

PLANNING COMMISSION AGENDA

January 12, 2012

7 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

- I. **CALL MEETING TO ORDER**
- II. **OATH OF OFFICE FOR NEW COMMISSIONERS**
- III. **ROLL CALL**
- IV. **CONSENT CALENDAR** (items are considered routine and are not discussed unless requested by the commissioners)
 1. Election of Chair and Vice Chair for one year.
If the Planning Commission wishes to follow their usual rotation then Tom Barnes is in line for Chair and Cathy Stuhr is in line for Vice Chair.
 2. Approval of December 8, 2011 Planning Commission Meeting Minutes
- V. **COMMUNICATIONS FROM THE FLOOR** (5 minute maximum per person)
 1. For items not listed on the agenda
- VI. **LEGISLATIVE PUBLIC HEARING** (continued from December 8, 2011 at the point of deliberation)

APPLICANT: City of Newberg
REQUEST: Proposed Stormwater and Erosion Control codes to implement the Willamette River TMDL Plan. The Willamette River TMDL (Total Maximum Daily Load) Implementation Plan is an agreement between DEQ and the City to protect the Willamette River from illicit discharges and adverse effects from stormwater runoff. The proposed stormwater and erosion control codes are intended to implement the plan and control the adverse effects of stormwater and erosion.
RESOLUTION NO.: 2012-296
- VII. **QUASI-JUDICIAL PUBLIC HEARING** (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission). No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.

APPLICANT: Mart Storm
REQUEST: Approval of the Thorne Park Subdivision (four lots)
LOCATION: Adjacent to 1800 E. Mountainview Drive
TAX LOT: 3217BA-00300
FILE NO.: SUB3-08-009 **ORDER NO.:** 2012-01
CRITERIA: 15.235.060
- VIII. **OLD BUSINESS**

REVIEW OF PLANNING COMMISSION GUIDELINES: The Planning Commission will discuss adopting proposed policies regarding attendance, how meetings are conducted, public testimony, and other issues. Resolution No. 2012-297.
- IX. **ITEMS FROM STAFF**
 1. Update on Council items
 2. Other reports, letters, or correspondence
 3. Next Planning Commission Meeting: February 9, 2012
- X. **ITEMS FROM COMMISSIONERS**
- XI. **ADJOURN**

FOR QUESTIONS PLEASE STOP BY OR CALL 503-537-1240, PLANNING & BUILDING DEPT. - P.O. BOX 970 - 414 E. FIRST STREET

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TRS services please dial 711.

PLANNING COMMISSION MINUTES

December 8, 2011

7:30 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

TO BE APPROVED AT THE JANUARY 12, 2012 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present:	Philip Smith, Chair	Thomas Barnes, Vice Chair
	Art Smith	Cathy Stuhr
	Lon Wall	Allyn Edwards
	Kale Rogers, Student PC	

Absent: Gary Bliss (excused)

Staff Present: Barton Brierley, Building & Planning Director
Steve Olson, Associate Planner
Sonja Johnson, Environmental Specialist
Alan Lee, Environmental Services Specialist
DawnKaren Bevill, Minutes Recorder

II. OPEN MEETING:

Chair Smith opened the meeting at 7:30 p.m. and asked for roll call.

III. CONSENT CALENDAR:

Vice Chair Smith entertained a motion to accept the minutes of the November 10, 2011 meeting.

Mr. Barton Brierley stated Mayor Andrews offered a correction to the minutes; to be listed as being present, not as a staff member.

MOTION#1: Barnes/Edwards to approve the minutes from the Planning Commission Meeting of November 10, 2011 as amended. Motion carried (6 Yes/ 0 No/ 1 Absent [Bliss]).

The Stormwater & Erosion Control hearing has been moved to the January 12, 2012 Planning Commission Meeting because the required code revisions are not yet complete.

IV. COMMUNICATIONS FROM THE FLOOR:

No items were brought forward.

V. REVIEW OF PLANNING COMMISSION GUIDLELINES:

Mr. Barton Brierley stated the draft should establish rules for conducting Planning Commission meetings, expectations for the roles and duties of Commissioners, rules concerning the Chair and Vice-Chair, procedures for scheduling of meetings and preparation of agendas, procedures for Planning Commission hearings and

public testimony, and expectations for the relationship between the City Council and the Planning Commission. Formal and informal discussions about the guidelines have taken place over the years; a Planning Commission Workshop was held on October 13, 2011 and there seemed to be consensus on many issues. Those consensus items were incorporated into the draft. A few issues that the Commission should discuss include:

Attendance and Absences (page 18 of 33 of the official meeting packet):

Section 3: There was general agreement that an excused absence is one where the commissioner provides notice before the meeting that he/she will not attend. The draft allows that Commissioner to request an excused absence after the fact, which would be voted on by the Commission.

Discussion:

Chair Smith recommended Section 3, Rule 3.1 be reworded to say, *“Four or more absences in a twelve month period”* and *“Two unexcused absences in a twelve month period.”*

Commissioner Edwards recommended striking the word, *“excused”* in the first sentence from Section 3, Rule 3.3.

The consensus of the Planning Commission agreed upon these changes.

Voting and Abstaining from Voting (page 24 of 33 of the official meeting packet):

Section 7, Rule 7.14: The draft proposes: “Commissioners shall vote on each motion brought before the Commission, or shall explain the reason for abstaining.”

Discussion:

Commissioner Barnes stated the more dialogue the better. It is good to inform the Commissioners and the public as to the reason for abstaining.

Commissioner Wall believes there should be an explanation given for abstaining.

Commissioner Art Smith believes an explanation is reasonable.

Commissioner Edwards referred to the email from Planning Commissioner, Gary Bliss regarding Rule 7.14. Mr. Bliss had asked if it was necessary that a commissioner who chooses to recuse themselves from an item go to the lobby.

Mr. Brierley stated the draft proposes: “Commissioners who abstain from participating in a matter due to a conflict of interest shall retire to the lobby during the time the matter is under consideration. Commissioners may not provide testimony before the commission on any matter from which they abstain, but may designate a representative to speak to their interests.” Mr. Brierley believes retiring to the lobby is a practical matter; the sound system can be heard in the lobby, and that way the commissioner’s facial expressions or body language would not impact the decision. It is not a requirement but a decision should be established in the rules.

Chair Smith asked if there was a meeting with four commissioners present, making a quorum, and then one abstains, is a quorum lost? Mr. Brierley understands the reason for the person remaining in the lobby, and not leaving the building, is to keep a quorum present.

Commissioner Stuhr agrees as she is the only member outside the city and in the future may have to recuse herself on some decisions if the city expands to the area where she now lives.

The consensus of the Planning Consensus was to leave Rule 7.14 as written.

Time Limits for Testimony (page 23 of 33 of the official meeting packet):

Section 7, Rule 7.7: The draft proposes the principal applicant for a proposal will be allotted 15 minutes for an initial presentation, but may be extended to 30 minutes with prior approval of the Planning Director. A principal opponent, if any, will be allotted time in the same manner as the principal applicant. All other speakers will be given the opportunity to speak for no more than five minutes. Speaker may share their time at the discretion of the Chair. The Chair has the discretion to extend these time limits. Speakers may address the Planning Commission for less than their allotted time.

Discussion:

Chair Smith asked how many times have there been applicants that needed more than 30 minutes for a presentation. Mr. Brierley replied approximately one time in the past three years.

Commissioner Wall stated this issue is a philosophical discussion. The time allotted needs to be equal and the Planning Commission should be careful to receive technical arguments during extended testimony.

Commissioner Stuhr referred to the fourth sentence and suggested the language be changed to say, "*All other speakers will be given the opportunity to speak for up to five minutes.*" She also suggested deleting the last sentence of Rule 7.7.

The consensus of the Planning Commission was to accept Rule 7.7 with the suggested corrections.

Written Testimony (page 23 of 33 of the official meeting packet):

Section 7, Rule 7.8: The draft proposes that a staff report come out 8 days (Wednesday) before the meeting; written comments are due Monday by noon; late written comments will be read out loud at the meeting and subject to time limits for speakers. Currently the staff report is written 7 days in advance. This rule allows them to have the staff report and submit comments which can be emailed and mailed, as well before the meeting.

Commissioner Stuhr suggested deleting the first two words, "*In order*" and to begin the sentence with, "*To be considered...*"

The consensus of the Planning Commission was to accept Rule 7.8 with the suggested correction.

Further Issues for Discussion:

Commissioner Wall referred to the Newberg Planning Commission Guidelines, (page 11 of 33), Item 4 and asked for clarification. Mr. Brierley explained that is in regard to resolving personal conflicts.

Commissioner Stuhr stated she has been working with Mayor Bob Andrews and Terry Mahr, City Attorney to prepare a guideline for the Chair person for each of the various committees. In doing that, she made note of several editorial corrections to the Planning Commission Guidelines and reviewed each of those with the Commission. Mr. Brierley stated he would incorporate the changes and bring the guidelines back to the Planning Commission for a final review.

Commissioner Stuhr passed out the draft form of the Public Comment Registration Form that is being considered. Number four may vary per commission. She asked for the Planning Commission to contact her or the Chair regarding any comments they would like to offer.

VI. ITEMS FROM STAFF:

Update on Council items:

Mr. Brierley stated Commissioner Stuhr and Commissioner Philip Smith have been approved for reappointment to the Planning Commission by the City Council. Training regarding land use planning is available in Salem on January 29, 2012 from 9:00 – 4:00 p.m. The City of Newberg will pay the tuition for any Commissioners who choose to attend.

The next Planning Commission meeting is scheduled for Thursday, January 12, 2012. Election of the Chair and Vice Chair will be voted upon and the stormwater hearing will be held.

VII. ITEMS FROM COMMISSIONERS:

Commissioner Art Smith stated in regard to the upcoming Planning Commission vote on the TMDL Stormwater Code, he was surprised in the previous deliberations that the issues that needed to be discussed with the City Attorney had not already been discussed. He is hoping that discussions have since taken place and that the issues will be resolved prior to the January 12, 2012 hearing.

Commissioner Wall thanked staff for their work and for the celebration that was held for them this evening.

Commissioner Barnes stated he has observed the traffic flow at Fred Meyer with the addition of the gas station traffic and stated it has not changed.

Commissioner Stuhr stated she had received an email from an individual who testified in regard to the proposed Stormwater and Erosion Control Codes. He felt she was the only Commissioner who really cared and understood his testimony. Commissioner Stuhr said perhaps the Commission could have been of more help to this individual who was struggling and could have asked questions or referred questions to staff. Discussion continued regarding acknowledging the concerns of the public and ways in which the Commission can be more helpful.

Commissioner Stuhr suggested Staff provide a spreadsheet in regard to the Stormwater Management hearing to help explain that the City will not be implementing any more than what is required.

VIII. ADJOURN:

Chair Smith adjourned the meeting at 9:10 p.m.

Approved by the Planning Commission on this 12th day of January, 2012.

AYES:

NO:

ABSENT:

ABSTAIN:

Planning Recording Secretary

Planning Commission Chair

TYPE IV, LEGISLATIVE PUBLIC HEARING PROCEDURE

1. OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS¹
2. CALL FOR ABSTENTIONS, CONFLICTS OF INTEREST AND OBJECTIONS TO JURISDICTION
3. STAFF REPORT
 - A. PROJECT SUMMARY AND RECOMMENDATION BY STAFF
 - B. STAFF SUMMARY OF LATE CORRESPONDENCE SUBJECT TO PLANNING COMMISSION REQUEST²
4. PUBLIC TESTIMONY (SEE "HOW TO TESTIFY" FORM)^{3 4}
 - A. THE PLANNING COMMISSION CHAIR WILL CALL YOUR NAME WHEN IT'S YOUR TURN TO TESTIFY (NOTE: COMMISSIONERS MAY ASK QUESTIONS DURING THE TESTIMONY PERIOD, AT THE DISCRETION OF THE CHAIR)
5. STAFF SUMMARY OF WRITTEN TESTIMONY FROM REGISTRATION FORMS
6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING (GAVEL)
7. FINAL COMMENTS FROM STAFF
8. DELIBERATION OF COMMISSION
9. ACTION BY THE PLANNING COMMISSION

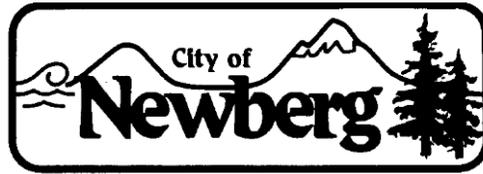
NOTE: No new public hearings will be started after 10:00 p.m. (except by majority vote of the Commission).

¹ The Chair of the Planning Commission may set time limits on the public testimony portion of the hearing.

² ORS 197.763(3)(j) allows the City to establish procedures for submittal of evidence. The Planning Commission has established a period of one week prior to hearing for submittal of written evidence in order to be considered at the hearing. Written testimony received late will only be considered at the discretion of the Planning Commission.

³ Questions by those wishing to testify should be directed to the Chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

⁴ Questions may be asked by the Commissioners thru the chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.



PUBLIC WORKS DEPARTMENT

P.O. Box 970 • Newberg, Oregon 97132 • 503.537.1252 • Fax 503.554.9411

Proposal: Review the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code and provide a recommendation to the City Council.

Summary: Staff is proposing new municipal code to address the requirements of the Willamette River TMDL Implementation Plan

Planning Commission Hearing Date: January 12, 2012

A. Process: In 2000, under the authority of Section 303(d) of the Clean Water Act, the USEPA ordered the Oregon Department of Environmental Quality (DEQ) to identify rivers and streams for which point source controls were not stringent enough to protect water quality. The DEQ was also required to establish the total maximum daily loads (TMDLs) that could be discharged into the 303(d)-listed watercourses and still maintain water quality standards.

In 2006, the USEPA approved the TMDLs proposed by the DEQ for the Willamette River basin. On October 17, 2006, the City of Newberg received a letter from DEQ stating that the City needed to determine procedures and methods to control stream temperatures of Hess Creek, Springbrook Creek, and Chehalem Creek and to limit bacteria and mercury discharges into the Willamette River.

The Willamette River TMDL Implementation Plan was approved by DEQ on October 17, 2008 and adopted by the City Council on December 1, 2008. The plan requires additional municipal code to meet methods for controlling construction site runoff, illicit discharges, and post-construction runoff. On September 7, 2010, staff presented municipal code to comply with the Willamette River TMDL Implementation Plan and on November 10, 2010 staff was asked to provide a workshop on the requirements of the Plan and to garner more public involvement. On May 16, 2011, the City Council convened the Stormwater Ad-Hoc Committee to review and refine municipal code developed by staff. The Stormwater Ad-Hoc Committee was composed of 7 members from 5 districts. The committee held meetings every 2 weeks from May 26 to October 6 that the public, through notices in the newspaper and the city's website, was encouraged to attend and provide comment to the committee. Using the requirements of the Willamette River TMDL Implementation Plan as a guide, the proposed municipal code were reviewed, refined, and approved by the Stormwater Ad-Hoc Committee. A Planning Commission workshop was held on October 13, 2011, to discuss the background and requirements of the Willamette River TMDL Implementation Plan. The

Planning Commission held a public hearing on November 10, 2011 to refine and revise the proposed municipal code.

B. Hearings and Public Meetings Schedule: The hearings and public meetings scheduled for acceptance of the proposed municipal code are as follows:

- ◆ On September 7, 2010, the City Council referred the proposed municipal code to the Planning Commission for their recommendation.
- ◆ On October 14, 2010, a hearing was held by the Newberg Planning Commission and the item was deferred to the November 10, 2010 hearing.
- ◆ On November 10, 2010, the Planning Commission asked staff to provide a workshop to explain the Willamette River TMDL Implementation Plan and requested more public involvement on the proposed municipal code.
- ◆ May 16, 2011 – City Council convened the Stormwater Ad-Hoc Committee to review and refine the proposed Erosion Control, Illicit Discharge and Stormwater Management Municipal Code.
- ◆ May 26, 2011 to September 15, 2011 – Stormwater Ad-Hoc Committee held public meetings to review and refine the proposed municipal code.
- ◆ October 6, 2011 – Stormwater Ad-Hoc Committee finished their review of the proposed municipal code.
- ◆ October 13, 2011 – Planning Commission held a workshop to learn the technical requirements of the Willamette River TMDL Implementation Plan and provide comments on the proposed municipal code.
- ◆ November 10, 2011 – Planning Commission held a public hearing to review and provide comments on the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.
- ◆ January 12, 2012 – Planning Commission hearing to consider and provide a recommendation to the City Council for adoption of the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.
- ◆ City Council hearing date for adoption of the proposed municipal code is yet to be determined.

B. The Requirements of the Willamette River TMDL Implementation Plan and the Proposed Municipal Code

1. Illicit Discharge Detection and Elimination

According to the Willamette River TMDL Implementation Plan, the city must develop, implement and enforce a program to detect and eliminate illicit discharges into the stormwater system. Specifically, the city must:

a. Prohibit non-stormwater discharges into the stormwater system.

The illicit discharge section of the proposed municipal code explicitly states that non-stormwater discharges into the stormwater system are prohibited.

b. Implement appropriate enforcement procedures and actions.

The enforcement and penalties section of the proposed municipal code provides for enforcement through a notice of violation, summary abatement, and an appeal procedure. Penalties are dependent on the severity of the action.

c. Address specific categories of non-stormwater discharges and determine if they are exempt or conditionally exempt.

There are exempt and conditionally-exempt sections in the illicit discharge section of the proposed municipal code categorizing the non-stormwater discharges specified in the Willamette River TMDL Implementation Plan.

d. Develop a list of other similar occasional incidental non-stormwater discharges that will not be addressed as illicit discharges including any local controls or conditions placed on the discharges.

The illicit discharge section of the proposed municipal code exempts residential vehicle washing by city residents and by non-profit organizations using the activity to raise funds. Hot tub and spa water discharges are exempt when de-chlorinated, ph-adjusted, and controlled so they do not pose a threat of erosion to receiving watercourse.

e. Prohibit individual non-stormwater discharges that are determined to be contributing substantial amounts of pollutants to the stormwater system.

The spill prevention plans and spill response requirements of the state are referenced in the proposed municipal code. Commercial and industrial discharges that are not covered under a NPDES permit are prohibited from directly discharging to the stormwater system or watercourses in the city unless exempt or conditionally exempt. Illicit connections are prohibited under the proposed municipal code.

2. Construction Site Runoff

According to the Willamette River TMDL Implementation Guidelines, the city must develop implement, and enforce a program to reduce pollutants in any stormwater from a construction site that drains to the stormwater system or directly to surface waters via overland flow. Specifically, the city is required adopt municipal code that requires:

a. Erosion and sediment controls

Erosion and sediment controls must be installed before the start of construction.

b. Erosion and sediment control best management practices

Projects not exempt from the municipal code must implement best management practices such as providing construction site entrances, removing debris and soil from public right-of-ways, protecting stormwater inlets, minimization of dust, soil stabilization in disturbed areas, and protection of soil stockpiles.

c. The prevention and control of construction waste that may cause adverse impacts to water quality.

Appropriate storage and disposal of construction materials and waste is required by the proposed municipal code.

d. Site plan reviews

Projects requiring a city, state, or federal permit must submit an erosion and sediment control plan for review and approval by the city. Projects on existing residential and duplex lots must submit small project erosion and sediment control plans.

e. Construction site inspections

The proposed municipal code requires applicants to ensure that erosion and sediment controls are inspected after rain events and weekly during dry weather

at active construction sites; inspections must be conducted every 2 weeks at inactive construction sites. City staff is required to inspect construction sites.

f. Enforcement mechanisms to ensure compliance.

Notices of violation, stop work orders, and summary abatement are used by the proposed code to enforce the erosion and sediment control requirements.

3. Post-Construction Runoff

The Willamette River TMDL Implementation Plan requires the city to adopt municipal code to ensure reduction of pollutants in stormwater to the extent practicable from new development and redevelopment projects that disturb one acre or more, or less than one acre if they are part of a larger common plan of development or sale, and if they discharge into the city's stormwater system. The Plan requires the following:

a. Prevent or minimize adverse water quality impacts of stormwater.

The proposed code requires that stormwater discharges do not create or increase existing water quality problems downstream. Tiered stormwater requirements are based on the additional amount of impervious area created by the project.

b. Conduct site plan reviews

Site plans are submitted to the city for review under the proposed municipal code. The site plan requirements are dependent on the amount of additional impervious area created by a project. The site plan is used to determine whether stormwater facilities are required and the degree of complexity.

c. Require adequate long-term operation and maintenance of stormwater facilities

The owner of a stormwater facility must maintain the facility according to the operations and maintenance plan negotiated by the applicant and the city. An annual report to the city by the owner documents the completed maintenance.

d. Conduct stormwater facility inspections

The proposed municipal code requires the owner of a stormwater facility to inspect the facilities as prescribed by the operations and maintenance plan.

e. Provide enforcement of the municipal code.

The proposed municipal code uses stop work orders, notices of violation, and summary abatement to enforce the municipal code.

4. Temperature

The Willamette River TMDL Implementation Plan requires the city to enact language that minimizes stream temperature increases from urbanized activities. Because the DEQ has found that the largest contributor to increased temperatures is from disturbances to streambank vegetation, the Plan requires the city to protect existing streambank vegetation and to increase the amount of streambanks that are shaded. The illicit discharge section of the municipal code requires that streambank vegetation be maintained in a manner that protects the stream from erosion and pollution. The stormwater management section of the municipal code protects streambank vegetation by controlling the amount of stormwater contributing to erosive flows in the streams.

C. Staff Recommendation

Staff recommends adoption of Planning Commission Resolution 2012-296 which recommends that City Council adopt the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.

ATTACHMENTS:

1. Planning Commission Resolution 2012-296 with
Exhibit A: Proposed Erosion Control, Illicit Discharge, and Stormwater Management
Municipal Code
2. Oregon Drainage Law
3. Newberg Stream Corridor Overlay
4. Willamette River TMDL Implementation Plan

PLANNING COMMISSION RESOLUTION NO. 2012-296

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG RECOMMENDING THAT THE CITY COUNCIL ADOPT THE PROPOSED EROSION CONTROL, ILLICIT DISCHARGE, AND STORMWATER MANAGEMENT MUNICIPAL CODE.

1. The Oregon Department of Environmental Quality (DEQ) ordered the City on October 17, 2006 to create a Willamette River Total Maximum Daily Loading (TMDL) Implementation Plan.
2. The Willamette River TMDL Implementation Plan was approved by DEQ on October 17, 2008 and adopted by the City Council on December 1, 2008.
3. The Willamette River TMDL Implementation Plan requires the City to enact municipal code which controls construction site runoff, illicit discharges, and post-construction runoff.
4. On September 7, 2010, the City Council referred the proposed municipal code to the Planning Commission for their recommendation.
5. On October 14, 2010, a hearing was held by the Newberg Planning Commission and the item was deferred to the November 10, 2010 hearing.
6. On November 10, 2010, the Planning Commission asked staff to provide a workshop to explain the Willamette River TMDL Implementation Plan and request more public involvement on the proposed municipal code.
7. On May 16, 2011, the City Council convened the Stormwater Ad-Hoc Committee and, on May 26, 2011, the Stormwater Ad-Hoc Committee began to review and refine proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.
8. On October 6, 2011, the Stormwater Ad-Hoc Committee gave final approval of the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.
9. On October 13, 2011, the Planning Commission held a workshop to learn about the requirements of the Willamette River TMDL Implementation Plan and review the proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code.
10. On November 10, 2011, a public hearing was held by the Newberg Planning Commission.
11. On January 12, 2012, a public hearing was held by the Newberg Planning Commission.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of The City of Newberg that it recommends to the City Council adoption of the proposed Erosion Control, Illicit Discharge,

and Stormwater Management Municipal Code as shown in Exhibit “A”. Exhibit “A” is hereby adopted and by this reference incorporated. This recommendation is based on the staff report and testimony.

ADOPTED by the Planning Commission of the City of Newberg, Oregon, this 12th day of January, 2012.

AYES: NAYS: ABSTAIN: ABSENT:

ATTEST:

Planning Commission Secretary

Planning Commission Chair

Exhibits:

A: Proposed Erosion Control, Illicit Discharge, and Stormwater Management Municipal Code

GENERAL PROVISIONS AND DEFINITIONS

13.20.01 INTERPRETATION, CONFLICT, AND SEVERABILITY.

A. Interpretation and Application.

The provisions of this code shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Conflict with Public and Private Provisions.

1. **Public Provisions.** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this code imposes restriction different from those imposed by any other provision of this code or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. **Private Provision.** This code is not intended to abrogate any easement, covenant, or any other private agreement or restriction provided that, where the provisions of this code are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this code shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or of a higher standard than this code, and such private provisions are not inconsistent with this code or determinations thereunder, then such private provisions shall be operative and supplemental to this code and determinations made thereunder.

13.20.02 DEFINITION OF TERMS.

“Applicant” means the owner or authorized agent acting on behalf of the owner.

“Channel Morphology” means the stream channel type and the physical characteristics of the streambed.

“City” means the city of Newberg, Oregon.

“Common Development Plan” means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

“Demolition” means any act or process of wrecking or destroying a building or structure.

“DEQ” means the Oregon Department of Environmental Quality.

“Design Standards Manual” means the current version of the city of Newberg design standards manual and specifications.

“Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

“Development” means residential, commercial, industrial, or institutional construction, alteration, or other improvement which alters the hydrologic characteristics of a property or properties.

“Director” means the city of Newberg’s director of public works or their authorized representative.

“Easement” means areas located outside of dedicated right-of-way and which are granted to the city for special uses. Easements may also be granted to non-city entities such as franchise utility companies for their uses.

“Erosion” means the weathering of a surface as a result of the movement of wind, water, ice, snow, or land disturbance activities.

“Erosion and Sediment Control” means a structural or non-structural device that is implemented to prevent erosion and sedimentation.

“Erosion and Sediment Control (ESC) Plan” means a plan submitted to the city with scaled drawings, and the methods and types of devices to be implemented during the project to prevent erosion and sedimentation.

“Excavation” means an act by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

“Fill” means a deposit of soil or other earth material placed by artificial means.

“Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

“Ground-Disturbing Project” means a project that includes activities that have the potential to create soil erosion from wind, precipitation, or ice creating sediment deposits in watercourses or land within the city including, but not limited to, demolition, clearing and grubbing, grading, excavating, transporting, and filling of land.

“Hazardous Materials” means any material or combination of materials which due to its quantity, concentration, or physical, chemical, or infectious characteristics may cause or contribute to a substantial hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illicit Discharge” means any direct or indirect non-stormwater discharge to the stormwater system except discharges regulated under a NPDES permit or exempted by this chapter.

“Illicit Connections” means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the stormwater system.

“Immediate Threat” means a situation that the director determines would cause harm to the public, environment, or downstream stormwater facilities before the situation can be alleviated or repaired.

“Impervious” means the hard surface area that either prevents or greatly retards infiltration and causes water to run off the surface in greater quantities or at an increased rate of flow from that present in undeveloped conditions. Surfaces which would ordinarily be considered pervious are considered impervious if they do not allow natural infiltration of stormwater.

“Infiltration” means the passage or movement of water into the soil subsurface.

“Maintenance Agreement” means an agreement between the city and a maintenance organization for private stormwater facilities detailing the operation and maintenance requirements of the facilities.

“Maintenance Organization” means the person(s), company, or nonprofit organization(s) responsible for long-term operation and maintenance of stormwater facilities recorded in the maintenance agreement.

“National Pollutant Discharge Elimination System (NPDES)” means the general, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations and regulated through the Oregon Department of Environmental Quality.

“Net Impervious Area” means the increase in impervious area on a property after a project is completed.

“Non-Stormwater Discharge” means any discharge to the stormwater system that is not composed entirely of stormwater.

“Pollution” means a contamination or other degradation of the physical, chemical, or biological properties of a watercourse; or a discharge into a watercourse that could create a public nuisance or contaminate a watercourse such that its beneficial use, aquatic habitat, public health or public safety is at risk.

“Project” means an activity that creates impervious areas.

“Project Start” means the first ground-disturbing activity associated with a project including, but not limited to, preparatory activities such as clearing, grubbing, grading, excavating, and filling.

“Project Summary” means a narrative that includes the project description, location, emergency contacts, and other information determined by the public works director such that the project can be located and a determination made regarding methods of stormwater management.

“Responsible Party” means a person or entity holding fee title to a property, tenant, lessee, or a person or entity who is acting as an owner’s representative including any person, company,

nonprofit organization or other entity performing services that are contracted, subcontracted, or obligated by other agreement to meet the requirements of this code.

“Sediment” means soil or other surface material held in suspension in surface water or stormwater.

“Sedimentation” means the process or action of sediment being deposited as a result of decreased water volume or velocity.

“Sensitive Resources” means any area that, due to the natural resources or lack of filtering capacity present, is significantly more susceptible to the negative impacts of sedimentation, erosion and stormwater. Examples include direct hydrologic connections to lakes, streams, wetlands, springs, seeps, or other water resources; conservation areas; highly erodible soils and steep slopes; riparian buffers; high water tables; minimal depth to bedrock; infiltration areas, significant natural areas and environmental corridors; areas of historical importance; or areas inhabited by endangered species.

“Site” means any property or combination of properties where a project is being proposed or completed.

“Slope” means the increase in elevation of a ground surface expressed as a ratio of horizontal distance to vertical distance.

“Soil” means natural deposits overlying bedrock.

“Stabilize” means when vegetation or surfacing material is in place and well-established providing an area with maximum erosion protection.

“Stabilization” means the use of vegetative or structural techniques to prevent soil movement.

“Stockpile” means storage of any soil, sand, gravel, clay, mud, debris, refuse, or any other material, organic or inorganic, in a concentrated area.

“Stop Work Order” means an order issued by the director which requires all project activity, except those specifically stated in the stop work order, to cease on the site.

“Stormwater” means water that originates as precipitation on a particular site, basin, or watershed and flows over land or impervious surfaces without percolating into the ground .

“Stormwater Facility” means a location where stormwater collects to filter, retain, or detain stormwater for the purposes of water quality or quantity management. The facility may be structural or non-structural, has been designed and constructed according to city design standards, and has been required by the city.

“Stormwater Facility Operations and Maintenance Plan” means the required steps to be undertaken by an owner or maintenance organization to ensure proper functioning of a stormwater facility.

“Stormwater Management” means techniques or structures intentionally used to temporarily or permanently reduce or minimize the adverse effects of stormwater velocities, volumes, and water quality on receiving watercourses. A series of techniques or structures constitute a stormwater system or treatment train.

“Stormwater System” means the combination of both artificial and natural systems of drains, ditches, canals, culverts, detention ponds, retention ponds, dams, and other water control facilities used for collecting and transporting stormwater.

“Street Wash Water” means water used to wash streets after emergency personnel actions or when the organization or person has received prior city approval to discharge as long as the area is previously cleaned using dry methods such as a sweeper or broom and the discharge to the stormwater system does not exceed federal or state water quality standards

“Structure” means anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“TMDL” means Total Maximum Daily Load.

“Visible And Measurable Erosion” means the deposition of soil, sand, dirt, dust, mud, rock, gravel, refuse, or any other organic or inorganic material exceeding a volume of one-half cubic foot into a public right-of-way or public property, or any component of the city’s stormwater system either by direct deposit, dropping, discharge, or as a result of erosion; a flow of turbid or sediment-laden water beyond the property of origin or into the city’s stormwater system; or earth slides, mud flows, land slumping, slope failure, or other earth movement that leaves, or is likely to leave, the property of origin.

“Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, gully, ravine, swale, or wetlands in which water flows either continuously or intermittently. The width of the watercourse includes any adjacent area that is subject to inundation from overflow or floodwaters from the design storm.

“Wetlands” means transitional lands where the water table is usually at or near the land surface or the land is covered by shallow water. Wetlands:

1. Support, at least periodically, plants that thrive in saturated conditions;
2. Contain predominately undrained hydric soil; or
3. Are saturated or covered with shallow water at some time during the growing season of each year.

EROSION CONTROL

13.25.01 PURPOSE AND INTENT.

- A. The purpose of these regulations is to protect, maintain, and enhance public health, public safety, and public welfare by establishing minimum requirements and procedures to control sources of windborne and waterborne erosion and the effects associated with sediment that results from erosion. The application of this code and provisions expressed herein are minimum requirements.
- B. The intent is to:
 - 1. Minimize soil erosion;
 - 2. Minimize flooding, sedimentation, and erosion of local watercourses;
 - 3. Ensure proper maintenance and inspection of erosion and sediment controls;
 - 4. Ensure proper storage of construction materials and staging and proper storage of debris on-site; and
 - 5. Minimize effects of projects on downstream stormwater facilities and watercourses.

13.25.02 SCOPE.

- A. No person shall undertake a ground-disturbing project without having provided erosion and sediment controls that address erosion caused by wind or rain unless exempted by **NMC 13.25.03**. In addition to complying with the requirements of this code, each site shall comply with the Newberg comprehensive plan, the Newberg development code, and any other applicable city of Newberg codes or plans.
- B. These requirements apply to:
 - 1. The person undertaking a ground-disturbing project, the implementer of the project, and the person's successors in interest;
 - 2. Projects which require a permit; and
 - 3. Projects or activities not requiring a permit but which have the potential to generate discharges that are in violation of water quality standards.
- C. Projects which do not require a permit and which are not exempt from the requirements of these regulations shall:
 - 1. Notify the city when the project starts;
 - 2. Comply with the basic erosion and sediment requirements listed in **NMC 13.25.04**; and be
 - 3. Subject to the enforcement actions and penalties of these regulations.
- D. Projects which do not require a permit but which violate basic erosion and sediment control requirements shall be subject to the penalties section of this code.

13.25.03 EXEMPTIONS.

- A. Agricultural activities that do not create a discharge of visible and measureable erosion to the stormwater system are exempt from these regulations unless identified by the city as having the potential to cause water-quality violations.
- B. Activities that comply with the requirements of their DEQ 401 Water Quality Certificate are exempted from these regulations unless they are identified by the city as requiring special considerations as defined by the erosion and sediment control manual.
- C. Activities that comply with the requirements of permits issued by the Department of State Lands or the Army Corps of Engineers are exempted from these

regulations unless they are identified by the city as requiring special considerations as defined by the erosion and sediment control manual.

- D. Emergency actions to alleviate an immediate threat to public health and safety or to public or private property are exempt from these regulations.
- E. Activities that do not disturb more than 500 square feet of land are exempt from these regulations provided that they:
 - 1. Are not located in either a floodplain or the Newberg stream corridor overlay sub-district; or
 - 2. Do not discharge stormwater offsite that exceeds the water-quality limits imposed by the city of Newberg's Willamette River TMDL Implementation Plan, DEQ, or US Environmental Protection Agency.

13.25.04 EROSION AND SEDIMENT CONTROLS.

- A. Approval of erosion and sediment controls for a project does not, by itself, transfer responsibility from the responsible party to the city.
- B. The city shall be notified when the project starts as defined by this code.
- C. Types of erosion controls that are approved for projects within city limits are described in the erosion and sediment control manual.
- D. Prior to ground disturbance, the responsible party shall ensure that basic erosion and sediment controls are properly installed and functioning to:
 - 1. Minimize sediment transport from the site through the use of construction entrances and exits;
 - 2. Protect stormwater system inlets that are immediately downstream of the site;
 - 3. Minimize dust and other windborne erosion;
 - 4. Stabilize soil in disturbed areas; and
 - 5. Protect onsite and offsite soil stockpiles during rain events or when dust is raised by gusting winds;
- E. The responsible party shall ensure that the following basic procedures are followed:
 - 1. Use of dry methods, such as a shovel or broom, to remove soil or construction debris left or tracked into the public right-of-way by the end of the working day; and
 - 2. Inspect erosion and sediment controls weekly and after rain events.
 - 3. Provide proper storage and disposal of construction materials and waste
- F. Additional erosion and sediment controls may be required by the city if the site:
 - 1. Has slopes of 10% or more;
 - 2. Disturbs property within 100 feet of sensitive resources, watercourses, or the Newberg stream corridor overlay sub-district;
 - 3. Disturbs 10,000 square feet or more of land at any one time;
 - 4. Is identified by the city as having easily erodible soil, current severe erosion, or could affect adjacent properties or watercourses due to stormwater quality, flooding, erosion, or sedimentation;
 - 5. Is identified by the city to potentially generate stormwater that would create a violation of DEQ water quality standards; or
 - 6. Is active between October 1 and April 30; or
 - 7. Has any other condition specified in the ESC manual or design standards manual as warranting special consideration;

13.25.05 EROSION AND SEDIMENT CONTROL (ESC) PLANS.

- A. For projects requiring a city, state, or federal permit:
1. The approved ESC plan shall be available onsite during active construction; and
 2. Erosion and sediment controls shall be installed in accordance with the approved ESC plan or 1200-C permit prior to ground disturbance.
- B. Applicants submitting permit applications or contract submittals shall, at the same time, submit either an ESC plan for review and approval by the city or a copy of the documents submitted to DEQ for their 1200-C permit program.
1. No permits shall be issued until the ESC plan is approved by the city or the applicant has provided a copy of the 1200-C permit issued by the DEQ to the city.
 2. The ESC plan shall contain sufficient information to evaluate the proposed project's effect on adjacent and downstream public and private properties and on public health and safety.
 - ~~2.3.~~ Projects not subject to NMC 13.25.05.C shall provide an ESC plan developed by an erosion control professional that fulfills the requirements of the erosion and sediment control manual and the design standard manual.
- C. Projects disturbing more than 500 square feet on existing single family or duplex residential lots shall provide a basic ESC Plan to the city for review and approval that includes:
1. Scaled drawing of site with north arrow, legend, project location, onsite structures, and watercourses or other sensitive resources within 100 feet of the site;
 - ~~2.~~ Property lines and watercourses of the site;
 - ~~3.~~ Areas defined as within the limits of the Newberg stream corridor overlay sub-district, as defined by the Newberg development code;
 - ~~4.~~ Onsite structures including accessory structures such as sheds;
 - ~~5.~~ Timeline for installing and removing erosion controls;
 - ~~6.2.~~ Location and types of erosion controls;
 - ~~7.3.~~ Location of construction entrances, and exits and concrete washouts, and soil stockpiles;
 - ~~8.~~ Soil stabilization methods;
 - ~~9.4.~~ Location of all trees with an 8-inch or larger DBH (diameter measured at breast height) within or adjacent to the site.
 - ~~10.5.~~ Grading plan and permit if required by the city showing the slope of the site before and after construction;
 - ~~11.6.~~ Stormwater points of discharge;
 - ~~12.7.~~ Methods for re-vegetating the site after construction;
 - ~~13.8.~~ Storage locations and disposal methods for construction debris and toxic or hazardous materials used during the project;
 - ~~14.9.~~ Dust control methods;
 - ~~15.10.~~ Spill prevention and response procedures;
 - ~~16.~~ Inspection schedule and procedures;
 - ~~17.11.~~ Name and 24-hour emergency contact information for the person

responsible for maintaining and inspecting erosion and sediment controls; and
~~18.12.~~ Any other provisions required by the erosion and sediment control manual
for small sites and projects.

13.25.06 EROSION AND SEDIMENT CONTROL PLAN REVISIONS

- A. The city may require a revision to the ESC plan due to a change in the site conditions and the ability of erosion and sediment measures to adequately control:
 - 1. Stormwater volume and velocity;
 - 2. Stormwater quality to receiving watercourses; or
 - 3. Additional loading that compromises the integrity of downstream stormwater facilities.
- B. The following situations, while not exhaustive, can trigger revisions to ESC plans:
 - 1. Improper functioning of approved erosion and sediment controls;
 - 2. A change in project schedules such that the project will be active more than 3 months later than originally scheduled;
 - 3. Changes in the assumptions used for the soil type, topography, hydrologic, or hydraulic conditions based on actual conditions discovered during inspections or construction that will affect the proper functioning of previously-approved erosion and sediment controls;
 - 4. Changes in location, excavation and fill volumes, or square footage of disturbed land that will affect the proper functioning of erosion and sediment controls onsite; or
 - 5. Changes in construction or maintenance materials or chemicals that affect the proper functioning of erosion and sediment controls.
- C. The person responsible for erosion and sediment controls on the project shall immediately install functioning interim erosion controls and submit a revised ESC plan within three (3) working days of receiving a notice of violation.
- D. Revisions.
 - 1. Revised plans shall provide an attached narrative with detailed specifications of any changes or additions to the current or proposed erosion and sediment controls.
 - 2. The narrative accompanying the revised plan shall discuss the triggering situation, corrective action required, and a proposed solution that conforms to the requirements of the ESC manual.
- E. The revised plan and erosion and sediment controls shall be immediately implemented upon the city's approval of the plan.
- F. The applicant shall be responsible for any additional costs resulting from a revision to the original ESC plan.

13.25.07 INSPECTIONS.

- A. City Inspections
 - 1. The city shall inspect the site for compliance with these regulations.
 - 2. The responsible party shall provide copies of all inspection records for a project within twenty-four (24) hours of a request by the city.
 - 3. During an emergency, the responsible party shall immediately provide the city with copies of all inspection records for a project.

4. The responsible party shall contact the city within 24 hours of placement of erosion and sediment controls.
- B. Responsible Party Inspections.
1. The responsible party shall keep a maintenance and inspection log documenting the time and date of the inspection and any repairs, adjustments, maintenance, or replacements completed on the erosion and sediment controls.
 2. During construction, inspections of erosion and sediment controls shall be conducted after a rain event or at least weekly during dry weather.
 3. If a site will be inactive for more than 14 days, inspections shall be conducted every 2 weeks.

ILLCIT DISCHARGE DETECTION AND ELIMINATION

13.30.01. PURPOSE AND INTENT.

- A. The purpose of these regulations is to:
1. Ensure public health and safety;
 2. Enhance the water quality of watercourses; and
 3. Maintain and protect the stormwater system.
- B. The intent of these regulations is to:
1. Reduce pollution in stormwater discharges;
 2. Prohibit illicit and illegal discharges into the stormwater system including ditches and culverts;
 3. Prohibit illicit connections to the stormwater system; and
 4. Establish legal authority to inspect, monitor, and enforce compliance with these regulations.

13.30.02. SCOPE.

- A. These regulations apply to all discharges to the stormwater system or watercourses within the city limits that are not composed entirely of stormwater.
- B. These standards are minimum standards and the city neither intends nor implies that compliance by any person with these requirements will ensure no contamination or pollution of watercourses.

13.30.03. GENERAL.

- A. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain, or discharge any material other than stormwater into the city's stormwater system, watercourses, or groundwater.
- B. No person shall improperly store, handle, or apply any material that will cause or create, through its exposure to rainfall or stormwater, a discharge in violation of water-quality standards in the receiving watercourse.

13.30.04. EXEMPT DISCHARGES.

- A. The following discharges are allowed under this code unless the director determines that they are, were, or will be a significant source of pollution:
1. Diverted stream flows,
 2. Rising groundwater;

3. Uncontaminated groundwater infiltration as defined by 40 CFR 35.2005(20);
4. Uncontaminated pumped groundwater;
5. Foundation or footing drains;
6. Air conditioning condensate;
7. Springs;
8. Water from crawl space pumps;
9. Flows from riparian habitats and wetlands;
10. Discharges from fire-fighting activities.
11. Discharges from irrigation, lawns, and gardens that do not violate water-quality regulations; and
12. Non-foaming discharges from residential vehicle washing by city residents or by non-profit organizations for fund-raising purposes.

13.30.05. CONDITIONALLY EXEMPT DISCHARGES.

- A. The following discharges are allowed if they meet their respective restrictions and are not identified by the director as a significant pollution source:
 1. De-chlorinated, pH-adjusted, and controlled discharges from hyper-chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic testing that do not pose a threat of erosion to the receiving watercourse;
 2. De-chlorinated, pH-adjusted, and controlled discharges from swimming pools, hot tubs, and spas that do not pose a threat of erosion to the receiving watercourse. This exemption does not include filter backwash;
 3. Non-stormwater discharges regulated by a NPDES permit so long as the discharge complies with the permit limits and written approval has been granted by the director; and
 4. Street wash water.

13.30.06. ILLICIT CONNECTIONS.

- A. The existence of illicit connections to the stormwater system is prohibited and a violation of this code.
- B. Illicit connections shall be disconnected from the stormwater system upon receipt of a written notice of violation.

13.30.07. ILLEGAL DUMPING.

- A. No person may cause or contribute to pollution of watercourses or the stormwater system.
- B. No person may cause or contribute to stormwater system or watercourse blockages.
- C. Materials deposited in proper waste receptacles for the purposes of collection are exempt from these requirements.

13.30.08. RIPARIAN DESTABILIZATION.

- A. Any person owning property with either a watercourse running through or bounding the property lines shall keep and maintain that part of the watercourse within the property reasonably free of man-made trash, debris, and other obstacles that would pollute, contaminate, or impede the flow of the watercourse.

- B. Any person with a watercourse bounding or running through their property shall maintain native streambank vegetation or provide other stabilization measures to protect the watercourse from erosion or degradation while, at the same time, not adversely affecting downstream properties or stormwater facilities.

13.30.09. DISCHARGES IN VIOLATION OF NPDES PERMIT.

- A. Any discharge that would result in or contribute to a violation of a NPDES permit either separately or in combination with other discharges is prohibited from discharge into the stormwater system or watercourses lying within the city limits.

13.30.10. COMMERCIAL AND INDUSTRIAL DISCHARGES.

- A. Commercial or industrial operations or businesses not covered by a NPDES permit shall follow proper disposal and spill prevention practices.
- B. Direct discharges or sheetflow to the stormwater system or watercourses within city limits is expressly prohibited unless listed as exempt or conditionally exempt in these requirements.

13.30.11. SPILL PREVENTION PLANS.

- A. Facilities that handle, store, or use hazardous or toxic substances in quantities that equal or exceed quantities listed in OAR Chapter 340-142-0050 or that are otherwise required by state or federal law to have a spill prevention plan shall provide a copy of the plan to the director.

13.30.12. SPILL NOTIFICATION.

- A. In the event of the release or the imminent threat of a release of a hazardous or toxic material, the person owning or having control over the material shall immediately implement the applicable spill plan or other contingency plan document prepared in compliance with these regulations.
- B. If a spill plan or contingency plan is not implemented for any reason, the person owning or having control over the material shall immediately take the following actions in the order listed:
 - 1. Activate alarms or otherwise warn persons in the immediate area;
 - 2. Undertake every reasonable method to stop the spill and contain the oil or hazardous material;
 - 3. Call 911 if there is a medical emergency or public safety hazard; and
 - 4. Arrange for properly trained and equipped personnel or contractor to stop any continuing release and manage the specific material spilled.
 - a. Immediately hire a qualified contractor to respond and manage the spill if the necessary actions are beyond the ability of the responsible person's representatives on-site or the responsible person's own response services will be delayed in arriving at the spill site.
 - b. If the person owning or having control over oil or hazardous material does not, or cannot, immediately arrange a response acceptable to the city, the city may dispatch a contractor and seek recovery of all costs incurred by the city resulting from this action.

C. Immediately report the spill or release as required by OAR 340-142-0040.

13.30.13. INSPECTION AUTHORITY.

- A. Whenever the city has a reason to believe that there exists or potentially exists, in or upon any premises, any condition which constitutes a violation of this chapter, the city shall be permitted access to the property or facility to determine compliance. If the premises are unoccupied, the city may enter the property without permission if immediate abatement is required.
- B. The city reserves the right to set up devices to conduct monitoring and sampling of discharges from the property or facility.

13.30.14. SUSPENSION OF DISCHARGE ACCESS.

- A. The city may suspend the ability to discharge into the stormwater system or watercourses when it is necessary to stop:
 - 1. An actual or threatened discharge that presents or threatens to present a violation of water quality standards;
 - 2. Repeated violations by a facility or person; or
 - 3. A facility or person from continuing illicit discharges after they have been notified to cease and desist.
- B. Resumption of a suspended discharge access without the prior approval of the director constitutes a separate and distinct violation of this code.

13.30.15. REMEDIATION.

- A. If the director determines that an illicit or illegal discharge or accidental spill has resulted in degradation or harm of the stormwater system or watercourses within the city limits, it reserves the right to require remediation of the degraded area, including watercourses, by the owner of the property or facility within a specified timeframe.

13.30.16. COMPENSATORY ACTION.

- A. In lieu of an enforcement proceeding authorized by these regulations, the director may require alternative compensatory action(s) in response to minimal and isolated occurrences of non-compliance by any person found to be in violation of these requirements. Such action may include, but is not limited to, participation in pollution prevention public education efforts or participating in stream restoration projects by qualified non-profit groups.

STORMWATER MANAGEMENT

13.35.01 PURPOSE AND INTENT.

- A. The purpose of these regulations is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the effects associated with increased stormwater from impervious areas in the city limits by requiring affected projects to control the volume and velocity of stormwater discharged from the site.
- B. The intent of these regulations is to:

1. Encourage the preservation and use of the natural topography for receiving and conveying stormwater from a site;
2. Minimize local flooding, sedimentation, and stream channel erosion;
3. Maintain optimum temperatures for native fish and riparian habitat;
4. Protect stormwater facilities already existing downstream; and
5. Ensure that stormwater facilities are properly maintained with accurate records.

13.35.02 SCOPE.

A. These requirements apply to:

1. Projects or activities that ordinarily would be exempt but are part of a larger common development plan that meets the criteria. This is true even if the activities appear to be separate and distinct and take place at different times and on different schedules;
2. Projects or activities that are exempt but have the potential to discharge stormwater to watercourses which will degrade their beneficial use or cause a violation of water quality standards set by the city's Willamette River TMDL Implementation Plan; DEQ, or the US Environmental Protection Agency.
3. Projects that create a net impervious area of 500 square feet or more; or
4. Projects or activities that change the pre-project land contours such that 500 square feet or more of new drainage discharges into the stormwater system or watercourses within the city limits.

B. These requirements do not apply to:

1. Single family and duplex residential projects on existing single lots; Projects on single lots that are zoned as single family residential; or
2. Emergency measures taken to alleviate an immediate threat to the public, environment, or downstream stormwater facilities.

13.35.03 STORMWATER TREATMENT.

- A. Projects shall use techniques or create stormwater facilities that maintain the water quality and beneficial uses of the receiving watercourse.
- B. The discharge rate and stormwater volume leaving a site shall conform with the requirements of the design standards manual and:
 - ~~1. Be within the capacity of downstream stormwater facilities;~~
 - 2.1 Not create or increase existing erosion or flooding problems of adjacent properties or areas downstream of the site; and
 - ~~3.2~~ 2.2 Maintain historic drainage properties of adjacent properties and watercourses.
- C. Stormwater facilities that discharge to the city's wastewater system shall be considered an illegal discharge.

13.35.04 FACILITY DESIGN.

- A. Prior to an applicant receiving a permit for a project not exempted by this code, the director and applicant shall discuss shall determine the stormwater requirements of the project ~~in sufficient detail to provide a foundation for the design of the stormwater facilities.~~
 1. All projects which create 500 square feet or more of net impervious area that directly discharge to a watercourse or occur on properties with existing severe

- erosion problems may be required to provide engineered stormwater facilities that meet the requirements of this code and the design standards manual.
2. Projects disturbing 1 acre or more of land shall have stormwater facilities that are designed by a professional civil engineer and meet all of the requirements of this code and the design standards manual.
 3. Projects disturbing less than 1 acre of land but creating 2,877 square feet or more of net impervious area shall provide a summary of the project, design flow calculations, and proposed methods for treating stormwater to the director for review and approval in accordance with requirements specified in the design standards manual.
 - a. The submitted material shall be used by the director to determine whether the proposed stormwater facilities are subject to **NMC 13.35.04.A.2**.
 - ~~b. 2,877 square feet is the current average impervious area on a lot in Newberg.~~
 4. Projects creating 500 square feet or more of net impervious area but less than 2,877 square feet of net impervious area shall provide a project summary and a scaled drawing showing the general stormwater flow direction to the director for review and approval in accordance with the requirements specified in the design standards manual.
 - a. The material shall be used by the director to determine whether stormwater facilities are required for the project and subject to **NMC 13.35.04.A.3**.
 - ~~b. 2,877 square feet is the current average impervious area on a lot in Newberg.~~
 5. Projects on properties lying partially or completely within the 100-year floodplain or the Newberg stream corridor overlay sub-district are subject to additional requirements as specified in the design standards manual.
- B. All stormwater facilities, structural and non-structural, shall have an emergency overflow or bypass that is designed to passively function and route excess floodwaters to an appropriate location that minimizes the effect of the overflow to adjacent properties.

13.35.05 FACILITY RESPONSIBILITY.

- A. The city shall operate and maintain public stormwater facilities.
- B. Privately-owned stormwater facilities shall be operated and maintained by the owner or maintenance organization.
 1. The city does not accept responsibility for the design, installation, operation, or maintenance of any stormwater facility unless an agreement specifying such responsibility is executed between the city and the owner or maintenance organization.
 2. Approval of stormwater facilities, a project, or a maintenance agreement does not, by itself, transfer responsibility from the owner or maintenance organization to the city.
 3. Failure to properly operate or maintain private stormwater facilities shall constitute a violation of this code.

13.35.06 MAINTENANCE.

- A. The applicant or maintenance organization shall enter into a maintenance agreement with the city that shall be binding on the applicant or maintenance organization and all subsequent owners of the properties served by the stormwater facilities.
- B. The maintenance agreement shall be recorded in the deed records of Yamhill County, Oregon.
- C. A facility operations and maintenance plan previously approved by the city shall be provided by the applicant to the maintenance organization, if different from the applicant, at project completion.
- D. Privately-owned stormwater facilities shall be inspected and maintained in accordance with the facility operations and maintenance plan.
- E. Annual reports shall be submitted to the city by the maintenance organization attesting to the proper functioning, maintenance, and safety of the stormwater facilities.
- F. Annual reports shall include current 24-hour emergency contact information. When emergency contact information changes midyear, the director shall be notified by letter within fifteen (15) business days.
- G. Stormwater facilities shall remain functionally unaltered unless prior approval has been obtained from the director.
- H. The director may authorize the immediate repair of any stormwater facility that poses an immediate threat to public health and safety; public or private property adjacent to or downstream of the stormwater facility; or the water quality, riparian habitat, or channel morphology of the receiving watercourse.

13.35.07 INSPECTIONS.

- A. Authorized city representatives may inspect stormwater facilities to determine compliance with the requirements of this code.
- B. The maintenance organization shall allow authorized city representatives access to the stormwater facility for the purpose of inspection, sampling, records examination, or in the performance of any duty required to ensure compliance with this code.
- C. The maintenance organization shall provide copies of records, reports, or other maintenance or operating documents requested by an authorized city representative during their inspection.
- D. Entry shall be made during normal operating or business hours unless an emergency situation exists as determined by the director.
- E. Authorized city representatives shall present appropriate credentials at the time of entry. If the property or facility is unoccupied, the authorized city representative shall make a reasonable effort to locate the owner or emergency contact on the maintenance agreement.

13.35.08 VARIANCES.

- A. The director may grant a variance from any requirement of this chapter if there are exceptional circumstances such that strict adherence will not fulfill the intent of this code. A written request for a variance shall be provided to the director which states the specific variance sought and reasons for granting the request.

- B. In a variance request, the applicant shall include design flow calculations showing the effects, if any, that the variance will have on the:
1. Adjacent property drainage patterns;
 2. Local flooding, sedimentation, and stream channel erosion;
 3. Beneficial uses or water quality of the receiving watercourse; and
 4. Proper functioning of downstream stormwater facilities, culverts, bridges, dams, and other structures.

C. A public comment period of 30 days, requested through standard public noticing procedures, shall follow a variance request by an applicant.

~~C.D.~~ No variance granted by the director shall be construed as providing precedence for future projects or facilities by any applicant.

~~D.E.~~ When the director grants a variance, the applicant shall satisfy the requirements of this code through one or more of the following options as determined by the city and which are commensurate with the volume and velocity of stormwater expected by the project:

1. Upgrading improperly functioning stormwater facilities downstream of the project;
2. Providing new stormwater facilities downstream of the project;
3. Providing the city with a conservation easement within the watershed of the receiving watercourse; and
- ~~4. Payment of a mitigation fee due before the construction start date and based on 150% of the cost of providing stormwater volume and water quality control expected by the project.~~

ENFORCEMENT AND PENALTIES

13.40.01 GENERAL.

- A. The city may, for enforcement purposes, use any one of the following actions, a combination of them, or any other legal action depending on the severity of the violation:
1. Notice of violation;
 2. Stop work order;
 3. Summary abatement;
 4. Refuse to issue a certificate of occupancy;
 5. Modify, suspend, revoke, or withhold final approval of a city permit; or
 6. Refer the issue to legal action.
- B. Communication to one responsible party shall be regarded as communication to each responsible party for the purposes of this code.
- C. In addition to any other sanctions, civil action or criminal prosecution may be brought against any person, company, or organization in violation of this code.

13.40.02. CONCEALMENT.

- A. Causing, permitting, aiding, abetting, or concealing a violation of any provision of these requirements shall constitute a violation of these regulations.

13.40.03. NOTICE OF VIOLATION.

- A. The city may issue a notice of violation if a responsible party has violated or failed to meet a requirement of this chapter.
- B. Failure to comply with a notice of violation is a separate violation of this chapter.
- C. Failure to complete the actions required in the notice of violation within the deadline may result in a summary abatement action by the city.

13.40.04 STOP WORK ORDER.

- A. The city may issue a stop work order to allow proper remedial action or to deflect an immediate threat to public health or safety or the water quality of receiving watercourses.
- B. The stop work order shall list the conditions under which work may resume. The responsible party shall contact the city for an inspection when the conditions for resuming work have been fulfilled.
- C. It is a violation of these regulations for any person to remove, obscure, mutilate or otherwise damage a stop work order or prevent the city from posting one.

13.40.05. SUMMARY ABATEMENT.

- A. If the responsible party fails to fulfill the steps required in an enforcement action within the deadline prescribed by the city, the actions will be completed by the city and the owner shall be responsible for reimbursing the city for 150% of the cost of the investigation, repair, and remediation of the situation including labor, material, administrative, and legal expenses.
- B. If the owner does not remit payment within 45 days of notification, the debt shall be declared as a special assessment against the property and shall constitute a lien by the city against the subject property.
- C. Any relief obtained under this section shall not prevent the city from seeking other relief as allowed by law.

13.40.06. APPEAL PROCEDURE.

- A. Any person aggrieved by a decision or action of the director under this chapter may file a written request with the city manager for reconsideration within ten (10) calendar days of notification of the decision or action. The request for reconsideration shall clearly describe the:
 - 1. Decision or action being appealed including the date of the decision or action;
 - 2. Property location;
 - 3. Facts and arguments supporting the request for reconsideration; and the
 - 4. Specific grounds on which the appeal is filed.
- B. The city manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process and shall make a determination regarding the appeal within ten (10) business days of the receipt of the request for reconsideration. The filing of a request for reconsideration by the city manager shall be a condition precedent to the right to appeal to the city council. The filing of an appeal shall not stay enforcement of an action by the director in emergency situations as previously defined in this chapter.
- C. Any person aggrieved by the city manager's determination under this chapter may appeal to the city council within ten (10) days of notification of the city manager's

decision. Written notification of the appeal shall be filed with the city council and the city manager along with a payment of fifty dollars (\$50.00). The filing of a request for reconsideration by the city council shall set forth in reasonable detail the decision or action being appealed and the facts and arguments supporting the request for reversal or modification.

- D. The city council shall conduct a hearing on the appeal according to established council procedures. The hearing shall be conducted at the earliest possible regularly scheduled city council meeting with final city council action being taken on the appeal within sixty (60) days after its initial filing.

13.40.07 PENALTIES.

A. General.

1. Tampering with or knowingly rendering nonfunctional any sediment or erosion control, monitoring device, or stormwater facility required under these regulations constitutes a separate and distinct violation of this code.
2. The following shall constitute a separate and distinct violation of this code:
 - a. Disregarding or interfering with a stop work order;
 - b. Failure to remediate or abate;
 - c. Failure or refusal to reimburse the city for expenses incurred as a result of summary abatement; and
 - d. Each day of continued violation.
3. Any relief obtained under this section shall not prevent the city from seeking other relief as allowed by law.

B. Falsifying Information.

1. Any person making false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this code shall be in violation of this code.
2. In addition, the responsible party or their agent shall be subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements; and the provisions of Section 309(c) of the Clean Water Act, as amended, governing false statements, representation, or certification and responsible corporate officers.

C. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to federal or state law shall have committed a class 1 civil infraction.

D. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to municipal law and whose violations are not deemed a nuisance shall have committed a class 2 or class 1 civil infraction.

E. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to municipal law and whose violations are deemed a nuisance shall be punishable as a civil infraction ranging from a class 4 to a class 2.

F. Any violation of this code shall be processed in accordance with the procedures set forth in NMC 2.30.

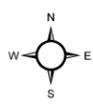
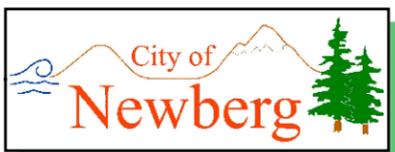
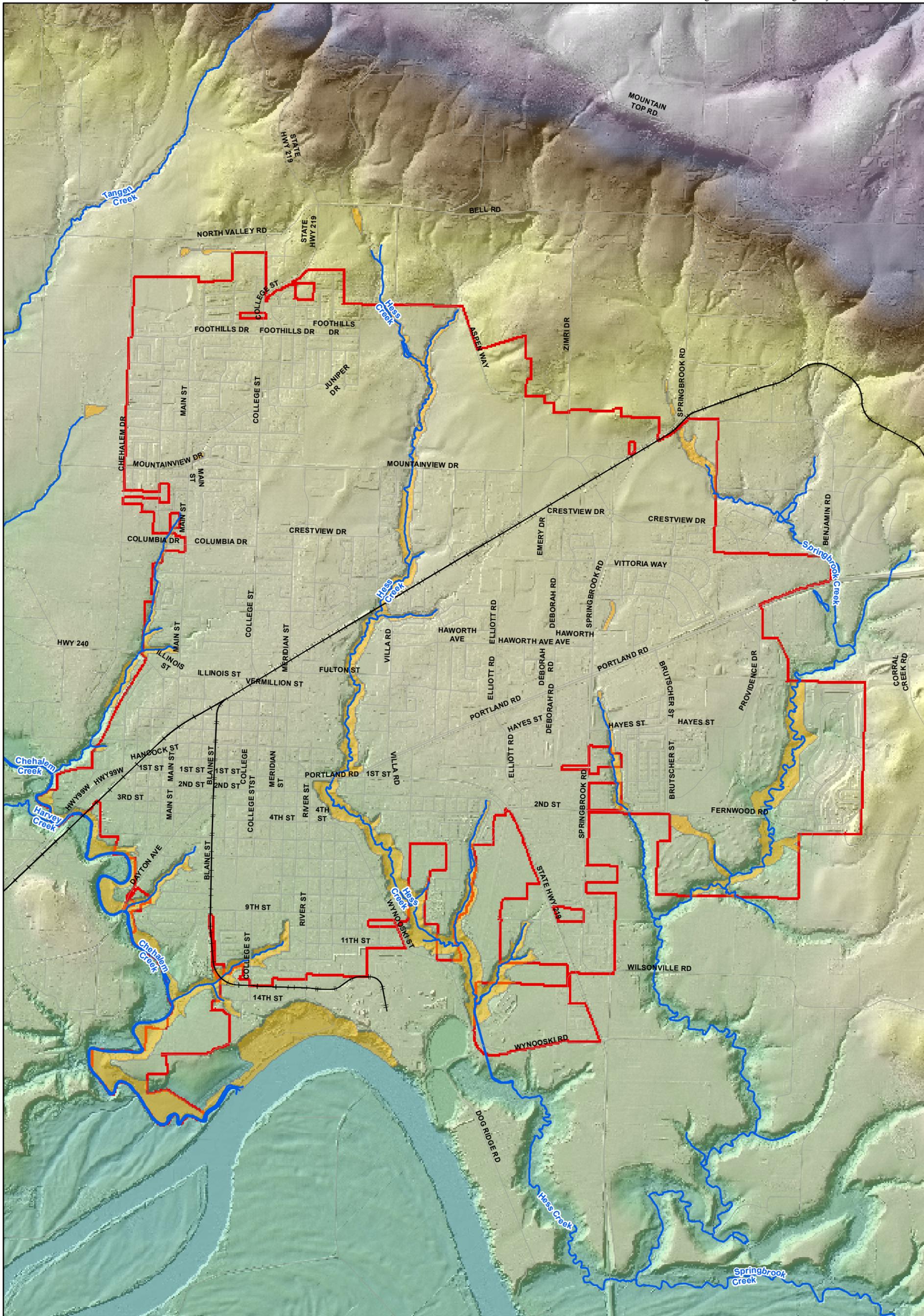
Oregon Drainage Law

Oregon has adopted the civil law doctrine of drainage. Under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower owner must accept water which naturally comes to his land from above, but he is entitled not to have the normal drainage changed or substantially increased. The lower landowner may not obstruct the run-off from the upper land, if the upper landowner is properly discharging the water.

For a landowner to drain water onto lands of another in the State of Oregon, two conditions must be satisfied initially: 1) the lands must contain a natural drainage course; and 2) the landowner must have acquired the right of drainage supported by consideration. In addition, because Oregon has adopted the civil law doctrine of drainage, three basic elements must be followed:

1. A landowner may not divert water onto adjoining land that would not otherwise have flowed there. It includes but is not necessarily limited to:
 - a. Water diverted from one drainage area to another; and
 - b. Water collected and discharged which normally would infiltrate into the ground, pond, and/or evaporate.
2. The upper landowner may not change the place where the water flows onto the lower owner's land (Most of the diversions not in compliance with this element result from grading and paving work and/or improvements to water collection systems).
3. The upper landowner may not accumulate large quantities of water and then release it, greatly accelerating the flow onto the lower owner's land. This does not mean that the upper landowner cannot accelerate the flow of water at all; experience has found drainage to be improper only when acceleration and concentration of the water were substantially increased.

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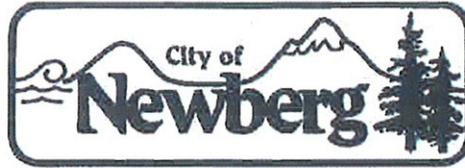


Legend

- Newberg City Limits
- Stream Corridor
- Streams
- Railroad

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Newberg City Hall
(503) 537-1240
www.ci.newberg.or.us



Public Works Department
Engineering Division
(503) 537-1273

PUBLIC WORKS DEPARTMENT

P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1273 • Fax (503) 537-1277

March 31, 2008

Ms. Nancy Gramlich
DEQ Western Region – Salem Office
750 Front Street NE, Suite 120
Salem, OR 97301-1039

Re: Willamette River TMDL Implementation Plan for the City of Newberg

Dear Nancy,

Enclosed is the TMDL Implementation Plan for the City of Newberg. This fulfills requirements as identified under the Oregon Administrative Rule (OAR) 340-042-0080(3).

Please contact Jason Wuertz at 503-554-1631 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Danicic", is written over a horizontal line.

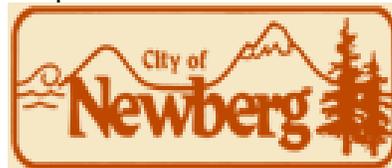
Dan Danicic, PE
Public Works Director
City of Newberg

Willamette TMDL Implementation Plan

City of Newberg, Oregon

March 2008

Prepared for:



414 E First St
PO Box 970
Newberg, OR 97132

Prepared by:

URS

111 S.W. Columbia, Suite 1500
Portland, Oregon 97201-5814
25696460

City of Newberg

Willamette River TMDL Implementation Report

We, the undersigned, hereby submit this TMDL Implementation Report, in accordance with Oregon Administrative Rule (OAR) 340-042-0080(3). We certify under penalty of law that this document and all attachments were prepared under our direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on our inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of our knowledge and belief, true, accurate, and complete. We are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Dan Danicic, PE
Public Works Director
City of Newberg

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B	BMP Implementation Schedule

**Table 1-1
 Acronyms and Abbreviations**

1200-C	DEQ Erosion Control Permit for Construction Activities
ACWA	Oregon Association of Clean Water Agencies
BLM	Bureau of Land Management
BMP	Best Management Practice
CFR	Code of Federal Regulations
CS	Construction Site Standards
CWA	Federal Clean Water Act
CWR	Cold Water Refugia
DMA	Designated Management Agency
DS	Development Standards
EDU	Equivalent Dwelling Unit
ESA	Endangered Species Act
FTE	Full Time Equivalent
ID	Illicit Discharges
IDDE	Illicit Discharge Detection and Elimination
MEP	Maximum Extent Practicable
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
OAR	Oregon Administrative Rule
ODEQ	Oregon Department of Environmental Quality
ODOT	Oregon Department of Transportation
OM	Operations and Maintenance
PE	Public Education
PF	Program Funding
PI	Public Involvement
QA/QC	Quality Assurance and Quality Control
RR	Record Keeping and Reporting
SRF	State Revolving Fund
SWMF	Stormwater Management Fee
SWMP	Stormwater Management Program
TMDL	Total Maximum Daily Load
UA	Urbanized Area
UIC	Underground Injection Control
URS	URS Corporation (consultant hired to complete Newberg SWMP)
USEPA	United States Environmental Protection Agency
WPCF	Water Pollution Control Facilities
WQMP	Water Quality Management Plan
YBC	Yamhill Basin Council

1.0 Introduction and Background

1.1 Total Maximum Daily Loads

The Oregon Department of Environmental Quality (ODEQ) has set Total Maximum Daily Loads (TMDLs) for water bodies located in the Willamette Basin. Any agency or municipality that has legal authority over activities or areas that are sources of pollutants that impact water quality are known as Designated Management Agencies (DMAs). DMAs that are responsible for areas draining to a water body with a TMDL must develop an Implementation Plan describing activities or Best Management Practices (BMPs) to be undertaken to address TMDLs (ODEQ 2006). The City of Newberg, located in the Middle Willamette watershed, must comply with this requirement. ODEQ issued a letter to the City of Newberg in October 2006 notifying the City of the requirement (Appendix A). This document serves as the TMDL Implementation Plan for the City of Newberg, specifically addressing Willamette River TMDLs of temperature, bacteria, and mercury.

This document is arranged in three sections. This first section introduces the TMDL Implementation Plan and provides background on the Willamette TMDL, an overview of the TMDL plan, background information on the City of Newberg and Middle Willamette Reach, goals of this TMDL Implementation Plan, and an overview and requirements of the Middle Willamette TMDL Implementation Plan set by ODEQ. The second section covers bacteria and mercury, which is further broken down into subsections covering pollutant information, plans of the City to address the TMDL issues, how and when the strategies will be implemented, and how the implementation will be monitored and measured. The third and final section covers temperature, with similar subsections and implementation details. Unlike bacteria and mercury, temperature is not linked directly with stormwater runoff and is therefore discussed in a separate section.

The Federal Clean Water Act (CWA) of 1977 gave authorization to the U.S. Environmental Protection Agency (EPA) to restore and maintain water quality in all water bodies within the United States. In response to the CWA, the EPA designated certain state agencies, ODEQ for the State of Oregon, to develop water quality standards, perform water quality monitoring to understand current conditions, determine sources of pollution, and develop TMDLs as a tool to improve water quality and restore the beneficial uses of surface waters. When a water body is found not to meet water quality standards, it is first placed on the 303(d) list as an impaired water body, followed by the development of a TMDL.

TMDLs define the amount of each regulated pollutant that can be present in a water body without causing water quality criteria to be exceeded, alternatively described as the loading capacity of a water body. Extensive water quality monitoring and modeling is done to establish the difference between the loading capacity and the current pollutant load which is translated into a percent or numeric pollution reduction goal, or excess load. TMDLs are then set to meet the water quality standards for the water body. Implementation plans are a DMA's response to the TMDL describing management strategies that they will implement and monitor to mitigate excess loading of TMDL pollutants (ODEQ 2006).

In September 2006, DEQ issued a TMDL for nine of the 12 subbasins within the Willamette River Basin in an effort to protect and restore the beneficial uses of the Willamette River. This TMDL is the largest TMDL undertaken by the DEQ thus far. Mercury, bacteria, and temperature have been identified as problematic constituents for the Willamette River. Additional pollutants have been identified as problematic for specific tributaries and portions of the mainstem Willamette River; these pollutants are dissolved oxygen, turbidity, and toxics and are not covered under the scope of this plan as they are not listed of concern in areas covered by Newberg (DEQ 2006).

The Willamette TMDL addresses pollutant loadings from point sources, such as wastewater treatment plants and industrial dischargers, as well as for non-point sources. Stormwater is considered both a point source when flowing through a conveyance system and a non-point source when flowing overland to creeks and rivers. Industrial dischargers are addressed by DEQ through 1200Z permits. TMDL requirements for wastewater discharges will be implemented through the Wastewater NDPEs permits at the time of renewal of the permits. The City of Newberg has an NPDES Permit for their Wastewater Treatment Plant. The City also has a 200-J Permit for discharge of filter backwash water from their Water Treatment Plant. This discharge is not used often since the City recycles most of their backwash filter water. This document only addresses management strategies associated with point and non-point source stormwater runoff and temperature requirements for creeks within the City of Newberg.

1.2 Willamette River and Middle Willamette Reach

The Willamette River watershed is home to 70% of Oregon's population, which equates to over 2 million people (ODEQ 2006). The Willamette River and its tributaries are an important resource for residents of the watershed, providing beneficial uses such as private and public drinking water supply, industrial water supply, irrigation, recreation, aesthetic quality, natural habitat, and other functions.

The Middle Willamette Subbasin includes the Willamette River from Willamette Falls at River Mile 26.6 to River Mile 108. From the east, the Middle Willamette Subbasin drains a portion of the Cascade foothills and the Coast Range from the west. The subbasin stretches from the North near Oregon City and West Linn to the south several miles past Salem. The subbasin is comprised of 698 square miles and is further divided into the following four smaller watersheds: Abernethy Creek Watershed, Mill Creek Watershed, Rickreal Creek Watershed, and Willamette River tributaries/Chehalem Creek Watershed. Portions of five different counties and 15 cities have political jurisdictions within the Subbasin. Although there are small areas of public land strewn throughout the subbasin, it is comprised primarily of private land. Chief land uses include agriculture, forestry, and urban activities (ODEQ 2006).

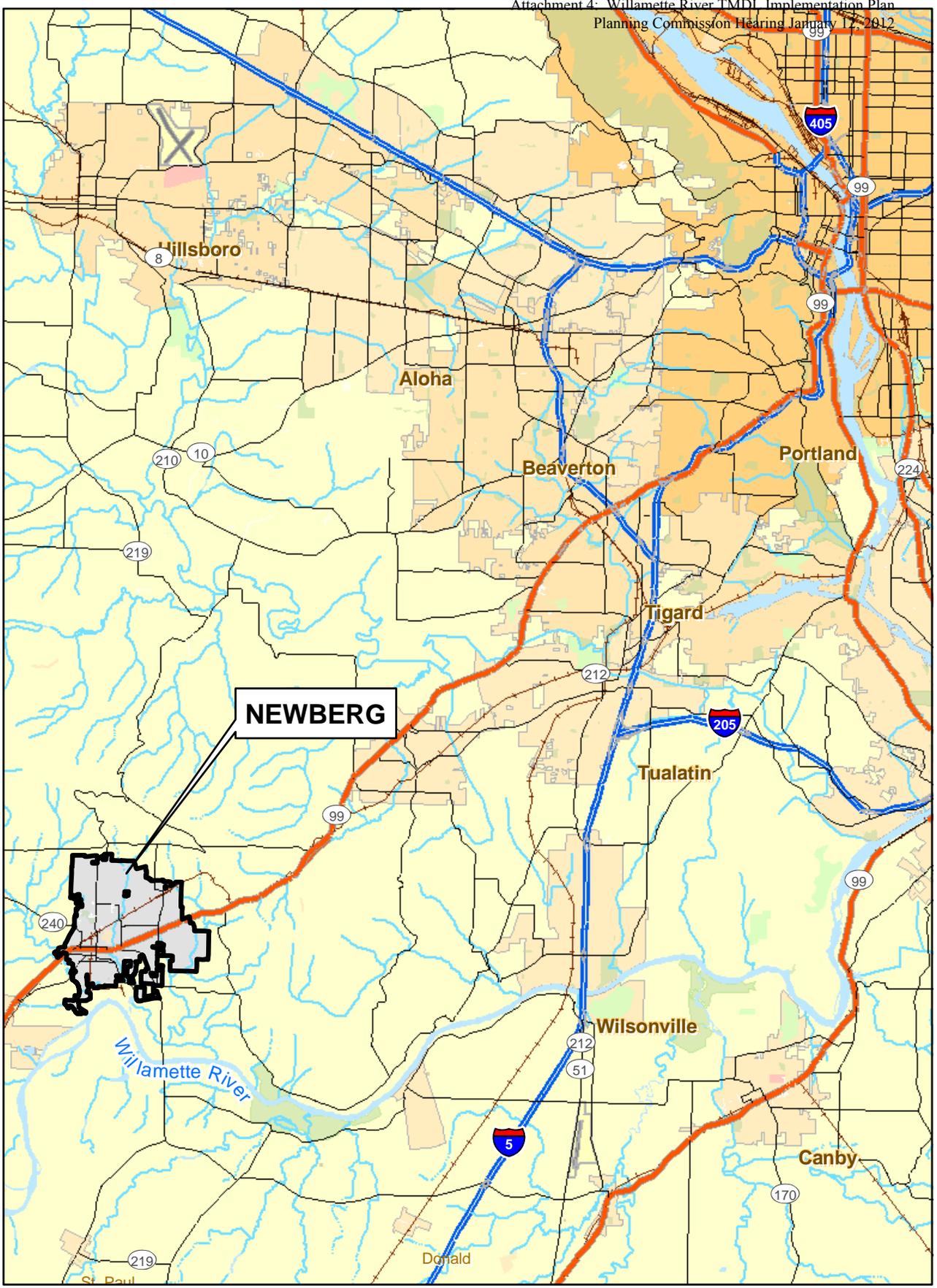
1.3 City of Newberg Background

The City of Newberg is located in northeast Yamhill County, at River Mile 50.2, approximately 25 miles southwest of the City of Portland, see Figure 1-1: Vicinity Map. The area within the urban growth boundary (UGB) is currently 3,984 acres. The current population of the City of

Newberg is 21,675 resident; by the year 2020 the City expects to have close to 34,000 residents according to the City planning department. The City is primarily comprised of single and multi-



1:180,000



0 2.5 5 Miles

VICINITY MAP

CITY OF NEWBERG, OREGON
WILLAMETTE RIVER TMDL IMPLEMENTATION PLAN

FIGURE 1-1

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family residential land use with commercial uses primarily isolated to the corridor along Highway 99W. Some industrial land is located in the northeastern portion of the City along the Union Pacific Railroad and in the southern area of the City. It should be noted that the state highways 99W, 219, and 240 are under Oregon Department of Transportation (ODOT) jurisdiction and this TMDL Implementation Plan does not cover those areas.

1.3.1 Organizational Structure

The City of Newberg’s Department of Public Works is responsible for coordinating and implementing a stormwater program and meeting regulatory requirements. Public Works includes three major divisions: Engineering, Operations, and Maintenance. The Department of Planning and Building will be involved in a number of activities particularly as they relate to new development. Figure 1-2 identifies the City of Newberg’s Organizational Structure.

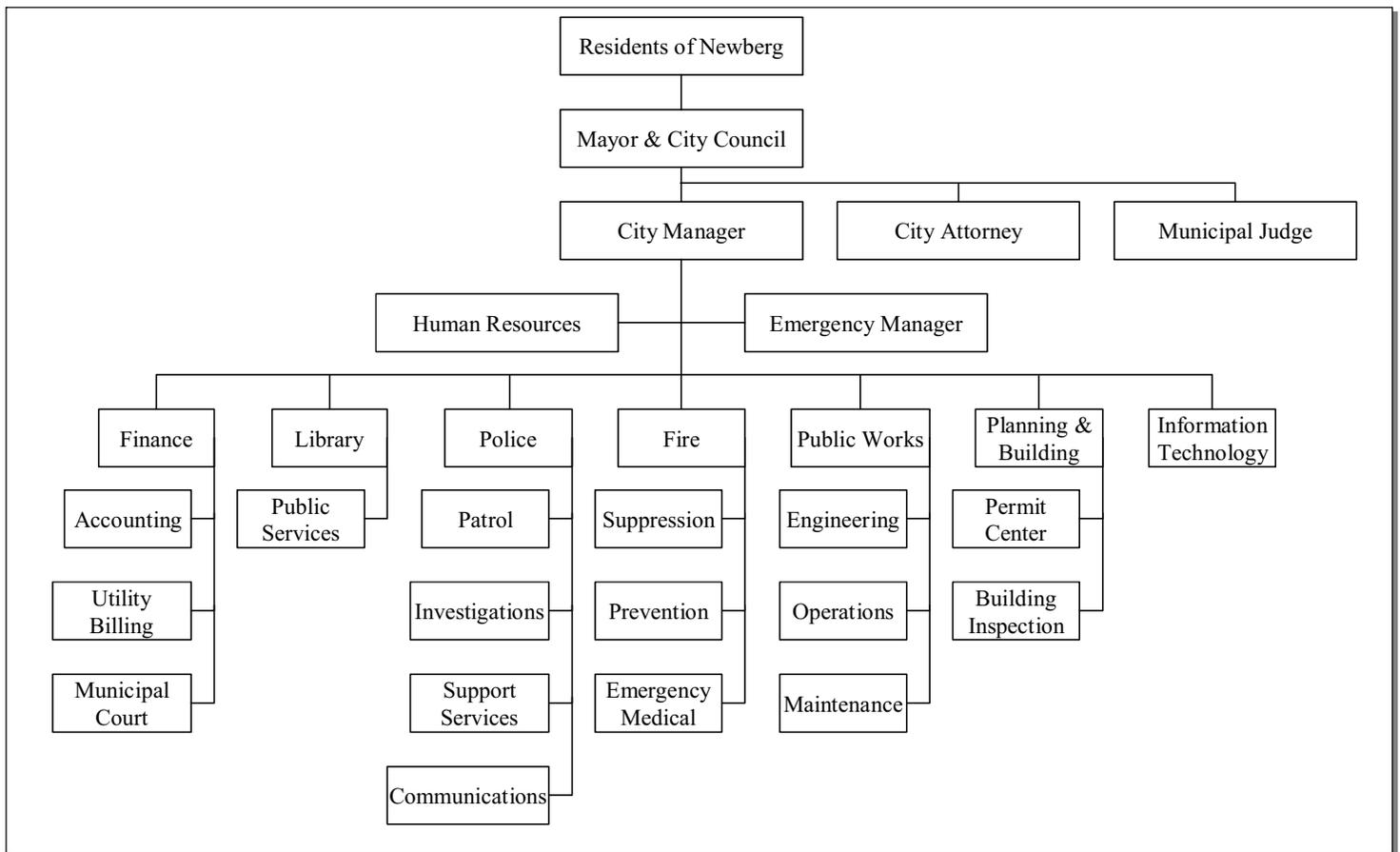


Figure 1-2: City of Newberg Organizational Structure

1.3.2 Primary Watersheds

The City of Newberg has three major drainage ways as shown in Figure 1-3: Springbrook Creek, Hess Creek, and Chehalem Creek. All drainages and creeks are tributaries to the Willamette River, which runs along the southern City boundary. The watershed boundaries of all drainage ways extend outside the UGB into the upland areas. Springbrook Creek flows south along the eastern portion of the City UGB from the Chehalem Mountains northeast of the city boundary. Hess Creek also originates in the Chehalem Mountains, flowing south through the middle of the City where it combines with Springbrook Creek just south of the city boundary. Chehalem Creek flows southeasterly along the southwestern portion of the City UGB. The headwaters of Chehalem Creek are also in the Chehalem Mountains northwest of the city boundary. These waterbodies and their watersheds are part of the Middle Willamette Subbasin.

1.4 Project Goals

The primary goal of this TMDL Implementation Plan is to develop a management plan, consisting of a series of BMPs, that will minimize contributions to surface waters for heat energy (temperature), mercury, and bacteria from areas within the City of Newberg jurisdiction and to meet the TMDLs set forth by ODEQ. Exceeding acceptable levels of these pollutants is a concern because waterways that are too warm will not support healthy salmon and trout; bacteria-contaminated water can cause illness in humans; and elevated levels of mercury in Willamette Basin fish have resulted in health advisories to limit the amount of fish that can be safely consumed.

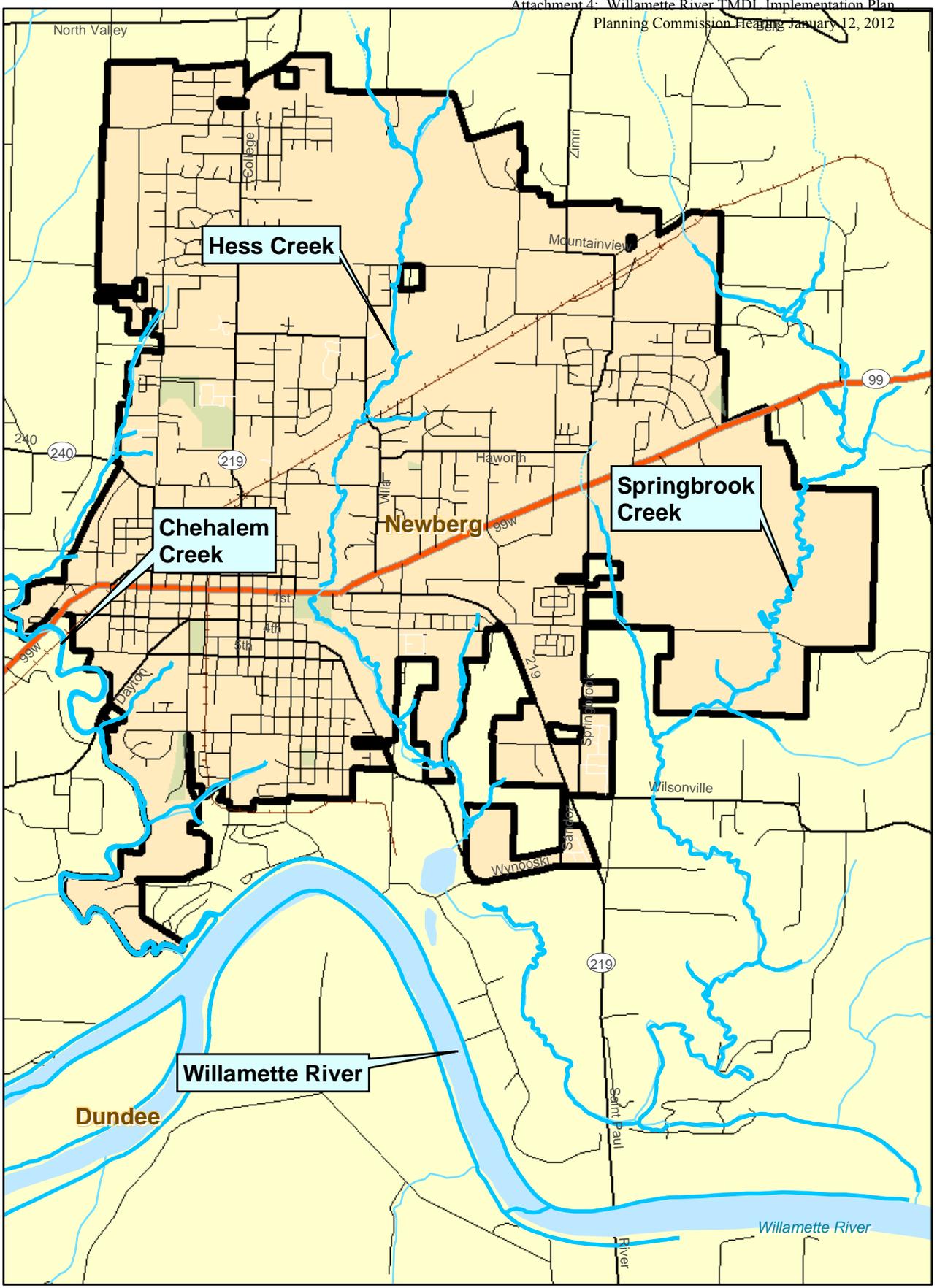
Municipal Separate Storm Sewer System (MS4) NPDES Phase II permits, addressing stormwater activities within a City, are required of municipalities that have populations larger than 10,000 residents, or a density of greater than 12,000 residents per square mile. With a threshold initially set at 50,000 population, Newberg was not included in the list of cities required to apply for a Phase II permit. However, with the lower population threshold, it is expected that Newberg will be required to apply and implement a Phase II permit in the future when ODEQ updates their list of Phase II permittees. Although the exact timing is unknown, this may occur in 5 to 10 years. As such, both the City and ODEQ are interested in developing the TMDL in a format that uses the six minimum measures for managing stormwater runoff from urban areas required of Phase II permittees. As described in Section 2, the City developed a stormwater management plan (SWMP) in anticipation of the Phase II permit when it is required.

1.5 TMDL Implementation Plan Requirements

The Willamette River TMDL is for the parameters bacteria, mercury, and temperature. ODEQ created a Water Quality Management Plan (WQMP) for the Willamette Basin TMDL in 2006 that is meant to provide the framework for the management strategies to attain and maintain water quality standards within the Willamette Basin (OAR 340-042-0040-(4)). Per the WQMP, these strategies are to be submitted by DMAs to the ODEQ as a TMDL Implementation Plan as per OAR 340-042-0080(3). The TMDL Implementation Plans needs to identify activities that the City is currently conducting, or planning to implement, to address the TMDL parameters and minimize their effects on receiving water quality.



1:32,000



0 0.5 1 Miles

**PERENNIAL STREAMS
OF NEWBERG**

CITY OF NEWBERG, OREGON
WILLAMETTE RIVER TMDL IMPLEMENTATION PLAN



FIGURE 1-3

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For the Willamette Basin, specifically, the DMAs are to develop and submit these plans to the ODEQ within 18 months after the release of the final TMDLs as an Order. The final TMDLs were released on September 21, 2006; consequently the TMDL Implementation Plans by the DMAs are due by March 31, 2008.

Oregon Administrative Rule (OAR) 340-042-0080 requires the TMDL Implementation Plan to cover the following five components:

1. Management strategies that will be used to achieve load allocations
2. A timeline and schedule to achieve measurable milestones
3. A plan for periodic review and revision of the implementation plan
4. Evidence of compliance with applicable statewide land use requirements
5. Any other analyses or information as specified in the Water Quality Management Plan

As the first and second requirements are specific to each pollutant, they will be addressed in Sections 2 and 3.

With respect to the third requirement, every TMDL Implementation Plan is required to have a plan for periodic review and revision. Newberg will collect data and record it in the “Status Column” of the TMDL Implementation Matrix (See table 2-3) and provide it to ODEQ. This report will be submitted annually, beginning one year from the date this TMDL plan is submitted and will provide ODEQ with information regarding the status of the management strategies with regards to pollutant allocation and reductions for TMDL implementation. Included in this report will be any incremental steps the City has taken towards meeting the larger goals the City has established. The City may consult ODEQ for determining the format of this annual report.

In addition to the annual reports, the plan will go through a more extensive evaluation every five years to determine how well the plan is working and to identify necessary changes. A report will be submitted to ODEQ every five years from the date this TMDL plan is submitted, documenting the implementation activities, the documented results and any proposed improvements or adjustments. Any changes that were made to the plan based on the annual reviews will be included as well as accomplishments or changes within the jurisdiction that could affect water quality. If the City was unable to meet any of the management strategy deadlines, this will also be reported along with an explanation of why the goals were not met. A summary of goals, performance measures, water quality trends, and any other relevant data will be incorporated in the comprehensive report. The TMDL process is iterative, and thus, ODEQ will review and modify TMDLs as needed based on new scientific information.

ODEQ will re-evaluate the TMDL on a five year cycle. Any revisions to the TMDL resulting from this reevaluation may require DMAs to review and revise their TMDL implementation plan as necessary.

As a means for DMAs to adapt their TMDL plans and ODEQ to adapt the TMDL appropriately, ODEQ has included a monitoring and evaluation element to the TMDL. Per the WQMP, the intent of this element is to “demonstrate long-term recovery, better understand natural variability, track management strategy and BMP effectiveness, and determine whether implementation of TMDL load allocations are achieving water quality standards”. ODEQ has outlined three basic components that should be covered in order to evaluate the progress of the plan. These components and Newberg’s proposed actions, are:

1. *Monitor the implementation of the TMDL Implementation Plan and activities.*
For bacteria and mercury the City will record its progress in implementing the management strategies in the “status” column of Table 2.3 (In section 2). The City will also report this status to ODEQ in its annual report. Any incremental steps towards larger goals will be tracked and reported in the annual report. Progress in meeting the temperature TMDL will be provided in the annual report. The report will specify the Management Strategies implemented and success toward planting effective shade for creeks and streams.
2. *Evaluate the effectiveness of management practices*
The City will track the effectiveness of the BMPs through the performance measures set for specific BMPs. The City will track these quantities in the “status column” of Table 2.3 in order to evaluate the effectiveness of their program. Section 3 provides performance measures for the City to track to evaluate progress in implementing the temperature component of the TMDL.
3. *Track water quality trends to ensure TMDL load and wasteload allocations are being achieved and water quality criteria are being met.*
Newberg is primarily concerned with TMDL load allocations, as wasteloads pertain to NPDES permittees, which does not apply to the City of Newberg. The City will be monitoring the implementation of the BMPs outlined in this plan, tracking activities, and noting improvements. Trends will be monitored through visual inspections at outfalls and tracking public comments and complaints. The City will record results from these monitoring efforts in the “status” column of Table 2.3. The City will coordinate with other agencies to share data on applicable monitoring. As an active member of the Oregon Association of Clean Water Agencies (ACWA), Newberg has access to a network of agencies and local, state, and national information.

These three components will be used to identify areas for continuous improvement and adaptation of this TMDL Implementation Plan.

The fourth requirement is evidence of compliance with applicable statewide land use requirements, indicating that this plan is in conformance with the City’s land use goals and comprehensive plan. This is located in Section 4.

The fifth requirement addresses additional items identified in the TMDL specific to both this TMDL and the DMA. The additional items applicable to the City of Newberg include:

- Determine appropriate legal authority for implementing the proposed TMDL implementation plan.
- Determine sufficient funding for implementing proposed TMDL implementation plan.
- Evaluate opportunities to preserve cold water refugia along Willamette River within Newberg's jurisdiction.
- Provide for public involvement in implementation of proposed TMDL Implementation Plan.

1.5.1 Legal Authority

The City has existing ordinances that provide for implementation of portions of the TMDL Implementation Plan (see Section 1.7). However, as discussed in Section 2, ordinances for illicit discharges, erosion control, and post-construction site runoff, are necessary to implement the six minimum measures addressed in Section 2 and will be developed as part of implementing this plan. Adoption of new development standards will provide guidance to new developers for stormwater standards. The City currently implements a Stream Corridor Overlay District through Part 15 its development code. The implementation of this overlay district limits development and disruption of riparian areas and gives the City legal authority to protect existing riparian vegetation within the District. More information on this overlay district is provided in Section 3. Additionally, an ordinance requiring planting of appropriate shade will be developed to implement part of the temperature strategy discussed in Section 3.

1.5.2 Funding

The City currently charges a stormwater fee that pays for operation and maintenance of the existing system, in addition to all other existing BMPs currently implemented as shown in Table 2-3 with the exception of street sweeping. Street sweeping is currently being funded equally by both the stormwater fee and transportation funding. Additional staff are required to implement the components described in this plan. The City will present this information to their Rate Review Committee in March of 2008, to discuss raising the stormwater rates to enable the hiring of staff for TMDL implementation efforts.

1.5.3 Cold Water Refugia

Evaluation of cold water refugia is required for all DMAs located downstream of River Mile 50. Cold water refugia is discussed in Section 3, Temperature. Evaluation of cold water refugia is intended to preserve existing areas and to identify opportunities for restoring historic areas of cold water inputs to the Willamette River.

1.5.4 Public Involvement

Public involvement is required for development of the TMDL Implementation Plan as well as during implementation of the plan. Specific public involvement activities are described in Sections 2 and 3. Public involvement is also a part of the plan preparation process. The City will announce the availability of the plan for review on their website and post the document for public review. The draft document will also be available from the City when requested. Public

review will take place for a minimum of 30 calendar days. All comments will be responded to and appropriate comments will be incorporated into the final document.

1.5.5 Adaptive Management

As discussed above, the City will review their program on an annual basis during the development of the annual report to be submitted to ODEQ. A thorough evaluation of the program will be conducted every five years. During the annual review, the City will, wherever possible, evaluate the success of the stormwater management strategies and BMPs, based on the results that are tracked throughout the year. Successful strategies will continue to be implemented. Adaptive management processes of adjusting BMPs that are not meeting goals set forth in this plan will be implemented. The strategies will be re-evaluated and either adjusted or eliminated. As mentioned in Section 1.5, DMAs may be required to review and revise their TMDL implementation plan as needed following ODEQ's reevaluation or revision of the TMDL as part of the adaptive management process.

1.6 Regional Collaboration

The City is committed to implementing the strategies outlined in this plan to improve water quality in the Middle Willamette Reach. There are, however, many DMAs and third parties within the Middle Willamette Basin that share an interest and responsibility for the health of the watershed and its water bodies. The City is encouraged to collaborate with these parties to reach these goals. Some of these organizations include:

- Yamhill Basin Council
- City of Dundee
- ODOT
- Yamhill County
- Yamhill Soil and Water Conservation District
- Chehalem Parks and Recreation District

The City will continue to support and stay involved with the Yamhill Basin Council (YBC). With the support of an Oregon Watershed Enhancement Board (OWEB) grant, the YBC developed the Chehalem Watershed Assessment, a document used for background information in this TMDL Implementation Plan.

1.7 Management Strategies

Section 2 describes basic information and characteristics, the current loads, potential sources, and management strategies for both bacteria and mercury. Management strategies are provided in the framework of the six minimum measures required of Phase II permittees. Also discussed are record keeping and monitoring strategies.

Section 3 discusses details of the temperature TMDL, background, surrogate measures, and management strategies for implementation. Record keeping and monitoring are also discussed.

2.0 Bacteria and Mercury TMDLs

2.1 Section Overview

This section provides background information on the bacteria and mercury TMDL followed by a SWMP, TMDL Implementation Matrix and a TMDL Implementation Schedule. Six minimum measures required of Phase II permittees was used to develop the SWMP for the City. BMPs focused on measures that would be effective for bacteria and mercury. A TMDL Implementation Matrix was prepared to show in tabular form, and in a summary format, the current and proposed BMPs, the pollutant source, goals and performance measures, along with pollutants expected to be addressed by the BMP. The Implementation Schedule provides a comprehensive view of when the BMPs are expected to be implemented.

2.2 Background

The Willamette Basin TMDL for bacteria was created to protect the beneficial use of water contact recreation. Typical sources for bacteria in urban and residential areas are: stormwater runoff, erosion, domestic animal waste, failing septic systems, municipal sewer overflows, and streambank erosion. Based on table 2.8 in the Willamette Basin TMDL, the allocated bacteria percentage reductions for waterbodies in the Middle Willamette Subbasin are between 84% - 90%. This applies to the urban land use, as the agricultural land use falls outside of City jurisdiction.

The Willamette Basin TMDL for mercury was created to protect the beneficial use of fishing for the Willamette River. There have been numerous fish consumption advisories for the Willamette River issued by the Department of Human Services (DHS) to protect human health. These advisories indicate the beneficial use of fishing is currently not being met for the Willamette River.

Mercury is a naturally occurring element and can be found in trees and fossil fuels such as coal, natural gas, diesel fuel, and heating oil. Upon combustion, mercury in fuel sources can be released to the atmosphere and transported great distances and then deposited back to land. It also is found in many commercially available products such as fluorescent lights, thermometers, automobile switches, and dental amalgam. The City of Newberg currently offers a free hazardous waste program twice per year, providing residents an opportunity to safely dispose of hazardous products, including those containing mercury. It can take different forms which makes it difficult to understand and monitor. Mercury is present in some native soils at low levels but can be released in large amounts if there is extreme soil erosion. Mercury can also be released if sediment is re-suspended after being deposited for a long period of time.

Table 2-1: Potential Pollutant Sources on the following page provides a generic list of pollutant sources for bacteria and mercury. Table 2-3, presented later in Section 2, describes the pollutant sources that the City of Newberg plans to address through this TMDL implementation plan.

**Table 2-1
 Potential Pollutant Sources**

<u>Bacteria:</u>	<u>Mercury:</u>
Stormwater Runoff	Spills
Pet Waste	Illicit discharges
Illegal Dumping	Illegal Dumping
Street Debris	Atmospheric Deposition
Wastewater overflows	Stormwater Runoff
Failing Septic System	Soil Erosion
	Construction site runoff, erosion

ODEQ acknowledges the current limited understanding of the fate, transport, bioaccumulation, loading and sources of Mercury in the Willamette Basin. Because of the limited understanding of this pollutant within the Basin, no numeric water quality based effluent limits have been established. The current strategy is for DMAs to minimize mercury releases where possible, with the overall goal of removing the fish consumption advisories (ODEQ 2006). The six control measures the City is currently implementing or plans to implement in the future for mercury reduction are discussed in Section 2.3.

The City manages a wastewater treatment plant that is permitted through the wastewater NPDES permit program. The wastewater NPDES permit is expected to adequately address bacteria and mercury. As those permits are renewed they will be updated to address bacteria and mercury. This report does not include wastewater discharges.

In addition, the City is currently collaborating with four care facilities in town to implement a drug take-back program. There are two parallel programs; one for controlled and one for non-controlled substances. The controlled substances are picked up and disposed of by the Newberg Police Department while the non-controlled substances are picked up and disposed of by Newberg Garbage. The program is a preventative measure to keep potentially harmful pharmaceuticals out of surface and groundwater.

2.3 Management Strategies

The SWMP described in Section 2.4 covers the six minimum measures that are required by an NPDES Phase II for managing stormwater pollution. BMPs focus on strategies to address sources of bacteria and mercury within the framework of the measures. A brief summary of strategies is provided below followed by details in Section 2.4. Six minimum control measures include:

1. Public education and outreach on stormwater impacts.
2. Public involvement/participation.

3. Illicit discharge detection and elimination.
4. Construction site stormwater runoff control.
5. Post-construction stormwater management for new development and redevelopment.
6. Pollution prevention in municipal operations.

Public Education and Outreach on Stormwater Impacts

Public education and outreach strategies proposed in the SWMP promote understanding of the cause and effect of stormwater quality issues. The City is currently engaging in public education such as community nights at the local library.

Public Involvement/Participation

Public Involvement and Participation will be encouraged through several strategies. The strategies include continuing to solicit input from the community for the stormwater fee and City ordinances, and placing relevant stormwater information on the City website. Additionally, this plan underwent a 30-day review period for public comment.

Illicit Discharge Detection and Elimination

The City currently manages illicit discharges, on a complaint-driven basis, through existing City ordinances for both illicit discharges and spills. Additional efforts include mapping existing outfalls, and developing and implementing an Illicit Discharge Detection and Elimination (IDDE) Plan.

Construction Site Stormwater Control

Construction site stormwater control is also referenced as erosion control. The City expects to implement a program to reduce pollutants in any runoff that can drain to the City's storm drain system from construction activities. The City currently implements erosion control techniques on public projects.

Post-construction Stormwater Management for New Development and Redevelopment

With growth projections that could double the population of Newberg by 2020, strategies to address runoff from new construction will be an important component of the City's plan. As more natural and pervious land and vegetation is converted to impervious surfaces such as rooftops and pavement, development tends to have an adverse effect on water quality. The result is the loss of infiltration capacity and evapotranspiration, which in turn increases site runoff sending higher stormwater flows to the receiving waters. As populations tend to grow, pollution tends to follow a similar pattern.

Pollution Prevention in Municipal Operations

The City will make sure its employees take special precautions regarding stormwater pollution prevention while performing their daily operations. The SWMP outlines several strategies to attain this such as continuing the developing of a water quality sensitive operations and maintenance (OM) program that has already started, and training the City employees on the revised program.

2.4 Stormwater Management Plan

Specific BMPs were developed for each minimum control measure to work toward the goal of reducing discharges of pollutants associated with stormwater through the MS4 system and overland flow to the extent practicable. Table 2-2 provides a summary of the selected BMPs. In the pages following Table 2-2, a summary sheet is provided for each minimum control measure. Each summary sheet includes the specific minimum measure requirement, a list of the selected BMPs and the rationale for their selection. Each summary sheet is followed by a set of fact sheets, one sheet for each of the selected BMPs. The BMP fact sheets provide a list of the responsible parties for BMP implementation, existing conditions, a description of the BMP and proposed SWMP activities, measurable goals, and an implementation schedule.

The Stormwater Management Plan described herein requires the hiring of several new staff to manage and implement the program. Newberg will first work on acquiring additional funds, as described in BMP PI-1 and discussed below. Existing tasks are expected to continue and be revisited in the fifth year for evaluation and continuation if deemed effective. However, expanding the existing program to include new BMPs will not occur until the stormwater program is funded to allow the addition of stormwater staff. The City began work to acquire additional funds in March 2008, with plans to begin expansion of their current stormwater program in March 2009 if funds are acquired. If funds necessary to implement the proposed new BMPs are not procured, the City of Newberg will proceed with the following options:

- Continue to educate the public to secure additional funds;
- Maximize efforts with existing budget, and
- Meet with ODEQ to discuss alternatives, such as grant funding.

The SWMP also describes methods for record keeping and reporting.

Table 2-2
Summary of Newberg SWMP BMPs for Each Minimum Measure

BMP #	BMP Title
Minimum Measure #1 – Public Education & Outreach	
PE-1	Implement Stormwater Educational Activities
PE-2	Participate in the Yamhill Basin Council
PE-3	Continue environmental marking of Storm Drains
Minimum Measure #2 – Public Involvement/Participation	
PI-1	Continue with Public Participation in Reviewing the Stormwater Management Fee
PI-2	Public Participation in Ordinance and Program Development
PI-3	Use the City’s Website for Education and Reporting of Stormwater Concerns
PI-4	Establish Hotline to Receive Complaints from the Public
Minimum Measure #3 – Illicit Discharge Detection and Elimination (IDDE)	
ID-1	Develop IDDE Plan
ID-2	Train City Employees to Implement the IDDE Plan
ID-3	Implement IDDE Plan
ID-4	Hazardous Waste Collection
Minimum Measure #4 - Construction Site Runoff Control	
CS-1	Develop Ordinance to Control Construction Site Runoff
CS-2	Train City Employees Regarding Construction Site Controls
CS-3	Conduct Plan Reviews, Inspections, Enforcement for Construction Sites
Minimum Measure #5 – Development Standards (Post-construction Runoff Control)	
DS-1	Develop Ordinance to Control Runoff from New and Redevelopment
DS-2	Train City Employees Regarding New Development Standards
DS-3	Conduct Plan Reviews, Inspections, Enforcement for New Development
Minimum Measure #6 – Operations and Maintenance (OM) (Pollution Prevention/Good Housekeeping)	
OM-1	Develop a Water Quality Sensitive OM Program
OM-2	Train City Employees Regarding Revised O& M Practices
OM-3	Conduct Catch Basin Cleaning
OM-4	Conduct Street Sweeping

2.4.1 Minimum Measure #1 - Public Education

Requirement:

According to the Willamette River TMDL and TMDL Implementation Guidelines (per ODEQ), the DMA must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies. The DMA must identify steps that the public can take to reduce pollutants in stormwater runoff.

Applicable City of Newberg BMPs:

PE-1: Implement Stormwater Educational Activities

PE-2: Participate in the Yamhill Basin Council

PE-3: Continue Environmental marking of Storm Drains

Rationale:

The three BMPs listed above were selected in order to cover a wide range of audiences and provide means to experiment with different methods for educating residents and businesses.

- PE-1 represents the major component of this minimum measure. This BMP includes continuing with current public educational activities as well as taking on new educational efforts. New efforts will include the distribution of an educational insert in an annual mailing to all City households. Additional efforts may focus on students and other educational media (e.g., fact sheets, newspaper ads).
- PE-2 involves continued participation with the local basin council, developing materials and strategies that will ensure that stormwater quality issues are addressed and considered.
- PE-3 involves the continued environmental marking of existing and new catch basins to promote public education and prevention of pollutant discharges to receiving waters.

BMP PE-1

BMP Name: Implement Stormwater Educational Activities

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, total suspended solids (TSS), mercury, and temperature.

Existing Conditions: Although there are limited resources, the City currently implements public education activities through open houses at the library and at city hall, participation with the Chamber of Commerce, and public education during Community Nights, meetings City Councilors' hold with the public to share information and an opportunity for the public to ask questions.

BMP Description and Proposed Activities: New public education activities to be initiated in 2009 will include the development and distribution of an educational insert in an annual mailing to all City households, in addition to making information available at City Hall. The insert will address stormwater issues and provide tips for the public regarding stormwater pollution prevention. The City will also update their website to include public information regarding water quality, pollutant prevention associated with stormwater, and water conservation (see PI-3). In following years, other educational activities will be considered for implementation including: school education programs, periodic news releases, and stormwater fact sheets for counter displays.

Measurable Goals: The City will mail educational inserts in water bills to approximately 80% of residences. During following years, measurable goals will depend on the educational activity that is selected. However, measurable goals will focus on effectively reaching the most people and/or businesses and providing them with the most relevant educational messages in terms of potential activities that would reduce pollutant sources.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
	Prepare an educational insert for an annual mailing. Update City website to include water quality tips and information.	Identify and implement an educational activity.	Identify and implement an educational activity.	Identify and implement an educational activity.

BMP PE-2
BMP Name: Participate in the Yamhill Basin Council

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: A City staff member currently attends the Yamhill Basin Council meetings. The Yamhill Basin Council (YBC) was developed to improve watershed conditions and promote awareness and understanding of watershed health issues in the Yamhill Basin. Watersheds of interest to the YBC include Springbrook, Hess, Chehalem, and Harvey Creeks.

The YBC includes representatives from the cities of McMinnville and Newberg, public agencies (Bureau of Land Management and Soil Water Conservation District), local agriculture, local utilities, environmental groups, residents, and students.

BMP Description and Proposed Activities: The City will continue to attend YBC meetings. Where appropriate, the City will proactively provide information related to the City’s stormwater quality management program and objectives and ensure watershed projects consider stormwater quality issues. The City will also make monetary donations to the council in the amount of \$1,000 per year, as funds are available. Additionally, the City will seek opportunities for collaboration with the council.

Measurable Goals: The City will continue to attend and proactively participate in Council meetings. Donations to the YBC will be tracked as well as projects the City is collaborating with the Council on.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
Attend and participate in YBC meetings. Ensure stormwater quality issues are considered and addressed when relevant.	Continue attending meetings and collaboration. Donate \$1,000/year to council, as funds are available.	Continue attending meetings and collaboration. Donate \$1,000/year to council, as funds are available.	Continue attending meetings and collaboration. Donate \$1,000/year to council, as funds are available.	Continue attending meetings and collaboration. Donate \$1,000/year to council, as funds are available.

BMP PE-3
BMP Name: Storm Drain Environmental Marking

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: The City currently practices environmental marking of catch basins on an as needed basis as staff is available.

BMP Description and Proposed Activities: The City will continue to conduct storm drain environmental marking with messages such as “No Dumping Flows to Creek”. The coverage of marking activities will be documented for future planning efforts. The City will explore the idea and feasibility of adding environmental marking to the City’s catch basin standard detail so all new catch basins would be marked.

Measurable Goals: The goal will be to continue to mark catch basins where there are water quality problems with goal of marking about fifty catch basins a year.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
Continue to implement storm drain environmental marking program on an annual basis.				

2.4.2 Minimum Measure #2 - Public Involvement

Requirement:

According to the Willamette River TMDL and TMDL Implementation Guidelines (per ODEQ), the DMA must at a minimum, comply with State, Tribal, and local public notice requirements when implementing a public involvement/participation program.

Applicable City of Newberg BMPs:

PI-1: Continue Public Participation in Reviewing the Stormwater Management Fee

PI-2: Public Participation in Ordinance and Program Development

PI-3: Use the City's Website for Reporting Stormwater Concerns

PI-4: Establish Hotline to Receive Complaints from the Public

Rationale:

The five BMPs listed above describe how the public is currently involved in decision-making activities within the City and how the public is able to communicate with the City in voicing concerns.

- PI-1 involves continued public participation in updating and reviewing the stormwater management fee.
- PI-2 involves continued public participation with ordinance and program development activities.
- PI-3 involves the use of the City website for reporting of stormwater quality concerns.
- PI-4 involves the use of a hotline for reporting of stormwater quality concerns.

BMP PI-1
BMP Name: Continue Public Participation in Reviewing the Stormwater Management Fee

Responsible Parties: Department of Public Works, City Council

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: The City currently charges a stormwater management fee (SWMF) for revenue to conduct operation and maintenance on existing stormwater systems. The SWMF is a fixed amount associated with impervious surface area. The units for impervious surface area are called equivalent dwelling units or EDUs. An EDU is equal to the typical impervious area of a single-family residential property and defined as 2,877 square feet. In fiscal year 2007 (July 1, 2006 – June 30, 2007) the City of Newberg generated \$450,000 through collection of the SWMF.

The stormwater fund was created by the Citizens’ Rate Review Committee; a committee comprised of local citizens that reviews funding needs for the City. The rate is reevaluated and updated every two years. Although a funding mechanism is in place, review and refinements to the process used to reevaluate the rates and the methods of allocating the income may be required, based on the proposed BMPs described in this SWMP. The Rate Review Committee must first agree to change the fee; then the change goes to the City Council for final approval.

BMP Description and Proposed Activities: The City will continue to use the existing rate review committee to evaluate and update the current funding mechanism. Implementation of this SWMP and associated BMPs to meet requirements of the TMDL implementation plan may require adjustments to the current funding allocations.

Measurable Goals: The City’s goal is to review and refine the current funding review process in March and April of 2008, with a review every two years.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
Review and refine current funding mechanism.		Review and adjust stormwater rates, as appropriate.		Review and adjust stormwater rates, as appropriate.

BMP PI-2
BMP Name: Public Participation in Ordinance and Program Development

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: Currently, if modifications to the City’s ordinances are necessary, a public hearing is held to promote public participation in the review of ordinances at Council meetings, prior to Council approval.

BMP Description and Proposed Activities: The City will either use existing citizen committee members (see BMP PI-1) or solicit the input of other citizens (via City Council, etc) to assist in developing new City ordinance language necessary for the IDDE plan (BMP ID-1) and construction and post-construction site runoff control programs (BMPs CS-1 and DS-1). The City will coordinate and facilitate the committee meetings and provide opportunities for public comments. The City provided a 30-day public review and comment period for this TMDL plan in March 2008. Comments were received, considered, and responded to.

Measurable Goals: The City’s goal is to use public input in the establishment of ordinances for the illicit discharge detection and elimination and construction site runoff control programs in 2009 and for new development standards in 2010.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
Provide 30-day public review and comment period. Review, consider, and respond to all public comments received during review period.	Obtain public input regarding the establishment of an ordinance for the IDDE and construction site runoff control programs.	Obtain public input regarding the establishment of an ordinance for stormwater quality-related standards for new development.	Obtain public input regarding establishment of additional ordinances.	Obtain public input regarding establishment of additional ordinances.

BMP PI-3
BMP Name: Use the City’s Website for Education and Reporting of Stormwater Concerns

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: Newberg currently has a website for the City that describes the City’s history, charter, services, etc. Specific information related to water quality or stormwater management is not currently provided.

BMP Description and Proposed Activities: The City will utilize their website to distribute information about Newberg’s storm drainage system and water quality issues to the public (see PE-1). In addition, the City’s website will be modified to include both information and a method for citizens to report stormwater concerns and to ask questions related to the City’s stormwater management program.

Measurable Goals: The City will include stormwater-related educational information and a method for citizens to report stormwater concerns on the City’s website by 2009. Information on the website will be updated as needed. City staff in charge of responding to incoming calls will be identified and trained.

Development/Implementation Schedule:

2008	2009	2010	2011	2012+
	Add stormwater-related information and a method for reporting concerns on the City’s website. Identify and train staff.	Updates as needed.	Updates as needed.	Updates as needed.

BMP PI-4
BMP Name: Establish Hotline to Receive Complaints from the Public

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: The City currently responds to public complaints about clogged storm drain catch basins, pipes, and construction site erosion and runoff. No single, specific number exists for the public to call regarding these issues. Generally complaints are received by individuals working in the City Hall, and complaints are typically directed to the maintenance department. Response to drainage complaints may include conducting a site inspection, assessing the problem for City action, taking action or determining that no action is needed, and conducting a follow-up call to the complainant to discuss the action.

BMP Description and Proposed Activities: Establish a hotline for receiving storm system related complaints from the public. The City also will develop a process for documenting calls and making determinations regarding follow-up actions. The hotline will be advertised on the City website and the number will be included on the utility bill where the stormwater management fee is incorporated.

Measurable Goals: Establish and begin operation of a hotline by the end of 2009.

Implementation Schedule:

2008	2009	2010	2011	2012+
	Establish and begin operation of hotline. Develop process for documenting calls. Document calls. Advertise hotline on City website and utility bill.	Operate the hotline and follow up on calls as necessary. Continue documentation and advertising of hot line.	Continue operation of hot line, including documentation and advertising.	Continue operation of hot line, including documentation and advertising.

2.4.3 Minimum Measure #3 – Illicit Discharge Detection and Elimination

Requirement(s):

According to the Willamette River TMDL and TMDL Implementation Guidelines (per DEQ), the DMA must:

1. Develop, implement and enforce a program to detect and eliminate illicit discharges [as defined in 40 CFR §122.26(b)(2)] into the storm drain system.
2. Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the United States and/or the State of Oregon that receive discharges from those outfalls.
3. To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the DMA's storm sewer system and implement appropriate enforcement procedures and actions. Possible sanctions include non-monetary penalties (such as stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.
4. Develop and implement a plan to detect and address non-stormwater discharges, including illegal dumping, to the DMA's system.
5. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.
6. Address the following categories of non-stormwater discharges or flows (illicit discharges) if the DMA identifies them as substantial contributors of pollutants to the DMA's MS4: water line flushing, landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration (as defined at 40 CFR §35.2005(20)), uncontaminated pumped groundwater, 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. Discharges or flows from fire fighting activities are excluded from the effective prohibition against non-stormwater and need only be addressed where they are identified as substantial sources of pollutants to waters of the United States and the State of Oregon.
7. The DMA must also develop a list of other similar occasional incidental non-stormwater discharges (e.g. non-commercial or charity car washes) that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected (based on information available to the DMAs) to be substantial sources of pollutants to the MS4, either because of the nature of the discharges or conditions the DMA have established for allowing these discharges to the DMA's MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs on the wash water). The DMA must document in the DMA's SWMP any local controls or conditions placed on the discharges. The DMA must include a provision prohibiting any individual non-stormwater

discharge that is determined to be contributing substantial amounts of pollutants to the DMA's MS4.

8. The DMA must develop a process to respond to and document complaints relating to illicit discharges.

Applicable City of Newberg BMPs:

ID-1: Develop IDDE Program

ID-2: Train City Employees to Implement IDDE Plan

ID-3: Implement IDDE Plan

ID-4: Hazardous Waste Collection

Rationale:

The above three BMPs address the requirements listed above with the exception of requirements 5 and 8. Item 5 requires the City to inform the public of hazards associated with illegal discharges and improper disposal of waste. This requirement will be met under the education and public involvement minimum measures; specifically BMPs PE-1 (implement stormwater educational activities) and PE-3 (storm drain environmental marking). Item 8 requires the City to develop a process to respond to and document complaints relating to illicit discharges. This requirement will be met under the public involvement minimum measure; specifically BMP PI-3 and PI-4.

BMP ID-1
BMP Name: Develop IDDE Program

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: The City has developed a map of its stormwater outfalls. Approximately 20 are identified as part of this exercise, see Figure 2-1: Storm Drainage System. Currently, the City responds to public complaints of illicit discharges, but does not have a program to prevent them or investigate them thoroughly.

BMP Description and Proposed Activities: The City will conduct any field reconnaissance activities necessary to update the City’s outfall inventory and map. The City will also develop an IDDE ordinance to meet ODEQ and CWA requirements. A plan will be developed to investigate outfalls for flows during dry weather. The City may consider referencing or using other local jurisdiction’s IDDE Plans. City employees that will be responsible for implementing the newly created ordinance will be involved in the process of developing the ordinance. The IDDE plan includes methods for tracking flows to their source, sampling flows, and for documenting investigations (e.g., inspection forms, etc.) and follow-up activities to eliminate flows. Worksheets will be developed for recording inspection results.

As part of the IDDE plan, the City will review and address the categories of non-stormwater discharges as specified under Requirements 6 and 7.

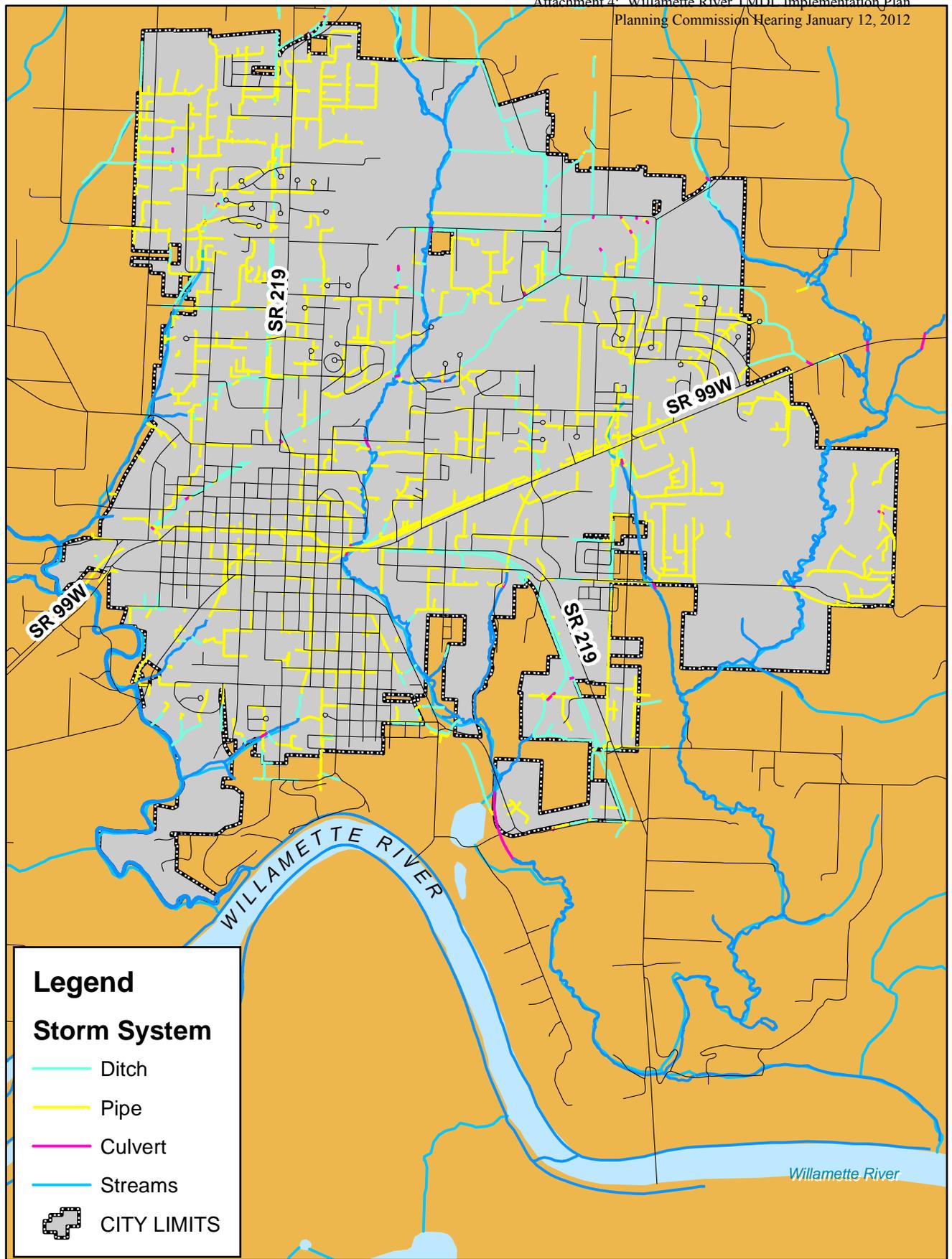
Measurable Goals: Develop an IDDE Ordinance and Plan by the end of 2009.

Implementation Schedule:

2008	2009	2010	2011	2012+
	Develop an IDDE Ordinance and Plan for implementation. Finalize the outfalls inventory and map.	Develop monitoring plan for illicit discharges and plan to address discharges. Develop field inspection worksheets.		



1:32,000



Legend

Storm System

- Ditch
- Pipe
- Culvert
- Streams
- CITY LIMITS

0 0.5 1 Miles

STORM DRAINAGE SYSTEM

CITY OF NEWBERG, OREGON
WILLAMETTE RIVER TMDL IMPLEMENTATION PLAN

FIGURE 2-1

BMP ID-2
BMP Name: Train City Employees to Implement the IDDE Plan

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: The City does not currently have an IDDE Plan.

BMP Description and Proposed Activities: The City will conduct training for employees responsible for implementation of the illicit discharges detection and elimination plan. Training will include investigation, investigative sampling, and documentation/reporting methods. The City will also seek out free stormwater webcasts related to illicit discharges and schedule ‘Lunch and Learn’ sessions for employees interested in attending the webcasts.

Measurable Goals: In 2010, conduct one training session for appropriate City employees on methods for implementation of the IDDE plan. Additionally, annual refresher courses will be conducted as well as training for new employees upon hire. Beginning in 2009 the City will begin seeking out webcast opportunities for City employees. The City will seek out relevant webcasts for several different stormwater related topics, with a goal of a minimum of one webcast per year.

Implementation Schedule:

2008	2009	2010	2011	2012+
Seek opportunities for free stormwater related webcasts.	Seek opportunities for free stormwater related webcasts.	Develop training material and train employees to implement the IDDE Plan. Seek opportunities for free stormwater related webcasts.	Seek opportunities for free stormwater related webcasts. Conduct annual IDDE refresher course.	Seek opportunities for free stormwater related webcasts. Conduct annual IDDE refresher course.

BMP ID-3
BMP Name: Implement and Evaluate the IDDE Plan

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: As stated in BMP ID-1, the City currently addresses illicit discharges to the system on a complaint-driven basis.

BMP Description and Proposed Activities: The City will implement the IDDE Plan as prepared under BMP ID-1 as well as evaluate it continually, refining it as needed.

Measurable Goals: Investigate all City stormwater outfalls for illicit discharges by 2011 through visual inspections. In association with these investigations, the City will document the number of outfalls having flows, the identification of the source of these flows, any sampling results that apply, and actions taken to eliminate the flows. This documentation will help to evaluate and refine the program for continued future implementation and future goal setting.

Implementation Schedule:

2008	2009	2010	2011	2012+
		Implement the IDDE Plan. Evaluate the plan and refine as needed.	Implement the IDDE Plan. Evaluate the plan and refine as needed.	Implement the IDDE Plan. Evaluate the plan and refine as needed.

BMP ID-4
BMP Name: Hazardous Waste Collection Program

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: Currently free hazardous waste collection occurs twice per year for City residents through the garbage collection service operated through a franchise. This provides residents the opportunity to safely dispose of hazardous waste, such as waste containing mercury, and prevents it from reaching surface waters.

BMP Description and Proposed Activities: The City will continue to implement its hazardous waste collection program.

Measurable Goals: Offer free hazardous waste collection service twice per year to City residents.

Implementation Schedule:

2008	2009	2010	2011	2012+
Implement hazardous waste collection program.				

2.4.4 Minimum Measure #4 – Construction Site Stormwater Runoff Control

Requirement(s):

According to the Willamette River TMDL and TMDL Implementation Guidelines (per ODEQ), the DMA must develop, implement, and enforce a program to reduce pollutants in any runoff that can drain to the DMA's MS4 drainage system or directly to surface waters via overland flow from construction activities. The DMA's program must include the development and implementation of, at a minimum:

1. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law.
2. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices.
3. Requirements for construction site operators to prevent or control waste that may cause adverse impacts to water quality such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site.
4. Procedures for site plan review that incorporate measures to prevent or control potential water quality impacts.
5. Procedures for receipt and consideration of information submitted by the public.
6. Procedures for site inspection and enforcement of control measures.

Applicable City of Newberg BMPs:

CS-1: Develop Ordinance to Control Construction Site Runoff

CS-2: Train City Employees Regarding Construction Site Controls

CS-3: Conduct Plan Reviews, Inspections, and Enforcement for Construction Sites

Rationale:

The above three BMPs address all of the requirements except number 5 listed above. BMPs PI-3 and PI-4 are related to the establishment of methods for allowing the public to report on activities that would affect stormwater quality and would address requirement number 5.

BMP CS-1
BMP Name: Develop Ordinance to Control Construction Site Runoff

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: Although not regulated by the City, owners of construction sites that are larger than one acre are currently required to obtain an NPDES 1200-C permit from ODEQ. This permit requires an erosion prevention and sediment control plan to be developed and implemented. When issuing building permits for new construction, the City currently reviews the application for compliance with LUCS requirements as well as 1200-C permits for construction sites larger than 1 acre in size. If applicants have not obtained a 1200-C permit and are required to do so they are denied a building permit from the City until the applicant can show they have acquired the 1200-C permit. The City does not currently have its own ordinance to require sediment and erosion control for all project sizes. Construction site runoff problems need to be corrected more immediately because pollutants could be washed into the system and ultimate receiving water body during the enforcement process and the damage would already be done by the time a resolution is reached.

BMP Description and Proposed Activities: The City will develop a municipal ordinance that includes the following:

- requirements for erosion prevention and sediment controls regardless of construction site size,
- requirements for the prevention or control of other construction-related waste that could impact water quality
- enforcement mechanisms/sanctions to ensure compliance, and
- consider working with DEQ to take over management and issuance of 1200-C permits within the City of Newberg.

The City will establish and work with a citizen’s committee to assist in the development of this ordinance, as described in BMP PI-2. In association with development of the ordinance, the City will review existing erosion control guidance manuals from other regional jurisdictions and select a manual that will be most appropriate for Newberg with minimal modifications.

Measurable Goals: Develop an ordinance to support a construction site runoff control program by the end of 2009.

Implementation Schedule:

2008	2009	2010	2011	2012+
	Develop construction site runoff control ordinance. Select a guidance manual to implement ordinance.	Enforce ordinance.	Enforce ordinance.	Enforce ordinance.

BMP CS-2
BMP Name: Train City Employees Regarding Construction Site Controls

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: The City does not currently have a construction site runoff control program, and therefore, does not conduct inspections of construction sites to evaluate runoff issues. The City’s code enforcement responds to public complaints related to construction site erosion and sediment discharge.

BMP Description and Proposed Activities: The City will conduct training for employees who are responsible for implementation of the construction site runoff control program. Training will include review of requirements, review of applicable best management practices (i.e., the selected guidance manual) and appropriate implementation methods, plan review procedures, inspection procedures, and documentation/reporting procedures. The City will also seek out free stormwater webcasts related to construction site controls and schedule lunch and learn sessions for employees interested in attending the webcasts.

Measurable Goals: In 2011, conduct one training session for appropriate City employees regarding the procedures and activities necessary to adequately implement the City’s construction site runoff control program. Conduct training updates or refresher sessions as needed during the following years. Beginning in 2009, the City will begin seeking out webcast opportunities for City employees. The City will seek out relevant webcasts for several different stormwater related topics, with a goal of a minimum of one webcast per year.

Implementation Schedule:

2008	2009	2010	2011	2012+
Seek opportunities for free stormwater related webcasts.	Seek opportunities for free stormwater related webcasts.	Develop Training materials for staff. Seek opportunities for free stormwater related webcasts.	Train City employees regarding implementation of the construction site runoff control program. Seek opportunities for free stormwater related webcasts.	Conduct training updates or refresher sessions as needed. Seek opportunities for free stormwater related webcasts.

BMP CS-3

BMP Name: Conduct Plan Reviews, Inspections, and
Enforcement for Construction Sites

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: Currently, developers, owners and engineers attend a pre-application conference with members of both the City of Newberg Planning and the Public Works Departments. These conferences typically include a discussion of stormwater issues but they do not specifically address construction-related BMPs since the City does not currently have an ordinance requiring construction site runoff controls. Generally, the stormwater discussion is specific to whether detention would be required and what, if any type of treatment should be installed by the developer.

Final construction drawings are required and reviewed, but do not always include an erosion and sediment control sheet. For public (not private) development projects, a pre-construction meeting is held prior to site activity. The City conducts intermittent site inspections during the construction process, but inspections are not focused on erosion control activities.

BMP Description and Proposed Activities: Per the new ordinance developed under BMP CS-1, erosion and sediment control would be discussed at the pre-application meeting and pre-construction meetings. Site plan reviews will include review of erosion and sediment control sheets to ensure that the planned use of BMPs is appropriate, given site conditions and planned construction activities. Once construction commences, the City will conduct inspections to ensure that appropriate BMPs are properly implemented. Inspections by the City will be routine and carried out on a regular basis. Inspections will also be conducted based on complaints received from the public (see BMP PI-3 and PI-4). As will be specified in the City's new ordinance, enforcement activities will be conducted as necessary.

Measurable Goals: Beginning in 2011, conduct plan review, inspection, and enforcement actions necessary to implement the ordinance developed under BMP CS-1. At a minimum, the City's goal will be to conduct plan reviews and at least one inspection for all construction sites.

Implementation Schedule:

2008	2009	2010	2011	2012+
Continue requiring developers to obtain 1200-C permits prior to issuing building permits, when necessary.	Continue requiring developers to obtain 1200-C permits prior to issuing building permits, when necessary.	Continue requiring developers to obtain 1200-C permits prior to issuing building permits, when necessary.	Continue requiring developers to obtain 1200-C permits prior to issuing building permits, when necessary. Implement the construction site runoff control program and conduct plan reviews, inspections, and enforcement activities as specified in the ordinance developed under BMP CS-1.	

2.4.5 Minimum Measure #5 – Post-Construction Stormwater Runoff Control

Requirement(s):

According to the Willamette River TMDL and TMDL Implementation Guidelines (per ODEQ), the DMA must:

1. Develop, implement, and enforce a program to ensure reduction of pollutants in stormwater runoff to the extent practicable from new development and redevelopment projects that disturb one acre or more, or less than one acre if they are part of a larger common plan of development or sale, and if they discharge into the DMA's MS4 drainage system. The DMA's program must ensure that controls are in place that would prevent or minimize water quality impacts.
2. Develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for the DMA's community, and
 - a. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law;
 - b. Ensure adequate long-term operation and maintenance of BMPs; and
 - c. Ensure adequate enforcement of ordinance or alternative regulatory program.

Applicable City of Newberg BMPs:

DS-1: Develop Ordinance to Control Runoff from New and Re-Development

DS-2: Train City Employees Regarding New Development Standards

DS-3: Conduct Plan Reviews, Inspections, Enforcement for New Development

Rationale:

The above three BMPs address all of the requirements listed above.

BMP DS-1

BMP Name: Develop Ordinance to Control Runoff from New and Re-Development

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: Currently, developers, owners and engineers attend a pre-application conference with members of both the City of Newberg Planning and the Public Works Departments. These conferences typically include a discussion of stormwater issues but they do not specifically address post-construction water quality requirements since the City does not currently have an ordinance requiring post-construction stormwater runoff control or formal new development standards for water quality. Generally, the stormwater discussion is specific to whether detention would be required and what, if any type of treatment should the developer install. Stormwater controls for water quality are minimally addressed in the City Development Code. At this meeting, the conditions for approval are established and permit applications are submitted.

Review of the final construction plans includes a review of the drainage sheet, but as there are no new development standards for water quality treatment, usually this review is focused more on conveyance system configuration and design and detention, if required.

The City currently provides incentives for residents and businesses to be proactive in managing stormwater runoff onsite. Incentives include discounts on stormwater fee for managing runoff onsite for different levels of storm events, implementing BMPs for paved surfaces and stormwater quality protection for site runoff, and administering ongoing educational programs for water quality and quantity protection.

BMP Description and Proposed Activities: As specifically stated in the DEQ's requirements, for new and re-development projects that disturb one acre or more, the City will develop an ordinance that will include the following:

- requirements for implementation of BMPs that prevent or minimize water quality impacts,
- requirements for adequate long-term operation and maintenance of the BMPs,
- and enforcement mechanisms/sanctions to ensure compliance.

The City will establish and work with a citizen's committee to assist in the development of this ordinance as described in BMP PI-2. The committee will also consider the need for and potential methods of addressing impacts from new and redevelopment projects that are smaller than one acre. In association with development of an ordinance, the City will review existing new development standards and water quality guidance manuals from other regional jurisdictions and select a manual that will be most appropriate for Newberg with minimal modifications. In addition, the City will evaluate retrofit opportunities and regional facility opportunities for stormwater control and treatment.

Measurable Goals: Develop an ordinance to prevent or minimize pollutants in runoff from new and re-development by the end of 2010.

Implementation Schedule:

2008	2009	2010	2011	2012+
		Develop ordinance to prevent or minimize pollutants from new and re-development projects. Evaluate opportunities for regional stormwater control and treatment facilities.	Evaluate new and retrofit sites for regional stormwater control and treatment facilities.	Evaluate new and retrofit sites for regional stormwater control and treatment facilities.

BMP DS-2
BMP Name: Train City Employees Regarding New Development Standards

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: As described in BMP DS-1, the City Planning and Public Works Departments meets with developers, owners and engineers for a pre-application conference, and this meeting typically includes a discussion of stormwater issues. Although stormwater treatment to control water quality is encouraged during the pre-application meeting, there are no current water quality treatment requirements aside from the use of a water quality manhole.

BMP Description and Proposed Activities: The City will conduct training for new development review requirements for employees who are responsible for implementation of the program requiring water quality standards for new and re-development projects. Training will include review of new requirements, review of applicable best management practices (i.e., the selected guidance manual) and appropriate implementation methods, plan review procedures, inspection procedures, and documentation/reporting procedures. The City will also seek out free stormwater webcasts related to stormwater management for new development and schedule ‘Lunch and Learn’ sessions for employees interested in attending the webcasts.

Measurable Goals: In 2010, conduct one training session for appropriate City employees regarding the procedures and activities necessary to adequately implement the City’s program that requires water quality standards for new and redevelopment projects. Conduct training updates or refresher sessions as needed during future years. Beginning in 2009, the City will begin seeking out webcast opportunities for City employees. The City will seek out relevant webcasts for several different stormwater related topics, with a goal of a minimum of one webcast per year.

Implementation Schedule:

2008	2009	2010	2011	2012+
	Seek opportunities for free stormwater related webcasts.	Train City employees regarding implementation of the water quality development standards program. Inform development community of new requirements.	Conduct training updates or refresher sessions as needed.	

BMP DS-3
BMP Name: Conduct Plan Reviews, Inspections, Enforcement for New Development

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: As described in BMP DS-1, the City Planning and Public Works Departments meet with developers, owners and engineers for a pre-application conference and these conferences typically include a discussion of stormwater issues. Stormwater treatment to control water quality is currently limited to requiring water quality manholes.

Review of the final construction plans includes a review of the drainage sheet, but as there are no new development standards for water quality treatment, usually this review is focused more on conveyance system configuration and design and detention, if required. The property owner is responsible for maintenance of any water quality or detention structure on their property.

Pre-construction meetings are conducted prior to the start of any new public development project. Inspections are conducted intermittently for all projects during construction by City staff.

BMP Description and Proposed Activities: Conduct site plan review for construction sites that are regulated by the new ordinance and new development standards developed under BMP DS-1. Site plan reviews will be conducted to ensure that the planned use of BMPs is appropriate. During and post-construction, inspections will be conducted to ensure that appropriate BMPs are properly installed, operational and maintained.

Measurable Goals: Beginning in 2011, the City will conduct plan review, inspection, and enforcement actions necessary to implement the ordinance developed under BMP DS-1. At a minimum, the City’s goal will be to conduct plan reviews and at least one inspection for all new and re-development projects that disturb more than one acre.

Implementation Schedule:

2008	2009	2010	2011	2012+
			Implement the water quality standards for new and re-development and conduct plan reviews, inspections, and enforcement activities as specified in the ordinance developed under BMP DS-1.	

2.4.6 Minimum Measure #6 – Pollution Prevention in Municipal Operations

Requirement(s):

According to the Willamette River TMDL and TMDL Implementation Guidelines (per ODEQ), the DMA must develop and implement an operations and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. In addition, using training materials that are available from the ODEQ, EPA, or other organizations, the DMA's program must include employee training to prevent and reduce stormwater pollution from activities including, but not limited to, park and open space maintenance, fleet and building maintenance, new municipal facility construction and related land disturbances, design and construction of street and storm drain systems, and stormwater system maintenance.

Applicable City of Newberg BMPs:

OM-1: Develop a Water Quality Sensitive OM Program

OM-2: Train City Employees Regarding Revised OM Practices

OM-3: Conduct Catch Basin Cleaning

OM-4: Conduct Street Sweeping

Rationale:

The above four BMPs address all of the requirements listed above.

BMP OM-1
BMP Name: Develop a Water Quality Sensitive Operations and Maintenance Program

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: The City does not currently have funding or staff available to complete regularly scheduled maintenance on the storm drainage system. Stormwater conveyance system maintenance including maintenance of the stormwater pipe, catch basin, and manhole cleaning occurs on an as needed basis, as problems arise. The City maintains one public detention facility and installs trash racks over most major inlets. The City also performs street sweeping, road surface maintenance, drinking water system operation and maintenance, and limited sanitary sewer utility system operation and maintenance. Other public works operations and maintenance activities are contracted out, such as roadside vegetation control.

BMP Description and Proposed Activities: The City will review and evaluate its existing public works operations and maintenance practices to look for opportunities to revise the practices to ensure that they are performed in ways that will minimize contamination of stormwater discharges. In reviewing existing practices, consideration will be given to modifying activities, schedules, inspection procedures, documentation procedures, and disposal methods for waste generated by municipal maintenance activities. Consideration will also be given to implementing additional non-structural BMPs to reduce pollutants in runoff from areas such as roads, parking lots, maintenance facilities, and storage yards.

Measurable Goals: Complete review and evaluation of the City’s current operations and maintenance program by the end of 2008. Develop a new maintenance manual by 2009 to be implemented by 2010.

Implementation Schedule:

2008	2009	2010	2011	2012+
Review the current municipal operations and maintenance program to determine whether modifications can be made.	Develop a manual of existing practices, modifications, and new practices from other programs.	Implement manual. Review and analyze results for annual report to ODEQ.	Implement manual. Review and analyze results for annual report to ODEQ	Implement manual. Review and analyze results for annual report to ODEQ

BMP OM-2
BMP Name: Train City Employees Regarding Revised OM Practices

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, mercury, and temperature.

Existing Conditions: Operations and maintenance staff are currently trained in accordance with current protocol.

BMP Description and Proposed Activities: The City will conduct training for employees who are responsible for implementation of the modified operations and maintenance practices developed under BMP OM-1. Training will include review of revised practices, schedules, inspection procedures, documentation procedures, and waste disposal methods. The City will address any identified problems with the OM practices during the annual refresher courses, or in the interim if necessary. The City will also seek out free stormwater webcasts related to stormwater management OM practices and schedule ‘Lunch and Learn’ sessions for employees interested in attending the webcasts.

Measurable Goals: By the end of 2010, conduct one training session for appropriate City employees regarding the procedures and activities that are necessary to adequately implement the revised operations and maintenance practices. Conduct training updates or refresher sessions as needed during future years. Beginning in 2009, the City will begin seeking out webcast opportunities for City employees. The City will seek out relevant webcasts for several different stormwater related topics, with a goal of a minimum of one webcast per year.

Implementation Schedule:

2008	2009	2010	2011	2012+
Seek opportunities for free stormwater related webcasts.	Seek opportunities for free stormwater related webcasts.	Train City employees regarding implementation of revised operations and maintenance practices. Seek opportunities for free stormwater related webcasts.	Conduct training updates or refresher sessions as needed. Seek opportunities for free stormwater related webcasts.	

BMP OM-3
BMP Name: Conduct Catch Basin Cleaning

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: The City does not currently have funding, equipment or staff available to complete regularly scheduled maintenance on the storm drainage system. City maintenance of the storm drainage system including catch basins is conducted on an as-needed basis.

BMP Description and Proposed Activities: Establish a program for routine catch basin cleaning. Initially, the City will attempt to clean all catch basins by the end of 2012. Based on the experience gained during this cleaning program, some areas may be prioritized for more frequent cleaning and others may need less frequent cleaning. The focus of the cleaning program will be to prevent accumulated debris from discharging into the storm drain system and to dispose of the debris properly.

Measurable Goals: Develop a routine catch basin cleaning program by 2009 to clean a minimum of one-quarter of the catch basins in Newberg per year. Implement program in 2010.

Implementation Schedule:

2008	2009	2010	2011	2012+
	Develop a routine catch basin cleaning program.	Implement catch basin cleaning program.	Implement catch basin cleaning program.	Implement catch basin cleaning program.

BMP OM-4
BMP Name: Conduct Street Sweeping

Responsible Parties: Department of Public Works

Target Pollutants: This BMP addresses nutrients, bacteria, TSS, and mercury.

Existing Conditions: All curbed City streets are currently swept once every four to six weeks for aesthetic purposes.

BMP Description and Proposed Activities: The City will continue the existing program and evaluate the program for optimization of water quality benefits. After evaluation, the City will develop a new street sweeping program to optimize water quality benefits.

Measurable Goals: Continue to sweep all curbed City streets every four to six weeks. Develop and implement new optimized program by 2009.

Implementation Schedule:

2008	2009	2010	2011	2012+
Continue to conduct street sweeping for all City streets.	Evaluate existing street sweeping program. Develop and implement new program to optimize water quality benefits.	Continue to implement new street sweeping program to optimize water quality benefits.		

2.4.7 Record Keeping, Reporting, and Additional Efforts

Minimum Monitoring Requirements

According to the TMDL Implementation Guidance Document per ODEQ, the TMDL Implementation Plan must address two types of performance monitoring: 1) implementation monitoring and 2) effectiveness monitoring. Implementation monitoring requires tracking of the progress and accomplishments of each activity. Per this SWMP, each BMP would be evaluated per the stated implementation schedule to ensure that the City is conducting activities in conjunction with what is documented. Effectiveness monitoring would require evaluating how well each activity is reducing pollutant loads into the storm system. Per this SWMP, effectiveness monitoring would require some monitoring of how well each BMP is removing pollutants, either qualitatively or quantitatively. As discussed in Section 1.5, as a member of ACWA, Newberg plans to coordinate with other agencies to share data and resources on applicable monitoring for this TMDL.

Record Keeping and Reporting

The TMDL Guidance Document also requires the DMA to submit two types of reports to DEQ on a regular basis: 1) progress report and 2) an implementation plan review report. Both require that records be kept on the activities conducted both on part of the SWMP and the TMDL Implementation Plan as a whole. The progress report would provide the results of implementation and effectiveness monitoring, as described above. The BMP Implementation Schedule in Appendix B provides a clear timeline for implementation. The implementation plan review report would use existing data and other information to evaluate plan effectiveness relative to pollutant reduction goals. If evidence indicates that the Plan (and specifically for the SWMP, the BMPs) are not adequate, then modification to the plan (and/or BMPs) would be necessary.

Table 2-3 outlines the BMPs the City of Newberg is or will be implementing for stormwater quality improvement with regards to the TMDL pollutants. Included in the table are goals and tracking or performance measures for each BMP that will be used for BMP implementation and effectiveness evaluation for the purpose of reporting. There are several BMPs included in the SWMP where specific tracking or performance measures are not applicable. For these BMPs, the City will provide any updates or progress made toward those goals in their annual progress report to ODEQ. These BMPs have been assigned an implementation tracking/performance measure of “track progress” in Table 2-3. Once these tasks are deemed complete by the City, this will also be reported to ODEQ through the means of its annual progress report. The City will submit annual reports starting one year from the date this TMDL implementation plan is approved by ODEQ and each year afterwards. The implementation plan report will be submitted five years after this TMDL implementation plan is approved by ODEQ.

**Table 2-3
 City of Newberg TMDL Implementation Matrix**

Best Management Practice or Activity	Source	Commitment/ Implementation Strategy	Measurable Goal	Implementation Tracking/Performance Measure	Expected Implementation Timeline	Responsible Division	BMP Implementation Status*	Pollutant							
								Nutrients	Bacteria	Total Suspended Solids	Mercury	Temperature**			
Measure No. 1 - Public Education															
PE-1 Implement Stormwater Educational Activities	All	Ongoing Public Education Activities Prepare an educational insert for inclusion in bills Use City website to include stormwater quality tips and information. Periodic News Releases	Community nights, Library Open House, Chamber of Commerce, etc. Annual mailing starting in 2009. Place materials on website As needed	Track number of community nights, topics covered, and attendance. Track how many inserts were mailed. Track updates to website and number of hits to website. Track number of news releases and topics.	Existing Practice; Ongoing June 2009, then ongoing June 2009, then ongoing June 2009, then ongoing	Public Works Public Works Public Works Public Works	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X
PE-2 Participate in the Yamhill Basin Council	Urban Activities	Assure representation at Yamhill Basin Council Meetings Contribute \$1,000 to the Yamhill Basin Council annually, as funds are available.	Attend meetings, exchange information between City and Council Keep receipts for donations on file	Track number of meetings attended and meeting notes. Track funds donated.	Existing Practice; Ongoing January 2009, then ongoing	Public Works Public Works	X X	X X	X X	X X	X X	X X	X X	X X	X X
PE-3 Provide Environmental Marking for Storm Drains	Spills, illicit discharges	Mark storm drains in high profile areas	Mark catch basins as needed 50 catch basins a year	Track number of catch basins marked per year. Track number of catch basins marked per year.	Existing Practice; Ongoing January 2009, then ongoing	Public Works Public Works	X X	X X	X X	X X	X X	X X	X X	X X	X X
Measure No. 2 - Public Involvement															
PI-1 Continue with Public Participation in Reviewing the Stormwater Utility Fee	All	Solicit public input for establishing appropriate stormwater rate structure Meet with existing rate committee to review funding levels	Develop ongoing Citizens' Rate Review Committee Present funding needs to rate committee	Track meeting attendance. Track progress and amount agreed upon and date it is effective.	Existing Practice; Ongoing March, 2008	Public Works Public Works	X X	X X	X X	X X	X X	X X	X X	X X	X X
PI-2 Public Participation in Ordinance and Program Development	Construction site runoff, post construction controls	Solicit public input for development of new ordinances	Develop list of new ordinances needed per goals of SWMP Develop construction site runoff control program ordinance for public review Place document on City website for 30 days.	Track number of ordinances needed. Track public input received. Track progress. Track comments and incorporate as appropriate.	March, 2009 September, 2009 March, 2008; Complete May 2009, then ongoing May, 2009	Public Works Public Works Public Works Public Works	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X
PI-3 Use the City's Website for Education and Reporting of Stormwater Concerns	Spills, illicit discharges	Update website with stormwater information and requesting information from public	Provide a method for citizens to report stormwater concerns on City website. Identify and train staff to respond to incoming reports	Track number of comments received from website feedback mechanism. Track training dates, attendance, and topics covered.	May 2009, then ongoing May, 2009	Public Works Public Works	X X	X X	X X	X X	X X	X X	X X	X X	X X

**Table 2-3
 City of Newberg TMDL Implementation Matrix**

Best Management Practice or Activity	Source	Commitment/ Implementation Strategy	Measurable Goal	Implementation Tracking/Performance Measure	Expected Implementation Timeline	Responsible Division	BMP Implementation Status*	Pollutant					
								Nutrients	Bacteria	Total Suspended Solids	Mercury	Temperature**	
PI-4 Establish Hotline to Receive Complaints from the Public	Spills, illicit discharges	Provide telephone line that is checked continually for incoming reports of water quality issues	Identify and train staff to respond to incoming calls Advertise hotline on website and by placing phone number on utility bills.	Track number of calls received, the content of the calls, and the action taken (if required). Track progress.	December 2009, then ongoing December 2009	Public Works Public Works		X	X	X	X	X	
Measure No. 3 - <i>Illicit Discharge Detection and Elimination (IDDE)</i>													
ID-1 Develop IDDE Plan	Spills, illicit discharges	Respond to spills and illegal dumps	Clean up illicit dumps and implement enforcement by citing violators Implement spill containment; respond to spills with fire department	Track number of citations issued. *Track number of spills responded to by fire department. *Track sources, causes, and resulting water quality problems resulting from spills.	Existing Practice; Ongoing Existing Practice; Ongoing	Public Works Public Works		X	X	X	X	X	
		Develop plan to detect illicit discharges	Develop Draft Illicit Discharge Ordinance Ordinance Approved by City Council	Track progress. Track progress.	April, 2009 August, 2009	Public Works Public Works		X	X	X	X	X	
			Map existing outfalls Prepare inventory	Track progress. Track progress.	Ongoing December, 2009	Public Works Public Works		X	X	X	X	X	
			Develop monitoring plan including plan to follow up on discharges identified Develop plan to address non-stormwater discharges Develop worksheets for inspections	Track progress. Track progress. Track progress.	June, 2010 June, 2010 July, 2010	Public Works Public Works Public Works		X	X	X	X	X	
ID-2 Train City Employees to Implement IDDE	Spills, illicit discharges	Inform staff, public employees, businesses and general public of hazards, new regulations, and proper disposal of waste	Develop training material and program Implement training and notification of staff and public employees; use public education measures to inform businesses and general public	Track progress. Track training provided and attendance. *Track number of stormwater webcast lunch & learns put on for employees. *Track topics of webcasts chosen *Track attendance to webcast brown bags.	August, 2010 October, 2010 January 2009; then ongoing	Public Works Public Works Public Works		X	X	X	X	X	
ID-3 Implement IDDE plan	Spills, illicit discharges	Conduct field screening of outfalls and other elements of plan developed in ID-1	Conduct field screening of outfalls and other elements of plan developed in ID-1	Track number of field screenings performed, results of field screenings, and any follow up actions taken.	October 2010; then ongoing	Public Works		X	X	X	X	X	

**Table 2-3
 City of Newberg TMDL Implementation Matrix**

Best Management Practice or Activity	Source	Commitment/ Implementation Strategy	Measurable Goal	Implementation Tracking/Performance Measure	Expected Implementation Timeline	Responsible Division	BMP Implementation Status*	Pollutant					
								Nutrients	Bacteria	Total Suspended Solids	Mercury	Temperature**	
ID-4 Hazardous Waste Collection Program	Illicit discharges	Provide opportunity for residents to dispose of hazardous waste	Follow up on reports of spills and illicit discharges Offer free hazardous waste collection service twice per year to City residents.	<ul style="list-style-type: none"> Track number of reports received for spills or illicit discharges. Track follow up actions taken. 	October 2010; then ongoing Existing practice; Ongoing	Public Works		X	X	X			
Measure No. 4 - Construction site stormwater runoff control													
CS-1 Develop Ordinance to Control Construction Site Runoff for less than one acre	Construction Site Runoff	Erosion control on public works projects Develop erosion control ordinance.	Use of biobags, haybales, wattles, and other construction practices on construction sites Prepare draft ordinance. Ordinance approved by City Council Select guidance manuals for program implementation	<ul style="list-style-type: none"> Track number of construction projects with erosion control measures. Track progress. Track progress. Track progress. 	Existing Practice; Ongoing February, 2009 September, 2009 July, 2009	Public Works Public Works Public Works Public Works		X	X	X	X	X	
CS-2 Train City Employees Regarding Construction Site Controls	Construction Site Runoff	Identify and train employees for plan review, inspection and enforcement of erosion control ordinance	Develop training materials Conduct training for staff Seek free relevant stormwater webcasts for lunch & learns for interested employees	<ul style="list-style-type: none"> Track progress. Track progress. Track number of stormwater webcast lunch & learns put on for employees. Track topics of webcasts chosen. Track attendance to webcast brown bags. 	December, 2010 January, 2011 January 2009; then ongoing	Public Works Public Works Public Works		X	X	X	X	X	
CS-3 Conduct Plan Reviews, Inspections, and Enforcement for Construction Sites	Construction Site Runoff	Implement erosion control program	City responds to erosion control complaints Conduct plan review Conduct site inspections, enforcement, as necessary	<ul style="list-style-type: none"> Track number of complaints received and follow up actions taken by City. Track number of notices of non-compliance per year. Track number of plans reviewed per year. Track number of erosion control inspections conducted per year. Track number of notices of non-compliance per year. 	Existing Practice; Ongoing February 2011; then ongoing February 2011; then ongoing	Public Works Public Works Building		X	X	X	X	X	
Measure No. 5 - Post-Construction Stormwater Runoff Control													
DS-1 Develop Ordinance to Control Runoff from New and Redevelopment	New Development	Develop ordinance for on-site facilities to prevent or minimize pollutants from new development	Prepare draft ordinance Ordinance approved by City Council	<ul style="list-style-type: none"> Track progress. Track progress. 	August, 2010 December, 2010	Public Works Public Works		X	X	X	X	X	

**Table 2-3
 City of Newberg TMDL Implementation Matrix**

Best Management Practice or Activity	Source	Commitment/ Implementation Strategy	Measurable Goal	Implementation Tracking/Performance Measure	Expected Implementation Timeline	Responsible Division	BMP Implementation Status*	Pollutant				
								Nutrients	Bacteria	Total Suspended Solids	Mercury	Temperature**
			Develop standards and guidelines for on-site facilities	Track progress. Track number of sites reviewed and result of evaluation.	November, 2010 February 2011; then ongoing	Public Works		X	X	X		
			Evaluate Retrofit Opportunities			Public Works		X	X	X		
			Evaluate Opportunities for Implementing Regional Facilities for Existing and New Development	Track number of sites reviewed and result of evaluation.	August 2010; then ongoing	Public Works		X	X	X		
DS-2 Train City Employees Regarding New Development Standards	New Development	Identify staff and train staff on standards, guidelines, plan review, and inspections	Develop training materials	Track progress. Track when training occurred and attendees.	December, 2010 December 2010; then ongoing	Public Works		X	X	X		
			Implement training			Public Works		X	X	X		
			Notification to development community of new requirements	Track progress.	December, 2010	Public Works		X	X	X		
			Seek free relevant stormwater webcasts for lunch & learns for interested employees	•Track number of stormwater webcast lunch & learns put on for employees. •Track topics of webcasts chosen. •Track attendance to webcast brown bags.	January 2009; then ongoing	Public Works		X	X	X		
DS-3 Conduct Plan Reviews, Inspections, Enforcement for New Development	New Development	Implement program for on-site requirements to address stormwater quality	Conduct pre-construction conference	Track number of pre-construction conferences per year.	Existing practice; Ongoing	Public Works		X	X	X		
			Encourage use of water quality facilities for new development	Track number of water quality facilities installed for new development.	Existing practice; Ongoing	Public Works		X	X	X		
			Require plan submittals, conduct plan reviews	Track number of plan submittals and reviews conducted per year.	Existing practice and March 2011; Ongoing	Public Works		X	X	X		
			Start inspection of new facilities	•Track number of inspections done per year. •Track inspection results.	March 2011, then ongoing	Building		X	X	X		
Measure No. 6 - Pollution prevention in Municipal Operations												
OM-1 Develop a Water Quality Sensitive Operations and Maintenance Manual	Public Operations and Maintenance Practices	Develop water quality friendly practices	Place trash racks over major inlets	Track inlets installed with trash racks.	Existing Practices; Ongoing	Public Works		X	X	X		
			Review existing operation and maintenance practices	Track progress.	Existing Practices	Public Works						
			Develop manual of existing practices, modifications, and new practices from other programs	Track modifications to manual.	September, 2009	Public Works		X	X	X		

**Table 2-3
 City of Newberg TMDL Implementation Matrix**

Best Management Practice or Activity	Source	Commitment/ Implementation Strategy	Measurable Goal	Implementation Tracking/Performance Measure	Expected Implementation Timeline	Responsible Division	BMP Implementation Status*	Pollutant				
								Nutrients	Bacteria	Total Suspended Solids	Mercury	Temperature**
OM-2 Train City Employees Regarding Revised O&M Practices	Public Operations and Maintenance Practices	Implementation of water quality friendly O&M practices	Review practices with staff Review new manual with staff	Track progress. *Track number of stormwater webcast lunch & learns put on for employees. *Track topics of webcasts chosen. *Track attendance to webcast brown bags.	December, 2009 January, 2010	Public Works Public Works	X X	X X	X X	X X	X X	
OM-3 Conduct Catch Basin and Storm Drain Cleaning	Stormwater Runoff	Catch Basin Cleaning TV, inspect, and clean stormdrains	Catch Basins cleaned on an as needed basis TV, inspect and clean storm drains as needed	Track number of catch basins cleaned per year. Track length of storm drain cleaned and number of inspections. *Track amount of pipe repaired per year and culvert repairs. *Track number of culverts repaired per year.	Existing Practice; Ongoing Existing Practice; Ongoing	Public Works Public Works	X X	X X	X X	X X	X X	
OM-4 Conduct Street Sweeping	Street Debris	Street sweeping Optimize street sweeping practices for water quality	Street sweeping occurs on select streets every 4 to 6 weeks Evaluate street sweeping program and develop routine street sweeping program to optimize water quality benefits Implement street sweeping program	Track progress. Track progress. Track miles swept per year. Track modifications done to street sweeping program. Track progress.	December, 2009 January 2010; then ongoing Existing Practice; Ongoing March, 2009 April 2009; then ongoing	Public Works Public Works Public Works Public Works Public Works	X X X X X	X X X X X	X X X X X	X X X X X	X X X X X	
*Timeline represents target date for completion or implementation of goal. Some goals that are currently being implemented are not currently being tracked. Tracking measures for these goals will be implemented upon acceptance of this TMDL plan by ODEQ.												
** See separate Temperature Implementation Plan in Section 3.0 of this plan												

3.0 Temperature TMDL

3.1 Background

Elevated temperatures can compromise several beneficial uses for surface waters. ODEQ has reported that resident fish and aquatic life, salmonid spawning, rearing and migration, and anadromous fish passage are the most sensitive beneficial uses related to high temperatures. ODEQ has focused the temperature TMDL on the protection of the cold water salmonids (ODEQ 2006).

Salmonids require cool, well-oxygenated water to survive. Elevated water temperature is a common problem in many tributaries of the Willamette River, resulting in TMDL load allocations and waste load allocations designed to protect and remedy impaired aquatic habitats. Water temperatures in excess of TMDL load allocations make streams uninhabitable for most fish and other aquatic animals. Excessively warm streams lead to a variety of ill effects on many salmon and trout species, ranging from decreased spawning success to death (WDOE 2000). Given the opportunity, juvenile and adult salmon will occupy water that is 13-18° C (55-64° F), with the warmer water selected only if excess food is available. Water temperatures of approximately 23-25° C (73-77° F) are lethal to salmon and steelhead, and genetic abnormalities or mortality of salmonid eggs can occur above 11° C (52° F) (WDOE 2000). The maximum temperature that salmonids can tolerate varies with species, life-stage (e.g., fry, fingerling or adult), prior acclimation, oxygen availability, duration of warmer temperature, and the presence of pollutants. Per the Willamette River TMDL, the temperature criteria for Willamette River tributaries is 18°C to provide for salmon and trout rearing and migration, and 20°C for the mainstem Willamette RM 0 to RM 50 to provide for salmon and steelhead migration corridors.

Through the Willamette Basin TMDL, ODEQ states “waste load allocations will restrict all NPDES point sources and non-point sources to a cumulative increase of no greater than 0.3° C (0.5° F) above the applicable criteria after complete mixing in the water body, and at the point of maximum impact.” There are several factors that can contribute to stream warming such as changes in watershed processes and channel morphology, climate, geographic location, riparian vegetation, dams, reservoirs, and point sources such as industrial waste water discharges (ODEQ 2006).

3.1.1 Surrogate Pollutant

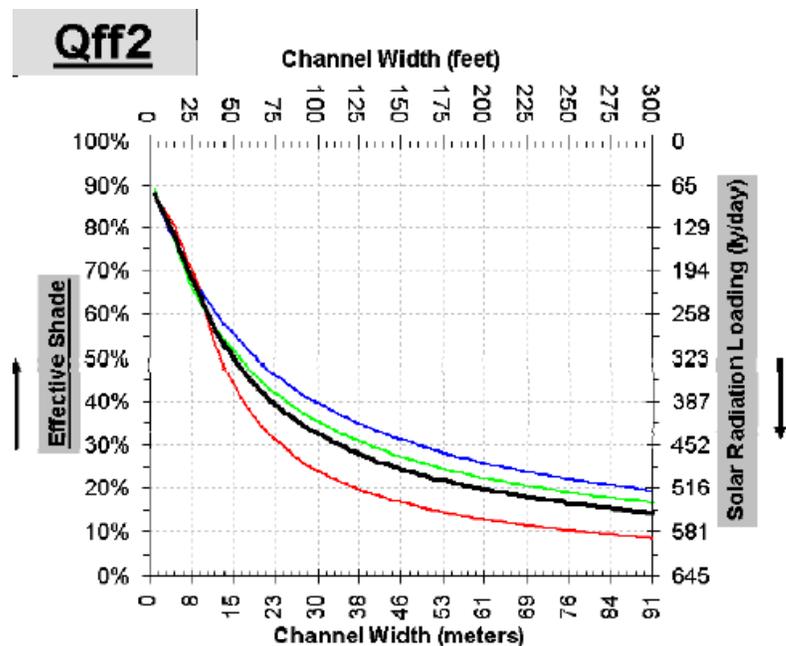
ODEQ has found that the largest contributor to temperature is the increased impacts from solar radiation loads due to disturbances of riparian vegetation. In response to this finding, ODEQ has defined effective shade targets as a surrogate measure for addressing temperature. This means that temperature readings will not be taken. Instead, the increase in effective shade will be monitored to determine if the City is successful in addressing temperature. Effective shade is determined through the use of shade curves on a region-specific basis. ODEQ has developed shade curves for 15 different geomorphic units. The shade curves, used along with stream orientation and width, provide a target for percent effective shade and corresponding solar radiation loading (ODEQ 2006).

Shade is more effective on narrower streams than wider streams because shadows from trees in the riparian zone will cover a larger percent of water surface. Since most tributaries to the Willamette are 20 feet wide or less including those within the City boundaries, riparian vegetation casting shade over the streams is expected to be very effective. This can be projected through the use of the shade curves. The City is classified as the geomorphic unit “Quaternary fine-grained flood deposits”, also known as Qff2. Below is the corresponding shade curve from Figure 7.8 in Chapter 7 of the Willamette TMDL for this geomorphic unit. This curve is specific to the soils for the City. By knowing the width of the channel and its direction from the north, this curve will provide the “amount of percent effective shade that each geomorphic unit tree composition provides to the stream based on the stream’s channel width and stream aspect from north” (ODEQ 2006).

Planting appropriate trees for the soils will enhance the likelihood of success for shading of tributary creeks and streams. Oregon ash, Sitka willow, Pacific willow, red-osier dogwood, black cottonwood, red alder, red cedar, douglas fir, and bigleaf maple are known to be historically dominant riparian trees in the Newberg area.

- 0° or 180°
- 45°, 135°, 225° or 315°
- 90° or 270°
- Average

To determine the percent effective shade for the Willamette tributaries, the percent effective shade was picked off the chart using a channel width of 20 feet and a direction of 0° or 180° from the north since the tributaries within the City of Newberg generally flow from north to south. This resulted in an effective shade goal for City between 75% - 90%. This is interpreted to mean historically prevalent riparian vegetation should block the majority (at least 75%) of solar radiation loading from the streams’ water surface. It should be noted that based on this curve, percent effective shade decreases significantly as the width of the channel increases. Because of this the most effective way to manage temperature in the mainstem of the Willamette River is through its smaller, narrower tributaries.



3.2 Temperature TMDL Analysis

3.2.1 Shade Targets

In order to meet the effective shade targets, the goal for the temperature management plan is to plant and maintain system potential vegetation which is defined by the ODEQ as “riparian vegetation which can grow and reproduce on a site given the plant biology, site elevation, soil

characteristics, and local climate” (ODEQ 2006). In other words, system potential vegetation should be viewed as vegetation historically known to be found throughout Newberg’s eco-region. Efforts should include working with existing and future development to meet these targets. As this riparian vegetation matures, it produces shade and creates a microclimate around the waterway that regulates and minimizes solar radiation. Although other techniques are available for reducing water temperatures, the installation of native riparian corridors provides a cost-effective, relatively simple (low engineering/earthwork) approach that provides multiple benefits beyond temperature regulation. Other benefits include primary production of organic materials, source debris for in-stream channel complexity and habitat features, wildlife corridor connectivity, displacement of noxious vegetation, and visual aesthetics.

A study done by the City of Gresham and Pacific Habitat Services was referenced when creating this plan (Van Staveren 2007). Based on the study, it was determined that to reap the benefits of shade from the system potential vegetation, the vegetated buffer should be at least 35 feet from the stream edge, but expanding the buffer to 55 feet yielded significantly more direct shade. Fifty feet was also deemed acceptable for providing adequate shade. The study found the microclimate under the riparian canopy is equally important in maintaining lower stream temperatures as direct shade. The microclimate created under the vegetative cover keeps air temperature lower during the day (higher at night), and relative humidity is also higher. The microclimate helps to moderate the impacts of higher temperatures outside this cover. The findings from the study apply to streams 25 feet wide or less; these streams received the most effective shade benefits from riparian plantings. Larger waterways, like the Willamette River, receive less effective shade from riparian vegetation, simply due to their dimensions. The majority of tributaries to the Willamette River are within the width limits of this study, including those within the City. These findings are therefore directly applied to the City’s plan.

3.2.2 Identifying Restoration Areas

Methods developed for identifying riparian shade restoration opportunities for this TMDL Implementation Plan were based on work completed by the City of Gresham and Pacific Habitat Services for the Gresham Temperature TMDL. Since the City currently protects a 50-foot wide streamside corridor in their Streamside Corridor Ordinance (there are some exceptions depending on the slope of the ground surface adjacent to the stream), it was decided to base the analysis for Newberg on a buffer width of 50 feet. The core riparian area evaluated for the streams includes all areas within 50 feet of the ordinary high water mark (OHWM) of a stream. This results in a study area that is approximately 120 feet wide in cross section (50’ buffer + 20’ typical stream width + 50’ buffer). Where the OHWM has not been delineated, and only the stream centerline is available, the buffer is increased to approximately 60 feet to include the width of the stream.

The next step is the identification of hard and soft constraints within the core riparian area. These constraints restrict the ability of tree planting due to conflicts with existing structures or land uses. Examples of hard constraints include roadways, utility corridors, and/or rail right-of-way (ROW) corridors as these generally have planting restrictions. Soft constraints are identified as “areas where plant communities other than the native vegetation are more appropriate” (Majidi 2007). Soft constraints include seasonal streams and wetland areas that are

too deeply inundated at various periods of the growing season to support mature woody vegetation. Where rigorous wetland data is available, wetlands capable of being planted with trees (e.g. potential forested wetlands) are eliminated as a constraint. Forested wetlands provide some of the best opportunity for thermo-regulation in perennially saturated areas due to the slow movement of water and often spring-fed hydrology. Seasonal streams lack surface water during the summer when temperatures are most likely to be exceeded. Thus, shade is ineffective in substantially reducing water temperature TMDL exceedances in seasonal streams.

Another soft constraint is land ownership. The riparian areas were identified as public or private properties. Different management strategies need to be developed for public and private riparian areas. Public parks, operated and maintained by the Chehalem Parks District, were identified throughout the City's streamside corridors. Remaining areas are private property. The City has no public properties located along Newberg's streams.

After identifying hard and soft constraints, the remaining portions of the study areas were analyzed using high-resolution aerial photography and false infrared photography to delineate areas that appear to be well vegetated and areas that appear devoid of mature woody vegetation. Other GIS data was utilized as well, including recent restoration areas, noxious vegetation areas, and existing riparian mapping data. These sources were used to further illuminate areas where mature vegetation would be most beneficial, or where plantings have already occurred. A site visit confirmed the findings of the GIS analysis.

Results of this analysis indicated that there is a total of about 110 acres within 50 feet of a stream in the City limits. Of this area, about 38 acres is public land, belonging to the Chehalem Parks District, and about 72 acres are privately owned. About 73 percent of the total acreage is already vegetated and providing shade for the streams. Impervious riparian acreage is about 3.5 acres and wetlands take up about 13 acres.

3.2.3 Cold Water Refugia

The fifth component of TMDL Implementation Plans required by OAR 340-042-0025 is "any other analyses or information as specified in the Water Quality Management Plan." The WQMP for the Willamette Basin TMDL requires cold water refugia to be addressed in TMDL Implementation plans for DMAs within RM 50 of the Willamette mainstem and the confluence of the Columbia River. This stretch of the river has been designated as a migration corridor by OAR Division 41 (ODEQ 2006). Per the WQMP, the TMDL Implementation Plans within this designated area "shall look at identifying existing cold water refugia and provide options for protecting or enhancing such areas. Wherever localized cold water refugia have been altered through channel modification or by other means, consideration should be given to exploring options for restoring or enhancing these areas of cold water refugia where feasible."

Cold water refugia (CWR) can be described as patches of water within a stream that are one or two degrees cooler than the surrounding ambient stream temperature resulting from cool in-flow of tributaries. Studies indicate that CWR may provide critical habitat for salmonids in basins affected by warm temperatures (Bartholow 1995). CWR are associated with different aspects of stream morphology, including side channels, alcoves, lateral seeps, and floodplain spring brooks

(Ebersole 2003). McIntosh et. al. (1998), in their study of CWR in the Klamath Basin using forward-looking infrared (FLIR), concludes that areas of CWR appeared to be at junction where tributaries meet.

Since there are no direct stormwater outfalls to the Willamette River within the City of Newberg's jurisdiction, and all tributaries within the City of Newberg travel through land outside of the City's jurisdiction prior to discharging into the Willamette River, the City of Newberg is unable to implement any measures that will directly protect CWR in the Willamette River. Maintaining and protecting the Willamette River Greenway, which is part of Oregon's Statewide Planning Goal 15, and under discussion with City planners, would provide some protection of CWR within the Willamette River.

3.3 Implementation Strategies and Timelines

As stated earlier, the City does not currently have any public properties along creeks under their jurisdiction at this time. Chehalem Park and Recreation District manages public parks within the City. Private property consists of remaining riparian areas.

This section describes the measures already in place to protect riparian areas and proposed measures the City will undertake to plant effective shade along their creeks and streams. Of importance is the opportunity to protect existing vegetation, which is in place for a large part of the riparian areas within the City, and to plant effective shade through new development.

It should be noted that although the SWMP is a stormwater plan and thus does not specifically address temperature, the City believes that some of the six minimum measures, as indicated in Table 2-3, may also be effective for addressing temperature such as public involvement, public education, and operation and maintenance.

3.3.1 Existing Measures

In response to Statewide Planning Goal 5, the City has designated an area called the Stream Corridor (SC) Overlay Sub-district in an effort to protect the streams within Newberg, as they are considered a natural resource. Part 15 of the City's Development Code is dedicated strictly to the rules and regulations pertaining to the SC area. Section 151.465 defines the purpose of the SC Overlay Sub-district to implement goals and policies of the comprehensive plan that are intended to protect land for open space and protect natural scenic and historic resources, as well as protect and improve the Willamette River Greenway. Section 151.467 of the code states: "the boundaries of the SC areas were established by an ecologist analyzing several environmental values including erosion potential, wildlife habitat, riparian water quality protection, floodplain water quality protection, natural condition, and ecological integrity". These boundaries are typically set at the top of bank, or 50 feet from the wetland edge if the top of bank is not obvious (City of Newberg 2003).

The SC ordinances already in place are an important measure the City is already implementing to protect riparian vegetation. The ordinances cover improvements and expansions of existing structures, new construction, and disturbing current conditions within the SC boundary. Per

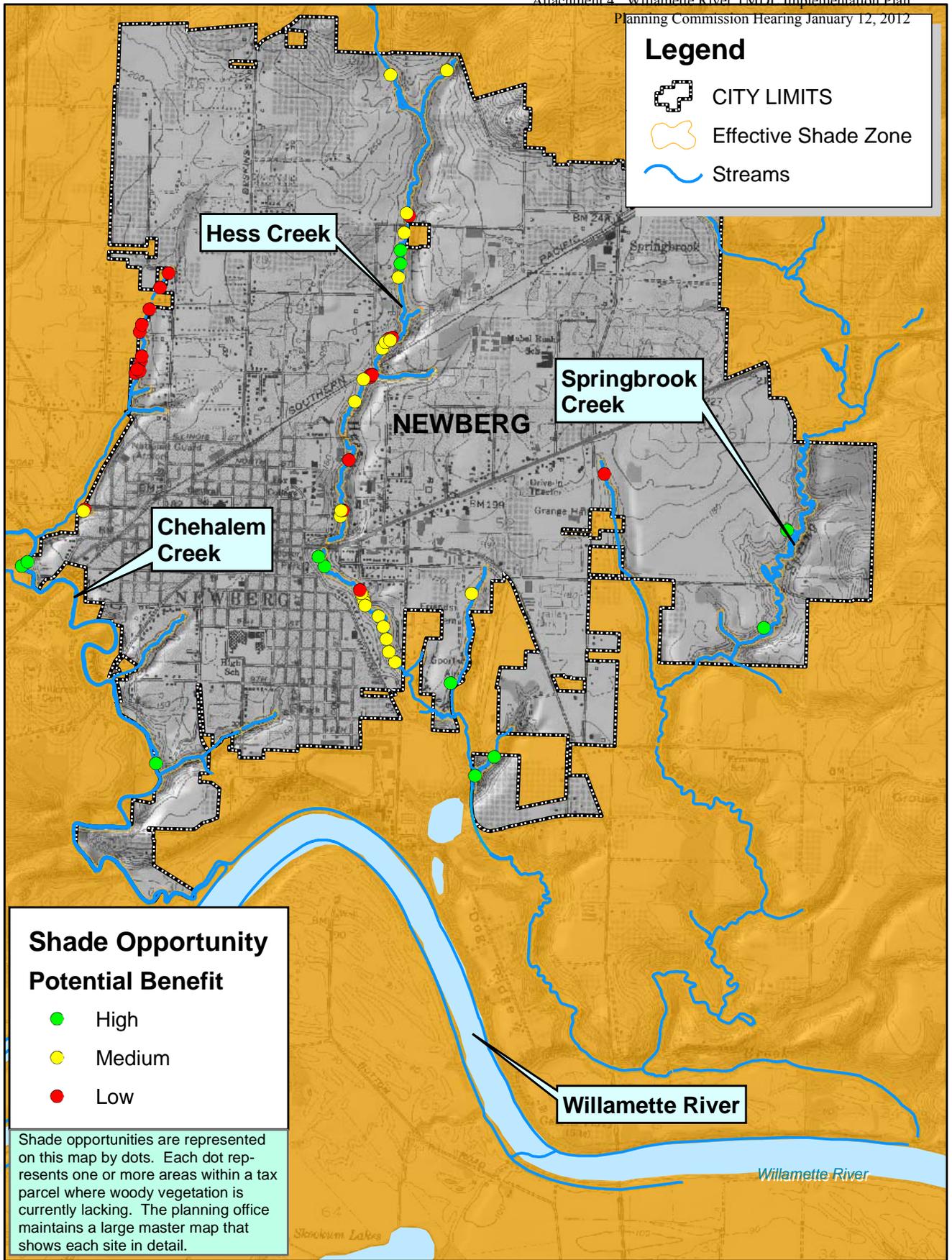
Section 151.470 of Newberg's development code, areas developed or improved within the SC boundaries are required to: re-grade and contour disturbed ground to appear natural with native soils, replant using species from the native Newberg plant list, replace trees to a specific ratio depending on size, and protect disturbed areas with erosion control devices during construction and site stabilization. The City currently implements and enforces this ordinance on both new construction and existing land use. Disturbances to riparian areas require submittal of a planting plan using native vegetation and subsequent restoration. As such, existing riparian vegetation and thus, existing shade, is protected by the City.



1:32,000

Legend

- CITY LIMITS
- Effective Shade Zone
- Streams



Shade Opportunity Potential Benefit

- High
- Medium
- Low

Shade opportunities are represented on this map by dots. Each dot represents one or more areas within a tax parcel where woody vegetation is currently lacking. The planning office maintains a large master map that shows each site in detail.

0 0.5 1 Miles

RIPARIAN SHADE OPPORTUNITIES

CITY OF NEWBERG, OREGON
 WILLAMETTE RIVER TMDL IMPLEMENTATION PLAN

FIGURE 3-1

The SC Overlay Sub-district regulations within the City Development Code are an important step towards meeting shade targets since they provide guidelines and restrictions for development within the riparian restoration areas.

3.3.2 New Development

New development offers opportunities to provide shade through the plan review process. Proposed new developments within the City are already planning to protect riparian corridors and provide natural areas for passive recreation.

3.3.3 Public Education

Public education is a key method to improving water quality conditions within a community. It is vital for the community to understand the cause and effect of their actions in order for them to change behaviors. Within the next year, by December 2008, additional information explaining the effect of riparian shade and cool temperatures for healthy fish will be added to the City’s website. Emphasis will be placed on encouraging protection of existing vegetation, followed by restoring remaining sites.

3.3.4 Incentives

As providing shade on private property is purely voluntary, the City will explore options for providing incentives to property owners to increase tree canopies in riparian areas within existing development and for new development. Options the City will consider include the feasibility of providing planting plans for property owners, providing a portion of the materials for planting in exchange for maintenance agreements, and providing discounts on stormwater fees. This method is similar to an existing incentive program offered in Chapter 53 of the Storm Water System in the City Charter. This method encourages landowners to manage storm water quantity and quality within their property by issuing discounts on the City’s stormwater management fee. Within the next four years, by December 2011, the City will assemble proposals for an incentive plan to present to the public for comment prior to approval by the City Council. Approval of incentives is based on Council action, available funding, and public input. Final approval and implementation of incentives is unknown at this time. A table is provided below for native vegetation within the City of Newberg’s SC Overlay Sub-basin based on land description.

**Table 3-1
 City of Newberg Native Riparian Shade-producing Trees**

Land Description	
Wetlands and lower streambanks	Upper streambanks and upland floodplain
<ul style="list-style-type: none"> • Oregon ash (<i>Fraxinus latifolia</i>) • Sitka willow (<i>Salix sitchensis</i>) • Pacific willow (<i>Salix lucida</i>) • Red-osier dogwood (<i>Cornus sericea</i>) • Black cottonwood (<i>Populus balsamifera</i> spp. <i>Trichocarpa</i>) • Red alder (<i>Alnus rubra</i>) 	<ul style="list-style-type: none"> • Red cedar (<i>Thuja plicata</i>) • Douglas fir (<i>Pseudotsuga menziesii</i>) • Bigleaf maple (<i>Acer macrophyllum</i>) • Red alder (<i>Alnus rubra</i>) • Black cottonwood (<i>Populus balsamifera</i> spp. <i>Trichocarpa</i>)

3.3.5 Prioritizing Restoration Area Opportunities

The City will pursue planting at all available sites provided there are sufficient resources, both funding and staff time, to implement restoration projects to provide shade. In the event there are more opportunities than there are resources, it will be necessary to prioritize projects. A prioritization mechanism was developed that is based on a measure of maximum shade benefit, duration of shade (aspect), fish use, size, and proximity to potential cold water refugia. Various riparian area opportunities, identified with GIS mapping, was numerically scored, using 5 as the highest priority and 0 as the lowest priority, for each of the following factors:

- Aspect: Vegetation on the west and south bank is more effective because Newberg is in the Northern hemisphere with the sun always shining from the south, and the hottest hours of the day are in the afternoon when the sun is further to the west. Riparian vegetation on the South bank (5), west bank and east bank (4), west bank (3), east bank (2), or north bank (1)
- Fish Presence: Downstream (3) of an ODFW designated fish passage barrier or upstream (1) of a barrier
- Rare Species Presence: Presence of species listed as federally endangered or threatened (3) or species not protected under the federal Endangered Species Act (0)
- Size of Improvement Area: Area \geq 1 acre (5), between 0.66 and 0.99 acre (3), between 0.33 and 0.65 (2), and area smaller than 0.33 acres (1)
- Protection of CWR: Within 50ft buffer of potential CWR (5), within 50ft - 100ft buffer of CWR (3), or beyond 100ft from CWR (1)

Each identified restoration area was scored using the above method. The sums of the scores for each area were used to break the areas up into three categories for potential shade benefit: high benefit, medium benefit, and low benefit. See Figure 3-1: Riparian Shade Opportunities for a map of the results. Although the Willamette Basin TMDL only requires protection of CWR in the Willamette River, they were used to categorize shade benefits since studies have indicated that CWR may provide critical habitat for salmonids in basins affected by warm temperatures.

3.3.6 Additional Measures

Many of the BMPs described in Table 2-3 also address temperature. Although the SWMP does not specifically address temperature since it is not considered to be a stormwater pollutant, the City believes some of the BMPs under the six minimum measures described in Table 2-3 may be effective in addressing temperature such as public involvement and public education.

3.4 Measuring and Monitoring

In order to determine progress in planting effective shade, the City will monitor and track efforts identified in this plan. Items to be monitored and recorded include educational efforts, new development areas planted with shade, existing vegetation protected. In a GIS map layer, the City will record the areas currently vegetated and areas needing restoration. As areas are restored or protected, these will be identified and tracked on the GIS layer. Public education efforts will

be tracked including information provided on the website and public questions and responses. This information will be included in the annual report to ODEQ.

4.0 Evidence of Compliance with Applicable Land Use Requirements

Oregon Administrative Rule 340-042-0080(3) defines one of the required elements of a TMDL implementation plan to be evidence of compliance with applicable statewide land use requirements. Below are the findings and conclusions from the general compatibility assessment addressing all the TMDL-related activities and discharges under the City's jurisdiction.

Findings: Newberg's comprehensive plan, originally adopted in 1979, has been acknowledged by the Land Conservation and Development Commission (LCDC) to be in compliance with the Statewide Planning Goals. Since then, the plan has been revised numerous times, most recently in February 2007. The TMDL Implementation Plans are consistent with the City's acknowledged comprehensive plan to the extent required by law.

Although not every BMP and activity contained in the TMDL plan is listed in the comprehensive plan, as a whole the two documents are compatible with similar goals and methods for improving water quality. An important component of Newberg's comprehensive plan is the goals and policies section, which include statements indicating the intent of the Plan and establish directions for future planning decisions and activities. Several of these goals were found to be compatible with this TMDL plan.

There are four specific goals within Oregon City's comprehensive plan that contain intentions similar to the strategies in this TMDL implementation plan. These are parts A, D, E, and G of section II.

Part D of Section II is "to retain and protect wooded areas". There are two policies that are included in this goal which are, 1. "The city shall encourage the preservation of wooded areas for wildlife habitat and limited recreational uses" and 2. "Development in drainageways shall be limited in order to prevent erosion and protect water quality. Trees provide needed protection from erosion and should be maintained." The first policy within this goal relates to the management strategies recommended for temperature, since shade from trees in riparian zones was established as the surrogate for temperature. The intent of the second policy relates to the erosion control BMPs under minimum measure #4: construction site runoff control.

Part E of Section II is "to maintain and, where feasible, enhance the air, water and land resource qualities within the community." There are several policies under this goal. Examples of a few that pertain to this TMDL plan are, policy 2 which states, "water quality in the Willamette River and tributary streams shall be protected", policy 5 stating, "new industry should be located in areas which minimize impacts upon the air, water, and land resource base, as well as upon surrounding land uses", and policy 12 which states, "The City will require development to establish and maintain adequate levels of natural area buffers between new development and the waterways in the riverfront District." Some policies, such as policy 12 provide more specific wording that directly relates to specific sections of this TMDL, like temperature. Other policies are more general but share the general idea and intent of this plan.

Part G of Section II covers open space, scenic, natural, historic and recreational resources and is broken into three goals. The first goal, “to ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected” relates to this plan. There are numerous policies under this goal, many of which are directly or indirectly related to the intent of this plan. A few examples are policy 1.a. stating, “the dedication of easements for public drainageways and stream corridors should be encouraged when properties are either developed or redeveloped” and policy 1.g. stating “The City shall coordinate with State and Federal agencies to protect identified wetland areas”. These policies again support the intent of this TMDL plan by identifying water bodies within the city as important resources to be protected.

Conclusion: Newberg’s acknowledged comprehensive plan has components that are pertinent to the TMDL Implementation Plans. Based on the above findings, this TMDL plan is considered to be compatible with the land use requirements as set forth in the comprehensive plan.

5.0 References

Bartholow, J.M. and J.A. Henriksen. 2006. Assessment of Factors Limiting Klamath River Fall Chinook Salmon Production Potential Using Historical Flows and Temperatures. USGS Open File Report 2006-1249. 111 p.

City of Newberg. 2003. Newberg, Oregon Charter. Chapter 53: Stormwater System, Chapter 151: Development Code

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Majidi, Kathy. 2007. VOLUME III: Gresham's Temperature TMDL Implementation Plan, Natural Resources Program Watershed Management Division, Department of Environmental Services, City of Gresham, Oregon.

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Van Staveren, John. 2007. Gresham's Response to Temperature TMDLs. Presentation made at the Clean Water Act & TMDLs Conference. January 26, 2007. Portland, Oregon.

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Appendix A

Oregon Department of Environmental Quality Notification Letter



Oregon

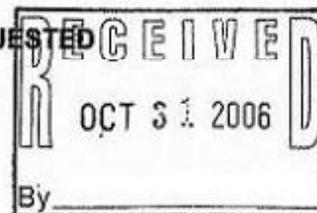
Theodore Kulongoski, Governor

Department of Environmental Quality
Western Region Eugene Office
1102 Lincoln Street, Suite 210
Eugene, OR 97401
(541) 686-7838
FAX (541) 686-7551
TTY (541) 687-5603

October 17, 2006

Dan Danicic
City of Newberg
PO Box 970
Newberg, OR 97132

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**



Re: Issuance of Willamette Basin TMDL and Water Quality Management Plan

Dear Dan Danicic,

On September 21, 2006, the Department of Environmental Quality (DEQ) issued the Willamette Basin Total Maximum Daily Load (TMDL) as an Order, and submitted the TMDL to the Environmental Protection Agency (EPA) for approval. This is a huge milestone and comes after many years of working closely with the Willamette TMDL Council and other basin partners to develop a TMDL that was approved by EPA on September 29, 2006. When implemented, it will result in a cleaner, healthier Willamette River for current and future generations.

The Willamette River and numerous tributaries do not currently meet several water quality standards including bacteria, mercury and temperature. These standards assure that beneficial uses of the river and tributaries, such as swimming, fish consumption and fish rearing, are protected. When water quality standards are not met, the federal Clean Water Act requires a TMDL to be established. A TMDL determines how much pollution can be added to the river without exceeding water quality standards.

This letter is intended to provide you with notification that the TMDL has been issued as an order and that the summary of responses to comments is available as directed under OAR 340-042-0050 to 0070. Copies of the final TMDL, Water Quality Management Plan (WQMP) and Response to Comments are available on the DEQ Website at <http://www.deq.state.or.us/wq/tmdls/willamettebasin.htm>

Water quality improvements will depend on the actions of Willamette Basin communities, businesses and citizens. DEQ has named certain federal, state and local governments and agencies, including cities, counties and special districts, as Designated Management Agencies (DMA), as these governments and agencies have authority to manage and regulate sources of pollutants listed in the TMDL. The City of Newberg has been identified as a DMA. Upon issuance, the TMDL is an order that requires the City to develop and carry out its own implementation plan outlining actions the City will take to meet the requirements of the TMDL. The implementation plan must be submitted to DEQ within 18 months of September 21, 2006, unless that timeline is extended by DEQ.

These implementation plans will describe the actions that municipalities and agencies will undertake to reduce pollution in order to help restore and protect water quality. You may already have plans or strategies in place that help prevent or control water pollution, such as Storm Water Management Plans or road maintenance plans, but these plans may not address all of the TMDL pollutants. The Implementation Plan will be built upon these efforts and may include additional steps that will be taken over time to improve water quality.

DEQ will work in partnership with you to provide assistance and support in development of the implementation plan. Nancy Gramlich (503-378-8240 x259), DEQ's basin coordinator, is available to provide you and your staff with technical assistance for plan development.

We look forward to working with you to improve water quality in the Willamette Basin. If you have any questions about the TMDL overall or would like to request a copy/CD of the TMDL/WQMP, please call Mike Wolf in our Eugene Office at 541-686-7848.

Sincerely,


Kerri L. Nelson, Administrator
Western Region

Encl

Cc:

Appendix B
BMP Implementation Schedule

TYPE III, QUASI-JUDICIAL PUBLIC HEARING PROCEDURE

1. OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS¹
2. CALL FOR ABSTENTIONS, BIAS, EX-PARTE CONTACT, AND OBJECTIONS TO JURISDICTION
3. STAFF REPORT
 - A. PROJECT SUMMARY AND RECOMMENDATION BY STAFF
 - B. STAFF SUMMARY OF LATE CORRESPONDENCE SUBJECT TO PLANNING COMMISSION REQUEST²
4. PUBLIC TESTIMONY (SEE "HOW TO TESTIFY")^{3 4}
 - A. PROPONENTS (PRINCIPLE PROPONENT/S FIRST, THEN OTHERS OR UNDECIDED)
 - B. OPPONENTS AND UNDECIDED
 - C. PRINCIPAL PROPONENT REBUTTAL
5. QUESTIONS OF PROPONENTS AND OPPONENTS FROM THE PLANNING COMMISSION DIRECTED THROUGH THE CHAIR
6. STAFF SUMMARY OF WRITTEN TESTIMONY FROM REGISTRATION FORMS
7. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING (GAVEL)
8. FINAL COMMENTS FROM STAFF
9. DELIBERATION OF COMMISSION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT
10. ACTION BY THE PLANNING COMMISSION

NOTE: No new public hearings will be started after 10:00 p.m. (except by majority vote of the Commission).

¹ The Chair of the Planning Commission may set time limits on the public testimony portion of the hearing.

² ORS 197.763(3)(j) allows the City to establish procedures for submittal of evidence. The Planning Commission has established a period of one week prior to hearing for submittal of written evidence in order to be considered at the hearing. Written testimony received late will only be considered at the discretion of the Planning Commission.

³ Questions by those wishing to testify should be directed to the Chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

⁴ Questions may be asked by the Commissioners thru the chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

**QUASI-JUDICIAL
PUBLIC HEARING PROCESS
TESTIMONY AND EVIDENCE REQUIREMENTS**

ORS 197.763 requires certain statements to be made at the commencement of a public hearing.

- The applicable City and State zoning criteria must be listed. This means that we must advise you of the standards that must be satisfied by the applicant prior to our approval of an application. The Planning Staff will list the applicable criteria during his or her presentation of the staff report.
- Persons wishing to participate in this hearing must direct their testimony or the evidence toward the criteria stated by the Planner or other specific City or State criteria which you believe apply. You must tell us why the testimony or evidence relates to the criteria.
- Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised in person or by letter at the local level prior to the City approving or denying the application. The law states that the issue must be raised in enough detail to afford the decision-maker and the parties an opportunity to respond. This part of the law is also known as the "raise it or waive it" requirement. If you do not bring it up now, you can't bring it up at LUBA.
- Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval in enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.
- Prior to the conclusion of the initial evidentiary hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission will grant such a request through a continuance or extension of the record.

**PLANNING COMMISSION STAFF REPORT
THORNE PARK SUBDIVISION**

HEARING DATE: January 12, 2012

FILE NO: SUB3-08-009

REQUEST: Tentative plan approval for a four-lot subdivision; one of the proposed lots contains a portion of the city's mapped stream corridor

LOCATION: Mountainview Drive and Thorne Street; adjacent to 1800 Mountainview Drive

TAX LOT: 3217BA-00300

APPLICANT: Mart Storm is the applicant and owner of the property

ZONE: R-1 (Single Family Residential)

PLAN DISTRICT: LDR

OVERLAYS: Stream Corridor (on a portion of proposed lot 4)

ATTACHMENTS:

- Order 2012-01 with
- Exhibit "A": Findings
 - Exhibit "B": Conditions
 - 1. Aerial Photo
 - 2. Tentative Plan
 - 3. Application
 - 4. Page C-6 of the Springbrook Master Plan application – Hess Creek Crossing Plan and Profile
 - 5. Public Comments/Correspondence- None Received as of 1/5/12



A. DESCRIPTION OF APPLICATION: The applicant, Mart Storm, has requested approval to subdivide a piece of property into four lots. One of the proposed lots contains a portion of the city's mapped and protected stream corridor. All four of the proposed lots would have access to Thorne Street. The lots range in size from 6000 square feet to 13,776 square feet, and all exceed the minimum lot size required for the R-1 zone.

B. SITE INFORMATION:

1. Location: Adjacent to 1800 Mountainview Drive at Mountainview Drive and Thorne St.
2. Size: 38,500 square feet.
3. Topography: Southeastern slope into Hess Creek on the eastern boundary of proposed lot 4.
4. Current Land Uses: The parcel is currently vacant.
5. Natural Features: The Hess Creek stream corridor is located along the eastern edge of proposed lot 4; the stream corridor area will be delineated and protected during site grading and construction. The site also contains one large tree along its eastern side and one large orchard on most of the rest of the site, much of which will likely be removed during site construction.
6. Adjacent Land Uses:
 - a. North: vacant
 - b. East: single-family residential
 - c. South: single-family residential
 - d. West: single-family residential
7. Access and Transportation: The proposed subdivision is bounded by Mountainview Drive at the north side adjacent to proposed lot 1, and by Thorne Street along the west adjacent to lots 1, 2, and 3. Mountainview Drive is classified in the Transportation System Plan (TSP) as a minor arterial, which would require a 60' – 80' right-of-way (ROW) width. Mountainview Drive currently has substandard ROW width; however, the applicant proposes to dedicate 15' of ROW to make a half-street width of 35'. Thorne Drive is a limited residential street with an existing standard 50' of ROW and no dedication is necessary.
8. Utilities:
 - a. Sanitary Sewer: All of the lots would be served by the existing 18-inch line in Thorne Street.
 - b. Water: All of the lots would be served by the existing 6-inch line in Thorne

Street.

- c. Storm: Lots 2, 3, and 4 would run their stormwater east and discharge into the Hess Creek stream corridor; lot 1 would discharge stormwater north into the existing 12-inch line in Mountainview Drive.

C. PROCESS: The subdivision request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission will hold a quasi-judicial hearing on the application. The Commission is to make a decision on the application based on the criteria listed in the attached findings. The Planning Commission's decision is final unless appealed. Important dates related to this application are as follows:

1. December 20, 2011: The planning director deemed the application complete.
2. December 20, 2011: The applicant mailed notice to the property owners within 500 feet of the site.
3. December 21, 2011: The applicant posted notice on the site.
4. December 28, 2011: The *Newberg Graphic* published notice of the Planning Commission hearing.
5. January 12, 2012: The Planning Commission will hold a quasi-judicial hearing to consider the application.

D. AGENCY COMMENTS: The application was routed to several public agencies for review and comment. Comments and recommendations from city departments have been incorporated into the findings and conditions. As of the writing of this report, the city received the following agency comments:

1. Newberg School District: *Reviewed; no conflict*
2. PGE: *Development cost per current tariff and service requirements. 10-foot PUE required on all front street lots.*
3. Waste Management (Jack Miller): *Reviewed; no conflict*

E. PUBLIC COMMENTS: As of the writing of this report, the city has not received any written public comments.

F. ANALYSIS: The proposed subdivision meets the applicable code criteria, with conditions. One of the main conditions concerns street improvements to Mountainview Drive. This is a minor arterial that will be fully improved in the future as the Springbrook Development proceeds. However, Mountainview Drive is largely substandard now, with a narrow roadway and lack of sidewalks. Therefore, the applicant is conditioned to construct a sidewalk at grade along the Mountainview Drive frontage, along with a curb ramp where the sidewalk meets the new Thorne Street sidewalk. Because the entire road will be improved in the future, and the grades may change, the applicant is conditioned to make a payment-in-lieu of doing an actual half-street improvement to Mountainview Drive at this time.

- G. PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Order 2012-01, which approves the requested subdivision tentative plan with the attached conditions.



**AN ORDER APPROVING SUB3-08-009 FOR A FOUR LOT SUBDIVISION LOCATED
ADJACENT TO 1800 MOUNTAINVIEW DRIVE, YAMHILL COUNTY TAX LOT
3217BA-00300**

RECITALS

1. Mart Storm submitted an application for tentative plan approval for a four lot subdivision adjacent to 1800 Mountainview Drive, Yamhill County Tax Lot 3217BA-00300. One of the proposed lots includes a portion of the city's mapped and protected stream corridor.
2. After proper notice, the Newberg Planning Commission held a hearing on January 12, 2012 to consider the application. The Commission considered testimony and deliberated on the item.
3. The Newberg Planning Commission finds that the application meets the applicable criteria as shown in the findings attached in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. The tentative subdivision plan application SUB3-08-009 is hereby approved, subject to the conditions contained in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.
3. This order shall be effective January 27, 2012 unless appealed prior to that date.
4. This order shall expire two years after the effective date above if the applicant does not record the final plat by that time, unless an extension is granted per Newberg Development Code 15.235.130(B).

Adopted by the Newberg Planning Commission this 12th day of January, 2012.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Findings

Exhibit "B": Conditions

**Exhibit “A” to Planning Commission Order 2012-01
Findings –File SUB3-08-009
Thorne Park Subdivision**

I. Applicable Subdivision Criteria: Newberg Development Code 15.235.060(A).

The Director (Type II) or Planning Commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.

Finding: Approval will not impede the future best use of the property as the entirety of the property will be divided into buildable lots. Approval of the requested subdivision would improve the area by adding sidewalks along the Thorne Street and Mountainview Drive frontages.

2. The subdivision complies with this code including but not limited to 15.340.010 through 15.440.080 and 15.235.030 et seq.

Finding: Following compliance with the conditions of approval as shown in Exhibit B, the subdivision complies with all applicable requirements of the code. See sections II through IV for specific Development Code standards and findings.

3. Either:

a. Improvements required to be completed prior to final plat approval; or

b. The sub divider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or

c. A local improvement district shall have been formed to complete the required improvements; or

d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

Finding: The required improvements will either be completed prior to final plat or the developer will enter into an agreement with the city for the remainder of the improvements to be completed. In this

case, public improvements to the Mountainview Drive frontage will partly be constructed and partly paid for by a payment-in-lieu contract with the city. The Newberg City Council adopted Resolution 2329 in 2001 establishing a procedure for payments-in-lieu of constructing public improvements when it is determined that construction of the improvements is more practical at a later date. Mountainview Drive will be fully improved in the future concurrent with development along the north side, and this payment-in-lieu will be put toward that construction.

II. Applicable Lot Requirement: Newberg Development Code 15.405.010, Lot Area; Lot Areas per Dwelling Unit

A. In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code:

1. In the R-1 district, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict. The average size of lots in a subdivision intended for single-family development shall not exceed 10,000 square feet.

Finding: Each of the proposed four lots exceeds 5,000 square feet in size.

III. Applicable Lot Requirements – Newberg Development Code 15.405.030 Lot Dimensions and Frontage

A. Width. Widths of lots shall conform to the standards of this code.

B. Depth to Width Ratio. Each lot and parcel shall have an average depth between the front and rear lines of not more than two and one-half times the average width between the side lines. Depths of lots shall conform to the standards of this code. Development of lots under 15,000 square feet are exempt from the lot depth to width ratio requirement.

C. Area. Lot sizes shall conform to standards set forth in this code. Lot area calculations shall not include area contained in public or private streets as defined by this code.

D. Frontage.

1. No lot or development site shall have less than the following lot frontage standards:

a. Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in NMC 15.05.030, shall be created to provide frontage or access.

b. Each lot in an R-2 and R-3 zone shall have a minimum width of

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30 feet at the front building line.

c. Each lot in an R-1, AI, or RP zone shall have a minimum width of 50 feet at the front building line.

d. Each lot in an AR zone shall have a minimum width of 45 feet at the front building line.

Finding: Each proposed lot meets the required width for the R-1 zone, and each lot is less than 15,000 square feet in size and exempt from meeting the depth to width ratio. Lots 1, 2, and 3 have adequate frontage on Thorne Street, and lot 4 has a 25-foot wide access easement to Thorne Street across the south side of lot 3.

IV. Applicable Development Standards

NDC 15.510.040: Water Supply. All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Newberg.

NDC 15.510.050: Sewage. All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of this Code, be served by the sewage system of the City.

NDC 15.510.060: Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under 15.510.030.

NDC 15.505.030: Streets and Alleys. The land divider or developer shall grade and pave all streets and alleys in the subdivision or partition to the width specified in 15.505.060, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under 15.510.030. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider or developer to provide street signs

NDC 15.505.040: Existing Streets. A subdivision, partition or development requiring a Type II design review abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in 15.505.060.

NDC 15.505.210: Sidewalks. Sidewalks shall be located and constructed in accordance with the provisions of 15.510.030. Minimum width is five feet.

NDC 15.505.220.(A): Public Walkways. The review body for a design review or

land division may require easements for and construction of public walkways where such walkway is needed for the public safety and convenience or where the walkway is necessary to meet the standards of this code or a walkway plan. Public walkways are to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other community destinations or public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate public utilities.

NDC 15.510.070: Street Trees. Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of 15.420.010(B) (4).

Finding: All of the proposed lots will be served by a 6-inch public water line and an 18-inch sanitary sewer line in Thorne Street. The stormwater for lots 2, 3, and 4 will drain to the Hess Creek stream corridor, and the stormwater for lot 1 will drain north to a 12-inch line in Mountainview Drive.

The proposed subdivision is bounded by Thorne Street along the west side and by Mountainview Drive to the north. Thorne Street is a limited residential street with a 50 ft right-of-way. Thorne Street currently has 50 ft of right-of-way and no dedication is required; however, the applicant is conditioned to improve the Thorne Street frontage with 5 ft sidewalks. Mountainview Drive is a minor arterial that needs 60-80 ft of right-of-way to be fully improved with sidewalk, planter strip, curb, gutter, bike lanes, two travel lanes, and a center turn lane. Mountainview Drive currently has a substandard right-of-way width, and the applicant is conditioned to dedicate 15 ft along the Mountainview Drive frontage to create a 35 ft half-street width. The applicant is conditioned to improve the Mountainview Drive frontage with sidewalk, and to make a payment-in-lieu of further street improvements to allow Mountainview Drive construction to be completed as a whole project in the future concurrent with development along its north side. Street trees along both Mountainview Drive and Thorne Street will be required as a condition of the subdivision.

V. Applicable Newberg Comprehensive Plan Section: Public Facilities and Services, All Facilities and Services Policy #1.h.

Finding: According to the finding above for Development Code requirements for infrastructure, the proposed subdivision complies with the policy to have paved streets, curbs, pedestrian ways, water, sewer, storm drainage, street lights and underground utilities, and meets the intent of the Newberg Comprehensive Plan.

VI. Conclusion: Based on the above-mentioned findings, the application meets the required criteria within the Newberg Development Code, subject to completion of the attached conditions.

Exhibit B to Planning Commission Order 2012-01
Conditions of Approval – File SUB3-08-009
Thorne Park Subdivision

A. The applicant must provide the following information for review and approval prior to construction of any improvements:

1. **Revised Tentative Plan:** Provide a revised tentative subdivision plan that shows the following:
 - a. An easement to provide water service to lot 4.
 - b. Either adjust the location of the 5 ft private storm drainage easement benefitting lots 2 and 3 so that it is not located on the parcel adjacent to the proposed subdivision (north of proposed lot 4), OR provide a recorded instrument permitting the easement to cross the adjacent parcel north of proposed lot 4.
 - c. Show the location of the floodplain on lot 4.
2. **Construction Plans:** Submit engineered construction plans for review and approval of all utilities, public street improvements, and any new public streets being constructed. Plans should be drawn to show storm and street information on one sheet; water and sanitary on another sheet. Please note that additional Engineering Division plan review application and fees apply for review of plans. The plans must note the following:
 - a. Utilities:
 - i. Submit detailed utility construction plans for review and approval for all public water meters and sanitary sewer laterals.
 - b. Streets:
 - i. Provide a 5 ft sidewalk along the Mountainview Drive frontage. The remaining half-street improvements shall be done through a payment-in-lieu of constructing the improvements so that they can be done as a whole in the future. The sidewalk should be placed at the grade of the proposed elevation for Mountainview Drive as shown in the Springbrook Master Subdivision Hess Creek Crossing Plan and Profile (shown in attachment 4). The curb ramp and sidewalk should be located to allow Mountainview Drive to be built to the full minor arterial standard with bike lanes, two travel lanes, and a center turn lane. Note that a 30 ft radius corner is required.

- ii. The sidewalk along the Thorne Street frontage must be 5 ft wide.
- c. Stormwater:
 - i. Submit an engineered outfall plan for the stormwater outfall to Hess Creek, to be approved by the City Engineer.
 - ii. Delineate the stream corridor and provide a plan to protect the stream corridor during site grading and construction.
- 3. **Street Tree Plan:** Provide a landscape plan that identifies all planned tree species for street trees in accordance with NDC 15.420.010. A landscape bond will be required for installation of street trees prior to final plat approval.
- 4. **Grading:** Obtain a DEQ 1200-C permit and a city grading permit prior to grading.
- 5. **Vision Clearance:** Verify that the 25 ft vision clearance and adequate sight distance requirement can be met for the driveway to lot 4.

B. The applicant must complete the following prior to final plat approval.

- 1. **Substantially Complete the Construction Improvements:** Prior to final plat approval, the applicant must substantially complete the construction improvements and secure for them in accordance with city policy. Complete construction and call for a walk-through inspection with the Engineering Division (503-537-1273). In addition to those items listed below, the inspector will also be looking for completion of items such as street signs, street lights, etc.
 - a. Construct curb, ADA ramp, and sidewalk along Mountainview Drive.
 - b. Construct all water meters and sanitary sewer laterals as shown on the approved utility construction plans.
 - c. Construct the stormwater outfall as shown in the approved plans.
- 2. **Payment-in-lieu:** Make a payment-in-lieu for future street improvements to Mountainview Drive. Submit an engineer's estimate for 110% of the actual construction cost per lineal foot of improvements following public contracting laws for review and approval by the City Engineer. The estimate should be made for 17 feet of pavement width plus curb, gutter, planter strip, and striping.
- 3. **Fence Removal:** Remove the electrified fence along the sidewalk on Thorne Street.
- 4. **Street Signs:** Replace the stop and street signs at the corner of Thorne Street and Mountainview Drive.

5. **Existing Wells/Septic:** Decommission any wells or septic tanks currently on the property.
6. **Remove Driveway:** Remove existing driveway for lot 1 onto Mountainview Drive. Note that the driveway for lot 1 must be located along the south property line on Thorne Street.

C. Final Plat Application: In accordance with NDC 15.235.150, submit the following for City review of the final plat application. Construction improvements should be substantially complete at this point.

1. Application Materials:

- a. Type I application form (found either at City Hall or on the website – www.newbergoregon.gov in the Planning Forms section) with the appropriate fees.
- b. A current title report (within 6 months old) for the property. Include copies of all existing easements and CC&Rs that pertain to the property.
- c. A written response to these Conditions of Approval that specifies how each condition has been met.
- d. Two blue-line copies of the final subdivision plat for preliminary review by the City Engineering Division. The Engineering Division will make red-line comments on these sheets for your surveyor/engineer to correct prior to printing final Mylar copies.
- e. If applicable, provide a recorded instrument permitting the private utility easement to cross the adjacent parcel north of proposed lot 4.

2. Dedications/Easements Required: The plat must show the following:

- a. 15 ft right-of-way dedication along the Mountainview Drive frontage of lot 1.
- b. 10 ft public utility easements along all street frontages.
- c. An access easement across lot 3 to benefit lot 4.
- d. All private water, stormwater, and sanitary sewer easements for lots 2, 3, and 4.

3. Documents Required: Provide the following documents for review and approval:

- a. A signed and notarized performance agreement that assures construction and performance in accordance with the approved final plans.

- b. A bond for street tree planting in an amount to be approved by the Planning Division.
- c. A final draft copy of any Codes, Covenants and Restrictions (CC&Rs) for the subdivision. Planning staff will review the proposed CC&Rs for compliance with City Code prior to recordation.

4. **Final Mylar Copies of the Subdivision Plat:** Submit final mylar copies of the corrected final subdivision plat (after red-line corrections have been made).

- a. Three sets (one original and two copies) of the plat. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor’s specifications and requirements. Scale requirements shall be the same as specified for the tentative plans.

D. The final plat process must be completed prior to issuance of any building permits. The City will review the final plat application after the applicant has completed all of the conditions of approval listed above.

1. **City Review:** In accordance with NDC 15.235.160 and 15.235.180, Planning staff shall determine that:

- a. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
- b. The proposal complies with this code.
- c. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision, as approved.
- d. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
- e. Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision have been accounted for and referenced on the plat.
- f. There will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
- g. Either:
 - i. Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or

- ii. A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or
 - iii. A petition for improvements has been properly executed by the applicant who is effecting the subdivision and will be assessed for said improvements.
 - h. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
 - i. The subdivider has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.
 - j. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.
2. **Required Signatures:** According to NDC 15.235.180, approval of a final subdivision plat must be acknowledged and signed by the following:
- a. Planning and Building Director
 - b. The County Assessor
 - c. The County Surveyor
 - d. The City Recorder
3. **Recording:** Deliver the approved subdivision plat to the office of the County Clerk for recording. The County Clerk's office is located at 414 NE Evans St, McMinnville, OR 97128.
4. **Completion:** Return an exact copy of the recorded plat to the Director to complete the subdivision process.

E. Development Notes:

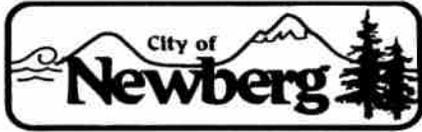
- 1. **Postal Service:** The applicant shall submit plans to the Newberg Postmaster for approval of proposed mailbox delivery locations. Contact the Newberg Post Office for assistance at 503-554-8014.

2. **PGE:** PGE can provide electrical service to this project under terms of the current tariff which will involve developer expense and easements. Contact the Service & Design Supervisor, PGE, at 503-463-4348.
3. **Frontier:** The developer must coordinate trench/conduit requirements with Frontier. Contact the Engineering Division, Frontier, at 541-269-3375.
4. **Waste Management:** Contact Waste Management for garbage service to the new lots.
5. **Addresses:** The Planning Division will assign addresses for the new subdivision. Planning Division staff will send out notice of the new addresses after they receive a recorded mylar copy of the final subdivision plat.
6. **Soil Stability:** Submit a stability analysis prepared by a geotechnical expert prior to building permit approval on lot 4.
7. **Thorne Street Sidewalks:** Sidewalks along Thorne Street are required prior to building final occupancy for each lot.

Attachment 1: Aerial Photo



"Working Together For A Better Community-Serious About Service"
Z:\FILES.S\2011\SUB3-08-009 Thorne Park\Thorne Park staff report_2011-1227.doc



TYPE II APPLICATION (LAND USE) -- 2011

File #: SUB3-08-009

TYPES -- PLEASE CHECK ONE:

- Design review
 Tentative Plan for Partition
 Tentative Plan for Subdivision
 Type II Major Modification
 Variance
 Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: MART STORM
 ADDRESS: 22965 SunnyCrest Rd Newberg OR 97132
 EMAIL ADDRESS: VW SPORT 4 @ Comcast.net
 PHONE: 503-550-8130 MOBILE: 971-409-4583 FAX: _____
 OWNER (if different from above): SAME PHONE: _____
 ADDRESS: _____
 ENGINEER/SURVEYOR: Base Line Surveying PHONE: 503-528-8041
 ADDRESS: 315 Hilltop Dr. Newberg OR 97132

GENERAL INFORMATION:

PROJECT NAME: _____ PROJECT LOCATION: MOUNTAINVIEW DR & THOMAS
 PROJECT DESCRIPTION/USE: 4 Lot Subdivision
 MAP/TAX LOT NO. (i.e. 3200AB-400): 3217BA-00200 ZONE: R-1 SITE SIZE: 38,500 SQ. FT. ACRE
 COMP PLAN DESIGNATION: R-1 TOPOGRAPHY: Sloped to East
 CURRENT USE: Vacant
 SURROUNDING USES:
 NORTH: Vacant SOUTH: R-1 Single Res.
 EAST: Residential Lodge Lot WEST: R-1 Single Family Res.

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Design Reviewp. 12
 Partition Tentative Platp. 14
 Subdivision Tentative Platp. 17
 Variance Checklistp. 20

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

[Signature] 11/28/11
 Applicant Signature Date
MART STORM
 Print Name

[Signature] 11/28/11
 Owner Signature Date
MART STORM
 Print Name

Attachments: General Information, Fee Schedule, Criteria, Checklists



First American

**Attachment 3
to PC Order 2012-01**

First American Title Insurance Company of Oregon
775 NE Evans Street
McMinnville, OR 97128
Phn - (503)472-4627
Fax - (866)800-7294

**PUBLIC RECORD REPORT
FOR NEW SUBDIVISION OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF:

Mart Storm
22965 Sunnycrest Road
Newberg, OR 97132
Phone:
Fax:

Date Prepared : October 06, 2011
Effective Date : 2:41 p.m. on September 28, 2011
Order No. : 1039-1773911
Reference : R3217BA-300

The information contained in this report is furnished by First American Title Insurance Company of Oregon (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report. Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Yamhill, State of Oregon, and is described as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:

As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.
- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

First American Title Insurance Company of Oregon
Public Record Report for New Subdivision or Land Partition
Order No. 1039-1773911

EXHIBIT "A"
(Land Description Map Tax and Account)

Being a portion of a tract of land located in the Northwest ¼ of Section 17, Township 3 South, Range 2 West, W.M., located in Yamhill County, Oregon, described as follows:

Being a portion of that tract of land described as Parcels 1 and 2 in that certain Oregon Warranty Deed to Robert C. Thorne and Cletis J. Thorne, Trustees of the Thorne Living Trust and recorded in Film Volume 278 at Page 1296, Yamhill County Deed Records, more particularly described as follows:

Beginning at the point of intersection of the Easterly right of way line of Thorne Street and the Northerly line of Lots 13 and 14 of the plat of "Bramble Creek" projected Easterly, thence along said Easterly right of way line, South 00°10'09" West, 212.50 feet to the Northwesterly corner of Lot 12 of said plat; Thence along the Northerly line of Lot 12 and Tract 'A' of said plat, East, 296.81 feet to the Westerly line of the plat of "Meads Park", said point also being the Northeast corner of Tract 'A' of "Bramble Creek" and the Southeast corner of said Thorne tract; Thence along the West line of said "Meads Park" North 00°10'09" East, 70.00 feet; Thence West, 196.81 feet; Thence North 00°10'09" East, 177.50 feet to the centerline of County Road No. 58 (Mountainview Drive); Thence along the centerline of said County Road, West, 100.00 feet; Thence leaving said centerline along the Easterly right of way line of Thorne Street projected Northerly, South 00°10'09" West, 35.00 feet to the Point of Beginning.

Map No.: R3217BA-300 (a portion of)
Tax Account No.: 1800 E. Mountainview Drive

First American Title Insurance Company of Oregon
Public Record Report for New Subdivision or Land Partition
Order No. 1039-1773911

EXHIBIT "B"
(Vesting)

Mart Storm

First American Title Insurance Company of Oregon
Public Record Report for New Subdivision or Land Partition
Order No. 1039-1773911

EXHIBIT "C"
(Liens and Encumbrances)

1. Taxes for the year 2011-2012 (Affects Additional Property)
Tax Amount \$ 3,759.72
Unpaid Balance: \$ 3,759.72, plus interest and penalties, if any
Code No.: 29.0
Map & Tax Lot No.: R3217BA-300
Property ID No.: 33635
2. Taxes for the current fiscal year are reduced by reason of Veterans Exemption. If the exempt status is terminated under the statute prior to July 1, said property will be taxed at 100% of the assessed value.
3. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
4. Covenant of Waiver of Rights and Remedies, including terms and provisions thereof.
Recorded: November 15, 2005 as Instrument No. 200525587

First American Title Insurance Company of Oregon
Public Record Report for New Subdivision or Land Partition
Order No. 1039-1773911

DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.

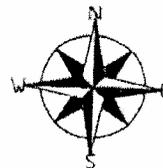
2. **Liability of the Company.**
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including, without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment on the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.

3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.

4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.



First American
Title Insurance Company
of Oregon



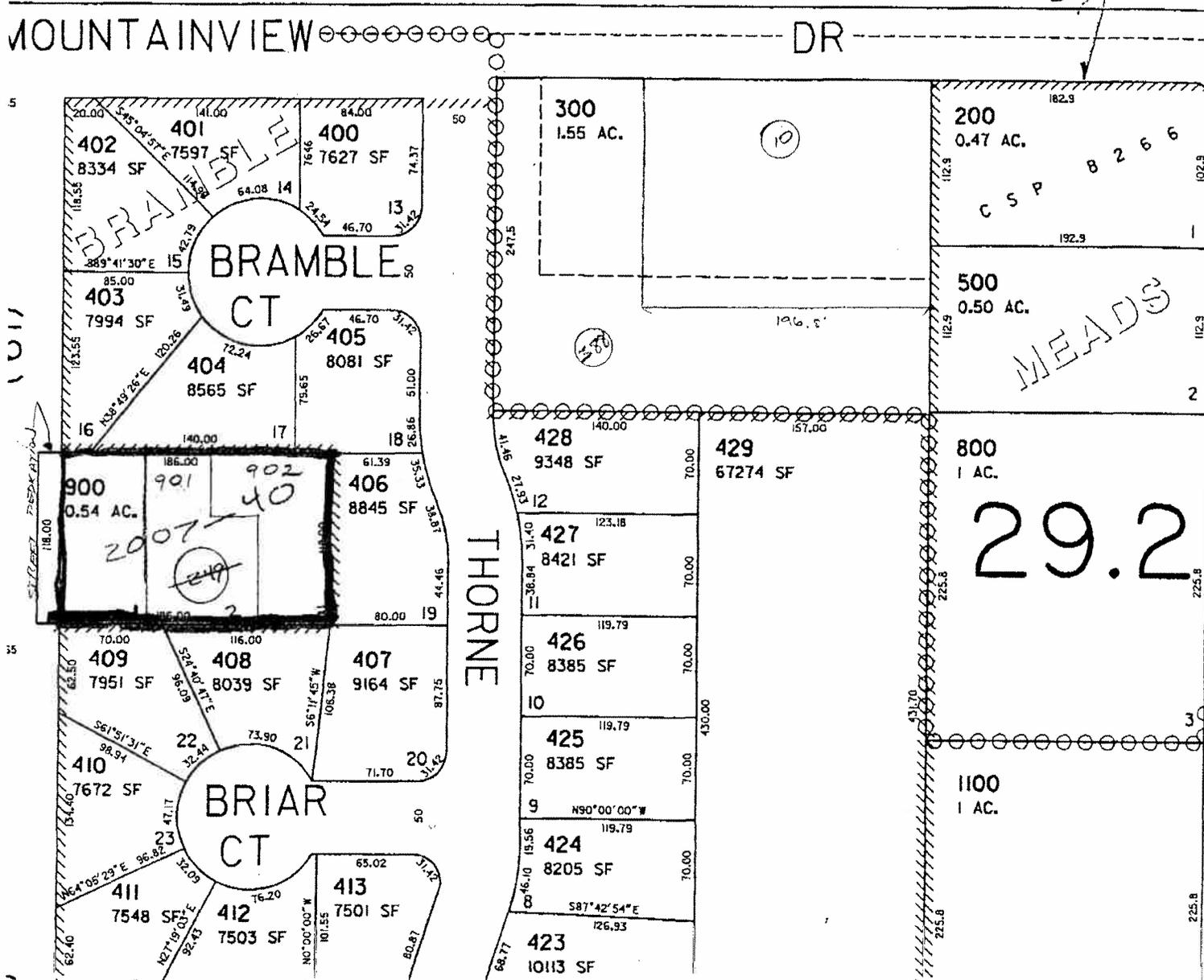
This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey

NE 1/4 NW 1/4 SEC 17 T3S R2W
YAMHILL COUNTY

SEE MAP 3 2 08

1" = 100'

Block 2



AFTER RECORDING RETURN TO:
City of Newberg
Planning and Building Department
PO Box 970 - 414 E. First Street
Newberg, OR 97132

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK



\$36.00

200525587

2:37:12 PM 11/15/2005

DMR-WRMDMR Cnt=1 Str=3 KENTV
\$15.00 \$10.00 \$11.00

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

Recitals

1. The undersigned, Cletis J. Thorne, Trustee of the THORNE LIVING TRUST (hereinafter referred to as "Owner" or "Owners") has/have petitioned the City of Newberg (hereinafter referred to as "City") to commence certain proceedings, relating to an annexation request for the real property described in Exhibit A which is attached hereto and incorporated herein (the "Property").
2. Pursuant to the enactment of Ballot Measure 37 (effective December 2, 2004), a property owner may elect to seek just compensation or waiver of land use regulations if a public entity enacts or enforces the land use regulations after the property owner acquired the property. On October 14, 2005 Marion County Circuit Court found Ballot Measure 37 to be unconstitutional. This decision may be appealed and ultimately reversed.
3. City does not wish to approve the Owner's/Owners' requested proceedings if the result would or could arguably give rise to a later claim by the Owner or Owners, or the Owner's/Owners' successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings, or would or could arguably require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings.
4. Owner(s) seek(s) to induce the City to proceed with the proceedings and therefore Owner(s) agree(s) to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing under Ballot Measure 37 or under future legislation relating to compensation or right to waiver for the impact of regulations upon real property as a result of the requested annexation and associated rezoning.

NOW THEREFORE, the undersigned Owner(s) warrant(s) that the Owner(s) executing this covenant hold(s) the full and complete present ownership or any interest therein in the Property, and hereby agree(s) and covenant(s) as follows:

1. As inducement to the City to proceed with the following proceeding(s) affecting the subject real property:
ANNEXATION, which may include designation of the Property as subject to additional applicable overlay zones and districts, e.g., Limited Use Overlay District, (all inclusively referred to herein as ("proceedings")) the undersigned Owner(s), on behalf of Owner(s), Owner's/Owners' heirs, devisees, executors, administrators, successors and assigns, agree(s) and covenant(s) to the City of Newberg, its officers, agents, employees and assigns that the undersigned, as to the Property hereby remises, waives, releases and forever discharges, and agrees that Owner(s) shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by Ballot Measure 37 (2004) or under future

legislation which would create a right of claim for compensation or waiver from City land use regulations as a result of the requested annexation and associated rezoning.

2. This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument, or a memorandum hereof, may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Covenant filed by the City of Newberg.
3. If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Owner(s) acknowledge(s) that the proceedings may be initiated by the City of Newberg at any time in the discretion of the City of Newberg, and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
4. This document is executed of my/our own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect my/our legal rights and remedies.
5. This Covenant of Waiver of Rights and Remedies is expressly contingent upon final annexation of the Property by City.

OWNER

Cletis J. Thorne Trustee
Cletis J. Thorne, Trustee of the THORNE LIVING TRUST.

STATE OF OREGON)
) ss.
County of Yamhill)

This instrument was acknowledged before me on this 2 day of November, 2005, by Cletis J. Thorne and _____.

Lisa M. Fields
Notary Public for Oregon
My Commission expires: December 17, 2007



CITY OF NEWBERG
JHBennett
James H. Bennett, City Recorder
Dated: 11/7/05

APPROVED AS TO FORM:
TD Mahr
Terrence D. Mahr, City Attorney
Dated: 11/3/05

2/3

5035388771

Fidelity

1992 NOV 25 AM 10: 54

F278P1297

EXHIBIT A

PARCEL 1:

an undivided one-half of the following real property:
One Acre, more or less, in Section 17, Township 3 S., Range 2 W., W. W.,
Beginning at a point 142 rods East of the Northwest corner of Section 17;
thence South 10 rods to a point; thence West 16 rods to a point; thence
North 10 rods to a point; thence East 16 rods to point of beginning, in the
County of Yamhill and State of Oregon.

PARCEL 2:

Beginning at the southeast corner of that certain tract described in
deed from Earl L. Thorne et ux to Robert C. Thorne dated November 28,
1942, and recorded in Book 131 at page 656, Record of Deeds of Yamhill
County, Oregon; thence South 82.5 feet along the east line of that
certain tract described in deed from Axum Newby to Elmer Thorne et ux
as recorded in Book 83 at page 548, Yamhill County Deed Records, to a
point; thence West parallel to the south line of said tract so conveyed
to Robert C. Thorne 18 rods to a point; thence North parallel with the
east line of said tract described in Deed Book 83, at page 548, to the
north line of said lands described in Book 83 at page 548, said deed
records; thence East along the said north line 2 rods to the northwest
corner of tract conveyed to Robert C. Thorne as described in Book 131
at page 656; thence South with the west line of said Robert C. Thorne
tract to the southwest corner thereof; thence with the south line of
said Robert C. Thorne tract to the point of beginning.

11-25-92

3/3

Response to Subdivision criteria

(1) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affects the safe and healthful development of such remainder or adjoining land or access thereto.

- Proposed development includes entire property, adjoining land is fully developed.

(2) The subdivision complies with this code including but not limited to 15.340.010 through 15.440.080 and 15.505.010 et seq.

- Subdivision complies with codes

(3) Either:

A) Improvements required to be completed prior to final plat approval; or

B) The subdivider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements: or

C) A local improvement district shall have been formed to complete the required improvements; or

D) The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

- Both A&B

Remaining Thorne street criteria

1. All four lots exceed the minimum required square footage for the R1 zone. All four lots exceed the minimum 50' width required by the R1 zone.
2. All four lots gravity sewer to the existing mainline in Thorne where a lateral will be provided. All four lots will be supplied water from the existing mainline with services to be installed. The storm water along Thorne st will go to the existing storm system to the south. The storm water along mountain view will go to the existing storm system to the east. Lots 3-4 will have Individual pipes for low point drains and rain drains.
3. Thorne street currently has adequate dedication and improvement. Mountain view proposal is for an additional 15' of dedication to a 35' half width street improvements as shown on plan. Side walks to be installed as on plan width to be determined by engineering dept. and installed at the time of home construction.

RECORDED AS DOCUMENT NO. _____

Preliminary Plat

located in the N.W. 1/4 Sec. 17
t. 3 s., r. 2 w., W.M.
Yamhill County, OR

SURVEYED: OCTOBER 20, 2011

PLANNING FILE NUMBER xxxxxxxxxxxx



LEGEND:

ALL FOUND MONUMENTS WERE WITHIN 0.5' OF SURFACE UNLESS OTHERWISE NOTED.

ALL FOUND MONUMENTS HELD UNLESS OTHERWISE NOTED.

✕ - DENOTES FOUND 5/8" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "BASELINE PLS 2718".

⊗ - DENOTES SET 5/8" X 30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "BASELINE PLS 2718".

○ - DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "BASELINE PLS 2718".

● - DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "D. COOLEY L.S. 1806" PER "BRAMBLE CREEK" OR MONUMENT AS NOTED

⚡ - DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "BASELINE PLS 2718" AS SET IN CS-12457

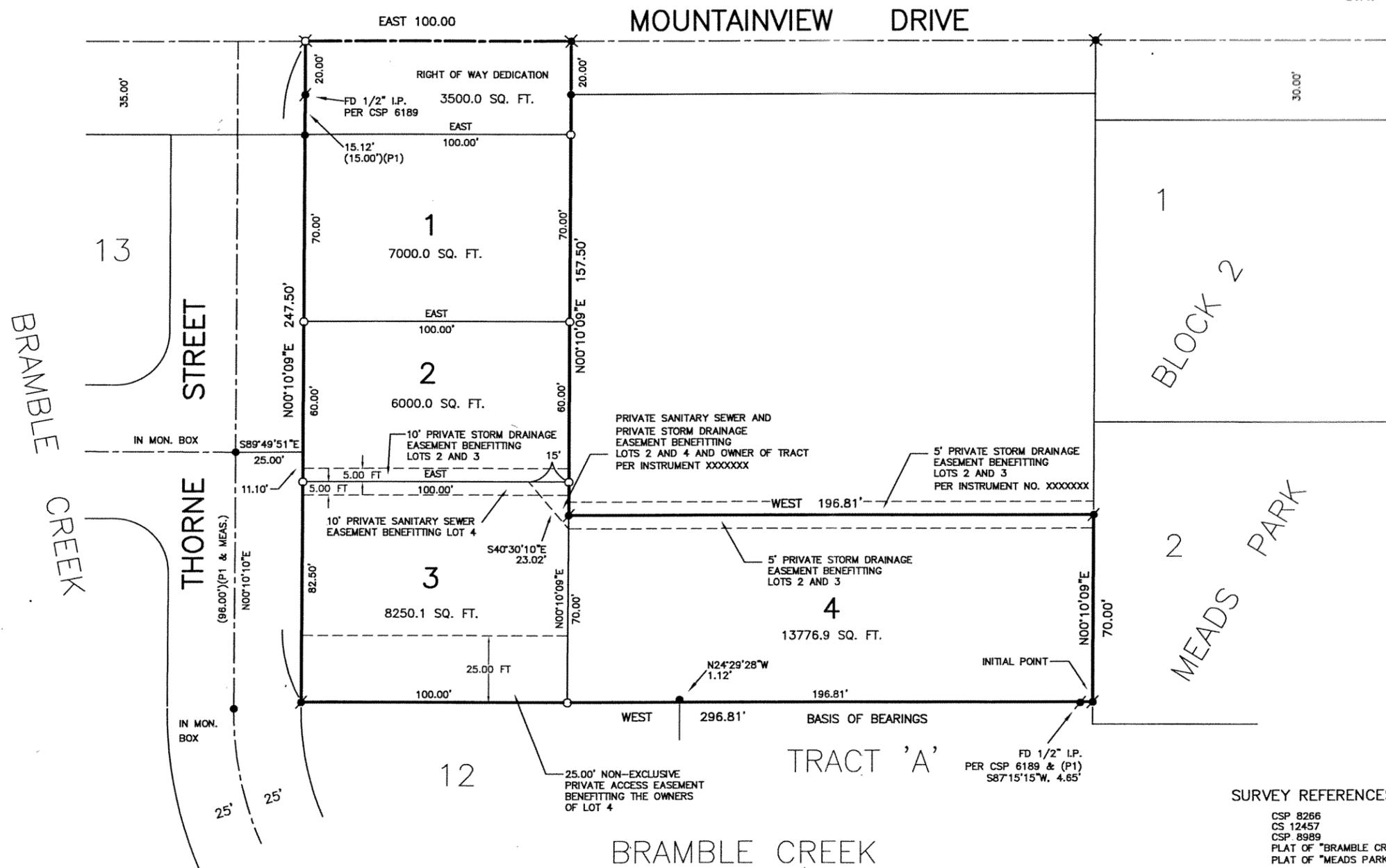
⚡ - DENOTES FOUND 3/4" IRON PIPE OR MONUMENT AS NOTED

IR - DENOTES IRON ROD IP - DENOTES IRON PIPE

(XX.X)(P1) - DENOTES RECORD DIMENSION PER PLAT OF "BRAMBLE CREEK SUBDIVISION"

(XX.X)(P2) - DENOTES RECORD DIMENSION PER PLAT OF "MEADS PARK"

BASIS OF BEARINGS C.R. 58 WIDTH VARIES



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1995
MICHAEL D. RENNICK
2718
RENEWAL DATE: 01-01-13

I HEREBY CERTIFY THAT THIS PLAT WAS
PREPARED USING HP PRODUCT #51640A
ON WMF-24 POLYESTER FILM.

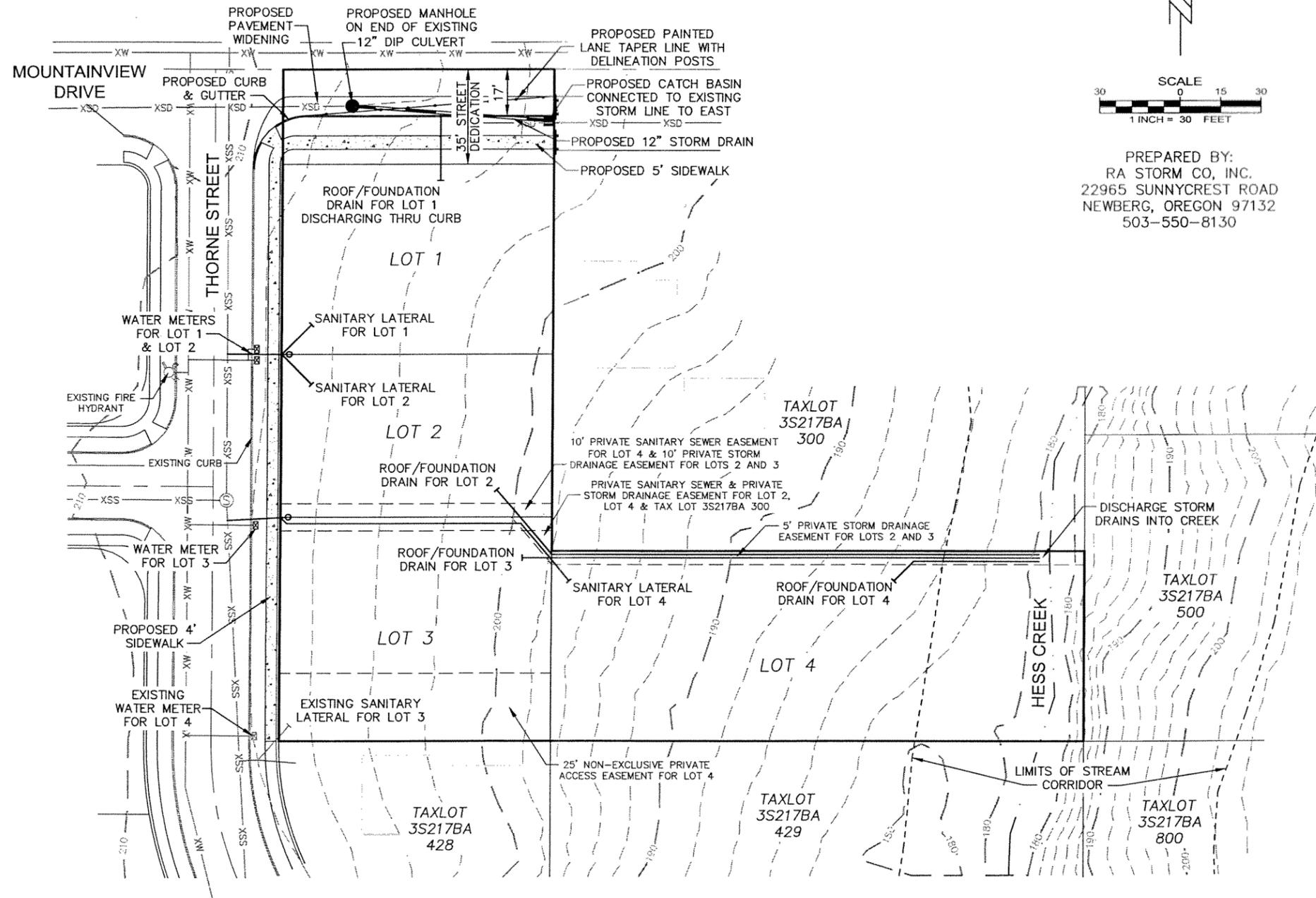
SURVEY PREPARED FOR:
MART STORM

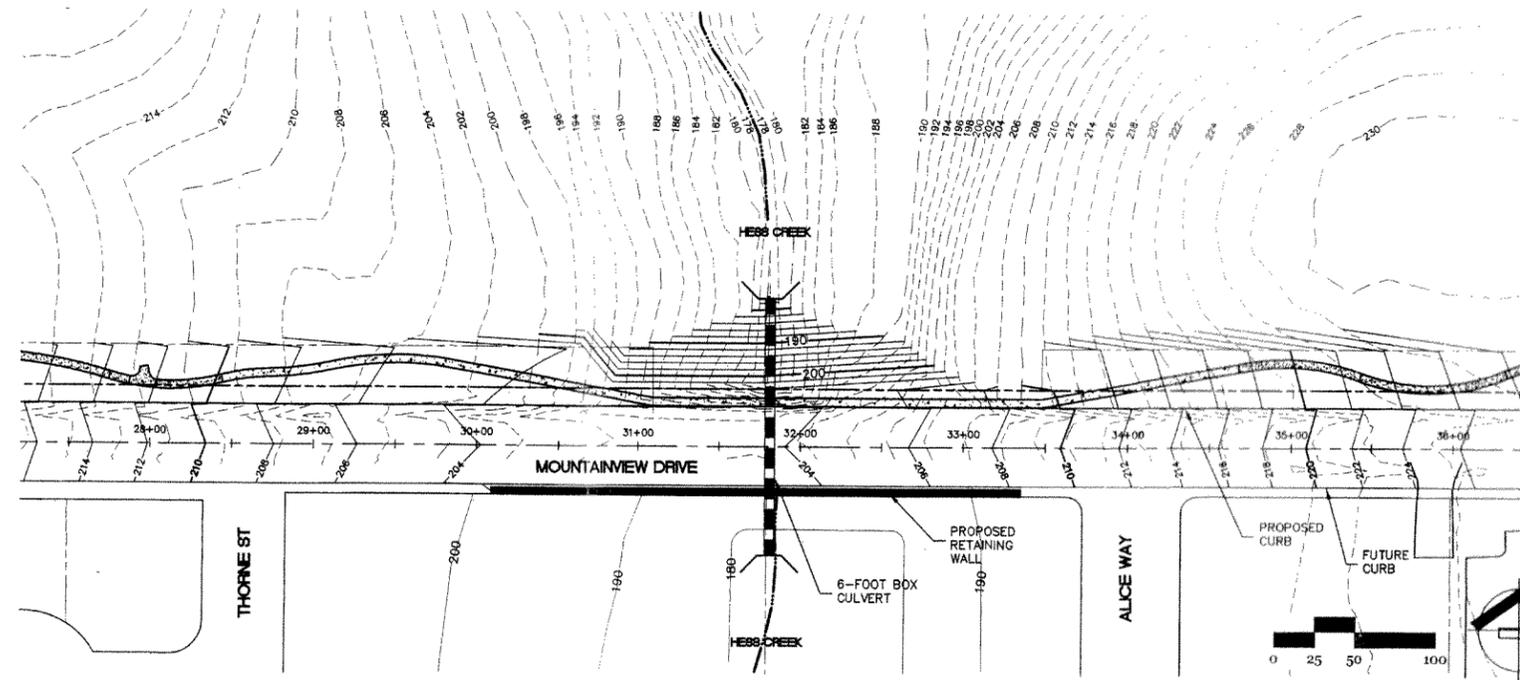
SURVEY PREPARED BY:
BASELINE SURVEYING, LLC
315 HILLTOP DRIVE
NEWBERG, OR 97132
P) (503) 538-8041
F) (503) 538-1204
E) BLSURVEYING@GMAIL.COM
PROJECT NO. 1459

SURVEY REFERENCES:
CSP 8266
CS 12457
CSP 8989
PLAT OF "BRAMBLE CREEK"
PLAT OF "MEADS PARK"

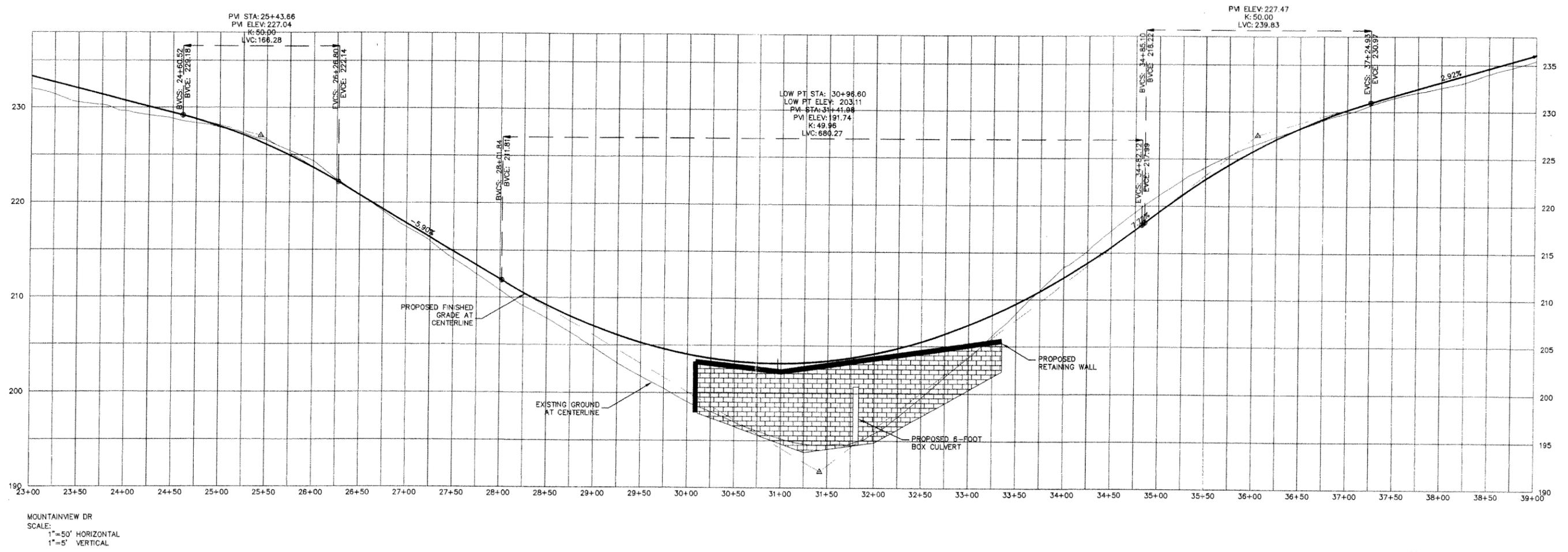
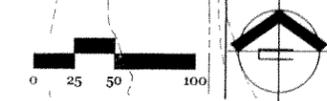
PROPOSED SUBDIVISION

AT THORNE STREET AND MOUNTAINVIEW DRIVE
IN THE NORTHWEST QUARTER OF SECTION 17,
TOWNSHIP 3 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN
CITY OF NEWBERG, YAMHILL COUNTY, OREGON





- LEGEND**
- PROPOSED LANDSCAPE TRACT LINE
 - PROPOSED RIGHT-OF-WAY
 - EXISTING RIGHT-OF-WAY
 - EXISTING LOT LINE
 - - - 188 --- EXISTING 2' CONTOUR LINE
 - - - 200 --- EXISTING 10' CONTOUR LINE
 - PROPOSED RETAINING WALL
 - PROPOSED CURB
 - FUTURE CURB

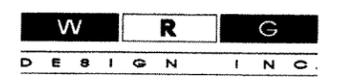


MOUNTAINVIEW DR
SCALE:
1"=50' HORIZONTAL
1"=5' VERTICAL

May 2007

Springbrook Master Subdivision

Newberg, Oregon



Planning and Building Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

PLANNING COMMISSION STAFF REPORT Planning Commission Guidelines

MEETING DATE: January 12, 2012

FILE NO: G-11-005

APPLICANT: Initiated by Newberg Planning Commission

REQUEST: Establish rules and guidelines for the planning commission

ATTACHMENTS:

Planning Commission Resolution 2012-297 with
Exhibit "A" Planning Commission Rules and Guidelines

A. **SUMMARY:** The proposed guidelines would do the following:

1. Establish rules for conducting planning commission meetings.
2. Establish expectations for the roles and duties of commissioners.
3. Establish rules concerning the chair and vice-chair.
4. Establish procedures for scheduling of meetings and preparation of agendas.
5. Establish procedures for planning commission hearings and public testimony.
6. Establish expectations for the relationship between the city council and planning commission.

B. BACKGROUND: The commission held a work session on October 13, 2011 to consider a draft of these rules. The commission considered the item at their December 8, 2011 meeting. The commission made several small corrections to the previous draft, and otherwise accepted the rules by consensus. Staff made the requested corrections in the attached draft. The commission should make a formal motion to adopt the rules by resolution.

C. **DISCUSSION:**

At the December 8, 2011 meeting, the commission had one open question about quorums and voting. The draft meeting outline stated that a majority of a quorum was needed to pass a resolution. This requirement was an inadvertent carry over from the city council rules. Those rules derive from Section 14 of the Newberg Charter, which states, "The express

approval of a majority of a quorum of the city council is necessary for any city council decision, except when this Charter requires approval by a majority of the city council.” Since the city council has seven members, a quorum is at least four. A majority of a quorum is at least three. Thus three is the smallest number that can decide any matter before the city council.

The planning commission ordinance does not contain any such language. Robert’s Rules of Order states,

*When a quorum is present, a majority vote, that is a **majority of the votes cast**, ignoring blanks, is sufficient for the adoption of any motion that is in order, except those mentioned in [Rule] 48, which require a two-thirds vote. [**bold added**]*

Thus, if a quorum is present, a simple majority of the votes cast is needed to pass most motions. As few as one vote may be cast, and in such a case that one vote would be a majority. However, Robert’s Rules also states,

While a quorum is competent to transact any business, it is usually not expedient to transact important business unless there is a fair attendance at the meeting, or else previous notice of such action has been given.

The statement regarding a majority of a quorum thus has been taken off the latest draft.

- D. PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation may be modified subsequent to the close of the business item. At this writing, staff recommends the following motion:

Move to adopt Resolution 2012-297, which adopts the guidelines.

PLANNING COMMISSION RESOLUTION 2012-297

A RESOLUTION ADOPTING PLANNING COMMISSION RULES AND GUIDELINES

RECITALS

1. The Newberg Planning Commission desires to adopt rules and guidelines for conducting its business.
2. The Newberg Planning Commission held a meeting on December 8, 2011, to consider the resolution.
3. The Commission finds that the rules and guidelines will provide for effective operation of the Commission.

The Newberg Planning Commission resolves as follows:

1. The Commission hereby adopts the Planning Commission Guidelines as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

Adopted by the Newberg Planning Commission this 12th day of January, 2012.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Planning Commission Rules and Guidelines

**CITY OF NEWBERG
PLANNING
COMMISSION
PARTICIPATION
GUIDELINES**

January 12, 2012

NEWBERG PLANNING COMMISSION PARTICIPATION GUIDELINES

Newberg planning commission members will strive to:

- 1) Trust and respect the opinions of fellow commission members, staff, and the public and actively participate in the decisions of the planning commission.
- 2) Attend all planning commission meetings.
- 3) Notify the planning staff of an absence as soon as practical prior to the meeting time.
- 4) Make every attempt to resolve any personal conflict with a fellow planning commissioner prior to bringing the conflict to the attention of the planning commission.
- 5) Study material presented in a timely manner and be informed on the issues that come before the commission.
- 6) Follow the commission rules.

NEWBERG PLANNING COMMISSION MEETING EXPECTATIONS

Newberg planning commission members will:

- 1) Be courteous and respectful of citizens and create a welcoming environment that actively involves citizens in the governmental process.
- 2) Communicate in clear, concise and audible verbal and written communications.
- 3) Use a friendly and sincere tone of voice.
- 4) Honor and act on all requests for action and/or information in a timely and courteous manner.
- 5) Discuss issues, but not personalities, with non-commission members.
- 6) After an issue has been voted on, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the planning commission, even if their personal opinion differs from the planning commission's decision.
- 7) Vote on all motions before the commission, or explain the reasons for abstaining.

**CITY OF NEWBERG
PLANNING
COMMISSION
RULES**

January 12, 2012

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Newberg Planning Commission Rules

SECTION 1 – AUTHORITY

Rule 1.1 Authority of Rules

The planning commission will adopt commission rules by resolution to govern its meetings and proceedings. These rules will decide questions and give direction on debating, voting, membership, attendance, agendas, and other matters. The rules are intended to serve as a guide for the planning commission. One of the goals of the planning commission is to work with the residents of Newberg and provide a positive atmosphere at planning commission meetings. These rules provide the basic outline required to work together. The commission may need to vary from these rules from time to time to best serve the public interest.

Rule 1.2 Questions about these Rules

All questions regarding these rules will be resolved by majority vote of the commission.

Rule 1.3 Presentation of Rules to Planning Commission Members

These planning commission rules will be presented to all planning commission members at or before the time they take the oath of office.

Rule 1.4 Amendments to Planning Commission Rules

Amendments to these planning commission rules will be made by resolution.

SECTION 2 – GENERAL RULES

Rule 2.1 Public Meetings Law

All planning commission meetings will be held in accordance with the Oregon Public Meetings Law (“OPML”). The meetings of the commission, including regular meetings, special meetings, work sessions and emergency meetings are open to the public. The meetings are considered a limited public forum at which planning commission business is conducted in accordance with the agenda and rules of the planning commission. The chair, along with the commission, has the authority to require discussion at the meetings be addressed to the matters that are appropriate to be considered, to limit the time for discussion, and to restrict input concerning the matters to be discussed. The planning commission has the right to require persons attending the meeting, addressing the commission or participating in the meeting to conform to the rules of the commission and directions of the chair.

Rule 2.2 Quorum

Section 2.15.280 of city’s municipal code provides that a majority of the voting members of the planning commission constitutes a quorum to conduct business.

Rule 2.3 Lack of Quorum

If there is a lack of quorum at any scheduled meeting, any hearings scheduled shall be continued to the next scheduled meeting of the commission by announcement to those present, or by posting notice of such continuance prominently at the meeting location.

Rule 2.4 Rules of Order

"Robert's Rules of Order, Newly Revised, Tenth Edition" or the latest editions published thereafter hereafter referred to as "Robert's Rules of Order" will govern all planning commission proceedings unless they conflict with these rules. The chair will have the authority to appoint a parliamentarian for the commission. If there is no person appointed as parliamentarian or that person is absent, the city attorney or planning director will advise the chair concerning parliamentarian matters.

Rule 2.5 Enforcement of Rules

The chair will enforce the planning commission rules. In addition, the chair has the authority to preserve decorum and will determine all points of order, subject to the right of any planning commissioner to appeal to the commission. The chair will enforce order, prevent attacks on personalities or the impugning of members' motives, and keep those in debate to the question under discussion.

Rule 2.6 Suspension of Rules

The vote to suspend commission rules, including Robert's Rules of Order, requires a majority vote of those members of the planning commission who are present. If the motion is carried, the rules will be suspended for that item only.

Rule 2.7 Commissioners Duties to Uphold Rules and Decorum

Commissioners will preserve order and decorum during planning commission meetings, and will not by conversation or other action delay or interrupt the proceedings or refuse to obey the orders of the chair and commission rules. Commissioners will, when addressing staff or commissioners, confine themselves to questions or issues that are under discussion, will not engage in personal attacks, will not impugn the motives of any speaker, and will at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of office. Commissioners will not attack the knowledge, skills, abilities and personalities or impugn city staff members' motives in commission or at any city meetings.

Rule 2.8 Removal of Any Person for Violation of Rules

Any persons making disruptive or threatening remarks or actions during a meeting will forthwith be barred from further audience at that meeting, unless permission to continue is granted by a majority vote of the commissioners present. The planning director or chair may summon the assistance of the police or other administrative staff to prevent further interruption by such person by any action necessary, including the removal of that individual. In case the planning director or chair should fail to act, any commissioner may obtain the floor and move to require enforcement of this rule, upon an affirmative vote of the majority of the commissioners present, the police or administrative staff will be authorized to remove the person(s) as the chair so directs.

Rule 2.9 Records of Proceedings

The city recorder will provide a secretary for the commission who will keep a record of commission proceedings. The records of the proceedings are to be known as "minutes." The minutes will be kept in accordance with the Oregon Public Records and Meetings Law.

SECTION 3 – PLANNING COMMISSION MEMBERS

Rule 3.1 Attendance

It is the duty of each commissioner to attend all meetings of the planning commission unless excused. A member of the commission may be removed by the city council after hearing for misconduct or nonperformance of duty. Per Newberg Code 2.15.250(C), a member who is absent from two consecutive meetings without an excuse as approved by the planning commission is rebuttably presumed to be in nonperformance of duty and the city council shall declare the position vacant unless finding otherwise following the hearing.

Rule 3.2 Excused Absences

When a commissioner cannot attend a meeting, the member is to notify the planning director prior to the meeting. Absences will be considered excused when such notice is given. An absence will be considered unexcused if there is no notification of the absence prior to the meeting, unless otherwise determined by vote of the commission.

Rule 3.3 Report of Absences

The planning director will report to the city council any time a commissioner has four or more absences in a twelve-month period, along with the reasons for any excused absences. The planning director also will report to the city council any time a commissioner has two or more unexcused absences in a twelve-month period. The purpose of this notice is to inform the council of the member's attendance, and does not require any particular action by the council unless they so elect.

Rule 3.4 Mayor as Ex-Officio Member of the Planning Commission

By code, the mayor serves as a non-voting ex-officio member of the planning commission. The mayor shall be invited to, but is not obligated to, attend all meetings and activities of the planning commission. When attending, the mayor shall sit with the commission.

When participating in legislative matters, the mayor shall be invited to participate in the discussion. The mayor shall recuse himself/herself from quasi-judicial matters that eventually may be before the council for decision. This is to avoid questions of ex parte contact or bias in the decision.

Rule 3.5 Student Planning Commissioner

The student planning commissioner is a high school student who applies for the position by filling out an application for the city committee and gives the City of Newberg a letter of recommendation from a teacher. The mayor selects an individual student and the city council approves the mayor's nomination. The student planning commissioner is expected to attend all planning commission meetings, unless excused by the planning commission. The student commissioner serves a one year term and is allowed and encouraged to participate in all planning commission events and activities except for voting. The chair shall seek the opinion of the student prior to any significant votes.

Rule 3.6 Planning Commissioner Training

The City shall offer training to planning commissioners to educate them in their duties. It shall be the duty of any newly appointed planning commissioner to attend a basic training session from staff within 30 days of his or her appointment. It shall be the duty of any re-appointed planning commissioner to attend at least a one-hour training session from staff or offered by the city within 12 months of the beginning of that person's appointed term. Planning commissioners are strongly encouraged to attend training of some kind annually.

SECTION 4 – PRESIDING OFFICER

Rule 4.1 **Chair**

The chair will preside over and facilitate all planning commission meetings, preserve order, enforce commission rules, and determine the order of business pursuant to planning commission rules. The chair is a voting member of the commission and will sign all records of planning commission decisions.

Rule 4.2 **Vice Chair**

In the absence of the chair, or if the chair is unable to perform the chair's duties, the vice chair will act as the presiding officer. Whenever in these rules the chair is mentioned, the vice chair acting as presiding officer can exercise the same authority as the chair. The vice chair also assists the chair in his/her duties, such as keeping time, maintaining order, and determining order of speakers.

Rule 4.3 **Chair Pro Tem**

In the absence of the chair and vice chair at any meeting of the planning commission where a quorum is present, the planning commission members present shall appoint a chair pro tem who will act as presiding officer. The chair pro tem will exercise all the authority of the chair during that meeting.

Rule 4.4 **Election of Chair and Vice Chair**

At the first meeting of each year, or upon vacancy of the current chair or vice chair, the commission shall elect a chair and vice chair for the remainder of the calendar year. The commission's policy is to rotate the positions by seniority in such a fashion that each member has the opportunity to serve first as vice-chair, and then the following year as chair. Newly appointed members will be placed at the bottom of the current rotation to allow them to serve a few years first as commissioner then later as chair and vice chair. In case multiple members are appointed at the same time, the commission will decide seniority by vote. The policy does not compel any member to serve as chair who is unwilling, nor does it compel election when the majority determines the commission would be better served by election of different officers. The commission shall consent to the election of each chair and vice chair and absent such consent, shall elect positions by majority vote.

SECTION 5 – PLANNING COMMISSION MEETINGS

Rule 5.1 **Regular Meetings**

Section 12 of the city charter provides that the planning commission must meet at least once a month at a time and place designated by the planning commission. The planning commission designates through these rules that the regular meetings of the commission will be held on the second Thursday of each month, except on holidays in which event the commission will meet on the second Wednesday. The commission also will meet on the fourth Thursday if business so requires.

Rule 5.2 **Meeting Times and Places**

The regular meetings of the commission will begin at 7:00 p.m. Regular planning commission meetings will take place in the Public Safety Building in the training room at 401 E. Third St., unless specifically designated to occur at another location. Any other such location will be noted in the notice of the meeting. There will be no new items presented after 10:00 p.m. except by vote of the planning commission.

Rule 5.3 **Notice of Meeting**

The notice of the regular meeting of the planning commission, including the agenda which lists items to be considered by the planning commission, will be given in accordance with the OPML. However, the notice does not limit the matters that can be considered by the planning commission nor prevent the commission from taking up any matter brought before the commission in accordance with the OPML.

Rule 5.4 **Special Meetings**

The chair, upon the chair's own motion and after consulting the planning director, may, or at the request of three members of the commission, shall, by giving notice to the members of the commission, call a special meeting of the commission for a time not earlier than 24 hours after the notice is given. Notice of a special meeting shall be posted at City Hall and to the extent feasible, provided to interested persons and the local newspaper at least 24 hours prior to the meeting.

Rule 5.5 **Cancellation of Meeting**

Upon a majority vote of the planning commission members present, a meeting may be canceled when deemed appropriate. If there is no business to transact or a quorum of the planning commission cannot attend and there is no urgent necessity to have the meeting, the planning director with advice and consent of the chair may cancel the meeting. Planning commission members will be notified of the cancellation prior to notice being given to the public. Notice of cancellation will be given as soon as possible to the public in a manner aimed at giving adequate notice.

SECTION 6 – AGENDAS AND ADDITIONAL ITEMS FOR CONSIDERATION

Rule 6.1 **Preparation of Agenda**

The planning director with the advice and consent of the chair will prepare the agenda along with appropriate documentation for planning commission meetings. Any member of the planning commission may request, through the chair, for a matter to be placed upon the agenda. Such request is subject to the advice of the planning director. Each meeting agenda's format will be prepared as prescribed in the rules. If there is no item to be considered under a section of the agenda, that section will be omitted from the agenda and the agenda will be renumbered accordingly. The final authority on the agenda matters is the planning commission.

Rule 6.2 Non-Agenda Items

Prior to the meeting, the planning director may send out additions to the agenda with the appropriate documentation. The planning commission may consider the items which are not listed on the published agenda. The planning commission must, by a majority, place the item on the agenda. Action may then be taken on the item.

Rule 6.3 Time for Submission of Items

Items for the planning commission agenda will be submitted in time to allow for sufficient research by staff.

Rule 6.4 Staff Reports

Normally the staff will send a report of each planning commission item to be considered by the planning commission at least eight days prior to the commission meeting.

Rule 6.5 Agenda Availability

Planning commission agendas and the accompanying documents are available at the city planning office and are posted on the city website normally eight days prior to the planning commission meeting. Interested persons are encouraged to read the agenda along with supporting material, and address questions to the planning director or city staff prior to the meeting. The planning director and planning commission value public input. In order to efficiently conduct city business, those who have concerns are encouraged to address these issues prior to the planning commission meeting.

Rule 6.6 Regular Meeting Agenda

The regular meeting agenda will be as follows:

- I. Call Meeting to Order
- II. Administration of Oath of Office (if needed)
- III. Roll Call
- IV. Public Comment (30 minutes maximum which may be extended at the chair's discretion; an opportunity to speak for not more than five minutes per speaker allowed)
- V. Consent Calendar
- VI. Public Hearings
- VII. Continued Business
- VIII. New Business
- IX. Items from Staff
- X. Items from Commissioners
- XI. Adjournment

At the chair's discretion, the chair may change the order of the agenda and allow communications concerning items on the agenda or other commission business.

Rule 6.7 Consent Calendar

The director will place items which have been previously reviewed by the planning commission or items which are routine in nature on the consent calendar. Items may be removed from the consent calendar by the chair or by request of a planning commission member. Public comments will be held prior to the approval of the consent calendar to allow the public to address items under consent calendar.

SECTION 7 – PROCEDURES AT MEETINGS

Rule 7.1 Call to Order

The chair will call the planning commission members to order at the hour designated for the meeting. The secretary will call roll. Should there not be a quorum within 15 minutes, the members present will adjourn until a quorum can be gathered or until the next scheduled meeting time established by the planning commission or to the next regular meeting time.

Rule 7.2 Public Comment on Non-Agenda Items

Persons speaking to the planning commission concerning items not on the agenda or items that are on the consent calendar would speak under the public comment period. Those persons will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair. The maximum time allowed for public comment, including all speakers, is 30 minutes. The chair has the discretion to extend these time limits. Speakers may address the planning commission for less than their allotted time. Speakers may also submit information at the meeting. The commission normally will not take immediate action on any request raised, but may consider acting on a request during items from commissioners.

Rule 7.3 Legislative Public Hearings

For legislative hearings, the commission will follow the legislative hearing format shown in Exhibit “1”. The planning commission’s legislative authority is usually exercised by the adoption of a resolution.

Rule 7.4 Quasi-judicial Public Hearings

For quasi-judicial hearing, the commission will follow the quasi-judicial hearing format shown in Exhibit “2”. The planning commission’s quasi-judicial authority is usually exercised by adoption of an order when the commission is the final decision maker, and by adoption of a resolution when the commission is a recommending body only.

Rule 7.5 Public Comment Registration

In order to properly notify persons who participate in the hearing and to be able to send them information, it is necessary for the interested person to register at the planning commission meeting before making oral comments and/or providing input at the meeting. The interested person shall register for each subject under which they wish to provide comment. The public comment registration forms will be made part of the meeting records in accordance with OPML. The registration forms will contain a provision by which a person may indicate that they do not wish for their address, phone number, and email address to be released in any public records request. When the interested person addresses the commission or gives oral comments, that person should state their name, but does not need to state their mailing address, phone number, or email address. A form complying with this rule will be available at all meetings of the planning commission. The planning director may produce and revise the necessary form that complies with this rule.

Rule 7.6 Public Testimony

Each interested person addressing the commission should do so in a courteous and considerate manner. The person needs to register and follow other rules as provided in the commission rules. The public will be furnished guidelines and should comply with these guidelines for testifying before the planning commission.

Rule 7.7 Time Limits for Testimony

The principal applicant for a proposal will be allotted 15 minutes for an initial presentation. Prior to the meeting the applicant may petition the planning director for additional time for the initial presentation, not to exceed 30 minutes.

A principal opponent, if any, will be allotted time in the same manner as the principal applicant.

All other speakers will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair.

The chair has the discretion to extend these time limits.

Rule 7.8 Written Testimony

In order to be considered at a hearing, written testimony must be received at the Planning and Building Department by noon on the third business day (typically Monday) prior to any meeting. Written testimony received after that date will be read out loud at the meeting, subject to time limits for speakers, and will be included in the record if there are future proceedings.

Rule 7.9 Ex parte Contact

Whenever the planning commission conducts a quasi-judicial public hearing, the planning commission must declare any ex parte contact. Rules concerning ex parte contact are set forth in state law.

Commissioners may visit a site individually prior to hearing an application, and shall declare the substance of that visit as ex parte contact. Otherwise, planning commissioners should avoid ex parte contacts.

Rule 7.10 Questions of Speakers

Commissioners may ask questions of speakers following their testimony. Such questions should be directed to elicit information that will help the commission reach a decision. Commissioners should avoid debating or arguing with speakers.

Rule 7.11 Order of Deliberation

The commission's deliberation on an agenda item may begin with a formal motion, or an informal discussion. If the informal discussion is not leading toward a decision, the chair shall call for a formal motion.

The chair shall determine the order of speakers to a motion. Except as otherwise determined by the chair, the maker of the motion will speak first to the motion, followed by the second, and then by other commissioners in the order they request to speak.

Rule 7.12 Speaking and Addressing the Chair

When any commissioner is about to speak in debate or deliver any matter to the planning commission, that commissioner should respectfully address the chair, and be given the floor before speaking. The commissioner should confine the remarks to the question under consideration.

The commissioner should use electronic speaking equipment provided to insure his or her comments are recorded.

Rule 7.13 Motions, Seconds, and Decisions by Unanimous Consent

Generally, no motion will be considered unless it has been seconded. However, routine motions that have the general consent of the planning commission do not require a second, unless requested by any member of the planning commission. Motions brought forth by the chair, which receive no seconds, but also no objections, will be passed by unanimous consent.

Rule 7.14 Voting and Abstaining from Voting

Commissioners shall vote on each motion brought before the commission, or shall explain the reason for abstaining.

Commissioners who abstain from participating in a matter due to a conflict of interest shall retire to the lobby during the time the matter is under consideration. A commissioner in the lobby will continue to be counted in the quorum. Commissioners may not provide testimony before the commission on any matter from which they abstain, but may designate a representative to speak to their interests.

Rule 7.15 Tabled Items

Items that are tabled may be taken from table by majority vote any time during the calendar year, but no later. Items may be postponed to a time certain, including to a following year.

Rule 7.16 Reconsideration

When a question has been decided, it will be in order for a member who voted on the prevailing side to move for reconsideration at the same meeting or next meeting only. For quasi-judicial matters, a motion for reconsideration at the next meeting only may be made upon request of the applicant, having waived rights to the time limits for decisions, and only to correct any technical issue in a decision and not to reverse a decision or decide again any substantive issue.

SECTION 8 – ELECTRONIC MAIL AND ELECTRONIC COMMUNICATION

Rule 8.1 Electronic Mail and Electronic Communication

E-mail or other forms of electronic communication may be used to schedule meetings, send informative messages, or request information from other planning commissioners or the planning director, except as limited by these rules or other applicable law. E-mail or other electronic communication may not be used to discuss policy issues with a quorum of the planning commission at one time or a quorum of a standing advisory body in any manner which would be in violation of the OPML. All planning commission e-mail correspondence is subject to the Oregon Public Records and Meetings Laws and is subject to disclosure.

Rule 8.2 Electronic Mail and Electronic Communication Regarding Quasi-Judicial Items

Commissioners shall refrain from sending electronic communication regarding the substance of any quasi-judicial item. If commissioners receive e-mail or electronic communication concerning the substance of any quasi-judicial item, they shall forward the communication to the planning director.

As such information may be ex parte contact, commissioners shall avoid reading such communication outside the period the record is open for written comment. If reading such items is unavoidable, the commissioner shall declare the ex parte contact.

SECTION 9 - RELATIONSHIP WITH THE CITY COUNCIL

Rule 9.1 Role of Planning Commission in Relation to the City Council

Members of the planning commission are appointed by the mayor with consent of the city council. The mayor and council appoint them to provide study and perspective on issues beyond what the council can provide. Commissioners provide the highest value providing independent recommendations and not anticipating or mimicking what they feel the council's decision on a matter would be.

After the city council has voted on an issue that previously has been before the planning commission, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the city council, even if their personal opinions or the commission's decisions differ from the city council's decision.

Rule 9.2 Joint Meetings with City Council or Other Boards

The commission should periodically hold joint meetings with the city council to share directly information and perspectives regarding particular issues. The mayor shall preside at such joint meetings.

The commission also may have joint meetings with other boards or commissions, such as the traffic safety commission. The chairs of the boards shall determine the agenda and the manner of facilitating the meeting.

Rule 9.3 Planning Commission Presentations at City Council Work Sessions

The city council has established a work session before council meetings, and has invited the planning commission to make presentations on any matter during that meeting. The commission may appear as a whole, the chair or vice-chair may represent the commission, or the commission may appoint one or more members to represent the commission to the council. The planning commission chair shall notify the mayor as far in advance as possible and at least one week in advance of the meeting if the commission wishes to make use of this time

Rule 9.4 Attendance at and Participation in City Council Meetings

In legislative matters, after the planning commission has taken action on an item, the mayor or city manager may request that the chair or chair's designee attend a city council meeting to report the commission's recommendation. The planning commission also may appoint a representative to attend the city council meeting and convey the commission's recommendation.

On quasi-judicial items, the planning commission's report to the council consists of their written decision, findings and the record. Commission members do not speak at the council meeting unless requested by the city council or mayor.

Otherwise, planning commissioners may attend any meeting of the city council. They may speak to the council for themselves as a citizen on any item.

OUTLINE FOR LEGISLATIVE PUBLIC HEARING

Newberg Planning Commission

1. **CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
2. **CALL FOR ABSTENTIONS AND OBJECTIONS TO JURISDICTION**
3. **STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
4. **PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S) (IF ANY)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT (IF ANY) REBUTTAL
5. **CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
6. **FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
7. **PLANNING COMMISSION DELIBERATION**
8. **ACTION BY THE PLANNING COMMISSION**
 - A. RESOLUTION – Usually requires passage of resolution.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

OUTLINE FOR QUASI-JUDICIAL PUBLIC HEARING

Newberg Planning Commission

1. **CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
2. **CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION**
3. **LEGAL ANNOUNCEMENT**
READ “QUASI-JUDICIAL ANNOUNCEMENTS” SHEET
4. **STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
5. **PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT REBUTTAL
6. **CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
7. **FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
8. **PLANNING COMMISSION DELIBERATION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT**
9. **ACTION BY THE PLANNING COMMISSION**
 - A. ORDER OR RESOLUTION – Usually requires passage of order if the commission is the final decision maker, or a resolution if the commission is only advisory to the council.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.