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SOUTH PORTLAND CODE OF ORDINANCES

Chapter 22

SEWERS AND DRAINS*

 * **Editor's note**--Ord. No. 22-75, enacted Aug. 18, 1975, repealed former Ch. 22, relative to sewers and drains, and enacted in lieu thereof a new Ch. 22, pertaining to the same subject matter. Former Ch. 22 was derived from Code 1966, §§ 11-1-2, 11-1-3, 11-8-1--11-8-8; Ord. No. 6-67, adopted April 17, 1967; Ord. No. 25-71, adopted Sept. 8, 1971; Ord. No. 26-73, adopted Sept. 17, 1973; Ord. No. 35-73, adopted Nov. 19, 1973; and Ord. No. 20-74, adopted Sept. 16, 1974.

Cross reference(s)--Department of public works, director of public works generally, § 2-11 et seq.; buildings, Ch. 5; plumbing, Ch. 20.

State law reference(s)--Sewage disposal systems generally, 30 M.R.S.A. § 4251 et seq.; sewers and drains generally, 30 M.R.S.A. § 4351 et seq.

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ARTICLE I. PURPOSE

Sec. 22-1. Stated.

The purpose of this chapter is to promote the health and general welfare of the citizens of South Portland by regulating and restricting construction and use of sewerage systems and the accumulation, transportation, treatment and disposal of sewage in such a manner that the creation of any sewerage system, whether public, private or industrial, shall not result in pollution, health hazard or nuisance.

(Ord. No. 22-75, 8-18-75)

ARTICLE II. SCOPE

Sec. 22-2. Stated.

Hereafter any person owning any buildings within the City of South Portland which is the source of sewage and/or industrial wastes or who proposes to erect such building or structure, shall conform to the requirements of this chapter.

(Ord. No. 22-75, 8-18-75)

ARTICLE III. DEFINITIONS

Sec. 22-3. Words, terms, phrases defined.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) *City* shall mean the City of South Portland.
- (2) *Applicant and/or owner* shall mean any person requesting approval to discharge domestic or industrial waste water into facilities of the city.
- (3) *BOD (denoting biochemical oxygen demand)* shall mean the quantity of oxygen utilized in the biochemical oxidation of the organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.
- (4) *Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet outside the inner face of the building wall.
- (5) *Building sewer* shall mean the extension from the building drain to the public sanitary sewer. Also called house sewer or house connection.
- (6) *City engineer* shall mean the South Portland city engineer or his/her duly authorized representative.
- (7) *Combined sewer* shall mean a sewer receiving both waste water and storm water.
- (8) *Council or city council* shall mean the South Portland City Council.
- (9) *Director* shall mean the director of public works of South Portland or his/her authorized deputy, agent or representative.
- (10) *Director of pollution abatement* shall mean the director of pollution abatement or his/her duly authorized representative.
- (11) *Domestic waste water* shall mean the waste water derived from dwellings, business buildings, institutions, and the like. It should not contain ground water, surface water, or storm water.
- (12) *EPA, USEPA, or US Environmental Protection Agency* shall mean the agency of the federal government charged with the administration and enforcement of federal environmental laws, rules and regulations.
- (13) *Excessive* shall mean amounts or concentrations of a constituent of a waste water which in the judgement of the city will cause damage to any sewerage facility which will be harmful to a waste water treatment process, which cannot be removed in the waste water treatment works of the city to the degree required to meet the limiting tidal water classification standards of the Fore River which can otherwise endanger life, limb, or public property, and/or which can constitute a nuisance.
- (14) *Facilities* shall include structures and conduits for the purpose of collecting, treating, neutralizing, stabilizing, or disposal of domestic waste water and/or industrial or other waste waters as are disposed of by means of such structures and conduits including treatment and disposal works, necessary intercepting, outfall, and outfall sewers, and pumping stations integral to such facilities with sewers, equipment, furnishing thereof and other appurtenances connected therewith.

- (15) *Garbage* shall mean the animal and vegetable wastes resulting from the handling preparation, cooking, and serving of food. It is composed largely of putrescible organic matter and its natural moisture content.
- (16) *Licensing authority* shall mean that person designated by the city manager to grant, deny or revoke any license or permit governed by this chapter.
- (17) *National Pollution Discharge Elimination System (NPDES) Permit* shall mean a permit issued pursuant to section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).
- (18) *Natural outlet* shall mean any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
- (19) *Person* shall mean any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
- (20) *pH* shall mean the logarithm of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (21) *POTW* (Publicly Owned Treatment Works) shall mean a treatment works defined by Section 212 of the Act including any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes, and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in Section 502(4) of the Act which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (22) *Properly shredded garbage* shall mean garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (23) *Receiving waters* shall mean any water course, river, pond, ditch, lake, aquifer or other body of surface or ground water receiving discharge of waste water.
- (24) *Public sewer* shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (25) *Domestic sewer* shall mean a sewer which carries domestic waste water and to which storm, surface, and ground water are not intentionally admitted.
- (26) *Sewer* shall mean a pipe or conduit for carrying waste water.
- (27) *Spill* shall mean the release, accidental or otherwise, of any material released to the treatment facilities, which by virtue of its volume, concentration or physical or chemical characteristics shall include, but are not limited to, volatile, explosive, toxic or otherwise unacceptable materials.
- (28) *Storm drain* shall mean a pipe or conduit for conveying rain water, ground water, subsurface water, condensate, cooling water, or other similar discharge to a storm drain or combined sewer.
- (29) *Total Suspended solids* shall mean the total suspended matter that float on the surface of, or is suspended in water, waste water, or other liquids, and which is removable by laboratory filtering, as prescribed in "Standard Methods".
- (30) *Wastes* shall mean substances in liquid, solid, or gaseous form that can be carried in water.
- (31) *Waste water* shall mean the spent water of a community and may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with

any ground water, surface water, and storm water that may be present, whether treated or untreated. Ground water, surface water, and storm water should not be intentionally combined with domestic or industrial waste water in the sanitary sewerage system, but may be present where combined sewers are in use or where there is infiltration.

- (32) *Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- (33) *Shall* is mandatory; *may* is permissive.
- (34) *Incompatible pollutant*. Any pollutant which the POTW is not designed to treat.
- (35) *AASHO* shall mean the American Association of State Highway Officials.
- (36) *ASTM* shall mean the American Society for Testing Materials.

(Ord. No. 22-75, 8-18-75; Ord. No. 30-80/81, 3-16-81; Ord. No. 3-82/83, 9-20-82; Ord. No. 13-89/90, 12-4-89; Ord. No. 6-94/95, 9-19-94)

Secs. 22-4--22-10. Reserved.

ARTICLE IV. USE OF PUBLIC SYSTEMS

Sec. 22-11. Intent and purpose of article.

This article regulates the use of the public sewerage and drainage systems and the discharge of waters and wastes into the systems and provides for sewerage system use charges and for penalties for the violations of this article.

(Ord. No. 92-75, 8-18-75)

Sec. 22-12. Insanitary deposits prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of South Portland, or in any area under the jurisdiction of the City of South Portland, any human or animal excrement, garbage, or other objectionable wastes. The term "unsatisfactory manner" shall not include reasonable spreading of waste water treatment sludge as approved by the Maine Department of Environmental Protection, animal excrement or other fertilizer in farming or animal husbandry operations.

(Ord. No. 22-75, 8-18-75; Ord. No. 13-89/90, 12-4-89)

Sec. 22-13. Discharge to natural outlets.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Ord. No. 22-75, 8-18-75)

Sec. 22-14. Construction, maintenance of privies, etc.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Ord. No. 22-75, 8-18-75)

Sec. 22-15. Connection to public sewer required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located a public domestic or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

(Ord. No. 22-75, 8-18-75)

State law reference(s)--Similar provisions, 30 MRS § 4257.

Sec. 22-16. Permit required to connect to public sewer.

No private drain or sewer shall be entered into a public sewer or storm drain or any appurtenances thereof and no entry shall be made into any private drain or sewer which is itself connected to a public drain or sewer without a permit from the licensing authority.

(Ord. No. 22-75, 8-18-75; Ord. No. 10-88/89, 11-21-88; Ord. No. 6-94/95, 9-19-94)

State law reference(s)--Permit from municipality required when connecting private drain to existing public drain, 30 MRSA § 4403.

Sec. 22-17. Application for connection permits; approval required.

- (a) Application for permits to connect with any public sewer or drain or to connect with any private sewer or drain which itself is connected to a public sewer or drain must be made to the licensing authority on a form prescribed and furnished by the licensing authority. The application must be accompanied by a certificate also from the licensing authority stating that the plumbing system has been approved by him/her. The application must be signed by the owner of the premises or his/her attorney, and must state the location of premises and the name of the licensed plumber to be employed. All applications must be made prior to the commencement of any work thereon and be accompanied with a fee for residential users, commercial users, industrial users, and others, according to a schedule of fees to be adopted and revised periodically by the council as established in Article XIII. The funds are to be deposited directly into the sewer rehabilitation fund and are to be used for the purposes of that fund.

A connection permit shall also be necessary for any change or expansion of use which will increase the amount of gallonage of wastewater.

An applicant for a connection permit shall notify the licensing authority at least twenty-four (24) hours in advance when the building sewer is ready for inspection and connection. The connection shall be made under the supervision of the licensing authority or his/her representative. Notwithstanding the foregoing 24-hour notice requirement, an applicant must give the city forty-five (45) days prior notice of a:

- (1) Proposed new discharge into the system or a substantial change in volume or character of pollutants that are being discharged into the system;
 - (2) Proposed new discharge into the city's treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Federal Act if such source were discharging pollutants; or
 - (3) Proposed new discharge into the city's treatment works of pollutants from any source which would be subject to Section 301 of the Federal Act if it were discharging such pollutants.
- (b) The city shall notify the regional administrator of any discharge specified in items (a)(1) through (3) within thirty (30) days of the date on which the city is notified of such discharge:
- (c) Each application must include an agreement on the part of the owner to abide by all the provisions of this chapter and all the rules and regulations established by the city council and to waive any claim for damages in case of revocation as provided in section 22-17(e).
- (d) Permits to connect with a sewer may at any time be revoked and annulled by the licensing authority for violation of any section of this chapter and all parties in interest shall be held to have waived the right to claim damages on account of such revocation provided that such revocation shall be annulled on compliance with the provisions in this chapter and the rules and regulations of the City of South Portland.

(Ord. No. 22-75, 8-18-75; Ord. No. 1-76, 1-19-76; Ord. No. 30-80/81, 3-16-81; Ord. No. 3-82/83, 9-20-82; Ord. No. 12-87/88, 8-17-87; Ord. No. 6-94/95, 9-19-94)

Sec. 22-18. Application for disconnection permit.

- (a) No private drain or sewer or building sewer shall be disconnected from a public sewer or storm drain or any appurtenance thereof without a permit from the licensing authority.
- (b) All applications for permits to disconnect must be made to the licensing

authority on a form prescribed and furnished by the licensing authority. All applications must be made prior to the commencement of any work thereon and be accompanied by a fee of fifty dollars (\$50.00) for residential users, seventy-five dollars (\$75.00) for commercial users and one hundred dollars (\$100.00) for industrial users, said funds to be deposited directly into the sewer account and to be used for sewer purposes only.

(Ord. No. 22-75, 8-18-75; Ord. No. 10-88/89, 11-21-88; Ord. No. 6-94/95, 9-19-94)

Sec. 22-19. Responsibility for construction costs.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from all losses of damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 22-75, 8-18-75)

Sec. 22-20. Independent building sewers required.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. No. 22-75, 8-18-75)

Sec. 22-21. Building sewer provisions; construction, connection, etc., specifications.

- (a) Reserved.
- (b) The depth of building sewers installed shall be sufficient to afford protection from frost, but in no event shall be less than three (3) feet. The building sewer shall be laid at uniform grade and in straight alignment. Changes in direction shall be made only with proper curved pipe and fittings. The ends of building sewers which are not connected to the building drain of the structure for any reason, should be sealed against infiltration by a suitable stopper, plug, or other approved means.
- (c) Where a building drain is too low to permit gravity flow to the public sewer, sewage or industrial wastes carried by such drain shall be lifted by approved mechanical means and discharged to the building sewer or public sewer.
- (d) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the licensing authority. No backfill shall be placed until the work has been inspected by the licensing authority, and trench width measured at the top of the installed pipe shall not exceed pipe width, plus twenty-four (24) inches. Trench bed material and backfill material shall be approved by the licensing authority before its placement.
- (e) All joints and connections shall be made gas-tight and water-tight. The transition joint between pipes of different materials shall be made with adapters and joint materials approved by the licensing authority. Pipe laying and back-made in compliance with the manufacturer's recommendations.
- (f) When any building sewer is to serve a school, hospital, or similar institution or public buildings, or is to serve a complex of industrial or commercial buildings or which, in the opinion of the city engineer or other person designated by the city manager will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The city engineer or other person designated by the city manager shall determine if and when this type of connection to the public sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to Article VII, section 22-100 and section 22-101 and the building sewer connection made thereto as directed by the city engineer or other person designated by the city manager.

- (g) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 22-75, 8-18-75; Ord. No. 25-75, 9-15-75; Ord. No. 30-80/81, 3-16-81; Ord. No. 6-94/95, 9-19-94)

Sec. 22-22. Abandonment of service.

No person shall dismantle or move any building in this city having a service entrance into a public sewer without first having sealed the area of the entrance of the service into such building with a masonry plug. If, upon examination by the licensing authority, the sewer service is found to be unserviceable, the owner shall remove such service and seal the opening at the main. No such work shall be undertaken until a permit, as described in section 22-7, is obtained.

(Ord. No. 22-75, 8-18-75; Ord. No. 6-94-95, 9-19-94)

Sec. 22-23. Connection of old building sewers.

Old building sewers may be used in connection with new buildings only when they can be shown by the applicant to meet all requirements of this chapter.

(Ord. No. 22-75, 8-18-75)

Sec. 22-24. Disposal of unpolluted wastes.

- (a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process water, to any domestic sewer. Existing plumbing systems not meeting this requirement will be allowed until such time as repairs or renovations of the existing plumbing system make separations feasible.
- (b) Storm water and all other unpolluted drainage shall be discharged to storm drains or to a natural outlet approved by the city engineer. Industrial cooling water or unpolluted process water may be discharged upon approval of the city engineer to storm drains or natural outlets.
- (c) In areas where the sewer system consists of combined sewers or where connections of downspouts, surface drains, and other connections of unpolluted water to the waste water system have been allowed, the city:
- (1) Shall permit no new construction of combined waste water and storm water drainage systems on real properties after this chapter is adopted. New waste water and storm water drainage service connections shall be kept separated.
 - (2) Wherever feasible, shall reduce or eliminate storm drain connections that permit the discharge into existing waste water works or waters not containing domestic or industrial waste waters.
 - (3) Shall require the joints and openings of all domestic waste water systems constructed after official adoption of this chapter to be made watertight to prevent excess infiltration or exfiltration.
 - (4) Where circumstances make compliance with (a) and (b) above impractical according to the judgment of the city engineer, then the city engineer may approve a plan for discharge of said waters listed in (a) and (b) above, in an alternate manner taking into consideration the existing sewer system, the effect of the plan on the environment of the area and on the sewer system of the city.

(Ord. No. 22-75, 8-18-75)

Sec. 22-25. Denial or Revocation of Permit.

The licensing authority may deny or revoke a permit or license issued or requested pursuant to this chapter for just cause, which shall include but not be limited to any violation of the provisions of this chapter.

(Ord. No. 22-75, 8-18-75; Ord. No. 13-89/90, 12-4-89; Ord. No. 6-94/95, 9-19-94)

Sec. 22-26. Reserved.**Sec. 22-27. Interceptors required.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the licensing authority they are necessary for the proper handling of liquid wastes, containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the licensing authority, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. No. 22-75, 8-18-75; Ord. No. 6-94/95, 9-19-94)

Sec. 22-28. Control structure required.

When required by the city engineer, the owner of any property served by a public sewer carrying industrial wastes shall install a suitable control structure and waste water flow measuring and monitoring device in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, measuring devices, when required, shall be accessible at all times to the city and safely located and shall be constructed in accordance with the plans approved by the city engineer. The structure and flow measuring device shall be installed by the owner at his/her own expense and shall be maintained by him/her so as to meet the standards set by the city engineer at all times.

(Ord. No. 22-75, 8-18-75; Ord. No. 6-94/95, 9-19-94)

Sec. 22-29--22-34. Reserved.**Sec. 22-35. Special agreement for industrial waste.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character which imposes an unreasonable burden upon the sewerage system or requires special treatment may be accepted by the city, subject to payment therefor by the industrial concern.

(Ord. No. 22-75, 8-18-75; Ord. No. 20-79/80, 2-4-80)

State law reference(s)--Municipal authority to charge higher rates before accepting wastes which would unreasonably burden system, 30 MRSA § 4253-2.

Sec. 22-36. Reserved.**Sec. 22-37. Sewerage system use charges.**

Each person discharging waste water to a public sewer shall be subject to a sewerage system use charge. The sewerage system use charge shall be based on the quantity, strength and characteristics of the waste water discharged to a public sewer.

- (a) By June 30th of each year, the city council shall establish by order a schedule of rates for sewerage system use charges. The rate schedule shall include a minimum rate. Unless said annual order shall expressly provide otherwise, delinquent sewer use accounts shall automatically be assessed the costs

incidental to filing the appropriate lien certificates in the registry of deeds and charged interest at the same rate established by the city council for delinquent municipal taxes for the corresponding budget year.

- (b) The quantity of waste water shall be the actual quantity of water supplied as determined from the water meter readings made by the Portland Water District except as otherwise provided in this chapter. Submeters for the purpose of measuring waters which do not go to the city's sewer system may be installed by permit issued by the director of pollution abatement in conjunction with the Portland Water District. Upon request, the pollution abatement director shall issue a permit to install a meter for the purpose of determining the consumption of water. All costs for such an installation shall be borne by the petitioner. Neither the city, nor the water district, shall incur any costs for this installation.

Where domestic waste water is discharged by a person to public sewer and water is supplied from sources other than the Portland Water District, the quantity of waste water discharged shall be determined as the average quantity of waste water discharged by five (5) similar persons.

- (c) Removal of certain waste characteristics other than BOD and SS may be required to meet the treatment plant's effluent and residual solids limitations. Where this is found necessary, a rate shall be established for their removal and the person(s) charged accordingly. This rate shall be set by the city council and shall become part of the table of user charges of section 22-150.
- (d) Billing for Residential, Commercial and other non-industrial waste use charges may be made monthly. Billing for Industries discharging industrial process wastewater may be made quarterly.
- (e) Where sewerage system use charges are not paid within sixty (60) days, the lien provisions of Title 30 MRSA Section 4355 shall become applicable to the unpaid balance.
- (f) The sewerage system use charges herein established shall be collected from the owners, occupants and users of premises within the city from and after the effective date of this chapter. The ultimate responsibility for payment of such charges is upon the owner of the premises.
- (g) In case of any vacated building, the bill for sewerage system use charges shall be suspended upon notification of the city finance office by the property owner and confirmation by the Portland Water District that the water service has been shut off. If a service is to be abandoned, section 22-17 must be complied with.

(Ord. No. 22-75, 8-18-75; Ord. No. 3-78, §§ 2, 3, 3-20-78; Ord. No. 7-79, 5-21-79; Ord. No. 10-82/83, 3-21-83, Ord. No. 19-91/92, 6-15-92)

Sec. 22-38. Calculation of charges.

- (a) Waste water strengths for residential and commercial users are established at two hundred fifty (250) mg/l concentration for BOD and two hundred fifty (250) concentration for suspended solids. These concentrations will serve as the basis for this type of waste and shall be used when calculating the fixed rate charge for residential and commercial users. Where it is not feasible to monitor sanitary wastes from industry, the following assumptions will be used in calculating these costs:
- (1) Twenty (20) gallons of waste water/employee/shift/day;
 - (2) Two hundred fifty (250) mg/l BOD;
 - (3) Two hundred fifty (250) mg/l SS.

A shift is considered to be eight (8) hours with the employee present at the place of business for this time period. The city council may adjust these levels should it be necessary. This section does' not interfere with the right of any industry to make special agreement or arrangements with the city (section 22-35).

- (b) Operation and maintenance charges for all users will be based on the quantity-quality formula. $C_u = V_c V_u + B_c B_u + S_c S_u + P_c P_u$ where C_u = A user's charge for O & M per unit of time, V_c = O & M cost for transportation and treatment of a unit of waste water volume, V_u = Volume contribution from a user per unit of time, B_c = Operation and maintenance cost for treatment of a unit of biochemical oxygen demand (BOD), B_u = Total BOD contribution from a user per unit of time, S_c = Operation and maintenance cost for treatment of a unit of time, S_u = Total suspended solids contribution for a user per unit of time, P_c = Operation and maintenance cost for treatment of a unit of any pollutant and P_u = Total contribution of any pollutant from a user per unit of time.
- (c) Capital recovery cost (principal and interest) of the facilities shall be based on the formula. $R_c = V_r V_u + B_r B_u + S_r S_u + P_r P_u$ where R_c = A user's charge for capital per unit of time, V_r = Capital cost related to the transportation and treatment of a unit of waste water volume, V_u = Same as above, B_r = Capital cost related to the treatment of a unit of biochemical oxygen demand (BOD), B_u = Same as above, S_r = Capital cost related to the treatment of a unit of suspended solids (SS), S_u = Same as above, P_r = Capital cost related to the treatment of a unit of any pollutant, P_u = Same as above.
- (d) The entire user charge therefor will be equal to the operation and maintenance costs plus the capital recovery cost ($T_c = C_u + R_c$).
- (e) Industrial cost recovery charges shall be based on the following formula:

$$I_{CR} = V C_F + B C_b + S C_S$$

Where I_{CR} = Industrial charge per unit of time, V = Volume contribution from an industrial user per unit of time, C_f = Capital cost related to the transportation and treatment of a unit of waste water said cost being the federal share of the treatment facilities, B = Total BOD contribution from an industrial user per unit of time, C_b = Capital cost related to the treatment of a unit of BOD said costs being the federal share of the treatment facilities, S = Total SS contribution from an industrial user per unit of time, C_s = Capital cost related to the treatment of a unit of SS said cost being the federal share of the treatment facilities.

(Ord. No. 22-75, 8-18-75; Ord. No. 7-79, 5-21-79)

Sec. 22-39. Disconnection for nonpayment of charges.

The Portland Water District shall disconnect sewer users with unpaid sewer use charges according to the same terms and procedures used to disconnect water users with unpaid water use charges.

(Ord.No. 24-03/04, 5/03/04; [Fiscal Note: Less than \$1000])

Secs. 22-40--22-60. Reserved.

ARTICLE V. PRIVATE SEWAGE DISPOSAL**Sec. 22-61. State requirements applicable.**

When a public waste water sewer is not available under the provisions of Article IV, section 22-15, the building sewer shall be connected to a private disposal system complying with the requirements of the Maine State Department of Health and Welfare. (Ord. No. 22-75, Art. V, 8-18-75)

Secs. 22-62, 22-63. Reserved.

Editor's note--Ord. No. 30-80/81, enacted March 16, 1981, repealed §§ 22-62 and 22-63, relative to permits to operate private disposal systems, derived from Ord. No. 22-75, adopted Aug. 18, 1975.

Sec. 22-64. Maintenance, operation of private facilities; treatment of septage wastes.

- (a) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.
- (b) The city shall accept septage from private facilities through permit issued by the director of pollution abatement to the owner of said facility. Treatment shall be arranged by the owner of said facility. A minimum of fifteen (15) days shall be required for processing of application of septage wastes for treatment and the scheduling of treatment. The director shall schedule treatment as treatment capacity allows. Such scheduling shall be considered scheduled treatment of septage wastes.

Arrangements made with the director requiring less than a fifteen (15) day notice shall be considered unscheduled treatment.

Charges for treatment of septage shall be established by the city council in accordance with the provisions of this chapter. The rate shall be established per one thousand (1,000) gallons treated on a scheduled treatment basis. The rate for unscheduled treatment shall be two (2) times that of the rate of scheduled treatment. The city shall bill the owner of said facility for treatment; said bill to be payable in thirty (30) days or less.

- (c) The city shall accept septage from residents of Cape Elizabeth pursuant to an agreement negotiated between the municipalities.
- (d) Any person engaged in the hauling of septage wastes to the treatment facilities of the city shall be licensed to do so. A hauler shall obtain a license from the office of the department of pollution abatement. Said license shall be issued for not longer than one year and shall expire on December 31st. No permit shall be issued beyond April 30th of the ensuing year. Haulers of septage shall meet the following requirements:
 - (1) Vehicles shall be kept neat, clean and in good repair. The name and place of business shall be located on each side of the vehicle in clear view.
 - (2) The hauler shall keep the discharge area neat and clean and shall be responsible for cleaning any spillage resulting from the hauling and/or discharging of septage wastes.
 - (3) A violation of the above requirements for a licensed hauler shall mean an automatic thirty-day suspension of the hauler's license. Any costs to the city as a result of a hauler's negligence shall be borne by the hauler.
- (e) Any person discharging septage to the sewer facilities of the city without license and permit shall, upon conviction, be fined not less than five hundred dollars (\$500.00) plus costs incurred by the city as a result of disrupting the

normal operations of the treatment facility. Said costs shall include fines imposed on the city by the Environmental Protection Agency as a result of an illegal discharge of septage.

(Ord. No. 22-75, 8-18-75; Ord. No. 7-79, 5-21-79)

Sec. 22-65. Availability of public sewer.

When a public sewer becomes available, the building sewer shall be connected to said sewer within ninety (90) days after date of official notice and the private septic tank or cesspool shall be cleaned of sludge and filled with clean bankrun gravel or dirt.

(Ord. No. 22-75, 8-18-75)

Sec. 22-66. Approval required for discharge of septic tanks or boat-holding tanks to public sewer system.

The contents from septic tanks of South Portland properties or boat-holding tanks located in South Portland may be discharged to public sewer system upon approval from the city engineer or public works director. A fee of fifteen dollars (\$15.00) per discharge shall be paid to the city prior to discharge.

(Ord. No. 22-75, 8-18-75)

Sec. 22-67. Authorization to collect sewer assessments and charges over a period of time not to exceed ten years.

Except for service charges established under 30-A M.R.S.A. §3406, all assessments and charges made pursuant to 30-A M.R.S.A., Chapter 161, Sewers and Drains (§3401 et seq.) shall be certified by the municipal officers and filed with the Tax Collector for collection. In accordance with 30-A M.R.S.A. §3444, the Tax Assessor and Tax Collector may assess and collect those assessments and charges, including any applicable costs and/or interest, over a period of time not exceeding ten (10) years, including expenses involved in the City's abatement of malfunctioning residential domestic waste water disposal units under section 3428, subsection 4. The interest rate charged on assessments to be repaid over a period of time shall be 5% per annum simple interest, unless a lower percentage is set by law.

(Ord. No. 16-92/93, 3/1/93)

Secs. 22-68--22-79. Reserved.

ARTICLE VI. SEWER EXTENSIONS**Sec. 22-80. Purpose.**

The purpose of the sewer extension policy is to assist homeowners with subsurface disposal systems in accessing the public sanitary sewer system. This policy is intended to provide a cost-sharing approach between the city and the private property owner(s) to fund the extension of public sewer lines to improved properties which are not currently on the public system.

(Ord. No. 13-88/89, 11-21-88)

Sec. 22-81. Declaration of policy.

It shall be the policy of the City of South Portland to participate in the cost of new waste water sewer construction at the level of one-half (1/2) of the total cost of such sewer extensions in developed areas. A developed area is that portion of a street accepted by or dedicated to the city which extends from the terminus of an existing public sanitary or combined sewer to the farthest lot proposed to be served by the sewer extension, provided that fifty (50) percent of the buildable lots to be served are improved. The city council may act hereunder either upon its own motion or upon petition from the majority of the benefiting land owners to be served by such proposed sewer.

(Ord. No. 22-75, 8-18-75; Ord. No. 13-88/89, 11-21-88)

Sec. 22-82. Applicability of policy.

The policy stated in section 22-81 of this chapter shall not apply to construction of new storm sewers or to reconstruction of storm, sanitary or combined sewers.

(Ord. No. 22-75, 8-18-75; Ord. No. 13-88/89, 11-21-88)

Sec. 22-83. Action upon petition of sewer extension.

- (a) The city council shall consider any petition for new sanitary sewer construction and either grant or deny further consideration of these requested sewer extensions.
- (b) If further consideration of such petition is granted, the council may direct that such consideration shall be given during budget deliberations or immediately.
- (c) If immediate consideration is to be given to a proposed sewer extension, the city engineer shall prepare a Preliminary engineering study and estimate the total cost of such project and shall report these to the city council.
- (d) Upon receipt of Preliminary engineering studies and cost estimate from the city engineer, the council shall determine whether or not to proceed with the project.
- (e) If the council votes to proceed with the project they shall conduct a public hearing on such project, at a regular council meeting. The city clerk shall post notice of such public hearing to all property owners that are abutting or are to benefit from said new sewer extension. This notice shall include the amount of any estimated assessment to be levied on any such abutter or benefiting land owner.
- (f) After a public hearing has been held, the council shall take a final vote as to whether or not the proposed sewer construction shall be undertaken.

(Ord. No. 22-75, 8-18-75; Ord. No. 25-75, 9-15-75)

Sec. 22-84. Sewer assessments.

Sewer assessments shall be made as follows:

- (a) *Willingness to serve assessment.* During the construction of the street sewer a

building sewer shall be provided from the street sewer to the property line in question. This extension is assessed at two hundred fifty dollars (\$250.00). Building sewers of this nature shall be provided for each buildable lot encountered abutting the new street sewer or where there is no building connection for an existing building.

- (b) *Construction assessment.* The construction assessment shall be levied to the abutting property owner in proportion to their abutting street frontages. When a sewer extends past a portion of a lot the total frontage up to and including one hundred (100) feet shall be used for calculating purposes. The city engineer shall provide the necessary information to the city clerk for levying the construction assessment.

(Ord. No. 22-75, 8-18-75; Ord. No. 2575, 9-15-75)

Sec. 22-85. City authorized to construct under this article.

The city, at its option, may either seek bids on work authorized by the article or may direct that the construction be carried out by the city crews. In either event, each city department involved shall keep detailed records of its costs attributable to each separate project.

(Ord. No. 22-75, 8-18-75)

Sec. 22-86. Director of public works to maintain records of costs.

The director of public works shall permanently maintain all costs records on each such project and shall, upon completion of any particular sewer extension project, complete the total cost thereof. This total cost shall be forwarded to the municipal officers.

(Ord. No. 22-75, 8-18-75)

Sec. 22-87. Municipal officers to determine final assessment.

When any such waste water sewer extension project has been completed, the municipal officers shall make assessments for such costs according to the provisions of state statute. The city clerk shall give notice of such assessments and the tax collector shall collect the amounts assessed all as authorized and directed by the laws of the State of Maine.

(Ord. No. 22-75, 8-18-75)

Sec. 22-88. Extension of time in the case of hardship.

When any owner of land against which an assessment for new sewer extension has been levied feels that such assessment effects a hardship upon him, he may waive his rights to a formal appeal and make written request on a form provided for this purpose in the city clerk's office to the board of appeals to certify the existence of a hardship. The board of appeals may, after hearing, certify to the tax collector that a hardship has been established. After such finding, if any, has been certified to the tax collector and after a lien to secure payment of such assessment has attached to the land benefited by such sewer extension, the tax collector may make arrangements with said land owner for the payment of such assessment in equal annual payments over a period of ten (10) years, said obligation bearing interest at six (6) per cent simple, annual interest. Said obligation shall be formalized by a promissory note executed by the land owner, payable to the City of South Portland, Maine.

(Ord. No. 25-75, 9-15-75; Ord. No. 9-77, 6-6-77; Ord. No. 21-80/81, 11-3-80; Ord. No. 17-85/86, 11-18-85)

Cross reference(s)--Board of appeals, § 2-96.

Secs. 22-89--22-99. Reserved.

ARTICLE VII. DESIGN AND CONSTRUCTION REQUIREMENTS FOR SEWER EXTENSIONS**Sec. 22-100. Design requirements.**(a) *Pipe material:*

- (1) High density polyethylene pipe. High-density polyethylene pipe shall meet the requirements of ASTM D2321, D3212, D-2412-77, F1417, F477-95 AND F667. Interior walls shall be smooth bore. Pipe shall be required to meet soil and traffic loads.
- (2) Reinforced concrete pipe shall conform to standard specifications for reinforced concrete sewer pipe, ASTM, C-76. Pipe classes shall be as required to meet soil and traffic loads with a factor of safety of 1.2 or 0.01 inch crack strength with Class B beddings. Joints in the pipe shall be of the tongue and groove type incorporating a single rubber gasket in which the gasket is in compression and which will permit both longitudinal and angular movement without leakage. The gaskets shall conform to the requirements of ASTM designation C-443.
- (3) Clay pipe shall be extra strength conforming to standard specifications ASTM C-200. Joints shall be of flexible gasket type meeting the requirements of ASTM designation C-425 latest revision.
- (4) Poly vinyl chloride gravity pipe shall conform to all aspects of ASTM specification D 3034-73A (or latest revision) for SDR 35 PVC sewer pipe and fittings. Joints shall be rubber (natural or synthetic) gasketed bell and spigot type. Minimum pipe stiffness at five (5) per cent deflection shall be forty-six (46) psi for all sizes when tested in accordance with ASTM D-2421. Bedding design shall be Class 1 or Class 2 and be based on soils type and classification, unit weight of backfill material, hydrostatic pressure, and dynamic loading such that a maximum deflection of five (5) per cent will not be exceeded one (1) year after installation. All fittings, appurtenances, etc., shall be compatible with the type of pipe being used and shall be installed in accordance with the manufacturer's recommended standards. Pipe shall be furnished in standard twelve-foot six-inch lengths or six-foot three-inch half lengths.
- (5) Acrylonitrile butadine styrene composite gravity pipe shall conform to the requirements of ASTM specification D-2680-74 (or latest revision) for ABS truss sewer pipe and fittings. ABS truss pipe shall be furnished with solvent-cemented joints. Filling material shall be a portland cement mearlcrete. The thermoplastic material shall be a rigid ABS plastic conforming to the requirements of ASTM specification D-1788 for rigid ABS plastics. Primer for solvent welding shall be methyl ethyl ketone, and the cement shall contain a minimum of twenty (20) per cent by weight of dissolved ABS composite material. Bedding design shall be Class 1 or Class 2 and be based on soils type and classification, unit weight of backfill materials, hydrostatic pressure, and dynamic loading such that a maximum deflection of four (4) per cent will not be exceeded one (1) year after installation. All fittings, appurtenances, etc., shall be compatible with the type of pipe being used and shall be installed in accordance with the manufacturer's recommended standards. Pipe shall be furnished in standard twelve-foot six-inch lengths or six-foot three-inch half lengths.

(b) *Manholes:* Manhole superstructures shall be of precast reinforced concrete conforming to the requirements of ASTM designation C-478. Joints shall be of the flexible gasket type and meeting the requirements of ASTM designation C-433.

(c) *General:*

- (1) All waste water systems shall be designed to meet criteria dictated by the zoned area.
- (2) Up-stream sewage shall be accommodated by an adequately sized system through the area in question for existing conditions and potential

development in the up-stream areas tributary to the area in question.

- (3) Existing down-stream sewage facilities shall be studied to determine the effect of the proposed sewer extension. If it is found that the extension will overload the down-stream system it shall be so reported to the municipal officers.
- (4) Manholes shall be located at intervals not to exceed four hundred (400) feet and shall be located at intersections and changes of direction and grade. Drop manholes will be required where invert differences of incoming to outgoing sewer pipes are two (2) feet or greater. The average velocity when flowing full shall not be less than two (2) feet per second. Attention shall be given to low flow velocities. If a sewer changes direction in a manhole without change of size a drop of four hundredths (0.04) foot will be provided in the manhole. If the sewer changes size, the crowns of the inlet and outlet sewers are to be at the same elevation. Branches coming into a manhole shall have their crowns at the same elevation as that of the larger sewer. These criteria are minimal and the actual engineering design will take precedence.

(Ord. No. 22-75, 8-18-75, Ord. No. 37-80/81, 4-6-81)

Sec. 22-101. Construction standards.

- (A) *Trenches.* When trench excavation is on bituminous concrete paved areas the pavement shall be neatly cut in a true straight line by paving saw. Where cutting of pavement is not required prior to excavation or the trench excavation extends back to the cut edges, trimming will be required to match new pavement to old in smooth running lines.
- (B) *Earth excavation--Structures.* Excavations for structures shall be carried to the lines and subgrades shown on the drawings. Care shall be taken that the foundation areas of structures are not excavated below the planned subgrade. Exposed subgrade surfaces shall remain undisturbed, protected, and maintained as uniform, plane areas, shaped to receive the foundation components of the structure.
- (C) *Earth excavation--Trenches.* Trench excavations shall be carried to the lines and subgrades designated on the drawings. Trench widths for pipes shall be held within the limits shown on the drawings, but in no case be wider than the outside diameter of the pipe plus two (2) feet but not less than three (3) feet.

As a result of unsuitable soil conditions, trench excavation shall be carried below the required subgrade and special pipe foundation material provided. Dewatering and sheathing shall be provided when required by the city engineer.

- (D) *Rock excavation.* Where rock is encountered in excavations, it shall be removed by blasting methods, unless directed otherwise by the city engineer. Blasting operations shall be accomplished in compliance with the Maine Department of Transportation Specification 107.12.

Rock shall be trimmed back on each side of the trench so that no rock protrudes within six (6) inches of the installed pipe. Rock shall be trimmed down across the bottom of the trench so that no rock protrudes within six (6) inches of the installed pipe.

- (E) *Backfill materials.* Materials required for backfilling shall be as shown on the drawings, or as ordered by the city engineer. The city engineer reserves the right to inspect proposed sources of off-site backfill material, and to order tests of such material which he deems necessary to ascertain its quality and gradation of particle size.

No backfill material shall be used until approval is obtained from the city engineer, and only material from approved sources shall be used. Backfill materials are designated by the following types:

- (1) *Material on site.* If excavated material on site is approved as being suitable for backfilling purposes, it shall be used and the surplus

disposed of. Other types of material specified in this clause in place of on-site material, providing such substitution is approved in advance by the city engineer, and provided that all replaced material is disposed of;

- (2) Granular material. The refilling of all excavation below the bottom of pipes, and at such other places as required, or when ordered by the city engineer, shall be made with a granular material containing no stones over one and one-half (1 1/2) inches in diameter and shall be of such gradation to be free draining and readily compactible.
- (3) Screened gravel. Screened gravel will be used for pipe bedding for better control of trench dewatering. Screened gravel should approximate the following gradation:

<i>Screen Size Square Openings</i>	<i>Per Cent by Weight Passing</i>
3 inch	100
1 inch	85-100
¼ inch	40-70
No. 100	0-15

- (4) Road gravel. Road gravel shall be clean, hard particles, free from oversized stones and vegetable matter, and shall meet the following gradation requirements, unless otherwise approved by the city engineer:

<i>Screen Size Square Openings</i>	<i>Per Cent by Weight Passing</i>
3 inch	100
1 inch	85-100
¼ inch	40-70
No. 100	0-15

- (5) Selected backfill. Selected granular backfill material, approved by the city engineer, and meeting AASHO Specifications M 145-49 as revised, Classification A3 or better, for backfilling trenches and structures may be used if, in the opinion of the city engineer, the on-site material is not suitable for backfill.
- (6) Riprap. Riprap stone shall be placed in the areas as shown on the drawings, and as directed by the city engineer. The stone used for riprap shall be sound, durable rock which will not disintegrate due to exposure to water or weather. Either field stone or rough-hewn quarry stone may be used, if acceptable to the city engineer.

Stones for riprap shall have a minimum weight of fifty (50) pounds each and a maximum weight of five hundred (500) pounds each. Fifty per cent (50%) of these stones, by volume, shall exceed two hundred (200) pounds each. No thin flat stones shall be used.

Stones shall be machine set to approximately conform to the surface and sections shown. The openings between the stones shall be filled with spall or small rocks securely rammed into place.

- (F) *General backfilling requirements.* Backfilling shall be started as soon as practicable after structures or pipe installation has been completed and concrete has acquired a suitable degree of strength. Backfill shall be started at the lowest section of the area to be backfilled. Natural drainage shall not be obstructed at any time.

Backfill material shall be inspected prior to placement and all visible roots, vegetation, organic matter, or other foreign debris shall be removed. Stones larger than six (6) inches shall be removed or broken. Stones shall not be placed in clusters which will create voids.

Backfill material shall not be placed when moisture content is too high to allow

proper compaction. When material is too dry for adequate compaction, water shall be added to the extent necessary.

No backfill material shall be placed on frozen ground, nor shall the material itself be frozen when placed. No calcium chloride or other chemicals shall be added to prevent freezing. Material incorporated in the backfilling operation which is not in satisfactory condition shall be subject to rejection and removal at the contractor's expense.

- (G) *Methods of compaction.* The contractor shall adopt compaction methods which will produce the degree of compaction specified herein without damage to new or existing facilities.

The intention of these specifications is that backfilling and compaction be conducted in a manner which will produce minimum subsequent settlement and provide adequate support for the surface treatment, pavement, or structure to be placed thereon.

The moisture content at the time of compaction shall be suitable to obtain ninety-five per cent (95%) of the optimum density as determined by field tests to be performed by the city engineer. The maximum density shall be determined in accordance with AASHTO-T-180, Method C or D.

- (H) *Pipe trench backfill.* Pipe foundations and pipe sidefills to one foot above the pipe shall be placed in six-inch layers and thoroughly compacted with mechanical or power tampers to insure firm bedding and side support.

In drive and paved areas, the backfill above select fill line shall be placed in not more than twelve-inch layers and shall be watered and thoroughly compacted with mechanical or power tampers to obtain optimum compaction to the satisfaction of the city engineer.

In nonroad, or unpaved areas the backfill above select fill line may be machine placed, provided no direct impact is allowed. Any subsequent settlement shall be brought to grade.

- (I) *Backfill for structures.* Backfill shall be placed in layers not exceeding twelve (12) inches thick and thoroughly compacted by mechanical means to obtain optimum compaction to the satisfaction of the city engineer.

Where pipelines or conduits are to be placed on structural backfill, all backfill under the pipes shall be special backfill, placed in six-inch layers and mechanically tamped to the city engineer's satisfaction.

- (J) *Embankments.* Embankment areas shall be cleared and grubbed. The area shall be scarified and broken by means of a disc harrow or plow, or other approved equipment, before starting construction of the embankment. Embankments shall be formed of satisfactory materials, placed in successive horizontal layers of not more than twelve (12) inches in loose depth for the full width of the cross section. All materials entering the embankment shall be essentially free of organic matter, leaves, grass, roots, and other objectionable materials. At all times the embankment shall be sloped to provide proper surface drainage. The materials placed in the layers shall be of proper moisture content before rolling, to obtain the desired compaction. Compaction shall be ninety per cent (90%) laboratory density as determined by the Standard Method of Test for the Compaction and Density of Soils, AASHTO designation T-99. Any areas inaccessible to a roller shall be consolidated and compacted by mechanical tampers. In the construction of embankments, starting layers shall be placed in the deepest portion of the fill, and as placement progresses, layers shall be constructed approximately parallel to the finished grade of the top surface of the embankment. Embankments are to be constructed at least ninety (90) days in advance of sewer installation unless otherwise approved by the city engineer in writing.

- (K) *Grading.* After the completion of all backfilling operations, the site shall be graded to the lines, grades, and elevation shown on the drawing, taking into account any subsequent topsoil and paving requirements.

(L) *Removal of water.* Drains, ditching, pumping, well-pointing, bailing, and all other work necessary to keep the excavation clear of ground water, sewage, or storm water during the progress of the work add until the finished work is safe from damage shall be provided when necessary.

(M) *Testing.*

(1) *Manholes.* All manholes shall be tested as to water tightness as follows: The inlet and outlet of the manhole shall be plugged by water-tight plugs and the manhole shall have four (4) feet of water placed therein. The water shall remain for sufficient time for absorption into the concrete to occur. The amount of water lost or accumulated shall not exceed five (5) gallons per hour per four-foot diameter manhole;

(2) Pipe lines will be tested for leakage between manholes as the work progresses. The city inspector will conduct the test and all the necessary apparatus will be supplied by the sewer contractor. Testing shall be done by one of the following methods:

(a) Infiltration test--where the ground water is above the crown of the pipe.

(b) Exfiltration test--where the ground water is below the crown of the pipe.

The infiltration or exfiltration of ground water into any section of pipe shall not exceed five hundred (500) gallons per one-inch diameter of pipe-mile in twenty-four (24) hours.

(c) Air test--the equipment used shall meet the following minimum requirements:

1. Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.

2. Pneumatic plugs shall resist internal water pressures without requiring external bracing or blocking.

3. All air used shall pass through a single control panel.

4. Three (3) individual holes shall be used for the following connections:

a. From control panel to pneumatic plugs for inflation.

b. From control panel to sealed line for introducing the low pressure air.

c. From sealed line to central panel for continuously monitoring the air pressure rise in the sealed line.

After the manhole to manhole reach of pipe has been backfilled and cleaned, the plugs shall be placed in the line at each manhole and inflated to twenty-five (25) psig. Low pressure air shall be introduced into the sealed line until the internal air pressure reaches four (4) psig greater than the average back pressure of any ground water that may be over the pipe. After this stabilization period (3.5 psig minimum pressure in the pipe), the air hose from the control panel to the air supply shall be disconnected. The portion of line being tested, shall be termed acceptable if the time required in minutes for the pressure to decrease from 3.5 to 2.5 psig (greater than the average back pressure of any ground water that may be over the pipe) shall not be less than the time shown for the given diameter in the following table:

<i>Pipe Diameter (Inches)</i>	<i>Minutes</i>
4	2.0
6	3.0
8	4.0
10	5.0
12	5.5
15	7.5
18	8.5
21	10.0
24	11.5

In areas where ground water is known to exist, its height over the invert of the pipe shall be determined. The height in feet shall be divided by 2.3 to establish the pounds of pressure that will be added to all readings (i.e. if the height of water is 11.5 feet then the added pressure will be five (5) psig.) the allowable drop of one psig and the timing remain the same.

If the installation fails any test, the source of leakage shall be found and repaired and all defective materials shall be replaced.

(Ord. No. 22-75, 8-18-75; Ord. No. 25-75, 9-15-75)

Secs. 22-102--22-106. Reserved.

ARTICLE VIII. PROTECTION FROM DAMAGE; POWERS AND AUTHORITY OF INSPECTORS**Sec. 22-107. Malicious mischief.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. No. 22-75, 8-18-75)

Sec. 22-108. Construction insurance.

The person or persons constructing public or private sewers must present a certificate of insurance showing minimum liability coverage of \$500,000/1,000,000 for bodily injury and a twenty-five thousand dollar (\$25,000.00) limit for property damages including collapse and underground coverage before a permit will be issued for construction of building sewer or sewer extensions. Sewer extensions will require a one hundred thousand dollar (\$100,000.00) coverage for underground and property damage.

(Ord. No. 22-75, 8-1875; Ord. No. 2575, 8-1875)

Sec. 22-109. Authority to enter properties for purposes of inspecting, testing, etc.

Duly authorized representatives of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

(Ord. No. 1-76, 1-19-76; Ord. No. 3-82/83, 9-20-82; Ord. No. 6-94/95, 9-19-94)

Sec. 22-110. Duty of city employees to observe company safety rules; nonliability of company.

While performing the necessary work on private properties referred to in section 22-109, duly authorized representatives of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by the negligence or failure of the company to maintain safe conditions as required by law.

(Ord. No. 1-76, 1-19-76)

Editor's note--Ord. No. 3-82/83, enacted Sept. 20, 1982, amended § 22-109 by deleting reference to the city engineer. The editors have deleted such reference from §§ 22-110 and 22-111.

Sec. 22-111. Authority to enter private properties through which city holds duly negotiated easement for purposes of inspection, observations, etc.

Duly authorized representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Note--See the editors note to § 22-110.

(Ord. No. 1-76, 1-19-76)

ARTICLE IX. PENALTY**Sec. 22-112. Notice to correct violation.**

Any person found to be violating or in violation of any provision of this chapter shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the city manager, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations.

(Ord. No. 22-75, 8-18-75)

Sec. 22-113. Penalty; continuing violations.

Any person, individual, firm, corporation or partnership who fails to comply with the provisions of this chapter other than those provisions pertaining to the payment of charges for services established herein, and who shall continue any violation beyond the time limit provided for in section 22-112 shall be guilty of a civil violation and on conviction thereof shall be fined in the amount not exceeding one thousand dollars (\$1,000.00) for each violation.

The continued violation of any provision of any section of this chapter, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation shall occur.

(Ord. No. 22-75, 8-18-75; Ord. No. 25-75, 9-15-75; Ord. No. 13-89/90, 12-4-89)

Sec. 22-114. Institution of action by city to prevent violation.

The proper authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings, including an injunction to halt or prevent the following: unlawful use, construction or maintenance of cesspools, septic tanks, sewage disposal systems, and pipes or drains to restrain, correct or abate such violations; the occupancy of any building, structure or land when violations of this chapter are found; or any other violation of this chapter.

(Ord. No. 22-75, 8-18-75; Ord. No. 3-82/83, 9-20-82; Ord. No. 13-89/90, 12-4-89; Ord. No. 6-94/95, 9-19-94)

Sec. 22-115. Liability for expense, loss or damage.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.

(Ord. No. 22-75, 8-18-75)

Secs. 22-116--22-121. Reserved.

ARTICLE X. VALIDITY

Sec. 22-122. Repeal of pre-existing conflicting provisions; Interpretation with Chapter 29.

All ordinances or parts of ordinances in conflict herewith at the time of enactment are hereby repealed. Any conflicting provisions in Chapter 29, Sewer Pretreatment and Permits, supersede this chapter and shall be controlling.

(Ord. No. 22-75, 8-18-75; Ord. No. 6-94/95, 9-19-94)

Sec. 22-123. Severability of provisions.

The invalidity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(Ord. No. 22-75, Art. X, 8-18-75)

Secs. 22-124--22-131. Reserved.

ARTICLE XI. APPEALS*

 * Cross reference(s)--Board of appeals, § 2-96.

Sec. 22-132. Review of user charges.

(a) Residential users.

The director of the department of pollution abatement shall

- (1) hear evidence presented to him/her for the third quarter billing period for those applications showing above average use due to outside use of water not returned to the sewer system and/or swimming pool filling. He/she shall not consider any petition for such use during any other quarter except as provided in subsections (a) (4) and (5) of this section. The normal recording period for the third quarter shall be July through September of the year.

Appeals shall be made on a form issued by the director of the department of pollution abatement. Said form shall contain the name of the petitioner, address of the petitioner, Portland Water District's Account Number, water consumption for the third quarter as well as the consumption of the previous three (3) quarters as they occurred in hundreds of cubic feet, number of permanent occupants, and an explanation of where the additional waters were used, i.e., swimming pool, garden, lawn and their approximate amounts. Any application submitted which does not reflect the true consumption records of the Portland Water District shall become void and the applicant shall be subject to the provisions of section 22-113 of this chapter. Upon receipt of a petition for a third quarter abatement, the director of the department of pollution abatement shall review said petition for completeness and determine the amount of abatement, if any, as provided below.

- (2) Residential third quarter rebates shall be calculated on the following basis:

$$R = (Q3 - C) \times RA$$

Where R = Rebate in dollars, RA = Sewage rate used in calculating the third quarter bill in dollars per hundred cubic feet.

$$C = 0.3833 Q1 (Q2 + Q3 + Q4)/Q2 + Q4 + 0.2875 (Q2 + Q4)$$

Q1 = First quarter water consumption in hundreds of cubic feet;

Q2 = Second quarter water consumption in hundreds of cubic feet;

Q3 = Third quarter consumption in hundreds of cubic feet; and

Q4 = Previous year's water consumption for the fourth quarter in hundreds of cubic feet.

- (3) Third quarter rebates shall not be considered for those applicants under the following circumstances:

i. Where submeters as outlined in section 22-37(b) are in use;

ii. Where Q3 is less than fifteen (15) per cent of the average of the sum of Q1, Q2, Q3, and Q4;

iii. Where there are outstanding sums due the city on previous sewer user bills including the third quarter; or

- (4) Abatements for initial filling of newly installed or constructed pools outside of the third quarter may be granted by the director of the department of pollution abatement upon filing of a special petition for that purpose and verification of the amount of water from the Portland Water District used.
- (5) Persons aggrieved by a misread meter reading, meter malfunction or the like, shall negotiate with the Portland Water District directly. The district's determination shall be final. Any other person requesting an abatement of user charges not covered by this section may request a hearing by filing the appropriate forms issued by the department of pollution abatement.
- (6) Petitions approved for rebate shall be referred to the finance director. All rebates shall be made by the finance department notifying the Portland Water District in writing indicating the amount and account number.

(b) Commercial and industrial users.

Sewer user charge abatement for commercial and industrial users will be considered by the Director of Pollution Abatement on an individual basis and on information requested by and presented to the Director of Pollution Abatement.

(Ord. No. 6-94/95, 9-19-94)

Editor's note--Section 22-132, relative to the creation and composition of the board of sewer appeals, the appointment, composition and term of members and the filling of vacancies on such board, was repealed by Ord. No. 21-80/81, enacted Nov. 3, 1980. Said section was derived from Ord. No. 22-75, adopted Aug. 18, 1975; Ord. No. 3-78, § 4, adopted March 20, 1978; and Ord. No. 7-79, adopted May 21, 1979.

Sec. 22-133. Appeals.

An appeal from any final decision rendered in accordance with this chapter may be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

(Ord. No. 6-94/95, 9-19-94)

Secs. 22-134--22-149. Reserved.

ARTICLE XII. USER CHARGES

Sec. 22-150. Table of user charges.

- (a) The sewerage system user charges adopted annually by the city council pursuant to section 22-37 shall govern.
- (b) Industries discharging industrial process waste water or a combination of process waste water and sanitary waste water to the municipal sewer shall be charged an additional amount equal to the cost of the city's industrial pretreatment compliance program. Each such industrial user shall pay an annual fee equal to the sum of:
 - (1) A flat fee equal to fifty (50) per cent of the total cost of such program divided by the number of such industrial users in the system; and
 - (2) A ratable fee equal to fifty (50) per cent of the cost of such program divided among all such industrial users based on the percentage of industrial process waste water contributed by each.

(Ord. No. 1-78, 3-6-78; Ord. No. 32-79/80, 6-16-80; Ord. No. 43-80/81, 8-3-81)

Secs. 22-151--22-159. Reserved.

ARTICLE XIII. CAPITAL IMPROVEMENT**DIVISION 1. SEWER REHABILITATION FUND****Sec. 22-160. Findings and declaration of purpose.**

- (a) The construction of new residential, commercial, industrial and other structures within the city threatens to burden and overtax existing public sewerage facilities.
- (b) Such new development and construction presents the city with the necessity of expanding and improving its sewerage facilities.
- (c) The city has completed a study of its public sewerage facilities and assessed the impact of development upon the need for new and expanded facilities.
- (d) In order to expand the capacity of the existing sewerage system, it is deemed in the best interest of the public to create a special sewer rehabilitation fund into which shall be paid the sewer connection fees established in this ordinance and from which expenditures shall be made solely for the purposes of funding rehabilitation of the sewerage system.
- (e) Sewer connection fees shall be assessed against new developments and construction and changes of use such that the property owner bears a fair and proportionate cost of the needed rehabilitation.
- (f) Requiring such fees to be paid at the time of connection to the city sewer system represents a reasonable and efficient method of collecting fees which are due.
- (g) The imposition of such fees upon new construction is reasonable and appropriate in that it shifts a part of the financial cost of rehabilitation of the sewerage system to those persons whose activity necessitates the expansions and who will directly benefit from it.
- (h) The creation of this sewer rehabilitation fund and assessment of the sewer connection fees to fund it are within the police power of the city and within its planning, zoning and subdivision control authority and use of the fund is consistent with the city's comprehensive plan.

(Ord. No. 10-88/89, 11-21-88)

Sec. 22-161. Sewer rehabilitation fund established.

- (a) All assessments collected under this ordinance shall be paid into a special interest-bearing reserve fund of the city which fund is hereby created to be the sewer rehabilitation fund.
- (b) Within said fund accounts shall be established by accounting practices to identify the amounts paid in by each person and the amounts expended for rehabilitation activities. Accounting for all fees shall be based on expenditure eligibility and expenditures shall be tracked on a first-paid, first-spent basis.

(Ord. No. 10-88/89, 11-21-88)

Sec. 22-162. Use of fund revenues.

- (a) Fees paid into the sewer rehabilitation fund shall be expended solely for the rehabilitation of the city's sewerage system according to the schedule of capital improvements adopted as part of the city's comprehensive plan. The city council may amend said plan at any time and the city manager may amend the plan to meet emergencies requiring rehabilitation activities not otherwise scheduled to occur and any federal or state directives for rehabilitation which may be issued. Any

development agreement approved by the council shall be deemed an amendment to the comprehensive plan if it requires a change in the scheduled rehabilitation activities.

- (b) Rehabilitation activities which may be funded from the fund include the following:
- (1) Enlargement or reconstruction of existing sewer lines and storm drains;
 - (2) Construction of new sanitary sewers and storm drains to replace existing lines;
 - (3) Separation of combined sewers;
 - (4) Construction of pumping stations to increase sewerage system capacity;
 - (5) Enlargement or upgrading of the sewage treatment plant; and
 - (6) Enlargement or upgrading of the solid waste disposal facility.

The funds may not be used to finance routine maintenance and repair activities or other expenses solely related to operation of the sewerage system.

(Ord. No. 10-88/89, 11-21-88)

Sec. 22-163. Applicability of article.

The provisions of this article regarding sewer connection fees shall apply to developments or construction for which a sewer connection permit application is made after adoption of this article except for those developments for which the city and the developer or owner have executed a development agreement which provides alternatively for a contribution to sewer rehabilitation activities.

(Ord. No. 10-88/89, 11-21-88)

DIVISION 2. FEE SCHEDULE; ADMINISTRATION OF FUND

Sec. 22-164. Adoption of fee schedule.

- (a) The city council, by order, shall adopt a fee schedule establishing the sewer connection fee to be charged to residential, commercial, industrial and other types of property uses. The schedule shall be published and copies made available to the public in the office of the licensing authority.
- (b) Said fee schedule shall be based upon the gallonage of waste waters projected to be generated by each use as established in the design criteria of the State Plumbing Code Surface Wastewater Disposal Rules adopted by the Maine Department of Human Services. The moderate flow calculations in the Code for residences shall be used. The wastewater flow of any use not included in this code shall be determined by the city engineer. The rate per gallon may be changed periodically by the council.

(Ord. No. 10-88/89, 11-21-88; Ord. No. 6-94/95, 9-19-94)

Sec. 22-165. Collection of fees.

- (a) A sewer connection fee is immediately due and payable upon, and concurrently with, the application for a sewer connection permit. No building shall be connected to the city sewer system without full payment of the proper fee.
- (b) Where a building is already connected to the public sewer system, a sewer connection permit application shall be filed and a sewer connection fee shall be due and payable upon any change of use or expansion of use. No certificate of occupancy shall be issued without payment of the required fee.

- (c) The licensing authority shall provide the permit applicant with an appropriate form setting forth the fee schedule and rate. The applicant shall provide all information necessary for a calculation of the fee due.
- (d) In those instances where an applicant for a sewer connection permit has otherwise contributed to the sewer rehabilitation fund by undertaking rehabilitation activities as required and approved by the planning board or by payment of a fee or fees in accordance with the terms of a development agreement approved by the city council, and by the planning board if applicable, the sewer connection fee or fees otherwise due and payable shall be reduced to reflect the contribution of the applicant to the sewer rehabilitation fund. In no event, however shall the applicant pay less than fifty dollars (\$50.00) per connection to reflect the cost of on-site inspection by the licensing authority.

(Ord. No. 10-88/89, 11-21-88; Ord. No. 6-94/95, 9-19-94)

Sec. 22-166. Refund of fees.

Any sewer connection fee, or portion thereof, paid into the fund, if not expended within ten (10) years of payment, shall be refunded with interest to the person who paid the fee or his successor in interest.

(Ord. No. 10-88/89, 11-21-88)

Secs. 22-167--22-169. Reserved.

DIVISION 3. MAINE MALL SERVICE AREA ASSESSMENT ORDINANCE

Sec. 22-170. Short title.

This division shall be known and may be cited as the "Maine Mall Service Area Construction Assessment Ordinance" and shall be referred to hereafter as "this division."

(Ord. No. 1-89/90, 717-89)

Sec. 22-171. Findings and declaration of purpose.

- (a) Proposed and anticipated development within that portion of the city located westerly of Interstate Highway 1-295 and along outer Broadway cannot take place unless and until certain improvements are made to the existing public sewerage facilities serving that portion of the city (hereafter referred to as the "Maine Mall Service Area") to accommodate the increased flows projected to be generated by such future development.
- (b) These improvements cannot be constructed within the immediate future from public funding sources alone.
- (c) The city and certain private entities with pending projects stalled by said lack of collector system capacity have entered into an agreement whereby the costs and responsibility for construction of these improvements will be borne entirely by the entities, but whose benefits will be enjoyed by all future contributors of new sewage flow to the city's public sewerage facilities who are located within the Maine Mall Service Area.
- (d) These special benefits accruing to such future contributors warrant the imposition of a special construction assessment upon them in accordance with a formula based upon their proportionate contribution of new sewage flow, which assessments shall be paid into a trust fund as a condition of eligibility for building permits, sewer connection permits, and/or certificates of use and occupancy, and shall be paid out of the trust fund to said private entities as reimbursement for the costs of construction of the sewerage system improvements.

- (e) The imposition of such construction assessments upon new construction within said designated portion of the city is reasonable and appropriate in that it allocates the financial costs of construction of necessary improvements to the existing public sewerage facilities to those persons and entities whose activity necessitates the improvements and who will directly benefit from them.
- (f) The creation of said trust fund and the imposition of said construction assessments to be paid into the fund are within the police power of the city, authorized by the City Charter and 30-A M.R.S.A. Section 3001, and consistent with the city's comprehensive plan.
- (g) The purpose of this division is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide sewer facilities to new contributors of flow in the Maine Mall Service Area.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-172. Rule of construction.

The provisions of this division shall be liberally construed so as to effectively carry out its purpose in the interest of public health, safety and welfare.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-173. Applicability of division.

The provisions of this division regarding construction assessments shall apply to new construction within the Maine Mall Service Area for which an application for a building permit, sewer connection permit, or certificate of occupancy is made after enactment of this division. For purposes of this division, "new construction" is defined as existing and new contributors of flow who propose to increase their flows to the city's sewer system from property within the Maine Mall Service Area above levels approved by the planning board and the city engineer prior to enactment of this division. For purposes of this division, the "Maine Mall Service Area" is defined as all of the city westerly of Interstate Highway I-295 and that portion easterly of I-295 bounded by Westbrook Street, Broadway to the off-ramp to Broadway from the connector highway between I-295 and Route 1 in Scarborough, the off-ramp, the connector highway to the Scarborough town line, and the Scarborough town line.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-174. Imposition of construction assessment.

Any person who seeks to connect or otherwise increase flows from property within the Maine Mall Service Area to city's sewer system shall pay a construction assessment in the manner and pursuant to the formula set forth in this division. No new construction shall be connected to the city sewer system, building permit issued or certificate of occupancy issued without full payment of the proper construction assessment amount.

The construction assessment required by this division is independent of and in addition to any other sewer user or sewer connection fee imposed elsewhere in this article.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-175. Amount of construction assessment.

- (a) The construction assessment upon any new construction in the Maine Mall Service Area shall be computed by multiplying the proposed new flow or increase in flow, as approved by the city engineer and measured in terms of gallons per day, by an interim factor or a permanent factor. Each factor shall be determined by order of the city council. The interim factor shall apply to new construction commenced prior to completion of certain improvements to the existing public facilities

serving the Maine Mall Service Area. The permanent factor shall apply to all other new construction.

- (b) The interim factor shall be equal to the sum of the total estimated costs of construction of the improvements, including the estimated finance charge over an amortization period of ten (10) years after enactment of the division and other related costs, divided by the total increase in sewer flow within the Maine Mall Service Area estimated by the city engineer to occur within five (5) years after enactment of this division.
- (c) The permanent factor shall be identical to the interim factor, except that the actual costs of construction of the improvements shall be substituted for the estimated costs of construction.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-176. Payment of construction assessment.

The construction assessment required by this division shall be paid to the trustee of the Maine Mall Service Area Trust Fund, a fund established in accordance with an agreement between the city and those persons who shall construct the necessary improvements to the city's sewerage facilities which will enlarge the collector system capacity for the Maine Mall Service Area. The assessment calculated using the interim factor shall be paid to the trustee as a condition of eligibility for a building permit for new construction proposed to commence prior to completion of the necessary improvements. The assessment calculated using the permanent factor shall be paid to the trustee as a condition of eligibility for a building permit for all other new construction, unless an increase in flow only is proposed and no building permit is required, in which case such assessment shall be paid to the trustee as a condition of eligibility for a certificate of use and occupancy. If an assessment calculated and paid using the interim factor is less than the assessment which would have been required using the permanent factor, the difference in amount shall be paid to the trustee as a condition of eligibility for a sewer connection permit.

The trustee shall thereupon issue evidence of payment to the applicant for a building permit, sewer connection permit or certificate of use and occupancy, as the case may be, on a form provided by the city. The applicant shall provide all information reasonably required by the trustee to compute the amount of the construction assessment.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-177. Use of trust fund revenues.

Construction assessments paid into the Maine Mall Service Area Trust Fund shall be used solely for the purpose of reimbursement of those persons who have complied with the terms and conditions of said agreement with the city and shall not be used for maintenance or operations or any other purpose, except that refunds to assessment payers shall be made as follows.

If an assessment calculated and paid using the interim factor is more than the assessment which would have been required using the permanent factor, the difference in amount shall be refunded to the payer.

Any construction assessment, or portion thereof, which, when added to prior assessments paid into the trust fund, exceeds the total amount of reimbursements pursuant to said agreement shall be refunded to the payer or payers.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-178. Sunset provision.

No construction assessment hereunder shall be required, and this division shall be of no further force or effect, after all required reimbursements have been made from the trust fund pursuant to said agreement or after twenty years following adoption of this division, whichever occurs earlier.

(Ord. No. 1-89/90, 7-17-89; Ord. No. 6-91/92, 9/4/91)

Sec. 22-179. Severability.

If any section, phrase, sentence or portion of this division is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 1-89/90, 7-17-89)

Sec. 22-180. Appeals.

An appeal from any provision of this division or decision hereunder may be taken to superior court. No appeal therefrom shall lie to the board of appeals.

(Ord. No. 1-A 89/90, 7-17-89)

DIVISION 4. HIGHLAND AVENUE SERVICE AREA ASSESSMENT ORDINANCE

Sec. 22-181. Short title.

This division shall be known and may be cited as the "Highland Avenue Service Assessment Ordinance" and shall be referred to hereafter as "this division".

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94/95, 9-19-94)

Sec. 22-182. Findings and declaration of purpose.

- (a) Existing, proposed and anticipated development within that portion of the city located in the vicinity of Highland Avenue could not have taken place unless a sewer extension and sewer pumping station was constructed to connect the existing public sewerage facilities to that portion of the city (hereafter referred to as the "Highland Avenue Service Area") to accommodate the increased flows generated by such development.
- (b) Said sewer extension could not be constructed from public funding sources.
- (c) The costs and responsibility for construction of said sewer extension and sewer pumping station has been borne entirely by a single private entity, who now wishes to dedicate this public improvement to the City of South Portland, but whose special benefits will be enjoyed by all future contributors of new sewage flow to the city's public sewerage facilities who are or will be located within or near the Highland Avenue Service Area and who will connect to said sewer extension.
- (d) These special benefits accruing to such future contributors warrant the imposition of a special construction assessment upon them in accordance with a standard construction assessment upon each new connection in the Highland Avenue Service Area currently or as amended, which connection assessments shall be paid into a fund as a condition of eligibility for sewer connection permits, and shall be paid out of the fund to said private entity as reimbursement for the costs of construction of said sewer extension and sewer pumping station.
- (e) The imposition of such connection assessments upon new connections within said designated portion of the city is reasonable and appropriate in that it allocates the financial costs of construction of said sewer extension and sewer pumping station to those persons and entities who will directly benefit from it.
- (f) The creation of said fund and the imposition of said construction assessments to be paid into the fund are within the police power of the city, authorized by the City Charter and 30-A M.R.S.A. Section 3001, and consistent with the city's comprehensive plan.

(g) The purpose of this division is to regulate the use and development of land so as to assure that new connections bear a proportionate share of the cost of capital expenditures necessary to provide sewer facilities to new contributors of flow in or near the Highland Avenue Service Area.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94/95, 9-19-94; Ord. No. 10-94/95, 9-19-94)

Sec. 22-183. Rule of construction.

The provisions of this division shall be liberally construed so as to effectively carry out its purpose in the interest of public health, safety and welfare.

(Ord. No. 23-90/91, 7-15-91)

Sec. 22-184. Applicability of division.

The provisions of this division shall apply to any new connection within the Highland Avenue Service Area. For purposes of this division, "new connection" is defined as "the connection of a dwelling unit as defined by Article II of Chapter 27 which dwelling unit will have its sewer connection to the sewer system through the force main or pumping station provided by said sewer extension within the Highland Avenue Service Area and for which an application for a sewer connection permit is made after enactment of this division". This division shall not be construed to alter or affect any contractual rights in existence at the time of enactment. For purposes of this division, the Highland Avenue Service Area is defined as all of the city bounded on the southeast by the Cape Elizabeth town line, on the northeast by the westerly boundary of property now or formerly owned by Theodore Wainwright which property is shown on the City Assessor's map as Map 57, Lots 4 and 5 and by extension of the westerly boundary of said property across property now or formerly owned by Central Maine Power Company which property is shown on the City Assessor's Map as Map 57, Lot 3, on the northwest by Highland Avenue and on the southwest by the Scarborough town line; provided, however, that these boundaries may be amended.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94/95, 9-19-94; Ord. No. 10-94/95, 9-19-94; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 22-185. Imposition of connection assessment.

Any person who seeks to connect a dwelling unit to the sewer system whose connection is within the Highland Avenue Service Area shall pay a connection assessment in the manner and amount set forth in this division. For this reason, no new connection shall receive a sewer connection permit from the city without the prior full payment of the proper connection assessment amount to the city.

The connection assessment required by this division is independent of and in addition to any other sewer user or sewer connection fee imposed elsewhere in this article.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94-95, 9-19-94; Ord. No. 10-94/95, 9-19-94)

Sec. 22-186. Amount of connection assessment.

The connection assessment shall be \$3,000.00 for each dwelling unit that constitutes a new connection.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94-95, 9-19-94)

Sec. 22-187. Payment of connection assessment.

The connection assessment required by said sewer extension to allow connection pursuant to this division shall be paid to the city for deposit in the Highland Avenue Service Area Fund, a fund established in accordance with an agreement between the city and that entity which constructed the city's sewerage facilities for lots located within the Highland Avenue Service Area.

Upon payment of the connection assessment as required by Section 22-185, the city shall issue evidence of payment to the applicant for a sewer connection permit on a form provided by the city. The applicant shall provide all information reasonably required by the city to compute the amount of the connection assessment.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94-95, 9-19-94; Ord. No. 10-94/95, 9-19-94)

Sec. 22-188. Use of fund revenues.

Connection assessments paid into the Highland Avenue Service Area Fund shall be used solely for the purpose of reimbursement of that entity which has have complied with the terms and conditions of said agreement with the city and shall not be used for maintenance or operations or any other purpose, except that refunds to connection assessment payers shall be made as follows:

Any connection assessment funds, and interest thereon, if any, remaining in the Highland Avenue Service Area Fund after the expiration of requirements of payment of a connection assessment hereunder, shall be refunded pro rata to all persons who have paid construction assessments hereunder on the basis of each connection assessment paid.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94/95, 9-19-94)

Sec. 22-189. Sunset provision.

No payment of a connection assessment hereunder shall be required after all required reimbursements have been made from the Highland Avenue Service Area Fund pursuant to said agreement or after twenty years following the effective date of this division, whichever occurs earlier, except that if the city or the Maine Department of Environmental Protection should adopt a moratorium, affecting some portion or all of the Highland Avenue Service Area, on dwelling construction or on ability to enter the city's sewer system and if all required reimbursements have not been made at the time of adoption of such a moratorium, then said twenty-year period shall be tolled for the duration of such a moratorium.

(Ord. No. 23-90/91, 7-15-91; Ord. No. 2-94/95, 9-19-94)

Sec. 22-190. Severability.

If any section, phrase, sentence or portion of this division is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 23-90/91, 7-15-91)

Sec. 22-191. Appeals.

An appeal from any provisions of this division or decision hereunder may be taken to Maine superior court pursuant to Rule 80B of the Maine Rules of Civil Procedure. No appeal therefrom shall lie to the board of appeals.

(Ord. No. 23-90/91, 7-15-91)

Sec. 22-192 -Sec. 22-199. Reserved.

ARTICLE XIV. Non-Storm Water Discharge**Sec. 22-200. Authority.**

The City of South Portland enacts this Non-Storm Water Discharge Ordinance pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" dated June 3, 2003, has listed the City of South Portland as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program.

Sec. 22-201. Purpose/Objectives.

A. Purpose. The purpose of this Non-Storm Water Discharge Ordinance (the "Ordinance") is to provide for the health, safety, and general welfare of the citizens of the City of South Portland through the regulation of Non-Storm Water Discharges to the municipality's storm drainage system as required by federal and State law. This ordinance establishes methods for controlling the introduction of pollutants into the city's storm drainage system in order to comply with requirements of the federal Clean Water Act and State law.

B. Objectives. The objectives of this Ordinance are:

1. To prohibit unpermitted or unallowed non-storm water discharges to the storm drainage system; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this ordinance.

Sec. 22-202. Definitions.

For the purposes of this ordinance, the following shall mean:

A. Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the "Clean Water Act"), and any subsequent amendments thereto.

B. Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emptying, eroding, dumping, disposing or other addition of pollutants to "waters of the State." "direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

C. Enforcement Authority. The person(s) or department authorized under Section 4 of this Ordinance to administer and enforce this Ordinance.

D. Exempt Person or Discharge. Means any person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; or any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency ("EPA") or the Maine Department of Environmental Protection ("DEP").

F. Industrial Activity. Activities subject to NPDES Industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

G. Municipality. The City of South Portland.

H. Municipal Separate Storm Sewer System, or MS4 "Municipal Separate Storm Sewer System" or ("MS4") means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the State.

I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. This means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

J. Non-Storm Water Discharge. Means any discharge to an MS4 that is not composed entirely of storm water.

K. Person. Means any individual, firm, corporation, municipality, quasi-municipal corporation, state agency or federal agency or other legal entity which creates, initiates, originates or maintains a discharge of storm water or a non-storm water discharge.

L. Pollutant. Means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

M. Premises. Means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

N. Regulated Small MS4. "Regulated Small MS4" means any small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" dated June 3, 2003 ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

O. Small Municipal Separate Storm Sewer System, or Small MS4, means any MS4 that is not already covered by the phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

P. Storm Drainage System. The municipality's regulated small MS4 and all premises.

Q. Storm Water. Any storm water runoff, snowmelt runoff, and surface runoff and drainage; "stormwater" has the same meaning as "storm water."

R. Urbanized Area ("UA"). "Urbanized Area" or "UA" means the areas of the State of Maine so defined by the most recent census by the U.S. Bureau of the Census.

Sec. 22-203. Applicability.

This Ordinance shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.

Sec. 22-204. Responsibility for Administration.

The Director of Water Resource Protection or designee shall administer, implement, and enforce the provisions of this ordinance.

Sec. 22-205. Prohibition of Non-Storm Water Discharges.

A. General Prohibition. Except as allowed or exempted below, no person shall create, initiate, originate or maintain a non-storm water discharge to the storm drainage system. Such non-storm water discharges are prohibited notwithstanding the fact that the municipality may have approved the connections, drains or conveyances by which a person discharges unallowed non-storm water discharges to the storm drainage system.

B. Allowed Non-Storm Water Discharges. The creation, initiation, origination or maintenance of the following non-storm water discharges to the storm drainage system is allowed:

1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources.
2. Discharges specified in writing by the Director of Water Resource Protection or his/her designee as being necessary to protect public health and safety; and
3. Dye testing, with verbal notification to the Director of Water Resource Protection or his/her designee prior to the time of the test.

C. Exempt Person or Discharge. This ordinance shall not apply to an exempt person or discharge, except that the Director of Water Resource Protection or his/her designee may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

Sec. 22-206. Suspension of Access to the Municipality's Small MS4.

The Director of Water Resource Protection or his/her designee may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharges to the storm drainage system which present or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a non-storm water discharges to the storm drainage system. If the person fails to comply with a suspension order issued in an emergency, the Director of Water Resource Protection or his/her designee may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons.

Sec. 22-207. Monitoring of Discharges.

In order to determine compliance with this Ordinance, the Director of Water Resource Protection or his/her designee may enter upon and inspect premises subject to this ordinance to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

Sec. 22-208. Enforcement.

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this ordinance. Whenever the Director of Water Resource Protection or his/her designee believes that a person has violated this ordinance, the Director of Water Resource Protection or his/her designee may enforce this ordinance in accordance with 30-A M.R.S.A. § 4452.

A. Notice of Violation. Whenever the Director of Water Resource Protection or his/her designee believes that a Person has violated this ordinance, the Director of Water Resource Protection or his/her designee may order compliance with this ordinance by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The elimination of non-storm water discharges to the storm drainage system;
2. The cessation of discharges, practices, or operations in violation of this ordinance;
3. At the person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
4. The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

B. Penalties/Fines/Injunctive Relief. Any person who violates this ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the municipality for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

C. Consent Agreement. The Director of Water Resource Protection or his/her designee may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this ordinance for the purposes of eliminating violations of this ordinance and of recovering fines, costs and fees without court action.

D. Appeal of Notice of Violation. Any person receiving a Notice of Violation or suspension notice may request a reconsideration by the Director of Water Resource Protection. Following reconsideration by the Director of Water Resource Protection or his/her designee, any person may appeal the decision of the Director of Water Resource Protection or his/her designee to Superior Court in accordance with Maine Rules of Civil Procedure Rule 80B.

E. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the Director of Water Resource Protection or his/her designee may recommend to the municipal officers or the city's corporation counsel that an enforcement action be filed in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure or other applicable law or rule.

Sec. 22-209. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this ordinance.

(Ord. No. 3-04/05, 9/8/04 [Fiscal Note: Less than \$1000])