



**CITY OF NEWPORT
CITY COUNCIL WORKSHOP
NEWPORT CITY HALL**

**April 15, 2021 – IMMEDIATELY FOLLOWING THE REGULAR COUNCIL MEETING
May Be Held Electronically From Remote Locations**

Zoom Meeting Link <https://us02web.zoom.us/j/81555137620> Meeting ID: 815 5513 7620 PW: Newport

| | | | |
|----------|-------------------|--------------------------|-----------------|
| MAYOR: | Laurie Elliott | City Administrator: | Deb Hill |
| COUNCIL: | Kevin Chapdelaine | Supt. of Public Works: | Bruce Hanson |
| | Tom Ingemann | Fire Chief: | Steven Wiley |
| | Marvin Taylor | Asst. to the City Admin: | Travis Brierley |
| | Rozlyn Johnson | Law Enforcement (WCSO): | Bill Harrell |

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CITY LOGO
4. CODE ENFORCEMENT
5. FUTURE AGENDA ITEMS
6. ADJOURNMENT

**CITY OF NEWPORT
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF NEWPORT, MINNESOTA AMENDING
CHAPTER 1 – GENERAL PROVISIONS, TO PROVIDE ADDITIONAL PROCEDURE
FOR THE ENFORCEMENT OF CITY CODE VIOLATIONS AND THE ISSUANCE OF
ADMINISTRATIVE CITATIONS, AND AMENDING CHAPTER 18 – NUISANCES,
REGULATING THE ABATEMENT OF NUISANCE CONDITIONS, THE
DEFINITIONS OF PUBLIC NUISANCES, AND THE ABATEMENT OF CERTAIN
BUILDING AND PROPERTY MAINTENANCE VIOLATIONS**

THE CITY COUNCIL OF THE CITY OF NEWPORT DOES ORDAIN THAT (new material is underlined; deleted material is lined out; sections which are not proposed to be amended are omitted; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

SECTION 1. City of Newport City Code, Chapter 1 – General Provisions, is hereby amended to add a new Sec. 1-17, as follows:

Sec. 1-17. – Enforcement.

- (a) Any licensed peace officer of the city’s police department, if any, or the county sheriff, or any deputy sheriff, as applicable, shall have the authority to enforce any provision of this code.
- (b) The city clerk-administrator shall have the authority to administer and enforce this code. In addition, certain individuals designated within the code or by the city clerk-administrator or city council, including city employees or contracted agents of the city, shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.
- (c) The city clerk-administrator, a peace officer, or any city official, city contracted agent, or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.
- (d) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the city clerk-administrator, peace officer or any employee, contracted agent, or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and

obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only.

- (e) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

SECTION 2. City of Newport City Code, Chapter 1 – General Provisions, is hereby amended to add a new Sec. 1-18, as follows:

Sec. 1-18. – Administrative citations.

- (a) Purpose. Administrative offense procedures established pursuant to this section are intended to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain city code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as provided for hereafter, the individual may withdraw from participation in the procedures.
- (b) City code administrative offense defined. A city code administrative offense is a violation of a provision of the city code and is subject to the administrative penalties set forth in the schedule of offenses and penalties established by resolution of the city council, as the same may be amended from time to time.
- (c) Notice / administrative citation. The following employees, officials and contracted agents of the city shall have the authority to issue notices / administrative citations for city code administrative offenses:

- (1) Fire chief;
- ~~(2)~~ Assistant fire chief;
- ~~(3)~~(2) Fire marshal;
- ~~(4)~~(3) Building official;
- ~~(5)~~ Building inspector;
- ~~(6)~~ Rental housing inspector;
- ~~(7)~~(4) City clerk-administrator;
- ~~(8)~~ Police chief;
- ~~(9)~~ Police officer;
- ~~(10)~~ Sheriff; and
- ~~(11)~~ Deputy sheriff.

Upon determining that there has been a violation, a notice/citation shall be given to the alleged violator, or in the case of a vehicular violation, a notice/citation of the alleged violation may be attached to the vehicle. Said notice/citation shall set forth the nature, date and time of the alleged violation, the action that must be taken by the alleged violator to remedy the violation if applicable, the name of the official issuing the notice/citation, and the amount of the scheduled penalty.

- (d) Payment. Once such notice/citation is given, the alleged violator may, within seven (7) days of the time of issuance of the notice/citation, pay the full amount set forth on the schedule of penalties for the violation. The penalty may be paid in person, electronically, or by mail, or by other payment authorized by the city clerk-administrator or city council and payment shall be deemed to be an admission of the violation. The fee for an administrative citation shall be set forth in the city fee schedule and may be amended by the city council from time to time.
- (e) Contesting notices / administrative citations. At any time before the payment of the administrative penalty is due as contained in the notice/citation, the person who has been given the notice/citation of an alleged violation may contest the notice/citation by providing written notice to the city clerk-administrator. If a notice/citation is contested it shall be dismissed. Upon dismissal of aan administrative notice/citation the city may cause criminal charges to be brought in accordance with state law and this code.
- (f) Failure to pay. At any time after the date the payment of the administrative penalty is due as contained in the notice/citation, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city may cause criminal charges to be brought in accordance with state law and this code. Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty through this administrative citationscitation process, even if an administrative penalty for the particular violation has been established by city council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.
- (g) Disposition of penalties. All penalties collected pursuant to this section shall be paid to the city and deposited into the city's general fund.
- (h) Remedy not exclusive. Administrative citation under this section does not preclude any other civil or criminal enforcement procedure contained in this code or otherwise provided by applicable law, except to the extent an administrative citation has been paid or otherwise satisfied in the city's judgment.

SECTION 3. City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, Sec. 18-3. – Public nuisance affecting peace and safety, is hereby amended as follows:

Sec. 18-3. – Public nuisance affecting peace and safety.

The following are declared to be nuisances affecting public peace and safety:

- (k) Any vehicle, trailer (including but not limited to flatbed trailers, fully or partially enclosed trailers, camping trailers, and mobile ice houses), vehicle attachment or equipment (including but limited to snowplows) or equipment that is required to be licensed in the state that is partially dismantled, non-operating, wrecked, junked or discarded, or any part thereof, on property within the city for a period of over 72 hours unless within an enclosed building. The storage on the premises of a single non-operating vehicle with current registration, proof of insurance and license, which may reasonably be put into operating condition within 24 hours, shall not be considered a nuisance. This section shall not apply to automotive related commercial businesses in areas of the city zoned for commercial or industrial use;

- (r) Accumulations or storage in the open (i.e., not fully contained within a building or structure upon property zoned for such use) of any of the following items, or anything similar thereto:
 - (1) discarded or disused machinery, household appliances (including but not limited to, iceboxes, refrigerators, ovens, clothes washers, and televisions);

 - (2) household furniture and furnishings (including but not limited to, sofas, mattresses, tables, chairs, and dressers);

 - (3) debris, litter, and refuse (including but not limited to, tires, cans, bottles, food or beverage containers, cardboard, and clothing);

 - (4) automobile bodies, vehicle parts (including but not limited to motor vehicle bodies, tires, and engines);

 - (5) lumber, construction, industrial, freight, or landscaping material (including but not limited to, lumber, pipe, sheetrock, scaffolding, dumpsters, portable toilets, shipping containers, dirt, sod, and rock), including all materials used in conjunction with a business, except when in current use in construction, landscaping, or repair work, or shielded from public view by an opaque cover or fence, but in any event for not more than (60) days wood, or other material, or the growth of vegetation, weeds, or noxious weeds at large or among the; or

(6) any other materials or items of any kind or nature accumulated in such a manner so as to create a fire, health, or safety hazard; by way of limited example, materials so accumulated; in a manner conducive to the harboring of rats, mice, snakes, or vermin, or in a manner creating a fire, health, or safety hazard from such accumulation; The term "weeds" means and includes not only such noxious weeds as are defined in M.S.A. § 18.77(8), such as annual, biennial, or perennial plants that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property, but shall also include such nuisance and troublesome plants as well as rank vegetable growth which exhales unpleasant or noxious odors and also high in rank vegetable growth that may conceal filthy deposits;

(x) Any violation of City Code, Chapter 18, Article III;

(y) Any violation of City Code, Chapter 36, Article III, Sec. 36-163(a)(1).

SECTION 4. City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, Sec. 18-6. – Abatement, is hereby repealed and replaced in its entirety, as follows:

~~(a) *Generally.* Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner or occupant of the premises of the fact and order that the nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice shall be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance shall be abated; provided the time for abatement shall not exceed ten days in the case of noxious weeds. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the council. Thereafter, the council, after notice and hearing, may cause the nuisance to be abated by the city.~~

~~(b) *Emergency abatement.* When the officer charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.~~

~~(c) *Costs of abatement.* The cost of the abatement may be assessed as a current service against the property upon which or which created the nuisance pursuant to this Code.~~

(a) Standard abatement. Unless a different procedure is specifically authorized by this code or other applicable law, and except as otherwise provided under subsections (b) and (c) of this section, the following abatement procedure applies to all public nuisances in the city.

(1) Notice. Whenever the city council or the city council’s designee responsible for enforcement (the “enforcing officer”), including but not limited to the city clerk-administrator, police chief, fire chief, building official, building inspector, city attorney, and peace officers, or other duly authorized agents and employees of the city, determines that a public nuisance is being maintained or exists on property in violation of this chapter, the city council or the enforcing officer must give written notification to the property owner and occupant or other responsible party of that fact and order that the nuisance be terminated and abated. Notice must be served in person or by U.S. mail. Failure of the party to receive the U.S. mail does not invalidate the service of the notice. Notice to the owner will be satisfied by notice to the person listed as the taxpayer on the county’s tax records. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property for a period of at least 72 hours. The notice must state:

- (i) The property location of the public nuisance;
- (ii) The nature of the public nuisance, with reference to the appropriate code provision(s);
- (iii) The corrective actions that must be taken to abate the nuisance and a reasonable amount of time within which the nuisance is to be abated;
- (iv) That if the owner, occupant, or other responsible party does not comply with the notice within the time specified in the notice, the city may provide for abating the nuisance itself by entering upon the property and taking the corrective actions identified in the notice following the appeal period;
- (v) That the owner, occupant, or other responsible party has the right to appeal the designation as a public nuisance to the city council by submitting a request in writing to the city clerk-administrator before the earlier of the date by which abatement of the identified nuisance must be completed, or seven calendar days after service of the notice; and
- (vi) That the city may assess its costs incurred in abating the nuisance against the property in accordance with this section and applicable law.

(2) Appeal. The owner, occupant, or other responsible party served with a notice under subsection (a)(1) of this section may appeal the nuisance designation to the city council within the time provided in the notice. If a timely appeal is submitted, the matter must be scheduled for a hearing before the city council. A notice of the hearing must state the date, time, and location of the city council hearing, must be served in the same manner as the abatement notice, and must be given at least ten days before the city council hearing. After holding the hearing, the city council may issue an order requiring abatement of the nuisance consistent with subsection (a)(3) of this section. Failure to timely appeal constitutes waiver of such right to appeal and hearing upon the nuisance designation.

(3) Abatement. If the city council, after hearing an appeal under section (a)(2) of this section, orders abatement of the nuisance, or if no timely appeal is submitted and the nuisance is not abated within the deadline given, then the city may enter onto the property on which the nuisance exists and cause the same to be abated or removed by the city in any other manner it deems appropriate. Abatement may include, but shall not be limited to, removal, cleaning, painting of exterior surfaces, extermination, cutting, mowing, grading, sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portions of structures and demolition of dangerous structures or abandoned buildings. If deemed necessary by the city clerk-administrator or city attorney, the city may seek summary enforcement of the city council's abatement order in the district court by causing a copy of the abatement order and notice of motion for summary enforcement to be served on the owner and occupant in the manner provided for service of a summons in a civil action, or alternatively obtain an administrative search and seizure warrant and abate the nuisance.

(b) Emergency and Summary abatement. The city council or the enforcing officer may provide for abating a public nuisance pursuant to subsection (a)(3) of this section without following the standard abatement procedure required in subsections (a)(1) and (a)(2) of this section when:

- (1) There is an immediate threat to the public health or safety;
- (2) There is an immediate threat of serious property damage;
- (3) A public nuisance has been caused by private parties on public property;
or

- (4) There is a violation of City Code, Chapter 18, Article I, Sec. 18-3(a) or City Code, Chapter 18, Article III, Sec. 18-72.

To proceed with summary abatement, the enforcing officer shall determine that a public nuisance exists or is being maintained on premises/property in the city and that delay in abatement of the nuisance will endanger or jeopardize public health, safety or welfare. If the city summarily abates the nuisance under this subsection (b), the enforcing officer must reasonably attempt to notify the owner, occupant, or other responsible party through citation or written notice of the intended summary abatement action in advance of such action. Cost recovery shall occur pursuant to subsection (e), provided that within 7 days of the receipt of an invoice from the city for the cost of the abatement, the invoiced party shall have the right to request a meeting with the city clerk-administrator to dispute the invoiced cost. Within 3 business days following such a meeting, the city clerk-administrator may issue a decision on the matter in writing, by email and/or U.S. mail, to the disputing party, and may, in his or her judgment, cancel all or part of the invoice cost, or leave the cost unchanged. Failure by the city clerk-administrator to timely issue a written decision shall constitute a decision to leave the invoice cost unchanged. Any invoice cost, in whole or in part, not paid within 30 days of the date of the city's invoice, and not otherwise canceled by the city clerk-administrator, shall be assessed pursuant to subsection (f) below. Failure to timely request a meeting with the city clerk-administrator pursuant to this subsection (b) shall constitute waiver of such right.

Nothing in this section shall prevent the city, without notice or other process, from immediately abating a condition that poses an imminent and serious hazard to human life or safety.

- (c) Major abatement. When the city council or the enforcing officer determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the standard abatement procedure provided in subsection (a) above is altered in the following manner:

- (1) The abatement notice must provide that if the party does not abate the nuisance within the time specified, the matter will be referred to the city council for a hearing;
- (2) The abatement notice must specify the date, time, and location of the hearing before the city council; and
- (3) The city must cause notice of the date, time, and location of the hearing before the city council to be published at least ten days before the hearing and allow any parties who wish to be heard an opportunity to address the city council during the hearing.

(d) Disposal of impounded motor vehicles. In the event the city enters property on which a nuisance exists and removes, tows and impounds an abandoned, junk, or unauthorized vehicle, as defined by Minn. Stat. § 168B.011, to abate the nuisance pursuant to this section, the removed and impounded vehicle shall be handled and disposed of in the manner provided in Minn. Stat. §§ 168B.01 through 168B.101.

In the event the city enters property on which a nuisance exists and removes, tows and impounds a motor vehicle that does not clearly meet the definition of an abandoned, junk, or unauthorized vehicle, as defined by Minn. Stat. § 168B.011, to abate the nuisance pursuant to this Section, the removed and impounded vehicle shall be handled and disposed of in the manner prescribed for unauthorized vehicles as provided in Minn. Stat. §§ 168B.01 through 168B.101.

(e) Cost recovery. The owner of the property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, is personally liable to the city for the cost of the abatement, including, without limitation, administrative costs, court fees and costs, consultant and/or contractor services fees and expenses, and attorneys' fees, if applicable. Unpaid charges constitute a lien against the premises/property where the abatement occurred on and after the date they were incurred by the city. As soon as the work has been completed and the cost determined by the enforcing officer, an appropriate city official will prepare a bill/invoice for the cost and mail it to the owner or other responsible party for payment thereby. The amount is immediately due and payable to the city within 30 days of the date of the city's invoice.

(f) Assessment. If any cost of abatement, not otherwise canceled by the city clerk-administrator as provided in subsection (b), or any portion of such cost, has not been timely paid under subsection (e), the city council may, at any time, certify the unpaid cost against the property to which the cost is attributable. Before certification against the property, reasonable notice of the impending certification and an opportunity to be heard by the city council must be given to the taxpayer of record. Failure of the taxpayer of record to receive the assessment notice will not invalidate the certification. The city council may certify the unpaid costs so assessed to the county auditor for collection along with current property taxes in the following year or in annual installments, not exceeding ten, as the city council may determine in each case.

(g) Remedy not exclusive. Abatement action under this section does not preclude any other civil or criminal enforcement procedure.

SECTION 5: City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, is hereby amended to add a new Sec. 18-7, as follows:

Sec. 18-7. – General penalty.

Unless otherwise provided in this code, any person in violation of any of the provisions in this chapter shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

SECTION 6: City of Newport City Code, Chapter 18 – Nuisances, Article III. – Building and Property Maintenance, Sec.18-76. – Abatement procedure, is hereby amended as follows:

(a) ~~Generally. Whenever the officer who is charged with enforcement determines that a public nuisance is being maintained or exists on property in the city, the officer shall notify in writing the property owner and occupant or other responsible part of the fact and order that the nuisance be terminated and abated. Notice shall be served in person or by mail. Notice to the owner shall be satisfied by return receipt from the person listed as the taxpayer on the county's tax record. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property. The written notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 20 days, within which the nuisance is to be abated with the first notice, ten days with the second notice, and five days with the final notice. If the owner, occupant, or other responsible party does not comply with the notice within the time specified, the city council may, after notice to the owner and occupant or other responsible party, provide for abating the nuisance by the city. The notice shall be served in the same manner as notice by the enforcing officer and shall be at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 45 days shall elapse between the day of posting and the hearing.~~
Violations of this article may be abated pursuant to the procedure in City Code, Chapter 18, Article I, Sec. 18-6. [add summarily ref

~~(b) Summary abatement. The enforcement officer, or his designee, may provide for abating a public nuisance without following the procedures required in subsection (a) of this section when:~~

- ~~(1) — There is an immediate threat to the public health or safety.~~
- ~~(2) — There is an immediate threat of serious property damage.~~
- ~~(3) — A public nuisance has been caused by private parties on public property.~~

~~If the enforcement officer abates the nuisance pursuant to this section, the officer must reasonably attempt to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled city council meeting.~~

~~(e)(b) *Hazardous and substandard buildings.* In appropriate cases the city may elect to enforce the provisions of this article pursuant to M.S.A. Minn. Stat. §§ 463.15—462.26., and in so doing shall not be prohibited from taking any additional and/or concurrent enforcement action otherwise authorized by this code or state law.~~

~~(d) *Cost recovery.* The owner of property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally responsible to the city for the cost abatement, including administrative costs and any other expenses incurred by the city while performing the work. As soon as the work has been completed and the cost determined, the city clerk or other official designated by the council shall prepare a bill for the cost and mail it to the owner or other responsible party. Thereupon, the amount shall be immediately due and payable at the office of the city clerk.~~

~~(e) *Assessment.* If the cost, or any portion of it, has not been paid under subsection (d) of this section, within 30 days after the date of the bill, the unpaid cost may be certified against the property to which the cost is attributable in accordance with M.S.A. ch. 429. Before the unpaid costs are certified against the property, the property owner must be given notice and hearing as required by M.S.A. § 429.069.~~

~~(f)(c) *Penalty.* Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.~~

~~(g)(d) *Hindrance.* Any person hindering the efforts of city officials to investigate possible violations of this article shall be guilty of a misdemeanor.~~

~~(h)(e) *Conflicting regulations.* In any case where a provision of this article is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code in this city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the city existing on the effective date of the ordinance from which this article is derived which established a lower standard for the promotion and protection of the health and safety of the people, the provision of this article shall be deemed to prevail. The determination of the~~

applicability of this article in light of the above rules of interpretation shall be made by the city and its determination shall be final.

SECTION 7: This Ordinance shall take effect following its passage and publication.

Passed by the City Council of the City of Newport, Minnesota this ___ day of _____, 2021.

Laurie Elliott, Mayor

ATTEST:

Deb Hill, City Clerk-Administrator

**CITY OF NEWPORT
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF NEWPORT, MINNESOTA AMENDING
CHAPTER 1 – GENERAL PROVISIONS, TO PROVIDE ADDITIONAL PROCEDURE
FOR THE ENFORCEMENT OF CITY CODE VIOLATIONS AND THE ISSUANCE OF
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REGULATING THE ABATEMENT OF NUISANCE CONDITIONS, THE
DEFINITIONS OF PUBLIC NUISANCES, AND THE ABATEMENT OF CERTAIN
BUILDING AND PROPERTY MAINTENANCE VIOLATIONS**

THE CITY COUNCIL OF THE CITY OF NEWPORT DOES ORDAIN THAT (new material is underlined; deleted material is lined out; sections which are not proposed to be amended are omitted; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

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- (b) The city clerk-administrator shall have the authority to administer and enforce this code. In addition, certain individuals designated within the code or by the city clerk-administrator or city council, including city employees or contracted agents of the city, shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.
- (c) The city clerk-administrator, a peace officer, or any city official, city contracted agent, or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.
- (d) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the city clerk-administrator, peace officer or any employee, contracted agent, or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and

obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only.

- (e) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

SECTION 2. City of Newport City Code, Chapter 1 – General Provisions, is hereby amended to add a new Sec. 1-18, as follows:

Sec. 1-18. – Administrative citations.

- (a) Purpose. Administrative offense procedures established pursuant to this section are intended to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain city code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as provided for hereafter, the individual may withdraw from participation in the procedures.
- (b) City code administrative offense defined. A city code administrative offense is a violation of a provision of the city code and is subject to the administrative penalties set forth in the schedule of offenses and penalties established by resolution of the city council, as the same may be amended from time to time.
- (c) Notice / administrative citation. The following employees, officials and contracted agents of the city shall have the authority to issue notices / administrative citations for city code administrative offenses:

- (1) Fire chief;
- (2) Fire marshal;
- (3) Building official;
- (4) City clerk-administrator;

Upon determining that there has been a violation, a notice/citation shall be given to the alleged violator, or in the case of a vehicular violation, a notice/citation of the alleged violation may be attached to the vehicle. Said notice/citation shall set forth the nature, date and time of the alleged violation, the action that must be taken by the alleged violator to remedy the violation if applicable, the name of the official issuing the notice/citation, and the amount of the scheduled penalty.

- (d) *Payment.* Once such notice/citation is given, the alleged violator may, within seven (7) days of the time of issuance of the notice/citation, pay the full amount set forth on the schedule of penalties for the violation. The penalty may be paid in person, electronically, or by mail, or by other payment authorized by the city clerk-administrator or city council and payment shall be deemed to be an admission of the violation. The fee for an administrative citation shall be set forth in the city fee schedule and may be amended by the city council from time to time.
- (e) *Contesting notices / administrative citations.* At any time before the payment of the administrative penalty is due as contained in the notice/citation, the person who has been given the notice/citation of an alleged violation may contest the notice/citation by providing written notice to the city clerk-administrator. If a notice/citation is contested it shall be dismissed. Upon dismissal of an administrative notice/citation the city may cause criminal charges to be brought in accordance with state law and this code.
- (f) *Failure to pay.* At any time after the date the payment of the administrative penalty is due as contained in the notice/citation, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city may cause criminal charges to be brought in accordance with state law and this code. Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty through this administrative citation process, even if an administrative penalty for the particular violation has been established by city council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.
- (g) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the city and deposited into the city's general fund.
- (h) *Remedy not exclusive.* Administrative citation under this section does not preclude any other civil or criminal enforcement procedure contained in this code or otherwise provided by applicable law, except to the extent an administrative citation has been paid or otherwise satisfied in the city's judgment.

SECTION 3. City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, Sec. 18-3. – Public nuisance affecting peace and safety, is hereby amended as follows:

Sec. 18-3. – Public nuisance affecting peace and safety.

The following are declared to be nuisances affecting public peace and safety:

- (k) Any vehicle, trailer (including but not limited to flatbed trailers, fully or partially enclosed trailers, camping trailers, and mobile ice houses), vehicle attachment or equipment (including but limited to snowplows) or equipment that is required to be licensed in the state that is partially dismantled, non-operating, wrecked, junked or discarded, or any part thereof, on property within the city for a period of over 72 hours unless within an enclosed building. The storage on the premises of a single non-operating vehicle with current registration, proof of insurance and license, which may reasonably be put into operating condition within 24 hours, shall not be considered a nuisance. This section shall not apply to automotive related commercial businesses in areas of the city zoned for commercial or industrial use;

- (r) Accumulations or storage in the open (i.e., not fully contained within a building or structure upon property zoned for such use) of any of the following items, or anything similar thereto:
 - (1) discarded or disused machinery, household appliances (including but not limited to, iceboxes, refrigerators, ovens, clothes washers, and televisions);

 - (2) household furniture and furnishings (including but not limited to, sofas, mattresses, tables, chairs, and dressers);

 - (3) debris, litter, and refuse (including but not limited to, tires, cans, bottles, food or beverage containers, cardboard, and clothing);

 - (4) automobile bodies, vehicle parts (including but not limited to motor vehicle bodies, tires, and engines);

 - (5) lumber, construction, industrial, freight, or landscaping material (including but not limited to, lumber, pipe, sheetrock, scaffolding, dumpsters, portable toilets, shipping containers, dirt, sod, and rock), including all materials used in conjunction with a business, except when in current use in construction, landscaping, or repair work, or shielded from public view by an opaque cover or fence, but in any event for not more than (60) days wood, or other material, or the growth of vegetation, weeds, or noxious weeds at large or among the; or

(6) any other materials or items of any kind or nature accumulated in such a manner so as to create a fire, health, or safety hazard; by way of limited example, materials so accumulated; in a manner conducive to the harboring of rats, mice, snakes, or vermin; or in a manner creating a fire, health, or safety hazard from such accumulation; The term "weeds" means and includes not only such noxious weeds as are defined in M.S.A. § 18.77(8), such as annual, biennial, or perennial plants that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property, but shall also include such nuisance and troublesome plants as well as rank vegetable growth which exhales unpleasant or noxious odors and also high in rank vegetable growth that may conceal filthy deposits;

(x) Any violation of City Code, Chapter 18, Article III;

(y) Any violation of City Code, Chapter 36, Article III, Sec. 36-163(a)(1).

SECTION 4. City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, Sec. 18-6. – Abatement, is hereby repealed and replaced in its entirety, as follows:

~~(a) *Generally.* Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner or occupant of the premises of the fact and order that the nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice shall be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance shall be abated; provided the time for abatement shall not exceed ten days in the case of noxious weeds. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the council. Thereafter, the council, after notice and hearing, may cause the nuisance to be abated by the city.~~

~~(b) *Emergency abatement.* When the officer charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.~~

~~(c) *Costs of abatement.* The cost of the abatement may be assessed as a current service against the property upon which or which created the nuisance pursuant to this Code.~~

(a) Standard abatement. Unless a different procedure is specifically authorized by this code or other applicable law, and except as otherwise provided under subsections (b) and (c) of this section, the following abatement procedure applies to all public nuisances in the city.

(1) Notice. Whenever the city council or the city council’s designee responsible for enforcement (the “enforcing officer”), including but not limited to the city clerk-administrator, police chief, fire chief, building official, building inspector, city attorney, and peace officers, or other duly authorized agents and employees of the city, determines that a public nuisance is being maintained or exists on property in violation of this chapter, the city council or the enforcing officer must give written notification to the property owner and occupant or other responsible party of that fact and order that the nuisance be terminated and abated. Notice must be served in person or by U.S. mail. Failure of the party to receive the U.S. mail does not invalidate the service of the notice. Notice to the owner will be satisfied by notice to the person listed as the taxpayer on the county’s tax records. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property for a period of at least 72 hours. The notice must state:

- (i) The property location of the public nuisance;
- (ii) The nature of the public nuisance, with reference to the appropriate code provision(s);
- (iii) The corrective actions that must be taken to abate the nuisance and a reasonable amount of time within which the nuisance is to be abated;
- (iv) That if the owner, occupant, or other responsible party does not comply with the notice within the time specified in the notice, the city may provide for abating the nuisance itself by entering upon the property and taking the corrective actions identified in the notice following the appeal period;
- (v) That the owner, occupant, or other responsible party has the right to appeal the designation as a public nuisance to the city council by submitting a request in writing to the city clerk-administrator before the earlier of the date by which abatement of the identified nuisance must be completed, or seven calendar days after service of the notice; and
- (vi) That the city may assess its costs incurred in abating the nuisance against the property in accordance with this section and applicable law.

(2) Appeal. The owner, occupant, or other responsible party served with a notice under subsection (a)(1) of this section may appeal the nuisance designation to the city council within the time provided in the notice. If a timely appeal is submitted, the matter must be scheduled for a hearing before the city council. A notice of the hearing must state the date, time, and location of the city council hearing, must be served in the same manner as the abatement notice, and must be given at least ten days before the city council hearing. After holding the hearing, the city council may issue an order requiring abatement of the nuisance consistent with subsection (a)(3) of this section. Failure to timely appeal constitutes waiver of such right to appeal and hearing upon the nuisance designation.

(3) Abatement. If the city council, after hearing an appeal under section (a)(2) of this section, orders abatement of the nuisance, or if no timely appeal is submitted and the nuisance is not abated within the deadline given, then the city may enter onto the property on which the nuisance exists and cause the same to be abated or removed by the city in any other manner it deems appropriate. Abatement may include, but shall not be limited to, removal, cleaning, painting of exterior surfaces, extermination, cutting, mowing, grading, sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portions of structures and demolition of dangerous structures or abandoned buildings. If deemed necessary by the city clerk-administrator or city attorney, the city may seek summary enforcement of the city council's abatement order in the district court by causing a copy of the abatement order and notice of motion for summary enforcement to be served on the owner and occupant in the manner provided for service of a summons in a civil action, or alternatively obtain an administrative search and seizure warrant and abate the nuisance.

(b) Emergency and Summary abatement. The city council or the enforcing officer may provide for abating a public nuisance pursuant to subsection (a)(3) of this section without following the standard abatement procedure required in subsections (a)(1) and (a)(2) of this section when:

- (1) There is an immediate threat to the public health or safety;
- (2) There is an immediate threat of serious property damage;
- (3) A public nuisance has been caused by private parties on public property;
or

- (4) There is a violation of City Code, Chapter 18, Article I, Sec. 18-3(a) or City Code, Chapter 18, Article III, Sec. 18-72.

To proceed with summary abatement, the enforcing officer shall determine that a public nuisance exists or is being maintained on premises/property in the city and that delay in abatement of the nuisance will endanger or jeopardize public health, safety or welfare. If the city summarily abates the nuisance under this subsection (b), the enforcing officer must reasonably attempt to notify the owner, occupant, or other responsible party through citation or written notice of the intended summary abatement action in advance of such action. Cost recovery shall occur pursuant to subsection (e), provided that within 7 days of the receipt of an invoice from the city for the cost of the abatement, the invoiced party shall have the right to request a meeting with the city clerk-administrator to dispute the invoiced cost. Within 3 business days following such a meeting, the city clerk-administrator may issue a decision on the matter in writing, by email and/or U.S. mail, to the disputing party, and may, in his or her judgment, cancel all or part of the invoice cost, or leave the cost unchanged. Failure by the city clerk-administrator to timely issue a written decision shall constitute a decision to leave the invoice cost unchanged. Any invoice cost, in whole or in part, not paid within 30 days of the date of the city's invoice, and not otherwise canceled by the city clerk-administrator, shall be assessed pursuant to subsection (f) below. Failure to timely request a meeting with the city clerk-administrator pursuant to this subsection (b) shall constitute waiver of such right.

Nothing in this section shall prevent the city, without notice or other process, from immediately abating a condition that poses an imminent and serious hazard to human life or safety.

- (c) Major abatement. When the city council or the enforcing officer determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the standard abatement procedure provided in subsection (a) above is altered in the following manner:

- (1) The abatement notice must provide that if the party does not abate the nuisance within the time specified, the matter will be referred to the city council for a hearing;
- (2) The abatement notice must specify the date, time, and location of the hearing before the city council; and
- (3) The city must cause notice of the date, time, and location of the hearing before the city council to be published at least ten days before the hearing and allow any parties who wish to be heard an opportunity to address the city council during the hearing.

(d) Disposal of impounded motor vehicles. In the event the city enters property on which a nuisance exists and removes, tows and impounds an abandoned, junk, or unauthorized vehicle, as defined by Minn. Stat. § 168B.011, to abate the nuisance pursuant to this section, the removed and impounded vehicle shall be handled and disposed of in the manner provided in Minn. Stat. §§ 168B.01 through 168B.101.

In the event the city enters property on which a nuisance exists and removes, tows and impounds a motor vehicle that does not clearly meet the definition of an abandoned, junk, or unauthorized vehicle, as defined by Minn. Stat. § 168B.011, to abate the nuisance pursuant to this Section, the removed and impounded vehicle shall be handled and disposed of in the manner prescribed for unauthorized vehicles as provided in Minn. Stat. §§ 168B.01 through 168B.101.

(e) Cost recovery. The owner of the property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, is personally liable to the city for the cost of the abatement, including, without limitation, administrative costs, court fees and costs, consultant and/or contractor services fees and expenses, and attorneys' fees, if applicable. Unpaid charges constitute a lien against the premises/property where the abatement occurred on and after the date they were incurred by the city. As soon as the work has been completed and the cost determined by the enforcing officer, an appropriate city official will prepare a bill/invoice for the cost and mail it to the owner or other responsible party for payment thereby. The amount is immediately due and payable to the city within 30 days of the date of the city's invoice.

(f) Assessment. If any cost of abatement, not otherwise canceled by the city clerk-administrator as provided in subsection (b), or any portion of such cost, has not been timely paid under subsection (e), the city council may, at any time, certify the unpaid cost against the property to which the cost is attributable. Before certification against the property, reasonable notice of the impending certification and an opportunity to be heard by the city council must be given to the taxpayer of record. Failure of the taxpayer of record to receive the assessment notice will not invalidate the certification. The city council may certify the unpaid costs so assessed to the county auditor for collection along with current property taxes in the following year or in annual installments, not exceeding ten, as the city council may determine in each case.

(g) Remedy not exclusive. Abatement action under this section does not preclude any other civil or criminal enforcement procedure.

SECTION 5: City of Newport City Code, Chapter 18 – Nuisances, Article I. – In General, is hereby amended to add a new Sec. 18-7, as follows:

Sec. 18-7. – General penalty.

Unless otherwise provided in this code, any person in violation of any of the provisions in this chapter shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

SECTION 6: City of Newport City Code, Chapter 18 – Nuisances, Article III. – Building and Property Maintenance, Sec.18-76. – Abatement procedure, is hereby amended as follows:

(a) ~~Generally. Whenever the officer who is charged with enforcement determines that a public nuisance is being maintained or exists on property in the city, the officer shall notify in writing the property owner and occupant or other responsible part of the fact and order that the nuisance be terminated and abated. Notice shall be served in person or by mail. Notice to the owner shall be satisfied by return receipt from the person listed as the taxpayer on the county's tax record. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property. The written notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 20 days, within which the nuisance is to be abated with the first notice, ten days with the second notice, and five days with the final notice. If the owner, occupant, or other responsible party does not comply with the notice within the time specified, the city council may, after notice to the owner and occupant or other responsible party, provide for abating the nuisance by the city. The notice shall be served in the same manner as notice by the enforcing officer and shall be at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 45 days shall elapse between the day of posting and the hearing.~~
Violations of this article may be abated pursuant to the procedure in City Code, Chapter 18, Article I, Sec. 18-6. [add summarily ref

~~(b) Summary abatement. The enforcement officer, or his designee, may provide for abating a public nuisance without following the procedures required in subsection (a) of this section when:~~

- ~~(1) — There is an immediate threat to the public health or safety.~~
- ~~(2) — There is an immediate threat of serious property damage.~~
- ~~(3) — A public nuisance has been caused by private parties on public property.~~

~~If the enforcement officer abates the nuisance pursuant to this section, the officer must reasonably attempt to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled city council meeting.~~

~~(e)(b) *Hazardous and substandard buildings.* In appropriate cases the city may elect to enforce the provisions of this article pursuant to M.S.A. Minn. Stat. §§ 463.15—462.26., and in so doing shall not be prohibited from taking any additional and/or concurrent enforcement action otherwise authorized by this code or state law.~~

~~(d) *Cost recovery.* The owner of property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally responsible to the city for the cost abatement, including administrative costs and any other expenses incurred by the city while performing the work. As soon as the work has been completed and the cost determined, the city clerk or other official designated by the council shall prepare a bill for the cost and mail it to the owner or other responsible party. Thereupon, the amount shall be immediately due and payable at the office of the city clerk.~~

~~(e) *Assessment.* If the cost, or any portion of it, has not been paid under subsection (d) of this section, within 30 days after the date of the bill, the unpaid cost may be certified against the property to which the cost is attributable in accordance with M.S.A. ch. 429. Before the unpaid costs are certified against the property, the property owner must be given notice and hearing as required by M.S.A. § 429.069.~~

~~(f)(c) *Penalty.* Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.~~

~~(g)(d) *Hindrance.* Any person hindering the efforts of city officials to investigate possible violations of this article shall be guilty of a misdemeanor.~~

~~(h)(e) *Conflicting regulations.* In any case where a provision of this article is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code in this city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the city existing on the effective date of the ordinance from which this article is derived which established a lower standard for the promotion and protection of the health and safety of the people, the provision of this article shall be deemed to prevail. The determination of the~~

applicability of this article in light of the above rules of interpretation shall be made by the city and its determination shall be final.

SECTION 7: This Ordinance shall take effect following its passage and publication.

Passed by the City Council of the City of Newport, Minnesota this ___ day of _____, 2021.

Laurie Elliott, Mayor

ATTEST:

Deb Hill, City Clerk-Administrator