

RESOLUTION NO. 10454-03

A RESOLUTION ADOPTING A POLICY REGARDING SEWAGE COLLECTION SYSTEMS (HEREAFTER "POLICY") FOR THE CITY OF NEWPORT NEWS (HEREAFTER "CITY"), NEWPORT NEWS, VIRGINIA.

WHEREAS, the City Council of Newport News, Virginia (hereafter "Council"), has authority to construct sewage collection systems to serve the citizens of Newport News, Virginia;

WHEREAS, the Council has authority to cause the expense for such systems to be charged to various parties, including individual property owners and developers of properties that are located in Newport News, Virginia;

WHEREAS, the Council wishes to promulgate a policy that outlines the methods of cost sharing to be used by the City for the construction of said systems; and,

WHEREAS, the Policy should include the procedure to be used for the assessment of properties for those systems, provisions applicable to subdivisions, and provisions applicable to construction of the systems (the sewer system development fees).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia:

1. That the Policy Regarding Sewage Collection Systems, dated July 1, 2003, which is attached hereto and made a part hereof, is hereby adopted; and
2. That the Policy Regarding Sewers, dated September 21, 1995, is hereby repealed.
3. That this resolution shall be in effect on and after July 1, 2003.

Sponsor:

*William P. Haskins*

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS MAY 27, 2003

Countersigned:

*John H. Frank*  
Mayor

Attest:

*Bernice I. Berry*  
Bernice I. Berry, MMC, City Clerk

Roll Call Vote Resulted As Follows:

Ayes: Haskins, McMillan, Scott, Allen, BaCote, Bateman, Frank

Nays: None

## POLICY REGARDING SEWAGE COLLECTION SYSTEMS

July 1, 2003

The Council of the City of Newport News, Virginia (hereafter "Council"), hereby promulgates its policy regarding the construction of and payment for certain sewage collection systems (hereafter "sewers") within Newport News, Virginia.

## SECTION 1. CONSTRUCTION OF SEWERS.

The City of Newport News (hereafter "City") may, where deemed practical and economically feasible, construct lateral sanitary sewers in or along existing streets. After construction is complete, each abutting property owner will be required to pay to the City an assessment calculated by multiplying the average front footage for properties affected by a particular project by forty-two dollars (\$42.00) per front foot. In all cases covered by this policy, sewer design shall be in accordance with the City Design Criteria Manual and all construction in accordance with the City Standard Specifications.

## SECTION 2. PROCEDURE FOR ASSESSMENT OF PROPERTY FOR CONSTRUCTION OF SEWERS.

The following procedure shall be followed for assessing the cost of sewer construction projects to properties:

- 2.1 **Proposing Ordinance.** When the Council wishes to consider the construction of a particular sewer project, it shall adopt an ordinance proposing the construction and directing the publication of notice to all the abutting property owners affected by the project notifying them of a public hearing wherein they may appear, either in person or by counsel, and be heard in favor of or against construction of the sewer.

- 2.2 **Title Examination.** Upon adoption of the Proposing Ordinance, the City Attorney shall examine the titles of all the abutting properties to determine the fee simple owners thereof and shall prepare a list of such owners to be notified, by publication of notice, of a public hearing to be held regarding the issue of constructing the sewer.
- 2.3 **Notice of Public Hearing.** The City Clerk shall cause a notice to the affected property owners to be published in a newspaper published or having general circulation in Newport News, Virginia, once a week for two successive weeks. The second publication shall be made at least seven (7) days before the parties are cited to appear.
- 2.4 **Letter to Property Owner.** In addition to the notice, the City Clerk shall mail a letter to each property owner stating the date of adoption of the Proposing Ordinance and containing a copy of the notice. This letter shall inform the property owner that the assessment process normally results in a lien being created affecting the owner's property after construction of the new sewer is complete.
- 2.5 **Authorizing Ordinance.** The public hearing shall be held at a regular or special Council meeting, after which public hearing the Council may adopt an ordinance authorizing the construction of the sewer. If adopted, such Authorizing Ordinance shall direct the recording of an abstract of the ordinance in the deed book in the Office of the Newport News Circuit Court Clerk together with the estimated amount to be assessed to each property owner affected by the project. Such recording of the abstract, though not constituting a lien at the time, shall be deemed to have served notice of the proposed assessment to any purchaser of, or creditor acquiring a lien on, any of the property described therein, as prescribed in section 15.2-2412, Virginia State Code.
- 2.6 **Advance Payment of Estimated Amount.** Property owners may choose to pay the estimated assessment amount in advance and in full; the Treasurer shall accept such

payments. In such cases, the property shall be deleted from the ratifying ordinance and no lien shall attach to the property.

- 2.7 **Construction of the Sewer.** The construction of the project shall be accomplished as a regular City project and the work performed by either City forces or by contract.
- 2.8 **Notice of Public Hearing and Letter to Property Owner.** Upon final completion of the project and acceptance or final approval by the Director of the Department of Engineering of work performed by a contractor, the following shall take place:
- 2.8.1 The City Clerk shall cause to be published a notice of a public hearing to be conducted by the City Manager or his designee. This notice shall contain a list of property owners, including those who have paid in advance and properly annotated as such, and the estimated amount assessed to each property owner. Said notice shall be published in the manner set forth in Section 2.3.
- 2.8.2 At the time the notice is published, the City Manager or his designee shall also mail a letter to each property owner affected by the project, including those property owners who have paid in advance and indicating such. The letter shall inform the property owners that the sewer is available, that the assessment has been ascertained (and its amount), and that the City Manager or his designee will conduct a public hearing regarding the same.
- 2.9 **Public Hearing.** At the hearing, the affected property owners may appear, either in person or by counsel, and make objections to the assessment.
- 2.10 **Ratifying Ordinance.** After the aforesaid public hearing, the City Manager shall present to the Council an ordinance to ratify the assessment amount ascertained or

as adjusted, if applicable, as a result of comments taken at the public hearing. This ordinance, once adopted, shall constitute the final assessment to the abutting property owners, and the City Clerk shall cause an abstract of the ordinance to be recorded in the Circuit Court Clerk's Office.

- 2.11 **Notification of Assessment.** Upon adoption of the Ratifying Ordinance, the City Clerk shall transmit a copy of it to the City Treasurer, who shall notify each property owner by letter of the date on which full payment of the assessment is due. The City Treasurer's letter shall explain the following options related to sewer assessment payments:
- 2.11.1 **Payment of the full amount on or before the first payment due date, which avoids interest charges.**
- 2.11.2 **Payment over a 10-year period with interest charges explained in Section 2.12 hereinafter, if such payment plan is approved by the Council as a part of the Ratifying Ordinance that pertains to the specific project.**
- 2.11.3 **The possibility that payment of assessments may be postponed for certain elderly or permanently and totally disabled property owners, if such property owners apply, qualify, and are approved for said postponements according to the provisions of Article V, Chapter 33, Newport News City Code.**
- 2.12 **Ten-Year Payment Option; Interest.** The Council may approve, as a part of the Ratifying Ordinance, the payment of the assessment over a period not exceeding ten (10) years. If such a payment option is authorized, the first installment shall be due not less than six (6) months nor more than twelve (12) months after adoption of the Ratifying Ordinance. As required by state law, payments shall nevertheless be due on the same dates as real estate taxes are due. If full payment is made before the first

installment is due, no interest shall be charged. If full payment is not made before the first installment is due, interest shall be charged on the unpaid balances at an annual interest rate not to exceed the rate of the index of average yield on United States Treasury securities adjusted to a constant maturity of one year as made available by the Federal Reserve Bank that was in effect on the day the Ratifying Ordinance was adopted.

### SECTION 3. REVIEW OF ASSESSMENT RATE.

The Director of Engineering shall conduct an annual review of sewerage collection system construction costs. Based upon such review, the City Manager may recommend that the Council make such adjustments to the assessment rate, as identified in this policy, as will reflect the average construction costs of sewer projects and the apportionment thereof between the City and the abutting property owners. Nothing in this section, however, shall be interpreted or construed to permit the Council to increase the estimated assessment amount set forth in the relevant Authorizing Ordinance.

### SECTION 4. COMPUTATION OF PROJECT AVERAGE FRONT FOOTAGE.

The Director of Engineering is authorized to develop regulations relating to the computation of the project average front footage. These regulations, among other factors, shall include provisions for excluding properties with large street frontages from the averaging computation so that such properties will not unreasonably skew the average.

### SECTION 5. POSTPONEMENT OF PAYMENTS FOR CERTAIN PROPERTY OWNERS.

The Council has authorized the postponement of payments for sewer assessments by certain elderly or permanently and totally disabled property owners. The authorization for such postponements and the details and conditions pertaining to applications for the same are contained in Article V, Chapter 33, Newport News City Code.

**SECTION 6. POLICY APPLICABLE TO SUBDIVISIONS.**

- 6.1 Any person, firm or corporation (hereafter "Subdivider") who proposes to develop a subdivision in Newport News, for which the City staff determines there is a public sewer that the City staff deems sufficiently contiguous and available for connection, is hereby prohibited from using septic tanks or other means of sewage disposal. Such Subdivider shall install a sewer system at his own cost and expense within said subdivision and shall be required by the City staff to connect the said system to the sewer system owned or proposed to be constructed by the City.
- 6.2 The Subdivider shall furnish to the City, free of cost, a deed conveying a sufficient area of land upon which a pump station may be constructed, if such a station is deemed necessary by the City staff. The Subdivider shall convey to the City all of the sewer works constructed by him, along with the pertinent rights-of-way, pumping stations, force mains and gravity sewers, either on or off the subdivision site.
- 6.3 When a pump station has been constructed in conjunction with a subdivision and is fully operational prior to the completion and acceptance of other public improvements in the subdivision, the City Manager may recommend to the Council acceptance and maintenance of that pump station.
- 6.4 The Subdivider shall pay a subdivision connection fee to the City in the sum of seven dollars (\$7.00) per linear front foot of all lots or land within the subdivision serviced by his sewer system within said subdivision for connecting his sewer to the sewer owned or proposed to be constructed by the City. In addition, the Subdivider shall pay the costs of constructing the pump station and for the installation of the off-site connecting sewer and making the connection with the City existing or proposed sewer. The money received by the City for the connections identified in this subsection shall be credited to a revolving fund for future sewer extensions

throughout Newport News as the Council may determine.

- 6.5 The City will enter into a formal agreement with the Subdivider which will provide, among other things, that all fees and monies required to be paid by the Subdivider shall be paid to the City prior to the connection with the City sewer system and that the Subdivider will furnish bond in an amount required by the City to guarantee faithful performance. No lot or building shall be occupied within said subdivision until the sewer system serving such lot or building is connected to the City sewer system.

#### SECTION 7. SEWAGE COLLECTION SYSTEMS.

The Sewage Collection Management Program (SECOMP) shall provide guidelines for the construction of future new sewers and for the upgrade of existing systems. The objectives of this Program are: 1) the identification of potential sewer system service areas; 2) the more efficient location of sewage pump stations within these service areas so as to avoid duplication or unnecessary stations; and, 3) the implementation of a long range plan for new construction and for the upgrade of existing systems. In order to accomplish these objectives, this section describes the guidelines and/or criteria for City nonparticipation and participation in costs for the construction of new sewer systems and/or the upgrade of existing systems as recommended by SECOMP documents and reports. It is the intent of the City to recover up to one hundred (100) percent of its participation costs in such projects, plus an inflation factor as explained elsewhere in this policy.

- 7.1 Revisions to SECOMP. SECOMP consists of all plans, maps, working drawings, calculations, reports, etc. used to establish existing and future pump station service areas approximated on the map titled SECOMP 1992, as amended. The location of new pump stations or the extension of future City sewer systems shall be in accordance with SECOMP. Revisions of service area delineations shall be made by the Director of Engineering to account for continuing development, however such



revisions shall be consistent with the program objectives identified in this section.

**7.2 New Construction Criteria:**

**7.2.1 City Nonparticipation.** The City shall not participate in the cost of construction of sewer systems for specific site and/or subdivision developments wherein a sewer system is only designed to convey sewage generated by that particular development and the said system cannot be expanded physically or economically to serve other areas. Should the pump station location designated by SECOMP conflict with a site proposed by a development within the Subdivider's property, the Subdivider shall be required to relocate the station at his own expense to the site designated by SECOMP.

**7.2.2 City Participation.** The City, at its option, may participate in the cost of construction of those sewer system projects that are designed to accommodate anticipated flows generated from areas other than those owned by the Subdivider and being developed or proposed for future development, provided that all of the following conditions are met:

**7.2.2.1** A minimum of fifty (50) percent of the anticipated average daily flow from a particular service area, as defined by SECOMP, shall be accounted for by approved development.

**7.2.2.2** Pump stations shall be located at sites designated by SECOMP.

**7.2.2.3** Pump stations shall be sized according to the requirements of SECOMP.

7.2.2.4 City funds are available.

7.2.3 Subject to funds availability, the following conditions may apply to City participation in the cost of new pump station construction:

7.2.3.1 In the event the site designated by SECOMP is outside the boundaries of the Subdivider's property, the Subdivider may be reimbursed for the additional costs incurred due to relocating the station to the site designated by SECOMP, provided that the appraised (market) value of a site equivalent in area and located on the Subdivider's property shall be deducted from such reimbursement amount.

7.2.3.2 The Subdivider may be reimbursed for resizing a pump station to serve areas outside his development to the extent that the Director of Engineering determines the resizing costs related to serving such areas that are outside the Subdivider's development.

7.2.4 To provide service to areas adjacent to proposed developments, the City staff may require that certain sewer collection lines be installed at a depth greater than what is required to serve a particular development. In these cases, the City shall be responsible for the additional costs incurred because of the lowering of the sewer lines.

7.2.5 All new pump stations that are to be accepted into the City sewerage system shall have the station site and maximum service area defined by SECOMP. All such stations are to be designed based on the larger of the following conditions:

7.2.5.1 A minimum of fifty (50) percent of the total anticipated flows generated by a particular service area, as defined by SECOMP.

7.2.5.2 The maximum amount of sewage flow generated by a proposed development.

7.2.6 Should the applicable condition in the preceding subsection necessitate a larger station than the one proposed to accommodate sewage flow generated by a particular development, the Subdivider shall receive a credit against the subdivision connection fee for the amount of the station cost that is above what was necessary to serve the development, according to whichever of the following applies:

7.2.6.1 If the Subdivider's additional pump station costs are in excess of the subdivision connection fee to be collected, the City shall credit the total amount of the fee.

7.2.6.2 If the additional pump station costs are less than the subdivision connection fee to be collected, the Subdivider shall pay to the City the difference between the additional construction costs and the subdivision connection fee.

7.2.7 Should the maximum amount of sewage generated by a proposed development exceed fifty (50) percent of the total anticipated flows from a particular service area, as defined by SECOMP, the City, at its discretion, may participate in the sizing of the station to accommodate one hundred (100) percent of the service area flow. The anticipated sewage flow shall be defined by the existing land use zoning.

7.3 Existing Sewer System Upgrade Criteria:

7.3.1 City Nonparticipation. The City shall not participate in the upgrade of existing City sewage facilities wherein upgrading is required to accommodate flows from a particular development that would complete the development of a particular sewer system service area or wherein combined sewage flows are less than fifty (50) percent of the maximum sewage flows identified by SECOMP.

7.3.1.1 Should a Subdivider who pays all or a portion of the cost for construction of sewage facilities for a specific amount of sewage flow subsequently change the plan and thereby exceed said flow, said Subdivider shall also be responsible for the additional upgrade cost related to such change.

7.3.1.2 Should a portion of a service area be rezoned to a higher density than what was anticipated in the sizing of a particular station, thereby necessitating an upgrade of the station, the Subdivider shall be required to pay all upgrade costs related to such rezoning.

7.3.2 City Participation. The City, at its discretion, may participate in the upgrade of existing City sewage facilities if such upgrade projects are designed to accommodate anticipated sewage flow from areas other than those being proposed for development and that all of the following conditions are met:

7.3.2.1 A minimum of fifty (50) percent of the maximum anticipated average daily flow, as identified by SECOMP, shall be from existing development.

7.3.2.2 The upgrade shall be designed to accommodate the total anticipated average daily flow, as identified by SECOMP. Should the total anticipated flow exceed the flow generated by a proposed development, the City, at its discretion, may participate in the amount above what is required by a particular development so as to upgrade the system to accommodate total anticipated flow.

7.3.2.3 City funds are available.

7.4 Connection by Nonparticipating Subdividers:

7.4.1 Developments that have not paid all or a portion of the cost for construction of new or upgraded facilities shall pay a pro rata share of the facility construction cost, along with a factor reflecting the inflation rate experienced from the project construction completion date to the date of connection.

7.4.2 The basis for the amount of pro rata share shall be the projected service area sewage flow as defined by SECOMP.

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**Item 5. Ordinances to Enact the Fiscal Year 2004 City Operating Budget Continued**

**N. Sewage Collection System Policy**

**ACTION: A REQUEST TO ADOPT A RESOLUTION THAT WILL  
ADOPT A CITY POLICY REGARDING SEWAGE  
COLLECTION SYSTEMS.**

**Item 5. Continued**