

**Finance Committee Meeting
Thursday, December 11, 2014
6:00 pm, Council Chambers, City Hall**

1. Approval Of Minutes Of October 23, November 13 And November 20, 2014 Meetings

Documents: [FINANCE COMMITTEE MEETING 10-23-14 \(DRAFT\).PDF](#), [FINANCE COMMITTEE MEETING 11-13-14 \(DRAFT\).PDF](#), [FINANCE COMMITTEE MEETING 11-20-14 \(DRAFT\).PDF](#)

2. Minimum Wage Public Hearing And Recommendation

Documents: [MEMO TO FINANCE COMM RE MIN WAGE 12.5.2014.PDF](#)

3. Stormwater Public Hearing And Recommendation

Documents: [RECOMMENDED - STORMWATER SERVICE CHARGE 12-11-14.PDF](#)

**Finance Committee
Meeting Minutes
Thursday, October 23, 2014**

Attendees: Chair Mavodones, Committee members Marshall and Suslovic, members of the public and staff

Chair Mavodones opened the meeting – called to order

1. Approval of minutes of October 9 meeting

Motion by Councilor Suslovic to approve the minutes, second by Councilor Marshall - all in favor
3-0

2. Stormwater service charge public hearing

The public hearing on stormwater service charge was held at Casco Bay High School. Michael Bobinsky, Director of Public Services, and Ian Houseal, Assistant to City Manager/Sustainability Coordinator, presented a PowerPoint presentation on stormwater. A question and answer period was opened to members of the public.

Motion to adjourn

**Finance Committee
Meeting Minutes
Thursday, November 13, 2014**

Attendees: Chair Mavodones, Committee member Suslovic (absent Marshall and Duson), members of the public and staff

Chair Mavodones opened the meeting – called to order

1. Stormwater service charge public hearing

The public hearing on stormwater service charge was held at City Hall, Council Chambers. Michael Bobinsky, Director of Public Services, and Ian Houseal, Assistant to City Manager/Sustainability Coordinator, presented a PowerPoint presentation on stormwater. A question and answer period was opened to members of the public.

Committee Members asked for information from Economic Development on the availability of loans and/or other options available to businesses who seek to reduce runoff from their properties.

Motion to adjourn

**Finance Committee
Meeting Minutes
Thursday, November 20, 2014**

Attendees: Chair Mavodones, Committee member Suslovic (absent Marshall and Duson), members of the public and staff

Chair Mavodones opened the meeting – called to order

1. Approval of minutes of October 23 and November 13, 2014 meetings

Postponed – no quorum

2. Minimum wage public hearing

Discussion and public comment

3. CIP/FY'15 Outlook and Debt Strategy

Discussion.

4. Stormwater recommendation

Postponed – no quorum

Meeting adjourned

**CITY OF PORTLAND
MEMORANDUM**

TO: Chairman Mavodones and Members of the Portland Finance Committee
FROM: Danielle P. West-Chuhta, Corporation Counsel
DATE: December 5, 2014 **(Revised)**
RE: **Minimum Wage Ordinance**

The following is list of the questions raised at the November 20, 2014 Finance Committee regarding the Minimum Wage ordinance, and City staff responses to each question. I would also note that I have revised the draft ordinance (based on the comments at the same meeting) and it is attached hereto for your review.

I. How are Tipped Employees Treated Under Maine law and the Proposed Ordinance?

Maine’s minimum wage statute provides, in part, that “[a]n employer may consider tips as part of the wages of a service employee,¹ but such a tip credit may not exceed 50% of the minimum hourly wage established in this section.” 26 M.R.S. §664(2). It goes on to specify that “[a]n employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined.” *Id.* “Upon a satisfactory showing by the employee or the employee’s representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.” *Id.*

Similarly, under the proposed ordinance (which tracks §664(2)), “an Employer may consider tips as part of the wages of a Tipped Employee toward satisfaction of the [City] minimum wage...but such a tip credit may not exceed 50%...” Proposed minimum wage ordinance at page 4; §33.7(b)(i). Also, “an Employer who elects to use the tip credit...must be able to show that the Tipped Employee receives at least the [City] Minimum Wage.” *Id.* “If it is established that the actual tips received were less than the tip credit...the Employer shall increase the direct wages of the Tipped Employee by the difference.” *Id.*

¹ “‘Service employee’ means any employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips.” 26 M.R.S. §663(8).

The following chart is provided to better illustrate the aforementioned tipped minimum wage concept under the State law and under the proposed City ordinance:

	EMPLOYEE TIP CREDIT	EMPLOYEE DIRECT WAGE	EMPLOYER RESPONSIBILITY
State Minimum Wage (\$7.50)	50% or \$3.75	\$3.75	If actual tips received are less than the tip credit, the employer must increase the employee's direct wage to make up the difference.
City Minimum Wage (\$9.50)	50% or \$4.75	\$4.75 (which is an increase of \$1)	If actual tips received are less than the tip credit, the employer must increase the employee's direct wage to make up the difference.

II. Suggestion as to a Possible Alternative Implementation Schedule?

A possible alternative implementation schedule could be to have the City minimum wage go into effect in January 2016, and then adjust annually each January 1st thereafter. Currently the proposed ordinance includes a commencement date of July 1, 2015 (for the first increase to \$9.50), and then each January 1st (starting in 2016) thereafter the minimum wage would be subject to a possible increase following two years of increases set by the ordinance.

III. What is the Potential Enforcement and Legal Costs Involved with this Ordinance?

First, City staff (including the Acting Finance Director, Acting City Manager and Corporation Counsel) met to discuss enforcement costs. After careful deliberation, we determined that enforcement of this ordinance would be best addressed if it involved at least one (1) full-time enforcement official (most likely housed in the Economic Development department). Given the complexity of the issues involved in calculating minimum wage, this person's salary would most likely need to range between \$40,000 and \$50,000 plus benefits.²

² I would note that since we do not know the volume of complaints/enforcement activities, it may be appropriate to only have a half-time employee act as the enforcement official or the Committee could also choose to wait until after the first year of implementation of the ordinance in order to determine if an enforcement official is actually necessary.

Next, with regard to legal costs, I think that (since potential enforcement cases may exist, as well as legal challenges to the ordinance) a budget of at least \$50,000 should be set aside for legal costs (which is similar to the amount set aside for the Stormwater ordinance legal/enforcement costs).

IV. Are Benefits Included in the Definition of Minimum Wage?

As drafted, benefits are not included in the proposed City minimum wage definition. If this is something that the Committee would like included, it (of course) can be done. I would further note that most city minimum wage ordinances that I reviewed did not include benefits in the definition of minimum wage. The closest definition I found (that included things other than wages and tips) was the City of Seattle's ordinance which defines the minimum wage to include "all wages, commissions . . . and bonuses actually received by the employee and reported to the Internal Revenue Service." See attached ordinance.

V. Should the City's Proposed Minimum Wage be applicable to Interns and Externs and those between the ages of 16-18?

Although this is primarily a policy question, after careful review of the state law and the proposed ordinance, it seems appropriate to not exclude both of these categories (as is presently the case in the draft ordinance) since such exclusions will likely lead to confusion. Furthermore, such categories are not included in the State minimum wage law (which we have been following closely), and so are not recommended to be included in the City ordinance.

DRAFT 12/5/2014

Chapter 33 MINIMUM WAGE ORDINANCE

<u>Art. I.</u>	<u>Purpose, §33.1</u>
<u>Art. II.</u>	<u>Definitions, §33.2 - 33-6</u>
<u>Art. III.</u>	<u>Minimum Wage, 33-7</u>
<u>Art. IV.</u>	<u>Notice, Posting and Records, 33-8</u>
<u>Art. V.</u>	<u>Enforcement and Violations, 33-9</u>
<u>Art. VI.</u>	<u>Relationship To Other Requirements, 33-10</u>
<u>Art. VII.</u>	<u>Severability Clause, 33-11</u>
<u>Art. VIII.</u>	<u>Effective Date, 33-12</u>

ARTICLE I

Sec. 33.1. Purpose.

WHEREAS, the City of Portland is a home-rule unit of government under the Maine Constitution and 30-A M.R.S. §3001 and, as such, may exercise any power and perform any function in order to protect health, safety and welfare of the citizens of the City; and

WHEREAS, promoting the welfare of the City's citizens, its most important asset, and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, after years of inaction by the United States Congress, it is time for municipalities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, Mayor Michael Brennan created a working group, which included community, labor and business leaders, and tasked them with reviewing the minimum wage issue within the City of Portland; and

WHEREAS, the cost of living in Portland has increased making life here cost, as a percentage of income, as much as is paid by residents of Chicago, Illinois, Sacramento, California and other major United States cities where the minimum wage is much higher; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of them are among the City of Portland's more than 65,000 wage and salary earners; and

WHEREAS, The Massachusetts Institute of Technology has calculated that, for a single adult to support him- or herself in Portland at the current minimum wage, he or she would need to work over 50 hours a week; and

WHEREAS, more than 50 percent of Portland public school students are eligible for free lunch, meaning their families have incomes at between 100 percent and 185 percent of the Federal poverty level, which is higher than what a single parent with one child in school would earn with a full-time minimum wage job; and

WHEREAS, rising housing costs, including an increase in the median home price from \$125,200 in 2000 to \$238,400 in 2012, are pushing low wage workers out of the City; and

WHEREAS, the Fair Market Rent in the Portland Area for a two-bedroom apartment is \$1,012, and a full-time worker job would have to earn at least \$19.46 per hour to afford that rent;

WHEREAS, phasing in the wage increase over time will allow businesses to adjust and result in reasonable annual increases in expenses;

WHEREAS, based on the work of the working group (the materials and report of which are incorporated herein by reference) and the aforementioned facts, Mayor Brennan proposed that the minimum wage be increased within the City of Portland;

NOW THEREFORE, to promote the health, safety and welfare of its citizen, the City Council of the City of Portland, Maine hereby establishes the following minimum wage ordinance applicable to all Employers and Employees within the City of Portland:

ARTICLE II

Sec. 33.2. Definitions.

Unless the context otherwise indicates, the following words shall have the following meanings.

City: City of Portland.

City limits: the physical boundaries of the City.

Employer: Any individual, group of individuals, partnership, association, corporation, business trust, or any other entity or group of persons or entities who employs or exercises control over the wages, hours, or working conditions of any Employee. "Employer" shall include but not be limited to the City of Portland.

Employee: Any person who performs work for an Employer for monetary compensation within the municipal limits of the City. Employee shall include persons who perform work for an employer on a full-time, part-time, seasonal or temporary basis. Employee shall not include any person who is exempted from the definition of Employee under 26 M.R.S. §663(3) of Chapter 7, Employment Practices.

Minimum wage: The minimum hourly rate of monetary compensation that an Employer may legally pay an Employee, including, but not limited to, Tipped Employees, for work within the City.

Service Employee: Any Employee engaged in an occupation in which he or she customarily and regularly receives more than \$30.00 a month or more in tips.

Tip: A sum presented by a customer as a gift or gratuity in recognition of some service performed by the Employee.

Tipped Employee: Any Service Employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Sec. 33.5 – 33-6 Reserved.

Article III.

Section 33.7. Minimum Wage.

- (a) Minimum wage payment required: Except as provided herein, Employers shall pay all Employees including, but not limited to, Tipped Employees no less than the Minimum Wage established by this ordinance for each hour worked within the City Limits.
- (b) Tipped Employees:
 - (i) As provided in 26 M.R.S. §664(2), an Employer may consider tips as part of the wages of a Tipped Employee toward satisfaction of the Minimum Wage established by this ordinance, but such a tip credit may not exceed 50% of the minimum hourly wage established by this ordinance.
 - (ii) An Employer who elects to use the tip credit described in subsection (b)(i) above must inform the affected Tipped Employee in advance, and must be able to show that the Tipped Employee receives at least the minimum hourly wage established by this ordinance when his or her direct wages and the tip credit are combined.
 - (iii) Upon a satisfactory showing by the Tipped Employee or Tipped Employee's representative that the actual tips received were less than the tip credit described in subsection (b)(i), the Employer shall increase the direct wages of the Tipped Employee by the difference.
- (c) Minimum Wage rate:
 - (i) Beginning on July 1, 2015, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be established as \$9.50 per hour;
 - (ii) Beginning on January 1, 2016, the regular Minimum Wage for all Employees, including,

but not limited to, Tipped Employees, shall be raised to \$10.10 per hour;

(iii) Beginning on January 1, 2017, the regular Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to \$10.68 per hour; and

(iv) Beginning on every first day of January following January 1, 2017, and every first day of January thereafter, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall increase at the percentage set by the Consumer Price Index for All Urban Consumers (CPI-U) of the previous most up-to-date twelve (12) months as reported by the Bureau of Labor Statistics. The sum of the most recent twelve months for which there is a calculated CPI-U reported by the Bureau of Labor Statistics will be the rate by which to set the increase in the Minimum Wage. For example, if the Bureau of Labor Statistics reports that every month from January, 2017, to December, 2017, experienced a 0.1 percent price increase, then the increase in the Minimum Wage would be 1.2 percent. If the CPI-U increases by less than 0.005 percent or if it decreases, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, will not change.

(d) Overtime.

(i) The Minimum Wage set out in this ordinance are subject to the overtime compensation provisions in 26 M.R.S. §664(3).

(e) Collective Bargaining Agreements.

(i) Nothing in this ordinance shall be deemed to interfere with, impede, or in any way diminish the right of all Employees including, but not limited to, Tipped Employees to bargain collectively with their Employers in order to establish wages or other conditions of work in excess of the

applicable minimum standards of this ordinance.

(f) Retaliation Prohibited.

- (i) It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Employee including, but not limited to a Tipped Employee in retaliation for exercising any right under this ordinance.

ARTICLE IV.

Sec. 33.8. Notice, Posting and Records.

- (a) Notice to Employees. Every employer shall post in a conspicuous place at any workplace or job site where any Employee works, a notice to be provided by the City informing Employees of the City's current Minimum Wage rates, as well as a copy of this ordinance.
- (b) Records. Employers shall maintain payroll records showing hours worked daily by and the wages paid to all Employees, including, but not limited to, Tipped Employees. Employers shall retain such payroll records pertaining to all Employees for a period of at least three (3) years after an Employee has left employment.
- (c) Access. The City shall have access to any and all Employer payroll records subject to this ordinance during business hours to investigate whether or not an Employer has violated any of the provisions of this chapter.
- (d) Paycheck Notice. Every Employer shall provide with the first paycheck issued to an Employee, including a Tipped Employee, a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V.

Sec. 33.9. Enforcement and Violations.

(a) Enforcement.

- (i) The City Manager or his/her designee shall enforce the provisions of this ordinance.
- (ii) City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process.

- (i) Any Employee, including, but not limited to, a Tipped Employee, receiving less than the Minimum Wage he or she is required to receive under this ordinance may file a written complaint with the City Manager's office.
- (ii) The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
- (iii) If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, the payment of any back wages withheld and/or the payment of not less than \$100.00 or more as a penalty for each day that a violation of this chapter has occurred. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

- (i) Any Employee, including, but not limited to, a Tipped Employee, the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent

jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance.

ARTICLE VI.

Sec. 33.10. Relationship To Other Requirements.

This ordinance provides for payment of Minimum Wage rates within the City and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement or policy, including any that provides for payment of higher wages and/or benefits. Nothing contained in this ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII.

Sec. 33.11. Severability Clause.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

ARTICLE VIII.

Sec. 33.12. Effective Date.

This ordinance shall take effect on July 1, 2015.

CITY OF SEATTLE
ORDINANCE 124490
COUNCIL BILL 118098

AN ORDINANCE relating to employment in Seattle; adding a new Chapter 14.19 to the Seattle Municipal Code; establishing minimum wage and minimum compensation rates for employees performing work in Seattle; and prescribing remedies and enforcement procedures.

WHEREAS, United States President Barack Obama has called addressing income inequality the "the defining issue of our time;"

WHEREAS, the noted economist Thomas Piketty wrote in his landmark book *Capital in the 21st Century*, the need to act on income inequality is profound as "[r]eal wages for most US workers have increased little if at all since the early 1970s, but wages for the top one percent of earners have risen 165 percent, and wages for the top 0.1 percent have risen 362 percent;"

WHEREAS, the tens of thousands of low wage workers in Seattle who struggle to meet their most basic needs, the increasing unaffordability of this city for so many of our citizens, and the hollowing-out of the middle class strike at the core of who we are as a community dedicated to democratic principles and economic advancement and opportunity;

Whereas, Seattle has one of the worst gender wage gaps in the country, where a majority of low wage workers tend to be women, and a higher minimum wage is a powerful tool to reduce the income disparity between women and men;

WHEREAS, many Seattle workers cannot fully participate in our community's dynamic civic life or pursue the myriad educational, cultural, and recreational opportunities that constitute a flourishing life because many struggle to meet their households' most basic needs;

WHEREAS, Seattle is home to many innovative and progressive employers who contribute significantly to the economic prosperity of the region;

WHEREAS, Seattle has a long and proud tradition of advocating for worker rights and promoting social and economic justice;



1 WHEREAS, minimum wage laws promote the general welfare, health, and prosperity of Seattle
2 by ensuring that workers can better support and care for their families and fully
participate in Seattle's civic, cultural, and economic life;

3 WHEREAS, the Mayor signed Executive Order 2014-01 directing all City of Seattle Department
4 Directors to prioritize and work in coordination with the City's Personnel Department
5 and Budget Office to develop a comprehensive implementation plan that ensures a
6 minimum hourly wage of \$15.00 for employees of the City of Seattle, and directing the
Personnel Department and Budget Office to seek concurrence and coordinate with the
City Council and the Mayor's Income Inequality Advisory Committee;

7 WHEREAS, the Mayor and City Council has convened a Labor Standards Advisory Committee
8 and the City expects the committee will provide feedback later in 2014 on recommended
9 approaches for enhancing the City's enforcement of various labor laws including, but not
limited to, minimum wage laws;

10 WHEREAS, the City is committed to evaluating options for securing progressive sources of
11 funding to ensure that non-profit human services providers with City-funded contracts
12 can provide both a living wage to their workforce and continue to provide critical
services for those in the greatest need;

13 WHEREAS, Seattle's employer and worker advocacy community have come together to respond
14 to the challenge of rising income inequality and ensure broadly shared prosperity in our
community;

15 NOW, THEREFORE,
16

17 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

18 Section 1. The City Council ("Council") makes the following findings of fact and
19 declarations:

20 1. Over 100,000 Seattle workers earn wages insufficient to support themselves and their
21 families;

22 2. In Seattle, the weight of income inequality falls disproportionately on people of color
23 and on women. More than 34 percent of all women and over 40 percent of African Americans
24 and Asian and Pacific Islander Americans rank among low wage workers in Seattle. For

25 Latinos, that number is nearly 50 percent, and it is 70 percent for Native Americans;
26
27
28



1 3. Over 24 percent of Seattle residents earn hourly wages of \$15.00 per hour or less and
2 approximately 13.6 percent of the Seattle community lives below the poverty level;

3 4. Some employers, in particular small businesses and not-for-profit organizations, may
4 have difficulty in accommodating the increased costs;

5 5. Numerous studies suggest minimum wages benefit employers and the economy as a
6 whole by improving employee performance, reducing employee turnover, lowering absenteeism,
7 and thereby improving productivity and the quality of the services provided by employees;

8 6. The Mayor formed an "Income Inequality Advisory Committee," a group comprised of
9 representatives from Seattle's employer, labor, and non-profit communities to address the
10 pressing issue of income inequality in Seattle;

11 7. The Income Inequality Advisory Committee was charged with delivering
12 recommendations on how best to increase the minimum wage in Seattle in a way that ensures
13 that our economy is vibrant enough and fair enough to embrace all who live and work here;

14 8. The Income Inequality Advisory Committee reviewed the impact of minimum wage
15 increases in other cities, relevant studies and other appropriate data, and hosted numerous public
16 engagement forums, including industry-specific forums and the "Income Inequality Symposium"
17 at Seattle University;

18 9. The Income Inequality Advisory Committee determined the following: Seattle's
19 minimum wage should be raised to \$15.00 per hour; the minimum wage should be phased in
20 over time, the first year of implementation of a phased increase of the minimum wage should
21 begin in 2015; once the minimum wage reaches \$15.00 per hour it should rise in concert with the
22 consumer price index; exemptions from the \$15.00 per hour minimum wage are limited to only
23 those allowed under the Washington State Minimum Wage Act; a benchmark of 500 employees
24 is appropriate as distinguishing between larger and smaller employers in recognition that smaller



1 businesses and not-for-profits would face particular challenges in implementing a higher
2 minimum wage;

3 10. The Income Inequality Advisory Committee also recognized a set of principles for a
4 strong enforcement and culturally competent worker and business education program that
5 integrates existing annual business license processes; creates significant penalties for intentional
6 and repeat violations; establishes worker and employer outreach and education programs through
7 contracts with 501(c)3 community-based organizations and business associations; develops an
8 incentive structure for businesses with solid labor practices; emphasizes culturally competent
9 communication with employees and employers; connects workers with the appropriate local,
10 state, and federal agencies; and establishes a business, labor, and community oversight
11 committee to monitor implementation of the City of Seattle's new labor standards education and
12 enforcement function. These principles will be forwarded to the City of Seattle's Labor
13 Standards Advisory Committee; and

14 11. The public welfare, health, and prosperity of Seattle require wages and benefits
15 sufficient to ensure a decent and healthy life for all Seattle workers and their families.

16
17 Section 2. A new Section 14.19.010 is added to the Seattle Municipal Code as follows:

18 **14.19.010 Definitions**

19 For the purposes of this Chapter:

20 A. "Actuarial value" means the percentage of total average costs for covered benefits that a
21 health benefits package will cover;

22 B. "Bonuses" means non-discretionary payments in addition to hourly, salary, commission,
23 or piece-rate payments paid under an agreement between the employer and employee;

24 C. "Commissions" means a sum of money paid to an employee upon completion of a task,
25 usually selling a certain amount of goods or services;



1 D. "Department" means the Department of Finance and Administrative Services;

2 E. "Director" means the Director of the Department of Finance and Administrative Services,
3 or his or her designee;

4 F. "Employ" means to permit to work;

5 G. "Employee" means "employee," as defined under Section 12A.28.200. Employee does
6 not include individuals performing services under a work study agreement;

7 H. "Employer" means any individual, partnership, association, corporation, business trust, or
8 any person or group of persons acting directly or indirectly in the interest of an employer in
9 relation to an employee;

10 I. "Franchise" means a written agreement by which:

11 1. A person is granted the right to engage in the business of offering, selling,
12 or distributing goods or services under a marketing plan prescribed or
13 suggested in substantial part by the grantor or its affiliate;

14 2. The operation of the business is substantially associated with a trademark,
15 service mark, trade name, advertising, or other commercial symbol;
16 designating, owned by, or licensed by the grantor or its affiliate; and

17 3. The person pays, agrees to pay, or is required to pay, directly or indirectly,
18 a franchise fee;

19 J. "Franchisee" means a person to whom a franchise is offered or granted;

20 K. "Franchisor" means a person who grants a franchise to another person;

21 L. "Hearing Examiner" means the official appointed by the Council and designated as the
22 Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro
23 Tem, etc.);

24 M. "Hourly minimum compensation" means the minimum compensation due to an employee
25 for each hour worked during a pay period;



1 N. "Hourly minimum wage" means the minimum wage due to an employee for each hour
2 worked during a pay period;

3 O. "Medical benefits plan" means a silver or higher level essential health benefits package,
4 as defined in 42 U.S.C. § 18022, or an equivalent plan that is designed to provide benefits that
5 are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under
6 the plan, whichever is greater;

7 P. "Minimum compensation" means the minimum wage in addition to tips actually received
8 by the employee and reported to the Internal Revenue Service, and money paid by the employer
9 towards an individual employee's medical benefits plan;

10 Q. "Minimum wage" means all wages, commissions, piece-rate, and bonuses actually
11 received by the employee and reported to the Internal Revenue Service;

12 R. "Piece-rate" means a price paid per unit of work;

13 S. "Rate of inflation" means the Consumer Price Index annual percent change for urban
14 wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months
15 prior to each September 1st as calculated by the United States Department of Labor;

16 T. "Schedule 1 Employer" means all employers that employ more than 500 employees in
17 the United States, regardless of where those employees are employed in the United States, and
18 all franchisees associated with a franchisor or a network of franchises with franchisees that
19 employ more than 500 employees in aggregate in the United States;

20 U. "Schedule 2 Employer" means all employers that employ 500 or fewer employees
21 regardless of where those employees are employed in the United States. Schedule 2 employers
22 do not include franchisees associated with a franchisor or a network of franchises with
23 franchisees that employ more than 500 employees in aggregate in the United States;

24 V. "Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in
25 recognition of some service performed for the customer by the employee receiving the tip;



W. "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the Director. Commissions, piece-rate, and bonuses are included in wages. Tips and employer payments toward a medical benefits plan do not constitute wages for purposes of this Chapter.

Section 3. A new Section 14.19.020 is added to the Seattle Municipal Code as follows:

14.19.020 Employment in Seattle and Employer Schedule Determination

A. Employees are covered by this Chapter for each hour worked within the geographic boundaries of Seattle, provided that an employee who performs work in Seattle on an occasional basis is covered by this Chapter in a two-week period only if the employee performs more than two hours of work for an employer within Seattle during that two-week period. Time spent in Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle, with no employment-related or commercial stops in Seattle except for refueling or the employee's personal meals or errands, is not covered by this Chapter. An employee who is not covered by this Chapter is still included in any determination of the size of the employer.

B. For the purposes of determining whether a non-franchisee employer is a Schedule 1 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be considered a single employer under this Chapter. Separate entities will be considered an integrated enterprise and a single employer under this Chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;
2. Degree to which the entities share common management;



3. Centralized control of labor relations; and

4. Degree of common ownership or financial control over the entities.

There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, shall be considered separate employers for purposes of this section as long as (1) the separate legal entities operate substantially in separate physical locations from one another, and (2) each separate legal entity has partially different ultimate ownership. The determination of employer schedule for the current calendar year will be calculated based upon the average number of employees employed per calendar week during the preceding calendar year for any and all weeks during which at least one employee worked for compensation. For employers that did not have any employees during the previous calendar year, the employer schedule will be calculated based upon the average number of employees employed per calendar week during the first 90 calendar days of the current year in which the employer engaged in business.

C. The Director shall have the authority to issue a special certificate authorizing an employer to pay a wage less than the City of Seattle minimum wage, as defined in this Chapter, but above the Washington State minimum wage, as defined in RCW 49.46.020. Such special certificates shall only be available for the categories of workers defined in RCW 49.46.060 and shall be subject to such limitations as to time, number, proportion, and length of service as the Director shall prescribe. Prior to issuance, an applicant for a special certificate must secure a letter of recommendation from the Washington State Department of Labor and Industries stating that the applicant has a demonstrated necessity pursuant to WAC 296-128.

D. The Director shall by rule establish the minimum wage for employees under the age of eighteen years, provided that any percentage of the hourly rate established by rule shall not be lower than the percentage applicable under state statutes and regulations.



Section 4. A new Section 14.19.030 is added to the Seattle Municipal Code as follows:

14.19.030 Hourly Minimum Wage – Schedule 1 Employers

A. Effective April 1, 2015, Schedule 1 employers shall pay each employee an hourly minimum wage of at least \$11.00. Pursuant to the following schedule, effective January 1 of each year thereafter, Schedule 1 employers shall pay any employee an hourly minimum wage as follows:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$13.00
2017	\$15.00

Effective January 1, 2018, the hourly minimum wage paid by a Schedule 1 employer to any employee shall be increased annually on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter.

B. Schedule 1 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 1 employer is in compliance with all applicable law. Where an employee is paid on a commission or piece-rate basis, wholly or partially, the amount earned on such basis in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Where an employee is paid a bonus, the amount of the bonus in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Pursuant to the following schedule, effective January 1, 2016,



Schedule 1 employers that pay toward an individual employee's medical benefits plan shall pay the employee an hourly minimum wage as follows:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$12.50
2017	\$13.50
2018	\$15.00

Effective January 1, 2019, payment by the employer of health benefits for employees shall no longer affect the hourly minimum wage paid by a Schedule 1 employer.

Section 5. A new Section 14.19.040 is added to the Seattle Municipal Code as follows:

14.19.040 Hourly Minimum Wage – Schedule 2 Employers

A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum wage of at least \$10.00. Schedule 2 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law. Effective January 1 of 2016 and each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum wage that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum wage shown in the following schedule:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$10.50
2017	\$11.00
2018	\$11.50



2019	\$12.00
2020	\$13.50
2021	\$15.00
2022	\$15.75
2023	\$16.50
2024	\$17.25

Effective on January 1 of 2025, and January 1 of every year thereafter, the hourly minimum wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum wage requirements through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law.

Section 6. A new Section 14.19.050 is added to the Seattle Municipal Code as follows:

14.19.050 Hourly Minimum Compensation – Schedule 2 Employers

A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00. Effective January 1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum compensation that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum compensation shown in the following schedule:



<i>Year</i>	<i>Hourly Minimum Compensation</i>
2016	\$12.00
2017	\$13.00
2018	\$14.00
2019	\$15.00
2020	\$15.75

Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages (including applicable commissions, piece-rate, and bonuses), tips and money paid by an employer towards an individual employee's medical benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.

Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

14.19.060 Enforcement

A. Powers and Duties

1. The Department shall investigate alleged violations of this Chapter as defined herein, and shall have such powers and duties in the performance of these functions as are defined in this Chapter and otherwise necessary and proper in the performance of the same and provided for by law.



2. The Director is authorized and directed to promulgate rules consistent with this Chapter.

B. Exercise of Rights Protected; Retaliation Prohibited

1. It shall be a violation for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

2. It shall be a violation for an employer to discharge, threaten, harass, demote, penalize, or in any other manner discriminate or retaliate against any employee because the employee has exercised in good faith the rights protected under this Chapter. Such rights include but are not limited to the right to file an oral or written complaint with the Department about any employer's alleged violation of this Chapter; the right to inform his or her employer, union or similar organization, and/or legal counsel about an employer's alleged violation of this Chapter; the right to cooperate with the Department in its investigations of alleged violations of this Chapter; the right to oppose any policy, practice, or act that is unlawful under this Chapter; and the right to inform other employees of his or her potential rights under this Chapter.

3. It shall be considered a violation for an employer to communicate to a person filing a wage claim, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that the person is not lawfully in the United States, report or threaten to report suspected citizenship or immigration status of an employee or a family member of the employee to a federal, state, or local agency because the employee has exercised a right under this Chapter.



C. Notice, Posting, and Records

1. Employers shall give notice to employees in English, Spanish and any other language commonly spoken by employees at the particular workplace that they are entitled to the minimum wage and minimum compensation; that retaliation against employees who exercise their rights under this Chapter is prohibited; and that each employee has the right to file a charge or bring a civil action if the minimum wage or minimum compensation as defined in this Chapter is not paid or the employee is retaliated against for engaging in an activity protected under this Chapter.

2. Employers may comply with this section by posting in a conspicuous place at any workplace or job site where any covered employee works a notice published each year by the Department informing employees of the current minimum wage and minimum compensation rates applicable in that particular workplace or jobsite and of their rights under this Chapter in English, Spanish and any other languages commonly spoken by employees at the particular workplace or job site.

3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee.

D. Charges and Investigation

1. The Department may investigate any violations of this Chapter. A charge alleging a violation of this Chapter should include a statement of the dates, places, and persons or entities responsible for such violation. A charge alleging a violation of this Chapter may also be filed by the Director on behalf of an aggrieved individual when the Director has reason to believe that a violation has occurred.

2. Charges filed under this Chapter must be filed within 3 years after the occurrence of the alleged violation. The applicable statute of limitations for civil actions is tolled



1 during the Department's investigation and any administrative enforcement proceeding
2 under this Chapter based upon the same facts.

3 3. The Director shall cause to be served or mailed by certified mail, return receipt
4 requested, a copy of the charge on the respondent within 20 days after the filing of the
5 charge and shall promptly make an investigation thereof.

6 4. The investigation shall be directed to ascertain the facts concerning the alleged
7 violation of this Chapter, and shall be conducted in an objective and impartial manner.

8 5. During the investigation the Director shall consider any statement of position or
9 evidence with respect to the allegations of the charge which the charging party or the
10 respondent wishes to submit. The Director shall have authority to sign and issue
11 subpoenas requiring the attendance and testimony of witnesses, and the production of
12 evidence including but not limited to books, records, correspondence or documents in the
13 possession or under the control of the employer subpoenaed.

14 E. Findings of Fact and Notice of Violation.

15 1. The results of the investigation shall be reduced to written findings of fact, and a
16 written determination shall be made by the Director that a violation of this Chapter has
17 occurred. The findings of fact shall be furnished promptly to the respondent and charging
18 or aggrieved party in the form of a notice of violation.

19 2. Within sixty days of a notice of violation, the Director shall confer with the
20 parties and determine an appropriate remedy, which shall include full payment of unpaid
21 wages due to the charging or aggrieved party under the terms of this Chapter. Such
22 remedy shall be reduced to writing in an order of the Director.



F. Remedies

1. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil penalty in an amount not to exceed \$125 for the first violation and \$250 for subsequent violations.

2. It is unlawful for any employer to willfully resist, prevent, impede or interfere with the Director in the performance of his or her duties under this Chapter. Conduct made unlawful by this section constitutes a violation and any employer who commits such a violation may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

3. For a first time violation of this Chapter, the Director shall issue a warning and may assess a civil penalty of up to \$500 for improper payment of minimum wage and minimum compensation as defined in this Chapter. For subsequent violations, the Director shall assess a civil penalty for improper payment of minimum wage and minimum compensation as defined in this Chapter. A civil penalty for a second time violation of this Chapter shall be not greater than \$1,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a violation of this chapter shall be \$20,000 per employee.

4. Within sixty days of a notice of violation of this Chapter, the Director shall confer with the parties and determine an appropriate remedy, which shall include full payment of unpaid wages and accrued interest due to the charging or aggrieved party under the terms of this Chapter. Such remedy shall be reduced to writing in an order of the Director.



G. Appeal Period and Failure to Respond

1. An employer may appeal the Director's order by requesting a contested hearing in writing within 15 days of service. If an employer fails to appeal the Director's order within 15 days of service, the Director's order shall be final and enforceable. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

H. Appeal Procedure and Failure to Appear

1. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases. The Director shall have the burden of proof by a preponderance of the evidence before the Hearing Examiner. Failure to appear for a requested hearing will result in an order being entered finding that the employer cited committed the violation stated in the Director's order. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

2. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying or reversing the Director's order.

Section 8. A new Section 14.19.070 is added to the Seattle Municipal Code as follows:

14.19.070 Severability

The provisions of this Chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection or portion of this Chapter, or the application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.



Section 9. A new Section 14.19.080 is added to the Seattle Municipal Code as follows:

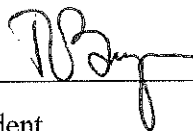
14.19.080 Other Legal Requirements

This Chapter provides minimum wage and minimum compensation requirements and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this Chapter be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this Chapter affecting such person.



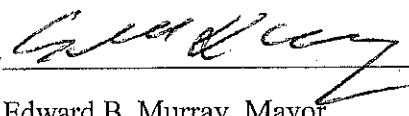
Section 10. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 2nd day of June, 2014, and signed by me in open session in authentication of its passage this 2nd day of June, 2014.



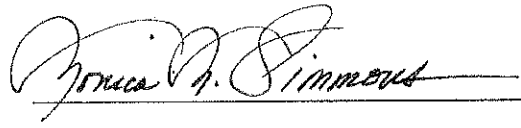
President _____ of the City Council

Approved by me this 3 day of June, 2014.



Edward B. Murray, Mayor

Filed by me this 3rd day of June, 2014.



Monica Martinez Simmons, City Clerk

(Seal)





MEMORANDUM

To: Finance Committee

From: Ian Houseal, Assistant to the City Manager, Sustainability Coordinator
Mike Bobinsky, Director of Public Services

Date: December 11, 2014

RE: **Recommendation with Options – Stormwater Service Charge Program**

Please see the attached:

- Staff recommended Stormwater Service Charge Program as submitted to the Committee in August 2014 for consideration by the Finance Committee for recommendation to the City Council.
 - Public Outreach Schedule of outreach carried out and planned and notes from public hearings and district meetings.
 - Based on alignment with Cumberland County Soil and Water Conservation District involvement with watershed outreach and feedback received, if the Program is approved, staff intends to proceed with actions to provide special attention to highly impacted properties as outlined below.
 - At the direction of City Council, staff is prepared to add the options outlined below to the Stormwater Service Charge recommended program.
-
1. Commercial Loan Program – There is no loan program administered by the City in place appropriate to financing stormwater controls. A loan program could be designed to fit this purpose, but at this point there are not enough Portland Development Corporation commercial loan funds available to capitalize program.
 2. Commercial Property Hardship Program –
 - o AS PROPOSED: Delayed Implementation – One year until billing begins (January 2016); and
 - o AS PROPOSED. Equal Phased-in – Phase-in of the service charge rate equally applied to all properties.
 - o Highly Impacted Commercial Property Support –
 - STAFF ADDITION. Credit Support – Cumberland County Soil and Water Conservation District (CCSWCD) will help with credit support for the most highly impacted commercial properties.

- **STAFF ADDITION. Non-Structural Credits –** A Best Management Practice (BMP) Credit will be developed before billing begins for commercial and residential properties based on CCSWCD recommendation in support of highly impacted properties.
 - **OPTION: Commercial Property Owner Impact Cap Program –** Program would limit the net increase in sewer and stormwater charges to property owners over \$5,000 annually to one third in the first year of billing, two thirds in the second year, and full charges in the third year. The program would have the following general design:
 - The cap would be by application;
 - The program would be paid for through sewer funds as part of the charge phase-in;
 - The program would be by owner, not property; and
 - Owners would be required to apply for all credits applicable to the properties in for which the cap is being sought.
3. **OPTION: Rain Barrel Rebate Program –** The program would reduce the cost of rain barrels sold to residents by Public Services for a period of one year beginning July 2015. Currently, a rain barrels is sold for \$65.00 by Public Services. A price reduction of \$40.00 would be paid for through the Sewer Funds. The program would open to residential property owners and follow the eCard program guidelines for eligibility. The program would be limited to two rain barrels per property.
4. **OPTION: Water Resources Committee –** Such a Committee would have an ADVISORY function to the City Council. The Committee would advise and make a recommendation to the Council on the annual Sewer and Stormwater Fund operating budget and capital plan. The Committee would review the annual financial audit and conduct a regular programmatic audit such as periodic billing review.

Public Outreach Schedule

Stormwater Service Charge

Updated 12-11-14

September 2014

- Website presence and bill look-up available
- Press coverage (recent Press Herald, Bangor Daily News) throughout outreach

October 2014

- Cumberland County Soil and Water Conservation District Outreach alignment
- District Council Meeting Direct Mailing Bullet Point
- Two Finance Committee Public Hearings
 - o October 9 (On Peninsula)
 - o October 23 (Off Peninsula)
- Waterfront Alliance Presentation (October 14, 4:00)

November 2014

- Direct Mailing early November
- District Council Meeting Presentation (November 5, November 6, November 12, November 13)
- Chamber of Commerce Presentation (November 19, 12:00)
- Finance Committee Public Hearing
 - o November 13 (City Council Chambers)

December 2014

- Neighborhood Advisory Council Presentation (TBD)

January 2015

- City Council Workshop (January 5)
- City Council Meetings (Ordinance and Appropriation)
 - o January 5 First Reading
 - o January 19 Second Reading, Public Hearing

March 2015

- Website and press coverage continue
- Water/Sewer Promotional Material bill insert
- Credits Presentations to stakeholders

July 2015

- Sample Bill Mailing

September 2015

- Scheduled one-on-one consultation available

October 2015

- Press coverage
- Water/Sewer Promotional Material bill insert

February – April 2016

- First Bill depending on billing cycle

Public questions/comments from outreach efforts regarding stormwater service charge.

Public Meeting – October 23, 2014 – Casco Bay High School

1. ***My roof runoff goes to my yard, grassed area, etc. It doesn't even go to a storm drain.***
 - a. Not all water that falls on your property soaks into the ground. This results in water running off your property even if it is grassed. There are not enough natural areas to absorb and treat all the runoff that is generated by impervious surfaces in the City, even if everyone directed their runoff to their yard. We are creating the stormwater service charge because our streams, rivers, and Casco Bay are becoming polluted by the volume of runoff and the pollution in that runoff, regardless of how it gets to these larger water bodies.
2. ***Will my rain barrel be counted as a credit?***
3. ***What is the appeal process?***
 - a. After the sample bill is sent out in 2015, property owners will have the opportunity to meet with the City to appeal any concerns of impervious area calculated (i.e., an area of land that appeared to be impervious area in the aerial photo but is not impervious area).
4. ***Peak versus flat roof costs?***
 - a. The shape of roof does not change the AMOUNT of rain that falls on it, just the speed of the water as it flows off the roof.
5. ***Why does rate increase over time***
 - a. The rate is based on projections of debt service and anticipated improvement projects
6. ***What if site is lower than roads/surrounding areas?***
 - a. Even in low-lying areas, at some point water will overflow and reach a waterway.
7. ***Asphalt versus gravel***
 - a. Without careful construction considerations, gravel can be just as impervious as asphalt.

Other Common Questions

1. Will there be credits available for existing structures (i.e. french drains) on property
2. Are private roads calculated as impervious area?
3. Will fee decrease after meeting federal mandate?
4. Are existing holding pond/wetland areas eligible for credit?
5. Condo's – If my road is considered private, is it considered impervious area?

District 1 – November 5, 2014 – East End Community School

1. ***Will the savings from fee be enough to make all the recommendations?***
 - a. We will need to weigh our investments
2. ***Will the fee go up?***
 - a. It is anticipated that the rate will increase over time.
3. ***How will we be charged? What's the mechanism?***
 - a. Separate billing. Billing may be monthly or quarterly or semi-annually. At this point, it is undecided.
4. ***Is there still an incentive given to roof drains connected to sewer?***
 - a. Not currently, but could be explored
5. ***How will condos be charged?***
 - a. Same system as tax bill
6. ***Do you apply for the credit each year?***
 - a. The credit stays with the property owner for a residential property. For commercial properties, there would be a submission of maintenance each year.

7. ***I live on Peak's Island. Will I be charged?***
 - a. Peak's Island is included as the City has stormwater systems on the island
8. ***When does billing start on new construction?***
 - a. When it is occupied
9. ***Why wouldn't it start with the roof rather than occupancy?***
10. ***If impervious roof dumps water to lawn, I can't see how it affects sewer system. You can put in pervious pavers but the water doesn't magically disappear.***
 - a. The thought process is that water picks up pollutants as it flows over the land
11. ***Can I get a credit for a rooftop garden?***
 - a. Yes with green roof provisions

Other Comments/Statements

- I have grass around my house and dirt roads, I don't see that runoff having any impact
- I encourage you to work with Portland Water District and Friends of Casco Bay and the Bayscaper program
- Very few people can do rain gardens because we have limited lawns, what about rain barrels
- You are going to be overwhelmed with appeals and I think you have a lot of pavement identified that is not pavement
- You should refer to it as a stormwater utility fee

District 2 – November 6, 2014 – Reiche School and Community Center

1. ***What if my roof drain is connected to the sewer system?***
 - a. We ask that those be disconnected from the sewer line per city ordinance
2. ***Is anyone concerned about the dragonflies as we have developed so much land, there is nowhere for them and there are endangered dragonflies in Maine***
 - a. Rain gardens provide benefits to lots of species including dragonflies and butterflies
3. ***Are there specific improvements in District 2 highlighted as part of the projects? What are we getting in this district if the improvements happen in another district?***
 - a. The intent of the program is to design funds to address improvements that will help with water quality issues as a result of the consent decree.
4. ***After 15 years, will the fee go away?***
 - a. Ultimately the City Council will decide that, but it is worth emphasizing that stormwater is a long term commitment that will have constant need for maintenance
5. ***I understand the CSO is an obligation and looking at rain gardens, etc. Does the City have studies to identify places that are more appropriate for placing stormwater components in these areas?***
 - a. Yes, we are identifying green infrastructure and sewer changes.
 - b. Capisic Brook Watershed Plan identifies priority areas as well
6. ***Are there incentives for those who disconnect roof drain?***
 - a. Currently there is not credit for this. A program a few years ago helped pay for disconnections

Other comments/statements from this meeting

- The aerial photography does not consider shape of rood, just square footage
- Residential credits not able to get zero but commercial can get 100% credit, they should be treated equal
- Rain barrels no longer getting a credit?
- Pavers are not permeable even if underlayment is, its acts as a modified French drain

District 3 – November 12, 2014 – Italian Heritage Center

- 1. I have a large roof, roughly 2600 square feet, my water goes to my lawn not to the street.**
 - a. The streets act as the delivery system for the water on your lawn. The fee is based on impervious cover but the City's responsibility is not only on the streets or drains. The City has 4 urban impaired streams as a result, in part, to impervious cover runoff. Lawns don't hold water, the water flows off lawns and it is the City's responsibility for clean water.
- 2. Two part question - Can we request the City to come to a property? What if the home has a septic system?**
 - a. The fee is not based on flow. Collectively your property contributes runoff even without being on the city system. Call Ian for specific questions related to your property and review the CCSWCD material for credits. There will be a chance after sample billing got meet with the City and review accuracy of impervious cover on your property.
- 3. This time of year, the leaves are a big problem. Are you sweeping to help?**
 - a. We are sweeping in dense areas but appreciate help from landowners in keeping catch basins clear.
- 4. Why aren't the homeowner's fees going down if we are collecting a fee for the stormwater?**
 - a. If we lower the fee for the residential side, say there are roughly 20,000 residents and businesses and 18,000 are residents. If we reduce for residence the 2,000 business owners would have to pick up the costs.
 - b. Residential versus commercial is no fair and we've made an effort to create a fair system
- 5. Why a flat rate and not billed by amount of precipitation?**
 - a. The city needs to address costs for stormwater improvements to meet consent decree, so in the summer when it doesn't rain for a long period of time, there is a loss. We need to be able to pay for the \$170 million in projects and due to Portland's soil type, we have limitations with green infrastructure.
- 6. So you are saying a garden is better than grass?**
 - a. A rain garden, which requires specific construction requirements and is typically planted with native plants designed to absorb and hold water. A vegetable garden would not be considered.
- 7. If I were to install a French drain, do I need an approved contractor to put it in?**
 - a. Essentially all residential credits are designed to be buildable by a homeowner. Use careful considerations in construction and be careful of utilities buried. It would require submission of pictures, diagram and city approval. Also consider you may need permits, so be sure to be thorough.
- 8. Are the islands included?**
 - a. Peaks Island is the only island included due to city systems but also it has more roadways than other islands making it higher amounts of impervious surface.
- 9. Is all the money collected used for the \$170 million project?**
 - a. Money will be used for items in the consent decree
 - b. Capisic Brook Watershed Plan also identifies projects
- 10. Is the City working to improve locations of snow storage?**
 - a. The city utilizes erosion mats, will be working to move some snow to jetport, where there is treatment
- 11. Will rain barrels be a credit?**
 - a. At this time it is not projected, but there has been a discussion of a one-time credit. (Comment provided by Councilor Suslovic supported a credit option for rain barrels.)
- 12. How will credits impact stormwater systems?**
 - a. We need to encourage credits to help reduce runoff and impact to structures
- 13. Will the fee be evaluated every year and will it increase over time?**
 - a. It has the potential to increase, it will be evaluated
- 14. Is anyone exempt from this?**
 - a. Streets, sidewalks, less than 400 square feet or if someone were to get 100% credits
- 15. Should we be planting trees?**

- a. Yes, we should as they absorb water
[CCSWCD Comment: Trees in urban setting need design considerations (proper soil properties, drainage, etc.) to make measurable runoff impact.]
<http://water.epa.gov/polwaste/green/upload/stormwater2streettrees.pdf>
-

District 4 – November 13, 2014 – Presumpscot School

1. Are rain gardens a means to gain credit

- a. Yes

2. If I match my square footage of my roof to rain barrels, does it make an impact on stormwater on my property?

- a. If you used enough rain barrels, but remember they only hold roughly 7 cubic feet of water and the minimum credit is 50 cubic feet, so you would need a lot of rain barrels

3. Water on my land goes to Fall Brook, if it's going to a river, why am I paying?

- a. Fall Brook has undergone alterations to act as a drainage ditch, to return it to a river, it will be challenging as it no longer acts as a river system would

4. Why set up a separate bill? Why not just add to current bill?

- a. There were discussions with Portland Water District about this, however they did not want to be involved

5. Will Condo owners be billed individually?

- a. The condo association will be billed then the fee can be evenly distributed to owners or if the association has another method they prefer, they will be free to do so

6. Why doesn't Portland Water District want to collect both sewer and stormwater fees?

- a. PWD do not want to be involved with a stormwater fee. They believe they are a water-based organization. If a new bill is to come, it needs to come from the city

7. What is the cost to deliver bill and manage administrative burden?

- a. A little under \$400k to manage

8. After 15 years, will the fee go away?

- a. The rate should go down debt is paid off. The remaining costs will be operations and maintenance

9. What is the projected income from this fee?

- a. Roughly 5 million per year

10. I have a 145 billing units and a compacted gravel parking lot. If I remove half of it and put in grass is that a credit?

- a. Not through a credit, but it will reduce the amount of impervious cover on your property so you could have your fee recalculated and reduce your fee directly.

11. Will public housing be exempt?

- a. No

12. Will taxes increase since the City has to pay into the fee?

- a. Yes, but the city is looking at ways to address stormwater through projects to minimize costs

13. Are projects prioritized and available to the public?

- a. Yes, through the CIP, Capisic Brook Watershed Management Plan and CMOM

14. What about a residential 100% credit option without having to go through the commercial avenue?

- a. It is still open for input, but it really should go through the commercial avenue. The credit programs are the same, so essentially, it would need to be a very large residential system.

Finance Committee Meeting – November 13, 2014 – City Hall

Comments/Statements from Meeting

- One size does not fit all
 - A fee indicates a service the City is providing, however I don't have wastewater and have 10 acres of grass area, with Presumpscot River behind it.
 - Need to look at some of the fee going onto the tax rolls
 - Wonders why there are no compensation for streets, train station, etc when on the drive to the meeting, I see people parking on the street and going into businesses. Look into businesses who have on-street parking
 - Understand we need to clean up Casco Bay but it needs to be evaluated more
 - \$170 million is a lot to collect from a small group
 - Consider low interest loans from the City so I can make the investment into my property
 - A phase in approach was in the task force recommendations, with a 3 year ramp up.
-

District 5 – November 18, 2014 – Riverton Community Center

1. ***Why can't we get some of the water bond money to help with this?***
 - a. We benefit from those bonds. They are low interest loans that have to be paid back
2. ***Are churches in the program?***
 - a. Yes
3. ***Has the water quality of the bioretention cell in North Deering been evaluated? There are lots of treated lawns which can impact water quality. Lighter roofs result in lower temperatures could lower the impact on water quality as well.***
 - a. The City is working with the CCSWCD on nonstructural credits considerations
4. ***If annual revenue is \$5 million per year, when will this be paid for?***
 - a. There is a \$26 million taken in annually for sewer and a 15 year construction schedule. The last project will be 15 years from now and have a 20 year timeframe on that, so 35 years.
5. ***Why isn't this on the property tax?***
 - a. This was the result of a task force recommendation and considers who pays property taxes
6. ***What if someone were to build a cask to contain the rain?***
 - a. This would be credit eligible if you can demonstrate you are managing all the water.
7. ***The budget is \$170 million now, have you looked at the costs 15 years out?***
 - a. Each project is bid out separately, and this \$170 is an estimate and would be worst case scenario
8. ***Will there be a hearing on fees before they are raised?***
 - a. They will go through a budget process

Other Comments/Statements

- This is a fee for service. The assessor has size of every building and we should be billed for the exact square footage you have.
- \$170 million in projects, if you used a team of interns it could cost you 100k
- This City buildings should be exempt unless for a legal reason
- I don't understand why private roads are exempt
- I don't understand how pervious pavers can be pervious
- Concerned that commercial properties can get 100% credit, but residents cant.
- Small businesses keep everyone going and I'm concerned about the businesses out on Riverside who will have large new fees

Portland Chamber of Commerce – November 19, 2-14 – City Hall

- 1. *How effective was the Baxter St. project with the recent storm events that have been over the 1 inch threshold?***
 - a. It worked exactly as it was designed. During the August 6 inch storm we were able to capture the first 1 inch which is what it was designed for and the rest overflowed. The exact overflow numbers are still being calculated.
 - b. It should be noted that the first 1 inch is the dirtiest
 - c. The city's legal obligations were met
- 2. *If a business misses the building year in 2015, will there be other opportunities to get credits beyond 2015?***
 - a. Yes, we anticipate it being an ongoing process which will include annual inspections and documentation
- 3. *What are the assumptions based on who will partake in the credits, etc? How do you get these numbers?***
 - a. It is based on the research on the other cities implementing a stormwater fee, estimates of projects eligible for credits now, and a conservative estimate for meeting costs.
- 4. *Other than streets, are there other exemptions?***
 - a. streets, sidewalks, properties with less than 400 square foot, island's except for Peaks
- 5. *What's anticipate revenue from fee?***
 - a. Based on a 12 month year without credit consideration = 6.8 million also including delinquency.
- 6. *Will 170 million be out as bonds?***
 - a. yes
- 7. *Is the Hannaford parking lot project part of the Cities stormwater work?***
 - a. No, they are just making improvements on their own and is not part of the City work

Other Comments/Statements

If businesses are planning upgrades/changes to their properties, they can work with CCSWCD beforehand for stormwater considerations to reduce future costs



EXECUTIVE SUMMARY

To: Finance Committee

From: Ian Houseal, Assistant to the City Manager, Sustainability Coordinator
Mike Bobinsky, Director of Public Services

Date: August 21, 2014

RE: STORMWATER SERVICE CHARGE PROGRAM

The following is a summary of the Stormwater Service Charge Program. Included with this summary, for recommendation to the full City Council by the Committee are:

- Amendments to Chapter 24: Sewers which establishes the stormwater service charge and program;
- Proposed appropriation from the Sewer Fund to pay for start-up costs for the program;

For Committee reference in consideration of the service charge, the following documents are attached:

- Estimated FY 2016 budget;
- Estimated FY 2017 budget;
- Estimated FY 2016 – FY 2019 summary budgets; and
- Estimated Sewer Fund and Stormwater Fund estimated revenue requirements (FY 2015 – FY 2019) and estimated sanitary sewer and stormwater service charge rates.
- Implementation Schedule;
- Stormwater Credit Manual;

PURPOSE OF THE STORMWATER SERVICE CHARGE PROGRAM

The proposed stormwater service charge is about valuing stormwater and therefore more equitably and fairly paying for sewer and stormwater costs. Instituting a stormwater charge more fairly and equitably distributes costs among the users of the sewer and stormwater systems. More information is available on the City website at <http://www.portlandmaine.gov/1331/Stormwater-Service-Charge>.

PROPERTIES SUBJECT TO THE STORMWATER SERVICE CHARGE PROGRAM

All properties with rooftops and paved areas are subject to the stormwater service charge. All government properties are subject to the charge including, city, State, and Federal property as they currently are charged for sewer charges. Property tax payers and non-property tax payers are also subject to the charge as they currently are charged for sewer charges.

STORMWATER SERVICE CHARGE PROGRAM EXEMPTIONS

As proposed, all developed properties in the City of Portland are subject to the stormwater service charge with the exception of:

- Land with less than or equal to 400 square feet of impervious area is exempt from charges.
- Publically accessible roads, sidewalks, pathways, and railroads, and airport runway are exempt from charges.
- All islands except for Peaks Island are exempt from charges given the limited services being received with regard to stormwater and sewer.

HOW THE STORMWATER SERVICE CHARGE IS CALCULATED

As proposed, both residential and commercial properties pay the same rate. That rate will be \$6.00 per month per 1,200 square feet of impervious area at the initiation of the fee. The square feet of impervious area is rounded to the nearest 1,200 square feet as can be seen in this figure below. To look up a property's impervious area and billing units see <http://www.cleangrowthcleanwater.com/calculator>.

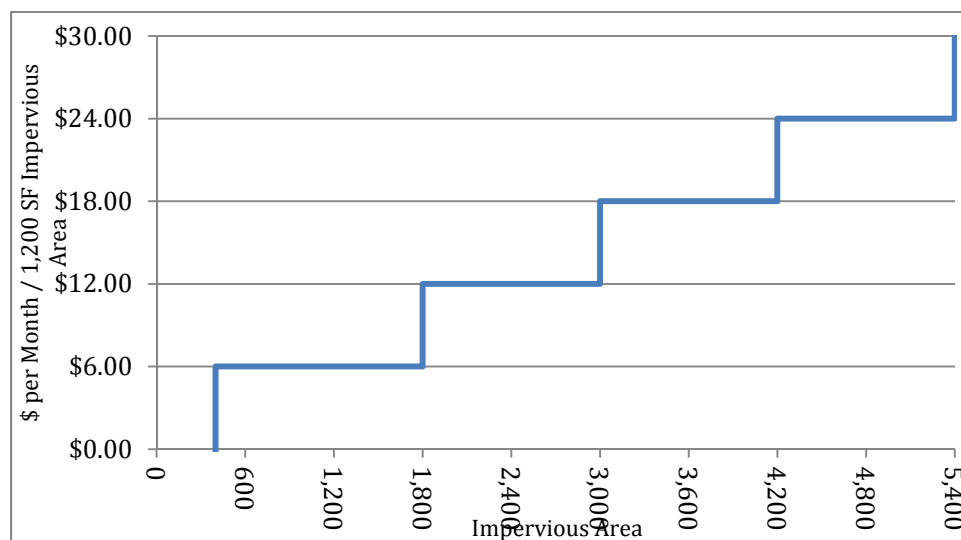


Figure 1: Stormwater Service Charge Rate

There will be a corresponding reduction in the sewer rate of approximately \$1.50 per HCF at the initiation of the stormwater service charge.

HOW PROPERTY OWNERS CAN REDUCE CHARGES AND EARN CREDITS

Property owners can reduce their stormwater service charges by:

- **Appeal** - Reducing the amount of impervious area on a property or recalculating charge if appropriate; and
- **Credit** - Building stormwater runoff reducing improvements on their property.

Appeal

An appeals process is available for property owners to have the impervious area of their property re-calculated after taking steps to reduce the amount of impervious area on a property. The appeal must be made in writing. A form will be made available to simplify the process. Additionally, there will be time for property owners to review impervious area of properties during the sample billing period of implementation.

Credit

As proposed, credits are available to both residential and commercial properties. Credits are additive; meaning that multiple types of credits can be applied to a specific property, potentially resulting in a 100% credit of stormwater charges. All improvements must be designed, permitted, and built appropriately. Once permitted and built, a property owner may apply for a credit.

- **Residential Credit:** For residential properties (up to four units), credits are a set charge reduction and are designed to be relatively simple to design and administer.
- **Stormwater Credit:** For any property, credits are a percentage reduction and are designed to match Portland's existing stormwater development standards.

See the Stormwater Credit Manual for more information. Staff has shared the Stormwater Credit Manual with representatives of the Portland Chamber of Commerce, water quality advocates and an outside lawyer for peer review. Comments have been received and are being considered.

BILLING ADMINISTRATION

Instituting this new charge will require changes to the way that stormwater is billed and collected. Currently, stormwater is billed through the wastewater (sewer) fee and shows on the water bill sent by the Portland Water District (PWD), and remitted to the City monthly along with wastewater fee collections. With the initiation of the Stormwater Service Charge, the City will bill and collect for stormwater services directly, while PWD will continue to bill for water and wastewater services.

STORMWATER SERVICE CHARGE PROGRAM IMPLEMENTATION

As proposed, in order to adequately allow enough time to prepare Portland's ratepayers for the changes to how revenue will be raised to pay for the sewer and stormwater program, the stormwater service charge will begin in January 2016.

An extensive public information campaign about the new charge will be carried out during the time leading up to January 2016 including:

- Public outreach through meetings and media;
- A mailed sample bill in September of 2015;
- The availability of one-on-one consultation with property owners after receiving the sample bill;
- The availability of a stormwater property look-up tool on the City website (available now); and
- The availability of the Stormwater Credit Manual available at the time the program is approved by the City Council. With the availability of the Stormwater Credit Manual, the public is able to immediately begin the process of determining what credits are available to them and how they will design and apply for any credits.

INCLUSION OF COMBINED SEWER SEPERATION PROGRAM COSTS

In keeping with the Sustainable Stormwater Funding Task Force's Recommendations to the City Council, combined sewer costs associated with Combined Sewer Separation Program will be included in the stormwater service charge moving forward as described in the estimated FY 2017 – FY 2019 budgets.

PROGRAM IMPACTS

There are 18,225 properties in the City of Portland with impervious area. The vast majority of properties, as proposed, will have between 1 – 3 billing units for charges amounting to a \$6.00 to \$18.00 per month. Additionally, most properties will also see a corresponding \$1.50 reduction in their sewer rate offsetting the stormwater service. The following table shows the number of properties in groups of billing unit categories.

Table 1: Distribution of properties by grouping of Stormwater Billing Unit

Billing Units	Property Count
1-3	15,405
4-10	1,763
11-20	386
21-30	180
31-40	112
41-50	79
51-60	54
61-70	42
71-80	34
81-90	20
91-100	23
101-130	43
131-160	26
161-190	18
>190	40
Total	18,225

The following figure documents the projected changes to wastewater service (per HCF) charge over time if **NO** stormwater service charge is implemented and the projected changes to sewer (per HCF) charges and stormwater service charges over time. The projected wastewater service charge is used as a basis for analysis of impact.

The following figure documents the projected changes to wastewater service (per HCF) charges and stormwater service charges over time.

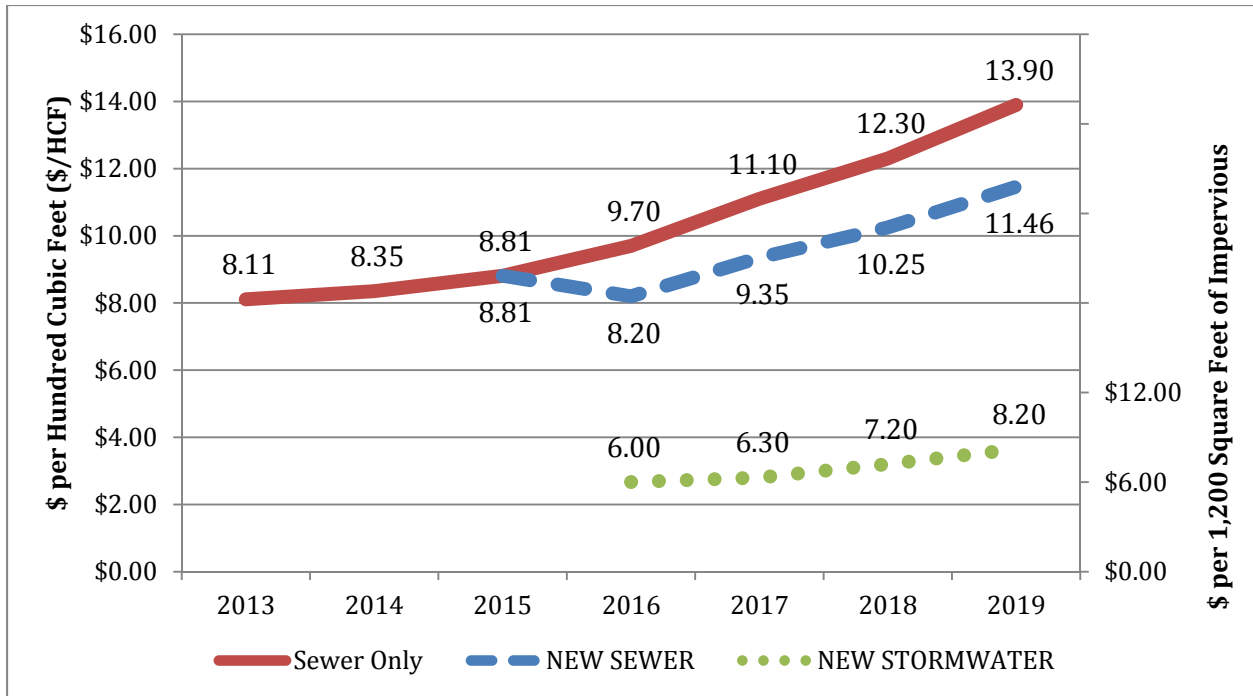


Figure 2: Projected Sewer Rate and Stormwater Rate.

The new Stormwater Service Charge reflects costs currently borne by the Sewer Enterprise Fund, therefore impacts for properties must consider both increased stormwater service charge and decrease in wastewater service charge to account appropriately for “impact.” Impacts vary on type of property and relative proportion of Impervious Area to Wastewater Use.

Single Family Residential Homeowners

The following figure shows the distribution of single family residential properties in each Billing Unit. There are approximately 10,500 single family residential properties in Portland excluding all islands except for Peaks Island. For Single Family Residential properties, the average billing unit is 2. On average the monthly stormwater service charge for Single Family Residential properties is \$12.00 less reductions to sewer charges.

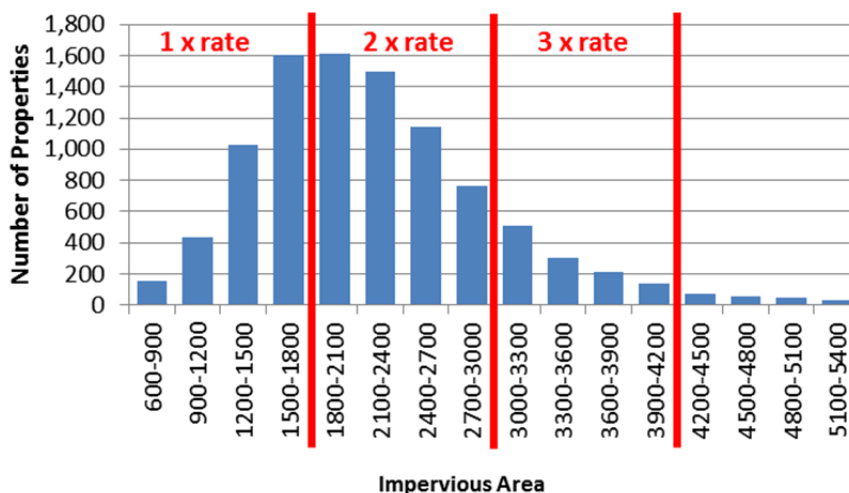


Figure 4: Distribution of the single family residential parcels in each proposed billing unit

The following is an example of the impact of stormwater and wastewater service charge to an average residential homeowner using average wastewater (5 HCF per month) and average IA of 2,200 sf or 2 Billing Units.

Table 2: Impact of stormwater and wastewater service charge to average residential homeowner.

Monthly Bills WITH Stormwater Service Charge	
Monthly Sewer Bill	\$41.00
Monthly Stormwater Bill	\$12.00
Total Monthly Stormwater and Sewer Bills	\$53.00
Monthly Wastewater Bill WITHOUT Stormwater Service Charge	\$48.50

Non-Single Family Residential Family Properties

The impact to other non-residential facilities is on a case-by-case basis and can be calculated using the stormwater billing units the City has on recording found using the Stormwater Look-up tool available on the City website. Knowing which properties are being reviewed and having access to water bills is essential to using the look-up.

Commercial property impacts, in general:

- **Residential Properties** will have **reduced costs** with the stormwater service charge. Exceptions are extremely low water users or properties with relatively high impervious area. Generally, fully occupied two-family, three-family, and four-family and above will have reduced costs with the stormwater service charge due to the footprint of the building of relatively similar size to single family residential and more water usage due to the occupancy of the building.
- **Downtown Properties** will generally have **reduced costs**. Exceptions are properties with relatively high impervious area properties such as properties exclusively parking lots.
- **Malls and other car oriented businesses** will generally have **increased costs** with the stormwater service charge.
- **Industrial food processing** properties will generally have **reduced costs**.
- **Warehouse** properties will generally have **increased costs**.

Highly Impacted Commercial Properties

There are an estimated total of 161 properties with estimated annual net change greater than \$5,000 representing approximately 4% of non-residential properties. These properties will need special attention as the charge is implemented.

Table 3: Most Highly Impacted Commercial Properties

Net Increase Greater Than...	Previously Charged for Sewer Services	Not Previously Charged for Sewer Services	Total
\$5,000	114	47	161
\$10,000	41	13	54
\$15,000	22	3	25
\$20,000	13	2	15
\$25,000	11	1	12
\$30,000	6	1	7
\$35,000	3	1	4
\$40,000	1	1	1

Net Decrease Greater Than...	Previously Charged for Sewer Services	Not Previously Charged for Sewer Services	Total
\$5,000	86	0	86
\$10,000	43	0	43
\$15,000	25	0	25
\$20,000	18	0	18
\$25,000	15	0	15
\$30,000	12	0	12
\$35,000	11	0	11
\$40,000	11	0	11

City Properties

The City's estimated net increase is \$365,000 per year. This net change includes the School Department. This net increase represents approximately \$0.048 to the current year mil rate unless action is taken to reduce the city property's impact on the stormwater system such as applying for credits and reducing impervious area.

**City of Portland Stormwater Program
Start-up Appropriation**

8/13/2014

Staffing

Account Clerk II (billing)	\$ 8,000
Cashier Clerk (collections)	8,000
Programmer Analyst	11,250
Assistant Engineer	25,000
Customer Service Representative	16,000
Overtime	2,000
Benefits	19,110
Total Wages and Benefits	<u>\$ 89,360</u>

Other

Mail Sample Invoices	\$ 20,000
Misc. implementation costs	10,000
Contract engineering (help during sample billing period)	50,000
Outside Legal costs	50,000
Web based interface for payment	30,000
Office Modifications	30,000
supplies/equip	12,500
Total Other	<u>\$ 202,500</u>

Total Expenditures	<u><u>\$ 291,860</u></u>
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Note: A total of 5.0 FTE added

**City of Portland Stormwater Program
FY2016 Estimated Budget (6 months)**

8/13/2014

Revenue

Stormwater Billing Units	540,000	
Fee per Unit	\$ 6.00	
Est revenue		\$ 3,240,000
Less Value of Credits at 12%		(388,800)
Less Uncollected est 9%		(289,043)
Excess Revenue (Over)/Under Expenditures		<u>(244,092)</u>

Total Net Revenue		<u>\$ 2,318,065</u>
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Expenditures

Wages and Benefits	\$ 1,018,432
Stormwater Management	630,639
Indirect costs	69,575
Billing, lien costs	116,000
Software maint costs	1,500
Staff supplies, computers	2,151
Debt Service (includes new CIP and 50% new CSO)	187,908
Repayment to Sewer Fund for Start up expenses	291,860

Total Expenditures	<u>\$ 2,318,065</u>
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**City of Portland Stormwater Program
FY2017 Estimated Budget**

8/13/2014

Revenue:

Stormwater Billing Units	1,080,000	
Fee per Unit	<u>\$ 6.30</u>	
Billable Revenue		\$ 6,804,000
Less Value of Credits at 12%		(816,480)
Less Uncollected fees at 8%		(544,320)
Excess Revenue (Over)Under Expenditures		<u>(237,825)</u>

Total Net Revenue	\$ 5,205,375
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Expenditures

Wages and Benefits	\$ 2,097,970
Stormwater Management	1,292,810
Indirect costs	143,325
Billing, lien costs	232,000
Software maint costs	3,000
Staff supplies, computers	4,300
Debt Service (includes new CIP and 50% new CSO)	1,431,971

Total Expenditure	\$ 5,205,375
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City of Portland Stormwater Program
Estimated Budget - FY2016 thru FY2019

8/13/2014

	FY2016 (6 mos)	FY2017	FY2018	FY2019
Revenue				
Stormwater Billing Units	540,000	1,080,000	1,080,000	1,080,000
Fee per Unit	\$ 6.00	\$ 6.30	\$ 7.20	\$ 8.20
 Total Billable Revenue	 \$ 3,240,000	 \$ 6,804,000	 \$ 7,776,000	 \$ 8,856,000
 Less Estimated Credits	 (388,800)	 (816,480)	 (933,120)	 (1,062,720)
Less Allowance for Uncollected	(289,043)	(544,320)	(622,080)	(708,480)
Excess Revenue (Over)Under Expenditures	(244,092)	(237,825)	(270,950)	(271,455)
 Total Net Revenue	 \$ 2,318,065	 \$ 5,205,375	 \$ 5,949,850	 \$ 6,813,345
 Expenditures				
Wages and Benefits	\$ 1,018,432	\$ 2,097,970	2,150,419	2,204,180
Stormwater Management	630,639	1,292,810	1,325,130	1,358,258
Indirect costs	69,575	143,325	146,908	150,580
Billing, lien costs	116,000	232,000	240,120	248,524
Software maint costs	1,500	3,000	3,090	3,183
Staff supplies, computers	2,151	4,300	4,500	4,500
Debt Service	187,908	1,431,971	2,079,684	2,844,120
Repayment to Sewer Fund for Start up expenses	291,860	-	-	-
 Total Expenditure	 \$ 2,318,065	 \$ 5,205,375	 \$ 5,949,850	 \$ 6,813,345

City of Portland Stormwater Program
Estimated Revenue Requirements and Rates - FY2015 thru FY2019

8/13/2014

	FY2015 app	FY2016 (Jul - Dec)	FY2016 (Jan - Jun)	FY2017	FY2018	FY2019
Revenue Requirements						
Sewer Fund (no Stormwater Charge)	24,189,023	13,076,332	13,076,332	29,356,607	32,057,447	35,986,795
Stormwater Fund	-	-	2,318,065	5,205,375	5,949,850	6,813,345
Adj Sewer Fund (with Stormwater Charge)	24,189,023	13,076,332	10,758,267	24,151,232	26,107,597	29,173,450
Estimated Rates						
Sewer Rate (no stormwater service charge)	\$ 8.81	\$ 9.70	\$ 9.70	\$ 11.10	\$ 12.30	\$ 13.90
With Stormwater Service Charge						
Sewer Rate	\$ 8.81	\$ 9.70	\$ 8.20	\$ 9.35	\$ 10.25	\$ 11.46
Stormwater Rate	\$ -	\$ -	\$ 6.00	\$ 6.30	\$ 7.20	\$ 8.20

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. ~~Sewer Use~~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. ~~Reserved.~~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.

Sec. 24-2. Definitions. Reserved.

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 term:

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.

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 works authority shall mean the department of public services.

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 Public Works Authority, and on file in the Department of Public Works Services, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.

(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03)

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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. ~~Reserved~~Administration.

(a) The director of public services 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. No. 263-96, 5-20-96)

Sec. 24-4. Enforcement Agency.

The public works authority or the Portland Water District as agent for the city and at the request of the public works authority, shall administer and enforce the provisions of this chapter.

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

~~Reserved.~~

- 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 public works authority:

- (a) Upon authorization by the city council, ~~thea~~ sewer shall be constructed by the city, the cost of a ~~sanitary, combined or interceptor~~ sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause ~~thea~~ sewer to be built to the specifications of the public works authority and under his or her supervision, with or without regard to competitive bids. Upon completion of ~~thea~~ sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and ~~thea~~ 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)

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 public works authority:

- (a) Upon authorization by the city council, ~~thea~~ sewer shall be constructed by the city, the cost ~~of a~~ ~~sanitary, combined or interceptora~~ sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause ~~thea~~ sewer to be built to the specifications of the public works authority and under his or her supervision, with or without regard to competitive bids. Upon completion of ~~thea~~ 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, ~~thea~~ 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)

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 ~~sewers~~ sanitary sewer in accepted and dedicated-but-unaccepted streets, the cost of a ~~sanitary, combined or interceptor~~ sewer to be recovered in part as hereinafter provided.

(Ord. No. 101-81, § 6, 9-21-81)

Sec. 24-19. Costs.

(a) A charge is hereby established for the connection heretofore or hereafter of any property to a ~~sanitary, combined or interceptor~~ 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)

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 sanitarywastewater 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 ~~drains~~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)

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)

Sec. 24-33. Reserved.

Sec. 24-~~32.1. Administration~~34. Definitions.

~~(a) The director of the public works authority shall establish rules and regulations governing the availability and use of city wastewater collection and treatment facilities. The rules and regulations shall be consistent with federal law and ordinances. Said 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. No. 263-96, 5-20-96)~~

~~Sec. 24-33. Enforcing officer.~~

~~The public works authority or the Portland Water District as agent for the city and at the request of the public works authority, shall administer and enforce the provisions of this article.
(Ord. No. 263-96, 5-20-96)~~

~~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. ~~Certain words are more particularly defined.~~ For the purposes of this article, the term:

~~**Act** shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et seq., 86 Stat. 816, PL 92-500 and the regulations promulgated thereunder, as amended from time to time.~~

~~**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.~~

~~**Building** shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind.~~

~~**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.~~

 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.

~~**Combined sewer** shall mean a sewer receiving both surface runoff and wastewater.~~

 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.

~~**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.~~

 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.~~

~~**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 to treatment or other disposal facilities.~~

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.

~~**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.~~

pH shall mean the logarithm (base 10) of the reciprocal of the

concentration of hydrogen ions in a solution expressed as standards units.

~~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 article, 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 being 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.~~

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.

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

~~**Sanitary sewer** shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.~~

~~**Sewer** shall mean a pipe or conduit for carrying wastewater.~~

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.

~~**Storm drain or storm sewer** shall mean a sewer for conveying rainwater, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes wastewater and polluted industrial wastes.~~

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.

~~**Wastewater** shall mean a combination of the liquid and the water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface and stormwaters 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 Public Works Authority, 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. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03)~~

~~**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. 24-35. 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 ~~drainage system~~ 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)

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 ~~of abandonment~~.

(b) The closing and filling of the private wastewater disposal system and the connection to the public sewer system shall be inspected by the public works authority. 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 public works authority 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 ~~health~~ city authority.

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

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

No person shall uncover, make any connections with or

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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 public works authority 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)

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 public works authority, to meet all requirements of this article.

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

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 public works authority 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 public works authority. The fee for such inspection shall be twenty-five dollars (\$25.00), ~~represented by the permit fee required under section 24-39.~~

(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 public works authority 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)

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 public works authority's 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 public works authority and discharged to the building sewer.
(Ord. No. 263-96, 5-20-96)

Sec. 24-44. Public sewer connection limitations.

(a) No person shall make connection of sanitary ~~convenience~~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 ~~a public~~the storm ~~drain~~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 ~~and all other unpolluted drainage~~ shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the public works authority. Industrial cooling water or unpolluted process waters may be discharged, on approval of the public works authority, to a storm sewer, combined sewer or a natural outlet.

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

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 public works authority shall be notified in advance of the time when the connection is to be made. Such notice must be sufficient to permit the public works authority 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 public works authority.

(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 public works authority 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)

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 public works authority rule; or:

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

(b) The public works authority may, if deemed necessary in his 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)

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 public works authority 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 public works authority 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 public works authority 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 public works authority.

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

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

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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 public works authority as required by rule. New users shall obtain permits prior to any discharge. Applications and permits shall be in a form prescribed by the public works authority and shall be subject to an application fee of three hundred dollars (\$300.00) per permit. Additionally, each permit shall be subject to an issuance fee which shall equal the direct and indirect costs of any previous advertisement of noncompliance and any other outside services which in the discretion of the public works authority are required in order to review and evaluate the application or to implement a pretreatment program for such permitted user.

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

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 ~~wastewater works~~ sewer or stormwater drainage system.

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

Sec. 24-52. Right of entry.

The public works authority, or the Portland Water District as its agent, bearing proper credentials and identification, shall be permitted to enter upon all properties with sewer or ~~storm~~ 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 otherwise enforce the rule, 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)

Sec. 24-53. Exclusion of industrial waste.

(a) The public works authority or the Portland Water

District shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the ~~municipal~~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 ~~workssystem~~ or wastewater treatment facilities.

(b) The public works authority 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 public works authority 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.

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

Sec. 24-54. Demolition of buildings.

(a) No building served by a building ~~drainage system,~~ sanitary drain or ~~storm sewer, or both,~~ 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 ~~and/or facility~~ sewer or drain at the ~~city~~public sewer under the inspection of the public works authority. The building sewer shall be terminated at the main, at the point designated by the public works authority.

(b) Notice of intent to demolish a building shall be given to the public works authority, by means of a copy of the application for a demolition permit from the building authority or by direct notice to the public works authority, 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 public works authority 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 public works authority, the applicant shall be issued a sewer termination permit.

(d) Failure to give notice of intent to demolish a building to the public works authority, 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 ~~city~~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)

Sec. 24-55. Written notice required.

Forty-five (45) days' written notice shall be given to the public works authority 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)

Sec. 24-56. Violations.

Any person failing to comply with or violating any provision of this article shall be served by the public works authority 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)

Sec. 24-57. Appeals.

(a) Whenever the person receiving written notice shall deem himself aggrieved by an order made by the public works authority, 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 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 public works authority.

(c) In cases where compliance with such order made by the public works authority 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

Sec. 24-58

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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.

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

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***

***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, 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)

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

Sec. 24-72. ~~Sewer~~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. User charges under this section for both dwelling units and commercial units billed for water used after July 1, 2011 the foregoing rate shall be eight dollars and eleven cents (\$8.81) 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 ~~use~~user charges according to the same terms and procedures used to disconnect water users with unpaid water ~~use~~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)

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 public works authority, 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:

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

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:

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

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 public works authority 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 public works authority's 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)

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 public works authority 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 public works authority 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 public works authority. Following installation, such meter shall not be removed without the written permission of the public works authority.

(b) *Wastewater volume.* Devices for measuring the volume of wastewater discharged by a commercial or industrial user may be required by the public works authority 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 public works authority 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 public works authority and may be read by the public works authority 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 public works authority 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 public works authority of such installation and shall be responsible to the public works authority 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. No. 155-12/13, 3-4-13~~)

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.

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.

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.A. § 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 public works authority 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.

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.

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 \$6.00 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 public works authority 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.

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 public works authority 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 public works authority 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 services 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 services 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.

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 public works authority, 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.

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 public works authority 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 public works authority 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 re-calculation 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 public works authority 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.

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

(a) The director of the public works authority 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.

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.

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.

<u>Sec. 24-91.</u>	<u>Reserved.</u>
<u>Sec. 24-92.</u>	<u>Reserved.</u>
<u>Sec. 24-93.</u>	<u>Reserved.</u>
<u>Sec. 24-94.</u>	<u>Reserved.</u>