

## CITY OF NEWPORT

### ORDINANCE NO. 2198

#### AN ORDINANCE REPEALING AND REPLACING CHAPTER 9.50, AND AMENDING SECTION 6.25.010, OF THE NEWPORT MUNICIPAL CODE RELATED TO CAMPING

**WHEREAS**, the Newport City Council has discussed the potential revision of the City's camping regulations on multiple occasions, including April 5, 2021, January 3, 2022, April 18, 2022, June 20, 2022, July 18, 2022, September 6, 2022, and September 19, 2022; and

**WHEREAS**, due to various state and federal regulations and court decisions, the City's existing ordinances related to enforcing camping on public property have been rendered inoperable, resulting in confusion and creating health and safety issues; and

**WHEREAS**, a revision to the current camping ordinance is necessary in order to protect the health and safety of residents, and align the City's regulations with the above referenced state and federal regulations and court decisions; and

**WHEREAS**, on October 3, 2022, the City Council held a public hearing on the revision to the current camping ordinance and determined that the continued health and safety of residents of the City of Newport is furthered by emergency adoption of this ordinance.

#### THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

**Section 1.** Chapter 9.50 of the Newport Municipal Code related to camping is repealed and replaced as follows:

9.50.005	Title and Purpose
9.50.010	Definitions
9.50.015	Permitted Camping
9.05.020	Camping Prohibited in Certain Places
9.50.030	Scheduling and Notice of Campsite Cleanup
9.50.040	Removal, Storage and Retrieval of Personal Property
9.50.050	Violation - Penalty
9.50.060	Nonexclusive Remedy
9.50.070	Interpretation

#### **9.50.005 Title and Purpose**

The title of this chapter shall be known as the "Newport Camping Regulations." The purpose of this chapter is to protect the health and safety of residents and regulate the use of public property by establishing time, place, and manner guidelines.

#### **9.50.010 Definitions**

The following definitions apply in this chapter:

- A. "Camp" or "camping" means to pitch, erect, create, use, or occupy camp facilities for the purpose of habitation, as evidenced by the use of camp paraphernalia.
- B. "Camp facilities" include, but are not limited to, tents, huts, temporary shelters, motor vehicles, or recreational vehicles.
- C. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or outdoor cooking devices or utensils and similar equipment.
- D. "City manager" means the Newport city manager, or the city manager's designee.
- E. "Dwelling" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- F. "Established campsite" or "to establish a campsite" mean any place where one or more persons have established temporary sleeping accommodations by use of camp facilities and/or camp paraphernalia for more than 24 consecutive hours.
- G. "Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion.
- H. "Parking lot" means a developed location that is designated for parking vehicles, whether developed with asphalt, concrete, gravel, or other material.
- I. "Personal property" means items that can reasonably be identified as belonging to an individual and that have apparent value or utility.
- J. "Public property" means any real property or structures owned, leased, or managed by the City, including public rights-of-way.
- K. "Public rights-of-way" means all property dedicated to the public for transportation purposes and administered by the City, including streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas managed by the City. "Right-of-way" also includes public utility easements to the extent that the easement allows use by the permittee planning to use or using the public utility easement. "Right-of-way" includes the subsurface under and airspace over these areas. "Right-of-way" does not include the airwaves for purposes of CMRS, broadcast television, DBS and other wireless providers, or easements or other property interests owned by a single utility or entity.
- L. "Recreational vehicle or RV" means a vehicle with or without motive power that is designed for use as temporary living quarters and as further defined by the Oregon Department of Transportation in OAR Chapter 735, Division 022. Examples include motor homes, camping trailers, tent trailers, truck campers and camper vans.
- M. "Solid waste" means any garbage, trash, debris, yard waste, food waste, or other discarded materials.

N. "Store" or "storage" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

O. "Vehicle" means a motor vehicle or recreational vehicle.

#### **9.50.015 Permitted Camping**

A. The prohibitions in Section 9.50.020 shall not apply to the following circumstances:

1. The property involved is appropriately zoned and has all necessary approvals for the proposed camping use, in a vehicle or otherwise, as provided in Title XIV (Zoning) of the Newport Municipal Code; or
2. Camping is occurring in accordance with a duly executed emergency declaration made pursuant to NMC 1.70.030; or
3. A special event permit has been issued in accordance with NMC Chapter 9.80 authorizing camping.

B. Notwithstanding the prohibitions in Section 9.50.020, the owner of a commercial or industrial property, a public entity, or a religious institution/place of worship may allow vehicle or tent camping to persons, provided:

1. Such accommodations are made free of charge; and
2. Occupancy is limited to three or fewer vehicles or tents at the same time, in any combination; and
3. Vehicles or tents are located within an on-premise parking lot, and are spaced at least 10 feet apart; and
4. All items and materials are stored in vehicles or tents or in a separate storage area that is screened from view from adjacent properties and public rights-of-way; and
5. Campers are provided access to sanitary facilities, including a toilet, hand washing and trash disposal facilities, with such facilities being at least 20 feet from the property line of a residential use if not fully contained within a building; and an inspection is performed by the City to confirm that sanitary facilities are in place, required setbacks are met, and any storage areas are screened, before vehicle or tent camping is commenced.

C. A property owner who allows camping pursuant to subsection B of this section may revoke that permission at any time and for any reason.

D. Notwithstanding the provisions of this section, the city manager may:

1. Revoke the right of a property owner to allow camping on property described in



subsection B of this section upon finding that the property owner or a camper has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on that property by a camper is incompatible with the use of the property.

2. Revoke permission for a person to camp on public property upon finding that the person has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on public property by the person is incompatible with the use of the property.
  3. A permission revoked by the city manager under this subsection D is subject to notice in the manner provided in NMC 8.11.090 and a right to appeal and hearing procedure as provided in NMC 8.11.100.
- E. Any person whose permission to camp on property has been revoked pursuant to subsections C or D of this section must vacate and remove all belongings from the property within four hours of receiving such notice.
- F. All persons participating in a camping program described in subsection B of this section do so at their own risk, and nothing in this section or chapter creates or establishes any duty or liability for the City or its officers, employees or agents, with respect to any loss related to bodily injury (including death) or property damage.

#### **9.50.020      Camping Prohibited in Certain Places**

A. Except as expressly authorized by the Newport Municipal Code, at all times it is unlawful to establish, use, or occupy a campsite in the following locations:

1. City of Newport park sites developed with active use recreational facilities or that are designed as public gathering spaces including, but not limited to:
  - a. Agate Beach Neighborhood and Dog Park
  - b. Betty Wheeler Memorial Field
  - c. Big Creek Park (developed portions)
  - d. Coast Park
  - e. Don and Anne Davis Park
  - f. Founding Rock Park
  - g. Frank Wade Memorial Park
  - h. Literacy Park
  - i. Mombetsu Sister City Park
  - j. Sam Moore Skate Park and Parkway (developed portions)
  - k. Wilder Twin Park
2. Within visual line of sight from a constructed and signed recreational trail on public property;
3. The following city-owned facilities, and associated grounds, that are open to the public:

- a. City Hall
  - b. 60+ Activity Center
  - c. Recreation/Aquatic Center
  - d. Library
  - e. Performing Arts Center
  - f. Visual Arts Center
  - g. Main Fire Station
4. City owned or maintained parking lots unless identified as a vehicle camping lot;
  5. Public rights-of-way adjacent to, or within 200 feet of, a lot or parcel containing an elementary school, secondary school, day care facility, child care facility, or facility providing services to homeless persons;
  6. Public rights-of-way adjacent to a lot or parcel containing a dwelling;
  7. The following developed public rights-of-way that are more heavily trafficked, or that are in areas with industrial activities:
    - a. SW Bay Blvd. from SW Bay St. to S. Pine St.
    - b. SE Bay Blvd. from S. Pine St. to SE Niemi Ct. (including boardwalk/piers)
    - c. SW Elizabeth St. from SW Government St. to W. Olive St.
    - d. SW Coast St. from SW 2<sup>nd</sup> St. to W. Olive St.
    - e. NW Coast St. from W. Olive St. to NW 11<sup>th</sup> St.
    - f. NW Spring St. from NW 8<sup>th</sup> St. to NW 12<sup>th</sup> St.
    - g. NW Oceanview Dr. from NW 12<sup>th</sup> St. to N. Coast Hwy.
    - h. NW Rocky Way
    - i. NW Gilbert Way
    - j. Public rights-of-way within 100 feet of the edge of pavement of Hwy. 101 or Hwy. 20
- B. Except as expressly authorized by the Newport Municipal Code, it shall be unlawful for any person to store personal property within public rights-of-way.
  - C. Except as expressly authorized by the Newport Municipal Code or a special event permit, it shall be unlawful to carry out open burning or to have a recreational fire on public property. The meaning of the terms "open burning" and "recreational fire" shall be as defined in the most recently adopted version of the State of Oregon Fire Code.
  - D. Any person camping in a motor vehicle or recreational vehicle must adhere to the parking regulations outlined in NMC chapters 6.05 to 6.25.
  - E. Notwithstanding the provisions of this section, the City Manager may temporarily authorize camping or storage of personal property on public property by written order that specifies the period of time and location upon finding it to be in the public interest and consistent with City Council goals and policies.
  - F. The City Manager may adopt administrative rules to implement the provisions of

this section.

#### **9.50.030 Scheduling and Notice of Campsite Cleanup**

- A. Cleanup of illegal campsites will be scheduled by the chief of police or designee.
- B. Signs may be posted advising that camping is prohibited. Whether or not a sign is posted, a specific dated and timed notice will be posted and distributed in the area of a scheduled cleanup at least 72 hours before the cleanup.
- C. Notwithstanding subsections A and B of this section, cleanup of campsites may occur immediately and without notice if the chief of police or designee determine that either of the following conditions exist:
  - 1. An emergency such as possible site contamination by hazardous materials or where there is an immediate danger to human life or safety;
  - 2. Illegal activity other than camping.
- D. At the time of the cleanup, written notice will be posted and distributed announcing the telephone number where information on picking up the stored property can be obtained during normal business hours.
- E. Written notices will be in both English and Spanish.
- F. Copies of all notices shall be provided to the Oregon Department of Human Services and/or the Lincoln County Human Services Department.

#### **9.50.040 Removal, Storage and Retrieval of Personal Property**

- A. Personal property will be separated from solid waste during cleanups. Solid waste will be immediately discarded. Items of personal property will be turned over to the police department and stored. The personal property shall be stored for no less than 30 days, during which time it will be reasonably available to persons claiming ownership of the personal property.
- B. When conducting a campsite removal, the City shall arrange in advance for a location for personal property to be stored.
- C. Any personal property that remains unclaimed for 30 days after the cleanup may be disposed of, sold, donated, used, or transferred as abandoned personal property, but no waiting period beyond the 30 days is required prior to the disposal, sale, donation, use, or transfer.
- D. Weapons, drug paraphernalia, and items which reasonably appear to be either stolen or evidence of a crime may be retained and/or disposed of by the police department in accordance with the department's written policies and procedures.



### **9.50.050 Violation - Penalty**

Violation of this chapter is a civil infraction subject to a civil penalty as provided in NMC 1.50.010.

### **9.50.060 Nonexclusive Remedy**

The remedies described in this chapter shall not be the exclusive remedies of the City for violations of this chapter.

### **9.50.070 Interpretation**

This chapter is to be interpreted consistent with applicable state statutes and providing the protections required by state statutes.

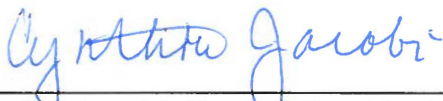
**Section 2.** Section 6.25.010 of the Newport Municipal Code is amended as set forth below (deleted language shown in ~~strikethrough~~ and language to be added is depicted with underline):

A. Recreational vehicles may not be parked and occupied in the right-of-way or on any public or private parking lot between the hours of 11:00 P.M. and 5:00 A.M., except in areas where camping is permitted as identified in ~~Section 9.50.050~~ NMC 9.50.015.

**Section 3 - Effective Date.** This ordinance shall take effect on the date of adoption by the City Council to ensure the continued health and safety of residents of the City of Newport.

Adopted by the Newport City Council on October 3, 2022.

Signed by the Council President on October 4, 2022.



Cynthia Jacobi, Council President

ATTEST:



Erik Glover, City Recorder