

Chapter 24 SEWERS*

***Cross reference(s)**--Buildings and building regulations, Ch. 6; disposal of wastes by food service establishments, § 11-26; land use, Ch. 14; streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Sewers and drains, 30 M.R.S.A. § 4351 et seq.

Art. I. In General, §§ 24-1--24-15

Art. II. Sewer Construction, §§ 24-16--24-30

Art. III. Sewer Use Regulations, §§ 24-31--24-70

Art. IV. Sanitary Sewer User and Industrial Pre-treatment Charges, §§ 24-71--24-77

Art. V. Stormwater Service and User Charges,

ARTICLE I. IN GENERAL

Sec. 24-1. Purpose

The city is responsible for the health and safety of the public and maintaining over 300 miles of sewer line comprised of the sanitary sewer and storm sewer lines themselves, catch basins, manholes, detention ponds, underground waste water storage facilities, and sewer pump stations.

The city maintains a sewer system in order to convey domestic wastewater and stormwater runoff from private and public property for treatment at the Publicly Owned Treatment Works.

The city maintains a stormwater drainage system in order to convey stormwater runoff away from private and public property to minimize flooding, reduce pollution discharge to waters of the State of Maine, and to control erosion of streams and channels.

The city council finds that funding the comprehensive wastewater and stormwater programs to properly operate this infrastructure should be equitably paid for by properties making use of sewer and stormwater services provided by the city according to costs incurred to provide those services.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-2. Definitions.

For the purposes of this chapter, all words shall have their normal meanings and such meanings as may be in common use in the

field of wastewater treatment. Certain words are more particularly defined. For the purposes of this Chapter, the following terms shall have the following meanings.

Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

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, which begins eight (8) feet outside the outer face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Combined sewer shall mean a sewer conveying both stormwater and wastewater.

Department of Public Works shall mean the public works authority.

Discharge shall mean any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants

District shall mean the Portland Water District, a quasi-municipal corporation existing pursuant to Chapter 84 of the Private and Special Laws of Maine of 1975, as amended, with a business address of 225 Douglas Street, Portland, Maine.

Domestic wastewater shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains essentially free of industrial wastes or toxic materials.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Industrial waste shall mean any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Interceptor sewer shall mean a large sewer used to intercept a number of main or trunk sewers and convey wastewater and stormwater runoff to treatment or other disposal facilities.

National pollutant discharge elimination system or *NPDES permit* shall mean a permit issued pursuant to § 402 of the act, 33 USC § 1342, and M.R.S.A. Title 38, § 414-A.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

POTW (publicly owned treatment works) ("facility") shall mean the treatment works, as defined by § 212 of the act, operated by the Portland Water District. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, pump stations and other conveyances which convey wastewater to the facility and may be owned by the city. For the purposes of this chapter, POTW shall also include any sewers that convey wastewater to the treatment works from persons who are, by permit, contract, or agreement with the city, users of the facility.

POTW treatment plant shall mean that portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal wastewater, industrial waste, septage and holding water and other trucked-in wastes as allowed under the provisions of this article.

Private wastewater disposal system shall mean a treatment tank with the effluent discharging into a subsurface absorption area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the state department of health and welfare pursuant to 22 M.R.S.A. § 42(3), and the city's plumbing code.

Private sewer system shall mean any sewer system within the city not owned by or constructed by a public authority.

Private wastewater treatment works shall mean all facilities other than private sewage disposal systems for treating and disposing of wastewater within the city not owned by a public authority. Private wastewater treatment works shall be distinct from private wastewater disposal systems as the effluent is discharged directly into surface water bodies. Private wastewater

treatment works shall be licensed by the state department of environmental protection, in accordance with the provisions of 38 M.R.S.A. §§ 413, 414.

Public sewer shall mean a sewer directly owned, operated or controlled by the city or the Portland Water District.

Sanitary sewer shall mean a sewer, conveying either exclusively domestic wastewater and industrial waste or a sewer also conveying stormwater runoff together with ground and surface water that is not admitted intentionally.

Sewer shall mean a pipe or conduit for conveying liquid or liquid-carried waste.

Storm sewer shall mean a sewer for conveying stormwater runoff, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes domestic wastewater and polluted industrial wastes.

Stormwater shall mean any stormwater runoff, snowmelt runoff, and surface runoff and drainage. "Storm water" shall have the same meaning as stormwater.

Stormwater drainage system shall mean any publicly owned or operated conveyance for stormwater, natural and human-made including, but not limited to, storm sewers, city and state roads including the Maine Turnpike and other physical works with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, culverts, human-made channels, swales, ditches, swamps, rivers, streams, creeks, brooks, reservoirs, ponds, drainage ways, inlets, pipes, head walls, lakes, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater services shall mean the program and maintenance activities as well as the pipe, conduits, or other conveyances or facilities provided by the city including but not limited to necessary programs, improvements, or maintenance required to meet national pollutant discharge elimination system (NPDES) permits the city may hold or other regulatory or court imposed obligations on the city, or general maintenance of pipes, conduits or other facilities improvements and other unforeseen improvements necessary to provide stormwater service to the city.

Wastewater shall mean a combination of the liquid and water-

carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface, and stormwater as may be present.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently on a natural basis.

Westbrook Inter-Municipal Sewer Service Area shall mean the Domestic and sanitary sewage and waste water from the Riverside Street/Warren Avenue/Forest Avenue vicinity of Portland as defined on the plan to the Rules and Regulations enacted by the Department of Public Works, and on file in the Department of Public Works, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

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Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Reference - Council Order 54-02/03 § An Order Authorizing Three-Party Sewer Service Agreement with Portland Water District and City of Westbrook).

Sec. 24-3. Administration.

(a) The director of public works shall establish rules and regulations governing the availability and use of city wastewater collection and treatment facilities and stormwater drainage system. The rules and regulations shall be consistent with federal law and ordinances. Said wastewater rules shall be enacted in conjunction with the Portland Water District prior to enactment.

(b) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12-105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to enactment.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-4. Enforcement Agency.

The Department of Public Works or the Portland Water District as agent for the city and at the request of the Department of Public Works, shall administer and enforce the provisions of this chapter.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-5. Reserved.

- Sec. 24-6. Reserved.**
- Sec. 24-7. Reserved.**
- Sec. 24-8. Reserved.**
- Sec. 24-9. Reserved.**
- Sec. 24-10. Reserved.**
- Sec. 24-11. Reserved.**
- Sec. 24-12. Reserved.**
- Sec. 24-13. Reserved.**
- Sec. 24-14. Reserved.**
- Sec. 24-15. Reserved.**

ARTICLE II. SEWER CONSTRUCTION

Sec. 24-16. Accepted streets.

When any person owning property on an accepted street shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the Department of Public Works:

- (a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost of a sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.1; Ord. No. 101-81, §§ 1--3, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-17. Dedicated streets.

When any person owning property on a street, which prior to July 7, 1948, has been dedicated, constructed and used for public travel but has not been accepted by the city, shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the Department of Public Works:

- (a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost aa sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and at such time as the street is accepted by the city, a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.2; Ord. No. 101-81, §§ 4, 5, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-18. Initiative of city council.

The city council may, on its own initiative and without petition therefor, authorize construction by the city of a sewer in accepted and dedicated-but-unaccepted streets, the cost of a sewer to be recovered in part as hereinafter provided.

(Ord. No. 101-81, § 6, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-19. Costs.

(a) A charge is hereby established for the connection heretofore or hereafter of any property to a sewer constructed by the city or the Portland Water District and completed on or after January 1, 1978. Such charge shall be due and payable upon application for a connection permit as provided in section 24-39, and except for connections made before November 15, 1981, shall be in lieu of all other charges related thereto, including the fee for the connection permit and street and sidewalk opening charges as provided in section 25-156, provided that connection is made in accordance with article III of this chapter. This section shall not apply to any property assessed for the cost of sewer construction according to law.

(b) For any such sewer completed heretofore, the charge shall be two hundred dollars (\$200.00) per each sanitary sewer connection made heretofore or hereafter but before November 15, 1981, and one thousand dollars (\$1,000.00) per each such connection made thereafter.

(c) For any such sewer completed hereafter, the charge shall

be two thousand dollars (\$2,000.00) per each such connection, provided that the city council may, from time to time, by order readjust the charge according to the then-prevailing cost of sewer construction and the anticipated number of such connections. (Ord. No. 101-81, § 7, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

- Sec. 24-20. Reserved.
- Sec. 24-21. Reserved.
- Sec. 24-22. Reserved.
- Sec. 24-23. Reserved.
- Sec. 24-24. Reserved.
- Sec. 24-25. Reserved.
- Sec. 24-26. Reserved.
- Sec. 24-27. Reserved.
- Sec. 24-28. Reserved.
- Sec. 24-29. Reserved.
- Sec. 24-30. Reserved.

ARTICLE III. SEWER USE REGULATIONS*

 *Editor's note--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use regulations, consisted of substantive §§ 24-31--24-60, and derived from §§ 309.1--309.29 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
13-76	--	10- 6-76	221-88	1	1- 4-88
154-79	--	3-19-79	228-88	1	2- 1-88
355-84	1--14, 16, 17	1- 4-84	77-91	--	8- 7-91
317-87	1	2- 2-87	37-93	--	7- 7-93

Sec. 24-31. Scope.

The provisions of this article shall apply to and govern all types of buildings requiring wastewater facilities; the excavation, construction, installation, usage, maintenance, extension, alteration, repair or removal of any building sewer, building storm drain, sanitary sewer system, or storm drainage or sewer system; the connection of building sewers and building storm sewers to sanitary sewer systems and/or storm drainage systems or combined sewers; the types of wastes or wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-32. Intent and purpose.

(a) It shall be the intent and purpose of this article to eliminate existing pollution, and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the pollution abatement schedule for the Portland Regional Wastewater Plan established by the state and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the city.

(b) Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for interception and wastewater treatment, and is the owner and operator of the POTW treatment plant, none of the provisions of this article shall be construed to repeal or otherwise interfere with the rights, duties or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended.

(Ord. No. 263-96, 5-20-96)

Editor's Note - Section 24-32.1 Administration was deleted by Order 129-14/15, passed on 1-21-2015 and Effective 1-1-2016.

Sec. 24-33. Reserved

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-34. Definitions.

For the purposes of this article, all words not defined in section 24-2 shall have their normal meanings and such meanings as may be in common use in the field of sanitation and wastewater treatment. For the purposes of this article, the following terms have the following meanings.

B.O.D. (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Categorical industrial user shall mean an industrial user subject to national categorical pretreatment standards.

Caustic alkalinity (hydroxide alkalinity) shall mean a measure of the capacity of wastewater, which exhibits a pH of greater than or equal to 8.3, to neutralize acids.

C.O.D. (chemical oxygen demand) shall mean the measure of the oxygen required for oxidation of the organic matter in a sample that can be oxidized by a strong chemical oxidizing agent under standard laboratory procedure.

F.O.G. shall mean the measure of fats, wax, grease and oils (other than petroleum based materials).

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and produce, and from the handling, storage and sale of food and produce.

Incompatible pollutant is defined as any pollutant other than biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the POTW's NPDES permit to discharge, which the POTW was not designed to treat and does not remove to a substantial degree or may be toxic to the POTW or receiving water.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Interference means a discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal, and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase

in the magnitude or duration of a violation), or of the prevention of wastewater sludge use or disposal by the facility in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR § 403.3(i).

mg/l shall mean milligrams per liter.

National categorical pretreatment standard shall mean any regulations containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the act, which apply to a specific category of industrial users and which are found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

pH shall mean the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions in a solution expressed as standards units.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have 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 inch (1.27 centimeters) in any dimension.

Significant industrial user shall mean any industrial user subject to categorical pretreatment standards, and any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the facility (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement; provided, however, that upon a finding that an industrial user meeting the foregoing criteria has no reasonable potential for violating any pretreatment standard or requirement or for adversely affecting the facility's operation, the city may, at any time, upon its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug shall mean any discharge of nonroutine, episodic nature, including, but not limited to, an accidental spill, noncustomary

batch discharge, or any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flow rate during normal operation or which may adversely affect the POTW.

Total suspended solids (TSS) shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtration.

(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-35. Sanitary facilities required.

Every building intended for human habitation, occupancy, employment, recreation or other purposes, situated within the city shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof, which facilities in character, number and method of installation shall comply with all health laws of the state, ordinances of the city, and rules and regulations of the state bureau of health so far as the same are compatible and not inconsistent.

(Ord. No. 263-96, 5-20-96)

Sec. 24-36. Connection to public sewer required.

The owner of any building used for human habitation, occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary, combined or interceptor sewer, is hereby required at his expense to connect the building sewer in the most direct manner possible with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is within two hundred (200) feet of the building (the two hundred (200) feet to be measured in such manner so as not to pass over any property owned privately by anyone other than the owner of the premises from which such measurement is being made). Any required compliance with this section shall be completed within one (1) year after the date of official notice to do so.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-37. Exception for private wastewater system.

Where the public sewer does not extend to within two hundred (200) feet distant from the nearest point of the building (measured as described in section 24-36), the public sewer shall, at such time, be classified as inaccessible with regard to such premises. Where the public sewers are inaccessible to premises, any building required to be provided with sanitary facilities under section 24-35 shall comply with the following:

- (a) The owner may at his own expense connect with the public sewer even though the building is over two hundred (200) feet distant from the public sewer; or
- (b) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater disposal system; or
- (c) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater treatment works.

(Ord. No. 263-96, 5-20-96)

Sec. 24-38. Private wastewater systems discontinued.

(a) At such time as a public sewer becomes accessible, as defined in section 24-36, to a property served by a private wastewater disposal system, direct connection shall be made to the public sewer by the owner of such property in compliance with this article within twelve (12) months of receipt of official notice to do so. At the time that direct connection to the public sewer is completed, use of the private wastewater disposal facilities shall have been discontinued. Such abandoned private wastewater disposal system shall be cleaned of sludge and waste materials and filled with clean bankrun gravel or dirt within thirty (30) days.

(b) The closing and filling of the private wastewater disposal system and the connection to the public sewer system shall be inspected by the Department of Public Works. The fee for such inspection shall be a minimum of ten dollars (\$10.00) per septic tank plus ten dollars (\$10.00) per hour for all inspection time exceeding one (1) hour. The permit for the connection to the public sewer is the same as those required under sections 24-39 and 24-42.

(c) No such work may be approved unless notice is given to the Department of Public Works sufficient to permit the inspector to be present at the filling of the private wastewater disposal system and the connection to the public sewer. No new sewer

construction or sewer repair or reconstruction may be approved if backfilled and/or covered prior to inspection. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-39. Public sewer connection; permit; fee.

No person shall uncover, make any connections with or openings into, alter or disturb either any public sewer or appurtenance thereof or any private sewer or appurtenance thereof without first obtaining a written permit from the Department of Public Works or the Portland Water District, if required. The fee for such permit shall be fifty dollars (\$50.00).

(Ord. No. 263-96, 5-20-96; Ord. No. 261-01/02, 5-20-02; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-40. Costs.

All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner.

(Ord. No. 263-96, 5-20-96)

Sec. 24-41. Separate connections required.

A separate and independent building sewer shall be provided for every new building, and a separate connection shall be made for each building sewer. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Department of Public Works, to meet all requirements of this article.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-42. Defective building sewers to be repaired or replaced.

(a) Whenever any building drain or building sewer connected to the public sewers, or to a private sewer system connected to the public sewers is found to be defective, deteriorating or substandard, the owner of the building served by such building drain or sewer shall be served by the Department of Public Works with written notice stating the nature of the defect and providing a fifteen (15) day period for the satisfactory repair or replacement of such building sewer and requiring the owner to make a new connection to the public sewer at the owner's expense.

(b) All work done pursuant to this section shall be inspected by the Department of Public Works. The fee for such inspection shall be twenty-five dollars (\$25.00).

(c) *Failure to comply.* When a person to whom an order is directed fails to fully comply within the fifteen (15) day period, it shall be lawful for the city to repair a building drain or building sewer which is located within the public right-of-way, and all costs thereof shall be charged to the owner thereof.

(d) *Lien procedure.* The Department of Public Works shall keep an accurate account of the expense of the work under this article, and as soon as practicable after completion of such work, the city shall assess to the person(s) upon whom notice has been served pursuant to subsection (a) of this section their just cost thereof, and all assessments so made shall constitute a lien on the property to be enforced in the manner provided for the collection of sewer assessments within the city.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-43. Methods of construction.

On all work done within the scope of this article, the size, slope, alignment and materials of construction of a building sewer, and the methods to be used in placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the Department of Public Works' building sewer construction specifications. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by a means subject to the approval of the Department of Public Works and discharged to the building sewer.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-44. Public sewer connection limitations.

(a) No person shall make connection of sanitary facilities such as toilets, washrooms, urinals, sinks, showers, drinking fountains, kitchens or laundry rooms, nor discharge or cause to be discharged any waste or domestic wastewater to a building's stormwater system or building storm drain which in turn is connected directly or indirectly to the storm drainage system.

(b) No person shall make connection of roof downspouts, foundation drains, sump pump, areaway drains or other sources of surface runoff or groundwater, nor discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(c) Stormwater shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Department of Public Works. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Department of Public Works, to a storm sewer, combined sewer or a natural outlet.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-45. Connections to public sewer.

The connection of the building sewer into the public sewer shall be constructed in the following manner:

- (a) The Department of Public Works shall be notified in advance of the time when the connection is to be made. Such notice must be sufficient to permit the Department of Public Works to inspect the building sewer during construction and to be present when the connection is made to the public sewer.
- (b) In the case of new construction, domestic wastewater systems and stormwater drainage systems shall be kept separated from their connections to the proper city sewers.
- (c) The building sewer shall be connected to the public sewer at the point designated by the Department of Public Works.
- (d) No building sewer connection constructed pursuant to this section can be approved if such sewer is backfilled and/or covered prior to inspection. No connection to the public sewer constructed pursuant to this section can be approved if such connection is made other than in the presence of an inspector from the Department of Public Works or the Portland Water District, as required. No

such unapproved or unapprovable building sewer in the city may be used, and if the building served by such building sewer is occupied, the owner of such building will be held to be in violation of this section, with each day in which the violation continues deemed to be a separate violation.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-46. Sewer excavations.

(a) All excavations under this article within the public way shall be in accordance with article VII of chapter 25 of this Code.

(b) All excavations for sewer installation shall be made and maintained in compliance with the provisions of the construction safety rules and regulations of the state, applicable to excavation work.

(Ord. No. 263-96, 5-20-96)

Sec. 24-47. Prohibited wastes.

(a) No person shall discharge or cause to be discharged any waters or wastes prohibited by Department of Public Works rule; or:

1. Any noxious or malodorous gas or substance capable of creating a public nuisance.

(b) The Department of Public Works may, if deemed necessary in its judgment, impose the following limitations on discharges of the following described waters or wastes to any public sewer or any part thereof:

1. Any aluminum exceeding a concentration of 500 milligrams per liter;
2. Any iron exceeding a concentration of 10 milligrams per liter;
3. Any tin exceeding a concentration of 2 milligrams per liter;
4. Any fluorides exceeding a concentration of 100 milligrams per liter;
5. Any phenols exceeding a concentration of 100 milligrams per liter;

6. Any chlorides exceeding a concentration of 3,000 milligrams per liter;
7. Any sulphates exceeding a concentration of 600 milligrams per liter;
8.
 - a. Any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 500 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).
 - b. In the Westbrook Intermunicipal Sewer Service Area, any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperature between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).
 - c. Any waters or wastes containing hydrocarbon (nonpolar) based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

(Ord. No. 263-96, 5-20-96; Ord. No. 250-97, 4-9-97; Ord. No. 97-03/04, 12-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-48. Prohibited wastes permitted how; cost.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain any of the substances or possess the characteristics listed in section 24-47, and which in the judgment of the Department of Public Works may have a deleterious effect upon the wastewater works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance,

the Department of Public Works may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewer as required by rule;
3. Require control over the quantities and rates of discharge (flow equalization); and/or
4. Require payment to cover the added cost of handling and treating the wastes.

(b) If the Department of Public Works permits or requires pretreatment or waste flow equalization, the design and installation of the plants and equipment shall be subject to its review and approval subject to the provisions of the state plumbing code, and the provisions of this article

(c) Where preliminary treatment or flow equalizing facilities are provided for any water or wastes, the owner shall bear the cost and responsibility for installing and maintaining them in continuously satisfactory and effective operating condition, as determined by the Department of Public Works.
(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-49. Separate systems required.

Any person discharging or causing to be discharged into any public sewer both domestic wastewater and industrial wastes from any building or premises shall install separate drainage systems for the domestic wastewater and industrial waste. The control manhole required by rule shall be installed in the industrial waste system; or where two (2) separate systems are required, the two (2) systems may be joined in the control manhole provided that samples of each system can be sampled separately.
(Ord. No. 263-96, 5-20-96)

Sec. 24-50. Discharge permit.

(a) All categorical users and other dischargers of industrial wastes shall obtain a discharge permit from the Portland Water District, as required by rule. New users shall obtain permits prior to any discharge. Applications and permits shall be in a form prescribed by the Portland Water District and shall be subject to an application fee as set by the Portland Water District.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-51. Public wastewater works not to be damaged.

No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the public sewer or stormwater drainage system.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-52. Right of entry.

The Department of Public Works, or the Portland Water District as its agent, bearing proper credentials and identification, shall be permitted to enter upon all properties with sewer or stormwater drainage systems connected to the public sewer and producing industrial or process wastes, at reasonable times and upon reasonable notice for the purpose of inspection, observation, measurement, sampling and testing or to otherwise enforce the rules, including copying of reports and records relating to the industrial pretreatment program in accordance with the provisions of this article.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-53. Exclusion of industrial waste.

(a) The Department of Public Works or the Portland Water District shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the public sewers whenever, in its or their opinion, such action is necessary for the purpose of determining the effects of such wastes upon the sewers, wastewater system or wastewater treatment facilities.

(b) The Department of Public Works or the Portland Water District shall notify the affected user prior to taking such actions and shall afford the user a reasonable time for response. The Department of Public Works or the Portland Water District shall have the authority to take actions necessary to halt the discharge of pollutants from any user to the treatment works which reasonably appears to present an imminent endangerment to the health or welfare of persons or the POTW. Such actions shall be preceded by a notification, oral or written, to the user.

POTW(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-54. Demolition of buildings.

(a) No building served by a building drain or sewer which is connected to the public sewers or to a private sewer system connected to the public sewers, may be demolished prior to the termination of the building sewer or drain at the public sewer under the inspection of the Department of Public Works. The building sewer shall be terminated at the main, at the point designated by the Department of Public Works.

(b) Notice of intent to demolish a building shall be given to the Department of Public Works, by means of a copy of the application for a demolition permit from the building authority or by direct notice to the Department of Public Works, in advance of the time when the building drain or sewer is to be terminated. No such demolition permit shall be issued until a drain termination permit has been issued by the Department of Public Works and a copy thereof has been given to the building authority.

(c) The fee to terminate the building and/or facility sewer and/or drain system will be paid to the city in advance of the termination. The fee of two hundred fifty dollars (\$250.00) per termination represents inspection fees and materials to terminate sewer service. Upon payment of this fee and approval by the Department of Public Works, the applicant shall be issued a sewer termination permit.

(d) Failure to give notice of intent to demolish a building to the Department of Public Works, or to terminate the building drain prior to demolition thereof, or to obtain a permit therefor, shall be deemed a violation of this section, with each day in which the violation continues deemed to be a separate violation.

(e) All excavation for sewer service termination shall be made and maintained in compliance with all provisions of the construction safety rules and regulations of chapter 25, article VII of this Code.

(f) *Violations.* The property owner who fails to obtain a sewer termination permit and terminate the sewer or drain from the building to be demolished to the public sewer shall be guilty of an offense.

(g) *Failure to comply.* When a person to whom an order is directed fails to terminate a building sewer or drain within a ten-day period, it shall be lawful for the city to terminate the building sewer or drain. All city costs thereof shall be charged to the property owner.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-55. Written notice required.

Forty-five (45) days' written notice shall be given to the Department of Public Works and the Portland Water District by any person proposing to:

- (a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this article;
- (b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in section 306 of the act if such a source were discharging pollutants elsewhere;
- (c) Create a new discharge into the treatment system of pollutants from any source which would be subject to section 301 of the act if it were discharging such pollutants elsewhere.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-56. Violations.

Any person failing to comply with or violating any provision of this article shall be served by the Department of Public Works with written notice stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in such notice, permanently cease or correct all such failures or violations. Any person who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this section shall be guilty of an offense. Any person violating any of the provisions of this article shall be liable to the City and shall be assessed a civil penalty of a minimum of one thousand dollars (\$1,000.00) per day for each violation of industrial pretreatment standards and requirements, and in addition, shall be liable for any expense, loss or damage occasioned by the City by reason of such violation, including reasonable attorney's fees. The City may seek injunctive relief for the purposes of enforcing this article.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-57. Appeals.

(a) Whenever the person receiving written notice shall deem himself or herself aggrieved by an order made by the Department of Public Works, the person may file an appeal to the city manager within ten (10) days of the date of the written notice, and the person shall be afforded a hearing on the matter before the city manager or his or her designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of this article, the city manager may revoke such order made by the Department of Public Works.

(c) In cases where compliance with such order made by the Department of Public Works would cause undue hardship, the city manager may extend the time limit of such order or they may permit exceptions to, or waive requirements of, or grant a variance from the specific provisions of this article, subject always to the rule that the city manager shall give due consideration to the purposes of this article in eliminating existing pollution, preventing further pollution and promoting the public health, safety and welfare.

(d) This Section shall not apply to notices of violation or other determinations issued by the Portland Water District. Any notices issued by the Portland Water District under this Article shall be subject to review by the superior court under Rule 80B of the Maine Rules of Procedure within thirty (30) days of the decision.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

- Sec. 24-58. Reserved.**
- Sec. 24-59. Reserved.**
- Sec. 24-60. Reserved.**
- Sec. 24-61. Reserved.**
- Sec. 24-62. Reserved.**
- Sec. 24-63. Reserved.**
- Sec. 24-64. Reserved.**
- Sec. 24-65. Reserved.**
- Sec. 24-66. Reserved.**
- Sec. 24-67. Reserved.**
- Sec. 24-68. Reserved.**
- Sec. 24-69. Reserved.**

Sec. 24-70. Reserved.

**ARTICLE IV. SANITARY SEWER USER AND
 INDUSTRIAL PRE-TREATMENT CHARGES***

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 *Editor's note--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use charges, consisted of substantive §§ 24-71--24-78, and derived from §§ 322.1--322.3, 322.5--322.8 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
326-77	--	5-16-77	123-89	--	10- 2-89
420-77	--	7-18-77	259-90	--	2-21-90
284-78	--	5-15-78	79-91	--	8- 7-91
102-81	1, 3	9-21-81	88-92	1, 2	9- 9-92
476-82	1--3	4- 6-82	187-95	--	3- 6-95
523-83	1--3	6- 8-83	157-96	--	2- 5-96
17-88	--	6-20-88			

Sec. 24-71. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article, and not defined elsewhere in this chapter, shall be as follows:

Commercial unit shall mean any structure or portion of a structure from which wastewater or industrial waste is discharged,

excepting only dwelling units as defined hereinafter and shall include industrial users. Commercial units owned by different entities within the same structure and sharing the same water meter shall be treated as one (1) commercial unit.

Dwelling unit shall mean one (1) or more rooms occupied or designed to be occupied by one (1) or more natural persons as a single housekeeping unit with sanitary facilities, other than a place of public accommodation as defined hereinafter, discharging only domestic wastewater and shall include each unit of ownership in any condominium. If the occupant or occupants of rooms fit the definition of a dwelling unit except for the fact that the occupants share sanitary facilities with an occupant or occupants of other rooms located within the same structure, the number of units in the structure shall be deemed to be the total number of toilets or urinals located within such structure.

Parcel of land shall mean any area of land shown on the assessor's maps on the April first last preceding the operative date, located within the city, which is either connected in fact to a sewer within the city, or developed-but-unconnected to a sewer within the city, which sewer is nevertheless accessible to the area within the meaning of section 24-36.

Place of public accommodation shall mean any establishment having sanitary facilities located therein which gives or offers shelter or lodging to members of the general public, whether transient or long term and shall include but is not limited to hotels, motels, guest houses, hospitals, rest homes, nursing homes, inns, fraternity houses and dormitories.

Treatment facilities shall mean all wastewater treatment plants owned and operated by the Portland Water District or by the city.

Total organic carbon or TOC shall mean the determination of organic matter present by the measurement of carbon dioxide produced by pyrolysis measured in accordance with 40 CFR Part 136.

Volume of water shall mean the amount of water, estimated or measured, whichever is less, provided to the property by the Portland Water District during the previous period of the calendar year. This term shall include any amounts of water obtained from other sources whether or not water is also provided by the district.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 24-72. Sanitary sewer user charges.

(a) *Applicability.* There are levied upon all parcels of land charges for cost of treatment of wastewater and stormwater and for the operation and maintenance of the wastewater system.

(b) *Billing.* Bills for all charges under this article may be sent to the record owner, or to the person requesting water service. Bills shall be sent to each such owner or person every month, except that persons billed quarterly or seasonally by the Portland Water District for water service may be billed quarterly or seasonally for all charges under this article. All payments shall be credited against the oldest outstanding bill sent to such owner or person. Any payments made to the Portland Water District or its agents, which do not indicate to which account they are to be applied, shall be applied as provided by contract between the city and the Portland Water District.

Bills shall contain an amount for sanitary sewer user charges, and if delinquent as provided in section 1-16 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes.

(c) *Computation.* The user charges shall be computed in accordance with the following schedule, as from time to time amended, which shall be sufficient to meet costs of the eligible purposes for which such charges may be used. Beginning October 1, 2020, user charges under this section for both dwelling units and commercial units shall be eleven dollars and fifteen cents (\$11.15) per hundred cubic feet of volume for connected parcels of land. The user charge for developed but unconnected parcels of land shall be one dollar and seventy-one cents (\$1.71) per hundred cubic feet of volume. Each metered billing unit shall have a minimum charge of at least one hundred (100) cubic feet per month.

(d) *Purposes for which charges may be used.* Charges and assessments made under this article shall be used consistently with 33 U.S.C.A. § 1281 et seq., and applicable federal regulations for the following purposes:

- (1) To defray the current expenses of operating and maintaining the wastewater system, including any assessment made by the Portland Water District;

(2) To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of sewers heretofore or hereafter constructed within the city;

(3) To reimburse the city for the cost of computation, billing and enforcement of such charges.

(e) *Collection.* Charges assessed pursuant to this section shall be enforceable pursuant to section 1-16 of this Code.

(f) *Disconnection for nonpayment of charges.* The Portland Water District shall disconnect sewer users with unpaid sanitary sewer user charges according to the same terms and procedures used to disconnect water users with unpaid water user charges.

(Ord. No. 263-96, 5-20-96; Ord. No. 88-97, 9-15-97; Ord. No. 118-01/02, 12-3-01; Ord. No. 249-02/03, 5-19-03, Ord. No. 31-03/04, 7-21-03(enacted as emergency); Ord. No. 218-03/04, 5-17-04; Ord. No. 249-04/05, 5-16-05, enacted as emergency; Ord. No. 244-07/08, 5-19-08; Ord. No. 265-08/09, 5-18-09; Ord. No. 225-09/10, 5-17-10; Ord. No. 227-10/11, 5-16-11; Ord. No.222-12/13, 6-24-13; Ord. No. 239-13/14, 5/19/14; Ord. No. 250-14/15, 6-24-2015; Ord. No. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 245-16/17, 5-15-2017, Effective 7-1-2017; Ord. No. 217-17/18, 7-1-2018; Ord. No. 244-18/19, 5-20-2019; Ord. No. 79-20/21, 9-21-2020)

Sec. 24-73. Industrial surcharges.

(a) *Applicability.* Each industrial user except those included in the Westbrook Inter-Municipal Sewer Service Agreement Area, shall be subject to surcharges in addition to any other treatment charge if the wastewater discharged by such user is determined by the Department of Public Works, in accordance with 40 CFR Part 136, to exceed any of the following concentrations:

(1) BOD of two hundred fifty (250) mg/l; or COD, where indicated for specific wastewater and a correlation between BOD and COD is established in such wastewater; or TOC, where indicated for specific wastewater and a correlation is established between TOC and BOD in such wastewater;

(2) TSS content of three hundred (300) mg/l.

(b) *Computation of surcharge for BOD.* The surcharge for BOD shall reflect the cost of removing the excess BOD and shall be computed in accordance with the following formula:

$$\text{Surcharge for BOD} = (C_1 - 250 \text{ mg.l}) \times Q \times 8.34 \times S_1$$

Where C_1 = The concentration of BOD in mg/l

Q = The total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

S_1 = \$0.1633 for each pound of BOD in dollars

(c) *Computation of surcharge for TSS.* The surcharge for TSS shall reflect the cost of removing the excess TSS and shall be computed in accordance with the following formula:

$$\text{Surcharge for TSS} = (C_2 - 300 \text{ mg/l}) \times Q \times 8.34 \times S_2$$

Where C_2 = The concentration of TSS in mg/l

Q = Total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

S_2 = \$0.0817 for each pound of TSS in dollars

(d) Westbrook Inter-Municipal Sewer Service Agreement area may be surcharged for BOD and TSS, based on the cost of treatment at the Westbrook Gorham Regional Treatment Plant.

(e) *Industrial surcharge fee.* An industrial surcharge fee is hereby established for all permitted discharges from all permitted users at a rate of \$0.0857 per hundred cubic feet of volume, provided that the city council may, from time to time, by order, readjust the surcharge fee according to the then prevailing cost of administering the industrial pretreatment program and the anticipated number of permitted users and anticipated volume to be surcharged.

(f) *Appeals.* Any person aggrieved by a determination of the Department of Public Works made pursuant to this section may appeal such determination to the city manager, within thirty (30) days of notification of such determination. Such person may submit additional evidence and shall be heard orally by the manager or his deputy. The manager may modify the Department of Public Works'

determination if satisfied that the determination was erroneous, inconsistent with this chapter, or with applicable rules, regulations or grant requirements made pursuant to 33 U.S.C.A. c. 26. All determinations of the manager shall be rendered within a reasonable period of time, not to exceed ninety (90) days from the date of such hearing and shall be final.

(Ord. No. 263-96, 5-20-96; Ord. No.97-03/04, 11-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-74. Reserved.

Sec. 24-75. Volume measurements.

(a) *Water volume measurements.* Whenever in this article there is reference to volume of water, and the charges of such person are computed in whole or in part upon such volume of water, the use of such standard shall give the Department of Public Works the right to require any person obtaining water from sources other than the Portland Water District to install and maintain at such person's own expense water meters of a type approved by the Department of Public Works for the purpose of determining the volume of water obtained from their other sources and to report the volume of such water recorded by such meter to the Department of Public Works. Following installation, such meter shall not be removed without the written permission of the Department of Public Works.

(b) *Wastewater volume.* Devices for measuring the volume of wastewater discharged by a commercial or industrial user may be required by the Department of Public Works if these volumes cannot be determined from the water volume records. Any person who is a commercial or industrial user may, at his option, install devices approved by the Department of Public Works for the metering of wastewater and may have the charges based upon the volume of wastewater rather than upon water volume. All metering devices for determining the volume of wastewater shall be installed, owned and maintained by the person to be charged. Following approval and installation, such meters may not be removed without the consent of the Department of Public Works and may be read by the Department of Public Works at all reasonable times.

(c) *Submetering of water volume.* Any person who feels that recorded water records are not a reliable index of his discharge volume may install an additional water meter of a type approved by the Department of Public Works to measure the volume of water which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the Department of

Public Works of such installation and shall be responsible to the Department of Public Works for reporting meter readings once every month. Such person shall be credited with the volume charges for the volume shown by such meter, which meter shall be accessible for reading by the city or its agents at all reasonable times.

(d) *Review.* Any person subject to charges under this article may make a written request for review of such charges by the city manager as provided in section 1-16 of this Code. The city manager may review and modify such charges, to the extent that justice requires, upon affirmative proof by such person that:

- (1) The volume of metered water consumed exceeds the volume of wastewater generated by the unit;
- (2) The difference between the volume of water and of wastewater exceeds ten (10) percent of the metered water measurement;
- (3) The amount of the difference can be established to a substantial certainty by reliable tests or is documented by reliable sources prepared for purposes unconnected with wastewater disposal; and
- (4) Measurement by the measuring devices provided for in the preceding subsections is impossible or impractical.

(Ord. No. 263-96, 5-20-96; Ord. No. 37-09/10, 8-17-09; Ord. 108-15/16, 11-16-2015; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-76. Assessments.

(a) *Lien.* All assessments upon a parcel of land made under this article shall create a lien for the benefit of the city.

(b) *Reserved.*

(Ord. No. 263-96, 5-20-96)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-77. Violations.

Any person violating the provisions of this article, other than the requirement of payment of charges or assessments, shall be guilty of an offense.

(Ord. No. 263-96, 5-20-96)

ARTICLE V. STORMWATER SERVICE CHARGES

Sec. 24-80. Purpose; Stormwater Service.

Stormwater services assist the city in meeting the regulatory obligations imposed by national pollutant discharge elimination system (NPDES) permits or other court orders or regulations promulgated from the act by reducing pollution and improving water quality within the city.

Stormwater services assist the city in protecting the public health, safety and welfare and the environment and providing stormwater services and regulation of the use thereof renders and/or results in both service and benefit to individual properties, property owners, business, citizens, and residents of the city and to all properties, property owners, businesses, citizens, and residents of the city concurrently and for the environment.

The area of impervious surface on each property is the most important factor influencing the cost of providing stormwater services by the city or to be provided by the city in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.

The City of Portland presently owns and operates storm sewers, combined sewers, and the stormwater drainage system, which have been developed over many years. The future usefulness of those existing services owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater services in the city with the management of other water resources in the city. In order to do so, the city must have adequate and stable funding for its stormwater service operating needs and capital program.

Stormwater services are needed throughout the city because many of those areas are developed. While specific service and facility demands may differ from area to area at any given point in time, a stormwater service area encompassing all lands and water bodies within the city is consistent with the present and future needs of the community.

The provision of stormwater services in the city promotes an essential regulatory purpose by influencing where stormwater runoff

flows and how it is managed, thereby reducing flooding, erosion and water pollution caused by stormwater runoff.

By mitigating the impact of stormwater runoff from developed properties, stormwater services provided by the city help minimize damage that would subject a parcel owner to civil liability.

The city council is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the city and the community at large and the environment to provide stormwater services accounted for in the city budget as a separate enterprise fund dedicated solely to the provision of stormwater services and to institute funding methods associated therewith.

In order to fully recover the cost of providing stormwater services a stormwater service charge is the most fair and reasonable means of apportioning the cost among developed land throughout the city.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-81. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article shall be as follows:

Credit shall mean a conditional reduction in the amount of a stormwater service charge to developed land based on the provision and continuing presence of an effectively maintained and operational approved on-site stormwater system or facility or other service or activity that reduces the cost of providing service.

Developed land shall mean property altered from its natural state by construction or installation of more than 400 square feet of impervious surfaces as defined in this chapter.

Exemption shall mean not applying to, or removing the application of the stormwater service charge from, a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas,

driveways, parking lots, storage areas, compacted gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Undeveloped land shall mean land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have less than or equal to 400 square feet of impervious surfaces as defined in this chapter consisting of limited pavement, asphalt, or compacted dirt or gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur naturally.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-82. Authority and Establishment of the Stormwater Fund.

(a) Under the authority of the Maine Constitution, Article VIII, and Title 30-A M.R.S. § 3001, the city hereby establishes the stormwater service charge to fund stormwater services within the city. Such stormwater charges shall be maintained and accounted for separately in accordance with generally accepted accounting principles as determined by the city's finance director.

(b) Charges made under this article shall be used for the following purposes:

To defray the current expenses of stormwater services and a portion of the current expenses of the combined sewer system attributable to providing stormwater service;

To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of the storm drainage system and a portion of the combined sewer systems heretofore or hereafter constructed within the city similarly attributable to providing stormwater service;

To reimburse the city for the cost of computation, billing, and enforcement of such charges.

(c) The city manager will designate appropriate Department of Public Works management and other personnel, including support as

needed of personnel from other city departments such as finance, to provide stormwater services and to collect and account for the stormwater service charge imposed hereunder.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-83. Exemptions.

Exemptions from stormwater charges established under this article are not allowed, except as provided in this section. Exemptions shall be allowed for:

(a) All roads owned or maintained by the State of Maine, including the Maine Turnpike; and all accepted City roads and all roads maintained by the City; all private roads and ways serving more than two dwelling or structures, but not driveways; all public pedestrian walkways. However, parking lots, buildings, or other developed land within the right-of-ways shall not be exempt from storm water service charges;

(b) Undeveloped land;

(c) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges;

(d) Airport runways, taxiways and aprons upon which public and private aircraft operate;

(e) With the exception of Peaks Island, all islands are exempted from the fee due to the limited services provided to the islands; and

(f) All City-owned land, buildings and other real property.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 217-17/18, 7-1-2018)

Sec. 24-84. Stormwater Service Charge.

(a) There is levied upon all developed land stormwater service charges for the cost of providing stormwater services. All developed land shall be charged six dollars and seventy-five cents (\$6.75) per month per one thousand two hundred (1,200) square feet of impervious surface area, rounded to the nearest one thousand two hundred (1,200) square feet of impervious surface area.

(b) The basis for this charge is the measured amount of impervious surface area on the developed land as determined by the city. This measured area may be updated from time to time at the discretion of the Department of Public Works upon evidence of impervious surface area change or the availability of updated or more accurate information.

(c) Fees collected hereunder to fund stormwater services can also be supplemented by other revenues available to the city, including but not limited to state, federal, general and special city funds, and private grants and loans.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 217-17/18, 7-1-2018; Ord. No. 79-20/21, 9-21-2020

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Sec. 24-85. Credits

(a) Owners of developed land may apply for and receive a voluntary stormwater service charge credit for approved stormwater credit systems or facilities. The director of the Department of Public Works or his/her designee shall determine such approved stormwater systems and facilities and stormwater service charge credit amounts based on the technical requirements, design and performance standards contained in the city's stormwater credits manual, to be adopted by the director of the Department of Public Works pursuant to this ordinance, as it may be updated or amended from time to time.

(b) It is the responsibility of the record owner to initiate and apply in writing for stormwater service charge credits, and to provide all necessary information with a letter requesting the credit. The department of Public Works is not responsible for initiating a credit application, performing engineering calculations, or otherwise assisting in the preparation of a request for a credit. Credits will only be applied if the requirements outlined in the city's stormwater credit manual are met including but not limited to completion of on-going maintenance, guaranteed right-of-entry for inspection, and submittal of annual self-certification reports or other required reports as required per ordinance and rule.

(c) Credits will be applied to the stormwater service charge while stormwater facilities or management practices are functioning as approved by the city. If the approved practice or facility is not functioning as approved, or is terminated, the credit will be cancelled. Once the credit has been cancelled, the customer must reapply for the credit.

(d) The department of Public Works will only review complete credit requests. If approved, the credit will be applied to the first bill issued 30 days after the approval. Credits may be made retroactive, one calendar year from the date of the first billing period of the charge.

(e) A credit of up to one hundred percent (100%) of the stormwater service charge may be approved.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-86. Billing.

(a) All charges under this article shall be sent to the record owner of a given property. The record owner may request, subject to the approval of the director of the Department of Public Works, that the full charge be billed to the owner's designated tenant. The director may direct billing to the tenant of the property if the tenant is currently billed for water and sanitary sewer charges. The record owner shall be liable for payment even if the stormwater service charges are billed to the tenant of the property.

(b) Condominiums shall have the full charge for the developed land equally divided among all condominium owners of developed land. The condominium owners may appeal the director in writing to adjust the fraction of the charge applied to each condominium owner. The director will require signed confirmation from each condominium owner of developed land that they approve the adjustment to the fraction of the charge applied.

(c) Bills shall contain an amount for stormwater service user charges, and if delinquent, as provided in section 1-16 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes and such delinquency may be collected by a civil action against the owner and/or may result in a lien being placed on the property as specified in section 24-88.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-87. Right of appeal and adjustments.

(a) A record owner may request review of the amount of the stormwater service charge imposed on such owner by written request to the director of the Department of Public Works within 30 calendar days of the date the customer receives the service charge bill.

(b) The owner must demonstrate the impervious surface area is less than the amount used in calculating the developed land's stormwater service charge. Factors that will be considered include the impervious surface area of the property.

(c) An owner must comply with all rules and procedures adopted by the director when submitting a request for appeal or adjustment of the stormwater service charge and must provide all necessary information to make a determination.

(d) The director of the Department of Public Works or his/her designee shall review the service fee and issue a determination, in writing, within 30 calendar days.

(e) With a finding that the impervious surface area is less than the amount used to calculate the developed land's stormwater service charge, the sole remedy to the owner shall be recalculation of the stormwater service charge based on the corrected impervious surface area. A finding that the impervious surface area is not less than the amount used to calculate the developed land's stormwater service charge shall be conclusive with respect to that property and shall remain effective unless the owner changes the impervious surface area of the property.

(f) An owner may appeal the director of the Department of Public Works decision to the city manager or his/her designee within 30 days of the date of the decision. An owner may appeal a decision of the manager to a court of competent jurisdiction pursuant to the applicable Rules of Civil Procedure.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-88. Right of enforcement and violations.

(a) The director of the Department of Public Works or his/her designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(b) It shall be unlawful for any person to violate or to fail to comply with the requirements of this article or its fees. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

(c) Any person who violates this article may also be subject to fines, penalties and orders for injunctive relief and shall be

responsible for the city's attorneys' 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 article 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 city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this section; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

(d) Without limiting the foregoing, failure to comply with this article may also be enforced as a nuisance and be subject to an abatement action, in addition to, or alternatively to, the enforcement actions described above.

(e) *Consent agreement.* The enforcement authority, with the approval of corporation counsel and the city manager, may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(f) *Delinquent fees.* Any owner that fails to pay the stormwater service charge when due shall be responsible for the amount of the unpaid service charge, interest on the unpaid amount, and attorneys' fees and other costs of collection. To the extent permitted by law, the fee, when overdue, including interest and penalties, is a lien on real property and may be collected in the same manner as a sewer user lien pursuant to state law. Delinquent amounts may also be collected by a civil action against the person. (Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-89. Limitation of liability.

This article shall not be interpreted to mean that property subject to the charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater drainage systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Therefore the following limitations on liability, in addition to any other limitations or immunities existing in law, are set forth:

(1) It is the express intent of the city that this article will protect the public health, safety and welfare of properties and persons in general. However, this ordinance

does not create any special duty or relationship with any individual person or specific property either within or outside the service area.

(2) The city shall not be held liable for flood damage or assessing and removing pollution sources, and reserves the right to assert all available immunities and defenses in any action seeking monetary compensation from the city, or its officers, agents or employees for alleged damages arising from alleged failure or breach of duties or relationship as may now exist or hereafter be created.

(3) The issuance of any permit, plan approval or inspection shall not constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of monetary damages against the city or its officers, employees or agents.

(4) Operation of stormwater drainage systems located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvements of the system, shall be the legal responsibility of the property owner, except as may be affected by the laws of the State of Maine and the United States of America.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-90. Severability.

Each section of this ordinance is severable from all other sections. If any part of this ordinance is deemed invalid by a court or competent jurisdiction, remaining portions of the ordinance shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the city, State of Maine, or federal government, the stricter standard shall apply, except as limited by state or federal law.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-91. Reserved.

Sec. 24-92. Reserved.

Sec. 24-93. Reserved.

Sec. 24-94. Reserved.