



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING MINUTES  
NEWPORT CITY HALL  
SEPTEMBER 14, 2017 – 5:30 P.M.**

**1. CALL TO ORDER**

Chairperson Haley called the Planning Commission meeting to order at 5:30 p.m. on September 14, 2017.

**2. ROLL CALL**

Present (5): Chairperson Kevin Haley, Vice-Chair Marvin Taylor, Commissioner Anthony Mahmood, Commissioner David Tweeten, and Commissioner Saengmany Ratsabout.

Not Present (0): None.

**3. ADOPT CONSENT AGENDA**

**A. Planning Commission Minutes July 13, 2017**

Commissioner Mahmood motioned to approve the July 13, 2017 Planning Commission meeting minutes. Seconded by Ratsabout. Approved 5-0.

**4. COUNCIL REQUESTED ORDINANCE AMENDMENTS**

**A. Section 32-39 Regarding Trailers**

Planner Sherri Buss presented information regarding restrictions to trailers that are over 20 feet in length and trailers which are 10,000 pounds or more as directed by Council. The Commission consensus on a potential change to the ordinance included a request for Council to explain their intent for a potential change as the current proposed language does not clearly define a weight maximum determination.

**B. Section 36-161 Regarding Accessory Structures**

Ms. Buss presented information regarding the quantity and size of accessory structures on a residential property. Potential changes discussed included increasing the number and size of the structures to include the size of the property. No action was taken by the Commission.

**C. Section 35-163 Regarding Exterior Storage**

Ms. Buss presented information regarding the street visibility of rubbish containers. Discussion included the current status of containers in business zones and how different businesses are keeping their containers hidden from the street view. The Commission examined sections of the City of Maplewood's Code as it allowed for exceptions to the enclosure of rubbish containers to be waived by a committee when necessary. Discussed changes will be presented at the next meeting of the Commission.

The Commission discussed a proposal to allow residential properties over 2 acres to put rubbish containers within 40 feet of the street. The Commission consensus is to allow the change but the containers would still need to be hidden from street view and would have to be stored outside of any right-of-ways.

The Commission discussed the allowance of more operable vehicles to be stored on a driveway in residential zones. The change would increase the number of cars from three to four. Discussion included the allowance and regulation of tent structures in residential zones. It was the consensus of the Commission to allow such structures as long as they complied with all City Codes to include Nuisance Ordinances.

**5. ODOR ORDINANCE INTRODUCTION**

The Commission discussed the options to resolve the odor issue affecting the City. There have been studies done and City Council has received a report. The option to add an Odor Ordinance to the City Code was discussed as there are few cities in the country which have an ordinance. The option of working with St. Paul Park was discussed by questions regarding the cost and what a joint powers agreement would say were left unanswered.

**6. COMPLAINT POLICY**

The Commission discussed the policy of responding to ordinance violation complaints. The City of Oakdale’s policy was discussed to include a tiered system of priority for each complaint that is made to the City. The tiered system would set the priority list based on proximity and impact. Discussion between staff and the Commission concluded that such a system would be difficult to implement in the City due to the current staffing roles.

**7. SHORELAND ORDINANCE INTRODUCTION**

Ms. Buss informed the Commission the City has one year to update the City Ordinances to include the Shore land Ordinance to include the Mississippi River, Ria Lake and La Lake. Discussion included the standards that should be set to comply with other laws and how the changes would impact the current development plans for the area between Ria and La Lake.

**8. WATER SUPPLY PLAN CHAPTER OF THE 2040 COMP PLAN**

City Engineer Jon Herdegen informed the Commission what information would be included in the 2040 Comprehensive Plan. The information being added to the Comp Plan would include the production wells for City water, the pressure zones and water infrastructure, the well-head protection area, and efficient use of water.

**9. TRANSPORTATION CHAPTER OF THE 2040 COMP PLAN**

Mr. Herdegen informed the Commission the chapter includes the road improvements work which is being done along with the replacement of infrastructure, storm water management, and the options to correct the I&I issues the City is having.

**10. COMMISSION AND STAFF REPORTS**

There was no information to report which was not already discussed.

**11. NEW BUSINESS**

There was no new business for the Commission to address.

**12. ANNOUNCEMENTS**

The Commission will be participating in a boat tour on September 25, 2017 to view future planning projects.

**13. ADJOURNMENT**

Commissioner Ratsabout motioned to adjourn the Planning Commission meeting. Seconded by Commissioner Mahmood. Approved 5-0.

The Planning Commission Meeting was adjourned at 7:25 p.m. on September 14, 2017.

Respectfully Submitted:  
Travis Brierley,  
Assistant to the City Administrator

Signed: \_\_\_\_\_  
Kevin Haley, Chairperson



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## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Council Request for Ordinance Updates and Options— <b>Summary of PC comments and questions for the City Council</b>
<b>Copies To:</b>	<hr/> Deb Hill, City Administrator <hr/> Travis Brierley, Assistant to the Administrator <hr/> Bruce Hanson, Public Works Director <hr/> Jon Herdegen, City Engineer <hr/>	<b>Project No.:</b>	16321.000
<b>From:</b>	<hr/> Sherri Buss, RLA, AICP, Planner <hr/>	<b>Routing:</b>	<hr/> <hr/>
<b>Date:</b>	<hr/> September 18, 2017 <hr/>		

### Background

The City Council has requested several updates to the City’s Zoning Ordinance, and requested that the Planning Commission review options for some potential amendments. The Planning Commission reviewed these items at their meeting on September 14, and has some questions and comments for the Council—shown in **Red** text, below.

### Draft Ordinance Changes by Council Request for Review

A draft of the Council’s proposed changes is attached, including:

- **Item 1.** Section 23-39 amended to apply to trailers over 10,000 pounds rather than 20 feet in length.

**The PC asked for information about why the Council is requesting this change—are there particular vehicles that the Council wants to allow or prohibit? The Commission requested additional info from the Council for the proposed change to this ordinance. Local ordinances vary widely on this issue:**

**Some ordinances permit vehicles up to 12,000 Gross Vehicle Weight Rating (GVWR) or less than 30 feet in length to accommodate t pickups, vans, SUVs, and recreational vehicles—common RV sizes go up to 30 feet long.**

**Cottage Grove permits parking up to one Class II Commercial vehicle in residential districts, and the City’s code does not define length or weight.**

Some ordinances prohibit parking of all commercial vehicles in residential districts (unless they are working on a construction project), and specify that the vehicles that may be parked in these districts in addition to passenger vehicles include pickups, vans, and SUV's that weigh less than ¾ Ton (1,500 pounds).

The PC recommended that the change to permitting no more than 4 vehicles be included in an ordinance amendment.

- **Item 2.** Section 36-161 increases the number of accessory structures allowed in the RE District. The Commission recommended that the Council's proposed language be included in an ordinance amendment for properties in the RE District only, to be noticed for a public hearing at the October PC meeting. The Commission also recommended that all parcels be permitted to have one 120 square foot shed in addition to other accessory buildings. The shed would not need a building permit, and would not be counted toward the number/area of accessory buildings permitted on the parcel, but would need to comply with setbacks.
- **Item 3.** Section 36-163 amends requirements for exterior storage of garbage, recycling, and waste containers in Residential Districts.

The Commission recommended that this change move forward as an ordinance amendment as long as it only applies to parcels in the RE district that are larger than 2 acres.

### Regulations of Covered Storage Buildings

The Council requested that the Planning Commission review other city's requirements regarding covered storage buildings, and bring recommendations back to the Council for discussion.

Newport's current requirements in **Section 35-161 (4)** (included in attachments for the previous items) regulate "covered storage buildings" that are temporary structures such as tent garages and carports. The section requires the following:

- These temporary structures are only permitted in residential districts
- They may not be placed in front yards and must meet the setback requirements of the zoning district.
- They must be screened from the public right-of-way and adjacent properties
- Lawn areas around the structures must be maintained
- One temporary structure is permitted per lot.
- The temporary structures must comply with the structure height and lot coverage standards, and are included in the number of accessory structures permitted on the lot.

The Planner reviewed other community's requirements for temporary structures, and found the following (some examples are attached):

- Some community ordinances do not speak specifically to temporary structures or do not permit them. (Staff reviewed what other nearby cities allow in terms of covered storage buildings. Cottage Grove, Inver Grove Heights, South St. Paul, St. Paul Park, West St. Paul and Woodbury do not allow residential covered storage buildings that are made out of canvas, plastic sheets, fabric, or tarps.)



- Some communities have requirements similar to Newport's current requirements: such structures are allowed only in residential and/or agricultural districts, and must comply with the standards for all accessory structures.
- When communities permit these temporary structures, they usually have requirements similar to Newport's but may also include other limitations, such as:
  - A time limit on temporary structures, such as six months (Forest Lake, Baytown Township, Stillwater Township)
  - A limit on the purpose of the structures, such as storing recreational equipment (Forest Lake)
  - Limit the size of the structures (Forest Lake)

The Planning Commission discussed this issue and recommended keeping the current requirements for covered accessory buildings, adding a new performance standard that requires that the structures be maintained in good condition and that they must comply with the Nuisance ordinance standards.

### **Enforcement of Exterior Storage Requirements in Nonresidential Districts**

Newport's requirements for exterior storage in Nonresidential Districts are located in Section 36-162 (7): *Trash handling; screening. All refuse and recycling containers must be stored inside of the principle structure or an enclosed accessory structure, no roof required.* This requirement is similar to the requirements for trash storage in non-residential districts in most cities. Some Newport businesses have objected to this requirement if their trash containers would not be visible from public streets or nearby residences.

Dan Lund, Newport Mayor, has requested the following:

*"As a follow-up to our conversation, please have the Planning Commission consider whether we should maintain the current ordinance, but limit enforcement actions to:*

- (1) Violations visible from public land (street or property); or*
- (2) When the violation is visible from a neighboring property (not necessarily adjoining), and there has been a complaint from a resident of that neighboring property.*

*If this policy is adopted, we should inform the Newport Center that we understand they are in violation, recommend they comply with the ordinance, but also indicate that no further enforcement action will be taken at this time as the violation is not visible from public land, and we have not received a complaint from a resident of a neighboring property. In the event that we received a complaint from a resident of a neighboring property at any point in the future, and the Newport Center remained in violation, we would take enforcement action at that time."*



The Planner reviewed other ordinances regarding the standards for exterior storage, and found that Maplewood's Zoning Ordinance includes a statement that *"The community design review board may waive any part of the trash enclosure requirement if it finds that the trash container would be hidden from adjacent properties and streets."* (Copy of full requirement attached.)

The Planning Commission recommended that the Maplewood language be added to the exterior storage ordinance, and that the Zoning Administrator replace the "design review board" in the text.

## Odor Ordinance

Most cities define noxious odors as nuisances in their zoning ordinances, and include general performances standards for nonresidential uses or specific uses that prohibit nuisance odors, such as this standard in Newport's ordinance:

*Restricted operations.* Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, **odor**, noxious gases, glare or wastes shall not be permitted. Noise, odors, smoke and particulate matter shall not exceed state pollution control agency standards. Glare, whether direct or reflected, such as from spotlights or high temperature processes, as differentiated from general illumination, shall not be visible beyond the lot line of the property from which it originates.

The State of Minnesota regulates a number of environmental issues such as air quality and noise that are referenced in local nuisance standards, and has adopted statewide standards for air and noise pollution, but the State no longer regulates odors as an aspect of air quality and does not have specific standards for regulating odors. Without state standards that quantify standards for "noxious" odors and objective, legally-accepted procedures that determine when standards are violated, regulating odors can be challenging.

The City of South St. Paul has had some older industries that regularly release odors. Since it had no state standards to rely on, the City completed extensive work to review Odor Ordinances from other communities, and adopted its own Odor Ordinance in 2013 after lengthy research and debate. It has since updated the ordinance. A copy of the original ordinance is attached (in Examples) and a copy of the updated ordinance is attached separately. South St. Paul is one of few communities in Minnesota to have a specific odor ordinance. I have also attached a copy of a similar ordinance adopted by Des Moines, Iowa (in the Examples attachment).

The ordinances:

- Include a definition of "Significant Odor Generator" based on numbers of complaints.
- Requires that a City staff person (the Engineer or Environmental Health Officer) verify the business that is the subject of complaints [this is a key element of the ordinance—often when odor generators are informed of complaints they say it's another business in the area]
- Specifies the odor detecting device that will be used for detecting and measuring odors—the Nasal Ranger® (South St. Paul Ordinance)



- Require that if a property is designated as a Significant Odor Generator that the property needs to develop an Odor Management plan or compliance plan to control and mitigate odors that are generated
- Include penalties for ordinance violation

Some differences include:

- Who will do the sampling and testing—city staff or an independent consultant
- Des Moines' ordinance includes an Odor Hotline for complaints and odor alerts; and a Citizen odor board; most of the board members must be from parts of the city with odor problems
- Provisions for addressing complaints about odors when the odor generator is not a Significant Odor Generator

The Commission recommended that the City move forward with developing an odor ordinance, that it be similar to the South St. Paul ordinance, and that the two cities work together on enforcement on some problem sites that affect both communities.

### Complaint Policy

The City Council requested that staff bring forward policy language that anyone bringing a complaint must be able to see the property from their house or live within 200 feet of it. They cited a policy statement from the City of Oakdale as a model for a Newport policy. Like Oakdale, Newport's enforcement of building and zoning codes (after construction) is primarily complaint-driven.

The Planning Commission should review the policy statement attached, and provide comments to the City Council. Note items 2.2 c. and d., and the differences between "significant complaints" in c. vs. "nuisance" complaints in d. How would this language affect enforcement of complaints for noise, odors, air pollutants, or other issues that go beyond 200 feet or the sight of the property that is the subject of the complaint?

The Commission had a mix of comments regarding the proposed complaint policy:

- Some Commissioners were supportive
- Others stated that while it includes some good ideas to prioritize enforcement, they were concerned that:
  - The 200 foot limit is arbitrary
  - The City should not dis-enfranchise legitimate complaints—it may lead to uneven or sporadic ordinance enforcement
  - If the policy means that some complaints will not be investigated, it may be counter-productive since ordinance enforcement depends on addressing complaints.

