

CITY OF NEWPORT

ORDINANCE NO. 2200

AN ORDINANCE AMENDING CERTAIN SECTIONS
IN CHAPTER 8.11 OF THE NEWPORT MUNICIPAL CODE RELATED TO
EXCLUSIONS AND CRIMINAL TRESPASS IN PUBLIC PLACES

WHEREAS, on August 15, 2022, the Newport City Council adopted Ordinance No. 2195, which added Chapter 8.11 to the Newport Municipal Code related to exclusions and criminal trespass in public places, which became effective September 14, 2022; and

WHEREAS, certain sections in Chapter 8.11 need to be amended to address some technical and other related issues; and

WHEREAS, on October 3, 2022, the City Council held a public hearing on amending certain sections in Chapter 8.11 of the Newport Municipal Code (NMC) and determined that enforcement of this chapter is furthered by emergency adoption of this ordinance.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. NMC 8.11.030 is amended as set forth below (deleted language shown in ~~strikethrough~~ and language to be added is depicted with underline):

The following definitions apply:

- A. "Applicable provision of law" includes any applicable provision of this code, ~~of~~ 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 ~~Lincoln County 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 ~~any~~ 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.

Section 2. NMC 8.11.060 is amended as set forth below (deleted language shown in ~~strikethrough~~ and language to be added is depicted with underline):

While on or about city property:

* * * * *

- F. No person shall engage in conduct that disrupts or interferes with operations of the city government, ~~or disturbs city customers or employees,~~ 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, including but not limited to conduct that involves the use of abusive or threatening language or gestures.~~

Section 3. NMC 8.11.070 is amended as set forth below (deleted language shown in ~~strikethrough~~ and language to be added is depicted with underline):

- 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.

Section 4. NMC 8.11.110 is amended as set forth below (deleted language shown in ~~strikethrough~~ and language to be added is depicted with underline):

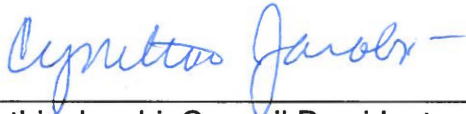
At any time within the period of exclusion, and other than to conduct legitimate business with the city, a person receiving such notice of exclusion may apply in writing to the City Manager for a limited waiver of some or all of the effects of the exclusion for good reason. If the City Manager grants 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.

Section 5 - Effective Date. This ordinance shall take effect on the date of adoption by the City Council to further enforcement of Chapter 8.11 of the Newport Municipal Code.

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