



City of Rockaway Beach

City Council Workshop Agenda

Date: Wednesday, August 14, 2024

Time: 4:30 P.M. – 5:40 P.M.

Location: Rockaway Beach City Hall, 276 HWY 101 – 2nd Floor Conference Room

Watch live stream here: [corb.us/live-stream](https://www.corb.us/live-stream)

View meeting later here: [corb.us/city-council](https://www.corb.us/city-council)

Join here to attend remotely:

<https://us06web.zoom.us/j/85993943752?pwd=GSR6HMg1ddNITrLWXkkQ7E28yZ8Juy.1>

Meeting ID: 859 9394 3752

Passcode: 781801

Dial by your location

253 215 8782 US (Tacoma)

What is a City Council Workshop? Workshops are intended to allow for preliminary discussions by the City Council and staff. Workshops are held to present information to the Council so that the Council is prepared for upcoming regular meetings. Workshops are subject to Oregon's public meeting law and must be noticed accordingly. No final City Council decisions are made during workshops. The public is encouraged to attend workshops but may not participate unless expressly asked.

Note: Agenda item times are estimates and are subject to change.

1. CALL TO ORDER (4:30 p.m.)

2. ROLL CALL

3. COUNCIL BRIEFING/DISCUSSION

a. Quasi-Judicial Training/Scope of Review (4:31 p.m.)

b. Review of Draft Ordinance 2024-04 Amending Code Chapter 31 Related to the Planning Commission (5:20 p.m.)

c. Review of Draft Ordinance 2024-07 Providing Authority and Procedures for Administrative Warrants and Creating a New Code Chapter 97 (5:30 p.m.)

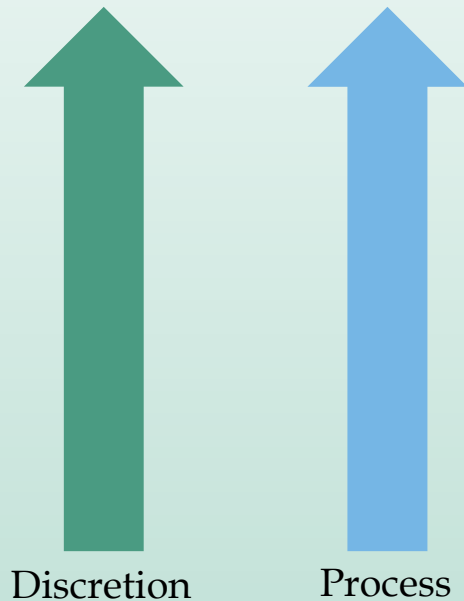
4. ADJOURNMENT (5:40 p.m.)

City Council Quasi-Judicial Hearings/ Appeal Training

Land Use Procedures

Four Types of Land Use Decisions/Procedures

- Legislative (Type IV)
- Quasi-Judicial Actions (Type III)
 - Includes procedure for appeals
- Administrative Actions (Type II)
- Ministerial/Non-discretionary (Type I)



Public Hearing/ Appeals Procedures – Quasi-Judicial Process

Public Hearing Procedures (RBZC 11.060)

- Requires a public hearing before an impartial decision-making body
- Applicant-initiated application (e.g. conditional use) or appeal of planning commission decision (RBZC 11.070)
- Notice to public
- Public Hearing → Record Development
 - Exhibits, materials, pleadings, memoranda, motions, findings, minutes, final decision
 - May include post-hearing record submittals
- Written Decision and Findings
 - Based on findings of fact that address applicable criteria
- Appeal Notice to public and interested parties
 - To City Council (RBZC 11.070)

Public Hearing Procedures – Bias, *Ex parte* contacts, Conflicts

Impartial tribunal or decision-making body

- **No bias**
 - Bias: incapable of basing decision on evidence and argument presented
 - Inability to be fair and impartial
- **No conflicts of interest**
 - Actual/potential conflicts: an action, decision, or recommendation by a public official that will/could result in a financial benefit or detriment for the official or a relative or business associated with the official or relative
 - When in doubt, shout it out.
 - State the nature of the conflict before voting or discussing matter, on the record, and every meeting that the matter is discussed
 - Failure to disclose = invalidation
- **No *ex parte* contacts**
 - Verbal, written, visual contact not on the record
 - Must disclose context and substance of meeting when public may respond and before record is closed

Public Hearing Procedures – Generally Staff Report, Record, Hearing

Staff Report

- Available to public 7 days before hearing
- Sets out applicable criteria / recommended findings
- On appeal: Summary of decision, issues presented

Record

- “Closed universe”
- On appeal: On the record, or de novo

Public Hearing Procedures – Generally Staff Report, Record, Hearing

Hearing

- Script
- “Managing” and “controlling” the hearing

Practical Tips

- Always identify the speaker
- Always restate or clarify within the record an amendment, change, “hard to hear” statement

Public Hearing Procedures – Generally Staff Report, Record, Hearing

Testimony (after Staff Report)

- Applicant
- Proponents – Neutral – Opponents
- Applicant Rebuttal
 - Try to avoid “back and forth”

Post-Testimony

- Staff comments and clarification
- Offer applicant final written argument, 7 days per ORS 197.797
 - Continue hearing to specific date and time
 - Close hearing but leave record open for written testimony
 - Close hearing and close record

Public Hearing Procedures – Appeals Specifically

- Notice of appeal (RBZC 11.070(3))
 - Must contain decision, statement of interest seeking review, and specific grounds for review
 - Request for de novo review?
- Scope of Review
 - Council determines prior to hearing (RBZC 11.070(4))
 - Restricted to record, or de novo
 - De novo factors (RBZC 11.070(6))
 - Appellant bears burden of proof
- Decision
 - Affirm, reverse, or modify
 - Findings (RBZC 11.060(6))

Public Hearing Procedures – Appeals Specifically

- Potential Hearing Process for Appeals
 - Script – Intro to hearing, statutory notices, conflicts
 - 1 - Staff report – Summary of decision, issues presented
 - 2 - Appellant presentation
 - 3 - Any public testimony*
 - 4 - Staff response / clarification
 - 5 - Appellant final arguments
 - 7 - Discussion of post-hearing submittals
 - Close of public hearing (and record?)
 - Deliberations and Decision (set for another meeting date)

Decisions Based on Findings – Deliberation and Findings

Deliberation/Findings

- Decision must be based on approval criteria
- May not consider factors outside of approval criteria, such as impact on property values
 - On appeal, decision limited to issues presented
- Findings show why approval criteria are met or not met
- Each decision should include findings supporting the decision

Decisions Based on Findings – Deliberation and Findings

Deliberation/Findings (continued)

- Address every argument made by appellant(s)
- Interpret ambiguous criterion or terms
- Choose between conflicting evidence (“substantial evidence” / “reasonable decision maker”)
- For each criterion:
 - List relevant facts
 - Apply facts to criterion
 - Determine whether criterion is satisfied or can be satisfied with a clear condition of approval.

Why are findings so important? Defensible decision

Questions?

Armand Resto-Spotts

armand@localgovtlaw.com

541-485-5151





City of Rockaway Beach, Oregon

276 S. Highway 101, PO Box 5

Rockaway Beach, OR 97136

503.374.1752

STAFF REPORT

Date: August 7, 2024
To: City Council
From: Luke Shepard, City Manager
Subject: **RE: Follow-up to Discussion on Draft Ord. 2024-04**

At the July 17th City Council Workshop, the City Council discussed draft Ordinance 2024-04 – An Ordinance Amending City of Rockaway Beach Code of Ordinances Chapter 31 Related to the Planning Commission. The Council requested additional information on **Subsection 31.01B(2)** regarding land use decisions that may be appealed to the Planning Commission.

The authority for the Planning Commission to hold hearings on certain types of land use appeals is granted in the City’s Zoning Ordinance. The table below clarifies the four types of land use decisions, and their approval and appeal process.

Type	Description	Example
1	Decisions made by the City Planning Official, without public notice. These are ministerial decisions based on City standards and criteria (i.e. there are clear and objective standards).	<ul style="list-style-type: none">• Zoning Permit• Property Line Adjustment
2	Decisions made by the City Planning Official, with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the City Planning Official may refer a Type II application to the Planning Commission for its review and decision in a public meeting	<ul style="list-style-type: none">• Code Interpretation
3	Decisions made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.	<ul style="list-style-type: none">• Conditional Use• Variance• Subdivision
4	Decisions considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.	<ul style="list-style-type: none">• Annexations• Code Text Amendments• Comp. Plan Amendments• Zoning Map Change

As always, please feel free to contact me for additional information.

Respectfully,

Luke Shepard

CITY OF ROCKAWAY BEACH, OREGON
ORDINANCE NO. 2024-~~XX~~04

AN ORDINANCE AMENDING CITY OF ROCKAWAY BEACH CODE OF ORDINANCES CHAPTER 31 RELATED TO THE PLANNING COMMISSION

RECITALS:

1. The City Council finds that updates to Rockaway Beach Code Chapter 31 are needed to clarify the powers, duties, and membership of the Planning Commission.
2. On March 21, 2024, the Rockaway Beach Planning Commission approved a new proposed Planning Commission ordinance, and recommend it to the City Council for adoption.

Now, therefore, the City of Rockaway Beach ordains as follows:

Section 1. The City of Rockaway Beach Code of Ordinances Section 31.01 is hereby amended, in total, as follows:

§ 31.01 PLANNING COMMISSION.

- A. *Establishment.* The Rockaway Beach Planning Commission is established, and shall have the authority and responsibility provided by this code and ~~S~~state ~~L~~law.
- B. *Duties and powers.* The Planning Commission is the appointed citizen body that provides recommendations to the City Council on land use policies; makes land use decisions on planning applications; and provides a public forum for ascertaining community values, visioning, and strategic thinking on long range planning. The Planning Commission shall have the following duties:
 - ~~1.~~ Review those land use applications within its jurisdiction pursuant to applicable law.
 - ~~2.1.~~ Review and act on quasi-judicial decisions on land use applications and appeals of land use decisions within its jurisdiction pursuant to applicable law~~the City's land use procedures.~~
 - ~~3.2.~~ Periodically review the Comprehensive Plan, as prioritized by the City Council through its goal setting process or as otherwise directed by the City Council.
 - ~~4.3.~~ Act as the Citizen Involvement Committee within the City of Rockaway Beach Urban Growth Boundary. As directed by the City Council, this role may include working with stakeholder groups or citizen advisory committees, to help inform refinement and other land use plans, and~~for~~ facilitating community engagement on land use issues with groups such as neighborhood associations or coalitions.
 - ~~5.4.~~ Make recommendations to the City Council on Type IV legislative land use actions.
- C. *Membership.*

1. The Rockaway Beach Planning Commission shall consist of seven voting members. The Commission members shall be appointed by the City Council.
2. A minimum of six members shall be ~~legal~~ residents of the City. One member may be a registered voter in Tillamook County and living as a full-time resident within the City's Urban Growth Boundary.
3. No more than two voting members may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade, or profession.
4. City of Rockaway Beach Charter, Chapter III, Section 7, provides that tThe Mayor shall serve as an ex-officio ~~nonvoting~~ member. The Mayor shall not vote, and shall excuse himself from the Planning Commission meeting prior to any land use hearing or land use application discussion.
5. The Mayor may nominate a Councilor to the liaison position as deemed necessary, subject to provisions of City of Rockaway Beach Charter, Chapter III, Section 7. the consent of the City Council by Resolution. The Mayor will consider the Council liaison appointment in January of every year. The Council liaison is a non-voting position and is not a member of the Planning Commission. The role of Council liaison is to provide an avenue ~~for~~ communication between the Planning Commission and the Council. The liaison shall report to the Planning Commission on the general status of the City Council and items relevant to the work of the Planning Commission. The Council liaison shall excuse himself from the Planning Commission meeting prior to any land use hearing or land use application discussion.
6. Members shall hold office for four years. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty.
7. A vacancy shall be filled by the Mayor with approval of the City Council for the unexpired portion of the term, subject to the provisions of the City of Rockaway Beach Charter, Chapter III, Section 7.
~~7. _____.~~
8. At its first meeting each July, the Planning Commission shall elect a President and Vice-President to serve one-year terms. The President and Vice-President shall be voting members.
9. Four voting members of the Planning Commission shall constitute a quorum.
10. The Planning Commission may make and alter rules and regulations for its government governance and procedure consistent with the laws of Oregon, the City Charter and code Ordinances.
11. The Planning Commission shall meet at least once a month, unless business does not require such a meeting, in which case the President, with the consent of the City Manager, may cancel such meeting. Planning Commission meetings shall be held at such times and places fixed by the Commission.

- 12. Members of the Planning Commission shall receive no compensation for their services, but shall be reimbursed for duly authorized expenses.
- 13. City staff shall perform administrative functions for the Planning Commission. All recommendations and suggestions by the Planning Commission shall be made in writing by City staff and presented for consideration to the City Council at their monthly meeting in a report.

Section 2. Severability Clause. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 3. Effective Date. Pursuant to the Rockaway Beach City Charter, this ordinance shall become effective on the thirtieth day after its adoption.

1st reading by the Rockaway Beach City Council _____.

2nd reading by the Rockaway Beach City Council _____.

Adopted and Approved by the Rockaway Beach City Council _____.

Charles McNeilly, Mayor

City Council	Aye/Nay
Mary McGinnis	
Tom Martine	
Kristine Hayes	
Alesia Franken	
Penny Cheek	

Attest:

Melissa Thompson, City Recorder

**CITY OF ROCKAWAY BEACH, OREGON
ORDINANCE NO. 2024-04**

**AN ORDINANCE AMENDING CITY OF ROCKAWAY BEACH CODE OF
ORDINANCES CHAPTER 31 RELATED TO THE PLANNING COMMISSION**

RECITALS:

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 3. Act as the Citizen Involvement Committee within the City of Rockaway Beach Urban Growth Boundary. As directed by the City Council, this role may include working with stakeholder groups or citizen advisory committees, to help inform refinement and other land use plans, and facilitating community engagement on land use issues with groups such as neighborhood associations or coalitions.
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Adopted and Approved by the Rockaway Beach City Council _____.

Charles McNeilly, Mayor

City Council
Mary McGinnis
Tom Martine
Kristine Hayes
Alesia Franken
Penny Cheek

Aye/Nay

Attest:

Melissa Thompson, City Recorder



City of Rockaway Beach, Oregon

276 S. Highway 101, PO Box 5

Rockaway Beach, OR 97136

503.374.1752

STAFF REPORT

Date: August 7, 2024
To: City Council
From: Luke Shepard, City Manager
Subject: **RE: Follow-up to Discussion on Draft Ord. 2024-07 – “Administrative Warrants”**

At the July 17th City Council Workshop, the City Council discussed draft Ordinance 2024-07 – An Ordinance Providing Authority and Procedures For Administrative Warrants and Creating a New Code Chapter 97. The Council requested clarification on several sections as detailed below.

- **Subsection 97.03** references that the City Council or City Manager may order the removal or abatement of an identified nuisance. The Council asked whether the City Manager had that authority as Code Chapter 94 is clear that the Council must authorize abatement by the city.

The reason the City Manager is included in this subsection of the code amendment is that existing section 94.095 clarifies that under the narrow circumstances of an existing nuisance that immediately endangers human life or property, that a city official may summarily proceed to abate. Under these conditions, an administrative warrant may be required. Staff recommends that no changes are made to **Subsection 97.03**.

- **Subsection 97.07 (A)** provides a fourteen (14) day deadline to execute and return the warrant to the court, while **Subsection 97.07 (B)** provides that the deadline shall not exceed thirty (30) days. The Council highlighted the discrepancy between the two periods.

Upon further legal review, it has been determined that the deadlines should be consistent, and that a two-week period is a common timeframe for a warrant to be issued. Staff has revised the draft ordinance to reflect this.

As always, please feel free to contact me for additional information.

Respectfully,

Luke Shepard

CITY OF ROCKAWAY BEACH, OREGON

ORDINANCE NO. 2024-07

AN ORDINANCE PROVIDING AUTHORITY AND PROCEDURES FOR ADMINISTRATIVE WARRANTS AND CREATING A NEW CODE CHAPTER 97

RECITALS:

1. The City Council seeks to establish authority and procedures for issuing administrative warrants.

Now, therefore, the City of Rockaway Beach ordains as follows:

Section 1. The City of Rockaway Beach Code of Ordinances is hereby amended to add a new Chapter 97 as follows:

CHAPTER 97: ADMINISTRATIVE WARRANTS

97.01 SHORT TITLE AND PURPOSE.

This chapter sets forth the procedures for obtaining an administrative warrant for purposes of enforcing the Rockaway Beach Code. It may be cited as the Rockaway Beach Administrative Warrants Chapter.

97.02 DEFINITIONS.

ADMINISTRATIVE WARRANT. A court order authorizing entry onto property for purposes of conducting an administrative search, inspection or investigation, or authorizing an administrative seizure of property or abatement of a nuisance as authorized by the Code. It does not include an arrest, search or other warrant arising from commission or prosecution of a crime.

CITY OFFICER. A Tillamook County Sheriff or Deputy, or any city employee authorized by the City Manager or Council to enforce the Rockaway Beach Code.

97.03 ENTRY ONTO PROPERTY.

Whenever a city officer requires entry to property for purposes of inspections pursuant to this Code, a city officer has probable cause to believe there has been a violation of the Code or that a nuisance or dangerous condition exists, or City Council or City Manager has ordered the removal or abatement of an identified nuisance, the city officer may enter upon a site or structure for the purpose of investigation or abatement subject to one or more of the following:

- (1) Consent is obtained from the owner or person with authority to consent to entry on the premises. A person with actual authority must be a person age 18 years or older and capable of consenting to the city officer's entry on the premises.
- (2) The entry is pursuant to a recognized lawful exception to the requirement to obtain a warrant.
- (3) An administrative warrant or a search warrant is obtained.

Nothing in this section precludes use of any information obtained where there is no reasonable expectation of privacy or the property is in plain view from public right-of-way, public property, or other private property entered with the consent of the owner or person in charge.

97.04 AUTHORITY TO REQUEST WARRANT.

- (A) Unless unreasonable under the circumstances, a city officer shall seek to obtain the consent of the owner or person in charge of property to enter onto property or to seize property before applying for a warrant.
- (B) A request for a warrant must first be approved by the City Manager, or their designee.

97.05 PROCEDURE TO OBTAIN ADMINISTRATIVE WARRANT.

- (A) An application for an administrative warrant shall be presented to the local municipal court. The Tillamook County Justice Court shall have jurisdiction to issue administrative warrants for service within the city limits of the City of Rockaway Beach.
- (B) The application shall be accompanied by a supporting affidavit containing the following, together with such other information as the court deems necessary, including:
 - (1) The nature of the warrant sought, and action sought to be authorized;
 - (2) In the case of an abatement or demolition warrant, the information also shall include a description of the work to be performed and the estimated time to complete performance;
 - (3) The affiant's employment title and authority;
 - (4) A description of the property sought to be entered onto, seized, abated or demolished;
 - (5) The Code provision, permit or other law alleged to have been violated or otherwise supporting issuance of the warrant together with facts, information and belief demonstrating cause for issuance of the warrant; and

(6) A statement that consent to entry or other action has been sought but not obtained, or facts or circumstances reasonably showing the purpose of the warrant might be frustrated if consent was sought.

97.06 CAUSE FOR ISSUANCE OF WARRANT.

(A) Cause for issuance of an abatement warrant shall be deemed to exist if the city has declared a nuisance and ordered abatement pursuant to Chapter 94.090 through 94.093, or in the case of summary abatement, an immediate danger exists.

(B) Cause for issuance of a warrant authorizing the city to enter onto property to demolish a structure or to enter on the property to effectuate vacation of a property shall be deemed to exist if the city has issued an order to demolish, or vacate the property or structure pursuant to Chapter 151, and the order is final.

(C) Cause for issuance of a warrant to seize property, other than in conjunction with an investigation or prosecution, shall be based on a showing that the seizure is authorized by law and is reasonable and necessary to achieve a legitimate legislative purpose. Examples include but are not limited to seizing a dog for quarantine, pursuant to Chapter 91, or if property poses a significant risk of harm to the public, such as Chapter 94 nuisances affecting public health or public spaces.

(D) Cause for issuance of a warrant for any other purpose shall be based on a showing that the action sought to be authorized is made in compliance with applicable code procedures and authority. Examples include but are not limited to examining removing an abandoned vehicle under Chapter 92.

97.07 ISSUANCE AND EXECUTION OF ADMINISTRATIVE WARRANTS.

(A) An inspection, abatement, or demolition warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m. or where the court has specifically determined upon a showing that it cannot be effectively executed between those hours, that it may be executed at any additional or other time of the day or night. Unless directed otherwise by the court, the warrant shall be executed and returned to the court within fourteen (14) days from its date, unless the court before expiration of such time by endorsement thereon extends the time. After the expiration of the time prescribed by this subsection, the warrant is void unless executed.

(B) An abatement or demolition warrant shall describe the work authorized and set a deadline for completion of work on the property not to exceed fourteen (14) ~~thirty (30)~~ days unless good cause is shown why a longer time is necessary. The city may apply to the court for an extension for good cause.

(C) The person authorized by the court to execute a warrant shall, before entry, make a reasonable effort to present the person’s credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request, except that the person authorized to execute the warrant may promptly enter the designated property if it is, or is reasonably believed to be, vacant or unoccupied.

(E) A Sheriff or Sheriff’s Deputy may be requested to assist in the execution of the administrative warrant. Such Deputy may assist the person authorized to execute the warrant, including using any reasonable force necessary, to enter the property if the administrative warrant specifically allows the use of reasonable force to execute the warrant.

Section 2. Severability Clause. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 3. Effective Date. This ordinance shall become effective 30 days after its adoption by the City Council and approval by the Mayor.

1st reading by the Rockaway Beach City Council _____.

2nd reading by the Rockaway Beach City Council _____.

Adopted and Approved by the Rockaway Beach City Council _____.

Charles McNeilly, Mayor

City Council	Aye/Nay
Mary McGinnis	/
Tom Martine	/
Kristine Hayes	/
Alesia Franken	/
Penny Cheek	/

Attest:

Melissa Thompson, City Recorder

CITY OF ROCKAWAY BEACH, OREGON

ORDINANCE NO. 2024-07

**AN ORDINANCE PROVIDING AUTHORITY AND PROCEDURES FOR
ADMINISTRATIVE WARRANTS AND CREATING A NEW CODE CHAPTER 97**

RECITALS:

1. The City Council seeks to establish authority and procedures for issuing administrative warrants.

Now, therefore, the City of Rockaway Beach ordains as follows:

Section 1. The City of Rockaway Beach Code of Ordinances is hereby amended to add a new Chapter 97 as follows:

CHAPTER 97: ADMINISTRATIVE WARRANTS

97.01 SHORT TITLE AND PURPOSE.

This chapter sets forth the procedures for obtaining an administrative warrant for purposes of enforcing the Rockaway Beach Code. It may be cited as the Rockaway Beach Administrative Warrants Chapter.

97.02 DEFINITIONS.

ADMINISTRATIVE WARRANT. A court order authorizing entry onto property for purposes of conducting an administrative search, inspection or investigation, or authorizing an administrative seizure of property or abatement of a nuisance as authorized by the Code. It does not include an arrest, search or other warrant arising from commission or prosecution of a crime.

CITY OFFICER. A Tillamook County Sheriff or Deputy, or any city employee authorized by the City Manager or Council to enforce the Rockaway Beach Code.

97.03 ENTRY ONTO PROPERTY.

Whenever a city officer requires entry to property for purposes of inspections pursuant to this Code, a city officer has probable cause to believe there has been a violation of the Code or that a nuisance or dangerous condition exists, or City Council or City Manager has ordered the removal or abatement of an identified nuisance, the city officer may enter upon a site or structure for the purpose of investigation or abatement subject to one or more of the following:

- (1) Consent is obtained from the owner or person with authority to consent to entry on the premises. A person with actual authority must be a person age 18 years or older and capable of consenting to the city officer's entry on the premises.
- (2) The entry is pursuant to a recognized lawful exception to the requirement to obtain a warrant.
- (3) An administrative warrant or a search warrant is obtained.

Nothing in this section precludes use of any information obtained where there is no reasonable expectation of privacy or the property is in plain view from public right-of-way, public property, or other private property entered with the consent of the owner or person in charge.

97.04 AUTHORITY TO REQUEST WARRANT.

- (A) Unless unreasonable under the circumstances, a city officer shall seek to obtain the consent of the owner or person in charge of property to enter onto property or to seize property before applying for a warrant.
- (B) A request for a warrant must first be approved by the City Manager, or their designee.

97.05 PROCEDURE TO OBTAIN ADMINISTRATIVE WARRANT.

- (A) An application for an administrative warrant shall be presented to the local municipal court. The Tillamook County Justice Court shall have jurisdiction to issue administrative warrants for service within the city limits of the City of Rockaway Beach.
- (B) The application shall be accompanied by a supporting affidavit containing the following, together with such other information as the court deems necessary, including:
 - (1) The nature of the warrant sought, and action sought to be authorized;
 - (2) In the case of an abatement or demolition warrant, the information also shall include a description of the work to be performed and the estimated time to complete performance;
 - (3) The affiant's employment title and authority;
 - (4) A description of the property sought to be entered onto, seized, abated or demolished;
 - (5) The Code provision, permit or other law alleged to have been violated or otherwise supporting issuance of the warrant together with facts, information and belief demonstrating cause for issuance of the warrant; and

(6) A statement that consent to entry or other action has been sought but not obtained, or facts or circumstances reasonably showing the purpose of the warrant might be frustrated if consent was sought.

97.06 CAUSE FOR ISSUANCE OF WARRANT.

(A) Cause for issuance of an abatement warrant shall be deemed to exist if the city has declared a nuisance and ordered abatement pursuant to Chapter 94.090 through 94.093, or in the case of summary abatement, an immediate danger exists.

(B) Cause for issuance of a warrant authorizing the city to enter onto property to demolish a structure or to enter on the property to effectuate vacation of a property shall be deemed to exist if the city has issued an order to demolish, or vacate the property or structure pursuant to Chapter 151, and the order is final.

(C) Cause for issuance of a warrant to seize property, other than in conjunction with an investigation or prosecution, shall be based on a showing that the seizure is authorized by law and is reasonable and necessary to achieve a legitimate legislative purpose. Examples include but are not limited to seizing a dog for quarantine, pursuant to Chapter 91, or if property poses a significant risk of harm to the public, such as Chapter 94 nuisances affecting public health or public spaces.

(D) Cause for issuance of a warrant for any other purpose shall be based on a showing that the action sought to be authorized is made in compliance with applicable code procedures and authority. Examples include but are not limited to examining removing an abandoned vehicle under Chapter 92.

97.07 ISSUANCE AND EXECUTION OF ADMINISTRATIVE WARRANTS.

(A) An inspection, abatement, or demolition warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m. or where the court has specifically determined upon a showing that it cannot be effectively executed between those hours, that it may be executed at any additional or other time of the day or night. Unless directed otherwise by the court, the warrant shall be executed and returned to the court within fourteen (14) days from its date, unless the court before expiration of such time by endorsement thereon extends the time. After the expiration of the time prescribed by this subsection, the warrant is void unless executed.

(B) An abatement or demolition warrant shall describe the work authorized and set a deadline for completion of work on the property not to exceed fourteen (14) days unless good cause is shown why a longer time is necessary. The city may apply to the court for an extension for good cause.

(C) The person authorized by the court to execute a warrant shall, before entry, make a reasonable effort to present the person’s credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request, except that the person authorized to execute the warrant may promptly enter the designated property if it is, or is reasonably believed to be, vacant or unoccupied.

(E) A Sheriff or Sheriff’s Deputy may be requested to assist in the execution of the administrative warrant. Such Deputy may assist the person authorized to execute the warrant, including using any reasonable force necessary, to enter the property if the administrative warrant specifically allows the use of reasonable force to execute the warrant.

Section 2. Severability Clause. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 3. Effective Date. This ordinance shall become effective 30 days after its adoption by the City Council and approval by the Mayor.

1st reading by the Rockaway Beach City Council _____.

2nd reading by the Rockaway Beach City Council _____.

Adopted and Approved by the Rockaway Beach City Council _____.

Charles McNeilly, Mayor

City Council	Aye/Nay
Mary McGinnis	/
Tom Martine	/
Kristine Hayes	/
Alesia Franken	/
Penny Cheek	/

Attest:

Melissa Thompson, City Recorder