

CITY OF NEWPORT

ORDINANCE NO. 2165

**AN ORDINANCE AMENDING SECTIONS 14.30.080 AND 14.30.100
OF THE NEWPORT MUNICIPAL CODE TO PROHIBIT RESIDENTIAL USES
AT STREET GRADE ALONG THE WEST SIDE OF NW CLIFF STREET IN
THE HISTORIC NYE BEACH DESIGN REVIEW DISTRICT**

WHEREAS, the City of Newport Zoning Ordinance, codified as Title XIV of the Newport Municipal Code (NMC), regulates residential uses within C-2/"Tourist-Commercial" zoned areas inside the Nye Beach Design Review District ("District"). These regulations are found in Newport Municipal Code (NMC) Chapter 14.30; and

WHEREAS, the subject regulations limit new residential development at street grade to properties where a residential use existed prior to 2004, and to the footprint of the structure as it existed on that date; and

WHEREAS, the City Council, at the request of certain property owners in Nye Beach, adopted Ordinance No. 1946 in 2008, which lifted this limitation for new residential uses at street grade in certain areas, including the portion of NW Cliff Street between W Olive Street and NW 2nd Court; and

WHEREAS, on February 3, 2020, the Newport City Council met in work session to consider concerns raised by Nye Beach residents that the west side of NW Cliff Street is better suited to mixed-use or commercial development, with residential at other than street grade, given the investments made in the streetscape, and that a change to the land use regulations was needed to prevent properties from being developed with large, single-family dwellings; and

WHEREAS, the City Council agreed that changes should be made, and on February 18, 2020 directed the Planning Commission to initiate legislative amendments, a step the Commission took on March 9, 2020; and

WHEREAS, a public hearing before the Planning Commission was scheduled for April 13, 2020 to consider the proposed amendments. Since the amendments limit the range of permissible uses, the City provided notice of the hearing to affected property owners in accordance with ORS 227.186; and

WHEREAS, due to the impact of the COVID-19 pandemic, the Planning Commission elected to continue the April 13, 2020 public hearing to May 26, 2020, at which time it took testimony and ultimately recommended the City Council approve the amendments; and

WHEREAS, in making its recommendation, the Planning Commission found that repealing the 2008 amendment that authorized new residential use at street grade, as it relates to properties along the west side of NW Cliff Street, is consistent with Policies 5 and 8 of the Newport Peninsula Urban Design Plan, a component of the Newport

Comprehensive Plan, which seeks to improve neighborhood cohesion and strengthen the economic vitality of the District; and

WHEREAS, the Planning Commission further found that urban renewal streetscape investments along NW Cliff Street create conditions where retail commercial, residential over retail, or lodging would be attractive uses along the west side of the street, and that such uses are more complimentary of the existing built form than large, single-family homes; and

WHEREAS, City's buildable lands and housing needs assessment calls for new housing in the C-2/"Tourist-Commercial" zone to be multi-family, which will continue to be permissible on floors other than street grade, and the Planning Commission found that this assessment can be relied upon to conclude that the proposed amendments will not have a detrimental impact on the City's ability to realize needed housing; and

WHEREAS, the City Council held a public hearing on June 15, 2020 regarding the question of the proposed amendments and, after considering evidence and argument in the record, voted in favor of their adoption, concluding that the amendments are necessary and further the general welfare of the community; and

WHEREAS, information in the record, such as affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

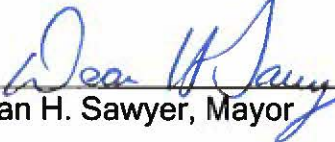
Section 1. The above findings are hereby adopted as support for the amendments, below.

Section 2. Sections 14.30.080 and 14.30.100 of the Newport Municipal Code are hereby amended as depicted in Exhibit "A."

Section 3. This ordinance shall take effect 30 days after its adoption.

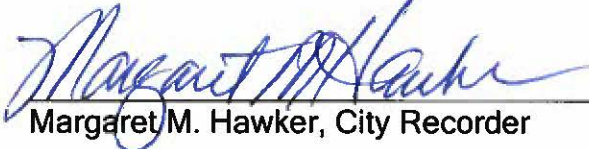
Date adopted and read by title only: June 15, 2020

Signed by the Mayor on June 15, 2020.



Dean H. Sawyer, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

Proposed Amendments to NMC Chapter 14.30 Related to
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(Deleted language shown in ~~strikethrough~~ and new language is underlined. Staff comments are not a part of the amendments. They are preceded with the term "Staff" and are *italicized*.)

CHAPTER 14.30 DESIGN REVIEW STANDARDS

14.30.010 Purpose

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

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

It is further the purpose of these standards to:

- A. Preserve the beautiful natural setting and the orientation of development and public improvements in order to strengthen their relationship to that setting.
- B. Enhance new and redeveloping architectural and landscape resources to preserve and strengthen the historic, scenic and/or identified neighborhood character and function of each setting.

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- C. Improve the vehicular and pedestrian networks in order to improve safety, efficiency, continuity, and relationships connecting Newport neighborhoods.
- D. Strengthen Newport's economic vitality by improving its desirability through improved appearance, function, and efficiency.
- E. Improve the built environment in order to strengthen the visual appearance and attractiveness of developed areas.
- F. Implement the goals and objectives of the adopted neighborhood plans.

14.30.020 Design Review Districts: Overlay Zones Established

The following:

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

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

Street; thence south along the east line of NW Hurbert Street and SW Hurbert Street to the north line of SW 2nd Street and the point of beginning.

14.30.030 Adoption of Design Review: Guidelines and Standards

The document entitled "Newport Design Review: Guidelines and Standards" dated July 29, 2015, is hereby adopted by reference and made a part hereof. The guidelines and standards contained therein shall be the guidelines and standards applicable to the Historic Nye Beach Design Review District.

14.30.040 Design Review Required

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

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

14.30.050 Exemptions

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

- A. Development activity that is subject to the provisions of Newport Municipal Code [Chapter 14.23](#), Historic Buildings and Sites.

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- B. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.
- C. Development that does not involve the construction, substantial improvement, or relocation of a dwelling unit, commercial or public/institutional building, or accessory structure.

14.30.060 Approval Authority

The following are the initial review authorities for a Design Review application:

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

14.52, Procedural Requirements.

14.30.070 Application Submittal Requirements

- A. For requests that are subject to Community Development Director review for compliance with design standards, an application for Design Review shall consist of the following:
1. A completed and signed City of Newport Building Permit Application Form.
 2. Building plans that conform to the submittal requirements for a building permit that include a site plan, floor plan, exterior architectural elevations, cross-section drawings, and construction specifications illustrating how the design standards have been met.
 - b.
 3. A written checklist identifying the design elements used to comply with the design standards.
- B. For requests that are subject to Planning Commission review for compliance with design guidelines, an application for Design Review shall consist of the following:
1. Submittal requirements for land use actions listed in Section 14.52.050.
 2. Exterior elevations of all buildings on the site as they will appear after development. Such plans shall indicate the material, texture, shape, and other design features of the building(s), including all mechanical devices.
 3. A parking and circulation plan illustrating all parking areas, drive isles, stalls, and points of ingress/egress to the site.
 4. A landscape plan showing the location, type and variety, size and any other pertinent features of the proposed landscaping and plantings for projects that involve multiple-family (more than 2 units), commercial, and public/institutional development.
 5. A lighting plan identifying the location and type of all permanent area lights, including parking area lighting, along with details of the lighting fixtures that are to be installed.

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6. A written set of proposed findings that explain how the project complies with the applicable design guidelines.
 7. Any other information the applicant believes is relevant to establishing that the project complies with applicable design guidelines.
- C. All plans shall be drawn such that the dimensions can be verified with an engineers or architects scale.

14.30.080 Permitted Uses

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

A. Historic Nye Beach Design Review District.

1. Tourist Commercial (C-2) zoned property.
 - a. Up to five (5) multi-family dwelling units per lot or parcel are permitted outright provided they are located on a floor other than a floor at street grade.
 - b. A single-family residence is permitted outright if located on a floor other than a floor at street grade.
 - c. A single-family residence is permitted outright, including the street grade floor, within a dwelling constructed prior to January 1, 2004. Residential use at the street grade is limited to the footprint of the structure as it existed on this date.
 - d. Single family, duplex, triplex, fourplex and multifamily dwelling units, including at the street grade, are permitted outright on property located south of NW 2nd Court and north of NW 6th Street, except for properties situated along the west side of NW Cliff Street.

Staff: On February 18, 2020 the City Council, at the request of Newport resident Wendy Engler, directed the Planning Commission to pursue amendments to the Historic Nye Beach Design Review Overlay to prohibit new residential uses at street grade for C-2 zoned property situated along the west side of NW Cliff Street. The concern is that the existing allowance for new residential at street grade,

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established in 2008 (Ordinance No. 1946), opened the door for very large single family homes to be built, inconsistent with the vision for that area.

2. High Density Multi-Family Residential (R-4) zoned property.
 - a. Uses permitted outright in the C-2 zone district that are not specified as a use permitted outright or conditionally in the R-4 zone district, are allowed subject to the issuance of a conditional use permit in accordance with the provisions of Chapter 14.34, Conditional Uses and subject to the limitation that the use not exceed a total of 1,000 square feet of gross floor area. This provision does not preclude an application for a use as a home occupation under [Chapter 14.27](#), Home Occupations.

14.30.090 Prohibited Uses

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

A. Historic Nye Beach Design Review District

1. Any new or expanded outright permitted 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.
2. Recreational vehicle parks within the Tourist Commercial (C-2) and Public Structures (P-1) zoning districts.

(Section 14.30.090 revised by Ordinance No. 2120, adopted on September 18, 2017; effective October 18, 2017.)

14.30.100 Special Zoning Standards in Design Review Districts

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

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A. Historic Nye Beach Design Review District:

1. No drive through windows are allowed.
2. Commercial buildings with frontage on NW and SW Coast Street, W Olive Street, NW and SW Cliff Street, NW Beach Drive, and NW Third Street shall be set back from the property line fronting the street no more than 5 feet unless the development provides for a pedestrian oriented amenity (such as a courtyard, patio, or café with outdoor seating), compliance with the setback is precluded by topography or by easement, or a larger setback is authorized by the Planning Commission through the design review process.
3. Required yards and setbacks established in [Chapter 14.11](#) (Required Yards and Setbacks) and [Chapter 14.18](#) (Screening and Buffering between Residential and Non-Residential Zones) shall be reduced by 50%, except for [Section 14.11.030](#), Garage Setback, which is to remain at 20-feet. A setback for a garage that is less than 20-feet may be permitted if it is found by the Planning Commission to be consistent with the Design Review Guidelines pursuant to NMC [14.30.060\(B\)](#).
4. The following adjustments to [Chapter 14.12](#) (Minimum Size) and [Chapter 14.13](#) (Density Limitations, Table "A") are allowed within the District.
 - a. The minimum lot area within both the R-4 and C-2 zones shall be 3,000 square feet.
 - b. The minimum lot width for the R-4 zone shall be 30 feet.
5. Residential use permitted on C-2 zoned property located south of NW 2nd Court and north of NW 6th Street, except for properties situated along the west side of NW Cliff Street, shall comply with the following additional requirements:
 - a. The maximum residential density is 1,250 square feet per unit.
 - b. The maximum building height is 35 feet.

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- c. The maximum lot coverage in structures is 64%. If the proposed residential use provides at least 1 off-street parking space for each dwelling unit in a below-grade parking structure (for the purposes of this section below-grade is defined to mean that 50% or more of the perimeter of the building is below-grade) located directly below the residential portion of the structure, the maximum lot coverage allowed is 90%.
- d. The residential use provides at minimum 1 off-street parking space for each dwelling unit.
- e. At least one residential building per lot is set back from the property line abutting the street no more than 5 feet.

Staff: This change aligns with the earlier revision, so that the standards listed apply to all C-2 zoned areas within the Nye Beach Overlay where residential is allowed at street grade.

- 6. The following adjustments to the off-street parking requirements of [Chapter 14.14](#) (Parking, Loading, and Access Requirements) are provided for uses within the District:
 - a. Commercial uses shall have the first 1,000 square feet of gross floor area exempted from the off-street parking calculation.
 - b. All uses within the District shall be allowed an on-street parking credit that shall reduce the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property subject to the following limitations:
 - i. Each on-street parking space must be in compliance with the City of Newport standards for on-street parking spaces.
 - ii. Each on-street parking space to be credited must be completely abutting the subject property. Only whole spaces qualify for the on-street parking credit.
 - a. On-street parking spaces credited for a specific use

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may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are allowed except as authorized by the City of Newport.

(Section 14.30.100 revised by Ordinance No. 2120, adopted on September 18, 2017; effective October 18, 2017.)

14.30.110 Modification of a Design Review Permit

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

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

(Chapter 14.30 was revised by Ordinance No. 2084; adopted September 21, 2015; effective October 21, 2015.)