

CITY OF NEWPORT
ORDINANCE NO. 2084

AN ORDINANCE AMENDING THE BOUNDARY OF THE HISTORIC NYE BEACH
DESIGN REVIEW ZONING OVERLAY AND THE GUIDELINES AND STANDARDS
FOR NEW DEVELOPMENT WITHIN THE ZONING OVERLAY
AS CODIFIED IN THE NEWPORT MUNICIPAL CODE,
ORIGINALLY ADOPTED BY ORDINANCE NO. 1308.

Findings:

1. In 2003, with the adoption of Ordinance No. 1865, the City of Newport created the Nye Beach Design Review Overlay ("Overlay") in its present form. The Overlay put in place architectural design requirements and flexible development standards for new construction or areas of redevelopment.
2. Ordinance No. 1865 required that the City Council hold a public hearing within 10-years to consider whether or not changes needed to be made to the Nye Beach Design Review Overlay boundaries, guidelines, and standards. That hearing was held on December 16, 2013. Advance notice of the hearing was provided to property owners and affected businesses within the Overlay. After taking public testimony, the City Council elected to initiate changes to the Overlay to address a range of issues, including but not limited to building width, building mass, setbacks, maintaining village character, building height, building size, zoning, and boundaries. The Council further directed that the Planning Commission develop the necessary recommended amendments.
3. Considering the scope of the project, the Planning Commission elected to form an ad-hoc work group of interested citizens to assist it in reviewing and updating the Overlay. That work group, which primarily consisted of affected business/property owners, met 10 times between March of 2014 and June of 2015 to develop the recommended revisions. Additionally, the City retained the services of SERA Architecture to help identify strategies for refreshing the design review guidelines and standards.
4. The Planning Commission was updated as the ad hoc work group completed its task and met on June 22, 2015 to consider the group's recommendation before scheduling a public hearing. Key changes to the guidelines and standards include:
 - a. Design review under the guidelines will be required for a greater number of projects. Currently, a review under the guidelines by the Planning Commission is required for structures over 100-feet in length and 35-feet in height. The 100-foot threshold is proposed to be reduced to 65-feet.
 - b. Design guidelines have been updated. SERA Architecture assisted the work group to clarify the intent of each guideline and to identify approaches a developer can take to satisfy them. This will provide developers, decision makers, and the public with a better understanding of the design elements a project must possess in order for it to be approved.
 - c. New guideline have been developed to address solar impacts. Development subject to

the design guidelines will need to avoid excessively shading neighboring properties.

d. Design standards have been revised to ensure that they are clear and objective. SERA Architecture assisted the work group in identifying discretionary language and redrafting it so that it is explicit about what is required. This will help developers, staff, and the public to better understand the design elements that can be used to secure an approval. Projects must incorporate a larger number of design elements. Larger buildings must also satisfy new standards to ensure they visually align with the scale of existing Nye Beach development.

e. New illustrations have been prepared and existing illustrations refreshed to more clearly identify desired design elements.

f. Definitions and review procedures have been consolidated. Some of the definitions have been revised to align with “like type” definitions elsewhere in the Municipal Code. For example, the definition for “substantial improvement” has been revised to match the definition for the same term contained in the building code and city floodplain regulations. This shifts the threshold for when remodel work triggers design review from one that was based upon a percentage of the fair market value of exterior changes for which a building permit is required (25% commercial/35% residential) to one that considers the fair market value of the interior/exterior renovations irrespective of whether or not a building permit is required. Substantial improvements that exceed 50% of the fair market value will require design review. The threshold for review of accessory structures is reduced to align it with building code standards that stipulate when a building permit is required.

5. The ad-hoc work group and Planning Commission identified R-2 and R-3 zoned property that should be removed from the Overlay because the guidelines and standards applicable within the overlay are targeted to R-4 and C-2 zoned land. A small amount of R-4 zoned property is being added at the north end of the overlay to provide a contiguous streetscape, and a small amount of C-2 zoned property is being removed so that the Overlay will no longer pass through a portion of The Whaler Motel. In sum, the changes impact approximately 9 acres of property.

6. The Newport Planning Commission held a public hearing on August 10, 2015. Testimony was provided by members of the public and the owners of property and/or businesses within the Overlay. No testimony was provided in opposition to the changes. After taking public testimony, and considering evidence and argument in the record, the Commission voted to recommend that the City Council adopt the proposed revisions to the Overlay boundary and Newport Municipal Code.

7. The City Council held a public hearing on September 8, 2015 regarding the question of the proposed revisions. Testimony was provided by a property owner within the district in support of the changes. No other testimony was provided and the City Council closed the hearing.

8. On September 21, 2015, the City Council found the proposed changes to be necessary in order to further the general welfare of the community and voted to adopt the revisions after considering public testimony, the recommendation of the Planning Commission, and evidence and argument in the record.

9. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are hereby adopted as support for amendments to the Nye Beach Design Review Zoning Overlay and Newport Municipal Code listed below.

Section 2. Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to reconfigure the boundary of the Nye Beach Design Review Zoning Overlay as illustrated in Exhibit "A," and more particularly described as follows:

Beginning at the northeasterly corner of SW Hurbert Street and SW 2nd Street; thence westerly along the north line of SW 2nd Street to the west line of SW Dolphin Street, said point also being the southeast corner of Lot 1, Block B, Barlow Blocks Addition to the City of Newport; thence north along the west line of SW Dolphin Street to 10 feet beyond the north line of Lot 7, said Barlow Blocks Addition; thence westerly, 10 feet north of and parallel with said north line of Lot 7 to the Pacific Ocean; thence northerly along the Pacific Ocean to the south line of NW 12th Street; thence east along the south line of NW 12th Street to the east line of an alley between NW Spring Street and NW Hurbert Street; thence south along the east line of said alley way to the north line of NW 10th Street; thence southwesterly to the southwest corner of the intersection of NW 10th Street and NW Brook Street; thence south along the west line of NW Brook Street to the south line of NW 8th Street; thence east along the south line of NW 8th Street to the west line of NW Hurbert Street; thence south along the west line of NW Hurbert Street to the north line of NW 6th Street; thence east to the northeast intersection of NW 6th Street and NW Hurbert Street; thence south along the east line of NW Hurbert Street and SW Hurbert Street to the north line of SW 2nd Street and the point of beginning.

Section 3. Newport Municipal Code Chapter 14.1, Purpose and Definitions, is amended to include the following definitions under Section 14.01.020:

Community Development Director. The City of Newport Community Development Director/Planning Director or designate.

Design Guidelines. The discretionary design oriented approval criteria with which a project is required to be in compliance. The design guidelines are applicable for applications that do not meet the design standards.

Design Review. The process of applying design guidelines and/or design standards as applicable to a project.

Design Standards. Clear and objective design oriented approval criteria with which a project must demonstrate compliance. If a project does not meet the design standards, then the project is reviewed under the design guidelines.

Footprint. The total square footage of the area within the perimeter of the building as measured around the foundation of a building.

Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

A. before the improvement or repair is started; or

B. if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either of the following:


1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Section 4. Newport Municipal Code Chapter 14.30, Design Review Standards, is repealed and replaced in its entirety with the language contained in Exhibit B.

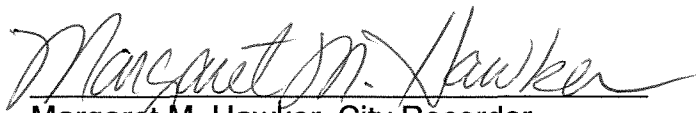
Section 5. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: September 21, 2015.


Signed by the Mayor on September 22, 2015.

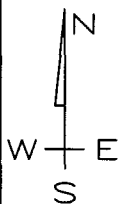
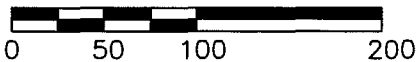

Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Approved as to form:


Steve Rich, City Attorney



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
July 13, 1999
JOHN R. PARIANI
#51382

Renews: December 31, 2016

Historic Nye Beach District Sketch

Pariani Land Surveying

136 West Main Street
Eagle Point, Oregon
541-890-1131

Date:

July 8, 2015

Scale:

$$1'' = 100'$$

Job No.:

2012-095

Sheet:

1 of 1

CHAPTER 14.30 DESIGN REVIEW STANDARDS

14.30.010 Purpose. Design review districts may be adopted by the City of Newport in accordance with applicable procedures to ensure the continued livability of the community by implementing standards of design for both areas of new development and areas of redevelopment. Design review is an important exercise of the power of the City to regulate for the general welfare by focusing on how the built environment shapes the character of the community.

The Newport Comprehensive Plan identifies six potential urban design districts within the Newport Peninsula including the City Center District (and Highway 101 corridor), Waterfront District, Nye Beach District, Upland Residential District, East Olive District, and the Oceanfront Lodging/Residential District. Additionally, neighborhood plans may be adopted for other areas of Newport that include as an objective the implementation of design review to maintain and/or provide a flexible approach to development by offering two methods of design review from which an applicant can choose. One method of design review is under clear and objective design standards and procedures to allow development that is consistent with the standards to occur with certainty in a timely and cost effective manner. A second alternative method of design review is review under design guidelines, which are a more flexible process for proposals that are creative/innovative and meet the identified guidelines of the applicable design review district.

It is further the purpose of these standards to:

- A. Preserve the beautiful natural setting and the orientation of development and public improvements in order to strengthen their relationship to that setting.
- B. Enhance new and redeveloping architectural and landscape resources to preserve and strengthen the historic, scenic and/or identified neighborhood character and function of each setting.
- C. Improve the vehicular and pedestrian networks in order to improve safety, efficiency, continuity, and relationships connecting Newport neighborhoods.
- D. Strengthen Newport's economic vitality by improving its desirability through improved appearance, function, and efficiency.

- E. Improve the built environment in order to strengthen the visual appearance and attractiveness of developed areas.
- F. Implement the goals and objectives of the adopted neighborhood plans.

14.30.020 Design Review Districts: Overlay Zones Established. The following:

- A. Historic Nye Beach Design Review District. The Historic Nye Beach Design Review District Overlay Zone shall be indicated on the Zoning Map of the City of Newport with the letters HNBO and is the area described as follows:

Beginning at the northeasterly corner of SW Hurbert Street and SW 2nd Street; thence westerly along the north line of SW 2nd Street to the west line of SW Dolphin Street, said point also being the southeast corner of Lot 1, Block B, Barlow Blocks Addition to the City of Newport; thence north along the west line of SW Dolphin Street to 10 feet beyond the north line of Lot 7, said Barlow Blocks Addition; thence westerly, 10 feet north of and parallel with said north line of Lot 7 to the Pacific Ocean; thence northerly along the Pacific Ocean to the south line of NW 12th Street; thence east along the south line of NW 12th Street to the east line of an alley between NW Spring Street and NW Hurbert Street; thence south along the east line of said alley way to the north line of NW 10th Street; thence southwesterly to the southwest corner of the intersection of NW 10th Street and NW Brook Street; thence south along the west line of NW Brook Street to the south line of NW 8th Street; thence east along the south line of NW 8th Street to the west line of NW Hurbert Street; thence south along the west line of NW Hurbert Street to the north line of NW 6th Street; thence east to the northeast intersection of NW 6th Street and NW Hurbert Street; thence south along the east line of NW Hurbert Street and SW Hurbert Street to the north line of SW 2nd Street and the point of beginning.

14.30.030 Adoption of Design Review: Guidelines and Standards. The document entitled "Newport Design Review: Guidelines and Standards" dated July 29, 2015, is hereby

adopted by reference and made a part hereof. The guidelines and standards contained therein shall be the guidelines and standards applicable to the Historic Nye Beach Design Review District.

14.30.040 Design Review Required. The following development activities in an established design review district are required to obtain a design review permit under the design standards in an identified design review district or, in the alternative, to apply for a design review permit and to obtain approval under the design guidelines for that design review district:

- A. New construction, substantial improvement, or relocation of one or more dwelling units.
- B. New construction, substantial improvement, or relocation of a commercial or public/institutional building.
- C. New construction, substantial improvement, or relocation of a residential accessory structure that contains more than 200 square feet of gross floor area and is not more than 10 feet in height.
- D. New construction, substantial improvement, or relocation of a commercial accessory structure that contains more than 120 square feet of gross floor area.
- E. An addition that increases the footprint of an existing building by more than 1,000 square feet.

14.30.050 Exemptions. The following activities are exempt from the provisions of this chapter:

- A. Development activity that is subject to the provisions of Newport Municipal Code Chapter 14.23, Historic Buildings and Sites.
- B. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.
- C. Development that does not involve the construction, substantial improvement, or relocation of a dwelling unit, commercial or public/institutional building, or accessory structure.

14.30.060 Approval Authority. The following are the initial review authorities for a Design Review application:

- A. Community Development Director. For projects subject only to the design standards specified in the document entitled "Newport Design Review: Guidelines and Standards," dated July 29, 2015. The approval or denial of a Design Review application by the Community Development Director is a ministerial action performed concurrent with City review of a building permit.
- B. Planning Commission. For projects that require design review under the design guidelines contained in the document entitled "Newport Design Review: Guidelines and Standards," dated July 29, 2015, including the following:
 - 1. New construction, substantial improvement, or relocation of a dwelling unit; commercial or public/institutional building; or accessory structure that is over 65 feet in length or 35 feet in height; or
 - 2. New construction, substantial improvement, or relocation of a dwelling unit; commercial or public/institutional building; or accessory structure that does not meet the design standards contained in the document entitled "Newport Design Review: Guidelines and Standards" dated July 29, 2015; or
 - 3. New construction, substantial improvement, or relocation of a dwelling unit; commercial or public/institutional building; or accessory structure that involves a conditional use, a variance, or any other type of land use permit for which a Type III Land Use Action decision process is required, pursuant to Chapter 14.52, Procedural Requirements.

14.30.070 Application Submittal Requirements.

- A. For requests that are subject to Community Development Director review for compliance with design standards, an application for Design Review shall consist of the following:
 - 1. A completed and signed City of Newport Building Permit Application Form.

2. Building plans that conform to the submittal requirements for a building permit that include a site plan, floor plan, exterior architectural elevations, cross-section drawings, and construction specifications illustrating how the design standards have been met.
 3. A written checklist identifying the design elements used to comply with the design standards.
- B. For requests that are subject to Planning Commission review for compliance with design guidelines, an application for Design Review shall consist of the following:
1. Submittal requirements for land use actions listed in Section 14.52.050.
 2. Exterior elevations of all buildings on the site as they will appear after development. Such plans shall indicate the material, texture, shape, and other design features of the building(s), including all mechanical devices.
 3. A parking and circulation plan illustrating all parking areas, drive isles, stalls, and points of ingress/egress to the site.
 4. A landscape plan showing the location, type and variety, size and any other pertinent features of the proposed landscaping and plantings for projects that involve multiple-family (more than 2 units), commercial, and public/institutional development.
 5. A lighting plan identifying the location and type of all permanent area lights, including parking area lighting, along with details of the lighting fixtures that are to be installed.
 6. A written set of proposed findings that explain how the project complies with the applicable design guidelines.
 7. Any other information the applicant believes is relevant to establishing that the project complies with applicable design guidelines.
- C. All plans shall be drawn such that the dimensions can be verified with an engineers or architects scale.

14.30.080 Permitted Uses

In addition to uses permitted outright or conditionally in the underlying zoning district, the following uses are permitted within areas subject to design review.

A. Historic Nye Beach Design Review District.

1. Tourist Commercial (C-2) zoned property.
 - a. Up to five (5) multi-family dwelling units per lot or parcel are permitted outright provided they are located on a floor other than a floor at street grade.
 - b. A single-family residence is permitted outright if located on a floor other than a floor at street grade.
 - c. A single-family residence is permitted outright, including the street grade floor, within a dwelling constructed prior to January 1, 2004. Residential use at the street grade is limited to the footprint of the structure as it existed on this date.
 - d. Single family, duplex, triplex, fourplex and multifamily dwelling units, including at the street grade, are permitted outright on property located south of NW 2nd Court and north of NW 6th Street that front NW and SW Coast Street, NW and SW Cliff Street, and W. Olive Street.
2. High Density Multi-Family Residential (R-4) zoned property.
 - a. Uses permitted outright in the C-2 zone district that are not specified as a use permitted outright or conditionally in the R-4 zone district, are allowed subject to the issuance of a conditional use permit in accordance with the provisions of Chapter 14.34, Conditional Uses and subject to the limitation that the use not exceed a total of 1,000 square feet of gross floor area. This provision does not preclude an application for a use as a home occupation under Chapter 14.27, Home Occupations.

14.30.090 Prohibited Uses

The following uses are prohibited within areas subject to Design Review.

A. Historic Nye Beach Design Review District

1. Any new or expanded outright permitted use in the C-2 zone district that exceeds 2,000 square feet of gross floor area. New or expanded uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Chapter 14.34, Conditional Uses.
2. Recreational vehicle parks within the Tourist Commercial (C-2) and Public Structures (P-1) zoning districts.

14.30.100 Special Zoning Standards in Design Review Districts. All zoning standards and requirements applicable under Ordinance No. 1308 (as amended) in the subject zoning district shall apply, except that the following additional zoning standards are applicable for the design review district as applicable in the underlying zoning designation and shall be modified for each district as specified.

A. Historic Nye Beach Design Review District:

1. No drive through windows are allowed.
2. Commercial buildings with frontage on NW and SW Coast Street, W Olive Street, NW and SW Cliff Street, NW Beach Drive, and NW Third Street shall be set back from the property line fronting the street no more than 5 feet unless the development provides for a pedestrian oriented amenity (such as a courtyard, patio, or café with outdoor seating), compliance with the setback is precluded by topography or by easement, or a larger setback is authorized by the Planning Commission through the design review process.
3. Required yards and setbacks established in Chapter 14.11 (Required Yards and Setbacks) and Chapter 14.18 (Screening and Buffering between Residential and Non-Residential Zones) shall be reduced by 50%, except for Section 14.11.030, Garage Setback, which is to remain at 20-feet unless the garage is placed on the property line in which case there is no garage setback requirement.
4. The following adjustments to Chapter 14.12 (Minimum

Size) and Chapter 14.13 (Density Limitations, Table "A") are allowed within the District.

- a. The minimum lot area within both the R-4 and C-2 zones shall be 3,000 square feet.
 - b. The minimum lot width for the R-4 zone shall be 30 feet.
5. Residential use permitted on C-2 zoned property located south of NW 2nd Court and north of NW 6th Street that front NW and SW Coast Street, NW and/or SW Cliff Street, and W. Olive Street shall comply with the following additional requirements:
 - a. The maximum density per residential unit is 1,250 square feet per unit.
 - b. The maximum building height is 35 feet.
 - c. The maximum lot coverage in structures is 64%. If the proposed residential use provides at least 1 off-street parking space for each dwelling unit in a below-grade parking structure (for the purposes of this section below-grade is defined to mean that 50% or more of the perimeter of the building is below-grade) located directly below the residential portion of the structure, the maximum lot coverage allowed is 90%.
 - d. The residential use provides at minimum 1 off-street parking space for each dwelling unit.
 - e. At least one residential building per lot is set back from the property line abutting the street no more than 5 feet.
6. The following adjustments to the off-street parking requirements of Chapter 14.14 (Parking, Loading, and Access Requirements) are provided for uses within the District:
 - a. Commercial uses shall have the first 1,000 square feet of gross floor area exempted from the off-street parking calculation.
 - c. All uses within the District shall be allowed an on-

street parking credit that shall reduce the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property subject to the following limitations:

- i. Each on-street parking space must be in compliance with the City of Newport standards for on-street parking spaces.
- ii. Each on-street parking space to be credited must be completely abutting the subject property. Only whole spaces qualify for the on-street parking credit.
- iii. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are allowed except as authorized by the City of Newport.

14.30.110 Modification of a Design Review Permit. A modification of an approved design may be requested of the approving authority for any reason by an applicant. Applications for a modification shall be submitted and processed in the same manner as the original application.

1. If the requested modification is from an approval issued under design standards, the modification request shall be approved by the Community Development Director if the modification also meets the design standards.
2. If the modification does not meet the design standards or if the modification is from an approval issued under the design guidelines, the modification shall be processed under the design review process for compliance with the applicable design guidelines. The Commission's authority is limited to a determination of whether or not the proposed modification is consistent with the applicable design review guidelines.