

ORDINANCE NO. 2039

An Ordinance Repealing
Chapter 9.30 of the Newport Municipal Code
Pertaining to the Use of City Facilities by Convicted Offenders

Findings:

1. The City of Newport adopted Ordinance No. 1938 on October 15, 2007. Ordinance No. 1938 codified numerous city ordinances and amended the Newport Municipal Code by adding several new chapters, including Chapter 9.30.
2. Chapter 9.30 of the Newport Municipal Code pertains to the use of city facilities by convicted offenders.
3. The City Attorney recommended repealing Chapter 9.30 of the Newport Municipal Code to address potential tensions with state and federal law.
4. The City Manager has issued a policy that allows for the city to exclude individuals from city-owned property and from contacting the city by telephone. This policy addresses the issues contained in Chapter 9.30 of the Newport Municipal Code, and conforms to state and federal law. The policy contains procedures for city staff to follow and provides for an appeal process.
5. It is in the best interest of the city that all of Chapter 9.30 of the Newport Municipal Code be repealed.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 9.30 of the Newport Municipal Code is repealed in its entirety as shown in Attachment A.

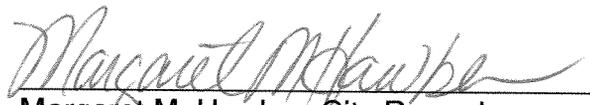
Section 2. Effective Date: This ordinance shall take effect 30 days from the date of final passage.

Adopted by the Newport City Council on August 6, 2012.



Mark McConnell, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

CHAPTER 9.30 USE OF CITY FACILITIES BY
CONVICTED OFFENDERS

9.30.005 Definitions

- A. Convicted Offender. A person who has been convicted of any degree of any of the crimes listed below if the victim or a witness was a person under the age of 18:
1. Rape
 2. Sodomy
 3. Unlawful penetration
 4. Sexual abuse
 5. Contributing to the sexual delinquency of a minor
 6. Sexual misconduct
 7. Custodial sexual misconduct
 8. Public indecency
 9. Private indecency
 10. Unlawful conduct with a child
 11. Incest
 12. Using a child in a display of sexually explicit conduct
 13. Encouraging child sexual abuse
 14. Transporting child pornography into the state
 15. Paying for a child's sexually explicit conduct
 16. Compelling prostitution
 17. Kidnapping
 18. Possession of materials depicting sexually explicit conduct of a child

19. Unlawfully being in a location where children regularly congregate

20. Attempt or conspiracy to commit any of the crimes listed above

21. Equivalent or similar crimes committed elsewhere than Oregon.

- B. City facility. A city-owned or city-operated facility used for recreational purposes or at which large numbers of children may be present. City facilities include, but are not limited to, the recreation center, any city facility with a swimming pool, the city library, and city parks.
- C. Knowing violation. A violation of this chapter that occurs at a time when the convicted offender is aware of this chapter or is aware that restrictions have been placed on the convicted offender's use of city facilities. Action that constitutes unlawfully being in a location where children regularly congregate is a knowing violation.
- D. Unknowing violation. A violation of this chapter by a convicted offender who is unaware of this chapter and unaware of any restrictions on the use of city facilities placed on the convicted offender at the time the violation occurs.
- E. Victim. Victim has its usual meaning of being the person against whom the crime is committed. In addition, the crimes listed in Subsections 5., 10., 12., 13., 14., 15., and 18. of Section A. shall be conclusively presumed to have a victim under 18 years of age.

9.30.010 Limitation on Use of City Facilities

A convicted offender may use a city facility only on the following terms:

- A. The convicted offender must identify himself or herself as a convicted offender when purchasing any pass or admission to a city facility.
- B. The convicted offender must identify himself or herself as a convicted sex offender in person to a staff person of the facility each time the convicted offender enters a city facility and each time the person leaves a city facility. In

the event the facility is a park or other facility at which no staff person is present, the convicted offender must contact the city's parks and recreation department prior to entry to the park and when the person is leaving the park. If the city's park and recreation department is closed at the time, the convicted offender must contact the police department prior to entry to the park and when the person is leaving the park.

- C. The convicted person may not initiate contact with a minor while at the city facility. Initiating contact with a minor does not include talking with any staff person who is a minor.

9.30.015 Violation

- A. The civil penalty for violation for a knowing violation of this chapter shall be \$10,000.00.
- B. The civil penalty for an unknowing violation of chapter shall be up to \$500.00.
- C. A person determined by the municipal court to have committed a knowing violation of this chapter shall be permanently barred from entering any city facility. A person determined by the municipal court to have entered a city facility after being barred under this section shall be required to pay a civil penalty of \$100,000.00.
- D. The penalties and consequences imposed by Subsections A. and C. of this section are mandatory.

9.30.020 Severability

In the event that any word, section, provision or other portion of this chapter is held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, all portions not unconstitutional or invalid shall remain in effect.

(Chapter 9.30 was adopted by Ordinance No. 1938 on October 15, 2007; effective November 14, 2007.)