

CITY OF NEWPORT

ORDINANCE NO. 2194

AN ORDINANCE AMENDING TITLE III AND TITLE XIV OF THE NEWPORT MUNICIPAL CODE IMPLEMENTING 2021-22 STATE OF OREGON LAND USE LEGISLATIVE CHANGES

(Newport File No. 1-Z-22)

Findings:

1. On March 14, 2022, the Newport Planning Commission initiated amendments to Title III and Title XIV of the Newport Municipal Code relating to Chapters 3.20, Affordable Housing Construction Excise Tax; 14.01, Purpose and Definitions; 14.03, Zoning Districts; 14.06, Manufactured Dwellings and Recreational Vehicles; 14.09, Temporary Uses; 14.15, Residential Uses in Nonresidential Zoning Districts; 14.28, Iron Mountain Impact Area; 14.32, Nonconforming Uses, Lots, and Structures; and 14.46, Tsunami Hazards Overlay Zone.
2. The amendments are needed to implement land use and related bills adopted during the 2021 and 2022 State of Oregon legislative sessions so that the City of Newport can rely upon its Municipal Code in lieu of having to apply the revised statutes directly.
3. Revisions to the Newport Municipal Code undertaken by the Commission relate to affordable housing, residential occupancy limits, emergency shelters, child care, replacement of structures due to natural hazards, non-conforming uses, and the placement and/or design of manufactured and prefabricated dwellings. Legislation being implemented is more specifically described as follows:
 - A. HB 2008 (2021), requires local governments allow non-profit religious organizations to construct affordable housing on commercial property where it is adjacent to a residentially zoned parcel/lot. Property zoned for industrial use is excluded.
 - B. SB 8 (2021), similar to the above; however, the definition for “affordable housing” is 80% of median family income and it expands the locations where affordable housing must be allowed to include land owned by a public body, including publicly owned industrial sites, and property zoned for public use. Allows cities to prohibit affordable housing on non-residential properties in hazard areas.
 - C. HB 4051 (2022), a technical fix to SB 8 clarifying that eligibility is based on ownership of the property not the housing unit.
 - D. HB 2583 (2021), prohibits local governments from imposing occupancy limits based upon familial or non-familial relationships.

- E. HB 3261 (2021), requires local governments allow hotels and motels to be converted for affordable housing or emergency shelter use. As with SB 8, the City can prohibit conversions in hazard areas.
- F. HB 3109 (2021), requires local governments allow child care centers in all commercial and industrial zones, except heavy industrial zoned areas.
- G. HB 2607 (2021), provides that construction excise taxes cannot be applied to residential housing being constructed to replace housing destroyed or damaged by natural disaster.
- H. HB 2809 (2021), requires that local governments allow a recreational vehicle on a lot/parcel where the dwelling has been destroyed or damaged by natural disaster.
- I. SB 405 (2021), prohibits local governments from barring the reestablishment of a non-conforming use due to discontinuance if a state or local emergency order limits or prohibits reestablishment of the use.
- J. HB 4064 (2022), allows siting of prefabricated structures in mobile home or manufactured dwelling parks. It also limits the standards local governments may apply to the siting of manufactured homes and prefabricated structures in residential areas outside of parks.

4. The Planning Commission met in a work session on February 28, 2022 to review the above referenced bills and an outline of potential Newport Municipal Code changes to implement the legislation. The Commission then reconvened at a March 14, 2022 work session to review a detailed set of the proposed code revisions.

5. The Newport Planning Commission held a public hearing on April 25, 2022 to consider the proposed amendments and, after taking testimony and due deliberation, voted to recommend they be adopted. A copy of the amendments, including the rationale for each, was then forwarded to the City Council for its consideration as Exhibit A to this ordinance.

6. The City Council held a public hearing on May 16, 2022 regarding the question of the proposed amendments and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community.

7. 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. Findings. The findings set forth above are hereby adopted in support of the amendments to Titles III and XIV of the Newport Municipal Code adopted by Section 2 of this Ordinance.

Section 2. Municipal Code Amendment. Chapter 3.20, Title III, of the Newport Municipal Code and Chapters 14.01, 14.03, 14.06, 14.09, 14.15, 14.28, 14.32, and 14.46, Title XIV of the Newport Municipal Code are hereby amended as set forth in Exhibit "A".

Section 3. Effective Date. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: May 16, 2022

Signed by the Mayor on May 25, 2022.



Dean H. Sawyer, Mayor

ATTEST:



Erik Glover, Asst. City Manager/City Recorder

(Note: Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 3.20 AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX

3.20.025 Exemptions

A. The construction excise tax shall not apply to the following improvements:

1. Private school improvements.
2. Public improvements as defined in ORS 279A.010.
3. Public or private hospital improvements.
4. Improvements to religious facilities primarily used for worship or education associated with worship.
5. Agricultural buildings, as defined in ORS 455.315(2)(1).
6. Facilities operated by a non-profit corporation and that are:
 - a. Long term care facilities, as defined in ORS 442.015.
 - b. Residential care facilities, as defined in ORS 443.400
 - c. Continuing care retirement communities, as defined in ORS 101.020.

7. Affordable housing projects that satisfy the following:

- a. each unit is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or
- b. units that are made available to families with incomes of 60 percent or less of the area median income, is equal to or greater than the average number of units in the project.

c. Affordability under either of the above metrics is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

8. Residential housing being constructed on a lot or parcel of land to replace residential housing on the lot or parcel of land that was destroyed or damaged by wildfire or another event or circumstance that is the basis for a state of emergency declared under ORS 401.165 or 401.309 or for the exercise of authority under ORS 476.510 to 476.610.

9. Any other exemption required by Oregon statute.

10. Any improvement funded by Construction Excise Tax proceeds, or other dedicated affordable housing funding through the City of Newport. Such exemption is limited to the amount of the city's investment in the improvement.

Staff: Revisions implement HB 2607 as it relates to residential housing replaced as a result of a disaster. CET exemption for affordable housing projects exists in statute for those with a 60 year affordability guarantee. Proposed language aligns with SB 8 definition being added to NMC Chapter 14, which utilizes a 30 year affordability guarantee.

CHAPTER 14.01 PURPOSE AND DEFINITIONS**

14.01.020 Definitions

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Affordable Housing. Means residential property in which:

A. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

B. The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income.

Affordability under either of the above metrics is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

Child Care Center. means a child care facility, other than a family child care home, that is certified under ORS 329A.280.

~~**Child Care Facility.** A day care provider who regularly provides day care to 12 or fewer children under the age of 13 in the provider's home in the family living quarters.~~

Child Care Facility. means any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any:

A. Preschool recorded program.

B. Facility providing care for school-age children that is primarily a single enrichment activity, for eight hours or less a week.

C. Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

D. Facility operated by:

1. A school district as defined in ORS 332.002;
2. A political subdivision of this state; or
3. A governmental agency.

E. Residential facility licensed under ORS 443.400 to 443.455.

F. Babysitters.

- G. Facility operated as a parent cooperative for no more than four hours a day.
- H. Facility providing care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity.
- I. Facility operated as a school-age recorded program.

Day Care Facility. Any facility that provides care, supervision, and guidance on a regular basis to more than 12 children under the age of 13 unaccompanied by a parent, guardian, or custodian during a part of the 24 hours of the day in a place other than the child's home, with or without compensation. A day care facility does not include any of the following:

- A. A facility providing care that is primarily educational, unless provided to a preschool child for more than four (4) hours a day. Such facilities shall be considered a school.
- B. A facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion. Such facilities shall be considered the same as a school.
- C. A facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. A facility operated by a school district, signs subdivision of the State of Oregon, Lincoln County, the City of Newport, or another governmental agency.
- E. Day care facilities are subject to (1) the rules and regulations established by the State of Oregon Children's Services Division and (2) the following:
 - 1. Compliance with the requirements of Section 14.33.
 - 2. The provision of off-street parking at one (1) space per staff member.
 - 3. A solid fence or hedge at least six (6) feet in height around the rear yard.

Family Child Care Home. means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280(2) or is registered under ORS 329A.330.

~~Family.~~ ~~An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or not more than five persons not related by blood, marriage, or adoption living together in a dwelling unit. A family is also five or fewer physically or mentally handicapped persons living as a single housekeeping unit in a dwelling.~~

Family or Household. An individual or two or more persons living together in a dwelling unit.

Prefabricated Structure. A building or subassembly, other than a manufactured dwelling or small home, that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site, is relocatable, more than eight and one-half feet wide, and designed for use as a single family dwelling.

Small Home. A dwelling that is not more than 400 square feet in size and, if equipped with wheels and tongue or hitch, has had those components removed.

Staff: Definition for "affordable housing" matches the definition contained in SB 8 (2021), which is more permissive than that which is contained within HB 2008 in terms of income threshold (80% versus 60% median area income) and the tenure of the affordability covenant (i.e. 30 years versus 60 years). Family definition revised to remove occupancy limit based upon familial or non-familial relationship, which is banned per HB 2583. Occupancy limits for group quarters are addressed under "residential facility" and "Residential Care Home" definitions are not needed under the family definition. The terms family and household are both used in the zoning code and are understood to have the same meaning. Definitions of "child care facility" and "day care facility" replaced with current stator definitions in order to implement HB 3109. Definitions for prefabricated structures and small homes added to implement HB 4064 (2022), and draw from ORS Chapter 455. A small home with wheels and a tongue or hitch is by definition a recreational vehicle, and that definition does not need to be revised.

CHAPTER 14.03 ZONING DISTRICTS

14.03.020 Establishment of Zoning Districts.

This section separates the City of Newport into four (4) basic classifications and thirteen (13) use districts as follows:

A. Districts zoned for Residential residential use(s).

1. R-1 Low Density Single-Family Residential.
2. R-2 Medium Density Single-Family Residential.
3. R-3 Medium Density Multi-Family Residential.
4. R-4 High Density Multi-Family Residential.

B. Districts zoned for Commercial commercial use(s).

1. C-1 Retail and Service Commercial.
2. C-2 Tourist Commercial.
3. C-3 Heavy Commercial.

C. Districts zoned for Industrial industrial use(s).

1. I-1 Light Industrial.
2. I-2 Medium Industrial.
3. I-3 Heavy Industrial.

~~D. Water Related.~~

~~14. W-1 Water Dependent.~~

~~25. W-2 Water Related.~~

~~E.D. Districts zoned for Public public use(s).~~

- ~~1. P-1 Public Structures.~~
- ~~2. P-2 Public Parks.~~
- ~~3. P-3 Public Open Space.~~

Staff: The City has several mixed use zone districts, including the R-4, C-1, C-2, C-3, I-1, and W-2 zones. HB 2008, SB 8, and other state legislation apply changes to property that is "zoned for residential, commercial, or industrial use." These revisions clarify what those statutory terms mean as it relates to the City's zone districts.

14.03.050 Residential Uses.

The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted uses in the City of Newport's R-1, R-2, R-3 and R-4 zone districts subject to requirements of [Section 14.25](#).

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		R-1	R-2	R-3	R-4
A.	Residential				
	1. Single-Family	P	P	P	P
	2. Two-family	P	P	P	P
	3. Townhouse	X	P	P	P
	4. Cottage Cluster	X	X	P	P
	5. Multi-family	X	X	P	P
	6. Manufactured Homes ¹	P	P	P	P
	7. Manufactured Dwelling Park	X	P	P	P
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				
C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P
	2. Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4. Utility Substations	C	C	C	C
	5. Public or Private Schools	C	C	C	P
	6. Child Care Facilities Family Child Care Home	P	P	P	P
	7. Day Care Facilities Child Care Center	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Motels and Hotels ³	X	X	X	C
I.	Professional Offices	X	X	X	C
J.	Rooming and Boarding Houses	X	X	C	P
K.	Beauty and Barber Shops	X	X	X	C
L.	Colleges and Universities	C	C	C	C
M.	Hospitals	X	X	X	P
N.	Membership Organizations	X	X	X	p
O.	Museums	X	X	X	P
P.	Condominiums ²	X	P	P	P
Q.	Hostels	X	X	X	C
R.	Golf Courses	C	C	C	X

S.	Recreational Vehicle Parks	X	X	X	C
T.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
U.	Residential Facility*	X	X	P	P
V.	Movies Theaters**	X	X	X	C
W.	Assisted Living Facilities***	X	C	P	P
X.	Bicycle Shop****	X	X	X	C
Y.	Short-Term Rentals (subject to requirements of Chapter 14.25)	P	P	P	P

¹ Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

² Condominiums are a form of ownership allowed in all zones within dwelling types otherwise permitted pursuant to subsection (A).

³ Hotels/motels units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone.

Staff: Hotel/motel conversion allowed per HB 3261. HB 3109 now allows up to 16 children in a "Family Child Care Home." Previous limit was 12 children. Child Care Centers, which are not in a dwelling, remain conditional in residential zones.

14.03.070 Commercial and Industrial Uses.

The following list sets forth the uses allowed within the commercial and industrial land use categories.

"P" = Permitted uses.

"C" = Conditional uses; allowed only after the issuance of a conditional use permit.

"X" = Not allowed.

		C-1	C-2 ¹	C-3	I-1	I-2	I-3
1.	Office	P	X	P	P	P	X
2.	Retails Sales and Service						
	a. Sales-oriented, general retail	P	P	P	P	P	C
	b. Sales-oriented, bulk retail	C	X	P	P	P	C
	c. Personal Services	P	C	P	P	C	X
	d. Entertainment	P	P ²	P	P	C	X
	e. Repair-oriented	P	X	P	P	P	X
3.	Major Event Entertainment	C	C	P	P	C	X
4.	Vehicle Repair	X	X	P	P	P	X
5.	Self-Service Storage	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P

7.	Contractors and Industrial Service	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Light Manufacturing	X	X	C	P	P	P
	b. Heavy Manufacturing	X	X	X	X	C	P
9.	Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10.	Wholesale Sales	X	X	P	P	P	P
11.	Waste and Recycling Related	C	C	C	C	C	C
12.	Basic Utilities and Roads ³	P	P	P	P	P	P
13.	Utility, Road and Transit Corridors	C	C	C	C	C	C
14.	Community Service	P	C	P	P	C	X
15.	Daycare Facility Family Child Care Home	P	C P	P	P X	P X	X
16.	Child Care Center	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>
16 17.	Educational Institutions						
	a. Elementary & Secondary Schools	C	C	C	X	X	X
	b. College & Universities	P	X	P	X	X	X
	c. Trade/Vocational Schools/Other	P	X	P	P	P	P
17 18.	Hospitals	C	C	C	X	X	X
18 19.	Courts, Jails, and Detention Facilities	X	X	P	C	X	X
19 20.	Mining						
	a. Sand & Gravel	X	X	X	X	C	P
	b. Crushed Rock	X	X	X	X	X	P
	c. Non-Metallic Minerals	X	X	X	X	C	P
	d. All Others	X	X	X	X	X	X
20 21.	Communication Facilities ⁴	P	X	P	P	P	P
21 22.	Residences on Floors Other than Street Grade	P	<u>P*</u>	P	X	X	X
23.	<u>Affordable Housing</u> ⁵	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>

1. Any new or expanded outright permitted commercial 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. Residential uses within the C-2 zone are subject to special zoning standards as ~~set forth~~set forth in Section 14.30.100.

2. Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

3. Small wireless facilities shall be subject to design standards as adopted by City Council resolution.

4. Communication facilities located on historic buildings or sites, as defined in Section 14.23, shall be subject to conditional use review for compliance with criteria outlined in Sections 14.23 and 14.34.

5. Permitted as outlined in Chapter 14.15 or, in the case of hotels/motels the units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone.

14.03.060 Commercial and Industrial Districts.

E. Institutional and Civic Use Categories

4. DaycareChild Care Center

- a. Characteristics. Daycare-Child Care Center use is a child care facility, other than a family child care home, that is certified under ORS 329A.280. Such facilities provide includes day or evening care of to more than 12 children under the age of 13 outside of the children's homes, with or without compensation. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision. Child Care Centers may also provide care to children under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child's age.
- b. Examples. Pre-schools, nursery schools, latch key programs, and adult daycare programsresidential facilities.
- c. Exceptions.
 - i. Daycare-Child Care Center use does not include care given by a "Child-Care FacilityFamily Child Care Home" as defined by ORS 657A.250 if the care is given to 12 or fewerthat is caring for not more than 16 children at any one time including the children of the providerand is certified under ORS 329A.280(2) or is registered under ORS 329A.330. Child-care facilitiesFamily Child Care Homes are located in the provider's homea dwelling and are permitted as a home occupation in non-residential districtson residential and commercial property developed with a dwelling.

Staff: Implements HB 2008, HB 3261, and SB 8 (2021). Limit on number of children that can be care for out of the home increased from 12 to 16 and definitions updated (i.e. now a "family child care home"). HB 3109 (2021) requires they be permitted outright in residential and commercial zones. A "child care center" must also be allowed in all zones except heavy industrial. The description of a "child care center" aligns with statute.

CHAPTER 14.06 MANUFACTURED DWELLINGS, PREFABRICATED STRUCTURES, SMALL HOMES AND RECREATIONAL VEHICLES

14.06.020 Manufactured Dwellings, Prefabricated Structures, and Small Homes on Individual Lots

A. ~~In addition to the uses permitted in the underlying zone, a~~
A single-manufactured dwelling, prefabricated structure, or small home may be placed on an individual lot or parcel in any area zoned to allow the development of residential district where single-family dwellings residences are allowed subject to the same Chapter 14 development standards that apply to single-family dwellings. following provisions:

- ~~1. Conform to the definition of a manufactured dwelling in Section 14.01.010 of this Code.~~
- ~~2. Have the wheels and tongue or hitch removed.~~
- ~~3. Be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above-grade.~~
- ~~4. Have a pitched roof of at least two and one half feet for each 12 feet in width and be provided with gutters and down-spouts consistent with the standards contained in the current State of Oregon amended Council of American Building Officials.~~
- ~~5. Have exterior siding and roofing which, in color, material, and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on adjacent dwellings as determined by the Building Official.~~

- ~~6. Have a garage or carport constructed of like materials if an adjacent lot or parcel is developed with a dwelling that has a garage or carport.~~
- ~~7. Be multisectional and enclose a space of not less than 1,000 square feet as determined by measurement of exterior dimensions of the unit. Space within accessory structures, extensions, or additions shall not be included in calculating space.~~
- ~~8. Be connected to the public water system and an approved sewage disposal system.~~
- ~~9. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.~~

~~B. A manufactured dwelling constructed in accordance with current Federal Manufactured Home Construction and Safety Standards that does not meet criteria listed in subsection (A), may be approved by the Planning Commission as a Conditional Use pursuant to Section 14.33 of this Ordinance. Requests of this nature shall be reviewed under a Type III decision making process consistent with Section 14.52, Procedural Requirements.~~

14.06.040 Manufactured Dwelling Parks

Manufactured dwelling parks are permitted subject to the following:

- A. Construction of the manufactured dwelling park and placement of manufactured dwellings shall comply with the Oregon Manufactured Dwelling and Park Specialty Code, 2002 Edition, as amended.
- B. Streets within the manufactured dwelling park shall adhere to the standards outlined in Newport Municipal Code Chapter 13.05.040 where the construction or extension of such street is identified in the City of Newport Transportation System Plan.

- C. The maximum density allowed in a manufactured dwelling park is one unit for every 2,500 sq. ft. of lot area in the R-2 zoning district and one unit for every 1,250 sq. ft. of lot area in R-3 and R-4 zoning districts.
- D. Prefabricated structures, small homes, and Recreational recreational vehicles may be occupied as a residential unit provided they are connected to the manufactured dwelling parks water, sewage, and electrical supply systems. In such cases, the recreational—vehiclesunits shall be counted against the density limitations of the zoning district.
- E. Any manufactured dwelling park authorized under this section shall have a common outdoor area of at least 2,500 sq. ft. or 100 sq. ft. per unit, whichever is greater. Common outdoor areas shall be landscaped and available for the use of all park residents.
- F. If the park provides spaces for 50 or more manufactured dwelling units, each vehicular way in the park shall be named and marked with signs that are similar in appearance to those used to identify public streets. A map of the vehicular ways shall be provided to the fire department for appropriate naming.
- G. Public fire hydrants shall be provided within 250 feet of manufactured dwelling spaces or permanent structures within the park. If a manufactured dwelling space or permanent structure in the park is more than 250 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.
- H. The manufactured dwelling park may have a community or recreation building and other similar amenities.
- I. All dead end streets shall provide an adequate turn around for emergency vehicles.

14.06.050 Recreational Vehicles: General Provisions

- A. Recreational vehicles may be stored on property within the City of Newport provided they are not used as a place of habitation while so stored unless the recreational vehicle is located within.
1. A manufactured dwelling or recreational vehicle park;
or
 2. A local or state park where authorized in an adopted parks master plan; or
 3. A property where the recreational vehicle is authorized utilized as temporary living quarters pursuant to Chapter 14.09 while a dwelling is being repaired or replaced, provided such use is terminated by the date an occupancy is issued for the dwelling or within 24-months, whichever is sooner; or
 4. An area where overnight vehicle camping is permitted pursuant to Section 9.50.050(A)(2) through 9.50.050(A)(4).

Staff: Changes to Sections 14.06.020 and 14.06.040 implement HB 4064 (2022) which revised ORS 197.314, removing most standards that cities can impose on manufactured dwellings and prefabricated structures being placed upon lots or parcels outside of parks. They must be treated, for the most part, in the same manner as single-family dwellings. Please note, that a tiny house on wheels is a recreational vehicle, and would not be allowed on a lot or parcel outside of a park. Prefabricated structures must be approved by the Oregon Building Codes Division, which administers a Prefabricated Structures Program pursuant to ORS 455.705. That is a building code though, so there is no need to address it under this section. HB 4064 (2022) allows cities to require that manufactured dwellings and prefabricated structures meet the exterior thermal envelope performance standards that apply to a single-family dwelling. This is addressed in the state building codes and there is no need to replicate the requirement in the City's land use regulations. Revisions to Section 14.06.050 implement requirements of HB 2809 (2021). The proposed language is more permissive than the bill in that it allows a recreational vehicle to be used as temporary living quarters while a dwelling is being built or repaired, irrespective of whether or not the need for the work is related to a natural disaster. A corresponding change is being made to NMC Chapter 14.09 to remove the temporary use permit requirement that is currently required.

CHAPTER 14.09 TEMPORARY USES

~~14.09.030 Temporary Living Quarters~~

~~Notwithstanding any other restrictions and prohibitions in this code, a recreational vehicle may be used as a temporary living quarters subject to the following conditions:~~

- ~~A. The request for temporary living quarters must be in conjunction with a valid, active building permit.~~
- ~~B. The time limit shall be no longer than one (1) year from issuance. After the expiration of the time limit, the recreational vehicle used for the temporary living quarters must no longer be used for on-site living purposes.~~
- ~~C. The recreational vehicle used as the temporary living quarters must be self-contained for sanitary sewer.~~
- ~~D. Temporary living situations for non-residential projects may use a job shack or other such structure instead of a recreational vehicle as the living quarters and may have a portable toilet instead of a self-contained unit.~~
- ~~E. The location of the temporary living quarters on the site shall satisfy the vision clearance requirements as set forth in Section 14.21 of the zoning code.~~
- ~~F. Prior to the issuance of a temporary living quarters permit, the applicant shall sign an agreement that the applicant shall comply with the provisions of this subsection.~~

Staff: Companion to the above revisions to NMC 14.06.050. Removes the requirement that a temporary use permit be obtained in order to reside in an RV on a lot or parcel while a dwelling is being built or repaired.

CHAPTER 14.15 RESIDENTIAL USES IN NONRESIDENTIAL ZONING DISTRICTS

14.15.010 Purpose

It is the intent of this section to regulate the placement of residences in nonresidential zoning districts.

14.15.020 Residential Uses in Nonresidential Zoning Districts

Residences shall be allowed in nonresidential zones as follows:

- A. **C-1 zones**: Residences are prohibited at street grade. For floors other than street grade, residences are allowed as an outright permitted use.
- B. **C-2 zones**: For areas outside of the Historic Nye Beach Design Review District, residences are prohibited at street grade. For floors other than street grade, residences are allowed as an outright permitted use. On lands zoned C-2 that are within the Historic Nye Beach Design Review District, residential uses shall be allowed as specified in Chapter 14.30, Design Review Standards.
- C. **C-3 zones**: Same as the C-1 zone.
- D. **For all I zones**: One residence for a caretaker or watchman as an accessory use is allowed as a permitted use.
- E. **W-2 zones**: Residences are prohibited at street grade. For floors other than street grade, residences are allowed subject to the issuance of a conditional use permit in accordance with the provisions of [Section 14.34](#), Conditional Uses, and [Section 14.52, Procedural Requirements](#).
- F. **For all other nonresidential zones**: Residences are prohibited.
- G. **Affordable Housing**: Notwithstanding other provisions of this section, Affordable Housing on property owned by a public body, or non-profit corporation, shall be permitted at street grade provided:
 - 1. [It is situated outside of the Tsunami Hazards Overlay Zone; and](#)

- a. The property is zoned for commercial or public use, as outlined in Section 14.03.020; or
 - b. The property is zoned I-1, is publicly owned, and is adjacent to land zoned for residential use or a school.
2. Development standards for Affordable Housing under this sub-section shall be the same as those that apply to the adjacent residentially zoned property. If there is no adjacent land zoned for residential use, then the development standards of the R-4 zone shall apply.
 3. Affordable Housing on property within the Historic Nye Beach Design Review District, shall satisfy the development standards specified in Chapter 14.30, Design Review Standards.

Staff: Implements requirements of HB 2008 and SB 8(2021). Affordable housing in non-residential zoning districts is prohibited in the tsunami hazards overlay zone, a limitation allowed under the legislation. The allowance applies to non-profit corporations other than those organized as religious corporations, which is more permissive than the legislation.

CHAPTER 14.28 IRON MOUNTAIN IMPACT AREA

14.28.100 Uses Permitted in an I-2/"Medium Industrial" Zoning District with Conditions for the IMIA

The following land use categories authorized by the I-2 zoning in [Section 14.03.070](#) (Commercial and Industrial Uses) either as uses permitted outright or conditionally may be allowed within the impact area subject to the underlying zone requirements and any applicable standard of [Section 14.28.140](#) (Iron Mountain Impact Area Development Requirements), including the noise standards for residential development provided in [Section 14.28.140\(D\)](#):

- A. Office;
- B. Retail Sales and Service (Personal Services);
- C. Retail Sales and Service (Entertainment);

D. ~~Day Care Facility~~Child Care Center;

E. Educational Institutions (Trade/Vocational Only).

Staff: Addresses terminology change from "day care facility" to "child care center" as part of the HB 3109 (2021) implementation.

CHAPTER 14.32 NONCONFORMING USES, LOTS, AND STRUCTURES

14.32.060 Verification of Status of Nonconforming Use or Structure

A. Upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

1. The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
2. The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicant provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

B. The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the approval authority shall consider:

1. Description of the use;
2. The types and quantities of goods or services provided and activities conducted;
3. The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;

4. The number, location, and size of physical improvements associated with the use;
5. The amount of land devoted to the use; and
6. Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.
7. A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.
8. For the purpose of this section, discontinuance of a use, including a reduction of scope or intensity of any part of the use, shall not be deemed to have occurred during the time that a federal, state, or local emergency order limits or prohibits repair or replacement of the use.

Staff: Implements requirements of SB 405. Is a bit discretionary; however, the language shown is taken almost verbatim out of the legislation.

CHAPTER 14.46 TSUNAMI HAZARDS OVERLAY ZONE

14.46.050 Prohibited Uses

- A. Unless authorized in accordance with section [14.46.060](#), the following uses are prohibited in the Tsunami Hazard Overlay Zone:
 1. Hospitals and other medical facilities having surgery and emergency treatment areas;
 2. Fire and police stations;

3. Emergency vehicle shelters and garages;
4. Structures and equipment in emergency preparedness centers;
5. Standby power generating equipment for essential facilities;
6. Structures and equipment in government communication centers and other facilities required for emergency response;
7. Medical, assisted, and senior living facilities with resident incapacitated patients. This includes residential facilities, but not residential care homes, as defined in ORS 443.400;
8. Jails and detention facilities;
- ~~9. Day care facilities;~~
- ~~109.~~ Hazardous facilities; and
- ~~1110.~~ Tanks or other structures used for fire suppression purposes to protect uses listed in this subsection.

14.46.060 Use Exceptions

A use listed in section [14.46.050](#) may be permitted upon authorization of a Use Exception issued in accordance with a Type III decision-making procedure as outlined in Chapter 14.52, Procedural Requirements, provided the following requirements are satisfied:

- A. Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.
- B. Fire or police stations may be permitted upon findings that there is a need for a strategic location.
- C. Uses otherwise prohibited, ~~such as child or day care facilities~~, are allowed when accessory to a permitted use, provided a plan is submitted outlining the steps that will be taken to evacuate occupants to designated assembly areas.

D. Other uses prohibited section [14.46.050](#) may be permitted upon the following findings:

1. There are no reasonable, lower-risk alternative sites available for the proposed use; and
2. Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized; and
1. The structures will be designed and constructed in a manner to minimize the risk of structural failure during the design earthquake and tsunami event.

Staff: HB 3109 (2021) requires that local governments allow child care facilities in all areas zoned for commercial and industrial use, except heavy industrial zones. There isn't an exception for areas where there are natural hazard risks, so the City will need to lift the prohibition that was put in place relative to tsunami hazards areas.
