the proposed addition is the only practical location given the small size of the home, the location of existing plumbing, and the location of the existing garage.
4. The proposed addition is small in size, and granting the variance would not alter the essential single-family character of the neighborhood.
5. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
6. The variance is the minimum action needed to rebuild the stairway to meet the requirements of the Building Code.
7. Granting the variance will not affect access to direct sunlight for solar energy systems.

The Planner recommends the following conditions:

1. The proposed entry addition shall conform to the plan submitted to the City and dated September 13, 2013. The size of the entry area shall be a maximum of 10'x7'6"', with a landing/stair that is 3'x9'6" in size as indicated on the site plan and building plan.
2. The Applicant shall obtain a building permit for the proposed entry addition.
3. The entry addition shall be no taller than the principal structure, and shall be constructed of materials that are compatible to the colors and materials on the exterior of the home.
4. The applicant shall pay all fees and escrow associated with this application.





Parcel ID: 2502822340026

Parcel Address:  
1970 8TH AVE, CITY OF NEWPORT

Created on 12/2/2013

**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

This drawing is the result of the compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

# City of NEWPORT Planning Request Application

Newport City Hall ♦ 596 7<sup>th</sup> Avenue ♦ Newport ♦ Minnesota ♦ 55055 ♦ Telephone 651-459-5677 ♦ Fax 651-459-9883

Application Date: 10-9-13 Public Hearing Date December 12, 2013

## Applicant Information

Name: GARY BANASTZEWSKI Telephone: 651 458 5068  
Mailing Address: 1970 8<sup>th</sup> Ave Telephone: 651 253 7969  
City/State/Zip: Newport MN 55055

## Property Owner Information

Name: GARY BANASTZEWSKI Telephone: 651 458 5068  
Mailing Address: 1970 8<sup>th</sup> Ave Telephone: 651 253 7969  
City/State/Zip: Newport MN 55055

## Project Information

Location of Property: 1970 8<sup>th</sup> Ave Newport MN 55055

Legal Description of Property and P.I.D. #: 2502822340026

Subdivision Name Oakridge Terrace Lot 22 Block 3 Subdivision  
CD 55095

Zoning District: \_\_\_\_\_ Flood Plain: AE 0.2% Annual Chance Flood Hazard

- Comprehensive Plan Amendment \$500 or Actual Cost plus \$50 for Additional Staff Hours (10 Hr Min)
- Rezoning \$500 plus Escrow
- Zoning Amendment \$500
- Variance \$300 plus Escrow + \$1,000
- Conditional Use Permit
  - Residential \$300 plus Escrow
  - Commercial \$450 plus Escrow
- Subdivision Approval
  - Minor Subdivision \$300 plus Escrow and \$2,000 for Parkland Dedication Fee
  - Major Subdivision \$500 plus Escrow, \$50 per Lot, \$200 for Final Plat, and 10% of land value or fee for Parkland Dedication Fee
- Other: \_\_\_\_\_
- Applicable Zoning Code Chapter: \_\_\_\_\_
- Review by Engineer Cost: \_\_\_\_\_
- Total Cost: \_\_\_\_\_

The City of Newport requires that any developer or every person, company, or corporation that is seeking to commence construction or major alterations of a structure, and land subdivisions or lot combinations must first submit detailed site plans to the City. The person submitting site plans must also submit prepayment to the City to cover any expenses that the City incurs by investing extensive amounts of time reviewing these plans. Any funds in excess of those actually reimbursing the City for its expenses will be returned to the applicant upon completion of the project. The fees are as follows:

**Site Plan Review - Residential**

- 8 Units or Less \$2,000
- 9 to 40 Units \$3,200
- 41 Units or More \$4,500

**Site Plan Review - Commercial**

- 0 to 5,000 sq ft bldg \$2,000
- 5,001 to 10,000 sq ft bldg \$3,000
- 10,001 to 50,000 sq ft bldg \$3,750
- 50,001 sq ft plus bldg \$4,500

**Preliminary Plat**

- Under 10 Acres \$3,500
- Over 10 Acres \$6,500

**Present Use of Property:** Home

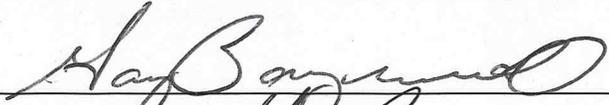
**State Reason for Planning Request:**

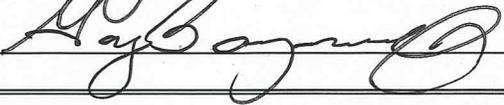
Front Interway on The  
House 10' x 7' 8"

Variance 10'

ALL MATERIALS/DOCUMENTATION, INCLUDING A SITE-PLAN, MUST BE SUBMITTED WITH APPLICATION THAT IS APPLICABLE TO PLANNING REQUEST.

I HEREBY DECLARE THAT ALL STATEMENTS MADE ON THIS REQUEST AND ON THE ADDITIONAL MATERIAL ARE TRUE.

SIGNATURE OF APPLICANT: 

SIGNATURE OF OWNER (IF APPLICABLE): 

For Office Use

Fee: \$300 + \$1,000      Date Paid: 10/29/13      Receipt #: 1789  
*escrow*

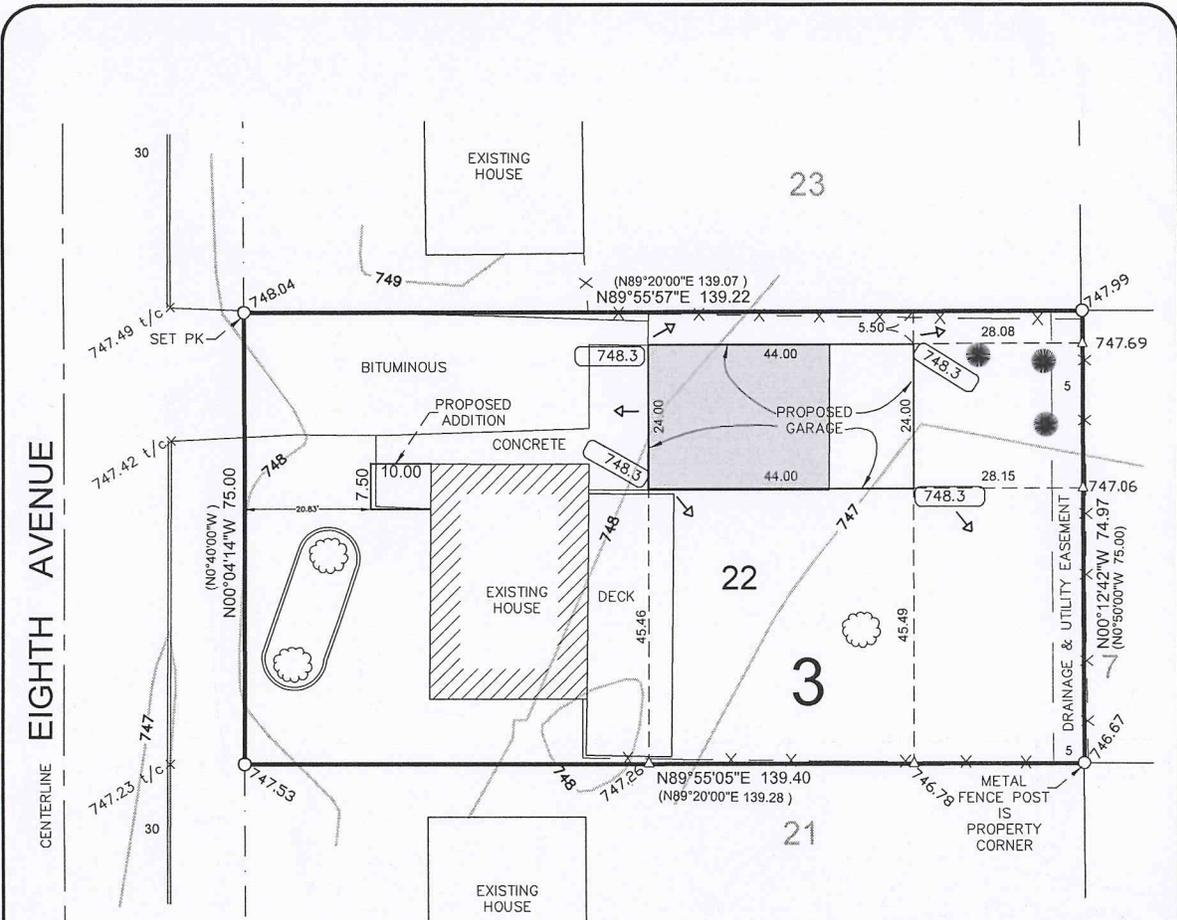
Publication of Notice Date: \_\_\_\_\_

Public Hearing Date: December 12, 2013

P.C. Resolution #: \_\_\_\_\_

Council Action Date: \_\_\_\_\_

Council Resolution #: \_\_\_\_\_



ADDRESS  
 1970 8TH AVENUE  
 NEWPORT, MN 55055

PROPERTY DESCRIPTION  
 Lot 22, Block 3, OAKRIDGE TERRACE,  
 Washington County, Minnesota.

ELEVATION DATA  
 EXISTING GARAGE FLOOR EL.=748.5  
 PROPOSED GARAGE FLOOR EL.=748.5

NOTE:

- BENCHMARK IS TOP NUT HYDRANT AT CORNER 8th AVENUE AND 20th STREET. ELEVATION = 750.64

- DENOTES GARAGE TO BE DEMOLISHED.
- DENOTES DIRECTION OF PROPOSED DRAINAGE.
- △ DENOTES OFFSET STAKE.
- DENOTES A PLACED 1" BY 18" IRON PIPE HAVING A PLASTIC CAP BEARING LAND SURVEYOR LICENSE NO. 48634.
- 912.96 DENOTES EXISTING SPOT ELEVATION.
- 912.96 t/c DENOTES EXISTING SPOT ELEVATION, TOP CURB.
- 912.96 DENOTES PROPOSED SPOT ELEVATION.
- X — DENOTES EXISTING FENCE.
- ( ) DENOTES PLAT DIMENSION.



BEARINGS SHOWN HEREON ARE ORIENTED TO THE WASHINGTON COUNTY COORDINATE SYSTEM, NAD 83, 1996 ADJUSTMENT (HARN)

CERTIFICATE OF SURVEY FOR:

GARY BANASZEWSKI



JOHNSON & SCOFIELD INC.  
 SURVEYING AND ENGINEERING

507 VERMILLION STREET, HASTINGS, MN 55033  
 (651)438-0000

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*Mitchell A. Scofield*  
 Mitchell A. Scofield  
 Minnesota License No. 48634  
 Date: September 13, 2013

BK. NA	PG. NA	W.O.#	DRAWING NUMBER
SHEET 1 OF 1 SHEETS		13-441	S-5251



**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER A REQUEST FOR A VARIANCE**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, December 12, 2013, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from Gary Banaszewski, 1970 8th Avenue, Newport, MN 55055, for approval of a Variance at the same location. The request is for a front yard variance.

**Said property is legally described as:**

**PID #25.028.22.34.0026**

SUBDIVISIONNAME OAKRIDGE TERRACE LOT 22 BLOCK 3 SUBDIVISIONCD 55095

The Planning Request is governed under Chapter 13, Section 1310.11, Subdivision 1 of the City Code of Ordinance.

Information on this Application can be reviewed at the Newport City Hall. The purpose of this hearing is to provide citizens the opportunity to comment on the project either at, or in writing prior to, the Public Hearing.

Dated this 13<sup>th</sup> day of November, 2013

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, November 27, 2013)

Address/PID	Owner	Owner's Mailing Address	City, State Zip
766 19th Street	JR Schlicting	766 19th Street	Newport, MN 55055
780 19th Street	Mevmar LLC	9270 Inver Grove Trail	Inver Grove Heights, MN 55076
780 19th Street	Current Resident	780 19th Street	Newport, MN 55055
785 20th Street	Fritz/20th Properties LLC	1362 Goodrich Avenue	St. Paul, MN 55105
785 20th Street	Current Resident	785 20th Street	Newport, MN 55055
774 21st Street	Jason and Andrea Kiritschenko	774 21st Street	Newport, MN 55055
780 21st Street	Troy and Julie Kirchner	1080 Marshall Avenue	St. Paul, MN 55104
780 21st Street	Current Resident	780 21st Street	Newport, MN 55055
786 21st Street	KW Realty Investors LLC	9200 Park Avenue	Bloomington, MN 55420
786 21st Street	Current Resident	786 21st Street	Newport, MN 55055
794 21st Street	Steve and Raven Sagstetter	1418 Selby Avenue	St. Paul Park, MN 55071
794 21st Street	Current Resident	794 21st Street	Newport, MN 55055
820 21st Street	Robert and Jill Knauff	820 21st Street	Newport, MN 55055
1850 8th Avenue	Jon and Jean Jannetto	1850 8th Avenue	Newport, MN 55055
1890 8th Avenue	Tim Michels	1890 8th Avenue	Newport, MN 55055
1930 8th Avenue	Kelly Heath-Griffin	1930 8th Avenue	Newport, MN 55055
1950 8th Avenue	Alicia Stamness	1950 8th Avenue	Newport, MN 55055
1960 8th Avenue	Kim Nowicki	1960 8th Avenue	Newport, MN 55055
1990 8th Avenue	Jenny Thomsen	1990 8th Avenue	Newport, MN 55055
2070 8th Avenue	Scott Howard	2070 8th Avenue	Newport, MN 55055
2080 8th Avenue	Shirline Vitullo	2080 8th Avenue	Newport, MN 55055
2090 8th Avenue	Jason Mars	2090 8th Avenue	Newport, MN 55055
1895 10th Avenue	Gary and Dorene Finsel	1895 10th Avenue	Newport, MN 55055
1905 10th Avenue	Brian and Lynn Jackson	1905 10th Avenue	Newport, MN 55055
1925 10th Avenue	Paul Hansen and Mary Moenke	1925 10th Avenue	Newport, MN 55055
1945 10th Avenue	Michael Leonard	1945 10th Avenue	Newport, MN 55055
1849 Barry Drive	Sandra Moore	1849 Barry Drive	Newport, MN 55055
1889 Barry Drive	Mark and Sherily Gjertson	1889 Barry Drive	Newport, MN 55055
1890 Barry Drive	Jeffrey and Jodi Johnson	1890 Barry Drive	Newport, MN 55055
1929 Barry Drive	Wendi Moen and Garrett Renken	1929 Barry Drive	Newport, MN 55055
1930 Barry Drive	Deborah Cavalier	1930 Barry Drive	Newport, MN 55055
1949 Barry Drive	Joshua Strong	1949 Barry Drive	Newport, MN 55055

1950 Barry Drive	Glorida Adelhelm	1950 Barry Drive	Newport, MN 55055
1959 Barry Drive	David and Diane Lovell	1959 Barry Drive	Newport, MN 55055
1969 Barry Drive	Mark Lund	1969 Barry Drive	Newport, MN 55055
1970 Barry Drive	Scott and Stephanie Berg	1970 Barry Drive	Newport, MN 55055
1989 Barry Drive	Gregory and Joan Schorn	1989 Barry Drive	Newport, MN 55055
1990 Barry Drive	Patricia Narusiewicz	1990 Barry Drive	Newport, MN 55055
2069 Barry Drive	Jarvis and Victoria Olson	2069 Barry Drive	Newport, MN 55055
2070 Barry Drive	Steve Indykiewicz and Miranda Hill	2070 Barry Drive	Newport, MN 55055
2079 Barry Drive	Mark and Morida Tinucci	6525 Hadley Avenue S	Cottage Grove, MN 55016
2079 Barry Drive	Current Resident	2079 Barry Drive	Newport, MN 55055
2080 Barry Drive	Jason Almen	2080 Barry Drive	Newport, MN 55055
2083 Barry Drive	Angela and Jeffrey Terry	2083 Barry Drive	Newport, MN 55055
1912 Hastings Avenue	Fritz/20th Properties LLC	1362 Goodrich Avenue	St. Paul, MN 55105
1912 Hastings Avenue	Current Resident	1912 Hastings Avenue	Newport, MN 55055
915 Terrace Road	Vang E	915 Terrace Road	Newport, MN 55055

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2013-12**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A VARIANCE REQUESTED BY  
GARY BANASZEWSKI, 1970 8TH AVENUE, NEWPORT, MN 55055, FOR PROPERTY LOCATED AT  
1970 8TH AVENUE, NEWPORT, MN 55055**

**WHEREAS**, Gary Banaszewski, 1970 8th Avenue, Newport, MN 55055, has submitted a request for a Variance; and

**WHEREAS**, the property is located at 1970 8th Avenue, Newport, MN 55055, and is more fully legally described as follows:

**PID #25.028.22.34.0026 - SUBDIVISIONNAME OAKRIDGE TERRACE LOT 22 BLOCK 3  
SUBDIVISIONCD 55095**

**WHEREAS**, The described property is zoned Low Density Single Family Residential (R-1); and

**WHEREAS, Minnesota Statutes 394.27 states** that the criteria for granting a variance include that variances are permitted when they are in harmony with the general purpose and intent of the official control and are consistent with the comprehensive plan; that the request shall be reasonable under the development code; the need for the variance is due to circumstances that are unique to the property and were not created by the landowner; the variance, if granted, will not alter the essential character of the area; economic considerations alone do not constitute practical difficulties; the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion of public streets, increase the danger of fire or endanger public safety, or substantially diminish or impair property values within the neighborhood; the requested variance should be the minimum action required to eliminate the practical difficulties; and practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems; and

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on December 12, 2013; and

**WHEREAS**, the Planning Commission's findings related to the request for approval of a Variance include the following:

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the R-1 Zoning District and encourage reinvestment in those uses. It is also in harmony with the purpose of the Zoning Ordinance to promote the health, safety and welfare of the residents of Newport. Granting the variance request will allow an investment in the existing single-family home that will bring the home into compliance with the Building Code and allow for safe occupancy of the dwelling for the current and future owners.
2. The proposed single-family use is a reasonable use in the R-1 District.
3. The practical difficulties were created by a previous owner who constructed a stairway that does not meet Building Code requirements and is unsafe. The location of the proposed addition is the only practical location given the small size of the home, the location of existing plumbing, and the location of the existing garage.
4. The proposed addition is small in size, and granting the variance would not alter the essential single-family character of the neighborhood.
5. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.

- 6. The variance is the minimum action needed to rebuild the stairway to meet the requirements of the Building Code.
- 7. Granting the variance will not affect access to direct sunlight for solar energy systems.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Variance to Allow a 17 feet setback from the front property line and to permit up to 40 percent lot coverage by impervious surfaces on the parcel with the following conditions:

- 1. The proposed entry addition shall conform to the plan submitted to the City and dated September 13, 2013. The size of the entry area shall be a maximum of 10'x7'6"', with a landing/stair that is 3'x9'6" in size as indicated on the site plan and building plan.
- 2. The Applicant shall obtain a building permit for the proposed entry addition.
- 3. The entry addition shall be no taller than the principal structure, and shall be constructed of materials that are compatible to the colors and materials on the exterior of the home.
- 4. The applicant shall pay all fees and escrow associated with this application.

Adopted this 12th day of December, 2013 by the Newport Planning Commission.

VOTE: Lund	_____
Prestegaard	_____
Anderson	_____
Lindoo	_____
Mahmood	_____

Signed: \_\_\_\_\_  
 Dan Lund, Chairperson

ATTEST: \_\_\_\_\_  
 Deb Hill, City Administrator



11 East Superior Street, Suite 340  
 Duluth, MN 55802  
 218.724.8578  
 tkda.com

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Proposed Changes to Accessory Structures Ordinance
<b>Copies To:</b>	Deb Hill, City Administrator	<b>Project No.:</b>	15252.000
	Renee Helm, Executive Analyst	<b>Routing:</b>	
<b>From:</b>	Sherri Buss, RLA, AICP, Planner		
<b>Date:</b>	December 2, 2013		

Attached is a copy of Section 1340 of the Zoning Ordinance with proposed revisions. The text includes changes that the Planning Commission discussed in November. Key changes include:

- 1340.03 Table—changed the minimum rear yard setback for garages and accessory structures in the RE District to 20 feet.
- Added several items from Section 1300.07 that apply to residential accessory structures to this section, so everything on Accessory Structures is in this section. 1300.07 can then be reduced to a couple of items regarding Accessory Uses. The items transferred include:
  - Subd. 1 No construction of accessory buildings before primary structure and building permit requirements.
  - Subd. 4 Location—no accessory structures in front yard
  - Subd. 7 Compatibility—added section on attached accessory structures and compatibility with primary structure
- Revised Subd. 5 and its table with the proposed number and area of accessory structures in the RE District, to include the language the Commission suggested in November regarding maximum 2,000 square feet and minimum 500 square feet regardless of house size.
- Added a requirement related to potential subdivision of properties so that this does not result in “orphan” accessory structures or nonconforming structures. This is common in other ordinances.
- Included requirements that accessory buildings in residential districts cannot be used as dwellings or for commercial or industrial purposes.
- Added the reference to the Home Occupations section.
- In order to simplify the ordinance and put all items related to residential accessory structures in one section, I have moved Subd. 1, 4 and 5 from Section 1300.07 in the Zoning Ordinance to this Section. Renee with review the remaining 2 items in 1300.07 to see if they are duplicated in the ordinance or should be moved to another section so they are easier to find.

Please review the draft changes for the Public Hearing and discussion on December 12.



# MEMO

TO: Newport Planning Commission  
Deb Hill, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: December 3, 2013

SUBJECT: Ordinance Amendments

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## BACKGROUND

At the last two meetings, the Planning Commission have been discussing amending Section 1340, Residential Districts, to regulate the size of accessory structures in the RE District. Sherri Buss has provided draft language for that. Upon reviewing the Zoning Code, Ms. Buss found that Section 1300.07 addresses accessory buildings and uses in the following Subdivisions:

**Subd. 1 Time of Construction.** No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

**Subd. 2 Swimming Pools.** Where noncommercial swimming pools are constructed as accessory structures in residential districts, a safety fence shall be required subject to the requirements of this title.

**Subd. 3 Air Conditioning Units.** All air conditioning units excluding window units shall be located a minimum of twenty (20) feet from all lot lines, but not within the front yard.

**Subd. 4 Attached Accessory Buildings.** If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building shall not be closer than five (5) feet to the main building, except as otherwise provided in this Chapter.

**Subd. 5 Detached Accessory Buildings.** A detached accessory building shall not be placed closer to the public right-of way than the front of the principal structure on the lot.

Ms. Buss moved Subdivisions 1, 4 and 5 to Section 1340 and asked me to review the Code to see if the other two Subdivisions could be moved or removed.

## DISCUSSION

After reviewing the Code, I found that swimming pools are addressed in Section 1130 of the City Code so Subdivision 2 can be removed.

The only references I found to air conditioners were in Sections 1340.06, Subdivision 2(G) and 1350.16 (A)(7)(d). Section 1340.06, Subdivision 2(G) is in regards to air conditioning units projecting out of a wall and Section 1350.16(A)(7)(d) states that a site plan for development in the MX-3 District needs to show where the air conditioning unit will be. Staff is recommending that this subdivision be removed from the Code because some setbacks for homes are less than 20 feet and therefore an air conditioning unit could be located within 20 feet from

the property lines. Since all of the subdivisions have been relocated or removed, Section 1300.07, Accessory Buildings and Uses can be removed from the Code.

I also reviewed Section 1300 in its entirety and found that the numbering for Section 1300.01, Definitions, was off, so I renumbered those. I also found that there was not a definition for "Adult Use." After reviewing other municipalities for their definitions staff is recommending that the following definition be added:

"Adult Use" shall include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

Since the numbering changed throughout Section 1300, I cross-referenced it with the rest of the Zoning Code to see if any references to Section 1300 needed to be changed and found the below references:

- **Section 1340.04, Subdivision 3** - Was referencing Section 1300.01, Subdivision 16. Has been changed to reference Subdivision 17
- **Section 1350.13(A)** - An asterisk at the end of the table was referencing Section 1300.09. Has been changed to reference Section 1300.08.

The Planning Commission will need to discuss whether or not they would like to amend Sections 1300, 1340 and 1350 in regards to the above and Ms. Buss' draft.

#### **RECOMMENDATION**

It is recommended that the Planning Commission approve Resolution No. P.C. 2013-13 which includes the above amendments and Ms. Buss' amendments to Section 1340.

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2013-13**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A ZONING AMENDMENT TO  
SECTION 1300 GENERAL, SECTION 1340 RESIDENTIAL DISTRICTS, AND SECTION 1350 NON-  
RESIDENTIAL DISTRICTS**

**WHEREAS**, The City does not currently have a maximum size for accessory structures in the RE District; and

**WHEREAS**, The City of Newport feels it is advantageous to have a maximum size for accessory structures in the RE District outlined in Section 1340 Residential Districts; and

**WHEREAS**, The Planning Commission held a public hearing on this Zoning Amendment at its regularly scheduled meeting of Thursday, December 12, 2013; and

**NOW, THEREFORE, BE IT RESOLVED**, That the Newport Planning Commission recommends Newport City Council approval of a Zoning Amendment to amend the present language found in *Section 1300 General, Section 1340 Residential Districts, and Section 1350 Non-residential Districts*. They will read as follows:

**Section 1300 – General**

**1300.01 Definitions**

**Subd. 1 Abandonment.**

**Subd. 2 Abut.**

**Subd. 3 Accessory Building or Accessory Structure.**

**Subd. 4 Accessory Use.**

**Subd. 5 Adult Use.** "Adult Use" shall include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

**Subd. 6 Agriculture.**

**Subd. 7 Alley.**

**Subd. 8 Apartment.**

**Subd. 9 Automobile Salvage Yard.**

**Subd. 10 Basement.**

**Subd. 11 Berm.**

**Subd. 12 Billboard.**

**Subd. 13 Block.**

**Subd. 14 Buildable Area.**

**Subd. 15 Building.**

**Subd. 16 Building, Accessory.**

**Subd. 17 Building Height.**

**Subd. 18 Building, Principal.**

**Subd. 19 Canopy or Marquee.**

**Subd. 20 City.**

**Subd. 21 Cluster Development.**  
**Subd. 22 Comprehensive Plan.**  
**Subd. 23 Conditional Use.**  
**Subd. 24 Condominium.**  
**Subd. 25 Corner Lot.**  
**Subd. 26 Covered Storage Building.**  
**Subd. 27 Density.**  
**Subd. 28 Driveway.**  
**Subd. 29 Duplex.**  
**Subd. 30 Dwelling.**  
**Subd. 31 Dwelling, Attached (group, row, or townhouse).**  
**Subd. 32 Dwelling, Detached.**  
**Subd. 33 Dwelling, Multiple Family.**  
**Subd. 34 Dwelling, Single Family.**  
**Subd. 35 Dwelling, Two Family.**  
**Subd. 36 Dwelling Unit.**  
**Subd. 37 Excavation.**  
**Subd. 38 Family.**  
**Subd. 39 Fence.**  
**Subd. 40 Fill.**  
**Subd. 41 Filling.**  
**Subd. 42 Floodplain.**  
**Subd. 43 Floor Area.**  
**Subd. 44 Floor Area, Livable.**  
**Subd. 45 Floor Area Ratio (F.A.R.).**  
**Subd. 46 Footcandle.**  
**Subd. 47 Frequency.**  
**Subd. 48 Frontage.**  
**Subd. 49 Garage, Private.**  
**Subd. 50 Garage, Public.**  
**Subd. 51 Garage, Truck.**  
**Subd. 52 Grade**  
**Subd. 53 Grade, Street.**  
**Subd. 54 Group Home.**  
**Subd. 55 Halfway House.**  
**Subd. 56 Handicapped or Infirm Institution.**  
**Subd. 57 Home Occupation.**  
**Subd. 58 Horticulture.**  
**Subd. 59 Impervious Surface.**  
**Subd. 60 Intermediate Care Home.**  
**Subd. 61 Intermediate Care Institution.**  
**Subd. 62 Intermodal Container.**  
**Subd. 63 Junkyard.**  
**Subd. 64 Kennel (commercial or hobby).**  
**Subd. 65 Loading Space or Loading Area.**  
**Subd. 66 Lot.**  
**Subd. 67 Lot Area.**  
**Subd. 68 Lot, Corner.**  
**Subd. 69 Lot Coverage.**  
**Subd. 70 Lot Depth.**  
**Subd. 71 Lot, Double Frontage.**  
**Subd. 72 Lot, Interior.**  
**Subd. 73 Lot Line, Front.**

**Subd. 74 Lot Line, Rear.**  
**Subd. 75 Lot of Record.**  
**Subd. 76 Lot Width.**  
**Subd. 77 Manufactured Single-family Dwelling.**  
**Subd. 78 Mobile Home.**  
**Subd. 79 Mobile Home Park.**  
**Subd. 80 Modular Manufactured or Prefabricated Home.**  
**Subd. 81 Motel.**  
**Subd. 82 Motor Vehicle.**  
**Subd. 83 Motor Vehicle Body Work.**  
**Subd. 84 Motor Vehicle Repair.**  
**Subd. 85 Motor Vehicle Sales.**  
**Subd. 86 Motor Vehicle, Small.**  
**Subd. 87 Multi-family Conversion.**  
**Subd. 88 Municipal Water and Sewer Systems.**  
**Subd. 89 Municipal/Public Facilities.**  
**Subd. 90 Nameplate.**  
**Subd. 91 Nonconforming Use.**  
**Subd. 92 Nonconforming Lot.**  
**Subd. 93 Nonconforming Sign.**  
**Subd. 94 Nonconforming Structure.**  
**Subd. 95 Nursing Care Home.**  
**Subd. 96 Nursing Care Institution.**  
**Subd. 97 Ordinary High Water Level or Ordinary High Water Mark.**

**Subd. 98 Outdoor Furnaces.** "Outdoor Furnaces" shall mean Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space ordinarily occupied by humans.

**Subd. 99 Parking Space.**  
**Subd. 100 Person.**  
**Subd. 101 Planned Development District (PDD).**  
**Subd 102 Plot.**  
**Subd. 103 Protected Waters.**  
**Subd. 104 Public Access.**  
**Subd. 105 Public Open Space.**  
**Subd. 106 Public Utility.**  
**Subd. 107 Public Waters.**  
**Subd. 108 Rest Home, Convalescent Home, or Nursing Home.**  
**Subd. 109 Screen.**  
**Subd. 110 Semi-public Uses.**  
**Subd. 111 Setback or Setback Line.**  
**Subd. 112 Shoreland.**  
**Subd. 113 Shore Impact Zone.**  
**Subd. 114 Sign.**  
**Subd. 115 Slope.**  
**Subd. 116 Story.**  
**Subd. 117 Street, Public.**  
**Subd. 118 Structural Alterations.**  
**Subd. 119 Structure.**  
**Subd. 120 Structure, Accessory.**  
**Subd. 121 Structure, Principal.**

- Subd. 122 Subdivision.
- Subd. 123 Tent Garages.
- Subd. 124 Townhouse.
- Subd. 125 Transit Station.
- Subd. 126 Use.
- Subd. 127 Use, Accessory.
- Subd. 128 Use, Interim.
- Subd. 129 Use, Permitted.
- Subd. 130 Use, Principal.
- Subd. 131 Utility Facility.
- Subd. 132 Utility Facility, Community or Regional.
- Subd. 133 Utility Facility, Neighborhood.
- Subd. 134 Variance.
- Subd. 135 Vehicle, Small.
- Subd. 136 Wholesale Sales.
- Subd. 137 Yard.
- Subd. 138 Yard, Front.
- Subd. 139 Yard, Rear.
- Subd. 140 Yard, Side.
- Subd. 141 Zoning Administrator.
- Subd. 142 Zoning Districts.
- Subd. 143 Zoning Map.

- Section 1300.02 Rules of Construction
- Section 1300.03 Purpose and Intent
- Section 1300.04 Scope, Interpretation, Etc.
- Section 1300.05 Relationship to Existing City Ordinances
- Section 1300.06 Area Regulations
- Section 1300.07 Exceptions to General Yard Regulations
- Section 1300.08 Exceptions to Front Yard Setbacks
- Section 1300.09 Areas under Water
- Section 1300.10 Height Regulations
- Section 1300.11 One Principal Structure Per Lot
- Section 1300.12 Moving of Structures
- Section 1300.13 Removal of Soil, Sand or Other Material
- Section 1300.14 Truck or Bus Parking in Residential Districts
- Section 1300.15 Violations
- Section 1300.16 Outdoor Furnaces

**Section 1340 – Residential Districts**

**1340.03 Residential Lot Area, Depth, Width, Coverage, Setbacks and Heights.**

The following minimum requirements shall be required in all residential districts:

	RE	R-1A	R-1	R-2	R-3
<b>Minimum Lot Area per Unit (Square Feet)</b>					
Dwellings, single-family	2 Acres	15,000	9,100	9,100	9,100
Dwellings, two family	--	--	--	7,800	7,800
Dwellings, more than two family	--	--	--	5,750	3,000
Other uses	2 Acres	1 Acre	1 Acre	1 Acre	1 Acre
Minimum Lot Depth in Feet	200	150	130	130	130
<b>Minimum Lot Width in Feet (Number in parenthesis is the lot width for a corner lot)</b>					
Dwellings, single-family	160 / (200)	100 / (120)	70 / (90)	70 / (90)	70 / (90)

Dwellings, two family	--	--	--	120 / (140)	120 / (140)
Dwellings, more than two family	--	--	--	120 / (140)	120 / (140)
Other uses	160	100	70	120	120
Minimum Front Yard in Feet***	40	30	30	30	30
Minimum Side Yard in Feet (Number in parenthesis is the setback for a corner lot, street side)					
Dwellings, single-family or two family	20 / (40)	10 / (30)**	10 / (30)**	10 / (30)	10 / (30)
Dwellings, more than two family	--	--	--	20 / (40)	20 / (40)
Garages or Accessory Structures***	20 / (40)	5 / (30)	5 / (30)	10 / (30)	10 / (30)
Other uses	20	30	30	20	20
Minimum Rear Yard in Feet					
Dwellings, single-family or two family	50	30	30	30	30
Dwellings, more than two family	--	--	--	30	30
Garages or Accessory Structures***	20	5	5	30	30
Other uses	50	40	40	40	40
Maximum Lot Coverage, All Structures	20%	20%	25%	30%	30%
Maximum Building Height in Feet ***	35 feet or 3 stories, whichever is greater, in all districts, but in no case higher than 1,000 feet U.S.G.S. sea level elevation; 25 feet in Shoreland Management Overlay District				
Public Sewer Required	No	Yes	Yes	Yes	Yes

\* Regardless of the setback standards noted in this table, the distance between a proposed foundation wall and an existing foundation wall on an adjacent lot may not be less than fifteen (15) feet

\*\* Side setbacks for substandard lot widths in R-1A: 10% of lot width (25% for Corner Lot, Street Side). Side setbacks for substandard lot widths in R-1: 15% of lot width (33% for Corner Lot, Street Side)

\*\*\* See additional standards in Subsection 1340.04.

#### **1340.04 Single Family Residential Garage, Accessory Structure and Driveway Standards.**

The following standards shall apply to all garages and accessory structures for single family homes and duplexes in all zoning districts, and shall be in addition to the standards in Subsections 1340.03, 1370.03 (Shoreland Management District) and 1370.05 (Floodplain Management Districts). The intent of these standards shall be to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the City.

**Subd. 1 Construction.** No accessory building or structure shall be constructed on a lot prior to construction of the primary structure. Building permits are required for all accessory structures.

**Subd. 2 Number.** A residential lot, other than a river riparian lot, may have no more than two (2) accessory structures. A river riparian lot may have a guest cottage and a water-oriented accessory structure as regulated in Section 1370 of this Chapter, the Shoreland Management Section.

**Subd. 3 Height.** No garage, whether attached or detached, nor any accessory structure shall be taller than the principal structure on the lot as measured by the building height definition from Section 1300.01 Subd. 17 Building Height.

**Subd. 4 Location.** A detached accessory building shall not be located in any required front yard.

**Subd. 5 Square Footage.** Except in the RE district, the total footprint of all garage space, whether attached or detached, and of all accessory structure space for single-family residential uses shall be no larger than the footprint of the principal structure, and shall total a maximum of 2,000 square feet; except that a residential lot shall be allowed at least five hundred (500) square feet of garage space regardless of the house size, as long as the required setbacks and other standards are met.

In the **RE District**, the number and size of accessory structures permitted on residential lots is as follows:

<b>Size of Parcel in RE DISTRICT</b>	<b>Number of Accessory Structures</b>	<b>Total Area of Accessory Structures (footprint)</b>
Less than 2 acres	2	Total footprint of all accessory structures may be no larger than the footprint of the principal structure, up to a maximum of 2,000 square feet. Minimum 500 square feet of accessory structures is permitted on all parcels regardless of house size if required setbacks are met.
2.0-4.99Acres	2	2500 square feet
5.0 Acres or greater	2	Up to 2,500 total square feet is permitted. 2,500 total square feet to 3,500 maximum total square feet of accessory structures may be permitted with a Conditional Use Permit.

**Subd 6 Structure Area in the RE District between 2,500 and 3,500 square feet.** In order for the footprint of all accessory structures in the RE district to exceed 2,500 square feet, the following conditions must be satisfied through obtaining a conditional use permit pursuant to Section 1310.10 of this Chapter:

- A. The parcel shall not be re-platted, split or subdivided such that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in this chapter.
- B. The site must demonstrate that the accessory structures do not encroach upon existing septic systems and that an alternative septic system area is protected.
- C. Plantings consisting of a combination of trees and shrubs shall be installed within the set back area providing a buffer between the accessory structure (s) and future development on adjacent property.
- D. Any accessory structure or garage other than a garage attached to the principal structure on the site shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery.
- E. All the other subdivisions of this section apply to the RE district.

**Subd. 7 Compatibility.** All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over one hundred fifty (150) square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, color, and exterior finish materials.

If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building, except as otherwise provided in this Chapter

**Subd. 8 Additional Setback, Square Feet.** A garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side, or rear yard setbacks required in Subsection 1340.03, for every twenty (20) square feet of area over nine hundred (900) square feet of area in garages or accessory structures on the lot, except:

- A. An addition to an existing accessory structure which cannot meet the additional setbacks described above may extend an existing building edge at the existing setback line, but no closer to the lot line

than the existing setback, and in no case closer than the minimum setbacks set forth in Subsection 1340.03.

- B. Such an extended building edge may be no more than thirty-six (36) feet in length along any single property line. Any portion of an extended building edge longer than thirty-six (36) feet in length must meet the additional setbacks described above in this Subdivision.
- C. In the RE district, a garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side and rear yard setbacks required in Subsection 1340.03, for every forty (40) square feet of area or portion thereof over two thousand (2,000) square feet of area in garages or accessory structures on the lot.

**Subd. 9 Additional Setbacks, Height.** A detached garage or an accessory structure shall provide an additional two (2) foot of setback beyond the minimum required front, side, or rear yard setbacks for every one (1) foot of height of its eave line over eight (8) feet.

**Subd. 10 Door Openings.** In the RE district, on lots at least three acres in size, there shall be no limit on the height of door openings for garages or other accessory structures. In all other cases, all door openings shall be eight (8) feet in height or less, except that one door opening in one accessory structure per lot may be a maximum of twelve (12) feet in height. In all districts, any door opening over eight (8) feet in height shall be turned perpendicular to the front lot line so as not to face any public street, or, if facing a public street, it shall be set back an additional ten (10) feet beyond the minimum front yard setback required in Subsection 1340.03 for every one (1) foot of height of the door opening over eight (8) feet.

**Subd. 11 Subdivision.** No land shall be subdivided so as to have an accessory structure without a primary structure, or to have a larger building or structure than permitted by this ordinance. When a property is developed or redeveloped and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.

**Subd. 12 Use of Accessory Structures.** No accessory building shall at any time be used as a habitable building. No accessory structure in a residential district shall at any time be used for a commercial or industrial use. Use of accessory structures for home occupations is governed by Section 1340.07, Subdivision 2.

**Subd. 13 Intermodal container or shipping containers.** All intermodal containers in residential districts shall be considered to be accessory structures, and shall meet all code requirements for accessory structures in residential districts, including those in Sections 1340.03, 1340.04, 1370.03 and 1370.05.

**Subd. 14 Driveways.** One driveway access to a public roadway is permitted for each lot.

#### **1340.041 Covered Storage Building Standards.**

The intent of this section is to regulate the installation and maintenance of covered storage buildings, also known as tent garages or temporary carports. More specifically the intent of this section is to minimize the potential for these structures to become unsightly as seen from public right-of-ways or adjacent residential properties. The following standards and conditions apply to covered storage buildings:

**Subd. 1 Permitted As Accessory Structures.** “Covered Storage Buildings” are a permitted use as an accessory structure only in residential districts and shall not be permitted in General Business, Light Industrial, General Industrial, and Industrial Storage Districts or for any commercial use or purpose within the Mixed-Use Districts. Covered Storage Buildings shall comply with the standards outlined in Section 1340.04. In addition, the following criteria shall be applied to covered storage buildings permitted as an accessory structure:

## Section 1340 – Non-Residential Districts

### 1350.13 Dimensional Requirements for lots and structures in non-residential districts

#### A. Non-residential district requirements

<b>Requirements</b>	<b>MX-1</b>	<b>MX-2</b>	<b>MX-3</b>	<b>MX-4</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>I-S</b>
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	None	30	100	100	100	100
Maximum lot coverage by all buildings (%)	80%	50%	None	80%	30%	40%	50%	50%
<i>Structure setback standards***</i>								
Minimum front yard setback	0	10**	0	0	20	20	20	50
Minimum front yard if across collector or minor street from any residential district	10	10**	10	10	50	50	50	100
Minimum side yard	0	5	5	5	10	20	20	50
Minimum side yard if adjacent to any residential district	10	10	10	10	50	50	50	100
Minimum rear yard	20	20	20	20	20	20	20	50
Minimum rear yard if adjacent to any residential district	20	20	20	20	50	50	50	100
<i>Parking and driving aisle setback in feet</i>								
Minimum front yard	20	Not allowed	Not allowed	20	20	20	20	20
Minimum front yard if across collector or minor street from any R district	50	Not allowed	Not allowed	50	50	50	50	50
Minimum side yard	5	5	5	5	5	5	5	5
Minimum side yard if adjacent to any R district	5	5	5	30	30	30	30	30
Minimum rear yard	5	5	5	5	5	5	5	5
Minimum rear yard if adjacent to any R district	10	10	10	50	50	50	50	50
<i>Maximum building height in feet*</i>								
Maximum building height in feet*	40 3-sty	28 2-sty	See table B.,below	40	40	40	40	40

<b>Requirements</b>	<b>MX-1</b>	<b>MX-2</b>	<b>MX-3</b>	<b>MX-4</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>I-S</b>
Maximum height of storage tank in IS district								55
Public utilities required, including sewer	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

\*Maximum height may be increased upon issuance of a Conditional Use Permit. The setback requirements for increases in height adjacent to single-family residential uses included in this chapter apply.

\*\* See section 1300.08 Exceptions to Front Yard Setbacks

\*\*\*Structure setbacks for the MX-1 and MX-2 are as noted by the dimensional provisions unless otherwise specifically approved in a development plan as outlined in a Planned Unit Development.

Adopted this 12th day of December, 2013 by the Newport Planning Commission.

VOTE: Lund \_\_\_\_\_  
 Prestegaard \_\_\_\_\_  
 Anderson \_\_\_\_\_  
 Lindoo \_\_\_\_\_  
 Mahmood \_\_\_\_\_

Signed: \_\_\_\_\_  
 Dan Lund, Chairperson

ATTEST: \_\_\_\_\_  
 Deb Hill, City Administrator

## CHAPTER 1300 – GENERAL ZONING

## Section 1300 – General

## 1300.01 Definitions.

The following words and terms, wherever they appear in this Chapter, shall be defined as follows:

**Subd. 1 Abandonment.** "Abandonment" shall mean to cease or discontinue a use or activity of a property for a period of twelve (12) consecutive months or more unless otherwise specified.

**Subd. 2 Abut.** "Abut" shall mean to border upon a parcel of land so as to share all or part of a common property line with another parcel of land.

**Subd. 3 Accessory Building or Accessory Structure.** See building, accessory.

**Subd. 4 Accessory Use.** See use, accessory.

**Subd. ~~4.15~~ Adult Use.** ~~(there may be multiple definitions pertaining to adult uses).~~ "Adult Use" shall include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

**Subd. ~~4.2~~ Adult Use.** ~~---~~

**Subd. ~~5-6~~ Agriculture.** "Agriculture" shall mean the growing and marketing of fruits, vegetables, grains, trees, shrubs, flowers, or other plants, for commercial or private purposes, but not including the growing or raising of animals except as otherwise provided for by this Code.

**Subd. ~~6-7~~ Alley.** "Alley" shall mean any dedicated public right-of-way providing a secondary means of access to abutting property.

**Subd. ~~7-8~~ Apartment.** "Apartment" shall mean a room or group of rooms in a residential structure which includes bath and kitchen facilities and is intended or designed for use as an independent residence for a family or individual.

**Subd. ~~8-9~~ Automobile Salvage Yard.** "Automobile Salvage Yard" shall mean a commercial use carried on outside of an enclosed building involving the dismantling or storage of vehicles or equipment, and any other lot used for wrecking or storing of inoperable motor vehicles or their parts.

**Subd. ~~9-10~~ Basement.** "Basement" shall mean, a story of a building having more than half its height below the average level of the adjoining finished grade. A basement shall be counted as a story for the purpose of height regulations, if occupied for business or residential purposes.

**Subd. ~~10-11~~ Berm.** "Berm" shall mean a landscaped mound of earth.

**Subd. ~~11-12~~ Billboard.** "Billboard" shall mean any advertising sign where the advertised goods or services are not furnished at the location of the sign.

**Subd. ~~12-13~~ Block.** "Block" shall mean a tract of land bounded by streets, or a combination of streets and public or private open space, cemeteries, railroad rights-of-way, shorelines, waterways, or City corporate limits.

**Subd. ~~13-14~~ Buildable Area.** "Buildable Area" shall mean the space remaining on a lot for building purposes after the setback and open space requirements of this Chapter have been met.

**Subd. ~~14-15~~ Building.** "Building" shall mean a structure having a roof supported by columns or walls. When separated by dividing walls without openings, each portion of such a structure shall be deemed a separate building.

**Subd. ~~15-16~~ Building, Accessory.** "Building, Accessory" shall mean a subordinate building or structure on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

**Subd. ~~16-17~~ Building Height.** "Building Height", unless otherwise specifically noted in this Chapter, shall mean the vertical distance measured from the average elevation of the finished grade adjacent to a building to 1) the highest point on a building with a flat roof, 2) the deck line of a mansard type roof, or 3) the average height between the eaves and the peak of the highest gable of a pitched, hip, or gambrel roof. For purposes of calculating building height, the finished grade shall be the highest point within five (5) feet of the front of a building or, if the lowest grade within five (5) feet of any side of the building is more than ten (10) feet lower than the front, then the finished grade from which the height is measured shall be considered ten (10) feet above said lowest grade.

**Subd. ~~17-18~~ Building, Principal.** "Building, Principal" shall mean a building or structure occupied by or devoted to the principal or main use of the property.

**Subd. ~~18-19~~ Canopy or Marquee.** "Canopy" or "Marquee" shall mean any roof like structure extending out from the side of a building.

**Subd. ~~19-20~~ City.** "City" shall mean the City of Newport.

**Subd. ~~19-21~~ Cluster Development.** "Cluster development" shall mean a development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this Ordinance, the Zoning Ordinance and the Comprehensive Plan.

**Subd. ~~20-22~~ Comprehensive Plan.** "Comprehensive Plan" shall mean a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City and its environs. A comprehensive plan shall represent the recommendations of the Planning Commission and City Council for the future development of the community.

**Subd. ~~21-23~~ Conditional Use.** "Conditional Use" shall mean a permitted use which may be appropriate in a given zoning district but which requires special planning considerations in each instance, and which shall only be allowed in a specific location under conditions specified by this Code and by the City Council.

**Subd. ~~22-24~~ Condominium.** "Condominium" shall mean a multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of state and local laws.

**Subd. ~~23-25~~ Corner Lot.** See lot, corner.

**Subd. ~~23-16~~ Covered Storage Building.** "Covered Storage Building" shall mean a temporary enclosure that is a moveable tent-like shelter that is typically constructed with wooden or metal framework and covered with a tarpaulin of plastic or canvas like material. These structures are most typically used for sheltering vehicles, RVs, or other materials stored outside residential neighborhoods.

**Subd. ~~24-27~~ Density.** "Density" shall mean a measure of the intensity of residential use on the land, expressed in terms of lot area per dwelling unit or dwelling units per acre. For such calculations, the land area shall be exclusive of water area and floodplain, but may include protected wetlands and hydric soils.

**Subd. ~~25-28~~ Driveway.** "Driveway" shall mean a private road or path which is wholly located on the lot which it services and which affords vehicle access to a public road.

**Subd. ~~26-29~~ Duplex.** See dwelling, two family.

**Subd. ~~27-30~~ Dwelling.** "Dwelling" shall mean a structure designed and used exclusively for residential purposes for the occupancy of a family or families.

**Subd. ~~28-31~~ Dwelling, Attached (group, row, or townhouse).** "Dwelling, Attached" (group, row or townhouse) shall mean a dwelling joined to one (1) or more other dwellings by a party wall or walls.

**Subd. ~~29-32~~ Dwelling, Detached.** "Dwelling, Detached" shall mean a dwelling entirely surrounded by open space, and not attached or connected structurally to any other dwelling.

**Subd. ~~30-33~~ Dwelling, Multiple Family.** "Dwelling, Multiple Family" shall mean a dwelling containing two (2) or more dwelling units, whether a townhouse, apartment, condominium, or other type of dwelling.

**Subd. ~~31-34~~ Dwelling, Single Family.** "Dwelling, Single Family" shall mean a detached dwelling designed exclusively for occupancy by one (1) family only.

**Subd. ~~32-35~~ Dwelling, Two Family.** "Dwelling, Two Family" shall mean a dwelling designed with two dwelling units, exclusively for occupancy by two (2) families living independently of each other.

**Subd. ~~33-36~~ Dwelling Unit.** "Dwelling Unit" shall mean, one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having separate permanently installed cooking and sanitary facilities.

**Subd. ~~34-37~~ Excavation.** "Excavation" shall mean the removal, relocation, or recovery by any means of soil, rock, minerals, debris, or organic substances other than vegetation from a parcel of land.

**Subd. ~~35-38~~ Family.** "Family" shall mean any number of individuals related by blood, legal adoption or marriage, or six (6) or less unrelated individuals living together in a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, licensed residential care facility, or hotel as herein described.

**Subd. ~~36-39~~ Fence.** "Fence" shall mean a partition, structure, wall or gate erected as a diving marker, visual or physical barrier, or enclosure.

**Subd. ~~37-40~~ Fill.** "Fill" shall mean sand, gravel, earth or other materials deposited on, moved onto, or placed on a parcel of land.

**Subd. ~~38-41~~ Filling.** "Filling" shall mean the placement of fill on a parcel of land.

**Subd. ~~39-42~~ Floodplain.** "Floodplain" shall mean the area subject to inundation by a one hundred (100)-year flood as designated and mapped by the Federal Emergency Management Agency.

**Subd. ~~40-43~~ Floor Area.** "Floor Area" shall mean the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or for a structure without walls (e.g., a carport), the total ground area covered by roof, not including area under a typical overhang dimension.

**Subd. ~~41-44~~ Floor Area, Livable.** "Floor Area, Livable" shall mean the floor area of a dwelling excluding all areas occupied by basements, garages, porches, attics, stairways, storage, utility and heating rooms.

**Subd. ~~42-45~~ Floor Area Ratio (F.A.R.).** "Floor area ratio (F.A.R.)" shall mean the floor area of the building or buildings on a zoning lot divided by the area of such zoning lot, or, in the case of planned unit developments, by the net size area. The floor area ratio requirements shall determine the maximum floor area allowable for the building or buildings, including both principal and accessory buildings, in direct ratio to the gross area of the zoning lot.

**Subd. ~~43-46~~ Footcandle.** "Footcandle" shall mean a standard unit of illumination intensity.

**Subd. ~~44-47~~ Frequency.** "Frequency" shall mean the oscillations per second in a sound wave.

**Subd. ~~45-48~~ Frontage.** "Frontage" shall mean that part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

**Subd. ~~46-49~~ Garage, Private.** "Garage, Private" shall mean an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the dwelling unit to which it is accessory.

**Subd. ~~47-50~~ Garage, Public.** "Garage, Public" shall mean any building, except a private garage, used for the storage or care of motor-driven vehicles, or a building where any such vehicles are equipped for operation, are repaired, or are kept for remuneration, hire, or sale.

**Subd. ~~48-51~~ Garage, Truck.** "Garage, Truck" shall mean a building used or intended to be used for the storage of motor trucks, truck trailers, tractors, and commercial vehicles exceeding one and one-half (1-1/2) tons capacity.

**Subd. ~~49-52~~ Grade** "Grade" shall mean the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**Subd. ~~50-53~~ Grade, Street.** "Grade, Street" shall mean the established elevation of the street in front of the building measured at the center of such front. Where no street grade has been established, the City engineer shall establish such street grade or its equivalent for the purpose of this Chapter.

**Subd. ~~50-14~~ Group Home.** "Group Home" shall mean a home that is licensed by the commissioner of health as a rooming and/or boardinghouse and receives 50% (percent) or more of its residents under a contract or other arrangement with the state or local government human services agency. Provides lodging for people who are mentally ill, physically disadvantaged or chemically dependant.

**Subd. ~~51-55~~ Halfway House.** "Halfway House" shall mean a home, operated and supervised by a governmental or non-profit agency, for not more than nine persons who have demonstrated a tendency toward chemical abuse, mental illness, or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, eleven of whom live together as a single housekeeping unit. The term shall not include licensed facilities as defined by Minn. Stat. §245A.11

**Subd. ~~52-56~~ Handicapped or Infirm Institution.** "Handicapped or Infirm Institution" shall mean an institutional facility housing more than six persons who are physically or mentally handicapped or infirm, and providing primarily residential care rather than medical treatment.

**Subd. ~~53-57~~ Home Occupation.** "Home Occupation" shall mean any gainful occupation or profession clearly secondary to the main use of the dwelling as a residence, which is conducted entirely within the dwelling, and which meets the requirements of this Code.

**Subd. ~~54-58~~ Horticulture.** "Horticulture" shall mean the use of land for the growing or production for income, of fruits, vegetables, flowers, nursery stock, and trees, including forestry, ornamental plants and trees, and cultured sod.

**Subd. ~~55-59~~ Impervious Surface.** "Impervious Surface" shall mean a material providing a hard surface which substantially prevents the absorption of water into the ground.

**Subd. ~~56-60~~ Intermediate Care Home.** "Intermediate Care Home" shall mean a facility providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Subd. ~~57-61~~ Intermediate Care Institution.** "Intermediate Care Institution" shall mean an institutional facility providing accommodation for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Subd. ~~62-58~~ Intermodal Container.** "Intermodal container", "freight container" or "shipping container" shall mean a reusable transport and storage unit for moving products and raw materials between locations or countries. A typical container has doors fitted at one end, and is constructed of corrugated weathering steel.

**Subd. ~~59-63~~ Junkyard.** "Junkyard" shall mean land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled on a commercial basis including but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

**Subd. ~~60-64~~ Kennel (commercial or hobby).** "Kennel (commercial or hobby)" shall mean any structure or premises on which four (4) or more domestic animals over six (6) months of age are kept.

**Subd. ~~61-65~~ Loading Space or Loading Area.** "Loading Space," or "Loading Area" shall mean that portion of a lot or plot designed to serve the purpose of loading or unloading all types of vehicles.

**Subd. ~~62-66~~ Lot.** "Lot" shall mean a parcel of land, separated from other parcels by description, intended for building development or for transfer of ownership.

**Subd. ~~63-67~~ Lot Area.** "Lot Area" shall mean the total surface area of a lot within the lot lines, excluding public right-of-way or street easements.

**Subd. ~~64-68~~ Lot, Corner.** " Lot, Corner" shall mean a lot bordered by a public right-of-way containing a public street or planned for a public street on at least two (2) adjacent sides.

**Subd. ~~65-69~~ Lot Coverage.** "Lot Coverage" shall mean the area of a lot occupied by impervious material, including but not limited to buildings, paved surfaces, and driveways.

**Subd. ~~66-70~~ Lot Depth.** "Lot Depth" shall mean the mean horizontal distance between the center points of the front and rear lot lines for standard lots. For lots of non-standard shape, the Zoning Administrator shall determine the lot depth.

**Subd. ~~67-71~~ Lot, Double Frontage.** "Lot, Double Frontage" shall mean a lot having frontage on two (2) streets which do not intersect at a corner of the lot.

**Subd. ~~68-72~~ Lot, Interior.** "Lot, Interior" shall mean a lot other than a corner lot.

**Subd. ~~69-73~~ Lot Line, Front.** "Lot Line, Front" shall mean the boundary of a lot abutting a street easement or right-of-way. On a corner lot, the shortest street lot line shall be considered the front lot line.

**Subd. ~~70-74~~ Lot Line, Rear.** "Lot Line, Rear" shall mean the lot line or lot lines most nearly parallel to and furthest from the front lot line.

**Subd. ~~71-75~~ Lot of Record.** "Lot of Record" shall mean any lot for which a deed, registered land survey, or other legal record was recorded in the office of the register of deeds or the register of titles for Washington County, Minnesota, prior to August 7, 1964, and which contains identical lot dimensions as were present on that date.

**Subd. ~~72-76~~ Lot Width.** "Lot Width" shall mean the horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building setback line.

**Subd. ~~73-77~~ Manufactured Single-family Dwelling.** "Manufactured Single-family Dwelling" shall mean a structure, not affixed to or part of real estate, transportable in one or more sections, which in a traveling mode is eight (8) body feet or more in width, or forty (40) body feet, or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a

permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, except for accessory manufactured single-family dwellings and temporary manufactured single-family dwellings, as defined in this Chapter. . A manufactured single-family dwelling shall be construed to remain a manufactured single-family dwelling, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A manufactured single-family dwelling shall not be construed to be a travel trailer or other form of recreational vehicle.

**Subd. ~~74-78~~ Mobile Home.** "Mobile Home" shall have the same meaning as manufactured single-family dwelling.

**Subd. ~~75-79~~ Mobile Home Park.** "Mobile Home Park", a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use.

**Subd. ~~76-80~~ Modular Manufactured or Prefabricated Home.** "Modular Manufactured or Pre-fabricated Home" shall mean a nonmobile housing unit that is entirely or mostly fabricated off site and transported to a building site where final installations are made, permanently affixing the module to the site. A modular manufactured home shall be considered the same as a single-family dwelling under the standards in this Code, provided it meets the standards for floor area and other minimum standards.

**Subd. ~~77-81~~ Motel.** "Motel" shall mean a combination or group of two (2) or more detached, semi-detached or connected permanent dwellings occupying a building site integrally owned and used as a unit to furnish overnight transient living accommodations of a fee.

**Subd. ~~78-82~~ Motor Vehicle.** "Motor Vehicle" shall mean any self-propelled vehicle not operated exclusively on railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle, including but not limited to cars, trucks, buses, motorcycles, campers, recreational vehicles, and trailers.

**Subd. ~~79-83~~ Motor Vehicle Body Work.** "Motor Vehicle Body Work" shall mean repair or straightening or automobile body, frame, or fender, including painting.

**Subd. ~~80-84~~ Motor Vehicle Repair.** "Motor Vehicle Repair" shall mean repairs, replacement of parts, and motor service to automobiles, not including body work or painting.

**Subd. ~~81-85~~ Motor Vehicle Sales.** "Motor Vehicle Sales" shall mean the sale or trade of new or used motor vehicles, whether cars, trucks, buses, campers, motorcycles, or other motorized vehicles, including the display of new or used vehicles, or the possession of new or used vehicles for sale or trade.

**Subd. ~~82-86~~ Motor Vehicle, Small.** "Motor Vehicle, Small" shall mean any motor vehicle less than twenty (20) feet in length and less than seven (7) feet in height, and commonly used or intended as a passenger car.

**Subd. ~~83-87~~ Multi-family Conversion.** "Multi-family Conversion" shall mean the alteration of an existing building for use as a multiple family dwelling, meeting all applicable building codes and standards in this Chapter.

**Subd. ~~84-88~~ Municipal Water and Sewer Systems.** "Municipal Water and Sewer Systems" shall mean utility systems serving a group of buildings, lots, or an area of the City, with the design and construction of such utility systems as approved by the City engineer.

**Subd. ~~84-19~~ Municipal/Public Facilities.** "Municipal/Public Facilities" shall mean any buildings and property owned or operated by municipal, school district, county, state or other governmental unit.

**Subd. ~~85-90~~ Nameplate.** "Nameplate" shall mean a sign indicating the name and/or the address of a building, or the name of an occupant thereof and/or the practice of a permitted occupation therein.

**Subd. ~~86-91~~ Nonconforming Use.** "Nonconforming Use" shall mean any legal use existing upon the effective date of the adoption of this Chapter and which does not conform to the provisions of this Chapter.

**Subd. ~~86-192~~ Nonconforming Lot.** "Nonconforming Lot" shall mean any lot lawfully existing prior to the date that new zoning provisions were adopted making said lot inconsistent with the provisions of the newly adopted zoning chapter.

**Subd. ~~86-293~~ Nonconforming Sign.** "Nonconforming Sign" shall mean any legal sign existing prior to the date that new zoning provisions were adopted making said sign inconsistent with the provisions of the newly adopted zoning chapter. .

**Subd. ~~86-394~~ Nonconforming Structure.** "Nonconforming Structure" shall mean any legal structure or building existing prior to the date that new zoning provisions were adopted making said structure inconsistent with the provisions of the newly adopted zoning chapter.

**Subd. ~~87-95~~ Nursing Care Home.** "Nursing Care Home" shall mean a facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to no more than nine persons.

**Subd. ~~88-96~~ Nursing Care Institution.** "Nursing Care Institution" shall mean an institutional facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

**Subd. ~~89-97~~ Ordinary High Water Level or Ordinary High Water Mark.** "Ordinary High Water Level", or "Ordinary High Water Mark" shall mean the boundary of "public waters" and "wetlands", as defined by Minnesota Statutes, Chapter 103G, an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

**Subd. 98 Outdoor Furnaces.** "Outdoor Furnaces" shall mean Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space ordinarily occupied by humans."

**Subd. ~~90-99~~ Parking Space.** "Parking Space" shall mean an area of land exclusive of driveways and aisles, usable for the parking of a motor vehicle, and of a size, shape and location meeting the standards in this Code.

**Subd. ~~91-100~~ Person.** "Person" shall include an individual, a firm, a partnership, a corporation, a company, an unincorporated association of persons such as a club, and an owner.

**Subd. ~~92-101~~ Planned Development District (PDD).** "Planned Development District (PDD)" shall mean a zoning district intended to allow a flexible, creative and efficient approach to the use of the land, providing a mutual benefit to the developer and to the City. In a PDD a tract of land can be developed as a unit rather than as individual lots, wherein two or more buildings may be located in relationship to each other rather than to lot lines with regard to use, location and in accordance with the requirements of this Code, as well as provisions agreed to between the City and developers.

**Subd. ~~93-102~~ Plot.** "Plot" shall mean a tract of land, other than one unit of a recorded plat or subdivision occupied and used or intended to be occupied and used as a building site and improved or intended to be improved by the erection thereon of a building and accessory building and having a frontage upon a public street or highway and including such open spaces as required under this Chapter.

**Subd. ~~94-103~~ Protected Waters.** "Protected Waters" shall mean any waters of the state designated or otherwise defined as protected by the State or as the result of regulations adopted by the State. However, no lake, pond or flowage of less than ten (10) acres in size and no river or stream having a total drainage area less than two (2) square miles shall be regulated for the purposes of these regulations.

**Subd. ~~95-104~~ Public Access.** "Public Access" shall mean an area owned and/or operated by a governmental entity for the launching and retrieval of water craft from the public waters, or other recreational activities adjacent to public waters.

**Subd. ~~96-105~~ Public Open Space.** "Public Open Space" shall mean any publicly owned open area, including but not limited to the following: parks, playgrounds, school sites, and parkways.

**Subd. ~~97-106~~ Public Utility.** "Public Utility" shall mean any person, firm, corporation, municipal department, or board fully authorized by the City to furnish and furnishing to the public, electricity, gas, steam, communication services, telegraph services, transportation, water, or other essential public service.

**Subd. ~~98-107~~ Public Waters.** "Public Waters" shall mean any waters as defined in Minnesota Statutes, Chapter 103G

**Subd. ~~99-108~~ Rest Home, Convalescent Home, or Nursing Home.** "Rest Home", "Convalescent Home" or "Nursing Home" shall mean a private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

**Subd. ~~100-109~~ Screen.** "Screen" shall mean a barrier accomplished by a variety of means, intended to prevent visibility through the barrier. If accomplished by landscape materials, the screen shall be at least eighty (80) percent opaque.

**Subd. ~~101-110~~ Semi-public Uses.** "Semi-public Uses" shall mean uses owned by private or private nonprofit organizations which are open to some but not all of the public such as: denominational cemeteries, private schools, clubs, lodges, recreation facilities and churches.

**Subd. ~~102-111~~ Setback or Setback Line.** "Setback" or "Setback Line" shall mean the mean horizontal distance between the property line or street right-of-way, or street easement and the line of the structure or the allowable building line as defined by the yard regulations of this Code.

**Subd. ~~103-112~~ Shoreland.** "Shoreland" shall mean any land adjacent to public waters as defined by the Shoreland Management section of this Chapter.

**Subd. ~~104-113~~ Shore Impact Zone.** "Shore Impact Zone" shall mean land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the required structure setback.

**Subd. ~~105-114~~ Sign.** "Sign" shall mean any structure, device or representation, with or without lettering, designed or intended to bring attention to the location, products or services or an individual, residence, business or institution.

**Subd. ~~106-115~~ Slope.** "Slope" shall mean the amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

**Subd. ~~107-116~~ Story.** "Story" shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no such floor above, the space between such floor and the ceiling next above it. A level containing independent apartment or living quarters shall be counted as a full story, whether or not that level is completely usable or finished.

**Subd. ~~108-117~~ Street, Public.** "Street, Public" shall mean a thoroughfare which affords a principal means of access to abutting property and which has been accepted by the City as a public street.

**Subd. ~~109-118~~ Structural Alterations.** "Structural Alterations" shall mean any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

**Subd. ~~110-119~~ Structure.** "Structure" shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by a wall without openings, each part shall be deemed a separate structure.

**Subd. ~~111-120~~ Structure, Accessory.** See building, accessory.

**Subd. ~~112-121~~ Structure, Principal.** See building, principal.

**Subd. ~~113-122~~ Subdivision.** "Subdivision" shall mean the division of a parcel of land into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development.

**Subd. ~~113-123~~ Tent Garages.** See **Subd. ~~23-16~~ Covered Storage Building.**

**Subd. ~~114-124~~ Townhouse.** "Townhouse" shall mean a single structure consisting of three (3) or more dwelling units each having a private entrance on the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

**Subd. ~~115-125~~ Transit Station.** "Transit Station" shall mean a parcel or portion thereof that is used for loading and unloading of public transit riders including the platform, station facilities, public open space and park-and-ride lots. Transit Station is inclusive of all public transit modes.

**Subd. ~~116-126~~ Use.** "Use" shall mean the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

**Subd. ~~117-127~~ Use, Accessory.** "Use, Accessory" shall mean a use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal use.

**Subd. ~~118-128~~ Use, Interim.** "Use, Interim" shall mean a temporary use of a property until a particular date, or until the occurrence of a particular event, as determined by the City Council.

**Subd. ~~119-129~~ Use, Permitted.** "Use, Permitted" shall mean a use which may be lawfully established in a particular district, provided it conforms with all requirements, regulations, and performance standards of such district.

**Subd. ~~120-130~~ Use, Principal.** "Use, Principal" shall mean the main use of land for an activity which is an allowable use of the zoning district in which the land is located.

**Subd. ~~121-131~~ Utility Facility.** "Utility Facility" shall mean any above-ground structure or facility, other than a principal building, owned by a governmental entity, a non-profit organization, a corporation, or any other entity defined as a public utility for any purpose by State statute and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Streets are exempt from this definition, as are wires or pipes and supporting poles or structures within a public right-of-way for electric power, telephone, telegraph, cable television, gas, water, and sewer service.

**Subd. ~~122-132~~ Utility Facility, Community or Regional.** "Utility Facility, Community or Regional" shall mean any utility facility other than a neighborhood facility as defined in Subd. 124 below.

**Subd. ~~123-133~~ Utility Facility, Neighborhood.** "Utility Facility, Neighborhood" shall mean a utility facility designed to serve the immediate neighborhood and that must, for reasons related to the purpose of the utility, be located in or near the neighborhood where the facilities are proposed to be located.

**Subd. ~~124-134~~ Variance.** "Variance" shall mean a modification or variation of the provisions of this Chapter, as applied to a specific piece of property. A variance may be granted to the numerical standards of the Code, but not for the permissible use of a property.

**Subd. ~~125-135~~ Vehicle, Small.** "Vehicle, Small" shall mean any motor vehicle up to twenty (20) feet in length and up to seven (7) feet in height, commonly used as a passenger vehicle, not including trucks of any kind. See Subd. ~~8286~~.

**Subd. ~~126-136~~ Wholesale Sales.** "Wholesale Sales" shall mean on-premise sale of goods primarily to customers engaged in the business of reselling the goods.

**Subd. ~~127-137~~ Yard.** "Yard" shall mean an open space on the same lot with a building or structure, which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Chapter.

**Subd. ~~128-138~~ Yard, Front.** "Yard, Front" shall mean a yard extending across the front of a lot between the side yard lines and lying between the front street line of the lot or right-of-way and the required front yard setback line, which front yard shall be provided on both street frontages of corner lots and double frontage lots.

**Subd. ~~129-139~~ Yard, Rear.** "Yard, Rear" shall mean a yard lying between the required rear yard setback line and rear line of the lot, for the full width of the lot.

**Subd. ~~130-140~~ Yard, Side.** "Yard, Side" shall mean a yard on the same lot with a building between the side yard setback line and the side line of the lot and extending from the front lot line to the rear yard.

**Subd. ~~131-141~~ Zoning Administrator.** "Zoning Administrator" shall mean the person authorized to administer and enforce this Chapter.

**Subd. ~~132-142~~ Zoning Districts.** "Zoning Districts" shall mean the areas of the City designated for specific uses with specific requirements for use or development.

**Subd. ~~133-143~~ Zoning Map.** "Zoning Map" shall mean the map or maps incorporated into this Chapter as a part thereof designating the zoning districts.

~~**Subd. 134 Outdoor Furnaces**—"Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space ordinarily occupied by humans."~~

**1300.02 Rules of Construction.** The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- A. Words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.
- B. "Person" shall include an individual, association, syndicate, organization, partnership, trust company, corporation or any other legal entity.
- C. "Shall" is to be construed as being mandatory and not discretionary.
- D. "May" is to be construed as being permissive.
- E. "Lot" shall include the words "plot", "piece" and "parcel".
- F. "Used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

**1300.03 Purpose and Intent.** The purpose and intent of this Chapter shall be:

- A. To promote the general public health, safety, morals, comfort and general welfare of the inhabitants of the city.

- B. To promote the character and preserve and enhance the stability of properties and areas within the city;
- C. To divide the city into zones or districts as to the use, location, construction, reconstruction, alteration and use of land and structures for residence, business and industrial purposes;
- D. To provide adequate light, air, privacy and safety;
- E. To prevent the overcrowding of land, undue concentration of population;
- F. To promote the proper use of land and structures;
- G. To fix reasonable standards to which buildings, structures and land shall conform for the benefit of floor space than stores selling smaller items, as determined by the Zoning Administrator.
- H. To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified zones;
- I. To promote the safe, rapid and efficient movement of people and goods;
- J. To facilitate the provision of public services;
- K. To limit congestion in the public streets and protect the public health and welfare by providing for the off-street parking of vehicles and vehicle loading areas;
- L. To protect against fire, explosion, panic, noxious fumes, offensive noise, vibration, dust, odor, heat, glare, other pollution and hazards in the interest of the public health, comfort and general welfare;
- M. To define and limit the powers and duties of the administrative officers and bodies provided for herein.
- N. To implement the Comprehensive Plan.

#### **1300.04 Scope, Interpretation, Etc.**

**Subd. 1 Scope.** From and after the effective date of this Chapter, the use of all land and every building or portion of a building erected, altered with respect to height, area, or use, added to or relocated, and every use within a building or use accessory thereto, in the city shall be in conformity with the provisions of this Chapter.

**Subd. 2 Interpretation.** The provisions of this Chapter should be the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, code provision, other ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other code provision ordinance or regulation impose greater restrictions than this Chapter, the provisions of such statute, other code provision, ordinance or regulation shall be controlling.

**Subd. 3 Private Agreements.** This chapter shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this

Chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Chapter shall govern.

**1300.05 Relationship to Existing City Ordinances.** To the extent that the provisions of this Chapter are the same in substance as the previously adopted provisions that they replace in the City's zoning, subdivision, or other land use control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Chapter merely by the repeal of the previous zoning ordinance and the adoption of a new ordinance.

**1300.06 Area Regulations.** No lot area shall be so reduced or diminished that the lot area, yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided.

### **1300.07 Accessory Buildings and Uses**

~~**Subd. 1 Time of Construction.** No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.~~

~~**Subd. 2 Swimming Pools.** Where noncommercial swimming pools are constructed as accessory structures in residential districts, a safety fence shall be required subject to the requirements of this title.~~

~~**Subd. 3 Air Conditioning Units.** All air conditioning units excluding window units shall be located a minimum of twenty (20) feet from all lot lines, but not within the front yard.~~

~~**Subd. 4 Attached Accessory Buildings.** If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building shall not be closer than five (5) feet to the main building, except as otherwise provided in this Chapter.~~

~~**Subd. 5 Detached Accessory Buildings.** A detached accessory building shall not be placed closer to the public right of way than the front of the principal structure on the lot.~~

**1300.087 Exceptions to General Yard Regulations.** Measurements for yard regulations shall be taken from the nearest point of the wall of a building to a lot line in question, subject to the following qualifications:

- A. Cornices, canopies, or eaves may extend into the required minimum front yard a distance not exceeding three (3) feet.
- B. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches;
- C. A landing place or uncovered porch may extend into the required front, side, or rear yards a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing may be placed around such place in the front yard only, and not in the side or rear yards;

- D. A wall or fence or hedge not to exceed the maximum height allowed in the underlying zoning district may occupy part of the required front, side, or rear yard;
- E. On double frontage lots, the required front yard shall be provided on both streets;
- F. On a corner lot, the lot line opposite the narrowest street frontage shall be considered the rear lot line for the purposes and standards in this Code, unless the Zoning Administrator determines that unusual conditions exist that warrant designating another lot line or lot lines as the rear.
- G. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view;
- H. The required front yard of a corner lot shall provide an unobstructed view between the two intersecting streets within a triangular area from the intersection of the street easement or right-of-way lines back thirty (30) feet along each side, from two (2) feet off the ground to a height of ten (10) feet, except for tree trunks less than twelve (12) inches in diameter.
- I. In determining the depth of a rear or side yard for any building where the rear or side yard opens into an alley, driveway easement or joint driveway, one-half the width of the alley, driveway easement or joint driveway, up to fifteen (15) feet, may be considered as a portion of the rear or side yard subject to the following qualifications:

| **1300.09-08** Exceptions to Front Yard Setbacks.

**Subd. 1 Twenty-five Percent Occupancy.** When more than twenty-five (25) percent of the frontage on one side of the street between intersections is occupied by structures having setbacks from street rights-of-way that are greater or lesser than required by this ordinance, the average setback of all existing buildings between the intersections, or to a distance of two hundred (200) feet in either direction, whichever is closer, shall be maintained by all new or relocated structures.

**Subd. 2 Preexisting Structures.** In the event a building is to be built where there is such an established setback different from that required in this ordinance and there are existing buildings on both sides of the said new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the forward most portions of the first adjacent building on each side.

| **1300.1009** Areas under Water. All areas within the corporate limits of the city which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.

| **1300.110** Height Regulations.

**Subd. 1 Slope.** Where the average slope of a lot within proposed building lines is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance, one (1) additional story shall be permitted on the downhill side of any building.

**Subd. 2 Increases.** Height limitations set forth elsewhere in this Chapter may be increased by conditional use permit when applied to the following structures:

- A. Church spires, belfries, or domes;
- B. Water towers;
- C. Flagpoles;
- D. Agricultural structures in RE district;
- E. Any other use in any zoning district, only with findings that the use can be adequately protected by the City's fire-fighting equipment, and that it will not have an adverse effect on surrounding property.

**1300.~~12~~11** **One Principal Structure per Lot.** There shall be no more than one principal structure or principal building per lot, except as otherwise provided for in this Code. The Zoning Administrator shall make the determination whether a structure is a principal structure as intended by the provisions of this Chapter.

**1300.~~13~~12** **Moving of Structures.**

**Subd. 1 Purpose.** The purpose of this section of the Zoning Chapter is to maintain a harmonious and high standard of residential development, and to protect such areas from adverse effects through ensuring that both new and relocated dwellings from other areas shall meet specified requirements.

**Subd. 2 General.**

- A. All of the requirements associated with the moving of a building or structure shall apply only to destinations within the City of Newport city limits.
- B. No building or structure shall be moved within the City of Newport, unless a building permit for the building or structure has been obtained as provided in this Chapter.
- C. Except as is otherwise provided by Law, no building or structure shall be moved within the City of Newport, unless such building or structure was in full compliance with the State Building Code prior to the moving.

**Subd. 3 Applications.**

- A. Each permit for the moving of a structure or building shall include the following:
  - 1. A site plan of both the existing and the proposed sites including an illustration of how and where the structure will be located during and after the moving operation.
  - 2. A designated route and any stops the building or structure must make.
  - 3. A legal description of the property to which the building is to be moved to.
  - 4. An illustration and description of the electrical, natural gas, cable TV, sewer and water and any other utilities serving the existing and proposed sites; showing locations and type.

5. An illustration showing all trees to be removed or partially removed from the existing and proposed sites.
  6. An administrative fee in an amount to be set annually by the City Council by Resolution, in addition to the building permit fee, which shall cover all City Administrative costs such as police, fire street supervision, tree inspection, and other City costs associated with the transfer of the building or structure. Additional unanticipated administration costs, incurred by the City during the move shall be paid by the applicant prior to issuance of a certificate of occupancy.
  7. Each application for a permit to move a building or structure shall be reviewed and approved by the City of Newport Public Works, Police, Fire Marshall, Building Inspection, and Zoning Departments prior to being submitted to the City Council for final approval.
- B. Each application for a permit to move a structure or building within the City of Newport, shall be reviewed by the City Planning Commission for a determination of architectural compatibility with other adjacent structures to the proposed site and for other requirements of this code.
- C. All applications for a permit to move a structure or building within the City of Newport shall be reviewed as to requirements of such things as minimum lot size, setbacks, proper zone, height regulations and other Zoning Code requirements.

#### **Subd. 4 Moving Operations.**

- A. All moving operations of the structure within public property shall be performed only from 10:00 P.M. to 6:00 A.M., unless the City Clerk-Administrator approves otherwise in writing.
- B. No structure shall be raised on moving blocks more than seven (7) calendar days prior to or fourteen (14) days after completion of an approved move. In no case shall an exposed vacant basement be left unfenced by the applicant. A minimum of a four (4) foot high safety fence shall be placed around the entire perimeter of an exposed basement.
- C. All exposed basements shall be filled in or backfilled with clean granular fill within seven (7) calendar days after removal of the structure from the lot. If the exposed basement is left uncovered more than seven (7) calendar days, the City Clerk-Administrator may direct the Public Works Director to fill in the basement. All City costs attributable to such filling shall be considered an unanticipated City administration expense to be paid by the landowner.
- D. All excavations and basements at the proposed site of the structure shall be filled in or backfilled within twenty-one (21) days after the completion of the move, unless the city Clerk-Administrator grants an extension of time because of frost conditions.
- E. All fine grading, seeding and sodding at the proposed site shall be completed prior to issuance of a certificate of occupancy, unless the City Clerk-Administrator grants an extension of time because of frost or other weather conditions.
- F. Building movers must meet all State of Minnesota requirements, including those imposed by Minnesota Statute 221.81.

| **1300.1413 Removal of Soil, Sand or Other Material.** The use of land for the removal of more than ten (10) cubic yards of topsoil, sand or gravel, and other material from the land is not permitted in any zone except by permit established by the City.

| **1300.154 Truck or Bus Parking in Residential Districts.** Parking, either on-street or off-street, of vehicles licensed by any state at over twelve thousand (12,000) pounds, except for deliveries and unloading, shall be prohibited in all residential districts on lots less than two (2) acres in size.

| **1300.1615 Violations.** No person shall use or occupy any lands or premises within the City contrary to the terms of this Chapter, or in any manner violate the terms thereof or the terms of any condition imposed under its authority, and any person so doing, upon conviction, shall be guilty of a misdemeanor.

| **1300.1716 Outdoor Furnaces.** Outdoor furnaces as defined in this zoning ordinance are not permitted within Newport City Limits.

## CHAPTER 1300 – GENERAL ZONING

## Section 1300 – General

**1300.01 Definitions.**

The following words and terms, wherever they appear in this Chapter, shall be defined as follows:

**Subd. 1 Abandonment.** "Abandonment" shall mean to cease or discontinue a use or activity of a property for a period of twelve (12) consecutive months or more unless otherwise specified.

**Subd. 2 Abut.** "Abut" shall mean to border upon a parcel of land so as to share all or part of a common property line with another parcel of land.

**Subd. 3 Accessory Building or Accessory Structure.** See building, accessory.

**Subd. 4 Accessory Use.** See use, accessory.

**Subd. 5 Adult Use.** "Adult Use" shall include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

**Subd. 6 Agriculture.** "Agriculture" shall mean the growing and marketing of fruits, vegetables, grains, trees, shrubs, flowers, or other plants, for commercial or private purposes, but not including the growing or raising of animals except as otherwise provided for by this Code.

**Subd. 7 Alley.** "Alley" shall mean any dedicated public right-of-way providing a secondary means of access to abutting property.

**Subd. 8 Apartment.** "Apartment" shall mean a room or group of rooms in a residential structure which includes bath and kitchen facilities and is intended or designed for use as an independent residence for a family or individual.

**Subd. 9 Automobile Salvage Yard.** "Automobile Salvage Yard" shall mean a commercial use carried on outside of an enclosed building involving the dismantling or storage of vehicles or equipment, and any other lot used for wrecking or storing of inoperable motor vehicles or their parts.

**Subd. 10 Basement.** "Basement" shall mean, a story of a building having more than half its height below the average level of the adjoining finished grade. A basement shall be counted as a story for the purpose of height regulations, if occupied for business or residential purposes.

**Subd. 11 Berm.** "Berm" shall mean a landscaped mound of earth.

**Subd. 12 Billboard.** "Billboard" shall mean any advertising sign where the advertised goods or services are not furnished at the location of the sign.

**Subd. 13 Block.** "Block" shall mean a tract of land bounded by streets, or a combination of streets and public or private open space, cemeteries, railroad rights-of-way, shorelines, waterways, or City corporate limits.

**Subd. 14 Buildable Area.** "Buildable Area" shall mean the space remaining on a lot for building purposes after the setback and open space requirements of this Chapter have been met.

**Subd. 15 Building.** "Building" shall mean a structure having a roof supported by columns or walls. When separated by dividing walls without openings, each portion of such a structure shall be deemed a separate building.

**Subd. 16 Building, Accessory.** "Building, Accessory" shall mean a subordinate building or structure on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

**Subd. 17 Building Height.** "Building Height", unless otherwise specifically noted in this Chapter, shall mean the vertical distance measured from the average elevation of the finished grade adjacent to a building to 1) the highest point on a building with a flat roof, 2) the deck line of a mansard type roof, or 3) the average height between the eaves and the peak of the highest gable of a pitched, hip, or gambrel roof. For purposes of calculating building height, the finished grade shall be the highest point within five (5) feet of the front of a building or, if the lowest grade within five (5) feet of any side of the building is more than ten (10) feet lower than the front, then the finished grade from which the height is measured shall be considered ten (10) feet above said lowest grade.

**Subd. 18 Building, Principal.** "Building, Principal" shall mean a building or structure occupied by or devoted to the principal or main use of the property.

**Subd. 19 Canopy or Marquee.** "Canopy" or "Marquee" shall mean any roof like structure extending out from the side of a building.

**Subd. 20 City.** "City" shall mean the City of Newport.

**Subd. 21 Cluster Development.** "Cluster development" shall mean a development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this Ordinance, the Zoning Ordinance and the Comprehensive Plan.

**Subd. 22 Comprehensive Plan.** "Comprehensive Plan" shall mean a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City and its environs. A comprehensive plan shall represent the recommendations of the Planning Commission and City Council for the future development of the community.

**Subd. 23 Conditional Use.** "Conditional Use" shall mean a permitted use which may be appropriate in a given zoning district but which requires special planning considerations in each instance, and which shall only be allowed in a specific location under conditions specified by this Code and by the City Council.

**Subd. 24 Condominium.** "Condominium" shall mean a multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of state and local laws.

**Subd. 25 Corner Lot.** See lot, corner.

**Subd. 26 Covered Storage Building.** "Covered Storage Building" shall mean a temporary enclosure that is a moveable tent-like shelter that is typically constructed with wooden or metal framework and covered with a tarpaulin of plastic or canvas like material. These structures are most typically used for sheltering vehicles, RVs, or other materials stored outside residential neighborhoods.

**Subd. 27 Density.** "Density" shall mean a measure of the intensity of residential use on the land, expressed in terms of lot area per dwelling unit or dwelling units per acre. For such calculations, the land area shall be exclusive of water area and floodplain, but may include protected wetlands and hydric soils.

**Subd. 28 Driveway.** "Driveway" shall mean a private road or path which is wholly located on the lot which it services and which affords vehicle access to a public road.

**Subd. 29 Duplex.** See dwelling, two family.

**Subd. 30 Dwelling.** "Dwelling" shall mean a structure designed and used exclusively for residential purposes for the occupancy of a family or families.

**Subd. 31 Dwelling, Attached (group, row, or townhouse).** "Dwelling, Attached" (group, row or townhouse) shall mean a dwelling joined to one (1) or more other dwellings by a party wall or walls.

**Subd. 32 Dwelling, Detached.** "Dwelling, Detached" shall mean a dwelling entirely surrounded by open space, and not attached or connected structurally to any other dwelling.

**Subd. 33 Dwelling, Multiple Family.** "Dwelling, Multiple Family" shall mean a dwelling containing two (2) or more dwelling units, whether a townhouse, apartment, condominium, or other type of dwelling.

**Subd. 34 Dwelling, Single Family.** "Dwelling, Single Family" shall mean a detached dwelling designed exclusively for occupancy by one (1) family only.

**Subd. 35 Dwelling, Two Family.** "Dwelling, Two Family" shall mean a dwelling designed with two dwelling units, exclusively for occupancy by two (2) families living independently of each other.

**Subd. 36 Dwelling Unit.** "Dwelling Unit" shall mean, one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having separate permanently installed cooking and sanitary facilities.

**Subd. 37 Excavation.** "Excavation" shall mean the removal, relocation, or recovery by any means of soil, rock, minerals, debris, or organic substances other than vegetation from a parcel of land.

**Subd. 38 Family.** "Family" shall mean any number of individuals related by blood, legal adoption or marriage, or six (6) or less unrelated individuals living together in a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, licensed residential care facility, or hotel as herein described.

**Subd. 39 Fence.** "Fence" shall mean a partition, structure, wall or gate erected as a diving marker, visual or physical barrier, or enclosure.

**Subd. 40 Fill.** "Fill" shall mean sand, gravel, earth or other materials deposited on, moved onto, or placed on a parcel of land.

**Subd. 41 Filling.** "Filling" shall mean the placement of fill on a parcel of land.

**Subd. 42 Floodplain.** "Floodplain" shall mean the area subject to inundation by a one hundred (100)-year flood as designated and mapped by the Federal Emergency Management Agency.

**Subd. 43 Floor Area.** "Floor Area" shall mean the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or for a structure without walls (e.g., a carport), the total ground area covered by roof, not including area under a typical overhang dimension.

**Subd. 44 Floor Area, Livable.** "Floor Area, Livable" shall mean the floor area of a dwelling excluding all areas occupied by basements, garages, porches, attics, stairways, storage, utility and heating rooms.

**Subd. 45 Floor Area Ratio (F.A.R.).** "Floor area ratio (F.A.R.)" shall mean the floor area of the building or buildings on a zoning lot divided by the area of such zoning lot, or, in the case of planned unit developments, by the net size area. The floor area ratio requirements shall determine the maximum floor area allowable for the building or buildings, including both principal and accessory buildings, in direct ratio to the gross area of the zoning lot.

**Subd. 46 Footcandle.** "Footcandle" shall mean a standard unit of illumination intensity.

**Subd. 47 Frequency.** "Frequency" shall mean the oscillations per second in a sound wave.

**Subd. 48 Frontage.** "Frontage" shall mean that part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

**Subd. 49 Garage, Private.** "Garage, Private" shall mean an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the dwelling unit to which it is accessory.

**Subd. 50 Garage, Public.** "Garage, Public" shall mean any building, except a private garage, used for the storage or care of motor-driven vehicles, or a building where any such vehicles are equipped for operation, are repaired, or are kept for remuneration, hire, or sale.

**Subd. 51 Garage, Truck.** "Garage, Truck" shall mean a building used or intended to be used for the storage of motor trucks, truck trailers, tractors, and commercial vehicles exceeding one and one-half (1-1/2) tons capacity.

**Subd. 52 Grade** "Grade" shall mean the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**Subd. 53 Grade, Street.** "Grade, Street" shall mean the established elevation of the street in front of the building measured at the center of such front. Where no street grade has been established, the City engineer shall establish such street grade or its equivalent for the purpose of this Chapter.

**Subd. 54 Group Home.** "Group Home" shall mean a home that is licensed by the commissioner of health as a rooming and/or boardinghouse and receives 50% (percent) or more of its residents under a contract or other arrangement with the state or local government human services agency. Provides lodging for people who are mentally ill, physically disadvantaged or chemically dependent.

**Subd. 55 Halfway House.** "Halfway House" shall mean a home, operated and supervised by a governmental or non-profit agency, for not more than nine persons who have demonstrated a tendency toward chemical abuse, mental illness, or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, eleven of whom live together as a single housekeeping unit. The term shall not include licensed facilities as defined by Minn. Stat. §245A.11

**Subd. 56 Handicapped or Infirm Institution.** "Handicapped or Infirm Institution" shall mean an institutional facility housing more than six persons who are physically or mentally handicapped or infirm, and providing primarily residential care rather than medical treatment.

**Subd. 57 Home Occupation.** "Home Occupation" shall mean any gainful occupation or profession clearly secondary to the main use of the dwelling as a residence, which is conducted entirely within the dwelling, and which meets the requirements of this Code.

**Subd. 58 Horticulture.** "Horticulture" shall mean the use of land for the growing or production for income, of fruits, vegetables, flowers, nursery stock, and trees, including forestry, ornamental plants and trees, and cultured sod.

**Subd. 59 Impervious Surface.** "Impervious Surface" shall mean a material providing a hard surface which substantially prevents the absorption of water into the ground.

**Subd. 60 Intermediate Care Home.** "Intermediate Care Home" shall mean a facility providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Subd. 61 Intermediate Care Institution.** "Intermediate Care Institution" shall mean an institutional facility providing accommodation for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Subd. 62 Intermodal Container.** "Intermodal container", "freight container" or "shipping container" shall mean a reusable transport and storage unit for moving products and raw materials between locations or countries. A typical container has doors fitted at one end, and is constructed of corrugated weathering steel.

**Subd. 63 Junkyard.** "Junkyard" shall mean land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled on a commercial basis including but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

**Subd. 64 Kennel (commercial or hobby).** "Kennel (commercial or hobby)" shall mean any structure or premises on which four (4) or more domestic animals over six (6) months of age are kept.

**Subd. 65 Loading Space or Loading Area.** "Loading Space," or "Loading Area" shall mean that portion of a lot or plot designed to serve the purpose of loading or unloading all types of vehicles.

**Subd. 66 Lot.** "Lot" shall mean a parcel of land, separated from other parcels by description, intended for building development or for transfer of ownership.

**Subd. 67 Lot Area.** "Lot Area" shall mean the total surface area of a lot within the lot lines, excluding public right-of-way or street easements.

**Subd. 68 Lot, Corner.** " Lot, Corner" shall mean a lot bordered by a public right-of-way containing a public street or planned for a public street on at least two (2) adjacent sides.

**Subd. 69 Lot Coverage.** "Lot Coverage" shall mean the area of a lot occupied by impervious material, including but not limited to buildings, paved surfaces, and driveways.

**Subd. 70 Lot Depth.** "Lot Depth" shall mean the mean horizontal distance between the center points of the front and rear lot lines for standard lots. For lots of non-standard shape, the Zoning Administrator shall determine the lot depth.

**Subd. 71 Lot, Double Frontage.** "Lot, Double Frontage" shall mean a lot having frontage on two (2) streets which do not intersect at a corner of the lot.

**Subd. 72 Lot, Interior.** "Lot, Interior" shall mean a lot other than a corner lot.

**Subd. 73 Lot Line, Front.** "Lot Line, Front" shall mean the boundary of a lot abutting a street easement or right-of-way. On a corner lot, the shortest street lot line shall be considered the front lot line.

**Subd. 74 Lot Line, Rear.** "Lot Line, Rear" shall mean the lot line or lot lines most nearly parallel to and furthest from the front lot line.

**Subd. 75 Lot of Record.** "Lot of Record" shall mean any lot for which a deed, registered land survey, or other legal record was recorded in the office of the register of deeds or the register of titles for Washington County, Minnesota, prior to August 7, 1964, and which contains identical lot dimensions as were present on that date.

**Subd. 76 Lot Width.** "Lot Width" shall mean the horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building setback line.

**Subd. 77 Manufactured Single-family Dwelling.** "Manufactured Single-family Dwelling" shall mean a structure, not affixed to or part of real estate, transportable in one or more sections, which in a traveling mode is eight (8) body feet or more in width, or forty (40) body feet, or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, except for accessory manufactured single-family dwellings and temporary manufactured single-family dwellings, as defined in this Chapter. . A manufactured single-family dwelling shall be construed to remain a manufactured single-family dwelling, subject to

all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A manufactured single-family dwelling shall not be construed to be a travel trailer or other form of recreational vehicle.

**Subd. 78 Mobile Home.** "Mobile Home" shall have the same meaning as manufactured single-family dwelling.

**Subd. 79 Mobile Home Park.** "Mobile Home Park", a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use.

**Subd. 80 Modular Manufactured or Prefabricated Home.** "Modular Manufactured or Pre-fabricated Home" shall mean a nonmobile housing unit that is entirely or mostly fabricated off site and transported to a building site where final installations are made, permanently affixing the module to the site. A modular manufactured home shall be considered the same as a single-family dwelling under the standards in this Code, provided it meets the standards for floor area and other minimum standards.

**Subd. 81 Motel.** "Motel" shall mean a combination or group of two (2) or more detached, semi-detached or connected permanent dwellings occupying a building site integrally owned and used as a unit to furnish overnight transient living accommodations of a fee.

**Subd. 82 Motor Vehicle.** "Motor Vehicle" shall mean any self-propelled vehicle not operated exclusively on railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle, including but not limited to cars, trucks, buses, motorcycles, campers, recreational vehicles, and trailers.

**Subd. 83 Motor Vehicle Body Work.** "Motor Vehicle Body Work" shall mean repair or straightening or automobile body, frame, or fender, including painting.

**Subd. 84 Motor Vehicle Repair.** "Motor Vehicle Repair" shall mean repairs, replacement of parts, and motor service to automobiles, not including body work or painting.

**Subd. 85 Motor Vehicle Sales.** "Motor Vehicle Sales" shall mean the sale or trade of new or used motor vehicles, whether cars, trucks, buses, campers, motorcycles, or other motorized vehicles, including the display of new or used vehicles, or the possession of new or used vehicles for sale or trade.

**Subd. 86 Motor Vehicle, Small.** "Motor Vehicle, Small" shall mean any motor vehicle less than twenty (20) feet in length and less than seven (7) feet in height, and commonly used or intended as a passenger car.

**Subd. 87 Multi-family Conversion.** "Multi-family Conversion" shall mean the alteration of an existing building for use as a multiple family dwelling, meeting all applicable building codes and standards in this Chapter.

**Subd. 88 Municipal Water and Sewer Systems.** "Municipal Water and Sewer Systems" shall mean utility systems serving a group of buildings, lots, or an area of the City, with the design and construction of such utility systems as approved by the City engineer.

**Subd. 89 Municipal/Public Facilities.** "Municipal/Public Facilities" shall mean any buildings and property owned or operated by municipal, school district, county, state or other governmental unit.

**Subd. 90 Nameplate.** "Nameplate" shall mean a sign indicating the name and/or the address of a building, or the name of an occupant thereof and/or the practice of a permitted occupation therein.

**Subd. 91 Nonconforming Use.** "Nonconforming Use" shall mean any legal use existing upon the effective date of the adoption of this Chapter and which does not conform to the provisions of this Chapter.

**Subd. 92 Nonconforming Lot.** "Nonconforming Lot" shall mean any lot lawfully existing prior to the date that new zoning provisions were adopted making said lot inconsistent with the provisions of the newly adopted zoning chapter.

**Subd. 93 Nonconforming Sign.** "Nonconforming Sign" shall mean any legal sign existing prior to the date that new zoning provisions were adopted making said sign inconsistent with the provisions of the newly adopted zoning chapter. .

**Subd. 94 Nonconforming Structure.** "Nonconforming Structure" shall mean any legal structure or building existing prior to the date that new zoning provisions were adopted making said structure inconsistent with the provisions of the newly adopted zoning chapter.

**Subd. 95 Nursing Care Home.** "Nursing Care Home" shall mean a facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to no more than nine persons.

**Subd. 96 Nursing Care Institution.** "Nursing Care Institution" shall mean an institutional facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

**Subd. 97 Ordinary High Water Level or Ordinary High Water Mark.** "Ordinary High Water Level", or "Ordinary High Water Mark" shall mean the boundary of "public waters" and "wetlands", as defined by Minnesota Statutes, Chapter 103G, an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

**Subd. 98 Outdoor Furnaces.** "Outdoor Furnaces" shall mean Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space ordinarily occupied by humans."

**Subd. 99 Parking Space.** "Parking Space" shall mean an area of land exclusive of driveways and aisles, usable for the parking of a motor vehicle, and of a size, shape and location meeting the standards in this Code.

**Subd. 100 Person.** "Person" shall include an individual, a firm, a partnership, a corporation, a company, an unincorporated association of persons such as a club, and an owner.

**Subd. 101 Planned Development District (PDD).** "Planned Development District (PDD)" shall mean a zoning district intended to allow a flexible, creative and efficient approach to the use of the land, providing a mutual benefit to the developer and to the City. In a PDD a tract of land can be developed as a unit rather than as individual lots, wherein two or more buildings may be located in relationship to each other rather than to lot lines with regard to use, location and in accordance with the requirements of this Code, as well as provisions agreed to between the City and developers.

**Subd 102 Plot.** "Plot" shall mean a tract of land, other than one unit of a recorded plat or subdivision occupied and used or intended to be occupied and used as a building site and improved or intended to be improved by the erection thereon of a building and accessory building and having a frontage upon a public street or highway and including such open spaces as required under this Chapter.

**Subd. 103 Protected Waters.** "Protected Waters" shall mean any waters of the state designated or otherwise defined as protected by the State or as the result of regulations adopted by the State. However, no lake, pond or flowage of less than ten (10) acres in size and no river or stream having a total drainage area less than two (2) square miles shall be regulated for the purposes of these regulations.

**Subd. 104 Public Access.** "Public Access" shall mean an area owned and/or operated by a governmental entity for the launching and retrieval of water craft from the public waters, or other recreational activities adjacent to public waters.

**Subd. 105 Public Open Space.** "Public Open Space" shall mean any publicly owned open area, including but not limited to the following: parks, playgrounds, school sites, and parkways.

**Subd. 106 Public Utility.** "Public Utility" shall mean any person, firm, corporation, municipal department, or board fully authorized by the City to furnish and furnishing to the public, electricity, gas, steam, communication services, telegraph services, transportation, water, or other essential public service.

**Subd. 107 Public Waters.** "Public Waters" shall mean any waters as defined in Minnesota Statutes, Chapter 103G

**Subd. 108 Rest Home, Convalescent Home, or Nursing Home.** "Rest Home", "Convalescent Home" or "Nursing Home" shall mean a private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

**Subd. 109 Screen.** "Screen" shall mean a barrier accomplished by a variety of means, intended to prevent visibility through the barrier. If accomplished by landscape materials, the screen shall be at least eighty (80) percent opaque.

**Subd. 110 Semi-public Uses.** "Semi-public Uses" shall mean uses owned by private or private nonprofit organizations which are open to some but not all of the public such as: denominational cemeteries, private schools, clubs, lodges, recreation facilities and churches.

**Subd. 111 Setback or Setback Line.** "Setback" or "Setback Line" shall mean the mean horizontal distance between the property line or street right-of-way, or street easement and the line of the structure or the allowable building line as defined by the yard regulations of this Code.

**Subd. 112 Shoreland.** "Shoreland" shall mean any land adjacent to public waters as defined by the Shoreland Management section of this Chapter.

**Subd. 113 Shore Impact Zone.** "Shore Impact Zone" shall mean land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the required structure setback.

**Subd. 114 Sign.** "Sign" shall mean any structure, device or representation, with or without lettering, designed or intended to bring attention to the location, products or services or an individual, residence, business or institution.

**Subd. 115 Slope.** "Slope" shall mean the amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

**Subd. 116 Story.** "Story" shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no such floor above, the space between such floor and the ceiling next above it. A level containing independent apartment or living quarters shall be counted as a full story, whether or not that level is completely usable or finished.

**Subd. 117 Street, Public.** "Street, Public" shall mean a thoroughfare which affords a principal means of access to abutting property and which has been accepted by the City as a public street.

**Subd. 118 Structural Alterations.** "Structural Alterations" shall mean any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

**Subd. 119 Structure.** "Structure" shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by a wall without openings, each part shall be deemed a separate structure.

**Subd. 120 Structure, Accessory.** See building, accessory.

**Subd. 121 Structure, Principal.** See building, principal.

**Subd. 122 Subdivision.** "Subdivision" shall mean the division of a parcel of land into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development.

**Subd. 123 Tent Garages.** See **Subd. 26 Covered Storage Building.**

**Subd. 124 Townhouse.** "Townhouse" shall mean a single structure consisting of three (3) or more dwelling units each having a private entrance on the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

**Subd. 125 Transit Station.** "Transit Station" shall mean a parcel or portion thereof that is used for loading and unloading of public transit riders including the platform, station facilities, public open space and park-and-ride lots. Transit Station is inclusive of all public transit modes.

**Subd. 126 Use.** "Use" shall mean the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

**Subd. 127 Use, Accessory.** "Use, Accessory" shall mean a use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal use.

**Subd. 128 Use, Interim.** "Use, Interim" shall mean a temporary use of a property until a particular date, or until the occurrence of a particular event, as determined by the City Council.

**Subd. 129 Use, Permitted.** "Use, Permitted" shall mean a use which may be lawfully established in a particular district, provided it conforms with all requirements, regulations, and performance standards of such district.

**Subd. 130 Use, Principal.** "Use, Principal" shall mean the main use of land for an activity which is an allowable use of the zoning district in which the land is located.

**Subd. 131 Utility Facility.** "Utility Facility" shall mean any above-ground structure or facility, other than a principal building, owned by a governmental entity, a non-profit organization, a corporation, or any other entity defined as a public utility for any purpose by State statute and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Streets are exempt from this definition, as are wires or pipes and supporting poles or structures within a public right-of-way for electric power, telephone, telegraph, cable television, gas, water, and sewer service.

**Subd. 132 Utility Facility, Community or Regional.** "Utility Facility, Community or Regional" shall mean any utility facility other than a neighborhood facility as defined in Subd. 124 below.

**Subd. 133 Utility Facility, Neighborhood.** "Utility Facility, Neighborhood" shall mean a utility facility designed to serve the immediate neighborhood and that must, for reasons related to the purpose of the utility, be located in or near the neighborhood where the facilities are proposed to be located.

**Subd. 134 Variance.** "Variance" shall mean a modification or variation of the provisions of this Chapter, as applied to a specific piece of property. A variance may be granted to the numerical standards of the Code, but not for the permissible use of a property.

**Subd. 135 Vehicle, Small.** "Vehicle, Small" shall mean any motor vehicle up to twenty (20) feet in length and up to seven (7) feet in height, commonly used as a passenger vehicle, not including trucks of any kind. See Subd. 86.

**Subd. 136 Wholesale Sales.** "Wholesale Sales" shall mean on-premise sale of goods primarily to customers engaged in the business of reselling the goods.

**Subd. 137 Yard.** "Yard" shall mean an open space on the same lot with a building or structure, which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Chapter.

**Subd. 138 Yard, Front.** "Yard, Front" shall mean a yard extending across the front of a lot between the side yard lines and lying between the front street line of the lot or right-of-way and the required front yard setback line, which front yard shall be provided on both street frontages of corner lots and double frontage lots.

**Subd. 139 Yard, Rear.** "Yard, Rear" shall mean a yard lying between the required rear yard setback line and rear line of the lot, for the full width of the lot.

**Subd. 140 Yard, Side.** "Yard, Side" shall mean a yard on the same lot with a building between the side yard setback line and the side line of the lot and extending from the front lot line to the rear yard.

**Subd. 141 Zoning Administrator.** "Zoning Administrator" shall mean the person authorized to administer and enforce this Chapter.

**Subd. 142 Zoning Districts.** "Zoning Districts" shall mean the areas of the City designated for specific uses with specific requirements for use or development.

**Subd. 143 Zoning Map.** "Zoning Map" shall mean the map or maps incorporated into this Chapter as a part thereof designating the zoning districts.

**1300.02 Rules of Construction.** The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- A. Words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.
- B. "Person" shall include an individual, association, syndicate, organization, partnership, trust company, corporation or any other legal entity.
- C. "Shall" is to be construed as being mandatory and not discretionary.
- D. "May" is to be construed as being permissive.
- E. "Lot" shall include the words "plot", "piece" and "parcel".
- F. "Used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

**1300.03 Purpose and Intent.** The purpose and intent of this Chapter shall be:

- A. To promote the general public health, safety, morals, comfort and general welfare of the inhabitants of the city.
- B. To promote the character and preserve and enhance the stability of properties and areas within the city;
- C. To divide the city into zones or districts as to the use, location, construction, reconstruction, alteration and use of land and structures for residence, business and industrial purposes;
- D. To provide adequate light, air, privacy and safety;
- E. To prevent the overcrowding of land, undue concentration of population;
- F. To promote the proper use of land and structures;

- G. To fix reasonable standards to which buildings, structures and land shall conform for the benefit of floor space than stores selling smaller items, as determined by the Zoning Administrator.
- H. To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified zones;
- I. To promote the safe, rapid and efficient movement of people and goods;
- J. To facilitate the provision of public services;
- K. To limit congestion in the public streets and protect the public health and welfare by providing for the off-street parking of vehicles and vehicle loading areas;
- L. To protect against fire, explosion, panic, noxious fumes, offensive noise, vibration, dust, odor, heat, glare, other pollution and hazards in the interest of the public health, comfort and general welfare;
- M. To define and limit the powers and duties of the administrative officers and bodies provided for herein.
- N. To implement the Comprehensive Plan.

#### **1300.04 Scope, Interpretation, Etc.**

**Subd. 1 Scope.** From and after the effective date of this Chapter, the use of all land and every building or portion of a building erected, altered with respect to height, area, or use, added to or relocated, and every use within a building or use accessory thereto, in the city shall be in conformity with the provisions of this Chapter.

**Subd. 2 Interpretation.** The provisions of this Chapter should be the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, code provision, other ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other code provision ordinance or regulation impose greater restrictions than this Chapter, the provisions of such statute, other code provision, ordinance or regulation shall be controlling.

**Subd. 3 Private Agreements.** This chapter shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Chapter shall govern.

**1300.05 Relationship to Existing City Ordinances.** To the extent that the provisions of this Chapter are the same in substance as the previously adopted provisions that they replace in the City's zoning, subdivision, or other land use control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Chapter merely by the repeal of the previous zoning ordinance and the adoption of a new ordinance.

**1300.06 Area Regulations.** No lot area shall be so reduced or diminished that the lot area, yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided.

**1300.07 Exceptions to General Yard Regulations.** Measurements for yard regulations shall be taken from the nearest point of the wall of a building to a lot line in question, subject to the following qualifications:

- A. Cornices, canopies, or eaves may extend into the required minimum front yard a distance not exceeding three (3) feet.
- B. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches;
- C. A landing place or uncovered porch may extend into the required front, side, or rear yards a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing may be placed around such place in the front yard only, and not in the side or rear yards;
- D. A wall or fence or hedge not to exceed the maximum height allowed in the underlying zoning district may occupy part of the required front, side, or rear yard;
- E. On double frontage lots, the required front yard shall be provided on both streets;
- F. On a corner lot, the lot line opposite the narrowest street frontage shall be considered the rear lot line for the purposes and standards in this Code, unless the Zoning Administrator determines that unusual conditions exist that warrant designating another lot line or lot lines as the rear.
- G. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view;
- H. The required front yard of a corner lot shall provide an unobstructed view between the two intersecting streets within a triangular area from the intersection of the street easement or right-of-way lines back thirty (30) feet along each side, from two (2) feet off the ground to a height of ten (10) feet, except for tree trunks less than twelve (12) inches in diameter.
- I. In determining the depth of a rear or side yard for any building where the rear or side yard opens into an alley, driveway easement or joint driveway, one-half the width of the alley, driveway easement or joint driveway, up to fifteen (15) feet, may be considered as a portion of the rear or side yard subject to the following qualifications:

**1300.08 Exceptions to Front Yard Setbacks.**

**Subd. 1 Twenty-five Percent Occupancy.** When more than twenty-five (25) percent of the frontage on one side of the street between intersections is occupied by structures having setbacks from street rights-of-way that are greater or lesser than required by this ordinance, the average setback of all existing buildings between the intersections, or to a distance of two hundred (200) feet in either direction, whichever is closer, shall be maintained by all new or relocated structures.

**Subd. 2 Preexisting Structures.** In the event a building is to be built where there is such an established setback different from that required in this ordinance and there are existing buildings on both sides of the said new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the forward most portions of the first adjacent building on each side.

**1300.09 Areas under Water.** All areas within the corporate limits of the city which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.

**1300.10 Height Regulations.**

**Subd. 1 Slope.** Where the average slope of a lot within proposed building lines is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance, one (1) additional story shall be permitted on the downhill side of any building.

**Subd. 2 Increases.** Height limitations set forth elsewhere in this Chapter may be increased by conditional use permit when applied to the following structures:

- A. Church spires, belfries, or domes;
- B. Water towers;
- C. Flagpoles;
- D. Agricultural structures in RE district;
- E. Any other use in any zoning district, only with findings that the use can be adequately protected by the City's fire-fighting equipment, and that it will not have an adverse effect on surrounding property.

**1300.11 One Principal Structure per Lot.** There shall be no more than one principal structure or principal building per lot, except as otherwise provided for in this Code. The Zoning Administrator shall make the determination whether a structure is a principal structure as intended by the provisions of this Chapter.

**1300.12 Moving of Structures.**

**Subd. 1 Purpose.** The purpose of this section of the Zoning Chapter is to maintain a harmonious and high standard of residential development, and to protect such areas from adverse effects through ensuring that both new and relocated dwellings from other areas shall meet specified requirements.

**Subd. 2 General.**

- A. All of the requirements associated with the moving of a building or structure shall apply only to destinations within the City of Newport city limits.
- B. No building or structure shall be moved within the City of Newport, unless a building permit for the building or structure has been obtained as provided in this Chapter.

- C. Except as is otherwise provided by Law, no building or structure shall be moved within the City of Newport, unless such building or structure was in full compliance with the State Building Code prior to the moving.

**Subd. 3 Applications.**

- A. Each permit for the moving of a structure or building shall include the following:
  - 1. A site plan of both the existing and the proposed sites including an illustration of how and where the structure will be located during and after the moving operation.
  - 2. A designated route and any stops the building or structure must make.
  - 3. A legal description of the property to which the building is to be moved to.
  - 4. An illustration and description of the electrical, natural gas, cable TV, sewer and water and any other utilities serving the existing and proposed sites; showing locations and type.
  - 5. An illustration showing all trees to be removed or partially removed from the existing and proposed sites.
  - 6. An administrative fee in an amount to be set annually by the City Council by Resolution, in addition to the building permit fee, which shall cover all City Administrative costs such as police, fire street supervision, tree inspection, and other City costs associated with the transfer of the building or structure. Additional unanticipated administration costs, incurred by the City during the move shall be paid by the applicant prior to issuance of a certificate of occupancy.
  - 7. Each application for a permit to move a building or structure shall be reviewed and approved by the City of Newport Public Works, Police, Fire Marshall, Building Inspection, and Zoning Departments prior to being submitted to the City Council for final approval.
- B. Each application for a permit to move a structure or building within the City of Newport, shall be reviewed by the City Planning Commission for a determination of architectural compatibility with other adjacent structures to the proposed site and for other requirements of this code.
- C. All applications for a permit to move a structure or building within the City of Newport shall be reviewed as to requirements of such things as minimum lot size, setbacks, proper zone, height regulations and other Zoning Code requirements.

**Subd. 4 Moving Operations.**

- A. All moving operations of the structure within public property shall be performed only from 10:00 P.M. to 6:00 A.M., unless the City Clerk-Administrator approves otherwise in writing.
- B. No structure shall be raised on moving blocks more than seven (7) calendar days prior to or fourteen (14) days after completion of an approved move. In no case shall an exposed vacant

- basement be left unfenced by the applicant. A minimum of a four (4) foot high safety fence shall be placed around the entire perimeter of an exposed basement.
- C. All exposed basements shall be filled in or backfilled with clean granular fill within seven (7) calendar days after removal of the structure from the lot. If the exposed basement is left uncovered more than seven (7) calendar days, the City Clerk-Administrator may direct the Public Works Director to fill in the basement. All City costs attributable to such filling shall be considered an unanticipated City administration expense to be paid by the landowner.
  - D. All excavations and basements at the proposed site of the structure shall be filled in or backfilled within twenty-one (21) days after the completion of the move, unless the city Clerk-Administrator grants an extension of time because of frost conditions.
  - E. All fine grading, seeding and sodding at the proposed site shall be completed prior to issuance of a certificate of occupancy, unless the City Clerk-Administrator grants an extension of time because of frost or other weather conditions.
  - F. Building movers must meet all State of Minnesota requirements, including those imposed by Minnesota Statute 221.81.

**1300.13 Removal of Soil, Sand or Other Material.** The use of land for the removal of more than ten (10) cubic yards of topsoil, sand or gravel, and other material from the land is not permitted in any zone except by permit established by the City.

**1300.14 Truck or Bus Parking in Residential Districts.** Parking, either on-street or off-street, of vehicles licensed by any state at over twelve thousand (12,000) pounds, except for deliveries and unloading, shall be prohibited in all residential districts on lots less than two (2) acres in size.

**1300.15 Violations.** No person shall use or occupy any lands or premises within the City contrary to the terms of this Chapter, or in any manner violate the terms thereof or the terms of any condition imposed under its authority, and any person so doing, upon conviction, shall be guilty of a misdemeanor.

**1300.16 Outdoor Furnaces.** Outdoor furnaces as defined in this zoning ordinance are not permitted within Newport City Limits.

**Section 1340 - Residential Districts****1340.01 Purpose**

The residential districts are established to accomplish the general purposes of this Chapter and for the following specific purposes:

- A. To preserve existing living qualities of residential neighborhoods;
- B. To ensure future high quality amenities including, but not limited to, the provision of adequate light, air, privacy, freedom from noise and convenience of access to property;
- C. To increase convenience and comfort by providing usable open space and recreation space on the same lot as the housing units they serve;
- D. To prevent additions or alterations of structures which would damage the character or desirability of existing residential areas;
- E. To protect residential areas, to the extent possible and appropriate in each area, against unduly heavy motor vehicle traffic;
- F. To encourage a variety of dwelling types and a wide range of population densities with emphasis on home ownership; and
- G. To implement the goals and policies of the Comprehensive Plan.

**1340.02 Intent.**

The specific intent of each residential district is as follows:

**Subd. 1 RE - Residential Estate District.** This district shall be intended:

- A. For residential areas without public utilities;
- B. To preserve lands in their natural state or in agricultural uses pending the proper timing for the economical provision of utilities, streets, parks, and other public facilities so that orderly development will occur; and
- C. To preserve and extend areas for single-family dwellings at very low densities within spacious environments
- D. Any lot or parcel of land located in a Residential Estates Zone (RE) served by municipal sewer shall be treated as a Single Family Residential (R-1) parcel and shall be required to meet all requirements of R-1 zoning. (see Ordinance No. 98-2).

**Subd. 2 R-1A - River Residential District.** This district shall be intended to preserve, create, and enhance areas for low-density single-family development along and near the Mississippi River where public utilities are available.

**Subd. 3 R-1 - Low Density Single Family Residential District.** This district shall be intended to preserve, create and enhance areas for low-density single-family dwelling development as an extension of existing residential areas and to allow low-density development in areas indicated as such in the comprehensive plan where public utilities are available;

**Subd. 4 R-2 - Medium Density Residential District.** This district shall be intended to allow development of townhouses, row houses, and other types of low-density multifamily units in areas consistent with the comprehensive plan and serviced by public utilities;

**Subd. 5 R-3 - High Density Residential District.** This district shall be intended to create, preserve and enhance areas for multi-family use at higher densities for both permanent and more transient families. It is typically appropriate only in areas served by public utilities, with good accessibility to thoroughfares, public services, commercial areas, and where such development fits the comprehensive plan and planning policies.

**1340.03 Residential Lot Area, Depth, Width, Coverage, Setbacks and Heights.**

The following minimum requirements shall be required in all residential districts:

	RE	R-1A	R-1	R-2	R-3
<b>Minimum Lot Area per Unit (Square Feet)</b>					
Dwellings, single-family	2 Acres	15,000	9,100	9,100	9,100
Dwellings, two family	--	--	--	7,800	7,800
Dwellings, more than two family	--	--	--	5,750	3,000
Other uses	2 Acres	1 Acre	1 Acre	1 Acre	1 Acre
Minimum Lot Depth in Feet	200	150	130	130	130
<b>Minimum Lot Width in Feet (Number in parenthesis is the lot width for a corner lot)</b>					
Dwellings, single-family	160 / (200)	100 / (120)	70 / (90)	70 / (90)	70 / (90)
Dwellings, two family	--	--	--	120 / (140)	120 / (140)
Dwellings, more than two family	--	--	--	120 / (140)	120 / (140)
Other uses	160	100	70	120	120
Minimum Front Yard in Feet***	40	30	30	30	30
<b>Minimum Side Yard in Feet (Number in parenthesis is the setback for a corner lot, street side)</b>					
Dwellings, single-family or two family	20 / (40)	10 / (30)**	10 / (30)**	10 / (30)	10 / (30)
Dwellings, more than two family	--	--	--	20 / (40)	20 / (40)
Garages or Accessory Structures***	20 / (40)	5 / (30)	5 / (30)	10 / (30)	10 / (30)
Other uses	20	30	30	20	20
<b>Minimum Rear Yard in Feet</b>					
Dwellings, single-family or two family	50	30	30	30	30
Dwellings, more than two family	--	--	--	30	30
Garages or Accessory Structures***	<del>40</del> 20	5	5	30	30
Other uses	50	40	40	40	40
Maximum Lot Coverage, All Structures	20%	20%	25%	30%	30%
Maximum Building Height in Feet ***	35 feet or 3 stories, whichever is greater, in all districts, but in no case higher than 1,000 feet U.S.G.S. sea level elevation; <u>25 feet in Shoreland Management Overlay District</u>				
Public Sewer Required	No	Yes	Yes	Yes	Yes

\* Regardless of the setback standards noted in this table, the distance between a proposed foundation wall and an existing foundation wall on an adjacent lot may not be less than fifteen (15) feet

\*\* Side setbacks for substandard lot widths in R-1A: 10% of lot width (25% for Corner Lot, Street Side). Side setbacks for substandard lot widths in R-1: 15% of lot width (33% for Corner Lot, Street Side)

\*\*\*See additional standards in Subsection 1340.04.

**1340.04 Single Family Residential Garage, Accessory Structure and Driveway Standards.**

The following standards shall apply to all garages and accessory structures for single family homes and duplexes in all zoning districts, and shall be in addition to the standards in Subsections 1340.03, 1370.03 (Shoreland Management District) and 1370.05 (Floodplain Management Districts). The intent of these standards shall be to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the City.

**Subd. 1 Construction.** No accessory building or structure shall be constructed on a lot prior to construction of the primary structure. Building permits are required for all accessory structures.

**Subd. 2 Number.** A residential lot, other than a river riparian lot, may have no more than two (2) accessory structures. A river riparian lot may have a guest cottage and a water-oriented accessory structure as regulated in Section 1370 of this Chapter, the Shoreland Management Section.

**Subd. 3 Height.** No garage, whether attached or detached, nor any accessory structure shall be taller than the principal structure on the lot as measured by the building height definition from Section 1300.01 Subd. ~~16-17~~ Building Height.

**Subd. 4 Location.** A detached accessory building shall not be located in any required front yard.

**Subd. 35 Square Footage.** Except in the RE district, the total footprint of all garage space, whether attached or detached, and of all accessory structure space for single-family residential uses shall be no larger than the footprint of the principal structure, and shall total a maximum of 2,000 square feet; except that a residential lot shall be allowed at least five hundred (500) square feet of garage space regardless of the house size, as long as the required setbacks and other standards are met. \_\_\_\_\_

In the **RE d**District, the number and size of accessory structures permitted on residential lots is as follows:

<u>Size of Parcel in RE DISTRICT</u>	<u>Number of Accessory Structures</u>	<u>Total Area of Accessory Structures (footprint)</u>
<u>Less than 2 acres</u>	<u>2</u>	<u>Total footprint of all accessory structures may be no larger than the footprint of the principal structure, up to a maximum of 2,000 square feet. Minimum 500 square feet of accessory structures is permitted on all parcels regardless of house size if required setbacks are met.</u>
<u>2.0-4.99Acres</u>	<u>2</u>	<u>2500 square feet</u>
<u>5.0 Acres or greater</u>	<u>2</u>	<u>Up to 2,500 total square feet is permitted. 2,500 total square feet to 3,500 maximum total square feet of accessory structures may be permitted with a Conditional Use Permit.</u>

~~the footprint of all accessory structure space may be larger than the footprint of the principal structure, but no larger than two thousand (2,000) square feet in area except on individual parcels in excess of 3 acres as authorized through a conditional use permit.~~

**Subd 6 Structure Area in the RE District between 2,500 and 3,500 square feet.** In order for the footprint of all accessory structures in the RE district to exceed 2,0500 square feet, the following conditions must be satisfied through obtaining a conditional use permit pursuant to Section 1310.10 of ~~this~~ Chapter:

- A. The parcel shall not be re-platted, split or subdivided such that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in this chapter.
- B. The site must demonstrate that the accessory structures do not encroach upon existing septic systems and that an alternative septic system area is protected.
- C. Plantings consisting of a combination of trees and shrubs shall be installed within the set back area providing a buffer between the accessory structure (s) and future development on adjacent property.
- D. Any accessory structure or garage other than a garage attached to the principal structure on the site shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery.
- E. All the other subdivisions of this section apply to the RE district.

**Subd. 47 Compatibility.** All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over one hundred fifty (150) square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, color, and exterior finish materials.

If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building, except as otherwise provided in this Chapter

**Subd. 58 Additional Setback, Square Feet.** A garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side, or rear yard setbacks required in Subsection 1340.03, for every twenty (20) square feet of area over nine hundred (900) square feet of area in garages or accessory structures on the lot, except:

- A. An addition to an existing accessory structure which cannot meet the additional setbacks described above may extend an existing building edge at the existing setback line, but no closer to the lot line than the existing setback, and in no case closer than the minimum setbacks set forth in Subsection 1340.03.
- B. Such an extended building edge may be no more than thirty-six (36) feet in length along any single property line. Any portion of an extended building edge longer than thirty-six (36) feet in length must meet the additional setbacks described above in this Subdivision.
- C. In the RE district, a garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, ~~and side~~ and rear yard setbacks required in Subsection 1340.03 ~~up to a total maximum setback of one hundred (100) feet~~ 03t, for every forty (40) square feet of area or portion thereof over two thousand (2,000) square feet of area in garages or accessory structures on the lot. ~~The rear yard setback shall have a maximum setback of fifty (50') feet.~~

**Subd. 69 Additional Setbacks, Height.** A detached garage or an accessory structure shall provide an additional two (2) foot of setback beyond the minimum required front, side, or rear yard setbacks for every one (1) foot of height of its eave line over eight (8) feet.

**Subd. 710 Door Openings.** In the RE district, on lots at least three acres in size, there shall be no limit on the height of door openings for garages or other accessory structures. In all other cases, all door openings shall be eight (8) feet in height or less, except that one door opening in one accessory structure per lot may be a maximum of twelve (12) feet in height. In all districts, any door opening over eight (8) feet in height shall be turned perpendicular to the front lot line so as not to face any public street, or, if facing a public street, it shall be set back an additional ten (10) feet beyond the minimum front yard setback required in Subsection 1340.03 for every one (1) foot of height of the door opening over eight (8) feet.

**Subd. 11 Subdivision.** No land shall be subdivided so as to have an accessory structure without a primary structure, or to have a larger building or structure than permitted by this ordinance. When a property is developed or redeveloped and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.

**Subd. 12 Use of Accessory Structures.** No accessory building shall at any time be used as a habitable building. No accessory structure in a residential district shall at any time be used for a commercial or industrial use. Use of accessory structures for home occupations is governed by Section 1340.07, Subdivision 2.

**Subd. 813 Intermodal container or shipping containers.** All intermodal containers in residential districts shall be considered to be accessory structures, and shall meet all code requirements for accessory structures in residential districts, including those in Sections 1340.03, 1340.04, 1370.03 and 1370.05.

**Subd. 914 Driveways.** One driveway access to a public roadway is permitted for each lot.

#### **1340.041 Covered Storage Building Standards.**

The intent of this section is to regulate the installation and maintenance of covered storage buildings, also known as tent garages or temporary carports. More specifically the intent of this section is to minimize the potential for these structures to become unsightly as seen from public right-of-ways or adjacent residential properties. The following standards and conditions apply to covered storage buildings:

**Subd. 1 Permitted As Accessory Structures.** “Covered Storage Buildings” are a permitted use as an accessory structure only in residential districts and shall not be permitted in General Business, Light Industrial, General Industrial, and Industrial Storage Districts or for any commercial use or purpose within the ~~MX-1 Mixed-Use “Downtown” or MX-2 Mixed-Use “Mainstreet”~~ Mixed-Use Districts. Covered Storage Buildings shall comply with the standards outlined in Section 1340.04. In addition, the following criteria shall be applied to covered storage buildings permitted as an accessory structure:

- A. Placement on Lot: The structure shall not be located in any front yard.
- B. Screening: The structure shall be screened from public right-of-way and adjacent property with shrubbery, trees or fencing.

- C. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass. The condition of the structure shall comply with the standards found in Ordinance 2002-11, Chapter 8. Section 811 Building and Property Maintenance.
- D. Number per Residential Lot: Only one (1) structure shall be permitted per residential lot.

**Subd. 2 Allowed with Conditions:**

- A. Placement on Lot: Structures shall not be placed in any front yard or adjacent to the driveway if located in the front yard. All other building setbacks must be met as established by the underlying zoning district.
- B. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass.
- C. Lot Coverage and Structure Height: Except as provided herein, all standards relating to structure height, lot coverage, and number of accessory structures on the lot as outlined in Section 1340.04 shall be met.

**Subd. 3 Building Permit Required.** Installation of covered storage buildings over 336 square feet or 10 feet in height require a building permit from building inspections.

**1340.05 Credits and Allowances for Multiple Dwellings.**

The following lot area credits and allowances shall be applied for multiple dwellings in R-2 and R-3 districts but in no event shall the minimum lot area with allowances be less than five thousand (5,000) square feet per dwelling unit in the R-2 district nor less than two thousand two hundred (2,200) square feet in the R-3 district based on the following schedule:

- A. For each parking space provided within or beneath a principal structure, subtract three hundred (300) square feet;
- B. If the site upon which the multiple dwelling is being constructed is adjacent to a site zoned for a commercial use, subtract three hundred (300) square feet;
- C. If the adjacent site is zoned R-1 or R-1A, add three hundred (300) square feet per unit for that portion of the multiple dwelling site within one hundred fifty (150) feet of the R-1 or R-1A district;
- D. If the total lot coverage is less than twenty (20) percent, subtract one hundred fifty (150) square feet per unit;
- E. For each unit containing bedrooms in excess of two (2), add three hundred (300) square feet.

**1340.06 Special Regulations for the R-2 and R-3 Residential Districts.**

**Subd. 1 Minimum Floor Area for Multiple Family Dwellings.** The minimum floor area of an efficiency dwelling unit shall be not less than four hundred (400) net square feet, that of a one-bedroom dwelling unit shall be not less than seven hundred (700) net square feet, and that of a two-bedroom dwelling unit shall be not less than nine hundred (900) net square feet. Units containing three (3) or more bedrooms shall have an additional one hundred fifty (150) net square feet of floor area for each bedroom in excess of two (2) bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, furnace areas or rooms, storage areas not within the apartment, or garages.

**Subd. 2 Design and Construction Requirements.**

- A. Design Review. If a Conditional Use Permit is required, the plans for a multiple dwelling must be approved by the City Council upon a recommendation by the Planning Commission after review of the plans set forth in paragraph (B) below. The Planning Commission and Council may designate conditions or guarantees in connection with the Conditional Use Permit, which will substantially secure the provisions of the district. In granting the permit, the Planning Commission and council shall consider the requirements of paragraph (B) below and may consider other factors affecting the public health, safety and welfare.
- B. Building Design and Construction. A building permit and Conditional Use Permit, if required, for a multiple dwelling building shall not be issued unless the applicant's building plans, including the site plan, are certified by an architect registered in the state stating that the design of the building and site has been prepared under his direct supervision. Any building of type I or II construction, as provided in the state building code, shall have its electrical, mechanical and structural systems designed by registered engineers. Provisions of this paragraph shall not prohibit the preparation of the site plan by a professional site planner. Such plans shall include the following:
1. Complete details of the proposed site development including location of buildings, driveways, parking spaces, lot dimensions, lot area and yard dimensions;
  2. Complete landscaping plans including species and size of trees and shrubs proposed;
  3. Complete plans for proposed sidewalks to service parking, recreation and service areas within the proposed development;
  4. Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area;
  5. Complete structural, electrical and mechanical plans for the buildings;
  6. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
- C. Type of Construction. Any building more than two and one-half (2 1/2) stories in height shall be of type I or type II construction as provided in the state building code.
- D. Efficiency Dwelling Units. No more than twenty (20) percent of the dwelling units in any one (1) building shall be efficiency dwelling units.
- E. Closets and Bulk Storage. The following minimum amounts of closet and bulk storage shall be provided for each dwelling unit:

1. One-bedroom unit: ten (10) lineal feet of closet space and eighty (80) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;
  2. Two-bedroom unit: twenty-four (24) lineal feet of closet space and one hundred (100) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;
  3. Three (3) or more bedrooms: for each bedroom in excess of two (2) in any one (1) dwelling unit, an additional ten (10) lineal feet of closet space and fifty (50) cubic feet of bulk storage volume shall be required.
- F. Sound. Party and corridor partitions and floor systems shall be of a type rated by a laboratory regularly engaged in sound testing as capable of accomplishing an average sound transmission loss (using a nine-frequency test) of not less than fifty (50) decibels. Door systems between corridors and dwelling units shall be of solid core construction and include gaskets and closure plates. Room relationships, hallway designs, door and window placements and plumbing and ventilating installations shall be such that they assist in the control of sound transmission from unit to unit.
- G. Projecting air conditioning and heating units. Air conditioning or heating units projecting through exterior walls or windows shall be so located and designed that they neither unnecessarily generate nor transmit sound nor disrupt the architectural amenities of the building. Units projecting more four (4) inches beyond the exterior finish of a building wall shall be permitted only with the written consent of the building inspector, which shall be given when building structural systems prevent compliance.
- H. Trash incinerators and garbage. Except with townhouse and multiple residence sites of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of townhouse and multiple residences with four (4) or less units, there shall be no exterior incineration, and any storage shall be completely enclosed by walls 6' in height.
- I. Elevators. Any multiple residence building of three (3) stories or more shall be equipped with at least one (1) public elevator.
- J. Accessory Buildings. Exteriors of accessory buildings shall have the same exterior finish as the principal structure.

**Subd. 3 Recreations and Open Space.** Multiple family residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of sump and drainage areas which shall not be less than twenty (20) percent of the gross area of the property and shall consist principally of land within the building setback lines.

#### **1340.07 Special Regulations for All Residential Districts.**

**Subd. 1 Dwelling and Manufactured Single Family Dwellings.** All dwellings and manufactured single-family dwellings constructed or established after the adoption of this Code shall meet the following criteria:

- A. The dwelling and manufactured single-family dwelling shall be placed on and secured to a permanent foundation of concrete, masonry, or treated wood;
- B. The dwelling and manufactured single-family dwelling shall have a minimum length and width of twenty (20) feet at all points, providing that such measurements shall not include overhangs and other projections beyond the principal exterior walls;
- C. The dwelling and manufactured single-family dwelling shall include an attached or detached private garage on the lot;
- D. The dwelling shall comply with the state building code and the manufactured single family dwelling shall comply with applicable Minnesota Statutes.

**Subd. 2 Home Occupations.** All home occupations shall meet the following requirements:

- A. The number of employees shall be limited to one (1) person in addition to family members residing within the home;
- B. The area within the dwelling used by the home occupation shall not exceed twenty (20) percent of the dwelling's livable floor area;
- C. On-site sales shall be prohibited, except those clearly incidental to services provided in the dwelling;
- D. Any interior or exterior alterations of a dwelling for a home occupation shall be prohibited, except those customarily found in a dwelling;
- E. Vehicles associated with a home occupation shall be limited to one automobile, pick-up truck or van on the premises, which shall be parked in a garage if the name of the home occupation or advertising appears on the vehicle. Any vehicles associated with a rural home occupation must be parked in a specified storage area or accessory structure;
- F. Unusual parking and traffic patterns shall not be created, which are not normally found in the neighborhood, and in no case shall customer vehicles be parked on public or private roads;
- G. Only one (1) sign shall be permitted. Such sign shall be a non-illuminated nameplate of not more than three (3) square feet in area, and shall be attached to the entrance of the dwelling and, in the case of a rural home occupation; it may be attached to the dwelling or the accessory structure.

**Subd. 3 Residential Building Design Review Standards.** All residential units proposed for construction on existing vacant lots or lots that become vacant by reason of demolition or destruction of existing structures within the R-1 District west of State Trunk Highway 61 shall require a Design Permit, and shall be reviewed according to the following process and standards:

- A. Site Plan Review and Review Process
  - 1. Initial Meeting. The Applicant shall first meet with the Zoning Administrator. The Zoning Administrator will explain the goals and intent of the Design Permit, Site Plan and Design Review process, along with the guidelines, application requirements and schedule.

2. Design Permit, Site Plan and Building Elevations. The Applicant shall apply for a Design Permit for the proposed residential building. The application shall include submission of a Site Plan to the City and approval of a Design Permit before building permits are issued for new residential buildings on a vacant lot. The site plan shall be drawn to scale and show the following: site location, all proposed buildings, driveways, sidewalks, and other impervious surfaces, the number of dwelling units the building is intended to accommodate, and building elevations drawn to scale.
  3. Application Submission and Filing Fee. The Applicant must submit the Site Plan and building elevations to the City along with a permit application and filing fee set by the City Council.
  4. Site Plan Review. The Zoning Administrator shall review and may approve the site plans and Design Permit. The Zoning Administrator shall notify the Planning Commission of all approved plans. The Zoning Administrator may request that the Planning Commission review the site plan and building elevations and provide comments or recommend conditions for approval. The Planning Commission may hold a public hearing on the application. Notice of the public hearing must be published in the City legal newspaper at least 10 days before the hearing and notice mailed to property owners within 350 feet of the site. At the hearing, the Planning Commission will either recommend approval, approval with conditions, or disapproval of the proposed Site Plan.
  5. HPC Review: The Zoning Administrator may refer the site plan and elevations to the Newport Heritage Preservation Commission for review if the site is adjacent to or would impact an identified historic structure or site. HPC comments shall be presented at the public hearing.
  6. Approval. If the application is approved, the Zoning Administrator will issue a Design Permit to the applicant and a copy to the Building Inspector.
  7. Appeal. The applicant or any interested person aggrieved with the Zoning Administrator's decision may, within 10 days, revise and resubmit the application to the Zoning Administrator or appeal the decision to the City Council.
  8. Building Permit: After the application is approved, the plans may be completed and submitted to the Building Inspector for Building Permit review. The final plans will also be reviewed for Design Permit compliance by the Zoning Administrator. The Building Inspector or Zoning Administrator will monitor compliance with the Design Permit and any conditions of approval.
- B. Building Design Standards
1. Relationship to Adjacent Buildings. All new buildings proposed on existing vacant lots or lots that become vacant through demolition shall relate to the design of adjacent traditional buildings in scale, size, proportions and character. This can be achieved by maintaining similar setbacks, façade divisions and proportions, porch elements, roof form and lines, rhythms and proportions of openings, building materials, details and colors. Historic architectural styles need not be replicated.

2. A primary entrance shall face an improved abutting street or be located off of a front porch, foyer, courtyard or similar architectural feature, and set back at least eight (8) feet from the side lot line.
3. For principal structures, above grade window and door openings shall comprise at least fifteen (15) percent of the total area of exterior walls facing a public street or sidewalk. In addition, above grade window and door openings shall comprise at least ten (10) percent of the total area of all exterior walls. Windows in garage doors shall count as openings; the area of garage doors themselves shall not count as openings. Windows shall be clear or translucent.
4. Residential structures shall be set back far enough from the street to provide a private yard area between the boulevard and the front door. Landscaping, steps, porches, grade changes, and low ornamental fences or walls may be used to provide increased privacy and livability.
5. Building materials and architectural treatments used on sides of buildings facing an abutting public street and on accessory structures should be similar to those used on principal facades.
6. The design and siting of the building should seek to preserve existing trees on the site and immediately adjacent lots. The landscape design should consider permeable materials for paths and driveways to protect existing mature trees in sensitive areas.

**Section 1340 - Residential Districts****1340.01 Purpose**

The residential districts are established to accomplish the general purposes of this Chapter and for the following specific purposes:

- A. To preserve existing living qualities of residential neighborhoods;
- B. To ensure future high quality amenities including, but not limited to, the provision of adequate light, air, privacy, freedom from noise and convenience of access to property;
- C. To increase convenience and comfort by providing usable open space and recreation space on the same lot as the housing units they serve;
- D. To prevent additions or alterations of structures which would damage the character or desirability of existing residential areas;
- E. To protect residential areas, to the extent possible and appropriate in each area, against unduly heavy motor vehicle traffic;
- F. To encourage a variety of dwelling types and a wide range of population densities with emphasis on home ownership; and
- G. To implement the goals and policies of the Comprehensive Plan.

**1340.02 Intent.**

The specific intent of each residential district is as follows:

**Subd. 1 RE - Residential Estate District.** This district shall be intended:

- A. For residential areas without public utilities;
- B. To preserve lands in their natural state or in agricultural uses pending the proper timing for the economical provision of utilities, streets, parks, and other public facilities so that orderly development will occur; and
- C. To preserve and extend areas for single-family dwellings at very low densities within spacious environments
- D. Any lot or parcel of land located in a Residential Estates Zone (RE) served by municipal sewer shall be treated as a Single Family Residential (R-1) parcel and shall be required to meet all requirements of R-1 zoning. (see Ordinance No. 98-2).

**Subd. 2 R-1A - River Residential District.** This district shall be intended to preserve, create, and enhance areas for low-density single-family development along and near the Mississippi River where public utilities are available.

**Subd. 3 R-1 - Low Density Single Family Residential District.** This district shall be intended to preserve, create and enhance areas for low-density single-family dwelling development as an extension of existing residential areas and to allow low-density development in areas indicated as such in the comprehensive plan where public utilities are available;

**Subd. 4 R-2 - Medium Density Residential District.** This district shall be intended to allow development of townhouses, row houses, and other types of low-density multifamily units in areas consistent with the comprehensive plan and serviced by public utilities;

**Subd. 5 R-3 - High Density Residential District.** This district shall be intended to create, preserve and enhance areas for multi-family use at higher densities for both permanent and more transient families. It is typically appropriate only in areas served by public utilities, with good accessibility to thoroughfares, public services, commercial areas, and where such development fits the comprehensive plan and planning policies.

**1340.03 Residential Lot Area, Depth, Width, Coverage, Setbacks and Heights.**

The following minimum requirements shall be required in all residential districts:

	RE	R-1A	R-1	R-2	R-3
<b>Minimum Lot Area per Unit (Square Feet)</b>					
Dwellings, single-family	2 Acres	15,000	9,100	9,100	9,100
Dwellings, two family	--	--	--	7,800	7,800
Dwellings, more than two family	--	--	--	5,750	3,000
Other uses	2 Acres	1 Acre	1 Acre	1 Acre	1 Acre
Minimum Lot Depth in Feet	200	150	130	130	130
<b>Minimum Lot Width in Feet (Number in parenthesis is the lot width for a corner lot)</b>					
Dwellings, single-family	160 / (200)	100 / (120)	70 / (90)	70 / (90)	70 / (90)
Dwellings, two family	--	--	--	120 / (140)	120 / (140)
Dwellings, more than two family	--	--	--	120 / (140)	120 / (140)
Other uses	160	100	70	120	120
Minimum Front Yard in Feet***	40	30	30	30	30
<b>Minimum Side Yard in Feet (Number in parenthesis is the setback for a corner lot, street side)</b>					
Dwellings, single-family or two family	20 / (40)	10 / (30)**	10 / (30)**	10 / (30)	10 / (30)
Dwellings, more than two family	--	--	--	20 / (40)	20 / (40)
Garages or Accessory Structures***	20 / (40)	5 / (30)	5 / (30)	10 / (30)	10 / (30)
Other uses	20	30	30	20	20
<b>Minimum Rear Yard in Feet</b>					
Dwellings, single-family or two family	50	30	30	30	30
Dwellings, more than two family	--	--	--	30	30
Garages or Accessory Structures***	20	5	5	30	30
Other uses	50	40	40	40	40
Maximum Lot Coverage, All Structures	20%	20%	25%	30%	30%
Maximum Building Height in Feet ***	35 feet or 3 stories, whichever is greater, in all districts, but in no case higher than 1,000 feet U.S.G.S. sea level elevation; 25 feet in Shoreland Management Overlay District				
Public Sewer Required	No	Yes	Yes	Yes	Yes

\* Regardless of the setback standards noted in this table, the distance between a proposed foundation wall and an existing foundation wall on an adjacent lot may not be less than fifteen (15) feet

\*\* Side setbacks for substandard lot widths in R-1A: 10% of lot width (25% for Corner Lot, Street Side). Side setbacks for substandard lot widths in R-1: 15% of lot width (33% for Corner Lot, Street Side)

\*\*\*See additional standards in Subsection 1340.04.

**1340.04 Single Family Residential Garage, Accessory Structure and Driveway Standards.**

The following standards shall apply to all garages and accessory structures for single family homes and duplexes in all zoning districts, and shall be in addition to the standards in Subsections 1340.03, 1370.03 (Shoreland Management District) and 1370.05 (Floodplain Management Districts). The intent of these standards shall be to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the City.

**Subd. 1 Construction.** No accessory building or structure shall be constructed on a lot prior to construction of the primary structure. Building permits are required for all accessory structures.

**Subd. 2 Number.** A residential lot, other than a river riparian lot, may have no more than two (2) accessory structures. A river riparian lot may have a guest cottage and a water-oriented accessory structure as regulated in Section 1370 of this Chapter, the Shoreland Management Section.

**Subd. 3 Height.** No garage, whether attached or detached, nor any accessory structure shall be taller than the principal structure on the lot as measured by the building height definition from Section 1300.01 Subd. 17 Building Height.

**Subd. 4 Location.** A detached accessory building shall not be located in any required front yard.

**Subd. 5 Square Footage.** Except in the RE district, the total footprint of all garage space, whether attached or detached, and of all accessory structure space for single-family residential uses shall be no larger than the footprint of the principal structure, and shall total a maximum of 2,000 square feet; except that a residential lot shall be allowed at least five hundred (500) square feet of garage space regardless of the house size, as long as the required setbacks and other standards are met.

In the **RE District**, the number and size of accessory structures permitted on residential lots is as follows:

Size of Parcel in RE DISTRICT	Number of Accessory Structures	Total Area of Accessory Structures (footprint)
Less than 2 acres	2	Total footprint of all accessory structures may be no larger than the footprint of the principal structure, up to a maximum of 2,000 square feet. Minimum 500 square feet of accessory structures is permitted on all parcels regardless of house size if required setbacks are met.
2.0-4.99Acres	2	2500 square feet
5.0 Acres or greater	2	Up to 2,500 total square feet is permitted. 2,500 total square feet to 3,500 maximum total square feet of accessory structures may be permitted with a Conditional Use Permit.

**Subd 6 Structure Area in the RE District between 2,500 and 3,500 square feet.** In order for the footprint of all accessory structures in the RE district to exceed 2,500 square feet, the following conditions must be satisfied through obtaining a conditional use permit pursuant to Section 1310.10 of this Chapter:

- A. The parcel shall not be re-platted, split or subdivided such that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in this chapter.
- B. The site must demonstrate that the accessory structures do not encroach upon existing septic systems and that an alternative septic system area is protected.
- C. Plantings consisting of a combination of trees and shrubs shall be installed within the set back area providing a buffer between the accessory structure (s) and future development on adjacent property.
- D. Any accessory structure or garage other than a garage attached to the principal structure on the site shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery.
- E. All the other subdivisions of this section apply to the RE district.

**Subd. 7 Compatibility.** All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over one hundred fifty (150) square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, color, and exterior finish materials.

If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building, except as otherwise provided in this Chapter

**Subd. 8 Additional Setback, Square Feet.** A garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side, or rear yard setbacks required in Subsection 1340.03, for every twenty (20) square feet of area over nine hundred (900) square feet of area in garages or accessory structures on the lot, except:

- A. An addition to an existing accessory structure which cannot meet the additional setbacks described above may extend an existing building edge at the existing setback line, but no closer to the lot line than the existing setback, and in no case closer than the minimum setbacks set forth in Subsection 1340.03.
- B. Such an extended building edge may be no more than thirty-six (36) feet in length along any single property line. Any portion of an extended building edge longer than thirty-six (36) feet in length must meet the additional setbacks described above in this Subdivision.
- C. In the RE district, a garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side and rear yard setbacks required in Subsection 1340.03, for every forty (40) square feet of area or portion thereof over two thousand (2,000) square feet of area in garages or accessory structures on the lot.

**Subd. 9 Additional Setbacks, Height.** A detached garage or an accessory structure shall provide an additional two (2) foot of setback beyond the minimum required front, side, or rear yard setbacks for every one (1) foot of height of its eave line over eight (8) feet.

**Subd. 10 Door Openings.** In the RE district, on lots at least three acres in size, there shall be no limit on the height of door openings for garages or other accessory structures. In all other cases, all door openings shall be eight (8) feet in height or less, except that one door opening in one accessory structure per lot may be a maximum of twelve (12) feet in height. In all districts, any door opening over eight (8) feet in height shall be turned perpendicular to the front lot line so as not to face any public street, or, if facing a public street, it shall be set back an additional ten (10) feet beyond the minimum front yard setback required in Subsection 1340.03 for every one (1) foot of height of the door opening over eight (8) feet.

**Subd. 11 Subdivision.** No land shall be subdivided so as to have an accessory structure without a primary structure, or to have a larger building or structure than permitted by this ordinance. When a property is developed or redeveloped and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.

**Subd. 12 Use of Accessory Structures.** No accessory building shall at any time be used as a habitable building. No accessory structure in a residential district shall at any time be used for a commercial or industrial use. Use of accessory structures for home occupations is governed by Section 1340.07, Subdivision 2.

**Subd. 13 Intermodal container or shipping containers.** All intermodal containers in residential districts shall be considered to be accessory structures, and shall meet all code requirements for accessory structures in residential districts, including those in Sections 1340.03, 1340.04, 1370.03 and 1370.05.

**Subd. 14 Driveways.** One driveway access to a public roadway is permitted for each lot.

#### **1340.041 Covered Storage Building Standards.**

The intent of this section is to regulate the installation and maintenance of covered storage buildings, also known as tent garages or temporary carports. More specifically the intent of this section is to minimize the potential for these structures to become unsightly as seen from public right-of-ways or adjacent residential properties. The following standards and conditions apply to covered storage buildings:

**Subd. 1 Permitted As Accessory Structures.** “Covered Storage Buildings” are a permitted use as an accessory structure only in residential districts and shall not be permitted in General Business, Light Industrial, General Industrial, and Industrial Storage Districts or for any commercial use or purpose within the Mixed-Use Districts. Covered Storage Buildings shall comply with the standards outlined in Section 1340.04. In addition, the following criteria shall be applied to covered storage buildings permitted as an accessory structure:

- A. Placement on Lot: The structure shall not be located in any front yard.
- B. Screening: The structure shall be screened from public right-of-way and adjacent property with shrubbery, trees or fencing.
- C. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass. The condition of the structure shall comply with the standards found in Ordinance 2002-11, Chapter 8. Section 811 Building and Property Maintenance.

D. Number per Residential Lot: Only one (1) structure shall be permitted per residential lot.

**Subd. 2 Allowed with Conditions:**

- A. Placement on Lot: Structures shall not be placed in any front yard or adjacent to the driveway if located in the front yard. All other building setbacks must be met as established by the underlying zoning district.
- B. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass.
- C. Lot Coverage and Structure Height: Except as provided herein, all standards relating to structure height, lot coverage, and number of accessory structures on the lot as outlined in Section 1340.04 shall be met.

**Subd. 3 Building Permit Required.** Installation of covered storage buildings over 336 square feet or 10 feet in height require a building permit from building inspections.

**1340.05 Credits and Allowances for Multiple Dwellings.**

The following lot area credits and allowances shall be applied for multiple dwellings in R-2 and R-3 districts but in no event shall the minimum lot area with allowances be less than five thousand (5,000) square feet per dwelling unit in the R-2 district nor less than two thousand two hundred (2,200) square feet in the R-3 district based on the following schedule:

- A. For each parking space provided within or beneath a principal structure, subtract three hundred (300) square feet;
- B. If the site upon which the multiple dwelling is being constructed is adjacent to a site zoned for a commercial use, subtract three hundred (300) square feet;
- C. If the adjacent site is zoned R-1 or R-1A, add three hundred (300) square feet per unit for that portion of the multiple dwelling site within one hundred fifty (150) feet of the R-1 or R-1A district;
- D. If the total lot coverage is less than twenty (20) percent, subtract one hundred fifty (150) square feet per unit;
- E. For each unit containing bedrooms in excess of two (2), add three hundred (300) square feet.

**1340.06 Special Regulations for the R-2 and R-3 Residential Districts.**

**Subd. 1 Minimum Floor Area for Multiple Family Dwellings.** The minimum floor area of an efficiency dwelling unit shall be not less than four hundred (400) net square feet, that of a one-bedroom dwelling unit shall be not less than seven hundred (700) net square feet, and that of a two-bedroom dwelling unit shall be not less than nine hundred (900) net square feet. Units containing three (3) or more bedrooms shall have an additional one hundred fifty (150) net square feet of floor area for each bedroom in excess of two (2) bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public

entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, furnace areas or rooms, storage areas not within the apartment, or garages.

**Subd. 2 Design and Construction Requirements.**

- A. Design Review. If a Conditional Use Permit is required, the plans for a multiple dwelling must be approved by the City Council upon a recommendation by the Planning Commission after review of the plans set forth in paragraph (B) below. The Planning Commission and Council may designate conditions or guarantees in connection with the Conditional Use Permit, which will substantially secure the provisions of the district. In granting the permit, the Planning Commission and council shall consider the requirements of paragraph (B) below and may consider other factors affecting the public health, safety and welfare.
- B. Building Design and Construction. A building permit and Conditional Use Permit, if required, for a multiple dwelling building shall not be issued unless the applicant's building plans, including the site plan, are certified by an architect registered in the state stating that the design of the building and site has been prepared under his direct supervision. Any building of type I or II construction, as provided in the state building code, shall have its electrical, mechanical and structural systems designed by registered engineers. Provisions of this paragraph shall not prohibit the preparation of the site plan by a professional site planner. Such plans shall include the following:
1. Complete details of the proposed site development including location of buildings, driveways, parking spaces, lot dimensions, lot area and yard dimensions;
  2. Complete landscaping plans including species and size of trees and shrubs proposed;
  3. Complete plans for proposed sidewalks to service parking, recreation and service areas within the proposed development;
  4. Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area;
  5. Complete structural, electrical and mechanical plans for the buildings;
  6. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
- C. Type of Construction. Any building more than two and one-half (2 1/2) stories in height shall be of type I or type II construction as provided in the state building code.
- D. Efficiency Dwelling Units. No more than twenty (20) percent of the dwelling units in any one (1) building shall be efficiency dwelling units.
- E. Closets and Bulk Storage. The following minimum amounts of closet and bulk storage shall be provided for each dwelling unit:
1. One-bedroom unit: ten (10) lineal feet of closet space and eighty (80) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;

2. Two-bedroom unit: twenty-four (24) lineal feet of closet space and one hundred (100) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;
  3. Three (3) or more bedrooms: for each bedroom in excess of two (2) in any one (1) dwelling unit, an additional ten (10) lineal feet of closet space and fifty (50) cubic feet of bulk storage volume shall be required.
- F. Sound. Party and corridor partitions and floor systems shall be of a type rated by a laboratory regularly engaged in sound testing as capable of accomplishing an average sound transmission loss (using a nine-frequency test) of not less than fifty (50) decibels. Door systems between corridors and dwelling units shall be of solid core construction and include gaskets and closure plates. Room relationships, hallway designs, door and window placements and plumbing and ventilating installations shall be such that they assist in the control of sound transmission from unit to unit.
- G. Projecting air conditioning and heating units. Air conditioning or heating units projecting through exterior walls or windows shall be so located and designed that they neither unnecessarily generate nor transmit sound nor disrupt the architectural amenities of the building. Units projecting more four (4) inches beyond the exterior finish of a building wall shall be permitted only with the written consent of the building inspector, which shall be given when building structural systems prevent compliance.
- H. Trash incinerators and garbage. Except with townhouse and multiple residence sites of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of townhouse and multiple residences with four (4) or less units, there shall be no exterior incineration, and any storage shall be completely enclosed by walls 6' in height.
- I. Elevators. Any multiple residence building of three (3) stories or more shall be equipped with at least one (1) public elevator.
- J. Accessory Buildings. Exteriors of accessory buildings shall have the same exterior finish as the principal structure.

**Subd. 3 Recreations and Open Space.** Multiple family residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of sump and drainage areas which shall not be less than twenty (20) percent of the gross area of the property and shall consist principally of land within the building setback lines.

#### **1340.07 Special Regulations for All Residential Districts.**

**Subd. 1 Dwelling and Manufactured Single Family Dwellings.** All dwellings and manufactured single-family dwellings constructed or established after the adoption of this Code shall meet the following criteria:

- A. The dwelling and manufactured single-family dwelling shall be placed on and secured to a permanent foundation of concrete, masonry, or treated wood;

- B. The dwelling and manufactured single-family dwelling shall have a minimum length and width of twenty (20) feet at all points, providing that such measurements shall not include overhangs and other projections beyond the principal exterior walls;
- C. The dwelling and manufactured single-family dwelling shall include an attached or detached private garage on the lot;
- D. The dwelling shall comply with the state building code and the manufactured single family dwelling shall comply with applicable Minnesota Statutes.

**Subd. 2 Home Occupations.** All home occupations shall meet the following requirements:

- A. The number of employees shall be limited to one (1) person in addition to family members residing within the home;
- B. The area within the dwelling used by the home occupation shall not exceed twenty (20) percent of the dwelling's livable floor area;
- C. On-site sales shall be prohibited, except those clearly incidental to services provided in the dwelling;
- D. Any interior or exterior alterations of a dwelling for a home occupation shall be prohibited, except those customarily found in a dwelling;
- E. Vehicles associated with a home occupation shall be limited to one automobile, pick-up truck or van on the premises, which shall be parked in a garage if the name of the home occupation or advertising appears on the vehicle. Any vehicles associated with a rural home occupation must be parked in a specified storage area or accessory structure;
- F. Unusual parking and traffic patterns shall not be created, which are not normally found in the neighborhood, and in no case shall customer vehicles be parked on public or private roads;
- G. Only one (1) sign shall be permitted. Such sign shall be a non-illuminated nameplate of not more than three (3) square feet in area, and shall be attached to the entrance of the dwelling and, in the case of a rural home occupation; it may be attached to the dwelling or the accessory structure.

**Subd. 3 Residential Building Design Review Standards.** All residential units proposed for construction on existing vacant lots or lots that become vacant by reason of demolition or destruction of existing structures within the R-1 District west of State Trunk Highway 61 shall require a Design Permit, and shall be reviewed according to the following process and standards:

- A. Site Plan Review and Review Process
  - 1. Initial Meeting. The Applicant shall first meet with the Zoning Administrator. The Zoning Administrator will explain the goals and intent of the Design Permit, Site Plan and Design Review process, along with the guidelines, application requirements and schedule.
  - 2. Design Permit, Site Plan and Building Elevations. The Applicant shall apply for a Design Permit for the proposed residential building. The application shall include

submission of a Site Plan to the City and approval of a Design Permit before building permits are issued for new residential buildings on a vacant lot. The site plan shall be drawn to scale and show the following: site location, all proposed buildings, driveways, sidewalks, and other impervious surfaces, the number of dwelling units the building is intended to accommodate, and building elevations drawn to scale.

3. Application Submission and Filing Fee. The Applicant must submit the Site Plan and building elevations to the City along with a permit application and filing fee set by the City Council.
  4. Site Plan Review. The Zoning Administrator shall review and may approve the site plans and Design Permit. The Zoning Administrator shall notify the Planning Commission of all approved plans. The Zoning Administrator may request that the Planning Commission review the site plan and building elevations and provide comments or recommend conditions for approval. The Planning Commission may hold a public hearing on the application. Notice of the public hearing must be published in the City legal newspaper at least 10 days before the hearing and notice mailed to property owners within 350 feet of the site. At the hearing, the Planning Commission will either recommend approval, approval with conditions, or disapproval of the proposed Site Plan.
  5. HPC Review: The Zoning Administrator may refer the site plan and elevations to the Newport Heritage Preservation Commission for review if the site is adjacent to or would impact an identified historic structure or site. HPC comments shall be presented at the public hearing.
  6. Approval. If the application is approved, the Zoning Administrator will issue a Design Permit to the applicant and a copy to the Building Inspector.
  7. Appeal. The applicant or any interested person aggrieved with the Zoning Administrator's decision may, within 10 days, revise and resubmit the application to the Zoning Administrator or appeal the decision to the City Council.
  8. Building Permit: After the application is approved, the plans may be completed and submitted to the Building Inspector for Building Permit review. The final plans will also be reviewed for Design Permit compliance by the Zoning Administrator. The Building Inspector or Zoning Administrator will monitor compliance with the Design Permit and any conditions of approval.
- B. Building Design Standards
1. Relationship to Adjacent Buildings. All new buildings proposed on existing vacant lots or lots that become vacant through demolition shall relate to the design of adjacent traditional buildings in scale, size, proportions and character. This can be achieved by maintaining similar setbacks, façade divisions and proportions, porch elements, roof form and lines, rhythms and proportions of openings, building materials, details and colors. Historic architectural styles need not be replicated.
  2. A primary entrance shall face an improved abutting street or be located off of a front porch, foyer, courtyard or similar architectural feature, and set back at least eight (8) feet from the side lot line.

3. For principal structures, above grade window and door openings shall comprise at least fifteen (15) percent of the total area of exterior walls facing a public street or sidewalk. In addition, above grade window and door openings shall comprise at least ten (10) percent of the total area of all exterior walls. Windows in garage doors shall count as openings; the area of garage doors themselves shall not count as openings. Windows shall be clear or translucent.
4. Residential structures shall be set back far enough from the street to provide a private yard area between the boulevard and the front door. Landscaping, steps, porches, grade changes, and low ornamental fences or walls may be used to provide increased privacy and livability.
5. Building materials and architectural treatments used on sides of buildings facing an abutting public street and on accessory structures should be similar to those used on principal facades.
6. The design and siting of the building should seek to preserve existing trees on the site and immediately adjacent lots. The landscape design should consider permeable materials for paths and driveways to protect existing mature trees in sensitive areas.

**From:** [Sherri A. Buss](#)  
**To:** [Deb Hill](#); [Renee Helm](#)  
**Subject:** FW: Newport  
**Date:** Monday, December 02, 2013 1:49:05 PM

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Deb and Renee,

Attached below is a note from Robert Vogel that includes an invitation for the PC to join the Heritage Commission at their meeting on January 8.

Should we discuss this with the PC on December 12 and see if they want to come? And if they have any thoughts on agenda items for the discussion?

Thanks, Sherri



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**From:** Robert C Vogel [mailto:[rcvogel@pathfindercrm.com](mailto:rcvogel@pathfindercrm.com)]  
**Sent:** Monday, December 02, 2013 1:38 PM  
**To:** Sherri A. Buss  
**Subject:** Newport

Hi Sherri –

The Newport Heritage Preservation Commission would like to invite the Planning Commission to their annual meeting, to be held on **Wednesday, January 8, 2014** at the Newport Public Library. Following a brief business meeting at 5:30 p.m. (the commission needs to elect officers, establish its meeting schedule and develop goals & objectives for the coming year), the commission will host a reception, to be followed by an informal workshop-style meeting with the Planning Commission (agenda to be determined), lasting about 45 minutes.

We were unable to carry out the planned river tour this year. Since 1993, the HPC has used its annual meeting in January for education and liaising with other agencies—it has also traditionally been our team building session. Commission members feel that joint meeting with the city's planning body would be particularly beneficial.

Robert

**ROBERT C. VOGEL**  
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