

**NEENAH-MENASHA SEWERAGE COMMISSION RESOLUTION 97-2  
PROMULGATING A POLICY GOVERNING NMSC CONSIDERATION OF  
ALL REQUESTS FOR INTERCEPTOR SEWER EASEMENT VARIANCES  
(ADOPTED PURSUANT TO AUTHORITY GRANTED UNDER WIS. STATS.,  
SEC. 66.30, AND THE JOINTLY ENACTED 9/28/82 ENABLING  
ORDINANCE/CONTRACT, AS AMENDED, OF SEVERAL WINNEBAGO  
COUNTY MUNICIPLITIES WHICH RECREATED SAID COMMISSION )**

**RECITALS**

**WHEREAS**, the Neenah-Menasha Sewerage Commission (NMSC) presently holds a number of easements across lands within its service region, which authorize it to construct and maintain interceptor sewer lines;

**WHEREAS**, the NMSC occasionally receives applications or requests to grant intrusion or variance in its interceptor sewer easement rights from property owners whose land titles are subject to said rights;

**WHEREAS**, the NMSC has determined that it is necessary and expedient to adopt and promulgate a policy governing how the Commission shall respond to and properly consider any applications for interceptor sewer easement variances, i.e., requests for grants by the NMSC permitting a restriction or encroachment of its easement rights;

**RESOLUTION**

**NOW, THEREFORE**, the NMSC does hereby duly adopt the following policy concerning consideration by the NMSC of any application requesting an interceptor sewer easement variance:

1. Effective Date of Policy. This policy regarding consideration by the NMSC of applications for interceptor sewer easement variances shall become effective the date on which this resolution is posted and published.

2. Factors to be Considered by the NMSC Regarding A Variance Grant Application. The following factors, not intended to be inclusive, may be considered and weighed by the NMSC regarding any variance application respecting NMSC interceptor sewer easement rights:

a. The location, size and extent of any structure which, if constructed as proposed, would intrude a NMSC interceptor easement, (including, without limitation, the depth, size and extent of the footings and excavation needed for such structure), and its effect on accessibility to the sewer interceptor.

- b. The location of other nearby structures, soil conditions, or topographic features in the vicinity of the proposed intruding structure, considered both as they presently effect or impede accessibility to the interceptor sewer and to the extent that the proposed intruding structure, when combined with these existing conditions, would further restrict or impede accessibility to the sewer interceptor.
  - c. The likelihood, in the Commission's judgment, that approval of the proposed intruding structure might be followed by like requests for other easement intrusions from neighbors of the applicant(s) or from others.
  - d. Any other factors deemed reasonably appropriate to the particular case, in the discretionary judgment of the NMSC.
3. Conditions to Which Any Variance Approval Shall Be Made. Should the NMSC determine to grant a sewer interceptor easement variance to a property owner whose property title is subject to NMSC interceptor sewer easement rights, the variance shall be granted in writing by the NMSC in recordable form, preferably with an accurate sketch attached thereto, precisely describing the nature and extent of any easement intrusion or restriction granted, and delivered only upon the following conditions being fully met by the applicant:
- a. The intruding property owner shall provide to the NMSC as obligee a corporate surety bond, in form and substance acceptable to the Commission's attorney, guaranteeing full payment of any extra cost later incurred by the NMSC or its contractors to repair, maintain, improve, remove, replace or modify the interceptor sewer line in question due to the presence of the intruding structure, as well as any damage caused to the structure by such work, in an amount to be determined by the NMSC, but not less than \$10,000.00.
  - b. The property owner in question shall provide a written indemnification agreement in favor of the NMSC, in recordable form, drawn by the Commission's attorney, or in form and substance acceptable to him, executed by all owners of the property upon which the intruding structure would be constructed, and binding upon all their successors and assigns, to cover any expenses or damages described in paragraph 3.a. in excess of the performance bond.
  - c. The cost of precisely locating the interceptor sewer line upon the easement in question, in relation to the location of the proposed intruding structure, including the cost of televising the sewer line before and after construction of the structure, shall be borne in full by the property owner, as well as any other charges incurred by the NMSC in

connection with the variance application, whether or not the variance is granted.

**IN WITNESS WHEREOF**, the NMSC has caused this governing policy to be signed and attested by its duly authorized officers. This policy shall become effective on the date of its posting and publication.

**PASSED AND ADOPTED** by the NMSC, in the City of Menasha, in the County of Winnebago, State of Wisconsin, on the 28<sup>th</sup> day of October, 1997 at a regular meeting of said body, and hereby ordered to be posted and published immediately:

Ayes 6 Nays 0

**NEENAH-MENASHA SEWERAGE COMMISSION**

By: William Zelinski  
William Zelinski, President

John Jurgenson  
John Jurgenson, Secretary

Attested:

Dale Siebers  
Dale Siebers

Robert Gross  
Robert Gross

George Cowling  
George Cowling

William Helein  
William Helein

Raymond Zielinski  
Raymond Zielinski

STATE OF WISCONSIN } SS.  
OUTAGAMIE COUNTY }

NOV - 5 1997

NEENAH SEWERAGE COMMISSION  
7-2 PROMULGATING A POLICY  
CONSIDERATION OF ALL  
INTERCEPTOR SEWER EASEMENT  
ADOPTED PURSUANT TO  
UNDER WIS. STATS., SEC.  
JOINTLY ENACTED 9/28/82  
ORDINANCE/CONTRACT, AS  
SEVERAL WINNEBAGO COUNTY  
WHICH RECREATED SAID  
COMMISSION)

RECITALS  
The Neenah-Menasha Sewerage  
Commission (NMSC) presently holds a number of  
lands within its service region,  
to construct and maintain interceptors.

NMSC occasionally receives appli-  
cations for an easement or variance in its  
rights from property own-  
ers subject to said rights;  
NMSC has determined that it is nec-  
essary to adopt and promulgate a  
policy. The Commission shall respond  
to any applications for inter-  
ceptor variances, i.e., requests for  
NMSC permitting a restriction or  
easement rights;

The NMSC does hereby duly  
adopt a policy concerning consideration  
of any application requesting an inter-  
ceptor variance:

Policy. This policy regarding con-  
sideration of applications for intercep-  
tor variances shall become effective  
when this resolution is posted and

to be Considered by the NMSC  
Grant Application. The follow-  
ing information, if included, may be con-  
sidered by the NMSC regarding any  
application respecting NMSC interceptor  
rights:

1. Location, size and extent of any structure  
proposed as proposed, would intrude a  
sewer easement, (including, without limi-  
tation, the size and extent of the footings and  
needed for such structure), and its effect  
on the sewer interceptor.

2. Location of other nearby structures, soil condi-  
tions, topographic features in the vicinity of the  
proposed structure, considered both as to  
effect or impede accessibility to the  
sewer and to the extent that the proposed  
structure, when combined with these exist-  
ing structures, would further restrict or impede  
access to the sewer interceptor.

3. In the Commission's judgment, that  
the proposed intruding structure might  
interfere with requests for other easement intru-  
sions of the applica(t)s or from  
other neighbors.

4. Any other facts deemed reasonably appropriate  
to be considered in the discretionary judgment  
of the Commission.

When the NMSC determine to grant a  
sewer easement variance to a property  
owner, the property title is subject to NMSC inter-  
ceptor easement rights, the variance shall be  
granted by the NMSC in recordable form,  
with an accurate sketch attached thereto,  
describing the nature and extent of any  
intrusion or restriction granted, and deliv-  
ered to the applicant upon the following conditions being fully  
satisfied:

1. The property owner shall provide to the  
Commission a corporate surety bond, in form  
acceptable to the Commission's attor-  
ney, covering full payment of any extra cost  
incurred by the NMSC or its contractors to  
install, improve, remove, replace or modify  
the sewer line in question due to the pres-  
ence of the intruding structure, as well as any dam-  
age to the structure by such work, in an  
amount determined by the NMSC, but not less  
than \$10,000.

2. The property owner in question shall provide a  
written agreement in favor of the  
Commission, in recordable form, drawn by the  
attorney, or in form and substance  
approved by all owners of the  
property on which the intruding structure would be  
located, as required by the NMSC, in the City  
of Winnebago, State of Wisconsin, on the  
28th day of October, 1997 at a  
meeting of said body, and hereby ordered to  
be published immediately.

WISCONSIN SEWERAGE COMMISSION  
By: s/ William Zelinski  
President  
s/ John Jurgenson  
Secretary

Patricia A. Plamann being duly sworn on her oath, says that she is  
an employee of The Post-Crescent, a newspaper published by The  
Post-Crescent, Division of Thomson Newspapers (Wisconsin) Inc., a  
corporation organized under and by virtue of the laws of  
Wisconsin, whose principal place of business is at Appleton,  
Wisconsin, and that as such employe she makes this affidavit in its  
behalf and is authorized so to do;

That the said corporation is the publisher and printer of The Post-  
Crescent, a newspaper published and printed in the city of  
Appleton, Outagamie County, State of Wisconsin, and that the  
notice of which the annexed is a copy, taken from the paper in  
which it was published, was published in the said newspaper on the  
following day or days:

November 3, 1997

P. A. Plamann

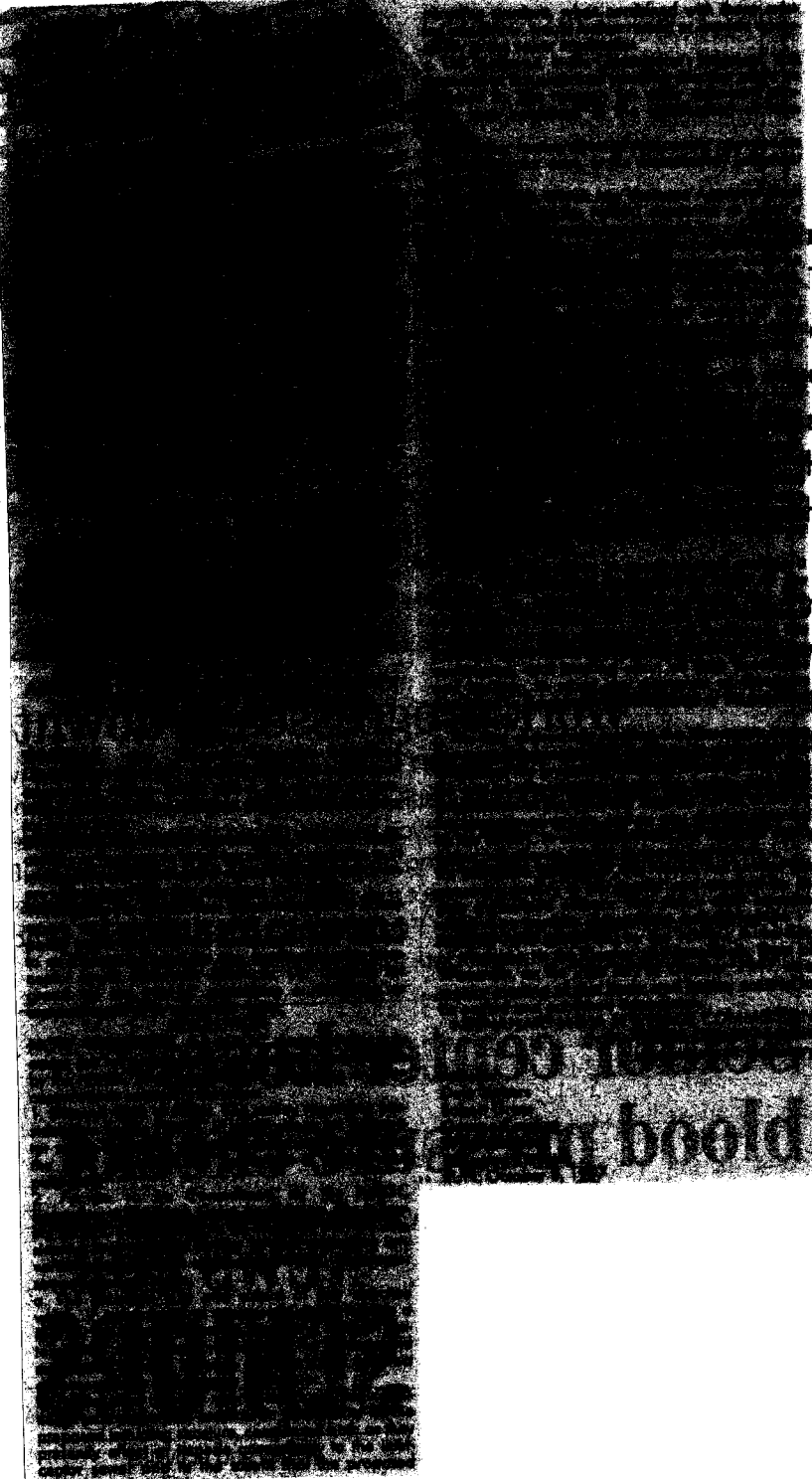
Subscribed and sworn to before me this

4 day of Nov 19 97

Mary Kay Meulemans

Notary Public, Outagamie County, WI

STATE OF WISCONSIN }  
WINNEBAGO COUNTY } SS.



ann being duly sworn on her oath, says that she is  
The News-Record, a newspaper published by The  
Division of Thomson Newspapers (Wisconsin) Inc., a  
organized under and by virtue of the laws of  
se principal place of business is at Appleton,  
that as such employee she makes this affidavit in its  
authorized so to do;

corporation is the publisher and printer of The Post-  
newspaper published and printed in the city of  
Outagamie County, State of Wisconsin, and that the  
the annexed is a copy, taken from the paper in  
published, was published in the said newspaper on the  
days:

October 8, 1997  
\_\_\_\_\_  
\_\_\_\_\_

P. A. Plamann

Subscribed and sworn to before me this  
8 day of Oct 1997  
Mary Kay Meulemans  
Notary Public, Outagamie County, WI