



**CITY OF NEWPORT  
REGULAR COUNCIL MEETING  
NEWPORT CITY HALL  
APRIL 2, 2015 – 5:30 P.M.**

MAYOR: Tim Geraghty  
COUNCIL: Tom Ingemann  
Bill Sumner  
Tracy Rahm  
Dan Lund

City Administrator: Deb Hill  
Supt. of Public Works: Bruce Hanson  
Chief of Police: Curt Montgomery  
Fire Chief: Steven Wiley  
Executive Analyst: Renee Eisenbeisz

**AGENDA**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ADOPT AGENDA
5. ADOPT CONSENT AGENDA – All items listed under this section are considered routine and non-controversial by the Council and will be approved by a single motion. An item may be removed from the consent agenda and discussed if a Council member, staff member, or citizen so requests.
  - A. Minutes of the March 19, 2015 Regular City Council Meeting
  - B. List of Bills in the Amount of \$178,541.80
6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE
7. MAYOR'S REPORT
8. COUNCIL REPORTS
9. ADMINISTRATOR'S REPORT
10. ATTORNEY'S REPORT
11. POLICE CHIEF'S REPORT
12. FIRE CHIEF'S REPORT
13. ENGINEER'S REPORT
  - A. **Public Hearing** - To consider, and possibly adopt, amendments to Chapter 10, Water and Sewer Systems
    1. **Ordinance No. 2015-1** - Repealing Current Chapter 10, Water and Sewer Systems, and Replacing it with New Chapter 10, Public Utilities and Stormwater
14. SUPERINTENDENT OF PUBLIC WORKS REPORT
15. NEW / OLD BUSINESS

Agenda for 04-02-15

16. ADJOURNMENT

Upcoming Meetings and Events:

- |                                |                |           |
|--------------------------------|----------------|-----------|
| 1. Planning Commission Meeting | April 9, 2015  | 6:00 p.m. |
| 2. City Council Meeting        | April 16, 2015 | 5:30 p.m. |
| 3. Park Board Meeting          | April 23, 2015 | 7:00 p.m. |
| 4. City Council Meeting        | May 7, 2015    | 5:30 p.m. |



**City of Newport  
City Council Minutes  
March 19, 2015**

**1. CALL TO ORDER**

Mayor Geraghty called the meeting to order at 5:30 P.M.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL -**

**Council Present** – Tim Geraghty; Tom Ingemann; Bill Sumner; Tracy Rahm; Dan Lund

**Council Absent** –

**Staff Present** – Deb Hill, City Administrator; Curt Montgomery, Police Chief; Steve Wiley, Fire Chief; Renee Eisenbeisz, Executive Analyst; Fritz Knaak, City Attorney; Jon Herdegen, City Engineer;

**Staff Absent** – Bruce Hanson, Supt. of Public Works;

**4. ADOPT AGENDA**

**Mayor Geraghty** - I'd like to add a Mutual Aid Agreement to the Fire Chief's Report for consideration and I would like to move the Engineer's Report to after the Council Reports.

**Councilman Rahm** - Has the Mutual Aid Agreement changed significantly?

**Mayor Geraghty** - No, it was just given to us and I didn't want to add it to the Consent Agenda.

**Motion by Sumner, seconded by Ingemann, to adopt the Agenda as amended. With 5 Ayes, 0 Nays, the motion carried.**

**5. ADOPT CONSENT AGENDA**

**Councilman Lund** - I'd like to pull the March 5 minutes.

**Motion by Sumner, seconded by Rahm, to approve the Consent Agenda as amended, which includes the following items:**

B. Minutes of the March 5, 2015 Workshop Meeting

C. List of Bills in the Amount of \$381,808.86

D. **Resolution No. 2015-4** - Approving a Gambling Application for the St. Paul Park-Newport Lions Club to Conduct Gambling at 396 21st Street on April 25, 2015

E. Gambling Permit for Newport Firefighters Relief Association for May 15, 2015

F. **Resolution No. 2015-5** - Accepting Donations for the Period of January 13-March 16, 2015

**With 5 Ayes, 0 Nays, the motion carried.**

**A. Minutes of the March 5, 2015 Regular City Council Meeting**

**Councilman Lund** - On page 6, it should be "So he needs" instead of "So he knows."

**Motion by Lund, seconded by Ingemann, to approve the March 5, 2015 Regular City Council minutes as amended. With 5 Ayes, 0 Nays, the motion carried.**

**6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE**

**7. MAYOR'S REPORT** – Nothing to report.

**8. COUNCIL REPORTS** –

**Councilman Rahm** - Nothing to report.

**Councilman Ingemann** - I attended a Planning Commission meeting last Thursday. Also, gas in South St. Paul is \$2.19 and it's \$2.35 in Newport.

**Councilman Sumner** - I attended a HPC meeting on Wednesday and they have a bold plan of 10 items. There are a couple things I found out that I'd like to share. They'll be celebrating the 150th anniversary of the first railroad built through Newport. There's going to be a volunteer day at the house on 4th Avenue where they'll continue to dismantle it. On May 13, there will be a discussion by Bob Vogel at the Library on early MN explorers. I found out that Newport is named after Newport, New York. I found something else in my reading, in the 1920's, the Pendergast Candy Company accidentally invented fluffy nougat. Soon after, an independent candy maker named Frank Mars from Newport, MN borrowed this recipe and added it to the Milky Way Bar, Snickers, and the Mars Bars. We have a rich history in the food industry because you also remember that Lucy Irish, in the 1840's put 8 cattle on a raft and pulled them from Iowa and set up the first cheese-making operation in Newport and sold them to Pig's Eye or St. Paul. Finally, the Stone Soup Soup-er Bowl is on Saturday, April 18th. It's a good community get-together. You can go to [Stonesoupthriftshop.org](http://Stonesoupthriftshop.org) and get a lane of bowling. It's at the Park Grove Bowling Lanes. You can wear a costume, there will be food, prizes and fun.

**Councilman Lund** - Nothing to report.

**13. ENGINEER'S REPORT** –

**A. Former Public Works Site**

Engineer Herdegen presented on this item as outlined in the March 19, 2015 City Council packet.

**Councilman Sumner** - Do we have an isolated cost just for the drainage portion?

**Engineer Herdegen** - We were estimating \$30,000 including storm sewer and a swale. Bedrock is fairly high in that area so carving in a swale will be a challenge.

**Mayor Geraghty** - You're estimating \$170,000 for just the four lots?

**Engineer Herdegen** - Yes and that includes the drainage improvements.

**Mayor Geraghty** - Can we sell them for \$45,000?

**Admin. Hill** - Lots seem to be going for \$32,000-\$35,000 right now.

**Councilman Lund** - Would we need an easement?

**Engineer Herdegen** - Yes and we could define that during the plat.

**Councilman Lund** - So it would make sense to do this before we sell any of the lots?

**Engineer Herdegen** - I think we need to make sure we have a willing developer to make sure this layout would make sense.

**Admin. Hill** - We did have one developer interested. I have spoken with Stacie Kvilvang from Ehler's and she mentioned that she might have a couple developers interested as well.

**Mayor Geraghty** - Tonight is just more informational for us?

**Admin. Hill** - Yes.

**Councilman Sumner** - What size homes could we put on there and what is the potential tax?

**Admin. Hill** - I think a \$200,000 - \$250,000 home is about \$1,000 to the City.

**Councilman Rahm** - I would think a developer would want all of the lots.

**Admin. Hill** - That could be a possibility or part of the agreement.

**Councilman Sumner** - There is no sanitary sewer line on 5th Avenue?

**Engineer Herdegen** - There is no storm, there is sanitary.

## **9. ADMINISTRATOR'S REPORT –**

### **A. Resolution No. 2015-6 - Approving a Variance Requested by Paul Haagenson, 95 7th Avenue, for Property Located at 95 7th Avenue**

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 19, 2015 City Council packet.

**Mayor Geraghty** - How many feet will be between the buildings after the expansion?

**Paul Haagenson, 95 7th Avenue** - There's probably 30 feet. One of the renters has a portable trailer parked there and I recommended that he move that. He would probably park it more towards the big building.

**Mayor Geraghty** - Vehicles can still get back there?

**Mr. Haagenson** - Yes.

**Councilman Rahm** - My only concern is the fire access and you said that's ok?

**Councilman Ingemann** - Yes.

**Mr. Haagenson** - My plan is to get that cleaned up. I'm going to get a dumpster or have people take stuff out of there. I want to get a fence along there as well.

**Councilman Sumner** - When will you start construction?

**Mr. Haagenson** - We're hoping to get started as soon as possible before our season gets too busy.

**Motion by Sumner, seconded by Rahm, to approve Resolution No. 2015-6 as presented. With 5 Ayes, 0 Nays, the motion carried.**

### **B. Proposed Vacation of 9th Street and Parcel Exchange**

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 19, 2015 City Council packet and attached map.

**Mayor Geraghty** - This doesn't affect the William's property at all?

**Ms. Buss** - No, he is north of 9th Street.

**Councilman Lund** - He would get half of the vacated portion.

**Mayor Geraghty** - Do we need that half to make it buildable?

**Councilman Lund** - Does he know he won't get all of it?

**Ms. Buss** - Yes. I've put a 10 foot setback on the map. Mr. William's doesn't know about this yet. Unless we know there's something buildable, I don't know if it's worth going to a public hearing. If you could get Steve Marko to get a survey and figure out if it's buildable that would be a good next step.

**Mayor Geraghty** - What would prevent the City from vacating it and buying the other half from Williams to make it bigger and a buildable lot?

**Ms. Buss** - Nothing. The issue with that is that part of the rationale to the DNR was that we may get better access through the trade for the Mill Pond.

**Councilman Lund** - Has the DNR expressed concern about losing access?

**Ms. Buss** - No but they don't just give up access for nothing. The argument they've heard is that they could get something better with the Mill Pond. I don't know what they would say if we just ask them to let us vacate because no one is using it.

**Councilman Lund** - I think we should try that first because we have two lots that could use it. Let's not give the DNR anything if they're not asking for it.

**Ms. Buss** - So you want the rationale to say that we're asking them to vacate 9th Street because it'll never be used?

**Mayor Geraghty** - Well just take out the rationale that we necessarily want the Mill Pond and then it would leave it open to us to sell the new lot and buy the Mill Pond.

**Councilman Lund** - Have we asked Mr. Marko what he wants for the Mill Pond?

**Ms. Buss** - He wants a trade.

**Mayor Geraghty** - How much would that be worth when he goes to sell it?

**Admin. Hill** - It's a difficult lot.

**Councilman Ingemann** - If we go too long we won't be able to do anything because of the new regulations.

**Councilman Lund** - Worst case is that one of our other lots becomes a river lot.

**Mayor Geraghty** - I would hate to send Mr. Marko down the wrong path and have him pay for a survey and we end up doing something different.

**Councilman Ingemann** - Then the City needs to get it surveyed.

**Mayor Geraghty** - Was it surveyed when we got the lots?

**Admin. Hill** - No.

**Councilman Sumner** - How much is a survey?

**Attorney Knaak** - You can expect about \$1,200-\$1,500.

**Councilman Sumner** - If we vacate 9th and Mr. Williams wants to keep it or wants a lot for it, we'd be stuck.

**Councilman Lund** - If I were him, I wouldn't want a house that close to my yard. We should ask him.

**Admin. Hill** - I'll contact him.

**Mayor Geraghty** - The question is then do we vacate and get it on the tax rolls?

**Ms. Buss** - So the letter will talk more about returning 9th Street to the tax rolls and potentially building a house?

**Mayor Geraghty** - Yes.

**10. ATTORNEY'S REPORT** - Nothing to report

**11. POLICE CHIEF'S REPORT** - Nothing to report.

**12. FIRE CHIEF'S REPORT –**

**A. Mutual Aid Agreement between the Fire Departments of Washington County and the Fire Departments of St. Croix County, Wisconsin**

Fire Chief Wiley presented on this item as outlined in the attached. There were no changes to the Agreement.

**Councilman Sumner** - Have you ever had to bring them in?

**Councilman Ingemann** - Stillwater went to Hudson two years ago.

**Chief Wiley** - Yes, Woodbury has as well. They come over here as well. We're less likely to interact with them.

**Councilman Sumner** - I think this is a wonderful example of cooperation.

**Motion by Sumner, seconded by Ingemann, to approve the Mutual Aid Agreement. With 5 Ayes, 0 Nays, the motion carried.**

**14. SUPERINTENDENT OF PUBLIC WORKS REPORT** - Nothing to report.

**15. NEW/OLD BUSINESS**

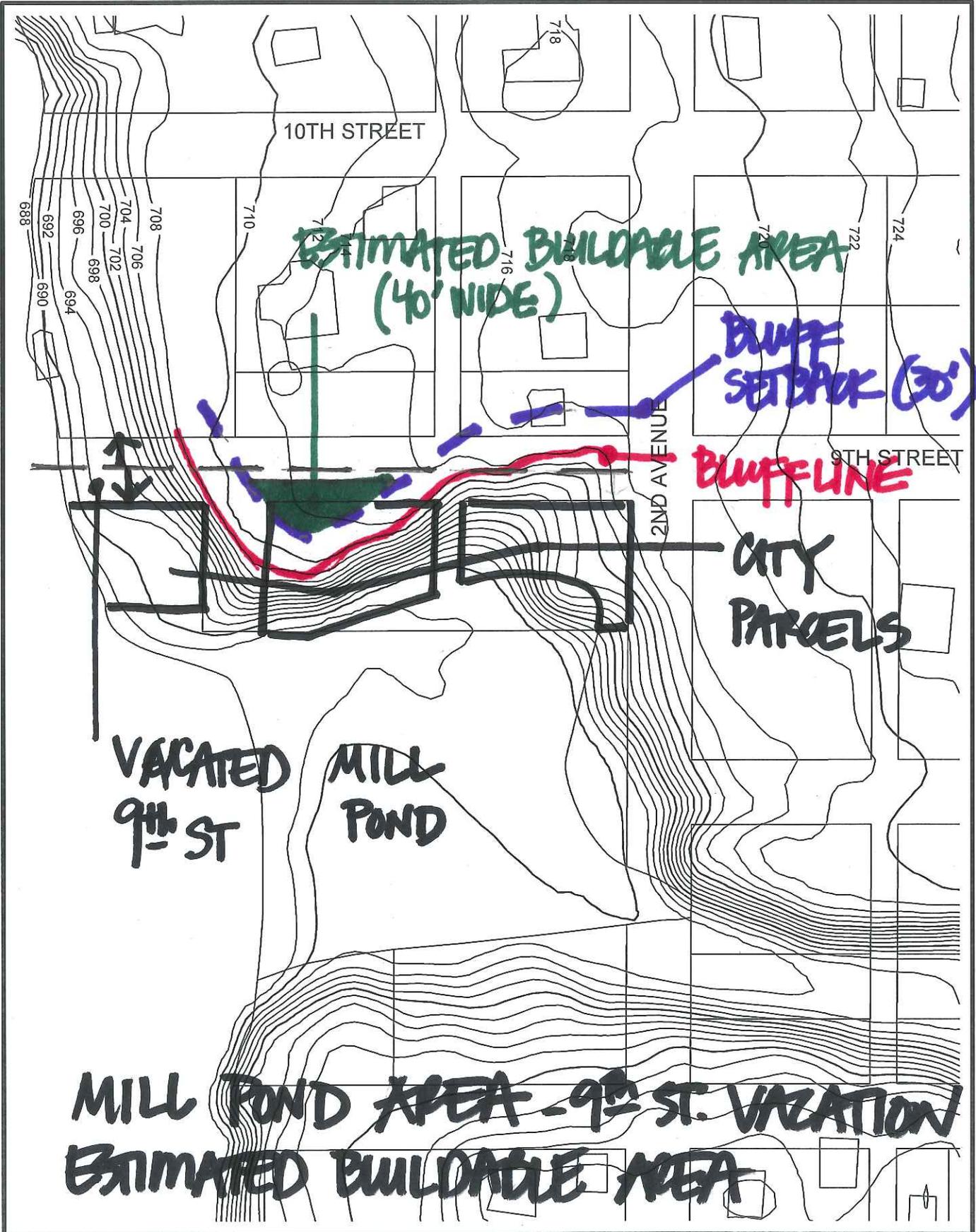
**16. ADJOURNMENT**

**Motion by Ingemann, seconded by Sumner, to adjourn the regular Council Meeting at 6:14 P.M. With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Eisenbeisz  
Executive Analyst



File Name: P:\1000\1000\1000\1000\1000 - General\City Files & Audits\CHANGEMILL POND COORDINATES.dwg

 <p><b>TRANSPORTATION • MUNICIPAL DEVELOPMENT • ENVIRONMENTAL</b>          83 Plaza Boulevard East, St. Paul, MN 55107          612-548-3172 • 1-800-432-2664 Fax: 763-788-4574          Web Address: www.msa-ps.com  <small>© 2012 MSA Professional Services, Inc.</small></p>	<p>Plan Sheet</p>	<p>Project Title          Owner Name          Location</p>	<p>FILE NO.          File Number          SHEET          1</p>
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**MUTUAL AID AGREEMENT**  
**INCLUSIVE OF: THE FIRE DEPARTMENTS OF WASHINGTON**  
**COUNTY, MINNESOTA (will list each dept) AND THE FIRE DEPARTMENTS**  
**OF ST. CROIX COUNTY, WISCONSIN (will list each dept)**

This Agreement is made pursuant to Minnesota Statutes §471.59 and Minnesota Statutes §438.08 and Wisconsin Statutes §66.0303, Subd. (2) and (3)(b) which authorize the joint and cooperative exercise of powers common to contracting parties. The intent of this agreement is to make equipment, personnel and other resources available to political subdivisions from other political subdivisions during an emergency situation or for designated training activities.

**Section 1. Definitions.**

- a. "Party" means a political subdivision.
- b. "Requesting Official" means the person designated by a Party who is responsible for requesting Assistance from other Parties.
- c. "Requesting Party" means a party that requests assistance from other parties.
- d. "Responding Official" means the person designated by a party who is responsible to determine whether and to what extent that party should provide assistance to a Requesting Party.
- e. "Responding Party" means a party that provides assistance to a Requesting Party.
- f. "Assistance" means Fire and/or emergency medical services personnel and equipment, and any associated and related training necessary to further the purpose of this Agreement.

**Section 2. Request for assistance.**

Whenever, in the opinion of a Requesting Official, there is a need for assistance from other parties, the Requesting Official may call upon the Responding Official of any other party to furnish assistance.

**Section 3. Response to request.**

Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the responding party and the availability of resources.

**Section 4. Recall of Assistance.**

The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party, it is considered to be in the best interests of the Responding Party to do so.

**Section 5. Command of Scene.**

The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.

**Section 6. Workers' compensation.**

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependants, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

**Section 7. Damage to equipment.**

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

**Section 8. Liability.**

- a. For the purposes of Tort Liability, the employees and officers of the Responding Party are deemed to be employees of the Requesting Party.
- b. The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this agreement.
- c. Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in its Home State applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.
- d. The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under the laws of its Home State. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

- e. No party to this agreement nor any officer of any Party shall be liable to any other Party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this agreement.
- f. For the purposes of training, and other than Workers' compensation claims as described in Section 6, the laws of the State where the training takes place will control disputes based upon claims of one party against the other.

**Section 9. Charges to the Requesting Party.**

- a. No charges will be levied by a Responding Party to this agreement for assistance rendered to a Requesting Party under the terms of this agreement unless that assistance continues for a period of more than 12 hours. If assistance provided under this agreement continues for more than 12 hours, the Responding Party may submit to the Requesting Party an itemized bill for the actual cost of any assistance provided after the initial 12 hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting Party will reimburse the party providing the assistance for that amount.
- b. Such charges are not contingent upon the availability of federal or state government funds.

**Section 10. Duration.**

This agreement will be in force from the date of execution and shall continue until terminated. Any party may withdraw from this agreement upon thirty (30) days written notice to the other party or parties to the agreement.

**Section 11. Amendments.**

Any amendments to this agreement shall be in writing and signed by all parties.

**Section 12. Agreement.**

This agreement contains the entire agreement of the Fire Departments of Washington County Minnesota and the Fire Departments of St. Croix County Wisconsin. Any prior correspondence, memoranda or agreements are replaced in total by this agreement.

**Section 13. Execution.**

Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated. Each party to this agreement shall maintain a copy of an executed copy of this agreement.

IN WITNESS WHEREOF, the undersigned, on behalf of their political subdivision or their fire department corporation has executed this agreement pursuant to authorization by its governing body:

**Lower St. Croix Valley  
Fire Protection District**

**City of Hudson**

\_\_\_\_\_  
James Stanton Chairman

\_\_\_\_\_  
Allan Burchill, Mayor

\_\_\_\_\_  
Nancy Korson , City Clerk

**Lower St. Croix Valley FD**

**Hudson Fire Department**

\_\_\_\_\_  
Kris Peterson, Fire Chief

\_\_\_\_\_  
Scott St. Martin, Fire Chief

Dated: \_\_\_\_\_, 2015

Dated: \_\_\_\_\_, 2015

**STATE OF MINNESOTA**

**STATE OF WISCONSIN**

\_\_\_\_\_  
Its \_\_\_\_\_

\_\_\_\_\_  
Its \_\_\_\_\_

Dated: \_\_\_\_\_, 2015

Dated: \_\_\_\_\_, 2015

IN WITNESS WHEREOF, the undersigned, on behalf of their political subdivision or their fire department corporation has executed this agreement pursuant to authorization by its governing body:

## **City of Newport**

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Tim Geraghty, Mayor

Dated: \_\_\_\_\_, 2015

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Deb Hill, City Administrator

Dated: \_\_\_\_\_, 2015

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Steve Wiley, Fire Chief

Date: \_\_\_\_\_, 2015

**Recurring**

Paid Chk# 000429E	FEDERAL TAXES	3/19/2015	\$8,737.16	SS, Med & Federal
Paid Chk# 000430E	MN REVENUE	3/19/2015	\$1,772.55	State taxes
Paid Chk# 000431E	MSRS	3/19/2015	\$2,781.33	MSRS HCSP & Vol. Retirement
Paid Chk# 000432E	SELECTACCOUNT	3/19/2015	\$956.76	HSPA
Paid Chk# 017320	CENTURY LINK	3/19/2015	\$57.43	Telephone
Paid Chk# 017321	RENEE EISENBEISZ	3/19/2015	\$10.70	Mileage reimbursement
Paid Chk# 017322	ING LIFE INSURANCE & ANNUITY	3/19/2015	\$150.00	
Paid Chk# 017323	LAW ENFORCEMENT LABOR SERVICES	3/19/2015	\$282.00	
Paid Chk# 017324	PERA	3/19/2015	\$8,813.04	
Paid Chk# 017325	XCEL ENERGY	3/19/2015	\$8,416.42	
Paid Chk# 017326	ASSURANT EMPLOYEE BENEFITS	3/26/2015	\$611.84	
Paid Chk# 017327	SCOTT FREEMYER	3/26/2015	\$196.50	Uniform
Paid Chk# 017328	VERIZON	3/26/2015	\$370.98	
Paid Chk# 017329	XCEL ENERGY	3/26/2015	\$1,215.73	
	Staff		\$28,479.88	

**Non-Recurring**

Paid Chk# 017330	ATOMIC-COLO, LLC	4/2/2015	\$25.00	
Paid Chk# 017331	CHIRON TRAINING	4/2/2015	\$75.00	Training
Paid Chk# 017332	DIETRICH ELECTRIC, INC	4/2/2015	\$582.60	Electrical inspections
Paid Chk# 017333	GERLACH OUTDOOR POWER EQUIP.	4/2/2015	\$16,908.60	Mower repair
Paid Chk# 017334	HILDI INC.	4/2/2015	\$300.00	GASB reporting
Paid Chk# 017335	JOHN BARTL HARDWARE	4/2/2015	\$55.10	Supplies
Paid Chk# 017336	LEAF	4/2/2015	\$580.49	Printer & copier
Paid Chk# 017337	LEAGUE OF MINNESOTA CITIES	4/2/2015	\$650.00	Conference dues for admin & co
Paid Chk# 017338	LEAGUE OF MN CITIES INS TRUST	4/2/2015	\$74,417.00	Insurance
Paid Chk# 017339	MENARDS - COTTAGE GROVE	4/2/2015	\$77.70	FD Supplies
Paid Chk# 017340	MID AMERICA METER, INC.	4/2/2015	\$488.25	Well #2 Repair
Paid Chk# 017341	MN BOARD OF POST	4/2/2015	\$90.00	Police officer license
Paid Chk# 017342	MSA PROFESSIONAL SERVICES, INC	4/2/2015	\$13,543.00	City engineering
Paid Chk# 017343	NEWPORT FIRE RELIEF ASSOC.	4/2/2015	\$1,000.00	Fire Supplemental
Paid Chk# 017344	PIONEER PRESS	4/2/2015	\$130.00	Newspaper subscription
Paid Chk# 017345	ST. CLOUD STATE UNIVERSITY	4/2/2015	\$210.00	Clerks Institute training
Paid Chk# 017346	ST. PAUL PARK REFINING CO. LLC	4/2/2015	\$896.08	
Paid Chk# 017347	STREICHERS	4/2/2015	\$297.92	Uniforms
Paid Chk# 017348	WASHINGTON CTY PROPERTY RECORD	4/2/2015	\$917.85	Taxes to be riem by SWCWS and
Paid Chk# 017349	WASHINGTON CTY PUBLIC SAFETY	4/2/2015	\$2,781.54	Fire radios
Paid Chk# 017350	WASHINGTON CTY PUBLIC SAFETY	4/2/2015	\$1,545.30	Police radios 1/4 bill
Paid Chk# 017351	ZEP SALES & SERVICE	4/2/2015	\$118.05	Shop supplies

**\$178,541.80**



PROFESSIONAL SERVICES

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## MEMO

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**To:** Honorable Mayor and City Council Members  
Ms. Deb Hill, City Administrator

**From:** Jon Herdegen, P.E. – City Engineer

**Subject:** Water/Sewer Ordinance Review/Revisions

**Date:** March 30, 2015 – For the April 2, 2015 City Council Meeting

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Staff has been working to amend and update Chapter 10 –of the Newport City Code “Water and Sewer” over the last few months. The existing Chapter contains language that regulates the following:

- Sewer
- Water
- Street Lighting Utility
- Stormwater Utility
- Illicit Discharge and Connections
- Regulating use of coal base tar sealer products

The goal was to reorganize the Chapter itself; create a consistent format; update and combine the sewer and water utility regulations; update and relocate stormwater related regulations to a single location for ease of use; and move all design standards from the Ordinance to the Newport Public Works Design Manual. Enclosed in your packet you will find a final draft of amended Chapter 10 – Public Utilities and Stormwater for consideration. The City Attorney has reviewed the final draft of Chapter 10 being considered.

The City Council reviewed a draft of the amended Chapter 10 at the regular workshop meeting on March 5, 2015.

Below are the highlights of the proposed amendment(s):

- New Section 1000 contains and mixes of updated and existing language that governs municipal sewer and water utilities.
- New Section 1005 contains updated language regulating Subsurface Sewage Treatment Systems (septic/mound) in the City of Newport.

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**Offices in Illinois, Iowa, Minnesota, and Wisconsin**

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## MEMO

March 30, 2015

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- New Section 1010 contains the existing Street Lighting Utility Charge language. Minor formatting changes have been made.
- Existing Section 1015 contains existing Storm water Utility language. Minor formatting changes have been made.
- New Section 1020 contains language now known as section 1371 of the Zoning Ordinance regulating Stormwater Management. The plan is for this section is to live in 2 locations for now. Leaving it in the Zoning Ordinance for now until the Mississippi River critical area regulations are updated by the DNR and released. Meantime, the established regulations will live in the new section 1020 and except for the design standards which will be relocated to the Newport Public Works Design Manual. Part of the work being completed relates to the MS4 permit update.
- Existing Section 1025 contains existing language that relates illicit discharge and connections. Minor formatting changes have been made.
- Next Section 1030 contains existing language regulating the use of coal tar based sealer products. Minor formatting changes have been made.
- New Section 1035 contains language regulating disposal of grass clippings related to stormwater.
- New Section 1040 contains regulation provided by state statute that regulates the use of phosphorous fertilizer.

We appreciate the opportunity to review amended Chapter 10 with the City Council and hold a public hearing at their regular Council meeting on April 2<sup>nd</sup>.

**CITY OF NEWPORT  
ORDINANCE 2015-1**

**AN ORDINANCE OF THE CITY OF NEWPORT, MINNESOTA, AMENDING CHAPTER 10, WATER AND SEWER SYSTEMS**

THE CITY COUNCIL OF THE CITY OF NEWPORT, MINNESOTA, HEREBY ORDAINS THAT:

**CHAPTER 10 – PUBLIC UTILITIES AND STORMWATER**

**Section 1000 – Sewer and Water Utility System**

**1000.01 General Operation.** The City municipal sewer, water, and storm sewer public utility system shall be operated as a public utility and convenience from which revenue shall be derived, subject to the provisions of this Chapter.

**1000.02 Management of Public Utility Systems.**

- A. The water and sewer systems as they are now constituted or shall hereafter be enlarged or extended shall be operated and maintained under the provisions of this Chapter subject to the authority of the City Council at any time to amend, alter, change or repeal the same.
- B. The City Council shall have charge and management of the water and sewer systems, subject to such delegation of the authority to the Public Works Supervisor or its designee, City Engineer, City Administrator its designee.

**1000.03 Consent to Rules, Regulations, and Rates.** Every person applying for water or sewer service, every owner of property for which any such application is made, every person accepting water or sewer service, and every owner of property where such service is accepted shall be deemed upon making such application or accepting such service to consent to all rules, regulations and rates as established by this chapter and as may hereafter be set forth and adopted by the City Council by ordinance.

**1000.04 Minnesota Plumbing Code.** The provisions of the Minnesota Plumbing Code, as approved by the Minnesota State Board of Health, including future amendments thereof, shall be hereby adopted by reference and shall be a part of this Chapter as if set forth in full, except as the same may be inconsistent with any provision of this Chapter or inapplicable.

**1000.05 Public Work Superintendent.** The Public Works Superintendent and shall appoint some person suitable and qualified to fulfill the office and who shall assume and discharge the responsibility imposed by this Chapter, together with such other duties as may be required or assigned to him or her.

**1000.06 City of Newport Public Works Design Manual.** The Public Works Design Manual is a separate administrative and policy document that provides design standards for public infrastructure improvements and acceptable construction practices and applications. The Public Works Superintendent and the City Engineer are responsible for its enforcement. The Public Works Superintendent shall have the authority to amend the Public Works Design Manual from time to time as needed.

**1000.07 Nonliability of City for Water Utility Deficiency.** The City shall not be held liable at any time for any deficiency or failure in the supply of water to the customer whether the same be occasioned by shutting off the water for repairs or connections or for any cause whatsoever.

**1000.08 Tampering with Public Utility System.** No person shall maliciously, willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewer, water, or storm sewer system.

**1000.09 Turning on/off Water.** No person except an authorized City employee shall turn on or off any water supply at the stop box without permission from the Public Works Superintendent.

**1000.10 Private Water Supplies (Wells) and Cross Connection Control.** Whenever any premises are connected to the City water system, they shall be maintained to have a complete physical separation between the City water supply system and the private water supply system so that it is impossible to intentionally or unintentionally allow any water produced by a private system to be introduced in the supply line from the City system. If necessary, hose bibbs that will enable the cross-connection of the two systems shall be prohibited on internal piping of the well supply system. The threads on the boiler drain of the well volume tank shall be removed or the boiler drain bibb replaced with a sink faucet. Where both private and City systems are in use, outside hose bibbs shall not be installed on both systems.

**1000.11 Use of Fire Hydrants.** No person other than authorized City employees shall operate fire hydrants or interfere in any way with the water system without first obtaining authority to do so from the Public Works Superintendent.

**1000.12 Utility Connections Beyond City Limits.**

**Subd. 1 Water.** Where water mains of the City are in any street or alley adjacent to or outside the corporate limits of the City, the Council may issue permits to the owners or occupants of properties adjacent or accessible to the water mains to make proper water service pipe connections with the water mains of the City and to be supplied with water in conformity with the applicable provisions of this Chapter, and to set rates and charges therefor in excess of those provided for in this Section.

**Subd. 2. Sewer.** No buildings located on property lying outside the limits of the City shall be connected to the municipal sanitary sewer system unless express authority therefor shall be obtained from the Council.

**1000.13 Utility Connection Requirements.**

**Subd. 1. Valves Required.** There shall be installed in every connection to the City water system one full-way valve which shall be installed at a point between the curb stop and the meter so that the water may be turned off and the meter and house plumbing entirely drained. There shall be installed another full-way valve in the pipe on the house side of the meter.

**Subd. 2. Backflow Valves.** All water lines serving commercial, industrial, or multiple dwelling structures which are connected to the municipal water system shall contain an automatic backflow valve to prevent contamination of the municipal water in the event of low pressure. The valve shall be of a type approved and identified in the City of Newport Public Works Design Manual.

**Subd. 3. Hydrant Shutoff Valves.** All fire hydrants installed in the City, except those in single-family residential districts, shall be equipped with a shutoff valve in the water supply line.

**Subd. 4. Pipe Specifications.** All service pipes connections shall be installed me the requirements of the adopted City of Newport Public Works Design Manual.

**Subd. 5. Separate Lines Required.** The drainage and plumbing systems of each new building, and work installed in an existing building, shall be separate from and independent of that of any other building and every building shall have an independent connection with the public sewer and water when such is available.

- A. **Exception.** Where one building stands to the rear of another building on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building drain from the front building may be extended to the rear building and the whole shall be considered as one building drain. Where the building drain is extended, a clean out shall be provided immediately inside the rear wall of the front building. This exemption shall be determined on a case by case basis by the Public Works Superintendent.

**Subd. 6. Replacement of Existing Utility Services.** When new buildings are erected on existing sites served by existing services, and it is necessary as determined by the Public Works Superintendent. If the property owner is required to replace the old water and/or sewer service, new connections with the sewer or water main shall not be made until all the old services have been removed and the main is plugged.

**Subd. 7. Use of Old House Sewers.** Old house sewers or portions thereof may be approved for use by the public works Superintendent. The public works Superintendent may request that the old sewer be excavated and or televised for the purpose of facilitating inspection. No cesspool or septic tank shall be connected to any portion of the house sewer. The existing cesspool or septic tank shall immediately be pumped, cleaned and filled with earth to the surrounding ground level.

**Subd. 8. Required Connection to Sewer.**

- A. **Existing Buildings.** Any building used for human use or habitation and located on property adjacent to a sewer main, or in a block through which the system extends within one hundred feet (100') of the property line, shall be connected to the municipal sanitary sewer system within two (2) years from the time a connection is available to any such property.
- B. **New Buildings.** All buildings hereafter constructed within the City on property adjacent to a sewer main, or in a block through which the system extends within one hundred feet (100') of the property line, shall be provided with a connection to the municipal sanitary sewer system for the disposal of human wastes.

**1000.14 Liability for Maintenance and Repairs of Utility Lines.** After the initial connection has been made to the sanitary sewer line or to the water system, the responsibility for maintenance and repair shall be as follows:

**Subd. 1 Sanitary Sewer Lines.**

- A. The owner, occupant, or user of the premises shall be responsible for all maintenance and repair from the structure up to the sanitary sewer main and including the service wye, tap, or break-in.
- B. The owner, occupant, or user is responsible for the repair of any break between the structure and the sanitary sewer main. All repairs shall be made at the expense of the property owner meeting the adopted City of Newport Public Works Design Manual and inspection of the Public Works Superintendent or his designee.
- C. "Maintenance", as used in this section, shall include but not limited to the following repair of any break, cleaning and/or removal of roots, debris, clogs, and freeze ups between the structure and the sewer main.

**Subd. 2 Water Lines:**

- A. The owner, occupant, or user of the structure shall be responsible for all maintenance and repair of water lines between the structure to the water main, excluding the curbstop.
- B. The owner, occupant, or user shall be responsible for repair of the water lines from the structure to the water main. All repairs shall be made meeting the adopted City of Newport Public Works Design Manual and inspection of the Public Works Supervisor or his designee.
- C. "Maintenance", as used in this section, shall include but not limited to the following: repair of any break, cleaning and/or removal of roots, debris, clogs, and freeze ups between the structure and the water main, excluding the curbstop.
- D. **Leak in Service Line:** Any owner, occupant, or user of premises who shall discover a leak in a service line to the premises shall notify the public works department within twenty four (24) hours. Any water wasted due to failure of such person to comply with this regulation shall be estimated by the public works supervisor and be charged against the owner of such premises at the established rate.

- E. All water breaks in a structure that occur due to freezing are the responsibility of the owner. This includes water services, pipes, fixtures, and water meters. If a water meter should break or leak due to freezing, it is the responsibility of the owner to immediately contact the City Public Works Department so the damaged meter can be repaired or replaced. The City reserves the right to charge the owner for the repair or replacement of the damaged water meter and the estimated amount of water lost during the break.

**Subd. 3 Curb Stop Box Installations:**

- A. The curb stop box shall be installed as required by the adopted City of Newport Public Works Design Manual.
- B. The curb stop box shall be maintained at a height at finished grade of the land or property, and the owner of such property shall not interfere with the same.
- C. No structure or driveway shall be installed in such a manner as to interfere with access to the curb stop box.
- D. The homeowner shall be responsible to ensure that the curb stop box remains at finished grade where there is any landscaping or where grade changes are made.

**1000.15 Water Meters.** Before any water conveyed through the City water system shall be used on the land or premises of any person, there shall first be installed a water meter that will accurately measure the water actually consumed on the premises, except and unless such installation shall be exempted by the City. All meters installed shall be of a type approved by the City. If a proposed meter location is not readily accessible to City personnel, the City may require installation of outside reading remote meters. All meters shall be purchased by the applicant from the City and after installation shall become and remain the property of the City.

**Subd. 1. Use of Meters.** Except for extinguishment of fires, no person, except authorized City employees, shall use water from the water system or permit water to be drawn therefrom, unless the same be metered by passing through a meter supplied or approved by the City. No person not authorized by the Public Works Superintendent shall connect, disconnect, take apart, or in any manner change, or cause to be changed, or interfere with any the meter or the action thereof.

**Subd. 2. Application for Meter.** All applications for the installation, maintenance, and repair of water meters shall be made to the City.

**Subd. 3. Authority to Install a Meter.** The Public Works Superintendent or his designee shall have authority to install a meter.

**Subd. 4. Accessibility of Meters.** All water meters connected to the water system shall be accessible to the Public Works Superintendent or designee at any reasonable hour of any business day. The refusal of admission by any owner or occupant of any premises wherein a water meter is installed after such owner or occupant has been notified that admission is desired for the purpose of inspecting or reading a water meter installed in such premises shall constitute a violation of this Chapter.

**Subd. 5. Meter Maintenance and Repairs.** The City shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them, if necessary. However, where replacement, repair, or adjustment of any meter is rendered necessary by the act, neglect, including damage from hot water backup or carelessness of the owner or occupant of any premises, any expenses caused the City thereby shall be charged against and collected from the water consumer.

**Subd. 6. Meter Tests.** A consumer may, by written request, have his or her meter tested by depositing an amount as set from time to time by the Council, with the help of the Public Works Superintendent. If the meter is found to be

operating properly and there is less than a 5% error the meter testing deposit shall be retained by the City. In case a test should show an error of 5% or more of the water consumed, the deposit shall be refunded to the consumer, a correctly registering meter shall be installed, and the bill shall be adjusted accordingly if the meter erred in favor of the City. The adjustment shall not extend back more than one billing period from the date of the written request.

**Subd. 7. Tampering with Meters.** No person shall tamper with, alter, bypass or in any manner whatsoever interfere with the proper use and functioning of any water meter within the City.

**1000.16 Discharge of Storm and/or Surface Water into a Public Utility Prohibited.** It shall be unlawful for any owner, occupant or user of any premises to direct into or allow any storm water, surface water, ground water, well water or water from industrial or commercial air conditioning systems to drain into the sanitary sewer system of the City. No rain spout, or other form of surface drainage and no foundation drainage or sump pump shall be connected or discharged into any sanitary sewer.

**1000.17 Types of Wastes Prohibited in the Sanitary Sewer System.**

**Subd. 1 Prohibited Waste.** It shall be unlawful to discharge any wastes into the municipal sanitary sewer system as regulated by the Metropolitan Council Waste Discharge Rules for the Metropolitan Disposal System and as amended from time to time.

**Subd. 2 Industrial Wastes.** It shall be unlawful to discharge into the municipal sanitary sewer system any industrial wastes unless the prior approval of the Public Works Superintendent or designee is obtained. The Public Works Superintendent or designee shall approve the discharge of industrial wastes when in his or her opinion; the proposed wastes shall not be of an unusual amount or character. When in the opinion of the Public Works Superintendent or Council; the proposed wastes are of an unusual amount or character, the Public Works Superintendent or Council may approve the wastes, provided the approval of the Council shall be obtained by resolution as to a particular use and subject to the restriction as imposed by the Council.

**Subd. 3 Fat, Oils and Grease Interceptor Requirements**

- A. The following provisions establish standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply. These actions will protect the health, welfare and safety of the public and the environmental by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the Wastewater Collection and Transmission System.
- B. Definitions:
  - 1. "Customer" means any entity which discharges wastewater to the City wastewater conveyance system.
  - 2. "Fats, Oils and Grease" (FOG) means material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.
  - 3. "Food Service Facility" includes the following types of establishments: Full service restaurants, fast food establishments, delicatessens, cafeterias, school cafeterias, church kitchen, hospitals and medical facilities, boarding houses, clubhouses, adult daycare facilities, assisted living facilities, convalescent homes, meat distributors and processing facilities, food processing facilities, grocery stores with food preparation/service areas, bakeries, caterers and or other similar types of operations with commercial kitchen equipment.
  - 4. "Grease Interceptor" or "Interceptor" means a device designed to capture fats, oils and grease prior to discharge to a sanitary sewer. Also termed grease traps or grease recovery devices.
  - 5. "City" means the City of Newport, Minnesota.

- C. Requirements: The installation or upgrade, and maintenance, of grease control equipment at both new and existing FOG generating facilities must meet the following requirements:
1. Grease Interceptors must be installed at all new FOG generating facilities.
  2. Existing FOG generating facilities must install an approved, properly operated and maintained Grease Interceptor when any of the following conditions exist:
    - a. If the City determines the discharge of grease from the facility to the sewer has or is creating restrictions in the public sewer or is causing additional sewer maintenance costs.
    - b. Construction which requires issuance of a building permit from the City occurs at a Food Service Facility.
  3. Grease Interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the State of Minnesota Administrative Rules, Chapter 4715, Plumbing Code and all applicable municipal plumbing codes.
  4. Grease Interceptors shall be installed in the waste line leading from the sinks, drains or other fixtures where grease may be introduced, and must be readily accessible for cleaning and inspection.
  5. FOG generating facilities must maintain records for all Grease Interceptor cleaning and maintenance activities in a format approved by the City and have such records available for inspection.
  6. FOG generating facilities that maintains a grease interceptor as required by the City of Newport must clean said interceptor at a minimum on a monthly basis. If the owner of a FOG generating facilities in which an interceptor is installed and or required can demonstrate to the reasonable satisfaction of the City Council or a designated representative that cleaning does not need to be monthly, the Council or its designated person may grant an exception allowing such owner to clean less frequently, but not less than on a quarterly basis.
    - a. Each facility must maintain records of the dates and means of disposal.
    - b. Any removal and hauling of the captured materials not performed by the owner's personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.
  7. Variance. The City may grant a variance or conditional waiver from the minimum requirements in Section C if the FOG generating facility demonstrates to the satisfaction of the City that any FOG discharge is negligible and will have an insignificant impact on the sewer system. At a minimum, the following conditions apply:
    - a. The FOG generating facility must demonstrate that the discharge from its activities contains less than 100 mg/l of FOG.
    - b. The sampling and testing to demonstrate the concentration of grease in the discharge must be conducted, at the facilities expense, by an independent testing organization in accordance with acceptable industry standards
  8. The City will perform periodic and random FOG equipment inspections, including scheduled inspections of known problem areas. Records of the inspections shall be maintained by the City. An authorized agent of the City or employee of the City may at all reasonable hours, enter any private premises for the purpose of inspecting sewer system connections, plumbing, Grease Interceptors and appurtenances to

assure compliance with this or other applicable laws, regulations and ordinances.

D. Penalties and Charges for remedial maintenance or repair of sanitary sewer system.

1. Any person found in violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in Minnesota law for a misdemeanor as may be amended from time to time. Any person convicted of a violation of this ordinance shall be required to pay the reasonable costs of prosecution.
2. The City may in its discretion, seek any civil remedies available to it including remedies at law, in equity or other relief. In the event that civil remedy is pursued, the City may seek reimbursement of any and all costs, disbursements, witness or other fees, as well as reasonable attorney's fees expended by the City in order to enforce this Ordinance.
3. Other Remedies.
  - a. Each right or remedy accruing to the City under this Ordinance or at law is separate and distinct and may, at the City's discretion, be exercised independently or simultaneously with any other right or remedy.
  - b. The City may disconnect water and sewer service to the establishment and to the structure in which the grease trap is located.
  - c. The City may impose a civil penalty of not more than \$1,000 per month until such owner demonstrates that they are in compliance with the requirements of this Ordinance.
  - d. For failure to maintain records as required by this Ordinance, or failing or refusing to timely comply with any request for records required to be provided to the Council or its designated representative, a civil penalty of up to \$250.00 per day shall be imposed until such records are provided.
  - e. All unpaid civil penalties imposed on a Food Service Facility during that calendar year shall be assessed to said facilities first quarter water bill for the following calendar year.
4. In the event that the owner is found to have contributed to the partial or complete obstruction of the sewer system resulting from the discharge of waste containing grease and that the City is required to act immediately to control a public health hazard because of such blockage, such owner shall be required to reimburse the City for all costs of abating such condition. In situations where there are multiple owners identified as contributing to the obstruction, the City will apportion the cost of the clean-up, maintenance or repair costs on a prorated basis, based on each owner's percentage share of the average total sanitary sewer charges for all such owners. Further should inspection, testing or other sampling activity by the City or its representative confirm that any user is contributing excessive grease (including other harmful ingredients) and is causing the repair or extraordinary maintenance activity to maintain the sanitary sewer system the City Council may require further remedial actions necessary to correct the problem.

**1000.18 Public and Private Utility Related Excavations and Restoration.**

**Subd. 1. Supervision.** All installation work or repair of connections to the water and sewer systems, including excavations, grades, bends, and backfilling, shall be performed under the direction and supervision of the Public Works Superintendent or designee.

**Subd. 2. Permit Required.** No digging in any permanent type street shall be permitted except by permission or a permit from the City.

**Subd. 3. Protective Devices.** All work and excavations shall be protected by barricades and warning markers and lights reasonable and suitable to the purpose.

**Subd. 4. Restoration.** No public or private connection to the municipal sewer or water system shall be finally approved until all streets, pavements, curbs and boulevards, establishment of turf, final grade, or other public improvements thereon have been restored to their former condition to the satisfaction of the Public Works Superintendent and the City Engineer.

**Subd. 5. No liability Of City.** The City shall be held harmless for any claim or loss as might otherwise arise for damage, loss, or injury caused by or arising by reason of such work being performed, and the applicant causing such work to be done shall give undertaking to the City with respect thereto.

#### **1000.19 Utility Connection or Repair Permits and Fees:**

**Subd. 1 Permit Required.** No person shall make any type of connection or repair to the water system, sanitary sewer, or storm sewer system except upon making an application therefor on a form provided by the City and receiving a permit issued by the City for such purposes.

**Subd. 2 Application for Permit.** Any person desiring a connection to the municipal water, sewer, storm sewer system for property not previously connected with the system, shall apply to the City for permit. The application shall be submitted on forms furnished by the City and shall be accompanied by plans, specifications and such other information as desired by the City, together with a permit and required fees as may be set from time to time by the City Council. All costs and expenses incident to the installation and connection shall be borne by the owner, and the owner shall indemnify the City for any loss or damage that may, directly or indirectly, be occasioned by the installation of the sewer connection, including restoring streets or street surfaces.

**Subd. 3 Issuance.** A permit shall be issued only to such persons who shall be duly licensed by the City to engage in the business of plumbing or sewer installation and who have filed with the municipality the bonds and insurance certificates required by this Chapter.

**Subd. 4 Bond and Insurance.** Before any permit required under this Section shall be issued, the licensee applying for the permit shall file with the City the following bond and insurance certificate:

- A. A bond in favor of the City, with an approved corporate surety, in the penal sum of Ten-Thousand and no/100 Dollars (\$10,000.00); the conditions of which bond shall be that the licensee shall save the obligee harmless from all costs and charges that may accrue on account of the doing of any work authorized or permitted by this Section; and that the licensee shall save the obligee harmless from any loss or damage by reason of improper or inadequate work performed by the licensee under the provisions of this Section; and further that the licensee shall defend, indemnify and hold harmless the municipality from any damage to the utility lines, curbs, streets, street surfaces, or sidewalks.
- B. A certificate that insurance shall be in force covering the licensee for the period covered by the license in the following minimum amounts: Property Damage -- \$10,000.00; Public Liability -\$25,000.00, each person; \$50,000.00 each accident. The certificate shall state that the policies covering the licensee shall not be canceled without ten (10) days written notice to the municipality.

**Subd. 5 Fees.** At the time of making such application all required fees shall be paid in full as approved by the City Council.

**Subd. 6 Sewer and Water Connection Charges.** Before proceeding with the construction of any new water or sewer lines connecting the water system or sanitary sewer system with any new house or building, the owner or his/her agent shall first obtain a permit for such purposes from the City. The fees for connection charges shall be established by ordinance of the City Council on a yearly basis.

- A. City Water Access Charge (WAC) shall be paid at the time of making application for a connection or building permit.
- B. City Sewer Access Charge (SAC) shall be paid at the time of making application for a connection or building permit.
- C. A Metropolitan Council Environmental Services Sewer Access Charge (MCES SAC) shall be paid at the time of making application for a connection or building permit.

**Subd. 7 Sewer and Water Trunk Fee.** Before proceeding with the construction of any new water or sewer lines connecting the water system or sanitary sewer system with any new house or building, the owner or his/her agent shall first obtain a permit for such purposes from the City. The fees for trunk charges shall be established by ordinance of the City Council on a yearly basis.

- A. A City Water Trunk Area Charge shall be paid at the time of making application for a building permit or as determined by adopted by ordinance annually.
- B. A City Sewer Trunk Area Charge shall be paid at the time of making application for a connection or building permit or as determined by adopted by ordinance annually.

**1000.20 Property Assessments.** In addition thereto, before any permit is issued allowing a tapping or connection to the sewer or water main, the following conditions shall be complied with:

**Subd. 1 Additional Cost Determination.** No permit to tap or connect to any sewer or water main shall be issued unless the Applicant shall pay an additional costs which shall be equal to the portion of the cost of construction of the sewer or water main, which would be assessable against the lot or tract to be served by the tapping or connection as authorized by Minn. Stat. 429.051. The assessable cost shall be determined by the City Engineer upon the same basis as any assessment previously levied against other property for the sewer or water main.

**1000.21 MCES Sewer Service Availability and Connection Charges.**

**Subd. 1 Statement of Purpose.** The Metropolitan Council Environmental Services (MCES) Agency reserves unused capacity in the metropolitan disposal system (MDS) each year for local government units in which new buildings will be connected to the system or new connections to the system are commenced during each year and allocates the debt service costs of such unused capacity for the year among such local government units. In order for the City to pay such costs allocated to it each year, sewer service availability and connection charges are levied for all new connections or increased volume to the metropolitan disposal system.

**Subd. 2 Service Availability Charge Established.** For the purpose of paying costs of reserve capacity allocated to the City each year by the Metropolitan Council Environmental Services Agency, there is hereby established a service availability charge (SAC) for:

- A. The availability of treatment works and interceptors comprising the metropolitan disposal system.
- B. Connections, direct and indirect, to the metropolitan disposal system.
- C. The charge is imposed on each building or structure in the City and each connection to the metropolitan disposal system directly or through the City's system, inside any sewer service area established by the Metropolitan Council Environmental Services Agency. The charge shall be payable upon the issuance of a building permit or a connection permit, as the case may be, but no charge shall be due upon the issuance of a connection permit if a charge was paid upon issuance of a building permit.
- D. The service availability charge (SAC) for each building or structure shall be equal to the estimated number of units of sewage volume that it will discharge. Service availability charge (SAC) determinations and related

fees are established by the Metropolitan Council Environmental Services Agency.

- E. **Information Provided:** The City shall provide information necessary for the computation of the number of units assignable to the building or structure in question and shall collect the applicable charge before issuance of a permit. The City shall make such information available to the Metropolitan Council Environmental Services (MCES) Agency on a report format provided by them for that purpose or upon request. If, upon filing a report covering such permit with the Metropolitan Council Environmental Services (MCES) Agency, the MCES Agency determines that a greater number of units are assignable to the building or structure in question, any additional cost allocated to the City as a result shall be paid by the person or company to whom the permit was granted.

#### **1000.22 Utility Rates and Charges: Bills for Service, Discontinuance of Service.**

**Subd. 1 Authority.** The City council shall have the authority to prescribe by ordinance the rates to be charged for water and sewer service to the customer from time to time and may prescribe the date of billing, a discount for payment within a prescribed period, penalty for failure to pay within such period and such further rules and regulations relative to the use and operation of such systems as it may deem necessary from time to time.

**Subd. 2 Public Utilities Fund.** There shall be hereby continued a public utilities fund, which fund shall be used to meet all of the expenses for operating, maintenance, repair and expansion of the water system and for the administration of the water system. There shall be paid into the fund all monies collected pursuant to this Chapter, together with such other funds as may be paid into the fund pursuant by resolution of the Council. The accounting procedure shall conform to the requirements and recommendations of the Auditor of the State of Minnesota.

**Subd. 3 Water Rates and Collection of Charges.** All accounts shall be kept on the books of the City by the house and street number and under the account number assigned thereto, and by the name of the owner. All statements of charges and notices sent out by the City shall normally be sent to the property owner at the address shown for that property owner. Renters may be sent statements of charges, but ultimately, responsibility for the payment of all fees and charges shall rest with the property owner. Any error in address shall be promptly reported to the City.

#### **Subd. 4 Water Rates.**

- A. **Amount.** Charges for water usage shall be as set from time to time by the City Council
- B. **Payment of Charges.** Statements for total water charges for the preceding quarterly period shall be mailed by the City to each customer on or before the 10th day of each quarter. The statement shall be due on or before the 10th day of the month following the quarterly period covered by the statement. There shall be added to all statements not paid when due a penalty charge as set from time to time by the City Council. If any account shall remain unpaid for a period of 30 days beyond the original due date, the water may be turned off, pursuant to 1000.09, and a fee collected for having the water service restored.
- C. **Faulty Meter.** In case the meter is found to have stopped or to be operating in a faulty manner, the amount of water used shall be estimated in accordance with the amount used previously in comparable periods of the year.
- D. **Monthly Charge.** Where service is for less than a quarterly period, the quarterly charge shall be prorated on a monthly basis.
- E. **Building Sprinkler Systems.** Where a connection is made to an automatic sprinkler system for standby service only, a charge for installation, inspection, and maintenance of the service shall be made as set from time to time by the Council. The charge shall apply in all cases where automatic sprinklers are installed and where fire gates and other outlets are sealed. Meters or detector check valves shall be installed on the services as shall be required by the Public Works Superintendent.

- F. **Extra-territorial Service.** Rates due and payable by each water user located beyond the territorial boundaries of the City shall be determined by special contract.

#### **Sub. 5 Sanitary Rates and Charges.**

- A. **Amount.** Charges for sewer usage shall be as set from time to time by the City Council.
- B. **Payment.** Statements for sewer service for the preceding quarterly period shall be mailed by the City to each customer on or before the 10th day of each month following the mailing of the quarterly statement. There shall be added to all statements not paid when due a penalty charge as set from time to time by the Council by resolution. Delinquent payment for sewer service may be collected by the method set forth in this Chapter.

**Subd. 6 Actions to Collect Charges.** Any amounts due for water charges hereunder may be collected in a civil action, or the Clerk-Administrator may certify to the County Auditor the amounts due, together with a legal description of the premises served; and the County Auditor shall thereupon enter the amount as part of the tax levy on the premises to be collected during the ensuing year as provided by law of the State of Minnesota.

**Subd. 7 Discontinuance of Service; Reconnections.** The City reserves the right to discontinue service to any customer of the water and sanitary sewer system without notice when necessary for repairs, additional connection or reconnection, for nonpayment of charges or bills, or for disregard of any rules or regulations in connection with the use or operation of such system. Whenever any service has been discontinued for nonpayment of the charges or bills, for disregard of any rules or regulations, or for any other purpose, it shall not be resumed except upon payment of the charges or bills accrued or upon compliance with the rules and regulations previously violated and payment to the City of a restoration fee established by ordinance. Any reconnection or turn on outside of Public Work's regular working hours shall be charged an additional fee established by ordinance.

**Subd. 8 Delinquent Bills; Lien.** In the event a water or sewer bill is unpaid 30 days after the due date, the billing shall be considered delinquent, the service may be discontinued, and the City Council may cause the charges noted in such billing to become a lien against the property served by certifying to the county auditor the amount of such delinquent bill in accordance with the statutes of the state.

**Subd. 9 Final Meter Readings; Water Shutoff.** After a final meter reading, the water shall be shut off, unless a responsible party assumes the obligation of payment of the water bill.

#### **1000.23 Inspections; Entry Powers.**

**Subd. 1 Entry.** The City, by any authorized employee, agent, or contractor, shall have the right to enter and be admitted to any land, property, or building in the City that is connected to City water and sewer systems for the following purposes:

- A. Inspection and maintenance of materials, plumbing work, and fixtures of all kinds used by or in connection with the City water and sewer systems.
- B. Repair of materials, plumbing work, and fixtures of all kinds used by or in connection with the water and sewer systems.
- C. Replacement of materials, plumbing work, and fixtures of all kinds used by or in connection with water and sewer systems, specifically including the water meters and their accompanying wiring and attached meter recording device.

**1000.24 Water Conservation.** All water customers and consumers shall be governed by the applicable regulations promulgated by the Public Works Superintendent to limitations in the time and manner of using water and such other applicable regulations promulgated by the Public Works Superintendent affecting the preservation, regulation, and protection of the water supply and system.

**Subd. 1 Emergency Regulations.** The City may impose emergency water usage regulations by limiting the times and hours, or completely prohibiting water use of the City's water system for certain uses for example. The following are some best management practices that may be implemented from time to time if found necessary to conserve water supply:

- A. The watering and sprinkling of lawns and/or gardens from a municipal water supply system shall be permitted on even numbered days for property with even numbered addresses and on odd numbered days for property with odd numbered addresses; except, that any property may be watered on the thirty first day of any month.
- B. Outdoor watering is prohibited between the hours of twelve o'clock (12:00) noon and four o'clock (4:00) P.M.
- C. Other practices as determined by the City Public Works Superintendent necessary to conserve the water supply.
- D. The foregoing limitations shall apply only to property served by City water.

**1000.25 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

### **Section 1005 - Subsurface Sewage Treatment System**

**1005.01 Subsurface Sewage Treatment System Regulations.** Pursuant to Minnesota Statutes 471.62, the provisions of the Washington County Subsurface Sewage Treatment System Regulations Ordinance hereby adopted and made a part of this Code as if fully set out herein, except as here in after modified or changed from time to time as approved by the City Council. In case of conflict between this Section and other provisions of the Code, the other provisions shall prevail. The City is authorized to contract for permitting and inspection services with Washington County.

**Subd. 1. Other Controls.** In the event of any conflict between the provisions of this ordinance or adopted regulations provisions the more restrictive standard prevails.

- A. Minnesota Rules, Chapter 7080-7083, Subsurface Sewage Treatment System Program, are hereby incorporated as the minimum acceptable design standards for the management of subsurface sewage treatment systems in the City; should there be any discrepancy between the M.R. 7080-7083 and the Washington County SSTS Ordinance, the most stringent shall apply.
- B. Post installation inspection and maintenance requirements are hereby incorporated as outlined in the Metropolitan Council's Wastewater Treatment and Handling Policy Plan.

**Subd. 2. Required Permitting.** The location, design, installation, use, maintenance and inspection of Subsurface Sewage Treatment System Regulations shall be governed by the Washington County Development Code and administered by County officials and personnel. No permit shall be issued for installation, expansion or alteration of an Subsurface Sewage Treatment System or for a new building or the remodeling or expansion of an existing building which provides for or requires the installation, expansion or alteration of an Subsurface Sewage Treatment System unless and until Washington County has issued a permit for such system. No certificate of occupancy shall be issued until following the final inspection and issuance of an operation permit.

**1005.02 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## Section 1010 – Street Lighting Utility Charge

**1010.01 Policy and Purpose** The Newport City Council has determined that it is in the best interests of the residents of the City of Newport or operate a street light system throughout the City to promote the general health, safety, and welfare of the residents pursuant to Minnesota Statutes 412.221, Subd. 7. In order to help defray the cost of the establishment, construction, repair, replacements, maintenance, enlargement and improvement of said system, it is hereby determined by the City Council that every parcel of property benefits from the safety and convenience of street lights and, therefore, there shall be a Street Light Utility Charge payable by every lot, parcel or piece of property within the City, whether residential, commercial, institutional or industrial.

It is hereby determined to be the policy of the City that the benefit of street lighting to any lot, piece or parcel of land developed within the City limits is similar and that payment for said services should be collected on as fair, reasonable, and equitable basis as possible. It is further determined that any charge set forth pursuant to this Chapter is in addition to any charge pursuant to any other ordinance of the City or any other governmental entity or agency.

**1010.02 Initiation:** The Council, in all new subdivisions or upon a petition by a developer or a petition of at least 60% of the property owners within 150 feet of the proposed location, or upon its own initiative or recommendation of the City Engineer based on traffic or safety considerations, shall determine the street, parks or other public areas on which the City shall install and operate a street lighting system pursuant to the authority granted by Minnesota Statutes 429.021, Subd. 1(4).

### **1010.03 Authority to Impose Street Light Utility Charge:**

**Subd. 1. Installation Costs.** The cost of installation of the street light system in all new subdivisions shall be included in the cost of required public improvements and may be assessed against the benefiting property owners in accordance with the provisions of Minnesota Statutes, Chapter 429.

**Subd. 2. Operating Costs.** For the purpose of providing funds to defray the cost of maintenance and operation of the street light system, the costs of construction, maintenance and operation of street lights, payment of capital charges represented by bonds, certificates of indebtedness or otherwise, and the payment of reasonable requirements for replacement and obsolescence thereof, there is hereby levied and assessed upon each lot, parcel of land, building or premises within the City, a monthly street light utility charge determined as provided in this Chapter.

**1010.04 Collection of Charges:** Street Light Utility Charges shall be determined by resolution of the City Council. Street Light Utility Charges shall be collected in conjunction with other City utility charges. The Council may prescribe the date and manner of billing, a penalty for failure to pay within the period set for payment, and such other rules and regulations relative to the system as it may deem necessary from time to time.

**1010.05 Enforcement for Collection of Charges:** Any unpaid or delinquent Street Light Utility Charges may be recovered from the occupant or owner of the premises billed therefore in a civil action by the City in any competent jurisdiction or, in the discretion of the City Council, may be certified to the County Auditor as taxes against any such property to be collected and paid over to the City along with other taxes. Either or both of such methods of collection thereof may be pursued by the City until payment in full has been made and the initiation of one such method of collection shall not be deemed to be an election preventing the City from thereafter using the other method of collection until paid in full. Payment of delinquent Street Light Utility Charges shall be credited to the same fund used for current Street Light Utility Charges, deduction there from any costs of collection accruing to the City therefore.

**1010.06 Exemptions: Collection of Charges:** The following land uses are exempt from street light fees:

- A. Public rights-of-way; and
- B. City owned property.

**1010.07 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

#### **1010.08 Effective Date**

- A. This ordinance is effective the day following its publication.
- B. Adopted by the City Council of the City of Newport, MN this 1st day of 2004.

### **Section 1015 - Storm Water Utility**

**1015.01 Purpose** The purpose of this Section is for the efficient, economic and safe operation of a storm water system for the protection of the health, safety and general welfare of the residents of the City of Newport.

The system, as constructed heretofore, has been financed and paid for through the imposition of special assessments and ad valorem taxes. In addition to these funding sources, it is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, establishing, enlarging, replacing, repairing, maintaining, and operating the system through the imposition of charges as provided in this ordinance.

**1015.02 Storm Water Utility Established.** A municipal storm water utility is hereby established and shall be operated as a public utility pursuant to Minnesota Statutes Section 444.075 from which revenues will be derived subject to the provisions of this Chapter and Minnesota Statutes. The storm water drainage utility will be part of the Public Works Department and under the administration of the Superintendent of Public Works.

**1015.03 Definitions.** Unless the context clearly indicates otherwise, the following words or phrases have the meanings given in this section.

**Subd. 1. Runoff Equivalent Unit (REU).** Rates and charges for the use and availability of the system are to be determined through the use of a "Runoff Equivalent Unit". For the purposes of this section, one REU is defined as calculated by the South Washington Watershed District for the East Mississippi sub-watershed.

**Subd. 2. Storm Water Utility Rate.** The rate charged against a REU of one (1.0) shall be the storm water utility rate as determined annually by the City of Newport.

#### **1015.04 Calculation of Fee.**

**Subd. 1. Land Use Classifications.** Storm water drainage fees shall be determined by multiplying the most recent REU for a tax parcel, as determined from time to time by the South Washington County Watershed District, by the Storm Water Utility Rate.

**Subd. 2. Storm Water Utility Rate.** The storm water utility rate shall be determined by the City Council on an annual basis in the same manner as for other utilities, and shall be charged to all parcels not listed as exempt in Subdivision 4.

**1015.05 Billing and Payment.** Storm water utility charges shall be computed and billed quarterly with, and included as a charge on, bills issued by the City for water and sewer services. If a parcel of land subject to the storm water utility is not served by other utilities, a separate bill shall be issued on a quarterly basis. All charges shall be subject to:

**Subd. 1. Penalties and Remedies for Delinquencies.** All storm water utility charges shall be due on the date specified by the City for the respective amount and shall be delinquent thereafter. Delinquent accounts will be charged a late fee of 10% of the amount past due. The late charge will be added to the bill and shall be payable together with the amount of such bill. The City shall attempt to collect delinquent accounts promptly. Any past due storm water drainage fees, in excess of ninety (90) days past due on October 1 of any year, may be certified to the County Auditor for collection

with real estate taxes in the following year, pursuant to Minnesota Statute, section 444.075, subdivision 3. In addition, the City shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

**1015.06 Fee Appeal.** If a property owner or person responsible for paying for the storm water utility fee believes that a particular assigned fee is incorrect, such person may request, in writing, and that the fee be recomputed. Such request shall be made within thirty (30) days of the mailing of the billing in question, and shall immediately be addressed by appropriate City Staff. If the property owner is not in agreement with the City's staff's determination of the fee, he or she may appeal the determination in writing by making a request for a hearing to the Storm Water Utility Board of Appeals within fourteen (14) days of the Staff's determination. The City Council shall act as the Storm Water Utility Board of Appeals.

A hearing before the Board of Appeals shall be scheduled to occur within forty-five (45) days of receiving the property owner's request for a hearing. Notice of the hearing must be served on the property owner at least fourteen (14) days in advance unless a shorter time is accepted by all parties. Service of the Notice shall be by first class mail and will be complete upon mailing. The property owner shall have the burden of proving that the storm water utility fee for his or her property is incorrect. The decision of the Board of Appeals is final without any further right of appeal. The property owner may obtain judicial review of the decision of the Board of Appeals by proceeding pursuant to a writ of certiorari in the appropriate court. In the event that the property owner believes that the REU assigned to the Tax Property is incorrect he/she shall be responsible for petitioning the South Washington Watershed District to recalculate the value of REU assigned to the property in question. The City Council shall accept the most recent value of REU per parcel as established by South Washington County Watershed District

**1015.07 Establishment of Fund.** All fees collected for the storm water utility shall be placed in a fund for storm water purposes. Revenues shall be used to pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment and the maintenance, operation and use of the facilities, and all other purposes as permitted by Minnesota Statutes Section 444.075.

**1015.08 Severability Clause.** Should any section, subdivision, clause or other provision of this Section be held to be invalid by any Court of competent jurisdiction, such decision shall not affect the validity of this Section or the Newport City Code as a whole, or any part thereof, other than the part held to be invalid.

**1015.09 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## **1020 - Storm Water Management**

**1020.01 Statutory Authorization.** This ordinance is adopted pursuant to Minnesota Statutes Section 462.351 (1990).

**1020.02 Findings.** The City of Newport hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Newport to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas, which may be affected by unplanned land usage.

**1020.03 Purpose.** The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Newport and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such

areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

**1020.04 Definitions.** For the purposes of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

**Subd. 1. Applicant.** Any person who wishes to obtain a building permit, zoning or subdivision approval.

**Subd. 2. Control measure.** A practice or combination of practices to control erosion and attendant pollution.

**Subd. 3. Detention facility.** A permanent natural or man-made structure, including wetlands, for the temporary storage or runoff, which has a storm water outlet and may have a permanent pool of water.

**Subd. 4. Dual Purpose Pond.** A detention facility without a permanent pool that functions as both a storm water ponding basin and as a sedimentation basin. Sediment removal is accomplished through the use of filter media surrounding a slotted outlet pipe, with an overflow outlet set at an elevation that provides for minimum required runoff volume and sediment storage.

**Subd. 5. Flood Fringe.** That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Newport.

**Subd. 6. Flood Plain.** The beds proper and the areas adjoining a wetland, lake or watercourse, which have been or hereafter may be covered by the regional flood. (The critical 100-year storm). Or as may defined by a FEMA approved FIRM.

**Subd. 7. Floodway.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry or store the regional flood discharge.

**Subd. 8. Hydric soils.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**Subd. 9. Hydrophytic vegetation.** Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**Subd. 10. Land disturbing or development activities.** Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

**Subd. 11. Person.** Any individual, firm, corporation, partnership, franchisee, association or governmental entity.

**Subd. 12. Public Waters.** Waters of the state as defined in Minnesota Statutes, section 103G.005, subdivision 15.

**Subd. 13. Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the critical 100 year recurrence interval. Regional flood is synonymous with the term "base flood" in the Flood Insurance Study.

**Subd. 14. Retention facility.** A permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**Subd. 15. Sediment.** Solid matter carried by water, sewage, or other liquids.

**Subd. 16. Structure.** Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, mobile or manufactured homes, and other similar items.

**Subd. 17. Wetlands.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water no deeper than 6 feet. For purposes of this definition, wetlands must have the following three attributes:

- A. Have a predominance of hydric soils;
- B. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- C. Under normal circumstances support a prevalence of such vegetation.

#### **1020.05 Scope and Effect.**

**Subd. 1 Applicability.** Every applicant for a building permit, subdivision approval, or a permit to allow land-disturbing activities must submit a storm water management plan to the City Clerk. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this ordinance. The provisions of Section 1371.09 of this ordinance apply to all land, public or private, located within the City of Newport.

**Subd. 2 Exemptions.** The provisions of this ordinance do not apply to:

- A. Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this ordinance;
- B. Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this ordinance;
- C. A lot for which a building permit has been approved on or before the effective date of this ordinance;
- D. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles gardening, tree planting, deck construction and other types of construction disturbing 1/3 acre or less; or
- E. Emergency work to protect life, limb, or property.

**Subd.3 Waiver.** The City Council may waive any requirement of this ordinance upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in Section 6. The City Council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

#### **1020.06 Storm Water Management Plan Approval Procedures**

**Subd.1 Application.** A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City Clerk and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate departments of the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City Clerk and shall be accompanied by all required fees for processing and approval as set forth in Section 7.5, and a bond when required by Section 7.4 in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. The drawing size shall be limited to a maximum of 22" x 34", and the drawing scale may range from a maximum of 1 inch equals 20 feet to a minimum of 1 inch equals 100 feet.

**Subd.2 Storm water management plan.** At a minimum, the storm water management plan shall contain the following information:

A. **Existing site map.** A map of existing site conditions showing the site and immediately adjacent areas, including:

1. The name and address of the applicant, the section, township and range, north direction arrow, date and scale of drawing and number of sheets;
2. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, utilities, subdivisions, towns and districts or other landmarks;
3. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;
4. A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Washington County Soil and Water Conservation District and/or the United States Army Corps of Engineers;
5. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;
6. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable including special rotations locating where erosion soils exist on the site;
7. Vegetative cover and clearly delineating any vegetation proposed for removal; and
8. 100-year floodplain, flood fringes and floodways.

B. **Site Construction plan.** A site construction plan including:

1. Locations and dimensions of all proposed land disturbing activities and any phasing and phasing time frame of those activities;
2. Locations and dimensions of all temporary soil or dirt stockpiles;
3. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this ordinance;

4. Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this ordinance (in general such erosion control measure shall be installed prior to any grading activity); and
  5. Provisions for maintenance of the construction site erosion control measures during construction.
- C. **Plan of final site conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes including:
1. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
  2. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials, which will be added to the site as part of the development;
  3. A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;
  4. The proposed size, alignment and intended use of any structures to be erected on the site;
  5. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
  6. Any other information pertinent to the particular project which in the opinion of the applicant and/or the City is necessary for the review of the project.

#### **1020.07 Plan Review Procedure**

**Subd.1 Process.** Applicant prepared storm water management plans meeting the requirements of Section 6 shall be submitted to the City for review in accordance with the standards of Section 8. City Council action on the storm management plan must be accomplished within 120 days following the date the application for approval is filed with the City.

**Subd. 2 Duration.** Approval of a plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the City for an extension of time to commence construction setting forth the reasons for the requested extension, the City may grant an extension of not greater than one single year. Receipt of any request for extension shall be acknowledged by the City within 15 days. The City shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

**Subd. 3 Conditions.** A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require placement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the City of Newport or other public entity of certain lands or interests herein.

**Subd. 4 Letter of Credit.** Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a letter or credit to cover the amount of the established cost of complying with the agreement. The agreement and letter of credit shall guarantee completion and compliance with conditions within a specific time, which time may be extended. The performance

bond amount shall be determined by the City Engineer, and shall be set at 125% of the estimated cost of the required improvement.

The adequacy, conditions and acceptability of any agreement and letter of credit shall be determined by the Newport City Council or any official of the City of Newport as may be designated by resolution of the City Council.

**Subd. 5 Fees.** All applications for storm water management plan approval shall be accompanied by an application fee as required by ordinance.

### **1020.08 Approval Standards**

**Subd.1 Standards.** No storm water management plan which fails to meet the standards contained in the adopted City of Newport Public Works Design Manual shall be approved by the City.

### **1020.09 Wetlands.**

- A. Runoff shall not be discharged directly into wetlands without pre-settlement of the runoff.
- B. A protective buffer strip of natural vegetation at least 16.5 feet in width shall surround all wetlands.
- C. Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:
  - 1. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
  - 2. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
  - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
  - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
  - 5. Compensating for the impact by replacing or providing substitute wetland resources or environments. Compensation, including the replacement ratio and quality of replacement shall be consistent with the requirements outlined in the rules which will be adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991.

**1020.10 Other Controls.** In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council, the more restrictive standard prevails.

**1020.11 Severability.** The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

**1020.12 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## **Section 1025 – Illicit Discharge and Connection**

**1025.01 Statutory Authorization** This ordinance is adopted pursuant to Minnesota Statutes Section 462.351 (1990).

**1025.02 Purpose and Intent** The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of City of Newport through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- B. To prohibit illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

**1025.03 Definitions** For the purposes of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

**Subd. 1. Authorized Enforcement Agency.** City Administrator or other Staff as designated to enforce this ordinance by the City Council.

**Subd. 2. Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMP's shall be the more stringent as defined by the Minnesota Pollution Control Agency or by the South Washington Watershed District

**Subd. 3. Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**Subd. 4. Construction Activity.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**Subd. 5. Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Subd. 6. Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.

**Subd. 7. Illicit Connections.** An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Subd. 8. Industrial Activity.** Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

**Subd. 9 Minnesota Pollution Control Agency (MPCA).** The Minnesota Pollution Control Agency is the governing body in the State of Minnesota responsible for monitoring environmental quality and enforcing environmental regulations. Included with this oversight is the enforcement of the City's Municipal Separate Storm Sewer System (MS4).

**Subd. 10 Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Newport and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

**Subd. 11. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** The permit issued by the Minnesota Pollution Control Agency (MPCA) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Subd. 12. Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water, or snowmelt.

**Subd. 13. Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Subd. 14. Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Subd. 15. Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Subd. 16. Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Subd. 17. Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Subd. 18. Storm Water Management Plan.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**Subd. 19. Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a residence, business, or other facility.

**1025.04 Applicability** This ordinance shall apply to all water entering the storm drain system, serving the area encompassed by the municipal boundary and as generated on any developed and undeveloped lands unless explicitly exempted by the City of Newport.

**1025.05 Responsibility for Administration** The City of Newport shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City of Newport may be delegated in writing by the Administrator of the City of Newport to persons or entities acting in the beneficial interest of or in the employ of the City.

**1025.06 Compatibility With Other Regulations** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**1025.07 Severability** The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

**1025.08 Ultimate Responsibility** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

#### **1025.09 Discharge Prohibitions**

**Subd. 1 Prohibitions of Illegal Discharges** No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- A. Discharges associated with water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
- B. Discharges or flow from firefighting, and other discharges specified in writing by the City of Newport as being necessary to protect public health and safety.
- C. Discharges associated with dye testing, however this activity requires a verbal notification to the City of Newport prior to the time of the test.
- D. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### **Subd. 2 Prohibitions of Illegal Connections**

- A. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- D. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Newport.
- E. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Newport requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Newport.

## **1025.10 Industrial or Construction Activity Discharges**

### **Subd. 1 Submission of permit application or (notice of intent) to City of Newport**

- A. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Newport prior to the allowing of discharges to the MS4.
- B. The operator of a facility required to have an NPDES permit to discharge storm water associated with industrial activity or construction site activity shall submit a copy of the completed permit application (notice of intent) to the City of Newport at the same time the operator submits the original completed permit application to the Minnesota Pollution Control Agency (MPCA) as applicable.
- C. The copy of the permit application may be delivered to the City of Newport either in person or by mailing it to:  
  
City of Newport  
Attention: City Administrator  
596 7th Avenue  
Newport, MN 55055
- D. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the permit application to the City of Newport.

## **1025.11 Compliance Monitoring**

**Subd. 1 Right of Entry: Inspection and Sampling** The City of Newport shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- A. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Newport.

- B. Facility operators shall allow the City of Newport ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- C. The City of Newport shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Newport to conduct monitoring and/or sampling of the facility's storm water discharge.
- D. The City of Newport has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Newport and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- F. Unreasonable delays in allowing the City of Newport access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of Newport reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

**Subd. 2 Search Warrants** If the City of Newport has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Newport may seek issuance of a search warrant from any court of competent jurisdiction.

**1025.12 Requirement to Prevent, Control, and Reduce Storm Water Pollutants By The Use of Best Management Practices** City of Newport has adopted Best Management Practices in Section 1371 of the City Code as well as the Public Works Design Manual for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the state as defined by the MPCA. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**1025.13 Notification of Spills** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the State of Minnesota, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Newport in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Newport within 5 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an

on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 2 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

**1025.14 Violations, Enforcement, and Penalties** Refer to the City's "Illicit Discharge and Connection Violation Enforcement Policy".

**1025.15 Appeal of Notice of Violation** Refer to the City's "Illicit Discharge and Connection Violation Enforcement Policy".

**1025.16 Enforcement Measures After Appeal** Refer to the City's "Illicit Discharge and Connection Violation Enforcement Policy".

**1025.17 Cost of Abatement of the Violation** Refer to the City's "Illicit Discharge and Connection Violation Enforcement Policy".

**1025.18 Violations Deemed a Public Nuisance** In addition to the enforcement processes and penalties provided in the City's "Illicit Discharge and Connection Violation Enforcement Policy", any condition caused or permitted to exist in violation of any of the provisions of this ordinance and/or policy is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**1025.19 Remedies Not Exclusive** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Newport to seek cumulative remedies.

The City of Newport may recover all attorney's fees, including costs of expert witnesses called to testify on the City's behalf, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**1025.20 Adoption of Ordinance** This ordinance shall be in full force and effect 30 days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

### **Section 1030 - Regulating the Use of Coal Tar-Based Sealer Products**

**1030.01 Statutory Authorization** This ordinance is adopted pursuant to Minnesota Statutes Section.

**Subd. 1 Purpose.** The City of Newport understands that rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns. The purpose of this ordinance is to regulate the use of sealer products within the City of Newport, in order to protect, restore, and preserve the quality of its waters.

#### **Subd. 2 Definitions**

- A. **Asphalt-Based Sealer.** A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.
- B. **Coal Tar.** A byproduct of the process used to refine coal.
- C. **Coal Tar-Based Sealer.** A sealer material containing coal tar that has not been mixed with asphalt and which is commonly used on driveways, parking lots and other surfaces.

D. **MPCA.** The Minnesota Pollution Control Agency.

E. **PAHs.** Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

**Subd. 3 Prohibitions.**

- A. No person shall apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City.
- B. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar-based sealer to any driveway, parking lot, or other surface within the City.
- C. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

**Subd. 4 Asphalt-Based Sealcoat Products.** The provisions of this ordinance shall only apply to use of coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

**Subd. 5 Severability.** If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

**1030.02 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

**Section 1035 - Regulating Disposal of Grass clippings, etc.**

**1035.01 Disposal Prohibited.** No person shall apply or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces or within stormwater drainage systems, natural drainageways, or wetland buffer areas.

**1035.02 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

**Section 1040 – Regulating the Use of Phosphorous Fertilizer**

**1040.01 Statutory Authorization** This ordinance is adopted pursuant to Minnesota Statutes Section.

**Subd. 1 Purpose.** The City of Newport understands that rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of fertilizer on lawns and turf is a common practice. However, scientific studies on the use of fertilizer high in phosphorous have demonstrated a relationship between stormwater runoff and environmental concerns. The purpose of this ordinance is to regulate the use of fertilizer products within the City of Newport, in order to protect, restore, and preserve the quality of its waters.

**Subd. 2 Restrictions.** All displays for retail sale to the general public of fertilizers containing phosphorous must be posted with a sign containing, at a minimum, the following information:

- A. The fertilizer in the display contains phosphorus.
- B. State law prohibits the application of phosphorous fertilizers on any turf except:
  - 1. Where a state approved test conducted within the previous three years demonstrates that the level of phosphorous in the soil is insufficient to support healthy turf growth.
  - 2. During the first growing season of a newly sodded or seeded turf.
  - 3. On a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program authorized by the State.
- C. A person who applies phosphorous fertilizer except when authorized by this Section or State law is guilty of a petty misdemeanor and subject to a fine.
- D. Additional consumer information on phosphorous fertilizer use restrictions and best turf management practices as produced by the State Commissioner of Agriculture must be posted or made available for distribution at all retail points of sale.

**1040.02 Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

The foregoing Ordinance was moved by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_.

The following Councilmembers voted in the affirmative:

The following Councilmembers voted in the negative:

**Effective Date**

This Ordinance becomes effective upon its passage and publication according to law.

Adopted by the City Council of the City of Newport, Minnesota on the 16th day of April, 2015.

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

Attest: \_\_\_\_\_  
Deb Hill, City Administrator



## City of Newport Illicit Discharge and Connection Violation Enforcement Policy

### Acronyms

**BMP** – Best Management Practice.

**CWA** – Clean Water Act.

**CWP** – Center for Watershed Protection.

**EPA**- U.S. Environmental Protection Agency.

**IDDE** – Illicit Discharge Detection and Elimination.

**ISTS** – Individual Sewage Treatment System.

**LGU** – Local Government Unit.

**MCM** – Minimum Control Measure.

**MPCA** – Minnesota Pollution Control Agency.

**MS4** – Municipal Separate Storm Sewer System.

**NPDES** – National Pollutant Discharge Elimination System.

### **1. Illicit Discharge Detection**

Observed or complaint driven illicit discharges will be investigated to determine the source and nature of the discharge.

### **2. Identify Illicit Discharges**

- A. Inspection Procedures: The City of Newport will inspect for illicit discharges during their routine inspections of their storm sewer system outfalls. Newport inspects 20% of the MS4 outfalls yearly. Illicit discharge inspections will be scheduled during dry weather periods.
- B. Areas within the City's jurisdiction that are brought forward due to a complaint will be reinspected within 48 hours.
- C. Typical investigation will be done to review a discharge for potential pollutants.

### **3. Locating the Source**

When a problem area or discharge is found, additional efforts are necessary to determine the source of the discharge. Methods that can find the source of illicit discharges include:

- Inspections by trained City Staff;
- Water sampling and testing;
- Dye-testing buildings in the area of concern;
- Smoke testing buildings;
- Tracing the discharge upstream in the storm sewer;

- Using video in the case of storm sewer pipe.

#### 4. Responsible Parties For Detection

Responsibilities for illicit discharge detection and typical inspection type are assigned as stated in the table below:

Public Works/City Engineer	Inspections
City Engineer	Source Determination
Fire Department	Emergency Spill Response

#### 5. Documentation of Actions Taken

Actions relating to illicit discharge detection will be kept on file by the City of Newport.

#### 6. Illicit Discharge Management

Illicit discharges that fall outside normal City responsibilities will be directed to Washington County, MNPCA, or the appropriate LGU if discharging to other MS4's.

#### 7. Enforcement and Coordination

Newport will notify other local, state, and federal agencies of an illicit discharge. Newport will help ensure all agencies collaborate so enforcement efforts are coordinated.