



**CITY OF NEWPORT
PLANNING COMMISSION MEETING
NEWPORT CITY HALL
APRIL 12, 2012 – 7:00 P.M.**

Chairperson:	Susan Lindoo	City Administrator:	Brian Anderson
Vice-Chair:	Daniel Lund	Executive Analyst:	Renee Helm
Commissioner:	Janice Anderson	Council Liaison:	Tom Ingemann
Commissioner:	Katy McElwee-Stevens		
Commissioner:	Matt Prestegaard		

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of March 8, 2012

4. APPOINTMENTS WITH COMMISSION

- A. Discuss Allowable Fence Materials
- B. Discuss the Keeping of Chickens and Honeybees
- C. Discuss Coal-Tar Based Sealants for Driveways

5. COMMISSION & STAFF REPORTS

6. NEW BUSINESS

7. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--------------------------------|----------------|-----------|
| 1. Comprehensive Plan Workshop | April 17, 2012 | 6:00 p.m. |
| 2. City Council Meeting | April 19, 2012 | 5:30 p.m. |
| 3. Park Board Meeting | April 26, 2012 | 7:00 p.m. |
| 4. City Council Meeting | May 3, 2012 | 5:30 p.m. |
| 5. Planning Commission Meeting | May 10, 2012 | 7:00 p.m. |

8. ADJOURNMENT



**City of Newport
Planning Commission Minutes
March 8, 2012**

1. CALL TO ORDER

Chairperson Lindoo called the meeting to order at 7:00 P.M.

2. ROLL CALL -

Commissioners present – Susan Lindoo, Dan Lund, Janice Anderson, Katy McElwee-Stevens, Matt Prestegaard

Commissioners absent –

Also present – Brian Anderson, City Administrator; Renee Helm, Executive Analyst; Sherri Buss, TKDA Planner

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of February 9, 2012

Motion by Anderson, seconded by Prestegaard, to approve the February 9, 2012 minutes as presented. With 5 Ayes, 0 Nays, the motion carried.

4. APPOINTMENTS WITH COMMISSION

A. Discuss Allowable Fence Materials

Executive Analyst Helm presented on this item as outlined in the March 8, 2012 Planning Commission meeting. Recently, there have been inquiries in regards to what materials can be used for fences, specifically snow fences. Section 1330.05 Performance Standards of the City Code addresses this issue. According to both Subd. 15 and Subd. 21, fences must be maintained in good condition and appearance. City staff recommended that the City add language to the City Code regarding snow fences and provided a draft ordinance adding such language.

It was determined that staff will add language allowing the following materials for fences in residential districts:

- Treated wood, cedar or redwood
- Simulated wood
- Decorative brick or stone
- Wrought iron or aluminum designed to simulate wrought iron
- Coated or non-coated chain link
- Split rail

In addition, language will be added to allow for welded wire in the RE District in backyards only and snow fences in the RE District only between November 1 and April 15. This will be brought back for a public hearing at the May 10, 2012 Planning Commission meeting.

B. Discuss the Keeping of Honeybees

Executive Analyst Helm presented on this item as outlined in the March 8, 2012 Planning Commission meeting. Recently, there have been inquiries in regards to whether or not residents are able to keep honeybees on their residences. Currently, residents are not allowed to keep honeybees anywhere within the City. City staff provided the Planning Commission with a draft ordinance that allows for the keeping of honeybees in the RE District only.

Executive Analyst Helm moved through the draft ordinance. It was requested that the following changes be made to the ordinance and that it be brought back at the April 12, 2012 Planning Commission meeting for further discussion.

- o **Written Consent** – Applicants must receive written consent from property owners within 250 feet from the hive.
- o **Definitions** – The definition of killer honeybees will be added and they will be prohibited.
- o **Standards of Practice** – The applicant will be required to enclose the hive with a latching fence at a maximum of ten (10) feet.

Furthermore, it was requested that staff research the keeping of chickens in R1, R1-A, and RE Districts and that it be brought before the Planning Commission at the April 12, 2012 meeting.

C. Discuss the Red Rock Gateway Implementation Study

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 8, 2012 Planning Commission packet.

The first item that the Planning Commission discussed was the schedule for the Liveable Communities Grant. It was recommended that the Planning Commission complete the ordinance section at the March 8, 2012 meeting so that it can be reviewed by the City Attorney, developers, and other planners for feedback prior to the public hearing, which is anticipated to take place at the May 10, 2012 Planning Commission meeting.

Secondly, the Planning Commission went through Section 1330, General District Regulations, and Section 1350, Non-Residential Districts. It was requested that the MX-2 District be renamed to Commercial Mixed-Use District.

Next, the Planning Commission discussed Section 1350.09, Dimensional provisions for lots and structures, and the allowed uses table. It was requested that a row be added for FAR to the table for dimensional provisions. In regards to the Allowed Uses table, it was requested that a provision be added to not allow government offices if they are more than 50,000 square feet.

The Planning Commission continued to move through the two sections. The following changes will be made to the ordinance:

- Dimensional standards and densities:

Height and Setbacks	Residential Townhouse	Residential Apt., Condo, Cooperative	Mixed-Use Building	Commercial, Civic, not in mixed-use building
Height	3 stories or 36 feet maximum, whichever dimension is less	2 stories (24') minimum or 4 stories (48') maximum*; whichever dimension is less	2 stories (24') minimum or 4 stories (48') maximum*; whichever dimension is less	No minimum, 4 stories (48') maximum

- Street Design, Section c(i): All rooftop mechanical equipment on buildings ~~over thirty five feet (35') in height~~ shall be screened from above or below (based on the type of mechanical equipment utilized) by integrating it into the building and roof design to the maximum extent feasible. Such equipment shall be screened with parapets or other materials similar to and compatible with exterior materials and architectural treatment on the structure being served. Horizontal or vertical slats of wood material shall not be utilized for this purpose. Solar and wind energy equipment is exempt from this provision if screening would interfere with system operations.
- Street Design, Section d: Building entrances and orientation. At least one or more operable pedestrian entrances per building shall be provided. In a building where all ~~four~~ **three** circumstances below exist, only two (2) entrances shall be required:
 - i. When a lot abuts a public street right-of-way, at least one entrance shall be provided along all building façade(s) fronting all public rights-of-way.
 - ii. ~~Entrances shall be clearly visible and identifiable from the street and delineated with elements such as roof overhangs, recessed entries, landscaping or similar design features.~~

- iii. When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to the public open space, multi-use trail, or greenway.
- iv. When abutting a sidewalk in the rail station area, an entrance(s) shall be provided on the building façade closest to the station area sidewalk.

Finally, the Planning Commission reviewed Section 1370.09, River Redevelopment Overlay District, which is a new. The Planning Commission was fine with this Section. Ms. Buss will forward it to the City Attorney for review.

5. COMMISSION AND STAFF REPORTS

Admin. Anderson – Renee and I have been attending several workshops over the last couple weeks. Renee has attended workshops on the Legacy Funds, brownfields and GreenStep Cities.

Executive Analyst Helm – GreenStep cities is a volunteer program that several municipalities are beginning to participate in. There are 28 best practices in the program with five to six actions under each best practice. I’m going through the spreadsheet to see what the City has completed already. We are in the process of completing a lot.

Admin. Anderson – We will be putting this on our website along with a sustainable webpage. We will be updating you as we move forward with it. I also attended a financial seminar to learn more about city finances.

The HRA presented at the last Council meeting and stated that they will take the lead on the TIF District and financially assist the City with acquiring properties.

I have scheduled a couple meetings for reviewing the Comprehensive Plan. The first meeting is Wednesday, March 21. The first meeting will be reviewing 2030 Comp Plan and each meeting is open to the public.

If you recall, Veolia came in a while back requesting a 10,000 gallon above-ground fuel storage tank. Staff met with Veolia to discuss any possible solutions. Veolia applied for a building permit for a 15,000 gallon above-ground fuel storage tank, which I denied. Veolia is now appealing it and as such, you will hear the appeal as the Board of Appeals. The hearing will be at 6:00 p.m. on April 12, 2012.

6. NEW BUSINESS

No new business

7. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--------------------------------|----------------|-----------|
| 1. City Council Meeting | March 15, 2012 | 5:30 p.m. |
| 2. City Council Meeting | April 5, 2012 | 5:30 p.m. |
| 3. Planning Commission Meeting | April 12, 2012 | 7:00 p.m. |

8. ADJOURNMENT

Motion by Anderson, seconded by McElwee-Stevens, to adjourn the Planning Commission Meeting at 9:04 P.M. With 5 Ayes, 0 Nays, the motion carried.

Signed: _____
Susan Lindoo, Chairperson

Respectfully submitted,

Renee Helm
Executive Analyst



MEMO

TO: Newport Planning Commission
Brian Anderson, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: April 5, 2012

SUBJECT: Fence Materials

BACKGROUND

At the March 8, 2012 Planning Commission meeting, the members discussed allowable materials for fences. The Planning Commission requested that language be added to the City Code regulating what materials can and cannot be used for fences.

DISCUSSION

It was requested that language be added to the City Code regarding fence materials. As such, City staff added language that allows for fences to be constructed of the following materials:

1. Treated wood, cedar, or redwood
2. Simulated wood
3. Decorative brick or stone
4. Wrought iron or aluminum designed to simulate wrought iron
5. Coated or non-coated chain link
6. Split rail
7. Welded Wire – Only allowed in the RE District and in backyards
8. Snow Fences - Only allowed in the RE District between November 1 and April 15

RECOMMENDATION

It is recommended that the City add language to the City Code regarding fence materials. A draft of the ordinance is attached for your review. If the Planning Commission agrees to move forward with the attached language it will be included in the May 10 Public Hearing for Section 1330 of the City Code.

Subd. 15 Fences. Except in the RE, R-1, R-1A, MX-1, MX-2, and MX-3 districts, fences shall comply with the following standards:

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence shall be of one color or pattern, may not contain or support pictures, signage or lettering, and must be maintained in good condition and appearance.
- D. A fence shall only be constructed of the following materials:
 - 1. Treated wood, cedar, or redwood
 - 2. Simulated wood
 - 3. Decorative brick or stone
 - 4. Wrought iron or aluminum designed to simulate wrought iron
 - 5. Coated or non-coated chain link
 - 6. Split rail
- E. A fence may be no more than twelve (12) feet in height.
- F. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- G. In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- H. No fence shall be constructed on public rights-of-way.

Subd. 21 Fences in the RE, R-1, R-1A, MX-1, MX-2, and MX-3 districts.

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence in the front yard shall be of one color or pattern, and may not contain or support pictures, signage or lettering visible to a public street or to adjacent properties.
- D. A fence may be no more than four (4) feet in height in the front yard.
- E. A fence may be no more than six (6) feet in height in a side or rear yard, unless the side or rear lot line is common with the front yard of an abutting lot, in which case the portion of the side or rear lot line equal to the required front yard of the abutting lot may have a fence no more than four (4) feet in height.
- F. Except in the RE district, barbed wire may not be used for fences.
- G. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- H. All fences shall be maintained in good condition and appearance.

- I. A fence shall only be constructed of the following materials:
 - 1. Treated wood, cedar, or redwood
 - 2. Simulated wood
 - 3. Decorative brick or stone
 - 4. Wrought iron or aluminum designed to simulate wrought iron
 - 5. Coated or non-coated chain link
 - 6. Split rail
- J. Except in the RE District, welded wire may not be used for fences.
- K. Welded wire may only be used in a rear yard in the RE District.
- L. Except in the RE District, snow fences may not be used for fences.
- M. Snow fences may be erected in the RE District for controlling snow between November 1 and April 15. All snow fences must be removed by April 16.
- N. No fence shall be constructed on public rights-of-way.



MEMO

TO: Newport Planning Commission
 Brian Anderson, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: April 5, 2012

SUBJECT: Ordinances for Regulating Chickens and Honeybees

BACKGROUND

At the March 8, 2012 Planning Commission meeting, the members discussed ordinances for regulating honeybees in the City of Newport. The Planning Commission would like to add language to the City Code for allowing residents in the RE District to keep honeybees on their property. At the meeting, the Planning Commission requested that staff bring back the keeping of honeybees for discussion at the April 12, 2012 meeting. Furthermore, the Planning Commission requested that staff research the keeping of chickens in all residential districts.

DISCUSSION

At the March 8, 2012 meeting it was requested that the draft language on honeybees be amended in regards to the following:

- **Written Consent** – It was requested to amend the language stating that applicants must receive written consent from property owners within 250 feet from the hive.
- **Definitions** – It was requested that staff research killer honeybees and add the definition of a killer honeybee to the list. It was also requested that killer honeybees be prohibited.
- **Standards of Practice** – It was requested that the applicant enclose the hive with a latching fence at a maximum of ten (10) feet.
- **Colony Density** – Language was added to allow the City Council to determine the number of colonies for properties larger than five (5) acres.

It was also requested that City staff research and bring forth language for the keeping of chickens in R1, R1-A, and RE Districts at the April 12 meeting. The Planning Commission will need to discuss the following items:

- Keeping of Chickens
 - Should the City add language in the City Code for the keeping of chickens?
 - If so, what districts should they be allowed in?
 - What should the restrictions be?

Similar to the keeping of honeybees, very few municipalities allow chickens to be kept in low density residential districts. Below is information on the municipalities that allow chickens to be kept.

	Permit Required	Conditions	Setbacks/Shelter Requirements
Bloomington	No	Cannot have more than four chickens and cannot have roosters. Property owners cannot breed	Chicken coop must be at least 50 feet from property line and must be in the backyard. Property owner must construct a solid

		chickens and cannot slaughter chickens on property.	fence at least 4 feet in height. The chicken coop cannot exceed 120 sq ft and 6 ft in height, additionally it cannot exceed 20 sq ft per chicken.
Burnsville	Yes	Cannot have more than four chickens and cannot have roosters. Property owners cannot slaughter chickens on property.	Chicken coop must be 50 feet from any residential structure on adjacent lots and 10 feet from property line and must be in the backyard. Property owner must construct a solid fence at least 4 feet in height and the coop must be a maximum of 10 sq ft per chicken. The coop cannot exceed 6 feet in height and 20 sq ft per chicken. Must have protective overhead netting.
Minneapolis	Yes	Requires applicant to receive written consent from 80% of property owners within 100 feet of the property line. Does not have a maximum limit on the number of chickens allowed, this can be determined by the neighbors.	Setbacks vary per property; typically setbacks are 5-6 feet.
Oakdale	Yes	Requires applicant to receive written consent from 75% of property owners within 150 feet of the property line. Does not have a maximum limit on number of chickens	Does not have a setback.
St. Paul	Yes	Requires applicant to receive written consent from 75% of property owners within 150 feet of the property line. Does not have a maximum limit on number of chickens	Chicken coops must be 5 feet from the property lines. Must have a minimum of 4 sq ft per chicken.

RECOMMENDATION

It is recommended that the City add language to the City Code in regards to the keeping of chickens of honeybees in Newport. A draft of the ordinance is attached for your review. The draft ordinance for the keeping of chickens is modeled after the Burnsville and Bloomington codes.

CHAPTER 6. ANIMALS

Section 600 - General Regulations

600.01 Definitions.

Subd. 1 Owner. "Owner" shall mean any person, partnership, corporation, or association owning, keeping, harboring, or having custody of a dog or other domestic animal, or the parent, guardian, or custodian of any minor who owns, keeps, harbors, or has custody of a dog or other domestic animal.

Subd. 2 Dog. "Dog" shall include both male and female dogs and shall refer to the commonly accepted domesticated breeds of the canine family. It shall not include wolves, hyenas, and other non-domesticated members of the canine family, nor mixed breeds where more than one-half of the animal is of a commonly accepted domesticated canine breed.

Subd. 3 Other Domestic Animal. "Other domestic animal" shall mean any domesticated cat or any other of the various animals commonly adopted by humans to live in a tame condition or in custody. It shall exclude animals such as lions, tigers, and other animals defined as farm animals or wild or exotic animal under this Chapter.

Subd. 4 Chicken. "Chicken" shall mean a domesticated fowl of the genus *Gallus* and species *G. gallus*.

Subd. 5 Chicken Coop. "Chicken coop" shall mean any structure used for the housing of chickens.

Subd. 6 Chicken Run. "Chicken run" shall mean a fenced outside yard for the keeping and exercising of chickens.

Subd. 7 Farm Animal. "Farm animal" shall mean any horse, colt, pony, mule, donkey, cattle, swine, sheep, goat, ~~chicken~~, duck, goose, or honeybees, or similar animal, bird, fowl or poultry commonly associated with agricultural uses.

Subd. 8 Animal. "Animal" shall mean any dog, other domestic animal, or farm animal.

Subd. 9 Wild or Exotic Animal. "Wild" or "Exotic" animal shall mean any mammal, amphibian, reptile, bird, poultry or fowl, which is of a species not usually domesticated and of a species which due to its size, wild nature, or other characteristics, is dangerous to humans and would ordinarily be confined to a zoo or found in the wild. This shall include animals and birds the keeping of which is licensed by the State or Federal government, such as wolves, raptors, and pheasants. Examples of wild animals shall include, but not be limited to, the following:

- A. Any large cat of the family "Felidae" such as lions, tigers, jaguars, leopards, cougars and ocelots, but excluding commonly accepted house cats.
- B. Any member of the family "Canidae" such as wolves, coyotes, dingoes, jackals, and hyenas, but excluding commonly accepted house dogs.
- C. Any poisonous snake such as a rattlesnake, coral snake, water moccasin, puff adder, or cobra, regardless of whether or not the snake has been de venomized.
- D. Any snake or other reptile which by its size, vicious nature, or other characteristic is

dangerous to humans such as boa constrictors.

- E. Any skunk, raccoon, fox, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
- F. Any bear, ape, gorilla, monkey, or badger.
- G. Any other similar animal, reptile, amphibian, bird, fowl, or poultry which is commonly considered wild and not domesticated, or which is prohibited by State or Federal law.

Subd. 10 Running at Large. A dog or other domestic animal shall be deemed to be running at large unless it is either on the premises of its owner, or is on a leash not exceeding 15 feet in length and is accompanied by a responsible person, or otherwise restrained by a cage or other barrier. A farm animal shall be deemed to be running at large unless it is on the premises of its owner, or is accompanied by its owner or an agent or employee of its owner.

600.02 Running at Large. No owner shall permit any dog, farm animal, or wild or exotic animal to run at large.

600.03 Sanitation. The owner of any animal shall keep his or her property clean and free from accumulations of manure, fecal matter, and other wastes, so as to prevent offensive odors or smells. The premises shall not be allowed to become unsightly or harbor rodents, flies or insects.

600.04 Clean-up.

Subd. 1 Removal. Any owner or other person in responsible charge of an animal off the premises of the owner shall pick up and remove all feces to a proper receptacle located on the property of the owner.

Subd. 2 Exception. The provisions of Subsection 600.04 shall not apply to seeing eye dogs owned or used by blind persons, dogs used in police activities by the City, or tracking dogs when used by or with the permission of the City.

600.05 Cruelty. No owner shall fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, and veterinary care when needed to prevent suffering. No owner shall fail to provide humane care and treatment to animals. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any animal, or cause or permit any fight or other combat between animals or between animals and humans.

600.06 Abandonment. No person shall abandon any animal.

600.07 Nuisance. Any animal which does any of the following shall be deemed to be a nuisance which may be abated as provided by this Chapter.

- A. Damages or destroys property, plantings, or structures;
- B. Deposits feces on public property or private property of others;
- C. Attacks or bites any person off the owner's premises;
- D. Is vicious or shows vicious habits;

- E. Molests pedestrians, automobiles, or bicycles;
- F. Is kept under unsanitary conditions so as to create obvious odors to the annoyance of the public in the vicinity;
- G. Barks or makes or utters any other sound or cry habitually or excessively; Habitual barking shall mean any barking or other sound or cry audible off of the owner's premises for a period of 5 minutes or more with interruptions of less than 1 minute.
- H. Habitually visits school grounds, public property, or other places where persons frequent or gather;
- I. Does not possess a license or permit as required by Subsections 600.10 or 600.21.

600.08 Females. Every female animal in heat shall be confined in a building or other secure enclosure in such manner that the female animal cannot come in contact with another animal except by planned breeding.

600.09 Bites.

Subd. 1 Impounding. Whenever the owner of any animal learns that the animal has bitten a human being, or that the animal has been bitten or otherwise exposed to rabies, the owner shall immediately provide for impoundment of the animal for a period of 14 days. The animal shall be kept apart from other animals until it shall be determined whether the animal has or has had rabies. Impounding may be by the owner if the animal has a current rabies vaccination at the time the bite occurred and if approved by the Animal Control Officer. If the animal does not have a current rabies vaccination at the time the bite occurs, the animal shall be impounded at the City pound or by a licensed veterinarian. In either case, impounding shall be at the owner's expense.

Subd. 2 Destruction. Any animal which is impounded pursuant to this Section and which is determined to have rabies shall be destroyed. No animal which has bitten any person or other animal shall be destroyed unless it has been determined to have rabies; provided that a person who kills an animal in the good faith defense of his or her person or property or another person shall not be deemed to have violated this Section.

Subd. 3 Notice. The owner shall immediately notify the police and the animal control officer of the bite and impoundment.

Subd. 4 Impoundment by City. If the owner cannot be notified of the bite within two hours, or if the owner fails to impound the animal, the police or animal control officer shall impound the animal, as provided by Section 600.14 of this Code.

600.10 Dog License.

Subd. 1 License Required. No person shall own, harbor, or have custody of any dog over the age of six months within the City without first obtaining a license for the dog.

Subd. 2 Application. Every application for a dog license shall state the name and address of the owner, the address where the dog shall be kept, and the sex, breed, age, color, and markings of the dog. Every application shall be accompanied by a certificate from a licensed veterinarian that the dog has been vaccinated for rabies during a three year period preceding the application. The certificate shall not be required for any dog under the age of six months, but shall be furnished to the Clerk-

Administrator upon the dog reaching the age of six months.

Subd. 3 Term and Fee. An annual fee in an amount set by the Council shall be paid for each license. All licenses shall expire on December 31 of each year. The fee shall not be prorated for a partial year. An additional late license penalty fee as set by the Council shall be charged for any license which is not renewed on or before January 31 of each year, or for any license purchased more than 60 days after a dog is acquired or residence established in the City.

Subd. 4 Tags. The Clerk-Administrator shall issue a license in the form of a metal identification tag bearing an identifying number for each dog. The tag shall be fastened to the dog's collar or harness and shall be worn at all times. The Clerk-Administrator shall maintain and make available to the public a record of the identifying numbers. No person except the owner or his or her agent shall remove a license tag from a dog collar or harness, or remove from a dog any collar or harness with a license tag attached. No person shall keep, harbor, or have custody of a dog bearing a fictitious, altered, or invalid license tag or a license tag not issued for the dog wearing it. No person shall transfer a license tag from one dog to another.

Subd. 5 Owner Responsibility. The owner of any licensed dog, as recorded by the Clerk-Administrator, shall be responsible for all fees and charges accruing by reason of owning, harboring or having custody of any dog in the City. If the ownership of a dog changes, it shall be the responsibility of the recorded licensee to notify the City of that fact.

Subd. 6 Minors. No dog license shall be held by a minor.

Subd. 7 Revocation. Any dog license may be revoked by the Council if the licensee refuses or fails to comply with this, Chapter, or any other State or local law or regulation governing the keeping of animals or cruelty to animals. No license shall be revoked without a hearing, preceded by ten days' written notice stating the time and place of the hearing and the nature of the charges. Any person whose license is revoked shall within ten days of the revocation, humanely dispose of the dog. No part of the license fee shall be refunded.

600.11 Rabies Vaccination. No person shall own, harbor, or have custody of a dog within the City unless that dog has been vaccinated for rabies within a three year period.

600.12 Animal Control Officer. The Council may employ an animal control officer or officers for the purpose of enforcing the provisions of this Chapter and have them deputized with police powers, including the power to issue complaints for violations. No person shall interfere with, molest, hinder the officer in the performance of his or her duties.

600.13 City Pound.

Subd. 1 Establishment. A City pound shall be continued at a location within or outside the City as designated by the Council. The pound shall be under the care of a pound master appointed by the Council. The pound master shall house and feed in a humane manner all impounded animals. The pound master shall account promptly to the treasure for all expenses incurred and fees collected.

Subd. 2 Interference. No unauthorized person shall break open the City pound, or attempt to do so, or take or let out any animal from the pound, or take or attempt to take from any officer or pound master any animal taken up by him or her as provided by this Chapter. No person shall hinder, obstruct, or interfere with the pound master in the performance of his or her duties.

600.14 Impounding.

Subd. 1 Authorization. The animal control officer, any other law enforcement officer or any person may seize or impound any unlicensed dog or any animal running at large in violation of this Section, or any animal which has bitten a person or other animal. The fact that a dog is without a license tag attached to its collar shall be presumptive evidence that the dog is unlicensed. Any officer or other person impounding or restraining an animal shall immediately deliver the animal to the pound master. The pound master shall thereupon give notice of the impounding to the owner, or if the owner is unknown or cannot be found, he or she shall post notice of the impounding at the City Hall.

Subd. 2 Redemption. Any animal impounded for running at large or for being unlicensed may be redeemed by the owner within five regular business days from the date of impoundment by payment of the impounding fee. Animals impounded for biting and considered dangerous or potentially dangerous may be redeemed within seven days of the date of impoundment by payment of the impounding fee, provided however that the provisions of Subsection 600.09 shall still be satisfied by the owner. No unlicensed dog shall be released by the pound master unless a license shall be first procured for the dog. Any impounded animal found to be rabid may not be redeemed but shall be destroyed immediately.

Subd. 3 Disposal - Research. When any hospital or reputable institution of learning shall apply to the Clerk-Administrator for permission to use for research purposes on the study of prevention or cure of disease for the betterment of mankind any impounded animal remaining unclaimed after the required holding period, the pound master upon direction by the Council shall surrender to the institution or hospital the unclaimed animals as are requested.

Subd. 4 Disposal Generally. Any unclaimed impounded animal may be sold by the pound master, and the proceeds remitted to the treasurer after deduction for the cost of care of the animal. Any impounded animal not redeemed, surrendered to a hospital or institution, or sold shall be humanely disposed of by the pound master. The owner of any animal disposed of shall pay a disposal fee established pursuant to 600.15.

600.15 Fees. Licensing, impounding, boarding, and disposal fees shall be as established from time to time by the Council by resolution.

600.16 Dangerous Animals. Notwithstanding any other provisions of this Chapter, any animal which is diseased, vicious, dangerous, rabid, exposed to rabies, or which has been bitten by another animal including wild animals, and which cannot be impounded after a reasonable effort, or which cannot be impounded without serious risk to persons attempting it, may be immediately, destroyed by or under the direction of a police officer or animal control officer.

600.17 Adoption of Reference. Minnesota Statutes 35.67, 35.68, 35.69 and 35.71 shall be adopted by reference.

600.18 Implied Consent. Any owner of an animal shall be deemed to have given implied consent to the entry on his or her premises by the animal control officer or a police officer for the purpose of enforcing this Chapter.

600.19 Exceptions. Hospitals, clinics, and other premises operated by licensed veterinarians exclusively for the care and treatment of animals shall be exempt from the provisions of this Chapter unless otherwise specifically provided.

600.20 Chickens within City Limits

Subd. 1 Permit Required. No person shall keep or maintain chickens on any single-family residential property in the R1, R1-A, RE, or MX-1 Districts without a permit.

Subd. 2 Application. Each application for a chicken permit shall state the name and address of the applicant, a complete description of the premises and the owner thereof and adjoining owners, and shall set out in detail fence lines, shelter information, number of chickens to be kept, and such other information as may be required by the Council.

Subd. 3 Requirements. No chicken permit shall be issued unless the following standards are met:

- A. No person shall keep more than four (4) chickens on their property.
- B. The applicant must receive written consent from 75% of property owners situated within 150 feet from the chicken coop.
- C. **Standards of Practice.** Any person obtaining a permit pursuant to this section shall comply with the following standards of practice:
 1. No person shall keep roosters, or adult male chickens, on any property within the City
 2. Cockfighting is prohibited within the City.
 3. The slaughtering of chickens is prohibited within the City.
 4. No person shall raise chickens for breeding purposes within the City.
 5. Chicken grains and feed must be stored in rodent-proof containers.
- D. **Chicken Coops and Chicken Runs.** Chickens shall be properly protected from the weather and predators in a chicken coop, and have access to the outdoors by the means of a chicken run. The chicken coop and run shall meet the following requirements:
 1. Chickens shall be kept in the chicken coop and/or run at all times, which shall be kept in sound and usable condition.
 2. Chicken coops and runs shall not be in the front or side yard.
 3. Chicken coops and runs shall be located at least fifty (50) feet from any residential structure on adjacent lots and ten (10) feet from the property line.
 4. Chicken coops and runs shall be screened from view with a solid fence with a minimum height of four (4) feet and must be constructed in accordance with Section 1330.05, Subdivision 21.
 5. Chicken coops and runs shall be considered accessory structures.
 6. All chicken coops must have a maximum size of ten (10) square feet per chicken and must not exceed six (6) feet in total height and must be built according to the zoning code.
 7. Chicken coops must be elevated a minimum of twelve (12) inches and a maximum of twenty-four (24) inches to allow for circulation beneath the coop.
 8. Chicken runs may not exceed twenty (20) square feet per chicken and fencing must not exceed

six (6) feet in height and must be built according to the zoning code.

9. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens to contact the ground.
10. Chicken runs must have a protective overhead netting to keep the chickens separated from other animals.

Subd. 4 Term. All chicken permits shall expire on December 31 of each year.

Subd. 5 Revocation. Any chicken permit may be revoked by the Council for violation of any provision of this Code or any State law or regulation governing the keeping of animals. No chicken permit shall be revoked without a hearing preceded by ten days written notice stating the time and place of the hearing and the nature of the charges. Any person whose permit is revoked shall within ten days of the revocation humanely dispose of the chicken(s).

600.21 Farm Animals.

Subd. 1 Permit Required. No person shall keep, stable, board or harbor any farm animal within the City without first obtaining a farm animal permit from the Council.

Subd. 2 Applications. Each application for a farm animal permit shall state the name and address of the applicant, a complete description of the premises and the owner thereof and adjoining owners, and shall set out in detail fence lines, pasturage area, shelter, sanitation provisions, the kind and number of animals to be kept, and such other information as may be required by the Council.

Subd. 3 Requirements. No farm animal permit shall be issued unless the following standards shall be met:

- A. There shall be at least four acres for the first farm animal, and one additional acre for each additional farm animal.
- B. No more than five farm animals may be kept on a single tract. A separate permit shall be required for each separate tract.
- C. The barn, stable, ~~or~~ housing, ~~or~~ hive shall be located at least 150 feet from the nearest property line of adjacent property owners **and must be built according to the zoning code.**
- D. **The barn, stable, housing or hive shall be considered accessory structures.**
- E. All farm animals shall be kept confined by a sturdy wood or metal fence for pasture. The fence shall not be located nearer than 50 feet from any building used for human habitation. Barbed wire fences shall not be permitted.
- F. **Keeping of Honeybees.**
 1. **No person shall keep or maintain any hive or other facility for the housing of honeybees on or in any property in the RE District without a permit.**
 2. **No person shall keep, maintain, or allow to be kept any hive or other facility for the housing of Africanized honeybees on or in any property located within the City of Newport.**

3. The applicant must receive written consent from 100% of property owners situated within 250 feet from the hive.
4. **Definitions.** As used in this section:
 - a. **Africanized Honeybee** means the subspecies of Honeybees, *Apis mellifera scutellata*.
 - b. **Apiary** means the assembly of one (1) or more colonies of honeybees at a single location.
 - c. **Beekeeper** means a person who owns or has charge of one (1) or more colonies of honeybees.
 - d. **Beekeeping equipment** means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
 - e. **Colony** means an aggregate of honeybees consisting principally of workers, but having, when perfect, one (1) queen and at times drones, brood, combs, and honey.
 - f. **Hive** means the receptacle inhabited by a colony that is manufactured for that purpose.
 - g. **Honeybee** means all life stages of the common domestic honeybee, *Apis mellifera* species of European origin.
 - h. **Lot** means a contiguous parcel of land under common ownership.
 - i. **Nucleus colony** means a small quantity of honeybees with a queen housed in a smaller than usual hive box designed for a particular purpose.
 - j. **Undeveloped property** means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.
5. **Standards of practice.** Any person obtaining a permit pursuant to this section shall comply with the following standards of practice:
 - a. Honeybee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.
 - b. Each beekeeper shall ensure that a convenient source of water is available to the colony prior to and so long as colonies remain active outside of the hive.
 - c. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.
 - d. For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one (1) nucleus colony in a hive structure not to exceed one (1) standard nine and five-eighths (9⁵/₈) inch depth ten-frame hive body with no supers.

- e. Each beekeeper shall maintain their beekeeping equipment in good condition, including keeping the hives painted, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall be a violation of this section for any beekeeper's unused equipment to attract a swarm, even if the beekeeper is not intentionally keeping honeybees.
 - f. Each beekeeper shall enclose the hive with a latching fence. The fence shall be located at a maximum of ten (10) feet from the hive. The fence shall be between four (4) and six (6) feet in height.
6. **Colony density.** Any person obtaining a permit pursuant to this section shall comply with the following restrictions on colony density based upon the size of the lot:
- a. One (1) acre but small than five (5) acres: No more than eight (8) colonies
 - b. Larger than five (5) acres: As determined by the City Council
 - c. Regardless of lot size, so long as all lots within a radius of at least two hundred (200) feet from any hive, measured from any point on the front of the hive, remain undeveloped, the maximum number of colonies may be increased by the City. No grandfathering rights shall accrue under this subsection.
- F. Paragraphs A, B, and E of Section 600.21, Subdivision 3 shall not apply to ducks, ~~chickens~~, geese, ~~or~~ pygmy goats, ~~or~~ honeybees.

Subd. 4 Term. All farm animal permits shall expire on December 31 of each year. All permits shall be issued for a one year period, except for the first permit issued to the owner of a farm animal.

Subd. 5 Revocation. Any farm animal permit may be revoked by the Council for violation of any provision of this Code or any State law or regulation governing the keeping of animals. No farm animal permit shall be revoked without a hearing preceded by ten days written notice stating the time and place of the hearing and the nature of the charges. Any person whose permit is revoked shall within ten days of the revocation humanely dispose of the farm animal or animals.

600.22 Horses.

Subd. 1 Night Riding. No person shall ride or drive a horse after the hour of sunset and before the hour of sunrise along or crossing any public street, road, alley, or highway without appropriate lighting or reflectorized clothing.

Subd. 2 Riding-Where Permitted. No person shall ride or drive a horse in any public park or other public property except within the right of way of public streets, roads, alleys or highways and in areas duly designated for such use.

Subd. 3 Riding-private Property. No person shall ride or drive any horse upon any private property without the written permission of the owner thereof; provided that proof that the owner of the property permitted or consented to the riding or driving of the horse on his or her property shall be a defense to prosecution under this Section.

Subd. 4 Rider Responsibility. Any person who rides or drives a horse on any private or public property, including streets, roads, alleys, or highways, shall be responsible for any damage to the

property or to any vegetation, buildings, or fences located thereon.

600.23 Wild or Exotic Animals.

Subd. 1 Purpose. The purpose of this Subsection shall be to protect the health, safety, and welfare of the public by controlling potential exposure to species of animals that are known to be a threat to the public's health, safety and welfare.

Subd. 2 Prohibition. No person shall own, keep, or otherwise harbor any wild or exotic animal within the corporate limits of the City except as otherwise permitted under this Subsection.

Subd. 3 Permit. Any person desiring to keep a wild or exotic animal within the City shall apply for a temporary Special Use Permit from the City Council. The permit may only be issued for a period of time not to exceed thirty (30) days and shall specify conditions under which the animal must be kept. Not permit shall be issued except for animals brought into the city for entertainment, exhibition, or show purposes, or by persons keeping wild or exotic animals as volunteers of a public zoo, docents, or otherwise. A public zoo or other institution engaged in a permanent display of animals, any bona fide research institution, and any veterinary hospital may be issued a permanent Special Use Permit pursuant to applicable zoning regulations and requirements.

Subd. 4 Certain Animals. Snakes not prohibited by this Section, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, lizards, and similar small animals capable of being kept continuously in cages or aquariums, shall be exempt from the permit requirement of this Subsection.

Subd. 5 Animal Assistants. Animals such as guide dogs and monkeys trained as personal helpers to people with disabilities may be kept without a permit but shall be recorded with the City.

Subd. 6 Fur Farming. The raising of wild animals for pelts may be permitted by Special Use Permit but the applicant shall provide the City with proof of insurance including public liability insurance with limits of not less than one hundred thousand dollars (\$100,000). The insurance shall provide coverage for liability resulting from the ownership or possession of the specific animal or animals allowed under the permit.

Subd. 7 Impounding. Any wild animal kept in violation of this Section may be impounded by the City. Unless the animal is reclaimed and removed from the City, or unless a special use permit is issued allowing the animal to remain within the City, or unless the owner of the animal petitions the Courts for a determination that the animal is exempt from the provisions of this Section, the animal may be sold or destroyed by the City after at least five regular business days following notice to the owner of the animal's impoundment. Before any animal is reclaimed, the owner shall pay the cost of the impoundment plus all costs of boarding and caring for the animal.

Subd. 8 Existing Wild Animals. Any person keeping or maintaining any wild animal at the time this Code is adopted shall have ninety (90) days in which to comply with this Section. Extensions beyond the ninety (90) days may be granted by the City Council for good cause, but in no case shall the extension permanently exempt an animal or its owner from the requirements of this Section.



MEMO

TO: Newport Planning Commission
Brian Anderson, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: April 5, 2012

SUBJECT: Banning of Coal Tar-Based Sealants

BACKGROUND

It was requested that City staff research the possibility of banning coal tar-based sealants for asphalt driveways due to the negative impact it has on bodies of water, specifically stormwater ponds. The City has over 17 acres of stormwater ponds.

DISCUSSION

Coal tar sealant products contain polycyclic aromatic hydrocarbons (PAHs), which are a group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Scientific studies have shown that these products are a primary source of contaminants in bodies of water. A study in Austin, Texas compared levels of PAHs in water coming off parking lots without sealcoat to water coming off parking lots coated with asphalt and coal-tar sealcoat. The study revealed that the asphalt-based sealcoat runoff contained 10 times more PAH than the uncoated parking lot and the coal-tar sealcoat runoff had concentrations of PAH that were 65 times higher than the uncoated lot. In addition to the negative environmental impact, it is more expensive to maintain stormwater ponds that have been affected by PAHs because they need to be disposed of at special facilities.

Minnesota legislation has banned state agencies from purchasing coal tar-based sealant products and several Minnesota cities such as Maplewood, White Bear Lake, and Inver Grove Heights, have banned the use of coal tar-based sealant products on driveways, parking lots, and any other surfaces. Additionally, Lowe's and Home Depot have taken coal tar-based sealants off of their shelves and instead provide sealants that produce lower concentrations of PAHs.

The Planning Commission will need to discuss whether or not the City should ban the use of coal tar-based sealants on driveways, parking lots, and other surfaces within the City. I have attached a draft ordinance which adds language to Section 1371, Stormwater Management, prohibiting the use of coal tar-based sealer products. The draft language was provided by the Minnesota Pollution Control Agency.

RECOMMENDATION

It is recommended that the Planning Commission provide City staff with direction on how to proceed in regards to the banning of coal tar-based sealer products.

1371.11 Regulating the Use of Coal Tar-Based Sealer Products

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 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 undiluted 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 undiluted 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 undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Subd. 4 Exemption. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of undiluted coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in Subd. 3.

Subd. 5 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. 6 Penalty. Any person violating any provision of this ordinance shall be guilty of a misdemeanor.

Subd. 7 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.