



ORDINANCE No. 2013-2764

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

RECITALS:

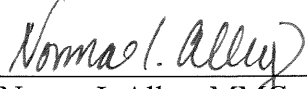
1. On April 1, 2013, the Newberg city council heard a presentation by Kuri Gill of the Oregon Parks and Recreation Department – Heritage Programs regarding their Certified Local Government program (CLG). After hearing of the CLG program and discussion, the council instructed city staff to bring to council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

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

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


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

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



Norma I. Alley, MMC, City Recorder

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



Bob Andrews, Mayor

Establishment of Newberg Historic Preservation Commission Newberg Code Amendments

Legend for proposed development code changes:

Red lettering = directions for code changes

Black lettering = existing code language

~~**Black strikeout**~~ = proposed language deletion

Black double underline = proposed language addition

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

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

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

Article VI. Historic Preservation Commission

2.15.500 Establishment.

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

2.15.510 Purpose.

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

2.15.520 Membership.

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

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

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

2.15.530 Term of office.

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

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

2.15.540 Vacancies and removal.

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

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

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

2.15.550 Presiding members.

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

2.15.560 Staff services.

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

2.15.570 Meetings.

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

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

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

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

2.15.580 Powers and duties.

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

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

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

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

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

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

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

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

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

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

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

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

2.15.590 Application for membership.

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

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

2.15.600 Conflict of interest.

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

2.15.610 Training.

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

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

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

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

Sections:

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

15.344.010 Purpose.

The purpose of the H overlay zone is to:

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

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

15.344.015 Historic preservation commission review.

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

15.344.020 Landmark designation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.344.030 Alteration, new construction, demolitions.

A. Exterior Alterations.

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

2. Director Review of Minor Alterations Type I.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. New Construction Type III Review Criteria.

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

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

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

C. Demolition and Moving Review.

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

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

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

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

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

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

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

15.344.040 Exceptions for economic hardship.

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

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

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

15.344.050 General administration.

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

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

1. Repair of siding, roofing, foundations, and gutters or downspouts when required due to deterioration, with materials that match the original materials or are in character with materials typically used on similar-style buildings;
2. Painting and related preparation;
3. Water quality protection actions;
4. Installation of air conditioners, provided the units are removable and no architectural alterations are necessary;
5. Site maintenance such as pruning, landscaping maintenance, brush clearing and removal of debris;
6. Temporary removals of roofs or other access obstructions for purposes of repair or maintenance of interior components of industrial or power generation facilities. [Ord. 2521, 11-15-99; Ord. 2499, 11-2-98; Ord. 2451, 12-2-96. Code 2001 § 151.494.]

I. Statewide Planning Goal 5

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

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

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

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

Policy 3 - Historic Resources Policies

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

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

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

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

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

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

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