

ORDINANCE NO. 2022-2897



An Ordinance amending Newberg Municipal Code, Title 15 Development Code, 15.435.030, 15.435.090, and 15.435.100 related to portable and temporary signs

Recitals:

1. The City of Newberg last updated its development code regarding temporary and portable signs on September 8, 2015, with Ordinance No. 2015-2782.
2. The City received complaints during past election cycles regarding enforcement of temporary and portable signs within the community.
3. The proposal removes political considerations from the sign code and allows the City to enforce the code free of any suggestions of political bias. The sign code will respect peoples first amendment rights and be based on form and quantity not content.

The City of Newberg Ordains as Follows:

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

Effective Date of this ordinance is 30 days after the adoption date, which is: July 21, 2022.

Adopted by the City Council of Newberg, Oregon, this 21st day of June, 2022, by the following votes:

AYE: 6 **NAY:** 0 **ABSTAIN:** 0 **ABSENT:** 1 (District 2 seat vacant)


Sue Ryan, City Recorder

Attest by the Mayor this 23rd day of June, 2022.

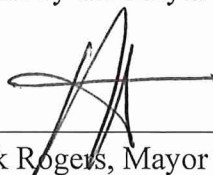

Rick Rogers, Mayor

Exhibit “A” to Ordinance No. 2022-2897
Development Code Amendment – File DCA22-0001

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, 15.435.030 shall be amended to read as follows:

A. Except as follows, no person or entity shall place any sign within the city without first obtaining a permit from the director.

B. The following do not require sign permits, but must otherwise comply with the standards of this chapter:

1. Minor freestanding signs.
2. Minor attached signs.
3. Temporary signs.
4. Portable signs (except as stated in NMC 15.435.105).
5. Flag display (two ~~one~~ allowed on each street frontage, except as authorized by 15.435.100C).
6. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following the issuance of such permit. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2499, 11-2-98. Code 2001 § 151.592.]

Penalty: See NMC 15.05.120

Section 2. Section 15.435.090 is amended to read as follows:

A. Number. Not more than two ~~one~~ portable signs may be located on any one street frontage, except temporary signs allowed per NMC 15.435.100.

B. Size.

1. Residential Zones.
 - a. Residential Uses. Two ~~One~~ portable signs. Each sign not to exceed six square feet.
 - b. All Other Permitted Uses. Two ~~One~~ portable signs not to exceed six square feet if located in the front yard, or 16 square feet if located elsewhere on the property.

2. Other Zones. The ~~two~~ one portable signs may not exceed 12 square feet if located in the front yard, or 40 square feet if located elsewhere on the property.

C. Design. No portable sign shall be permanently affixed to any structure or the ground. No portable sign shall be attached to a tree, utility pole, traffic sign, street sign, or any publicly owned pole, post, wire or cable, except as authorized by the city. All signs shall be designed to be removed quickly. No portable sign shall be animated or internally illuminated. No reader-board shall be used as a portable sign, except as a temporary sign as permitted NMC 15.435.100.

D. Location. No portable sign shall be located within the public right-of-way except as allowed under NMC 15.435.110.

E. Height. The height of a portable sign shall not exceed the maximum height of buildings in that zone. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2499, 11-2-98. Code 2001 § 151.598.]

Penalty: See NMC 15.05.120

Section 3. Section 15.435.100 is amended to read as follows:

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below. Pennants, streamers, and inflatable objects may be used during these events.

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event. An unlimited number of temporary signs are allowed during a grand opening event.

~~B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain no more than two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right of way.~~

~~B. C.~~ Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event. An unlimited number of temporary signs are allowed during the event. The applicant shall notify the city in writing of the beginning and ending dates prior to the other event.

~~C. D.~~ Flags. An unlimited number of flags are permitted on Memorial Day, Presidents' Day, Independence Day, Veterans' Day, Labor Day, Flag Day, Peace Officers Day, the Friday of the Camellia Festival, the Friday of the Old Fashioned Festival, on days when flags are normally flown at half-mast, or on any festival day designated by the Newberg city council. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2731 § 3, 10-18-10; Ord. 2499, 11-2-98. Code 2001 § 151.599.]

Penalty: See NMC 15.05.120.

Section 4. Section 15.435.110 is amended to read as follows:

A. Public signs are allowed in the public right-of-way as allowed by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on resolute highways. In 2015, the resolute highways in Newberg were: on First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a resolute highway, the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way. Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C. For lots in the C-3 and C-4 zones, the two ~~one~~ allowed portable signs per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in subsection (B) of this section, provided it meets the following standards:

1. The sign may not be less than two feet nor more than four feet high. The sign must also conform to NMC 15.410.060 if it is within the clear vision zone.
2. The sign may not be located within the vehicular path.
3. If located on a sidewalk, the sign must leave a clear access path at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA ramp.
4. If the sign is located adjacent to a striped on-street parking area, the sign must be located adjacent to the stripe.
5. The sign may not be located within three feet of a fire hydrant.
6. The sign owner must have the sign removed during hours when the business being advertised is closed. In addition, signs must not be present between the hours of 2:00 a.m. and 5:00 a.m.
7. The person placing the sign in the right-of-way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be attached to the sign, and may be attached to the inside surface of an A-frame sign.
8. If more signs than are allowed by this code are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F) of this section.
9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in subsection (B) of this section, provided:

1. The standards of subsection (C) of this section shall be met with the exception of subsection (C)(6) of this section.

2. Signs may be displayed only during the following hours:

Monday:	6:00 a.m. to 10:00 p.m.
Tuesday:	6:00 a.m. to 10:00 p.m.
Wednesday:	6:00 a.m. to 10:00 p.m.
Thursday:	6:00 a.m. to midnight
Friday:	24 hours
Saturday:	24 hours
Sunday:	Midnight to 10:00 p.m.

In addition, no sign may be displayed for more than four consecutive days.

3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) of this section shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

4. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in subsection (B) of this section.

E. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

Exhibit “B” to Ordinance No. 2022-2897
Development Code Amendment Findings – File DCA22-0001

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

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

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 12, 2022, and Newberg City Council on June 6, 2021, which provided the opportunity for public comment. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

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

The Goal is met.

GOAL 2: LAND USE PLANNING

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

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

The proposed land use action has an adequate factual base and based on policies outlined under the Urban Design goal in the Newberg Comprehensive Plan related to signage within the community.

The alternatives to amending the Municipal Code text would be to: 1) deny the application and follow the existing criteria in the Development Code related to portable and temporary signs.

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

The Goal is met.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

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

GOAL 4: FOREST LANDS

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

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

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

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

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

This Goal is met.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

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

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

This Goal is met.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

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

This Goal is met.

GOAL 8: RECREATIONAL NEEDS

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

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

This Goal is met.

GOAL 9: ECONOMIC DEVELOPMENT

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

Finding: The proposed Development Code Amendment for temporary and portable signs does not hinder the opportunity for a variety of economic activities. The proposal broadens the ability to utilize temporary and portable signs within the community.

The Goal is met.

GOAL 10: HOUSING

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

Finding: The proposed Development Code Amendment for temporary and portable signs does not impede the development of housing in the community. The proposal broadens the ability to utilize temporary and portable signs within the community.

The Goal is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES

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

Finding: The proposed Development Code Amendment for temporary and portable signs does is not applicable to Public Facilities and Services because signage is not a Public Facility of Service.

The proposal meets the Goal.

GOAL 12: TRANSPORTATION

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

Finding: The City of Newberg has an adopted Transportation System Plan from 2016 which includes the Addendum Riverfront Master Plan 2021, which have gone through the Post Acknowledgment Amendment process. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. The proposed Development Code Amendment for temporary and portable signs does not apply to Transportation because signage is not a transportation improvement.

The proposal meets the Goal.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

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

This Goal is met.

GOAL 14: URBANIZATION

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

Finding: Not applicable as the proposed amendment does not affect urbanization. The proposed amendment does not include an expansion of the Urban Growth Boundary. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

This Goal is met.

GOAL 15: WILLAMETTE RIVER GREENWAY

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

Finding: Not applicable as the proposed amendment does not affect the Willamette River Greenway. The City of Newberg is located along the Willamette River on its southern border. The Willamette River Greenway is located in this area.

This Goal is met.

B. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

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

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 12, 2022, and Newberg City Council on June 6, 2021, which provided the opportunity for public comment. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendments are subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The Measure 56 notice, public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

B. LAND USE PLANNING

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

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

The proposed land use action has an adequate factual base and based on policies outlined under the Urban Design goal Newberg Comprehensive Plan related to signage within the community.

The alternatives to amending the Municipal Code text would be to: 1) deny the application and follow the existing criteria in the Development Code related to portable and temporary signs.

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

The Goal is met.

C. AGRICULTURAL LANDS

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

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

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

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

E. AIR, WATER, AND LAND RESOURCE QUALITY

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

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

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

This Goal is met.

F. AREAS SUBJECT TO NATURAL HAZARDS

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

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

This Goal is met.

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

GOALS:

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

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

This Goal is met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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

Finding: The proposed Development Code Amendment for temporary and portable signs does not hinder

the opportunity for a variety of economic activities.

The Goal is met.

I. HOUSING

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

Finding: The proposed Development Code Amendment for temporary and portable signs does not impede the development of housing in the community.

The Goal is met.

J. URBAN DESIGN

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

1. General Policies
 - c. Non-residential uses abutting residential areas should be subject to special development standards in terms of setbacks, landscaping, sign regulations, building heights and designs.
 - f. Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort. (Ordinance 2016-2810, December 19, 2016)
2. Industrial Areas Policies
 - c. Where industrial uses abut residential zones or uses, special development standards relating to setbacks, screening, signs, building height and architectural review should be established.
3. Commercial Areas Policies
 - a. Where commercial development is permitted, such development should be subject to design requirements for ingress and egress, landscaping and sign control.
 - c. The City shall maintain sign regulations to help create a business environment that is attractive to customers and citizens. The City and appointed committees should seek to eliminate signs that detract from the aesthetics of commercial areas and that violate adopted sign design regulations. (Ordinance 98-2499, November 2, 1998; Ordinance 2016-2810, December 19, 2016).

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

Finding: The Comprehensive Plan has a number of references to signage under the Urban Design goal. The proposed amendment for Temporary and Portable signs would apply to all planning districts throughout the city. The Oregon Department of Transportation and Yamhill County have roadways within the city and the utilization of Temporary and Portable signs will need to adhere to their respective requirements for signs placed within their rights-of-way in accordance with 15.435.110.

K. TRANSPORTATION

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

operation and maintenance.

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

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

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

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

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

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

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

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

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

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

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

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: The City of Newberg has an adopted Transportation System Plan from 2016 which includes the Addendum Riverfront Master Plan 2021, which have gone through the Post Acknowledgment Amendment process. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. The proposed Development Code Amendment for temporary and portable signs does not apply to Transportation because signage is not a transportation improvement. Transportation signage is addressed separately under the Manual for Uniform Traffic Control devices (MUTCD).

The Goals are met.

L. PUBLIC FACILITIES AND SERVICES

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

Finding: The proposed Development Code Amendment for temporary and portable signs does not apply to Public Facilities and Services because signage is not a Public Facility of Service.

The Goal is met.

M. ENERGY

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

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

N. URBANIZATION

GOALS:

1. To provide for the orderly and efficient transition from rural to urban land uses.
2. To maintain Newberg's identity as a community which is separate from the Portland

Metropolitan area.

3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: Not applicable as the proposed amendment does not affect urbanization. The proposed amendment does not include an expansion of the Urban Growth Boundary. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

The Goals are met.

D. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

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

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

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

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

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

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

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

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

Finding: Public hearings with the Planning Commission and the City Council are required to finalize a decision regarding the application for the amendment to the Development Code.

This requirement can be met.

Attachment 1: City Council Resolution 2022-3798

Attachment 2: Staff/Agency Comments

Attachment 3: Public Comments

Attachment 4: Planning Commission Resolution No. 2022-380