

CITY OF NEWPORT
ORDINANCE NO. 2038

AN ORDINANCE REPEALING ORDINANCE NO. 1951,
AND AMENDING CHAPTER 5.20 OF THE NEWPORT MUNICIPAL CODE
GOVERNING STORMWATER DRAINAGE UTILITY

Findings:

WHEREAS, the City Council adopted Ordinance No. 1951, on March 3, 2008; and
WHEREAS, Ordinance No. 1951 enacted Chapter 5.20 of the Newport Municipal
Code; and

WHEREAS, the City Council finds that the public health, safety, and welfare of the
citizens of Newport will be enhanced by amending Chapter 5.20 of the Newport
Municipal Code.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are hereby adopted as support for the Council's following
amendment.

Section 2. Ordinance No. 1951 is repealed in its entirety.

Section 3. Chapter 5.20, Stormwater Drainage Utility, of the Newport Municipal Code is
repealed in its entirety and replaced with the following:

CHAPTER 5.20 STORMWATER DRAINAGE UTILITY

5.20.010 Purpose

The city finds that absent effective maintenance, operation, regulation, and control,
existing stormwater drainage conditions in all drainage basins and subbasins within the
city constitute a potential hazard to the health, safety and general welfare of the city.
The City Council further finds that natural and man-made stormwater facilities and
conveyances together constitute a stormwater system and that the effective regulation
and control of stormwater can best be accomplished through formation, by the city, of a
stormwater utility.

5.20.020 Definitions

- A. Stormwater means water from precipitation, surface, or subterranean water from any
source, drainage and nonseptic waste water.

- B. Stormwater System means any structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including but not limited to pipes, sewers, curbs, gutters, manholes, catchbasins, ponds, creeks, open drainageways, ditches and their appurtenances. "Stormwater system" does not include the Yaquina River, Yaquina Bay, or the Pacific Ocean.
1. City Stormwater System means the portions of the stormwater system in public rights-of-way, within easements in favor of the city, or on city property.
 2. Private Stormwater Facility means any portion of the stormwater system on private property and not within an easement in favor of the city.
- C. Stormwater Service means the operations of the city's stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the city's service area.

5.20.030 Provision of Service

Except as otherwise provided in this chapter, the city provides stormwater services to all properties and rights of way within the city that result in discharge or runoff into the city stormwater system.

5.20.040 Charges for Stormwater Service

- A. Unless another person responsible has agreed in writing to pay for stormwater service and a copy of that writing is filed with the city, the person receiving the city's utility bill shall pay the stormwater charges as set by City Council resolution. The charge shall be a fixed fee and shall be charged for each water meter on all properties that have metered City water service. Irrigation-only meters will be exempt from the charges. The person required to pay the charges is hereafter referred to as the "customer."
- B. The City Council may, by resolution, establish fees and charges necessary to provide and operate a stormwater system and service.

5.20.050 Stormwater Charges – Billing

- A. Charges for stormwater service supplied by the city to any customer shall be charged for and billed to each such customer in accordance with rates established by Council resolution. The Council shall hold a public hearing before the initial adoption of a rate, and shall publish notice in a newspaper of general circulation in the city at least 30 days before the adoption.
- B. The customer shall be responsible for all stormwater service fees and charges, except as allowed by Section 5.20.040.

- C. All money collected through stormwater fees and charges shall be used for the improvement, maintenance, and repair of the city's stormwater system

5.20.060 Stormwater Charges – When Delinquent

- A. The city shall bill stormwater fees and charges in the same manner and at the same times as it bills for water service, and shall combine the stormwater bill with the utility bill.
- B. A delinquent fee, in an amount established by resolution of the City Council, shall be added to all delinquent accounts.
- C. The finance director (or designee) is authorized to determine what constitutes a de minimis account balance and to waive the penalties in subsections B. and D. of this section in de minimis or extenuating circumstances.
- D. In addition to other lawful remedies, the finance director may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the stormwater service fees and charges are delinquent or unpaid, following the procedures and standards for shutting off water service for non-payment of water bills as provided in Chapter 5.10. However, the finance director shall not deny or shut off water service to any subsequent tenant based upon an unpaid claim for services furnished to a previous tenant who has vacated the premises.

5.20.080 Appeal

Any customer aggrieved by any decision made with regard to the customer's account or a decision on charge reduction or avoidance may appeal to the city manager by filing with the city a written request for review no later than ten days after receiving the decision. The city manager's decision shall be subject to review by the City Council upon filing of an appeal within fifteen days of the notice of decision.

5.20.090 Right of Access

Employees of the city shall be provided access during regular business hours to all parts of the premises which include portions of the city stormwater system for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the system is used. Should there be no one available on the premises; notice will be provided to the owner, tenant, occupant, or their agent that arrangements must be made to allow the inspection.

5.20.100 Tampering with System/Prohibited Discharges

- A. No unauthorized person shall damage, destroy, uncover, deface, or tamper with any conduit, structure, appurtenance, or equipment that is part of the city stormwater system. No person may alter any conduit, structure or equipment that is part of the city stormwater system except as authorized by the city. No person may fill or divert

any open portion of the city stormwater drainage system except as authorized by the city.

- B. No person shall discharge or cause to discharge directly or indirectly to the stormwater system anything that could not be discharged to the sewage system under Section 5.15.060C.
- C. No person shall discharge any sewage into the stormwater system.
- D. No person shall discharge any hazardous materials into the stormwater system. Application of normal amounts of garden and lawn fertilizer and pesticides to lawns and gardens shall not be considered a discharge of a hazardous material under this section.
- E. The city manager may adopt such rules and regulations as are necessary to protect the city stormwater system and the public health, safety and welfare. Violation of the rules or regulations are a violation of this chapter.

5.20.110 Responsibility for Private Stormwater Facilities

The owner of property where a private stormwater facility is located shall maintain the private stormwater facility in a properly functioning condition and shall operate the private stormwater facility to avoid flooding or erosion in excess of what would occur under natural conditions. An improperly maintained or operated private stormwater facility that results in flooding or erosion in excess of what would occur in natural conditions is a nuisance and may be abated as provided in Chapter 8.10.

5.20.120 Violation—Penalty

A violation of any provision of this chapter is a civil infraction with a maximum civil penalty of \$500.00. Each day during or on which a violation occurs or continues is a separate civil infraction.

Section 4. This ordinance will become effective 30 days after adoption.

Adopted by the City Council on June 4, 2012.

Signed by the Mayor on the 5th day of June, 2012.



Mark McConnell, Mayor

ATTEST:


Margaret M. Hawker, City Recorder