

CITY OF NEWPORT

ADMINISTRATIVE POLICY NO. 2024-03

Subject: Rules of Conduct for the Newport Municipal Airport
Effective Date: July 24, 2024
Issued by: Nina Vetter, City Manager

The attached rules of conduct for the Newport Municipal Airport, administrative policy no. 2024-03, are adopted under NMC 8.11.050, and the Airport Director is delegated authority and assigned as the person in charge under NMC 8.11.020 for the purpose of enforcing the attached rules of conduct.



Nina Vetter, City Manager

7/23/24

Date

RULES OF CONDUCT FOR THE NEWPORT MUNICIPAL AIRPORT

In order to ensure a safe, professional, and accommodating work and customer environment, all Newport Municipal Airport (ONP) customers, visitors, leaseholders, and employees shall observe the following rules of conduct while on or about ONP property.

Under Newport Municipal Code (NMC) Chapter 8.11 - Trespass in Public Places, the following are rules of conduct while on or about ONP property:

- A. No person shall violate any federal, state, or city of Newport law/ordinance.
- B. No person shall enter or remain on ONP property for purposes other than to conduct legitimate business with ONP or to use that property lawfully under the laws and rules that apply.
- C. No person shall enter or attempt to enter any secure portion of ONP property that is not open to members of the public without authorization from ONP staff.
- D. No person shall deface, damage, or destroy ONP property.
- E. No person shall engage in conduct that degrades the appearance of ONP property, including but not limited to depositing trash or defacing property.
- F. No person shall engage in conduct that disrupts or interferes with operations of ONP, including but not limited to conduct that creates unreasonable noise or physical behavior. (Examples may include but are not limited to: climbing, running, loud or disruptive noise, throwing things, pushing and shoving, public indecency, verbal or physical harassment or threat.)
- G. No person shall engage in conduct that subjects patrons or employees of ONP to alarm or disturbance.
- H. Unless specifically authorized, no person shall use ONP property for the purpose of housing or camping, including but not limited to placing objects such as vehicles, bicycles, backpacks, carts, or other items in a manner that interferes with passage.
- I. No person shall refuse to obey any lawful direction of ONP staff or other city government employees.
- J. No person shall violate any provisions posted on any ONP parking lots.
- K. So that everyone may have a safe and enjoyable experience, the following are also prohibited while on or about ONP property (NMC 8.11.050):
 - K.1. Conversation, television, radio, or other devices must be kept at a volume so as to not disturb other airport users.
 - K.2. Pet owners are responsible to keep pets under control and to clean up and dispose of pet waste.

Violation of ONP rules of conduct may result in verbal or written warning, exclusion, or other enforcement action identified under NMC Chapter 8.11.

**City of Newport
City Council Minutes
June 17, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT
Time Start: 6:00 P.M. Time End: 9:33 P.M.

ATTENDANCE LOG/ROLLCALL

COUNCIL/BOARD MEMBER	STAFF
Mayor Kaplan	Spencer Nebel, City Manager
Councilor Emond	Erik Glover, Assistant City Manager/City Recorder
Councilor Botello	Jason Malloy, Police Chief
Councilor Goebel	Steve Baugher, Finance Director
Councilor Hall	David Allen, City Attorney
Councilor Parker	Mike Cavanaugh, Parks and Recreation Director
Councilor Jacobi	Chris Beatty, Acting City Engineer
	Lance Vanderbeck, Airport Director
	Rob Murphy, Fire Chief

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	Kaplan called the meeting to order.
Roll Call	Roll call was conducted by Glover.
Pledge of Allegiance	Council, staff, and the audience participated in the Pledge of Allegiance.
PUBLIC COMMENT	
Raeanne Michelle Mease Mease Family	Kaplan introduced the Public Comment section. Glover noted that written public comment was received, it primarily pertained to Bayfront parking and read their names into the record.
PROCLAMATION, PRESENTATIONS AND SPECIAL RECOGNITIONS	
Proclamation Recognizing Pride Month and the 3 rd Annual LGBTQ2SIA+ PRIDE! Festival in the City of Newport, Received by Newport Pride	Mayor Kaplan read the proclamation and presented it to Kathy Redwine, representing the Newport Pride. Redwine thanked the council for doing this.
A Proclamation of the City of Newport Recognizing Rogue Ales and Spirits Day in Newport, Oregon, Received by Rogue Brewery	Mayor Kaplan read the proclamation and presented it to Jason Pond, representing Rogue Brewery. Pond expressed gratitude for all of the support.
A Proclamation of the City of Newport Proclaiming June 2024 as Great Outdoors Month, Received by Mike Cavanaugh, Newport Parks and Recreation Director	Mayor Kaplan read the proclamation and presented it to Cavanaugh.

A Proclamation of the City of Newport Proclaiming June 17-23, 2024 as National Pollinator Week, Received by Mike Cavanaugh, Newport Parks and Recreation Supervisor
CONSENT CALENDAR

Mayor Kaplan read the proclamation and presented it to Cavanaugh.

Receipt of Audio/Video File Links for Minutes to be Approved

Glover read the Consent Calendar into record.

Approval of City Council Meeting and Work Session Minutes

6-03-2024 Work Session Minutes
6-03-2024 City Council Minutes

MOTION was made by Goebel, seconded by Hall to approve the consent calendar. MOTION carried unanimously in a voice vote.

Receipt of Approved Committee Minutes

5-13-2024 Planning Commission Work Session
5-13-2024 Planning Commission
4-09-2024 Airport Committee

Consent to the Sale of a Hangar on Site A-3 to JFT Holdings, LLC and Enter into a Land Lease with JFT Holdings, LLC for a New Initial Lease Term of 15 years, and Terminate the Existing Land Lease 3194 with Pacific Metal Works, Inc. Effective on the Date the New Lease with JFT Holding, LLC is Executed

Consent to the Sale of the Hangar on Site C-1 to James Seavers and Enter into a Land Lease with James Seavers for a New Initial Lease Term of 15 years, and Terminate the Existing Land Lease 3508 with Daniel B McCrea Effective Upon Execution of the New Lease with James Seavers

MOTION was made by Emond, seconded by Hall to agenda addition/add to the agenda the discussion on the time for the special July 1, 2024 council meeting. MOTION carried unanimously in a voice vote.

Agenda Addition* Change July 1, 2024 Special City Council Meeting to 4:00 PM

MOTION was made by Hall, seconded by Emond to move to change the starting time of the July 1 special meeting to 4:00pm. MOTION carried unanimously in a voice vote.

PUBLIC HEARING

Public Hearing and Potential Adoption of Ordinance No. 2223, an Ordinance Establishing Designated Speeds for NW Oceanview Drive

Nebel presented the City Manager Report.

6:23 PM Kaplan opened the Public Hearing.

Carla Perry email.

Glover read email from Carla Perry into the record. Letter primarily pertained to thoughts on Oceanview Drive speed,

roadway width, sidewalks, and the importance of crossing areas in various locations.

Spoke in the Meeting:

Mike Clark, Newport
Lindsey Brown, Newport
Karen Eibner, Newport
Marie Wright, Newport
Carol Lynn Bryan, Newport

Various members of the public addressed the council in person regarding NW Oceanview Drive. They primarily spoke to thoughts on speeds, request for adding rumble strips, bicycle lane addition, and vegetation removal.

Sent in Letters:

Pat
Barbara English
J Price
Arne LaVen
Alex Wimpres
Marie Wright
Donna Mattioli
Michael Ragusa
Art & Vickie Bogardus
John Updike
Beth Young

Various members of the public emailed letters to the council. These expressed their thoughts and concerns on Oceanview Drive.

6:45 PM Kaplan closed the Public Hearing.

Discussion was held, and it was indicated the city is waiting to hear back from ODOT on speed changes. It was decided to continue to a date and time certain and bring this back to the July 1st meeting.

MOTION was made by Hall, seconded by Jacobi to move to continue the Public Hearing until July 1, 2024 at 6:00 PM. MOTION carried unanimously in a voice vote.

Public Hearing and Potential Adoption of Ordinance No. 2224, an Ordinance Modifying NMC Chapter 5.10, 5.15 and 5.20 Pertaining to Water, Sewer and Stormwater Utilities

Nebel presented the City Manager Report.

Nebel noted this has been an item long outstanding, with initial development previous to Covid19. He noted Glover and other City staff brought this across the finish line, after work through issues on it for the last year and would be very beneficial for the City going forward.

Glover noted that this had been a long project, and he was glad it was complete. He advised it will implement beneficial changes for the City on the administrative side, and very importantly be more efficient and easier to use for the public, with a strong focus on creating form fillable applications for members of the public to use.

Allen noted an emergency adoption language was added to tie everything together, and to be timely and coincide with the July 1, 2024 fee schedule start and adoption.

7:07 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:08 PM Kaplan closed the Public Hearing.

MOTION was made by Goebel, seconded by Emond to move to place for final passage and read by title only Ordinance No. 2224, an ordinance amending chapters 5.10, 5.15, and 5.20 of Title V of the Newport Municipal Code relating to Water, Sewer, and Stormwater utilities. MOTION carried unanimously in a voice vote.

Glover read by title only Ordinance No. 2224.

Glover conducted a roll call voice vote on Ord 2224, which passed with all voting in favor.

Public Hearing and Potential Adoption of Resolution No. 4030, a Resolution Providing a Supplemental and Making Appropriations/Total Requirement Changes for the Fiscal Year 2023-2024

Nebel presented the City Manager Report.

7:12 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:12 PM Kaplan closed the Public Hearing.

MOTION was made by Hall, seconded by Jacobi to move to adopt Resolution No. 4030, a resolution providing a supplemental budget and making appropriations/total requirement changes for Fiscal Year 2023-2024. MOTION carried unanimously in a voice vote.

Public Hearing and Possible Adoption of Resolution No. 4027, a Resolution Imposing and Categorizing Ad Valorem Taxes for Fiscal Year 2024-2025

Nebel presented the City Manager Report.

7:14 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:14 PM Kaplan closed the Public Hearing.

MOTION was made by Jacobi, seconded by Goebel to move to adopt Resolution No. 4027, a resolution imposing and categorizing ad valorem taxes for the City of Newport at a rate of \$5.5938 per thousand dollars of assessed valuation, plus an amount of \$2,987,334 to cover debt requirements for the City of Newport for the fiscal year beginning July 1, 2024 and ending June 30, 2025. MOTION carried unanimously in a voice vote.

Public Hearing and Potential Adoption of Resolution No. 4028, a Resolution Declaring the City's Election to Receive State Shared Revenues

Nebel presented the City Manager Report.

7:17 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:17 PM Kaplan closed the Public Hearing.

MOTION was made by Emond, seconded by Botello to move to adopt Resolution No. 4028, a Resolution declaring the City's election to receive State Shared Revenues pursuant to ORS 221.770 for Fiscal Year 2024-2025. MOTION carried unanimously in a voice vote.

Public Hearing and Potential Adoption of Resolution No. 4026, a Resolution Adopting a Fee Schedule for the City of Newport for the Fiscal Year beginning July 1, 2024 and Ending June 30, 2025 Repealing Resolution No. 3985 Which

Nebel presented the City Manager Report.

7:21 PM Kaplan opened the Public Hearing.

No public comments were heard.

Established Fees for the Year Ending June 30, 2024.

7:22 PM Kaplan closed the Public Hearing.

There will be a work session in September regarding the fee schedule for airport fees.

MOTION was made by Goebel, seconded by Emond to move to adopt Resolution No. 4026, a resolution that adopts a comprehensive fee schedule for the fiscal year beginning July 1, 2024, and ending June 30, 2025, and further repeals Resolution No. 3985, which established fees through June 30, 2024.

Public Hearing and Potential Adoption of Resolution 4029, a Resolution Establishing the Purpose and Review Times for Municipal Reserve Funds and Repealing Resolution 3986

Nebel presented the City Manager Report.

7:27 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:28 PM Kaplan closed the Public Hearing.

MOTION was made by Emond, seconded by Goebel to move to adopt Resolution No. 4029, a resolution establishing the purpose and review times for Municipal Reserve Funds and repealing Resolution No. 3986. MOTION carried unanimously in a voice vote.

Public Hearing and Potential Adoption of Resolution No. 4024, a Resolution Adopting Fiscal Year 2024-2025 Budget and Making Appropriations

Nebel presented the City Manager Report.

7:31 PM Kaplan opened the Public Hearing.

No public comments were heard.

7:31 PM Kaplan closed the Public Hearing.

Allen noted a necessary correction on pg. 3, it should read June 17th not July 17th. It was general Council consensus to proceed with the change.

MOTION was made by Hall, seconded by Goebel to move to adopt Resolution No. 4024, a resolution adopting the Fiscal Year 2024-2025 budget as recommended by the Budget Committee, with the reduction of \$500,000 from Project No. 16013 for budget appropriations of \$139,872,782, unappropriated reserves of \$3,902,323 and an ending fund balance of \$4,738,058. MOTION carried unanimously in a voice vote.

COMMUNICATIONS

Communication from Agape Respite Center - Request for Homelessness Funding to Support Essential Services to the Homeless Population in Newport

Nebel presented the City Manager's Report.

Jamelle Villareal Executive Director with Agape Respite Center presented a request for \$25,000 to assist with their efforts to establish a permanent center in Newport.

MOTION was made by Jacobi, seconded by Botello to move to request a report from City Administration to develop a grant agreement with Agape Respite Center in the amount of \$25,000 for addressing laundry services, shower facilities, lunches and

meal services for Newport's homeless community. MOTION carried unanimously in a voice vote.

Nebel presented the City Manager's Report.

Communication from Linda Perrine with Electrify Lincoln County, a Local Group of Electrify Oregon Regarding Various Energy Efficiency Items

Perrine presented to council regarding maximizing the Inflation Reduction Act tax credit/rebates to help with home improvements to facilitate energy efficiency measures, and various renewable energy grants and funding opportunities.

From the Airport Committee, Rules of Conduct for the Newport Airport

Nebel presented the City Manager's Report.

It was advised no action is needed today, only needs council review. No changes were noted. It was noted the City Manager can put them into effect 30 days after Council reviews them.

CITY MANAGER'S REPORT

Consideration and Possible Approval of an Intergovernmental Agreement with Lincoln County for Transfer of Real Property

Nebel presented the City Manager's Report.

Eli Adam, Lincoln County Surveyor was present for questions.

MOTION was made by Emond, seconded by Hall to move to approve an Intergovernmental agreement for transfer of real property with Lincoln County and authorize the Mayor to execute said agreement. MOTION carried unanimously in a voice vote.

Consideration and Potential Adoption of Resolution 4023, a Resolution Authorizing the City of Newport to Apply for a \$1,517,357 Loan from Business Oregon's Special Public Works Fund and Delegating Authority to the City Manager to Sign the Application and Loan Agreement

Nebel presented the City Manager's Report.

MOTION was made by Goebel, seconded by Botello to move to adopt Resolution 4023, A resolution authorizing a \$1,517,357 loan with Business Oregon's Special Public Works Fund and delegate authority to the City Manager to sign the application and loan agreement for the Wastewater Treatment Plant Centrifuge Solids Processing Systems Project. MOTION carried unanimously in a voice vote.

Authorization to Apply for the T-Mobile Hometown Grant Program for \$50,000 to be Designated for the Sam Moore Parkway Playground Project

Nebel presented the City Manager's Report.

MOTION was made by Jacobi, seconded by Emond to move to authorize the City Manager to submit a grant application to T-Mobile Hometown Grant Program seeking an amount of \$50,000 that would be utilized for the Sam Moore Parkway Playground Project. MOTION carried unanimously in a voice vote.

Authorization to Submit and Accept, if Approved, and FAA AIP BIL Grant for Design and Construction of New T-Hangars at the Airport in an Amount up to \$872,000

Nebel presented the City Manager's Report.

MOTION was made by Jacobi, seconded by Emond to move to authorize the City Manager to submit a request to the FAA for AIP BIL grant funding in an amount of \$872,000 and if approved, authorize the City Manager, Nina Vetter, to approve a grant agreement for design and construction subject to review by the City Attorney. MOTION carried unanimously in a voice vote.

Nebel presented the City Manager's Report.

Approval of a Collective Bargaining Agreement with the Newport Police Association for a Three-Year Period Ending June 30, 2027

MOTION was made by Emond, seconded by Goebel to move to approve a Collective Bargaining Agreement between the City of Newport and the Newport Police Association for a three-year period ending June 30th, 2027. MOTION carried unanimously in a voice vote.

Authorization to Initiate Discussions with the Depoe Bay Fire District on the Concept of Entering into a 190 Agreement with Depoe Bay Fire District for Shared Administrative Fire Services

Nebel presented the City Manager's Report. There was a brief question and answer with Chief Murphy.

Community member Dr. Dick Beemer provided some public comment.

MOTION was made by Jacobi, seconded by Parker to move to authorize discussions on a possible inter-governmental agreement with Depoe Bay Fire District for shared administrative services. MOTION carried unanimously in a voice vote.

MOTION was made by Parker, seconded by Emond to move to appoint Goebel (a member of Council), the City Manager, and Fire Chief as representatives of the city to initiate these discussions with Depoe Bay Fire District. MOTION carried unanimously in a voice vote.

Receipt of Salary Study/Survey Results

Nebel presented the City Manager's Report.

Schedule delays were noted with the project, due to changes in contractor staff. It was noted that the recommendation was targeted for the July 1, 2024 meeting for implementation. 8:45 PM Kaplan opened the Local Contract Review Board.

LOCAL CONTRACT REVIEW BOARD

Approval of an Agreement for the Operation of the Performing Arts Center and the Visual Arts Center by the Oregon Coast Council for the Arts

Nebel presented the City Manager's Report.

MOTION was made by Emond, seconded by Botello to move to approve the agreement between the City of Newport, and the Oregon Coast Council for the Arts, for the operation of the Performing Arts Center, and the Visual Arts Center, beginning July 1, 2024, and extending for a five-year term.

Award of the Hwy 20 & NE Eads Pedestrian Crossing Improvements to Civil West Construction, LLC in the amount of \$136,858

Nebel presented the City Manager's Report.

There was a brief question and answer with Beatty.

MOTION was made by Parker, seconded by Botello to move to award the Hwy 20 & NE Eads Street Pedestrian Crossing Improvements Project to Civil West Construction, LLC in the amount of \$136,858 and direct the City Manager to execute the contract on behalf of the City of Newport Subject to Final Revisions and authorization by the City Attorney provided no protests are received during the 7-day protest period. MOTION carried unanimously in a voice vote.

Approval of a Professional Services Agreement with Public Affairs

Nebel presented the City Manager's Report.

Council, Inc., for State Legislative Services

MOTION was made by Hall, seconded by Parker to move to authorize the City Manager to execute the Professional Services Agreement to provide state lobbying services for the duration of three years subject to final review by the City Attorney. MOTION carried unanimously in a voice vote.

Acceptance of a Proposal from the Youth Development Coalition (YDC) of Lincoln County, Inc., to Lease Space at the Newport Recreation Center to Create Year-Round Affordable High Quality Childcare Services for the Community

Nebel presented the City Manager's Report.

There was a brief question and answer with Cavanaugh.

MOTION was made by Jacobi, seconded by Botello to move to accept the proposal from the Youth Development Coalition (YDC) to lease space in the Recreation Center to operate childcare services and authorize the City Attorney to develop a lease and/or agreement with YDC in accordance with the proposal. MOTION carried unanimously in a voice vote.

Authorization of an Amendment to Agreement with Associated Cleaning Services for Custodial Services

Nebel presented the City Manager's Report.

There was a brief discussion.

MOTION was made by Goebel, seconded by Emond to move to authorize the City Manager to sign an amendment to a personal services agreement between the City of Newport and Associated Cleaning Services, Inc extending the agreement for an additional one-year term and as provided for under Section 2 of the agreement until September 1, 2024. MOTION carried unanimously in a voice vote.

Declaration of a 1992 Ford Cargo 8000 (City Fleet #0927) with the Fire Department as Surplus Property

Nebel presented the City Manager's Report.

MOTION was made by Hall, seconded by Parker to move to declare a 1992 Ford Cargo 8000 (City Fleet #0927) with the Fire Department as surplus City property, with an estimated value of \$10,000 and authorize the City Manager to dispose of the vehicle in accordance with public contracting rules. MOTION carried unanimously in a voice vote.

Consideration and Potential Approval of FY 2024-2025 CIS Insurance Renewal (Property, Liability, Auto Liability/Physical Damage) SAIF Work Compensation, Evolve Cyber Liability Coverage, CHUBB for Airport Specific Coverage and VFIS for Volunteer Firefighter Accident Insurance

Nebel presented the City Manager's Report.

It was noted in discussion that Staff was evaluating adding additional items to the policy for the Airport, and would be working with WHA staff to determine what was appropriate from a risk management perspective. It was noted it would not exceed \$35,000, for all additions, and it was likely every property or PIO would not be added.

MOTION was made by Jacobi, seconded by Hall to move to authorize the City Manager, to accept and sign on behalf of the City of Newport the yearly insurance renewal with CIS, via agent of record Wilson Heirgood Associates, for Property, Auto Physical Damage, Auto Liability, Excess Crime and General Liability for the 2024-2025 FY with a premium amount of \$656,490.59. MOTION carried unanimously in a voice vote.

MOTION was made by Parker, seconded by Botello to move to authorize the City Manager, to accept and sign on behalf of the City of Newport the yearly insurance renewal with CIS, via agent of record Wilson Heirgood Associates, with the additional Airport related items as noted, for the 2024-2025 FY with a premium amount, not to exceed \$35,000. MOTION carried unanimously in a voice vote.

MOTION was made by Hall, seconded by Goebel to move to authorize the City Manager, to accept and sign on behalf of the City of Newport the yearly SAIF Workers Compensation renewal for FY 2024-2025 in the amount of \$151,926.36. MOTION carried unanimously in a voice vote.

MOTION was made by Emond, seconded by Hall to move to authorize the City Manager, to accept and sign on behalf of the City of Newport the yearly Cyber Liability coverage via Evolve for FY 2024-2025 renewal in the amount of \$31,805.00. MOTION carried unanimously in a voice vote.

REPORT FROM MAYOR AND COUNCIL

9:26 PM Kaplan closed the Local Contract Review Board. Jacobi invited council to attend the dedication for the Pegasus by the Sea horse sculpture on Saturday. The artist Jesse Swickard will be in attendance.

Kaplan reported that he and Hall, as the quality review team, had a meeting with Attorney Allen. It was noted that the quality review team is looking at doing employee evaluations differently, which will include obtaining input from the various different departments, which was not done in the past.

Kaplan reported that the Japan Consular General will be here at City Hall on Tuesday at 10:30 a.m for a visit regarding the Sister City relationship.

Kaplan also mentioned that representatives from Senator Merkley's office will be here Tuesday at 2:30 pm to look at the dam.

PUBLIC COMMENT

None was heard.

ADJOURNMENT

9:33 PM

Work Session/Urban Renewal Agency/ Executive Session

AUGUST, 2024

August 5, 2024

- Use of Discover Newport \$100,000 in Beautification Funding (Erik)
- Update on Oceanview Drive/16th Street One-Way (Chris)
- Property Maintenance Code Report Including Comps with Comparable Communities- - (Derrick/Jason)
- Report on Grants Pass Supreme Court Decision- David

August 19, 2024

- Report from Committee Structure Study Group (Erik)
- Review of Policy on Marijuana Use Employee Temporary Transitional Housing- (David/Barb)

SEPTEMBER, 2024

Tuesday, September 3

- Discussion on Airport Fees for Vehicle and RV Storage, and Landing Fees (Lance)
- Report on maintenance obligations on sidewalks, right of ways, communication and enforcement-(David/Derrick)
- Pothole management and street repair/paving and communication efforts- (Robert M./Chris)
- Employee recruitment and retention strategies, and results from implemented measures. (Barb/Nina)

Monday, September 16

- Establishing a Reserve for WWTP Improvements (Steve B.)

OCTOBER, 2024

Monday, October 7

- Discussion on Low-Income Assistance Parking Program (Derrick)

Monday, October 21

NOVEMBER, 2024

Monday, November 4

Monday, November 18

DECEMBER, 2024

Monday, December 2

- Report on Records Management System (Erik)

JANUARY, 2025

Monday, January 3

UNSCHEDULED WORK SESSION TOPICS

Chapter 8.11 TRESPASS IN PUBLIC PLACES

8.11.010 Purpose

The purpose of this chapter is to protect citizens in their use of public buildings, public parks and city parking lots, and to authorize the city to exclude persons violating applicable laws from specific public places where such conduct is violent or disruptive of other users.

8.11.020 Authority

- A. In addition to other remedies provided for violation of this code or any laws of the state of Oregon, a code enforcement officer or peace officer may exclude any person who violates any applicable provision of law in any place subject to this chapter in accordance with the provisions of this section. In addition, a police officer or authorized employee may exclude any person who violates any applicable provision of the rules of conduct in any place subject to this chapter. Nothing in this section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the Oregon or U.S. Constitution. However, a person engaged in such protected activity who commits acts that are not protected, but that violate applicable provisions of law or rules of conduct, shall be subject to exclusion as provided by this section.
- B. The City Manager may delegate his or her authority and assign a person or persons to be in charge of the various city properties for the purpose of enforcing rules of conduct. In addition, police and authorized employees shall have the authority to enforce the rules of conduct on city property, as deemed necessary by the person in charge, or when actually observed by the police officer or authorized employee.

8.11.030 Definitions

The following definitions apply:

- A. "Applicable provision of law" includes any applicable provision of this code, any city ordinance applying to use of public places, any applicable criminal or traffic

law of the state of Oregon, any law regarding controlled substances or alcoholic beverages, and any other applicable local ordinance or regulation. For purposes of this section, “applicable” means relating to the person’s conduct in the public place.

- B. “City property” means any city owned or leased, or city managed, building, structure, or land, including but not limited to City Hall, Newport Public Library, and the Recreation Center, 60+ Center, city parks, trails, and open space, and city parking lots within Newport.
- C. “Public place” means public property, as defined in NMC 9.50.010, including city property.
- D. “Rules of conduct” means rules and regulations implementing this chapter, including but not limited to NMC 8.11.060, or adopted by the City Manager under the authority of NMC 8.11.050.

8.11.040 Prohibited Acts Generally

- A. Any act or thing prohibited or the failing to do any act or thing commanded to be done in this chapter, in a public place, within the corporate limits of the city of Newport and such other areas as may be specified in this chapter, is hereby declared to be an offense against the public peace, safety, health, and general welfare of the people of the city of Newport.
- B. Any act or omission made unlawful under this chapter shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing such act or omission.

8.11.050 City Manager Authorized to Adopt Rules

- A. The City Manager or a designee is authorized to make such rules and regulations implementing NMC 8.11.060 and not otherwise inconsistent or in conflict with other law as the City Manager finds necessary for the better control and management of city property, including buildings, parking facilities, parks, trails, and open space. The rules of conduct may be posted at various city properties in abbreviated form and are not meant to be all-inclusive of the conduct prohibited or required by this chapter. Any person

aggrieved by a rule or regulation may appeal to the City Council to amend or repeal a rule by filing with the City Recorder a petition which shall be presented to the City Council at its next regular meeting. Until and unless amended or repealed by the council, any rule or regulation made by the City Manager or a designee shall be in full force and effect as if it were an ordinance, as of the date of notice from the City Manager adopting the rule or regulation.

- B. Before adopting any rule, the City Manager shall provide at least 30 days' notice to the City Council with a copy of the proposed rule.

8.11.060 Rules of Conduct

While on or about city property:

- A. No person shall violate any federal, state, or city of Newport law/ordinance.
- B. No person shall enter or remain on any city property for purposes other than to conduct legitimate business with the city or to use that property lawfully under the laws and rules that apply.
- C. No person shall enter or attempt to enter any secure portion of any city property that is not open to members of the public without authorization from the City Manager or a designee.
- D. No person shall deface, damage, or destroy city property.
- E. No person shall engage in conduct that degrades the appearance of city property, including but not limited to depositing trash or defacing property.
- F. No person shall engage in conduct that disrupts or interferes with operations of the city government, including but not limited to conduct that creates unreasonable noise or physical behavior.
- G. No person shall engage in conduct that subjects customers or employees of the city government to alarm or disturbance.

- H. Unless specifically authorized, no person shall use a public place for the purpose of housing or camping, including but not limited to placing objects such as vehicles, bicycles, backpacks, carts, or other items in a manner that interferes with passage.
- I. No person shall refuse to obey any lawful direction of a city government employee.
- J. No person shall violate any provisions posted on any city parking facility.

8.11.070 Enforcement and Exclusion

- A. An exclusion issued under the provisions of this section shall be for the following timeframes:
 - 1. Thirty days for an exclusion based on an offense not covered by subsection (A)(2) or (A)(3) of this section.
 - 2. Ninety days if the basis for the exclusion is a misdemeanor offense created by state law or city ordinance. In addition, if the person to be excluded has been excluded from any public place at any time within two years before the date of the present exclusion, the exclusion shall also be for 90 days.
 - 3. One hundred eighty days if the basis for the exclusion is a felony or a felony sex offense as defined by state law. In addition, if the person to be excluded has been excluded from one or more public places on two or more occasions within two years before the date of the present exclusion, the exclusion shall also be for 180 days.
 - 4. Nothing herein precludes a no-contact condition of pretrial release or probation condition that operates to exclude the individual from specified public properties.
- B. If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the

subsequent exclusion. If the previous exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the previous exclusion had not been issued. If multiple exclusions issued to a single person for one public place are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.

8.11.080 Warning - Conduct Subject to Exclusion

Before issuing an exclusion under this section, the police officer (or person authorized to enforce rules implemented by this section) shall first give the person a warning and opportunity to desist from the violation of law or rule. An exclusion shall not be issued if the person promptly complies with the direction and desists from violating the law or rule. Notwithstanding the provisions of this section, no warning shall be required if the person is to be excluded for engaging in conduct that:

- A. Is classified as a felony or as a misdemeanor under the following chapters of the Oregon Revised Statutes, or is an attempt, solicitation or conspiracy to commit any such felony or misdemeanor defined in the ORS:
 1. ORS Chapter 162, Offenses against the State and Public Justice;
 2. ORS Chapter 163, Offenses against Persons;
 3. ORS Chapter 164, Offenses against Property, except for ORS 164.805, Offensive Littering;
 4. ORS Chapter 165, Offenses Involving Fraud or Deception;
 5. ORS Chapter 166, Offenses against Public Order; Firearms and Other Weapons; Racketeering;
 6. ORS Chapter 167, Offenses against General Welfare and Animals;
 7. ORS Chapter 475, Controlled Substances; Illegal Drug Cleanup; Miscellaneous; or

- B. Otherwise involves a controlled substance or alcoholic beverage; or
- C. Has resulted in injury to any person or damage to any property; or
- D. Constitutes a violation of any of the following provisions of this code in a public place:
 - 1. [NMC 9.75.040](#), Public Parks - Animals;
 - 2. [NMC 8.20.015](#), Offenses - Animals;
 - 3. [NMC 8.20.005](#), Offenses - Weapons;
 - 4. [NMC 9.50.020](#), Prohibited camping;
 - 5. [NMC 8.20.010](#), Offenses - Urination or defecation;
 - 6. [NMC 9.20.010](#), Prohibition on smoking and drug use; or
- E. Is conduct for which the person previously has been warned or excluded for committing in a public place.

8.11.090 Notice

Written notice shall be given to any person excluded from any public place. The notice shall identify the provision of law the person has violated and contain a brief description of the offending conduct, the places of exclusion, and the start date and end date of the exclusion period. The notice shall be signed by the officer or authorized employee and shall prominently display a warning of the consequences for failure to comply. The notice shall inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal.

8.11.100 Right to Appeal - Hearing Procedure

- A. A person receiving a notice under [NMC 8.11.090](#) may appeal to the municipal court to have the exclusion rescinded or the exclusion period shortened. An appeal shall be filed by providing a written request for hearing within five (5) business days of the date of the

exclusion notice. The notice of appeal shall be delivered to the City Manager's Office, and will be considered timely only if postmarked within the five (5) day period. Failure to file written notice of appeal within five (5) business days will be deemed a waiver of any appeal rights.

- B. The request for an appeal hearing must be in writing, contain a copy or description of the notice of exclusion, and a statement of the basis on which the decision to exclude is invalid, unauthorized, or otherwise improper.
- C. The municipal court shall schedule a hearing on the appeal within 10 business days of receiving the request, unless the appellant requests a later date. Notice of the hearing time and date shall be given to the appellant and to the person issuing the exclusion notice.
- D. At the hearing, the appellant may contest the validity of the exclusion and may present evidence. The city shall have the burden of proving the validity of the exclusion by a preponderance of the evidence. The city may present evidence either by testimony or by written report of the officer or employee. If the city's evidence is presented only by written report and the municipal court judge cannot resolve a question by information contained in the report, the hearing may be held open for a reasonable time to complete the record.
- E. If the municipal court judge finds the city has proved each element necessary to issue the exclusion notice, and if the exclusion is otherwise in accordance with law, the municipal court judge shall uphold the exclusion.
- F. If the municipal court judge finds that the city has not met its burden of proof or that the exclusion is otherwise unlawful, then the municipal court judge shall enter an order rescinding the exclusion.
- G. If an appeal of the exclusion is timely filed under this section, the effectiveness of the exclusion shall be stayed pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of

exclusion shall be effective immediately upon the issuance of the decision, unless the municipal court judge specifies a later effective date.

- H. The determination of the municipal court judge is a final decision and is not appealable to the City Council. Appeals from any determination by the municipal court judge under this chapter shall be by writ of review to the circuit court of Lincoln County, Oregon, as provided in ORS 34.010 through 34.100.

8.11.110 Application for Waiver

At any time within the period of exclusion, and other than to conduct legitimate business with the city, a person receiving such notice of exclusion may apply in writing to the City Manager for a limited waiver of some or all of the effects of the exclusion for good reason. If the City Manager grants a waiver under this section, the City Manager shall promptly notify the Newport Police Chief and staff, as applicable, of such action. In exercising discretion under this section, the City Manager shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be in the public place during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the City Manager determines to be relevant to the determination of whether or not to grant a waiver. Notwithstanding the granting of a waiver under this section, the period of waiver will be included for purposes of calculating the appropriate length of exclusion under [8.11.070](#). The decision of the City Manager to grant or deny a waiver, in whole or in part, under this section is committed to the sole discretion of the City Manager and is not subject to appeal or review.

8.11.120 Violation - Criminal Trespass

No person shall enter or remain in any public place at any time during which there is in effect a notice of exclusion issued under this chapter excluding that person from that place. A person who knowingly violates a notice of exclusion from public places under this chapter commits the crime of criminal trespass. (ORS 164.245)

(Chapter 8.11 added by the adoption of Ordinance No. 2195 on August 15, 2022; effective September 14, 2022, and amended by the adoption of Ordinance No. 2200, on October 3, 2022; effective October 3, 2022.)