TOWN OF NEWPORT

EROSION CONTROL & STORMWATER RUNOFF ORDINANCE

ORDINANCE NUMBER 2009-1

1- 5 Definitions

(A) The following definitions are applicable to this section:

(1) "Agricultural Land Use" is the use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

(2) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.

(3) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(4) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(5) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

(6) "Design storm" means a hypothetical discrete rainstorm characterized by a Type II SCS 24-hour duration with a return frequency of 2, 10, 25, or 100-years.

(7) "Division of land" means a division of a lot, parcel, or tract of land in which the act of division creates 5 or more parcels or building sites of 1.5 acres each or less in area; or 5 or more parcels or building sites of 1.5 acres each or less in area are created by successive divisions within a period of 5 years.

(8) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(9) "Erosion" (Soil Erosion) is the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

(10) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

(11) "Excavation" means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried,

agricultural land uses if such are regulated at the federal, state or county level.

(22) "Landowner" means any person holding title to or having any interest in land.

(23) "Land Treatment Measures" are structural or vegetative practices (including fencing), or combinations of both, used to control erosion, sediment and water runoff.

(24) "Land Users" are persons who use land, individually or collectively as owners, operators, lessors, renters, occupiers who are providing a service that requires access or alterations of the land in order to perform the service, or by other arrangement which gives them the responsibility of private or public land use.

(25) "Maximum Extent Practicable" or "MEP" means a level of implementing best management practices in order to achieve a performance standard specified in this Ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(26) "Ordinary high-water mark" has the meaning given in Section NR 115.03(6), Wis. Adm. Code. 27

(27) "Parcel" is all contiguous lands under the ownership or control of a land owner or land user.

(28) "Peak Flow" is the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.

(29) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(30) "Permit" is the signed, written statement issued under this Ordinance authorizing the applicant to engage in general land disturbing uses specified and for a specified period of time.

(31) "Person" is any individual, corporation, limited liability company, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, and other legally recognized entity, or any combination thereof.

(32) "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or

receiving from the Town Engineer written approval of the control plan and a permit before commencement of any land disturbing activities on lands subject to control under this section.

1-8 Erosion and Sedimentation Control Regulations for Lands not Otherwise Subject to This Ordinance

Any landowner, land user, and/or responsible party who permits excessive erosion of his/her land and sedimentation on adjacent land, public streets or bodies of water from land not otherwise subject to this Ordinance shall be deemed in violation of this Ordinance and subject to the penalties provided in Section 1-12. Erosion is excessive if, sedimentation of adjacent land, waterways, lakes and streams occurs or if the public health, safety or general welfare of the citizens of the Town is harmed. This section applies equally to any landowner, land user and/or responsible party who allows erosion of adjacent land due to uncontrolled runoff emanating from his/her land.

1-9 Standards and Criteria

(A) Effect of Compliance. Compliance with the standards and criteria of this section shall not bar a nuisance action or other civil action brought by any injured public or private party for damage to property upon which the erosion directly occurred or to property or other rights which were damaged by erosion, sedimentation or runoff.

(B) Standard for Construction Site Erosion and Sediment Control for Land Disturbing Activities. The Town Engineer shall not approve plans nor issue any permit required by this Ordinance for land disturbing activities unless erosion and sedimentation during and after the land disturbing activity will not exceed that which would have been eroded if the land had been left in its undisturbed state on an average annual basis. All BMPs required to comply with this Ordinance shall meet the design criteria, standards and specifications based on any of the following:

(1) Applicable design criteria, standards and specifications identified in the WDNR Technical Standards. Technical Standards can be found on the WDNR website at:
http://dnr.state.wi.us/org/water/wm/nps/stormwater/techstds.htm

(2) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subOrdinance V of Chapter NR 151, Wis. Adm. Code.

(3) For this Ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(C) Standards for Post-Construction Onsite Detention and Runoff Control for Land Disturbing Activities. The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the water quality standards of this Ordinance:

(54) "Town Engineer" means the professional engineer designated by the Town Board to administer this Ordinance, and includes any other persons who are supervised by the Engineer.

(55) "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(56) "Twenty-Five Year Storms" are those rainstorms of varying durations and intensities expected to recur on the average of once every 25 years.

(57) "Twenty-Five Year Storm Runoffs" are the stormwater runoffs from the 25 year storms.

(B) Interpretation. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

1-6 Land Disturbing Activities Exempt From This Ordinance

(A) Exemptions The following activities are exempt from this ordinance.

(1) Construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.

(2) Any activity directly related to the planting, growing, or harvesting of crops.

(3) Routine project site or highway maintenance if performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(4) Construction of agricultural buildings.

(5) Single-family residential dwellings with land disturbance less than one acre.

1-7 Land Disturbing Activities Subject to Erosion and Sediment Control

(A) General Requirement. Any landowner, land user, and/or responsible party who undertakes, begins, commences or performs land disturbing activities; or who permits another person to do the same, on land subject to this Ordinance, shall be subject to the provisions of this Ordinance.

(B) Land Disturbing Activities Subject to Erosion and Sediment Control. Land disturbing activities on public or private lands shall be subject to the erosion and

(1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subOrdinance V of Chapter NR 151, Wis. Adm. Code.

(2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Town Engineer.

(3) In this Ordinance, the following year and location has been selected as average annual rainfall(s): Madison, 1981 (Mar. 12-Dec. 2).

(D) Performance Standards - Sediment in Runoff

(1) The landowner, land user, and/or responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

(2) A written stormwater management plan in accordance with Section 1-10 shall be developed and implemented for each post-construction site.

(3) The plan required under Section 1-8(D)(2) shall include the following:

(a) BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

(i) For all development, by design, reduce the total suspended solids load by 80%, based on average annual rainfall, as compared to no runoff management control.

(ii) Notwithstanding Section 1-8(D)(3)(a)(i), if the design cannot achieve the applicable total-suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable. Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids.

(E) Performance Standards - Peak Discharge

(1) By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, as compared to pre-development conditions for the 2-year, 10 year, 25 year and 100 year, 24-hour design storms applicable to the post-construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or

impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

(c) Pre-development condition shall be the same as in 1-8(e). A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

(d) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with Section 1-8(F)(2)(E). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

(i) To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden.

(ii) To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

(e) The runoff from the following areas is prohibited from infiltrating due to the potential for groundwater contamination:

(i) Areas associated with tier 1 industrial facilities identified in Section NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

(ii) Storage and loading areas of tier 2 industrial facilities identified in Section NR 216.21(2)(b), Wis. Adm. Code. Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

(iii) Fueling and vehicle maintenance areas.

(iv) Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

(v) Areas with less than 3 feet separation distance from the

ORDINANCE NO. 95-1

AN ORDINANCE REGULATING THE SALE, POSSESSION AND USE OF "FIREWORKS" WITHIN THE TOWN OF NEWPORT, COLUMBIA COUNTY, WISCONSIN, AND PROVIDING PENALTIES THEREFORE

The Town Board of the Town of Newport, Columbia County, Wisconsin, do ordain as follows:

SECTION I. STATE LAWS ADOPTED.

The Statutory provisions of s. 167.10 of the Wisconsin Statutes, describing and defining regulations with respect to fireworks are hereby adopted and by reference made a part of this Ordinance as if set forth in full herein except for those provisions that are expressly modified herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance. Any future amendments, revisions or modifications of the statutes incorporated herein are made part of this Ordinance.

SECTION II. PROHIBITIONS, UNLAWFUL ACTS

A. Except as provided herein, no person, agent, firm or corporation, may sell, display, offer to sell, possess or possess with intent to sell, store, give away, discharge, ignite or otherwise use fireworks within the Town of Newport. No person shall allow or permit fireworks to be used or exploded on his premises or on premises he controls in violation of this ordinance.

B. Exceptions. Paragraph A does not apply to:

1. The possession or use of explosives in accordance with rules or general orders of the Department of Industry, Labor and Human Relations.

2. The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources.

3. The possession or use of explosive or combustible materials in any manufacturing process.

4. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

5. An association, organization, corporation or individual holding a permit issued by the Town Board.

SECTION III. PUBLIC EXHIBITIONS

A. Public exhibitions and permit applications. An applicant for a permit for a public exhibition or display of fireworks shall file with the Town Clerk a written application therefor, duly subscribed and sworn by the applicant. Such application shall set forth the following:

1. The name of the association, organization, or corporation sponsoring the display, the date and time at which the display is to be held and the names of the person (s) to be in charge of the display.

2. The exact location planned for the display and a diagram or sketch of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged, the location of all building, street, trees, overhead public utility lines or overhead obstructions within a distance of 50 yards of the point of discharge, and the lines behind which the public will be restrained.

3. The number and kinds of fireworks to be discharged.

B. Filing of applications. An application for a permit for a public exhibition or display of fireworks shall be filed with the Town Clerk at least 20 days before the date set for the display. A copy of such application shall be sent at once to the Kilbourn Fire Department Fire Chief, who shall make or cause to be made, an investigation of the site of the proposed display and investigate the competence and skill of the persons in charge of the firing and discharge of the fireworks. If satisfied that the display will be conducted lawfully and in accordance with this ordinance, he shall so advise the Town Clerk within 10 days, who shall issue the permit. The applicant for a permit shall, at the time of filing application therefor, pay to the Town Clerk a fee of $100, which sum shall be refunded in the event the application for such permit is denied. Each applicant shall also pay to the Town Clerk a nonrefundable investigation fee of $30.

C. Permittees. A permit under this Ordinance may be issued only to a municipality, a civic organization or an individual or business holding an amusement license.

D. Insurance. No license shall be granted until there has been filed, with the Town Clerk, a true and correct copy of the applicant's liability insurance policy with minimum coverage limits of $300,000 per person personal injury and $100,000 property damage issued by insurance companies approved by the Office of the Commissioner of Insurance for the State of Wisconsin, covering personal injury or property damage arising out of the operation of a fireworks display. It shall be unlawful for a licensee or any employee of a licensee to either orally or in writing make any statement that would lead a patron to believe that the licensee does not have insurance coverage.

SECTION IV. ENFORCEMENT.

A. This ordinance shall be enforced by the Columbia County Sheriff.

B. The Town may petition the Circuit Court for an order enjoining violations of this Ordinance.

C. Fireworks stored, handled, sold, possessed or used by a person who violates this Ordinance shall be seized. The fireworks shall be destroyed after conviction for a violation, or otherwise returned to the owner.

SECTION V. PENALTIES.

Any person, agent, firm or corporation violating the provisions of this ordinance shall, upon conviction thereof, forfeit not more than $100.00 for the first offense, with a deposit required of $100.00 and not more than $500.00 for the second offense, with a deposit required of $500.00, and the costs of prosecution. In default of payment of such forfeiture and costs, such violator shall be imprisoned in the County jail of Columbia County, Wisconsin, until the forfeiture and costs are paid, but not exceeding 30 days for each violation. Each day of continued violation shall be considered a violation.

SECTION VI. SEVERABILITY

If any provision of this ordinance is invalid or unconstitutional or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provisions or application.

SECTION VII. EFFECTIVE DATE

This ordinance shall be effective from and after its passage and publication as provided by law.

DONALD P. NELSON
Chairman

FREDERICK G. WINNES
Supervisor

RICHARD C. ANDERSON
Supervisor

Dated and Introduced 5/9/95

Published before Passage 6/1/95

Passed 7/13/95 7/27/95

Published after passage 7/20/95

Attest: Laurence J. Bogh, Clerk