

CITY OF SOMERVILLE

ORDINANCE NO. 2020-11

In City Council May 14, 2020

Be it ordained by the City Council, in session assembled, that Articles VI and VII of Chapter 11 of the Code of Ordinances of the City of Somerville are hereby replaced with the following, to read as follows:

ARTICLE VI. - DIVISION OF ENGINEERING

Sec. 11-140. Definitions.

Abutter means the owner(s) of land abutting the activity.

Applicant means any person, individual, partnership, association, firm company, corporation, trust, authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a stormwater management permit for proposed land disturbances.

Appurtenances means items which are tributary to the city's wastewater or storm drainage systems, including, but not limited to, grease traps, oil traps, and particle separators.

Best management practice means an activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CFR means Code of Federal Regulations.

City means the City of Somerville including all authorized agents thereof.

Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

Clearing means any activity that removes the vegetative surface cover.

CMR means Code of Massachusetts Regulations.

Combined sewer means a sewer pipe or conduit designed to receive both sewage and stormwater.

Common sewer (or main drain) means any sanitary sewer, combined sewer, or storm drain laid in any land, or street, or way, public or private, opened or proposed to be opened for public travel and accommodation, for the purpose of draining more than one lot or building.

Development means the modification of land to accommodate a new use or expansion of use, usually involving construction.

Discharges means any liquid, vapor, or solid material(s) introduced into the municipal sanitary sewerage system, whether intentionally or unintentionally, including, but not limited to, leaks, spills, leaching, and pouring.

Discharge of pollutants means the addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States or Commonwealth of Massachusetts from any source.

Effluent means a discharge of pollutants into the environment or to a sewer system, whether or not treated.

Erosion means the wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

Floatables means any oil, fat, or grease (originating from any animal, vegetable, petroleum product, or any other hydrocarbon) in a physical state that will allow for separation from wastewater by gravity.

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

Grading means changing the level or shape of the ground surface.

Groundwater means water beneath the surface of the ground.

Illicit connection means a surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drainage system, including, without limitation, sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this article.

Illicit discharge means direct or indirect discharge to the municipal storm drainage system that is not composed entirely of stormwater, except as exempted in § 25-23 of this article.

Impervious surface means any material or structure on or above the ground that prevents water infiltrating the underlying soil, including without limitation, roads, paved parking lots, sidewalks and rooftops.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Infiltration means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through means which include, but are not limited to, defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from inflow.

Infiltration/inflow means the quantity of water from both infiltration and inflow without distinguishing the source.

Inflow means water other than sanitary flow that enters a sewer system (including sewer service connections) from sources which include, but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

Land disturbance means any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

MWRA means the Massachusetts Water Resource Authority.

Municipal separate storm sewer system (MS4) or Municipal storm system means the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the city and discharging via an outfall to a surrounding waterway.

National pollutant discharge elimination system (NPDES) stormwater discharge permit means a permit issued by the United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

Nonstormwater discharge means discharge to the municipal storm drainage system not composed entirely of stormwater.

Owner means a person with a legal or equitable interest in property.

Person means an individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Point source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

Pollutant means any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts and/or the United States. Pollutants shall include, without limitation:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids
- (c) Nonhazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables

- (e) Pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (g) Dissolved and particulate metals;
- (h) Animal wastes;
- (i) Rock, sand, salt, soils;
- (j) Construction wastes and residues; and
- (k) Noxious or offensive matter of any kind.

Pre-construction means all activity in preparation for construction.

Private combined sewer means a combined sewer which is not owned by the city or the MWRA. Private combined sewers include, but are not limited to, Building Drains means Combined (as defined by 248 CMR 10.03), building combined sewer laterals and manholes located on private property and not located within an easement held by the city or other public agencies, and the connection from a private combined sewer to the public wastewater system.

Private sanitary sewer means a sanitary sewer that is not owned by the city or the MWRA. Private sanitary sewers include, but are not limited to, Building Drains means Sanitary (as defined by 248 CMR 10.03), building sanitary sewer laterals and manholes located on private property and not located within an easement held by the city or other public agencies, and the connection from a private sanitary sewer to the public wastewater system.

Private storm drain means a Storm Drain that is not owned by the city. Private Storm Drains include, but are not limited to, Building Drains means Storm (as defined by 248 CMR 10.03), building storm Drain laterals, catch basins and manholes located on private property and not located within an easement held by the city and other public agencies, and the connection from a private storm Drain to the public storm drainage system.

Private sewer or drain means any private combined sewer, private sanitary sewer, or private storm drain.

Process wastewater means water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Public combined sewer means a combined sewer that is owned by the city or the MWRA or any of their successors.

Public sanitary sewer means a sanitary sewer which is owned by the city or the MWRA or any of their successors.

Public storm drain means a Storm Drain that is owned by the city.

Recharge means the process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Redevelopment means development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

Replacement means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Runoff means rainfall, snowmelt, or irrigation water flowing over the ground surface.

Sanitary sewage means liquid and water-carried human and domestic wastes from buildings, exclusive of ground-, storm- and surface water, industrial wastes, uncontaminated cooling water, and uncontaminated industrial process water.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters, and groundwaters are not intentionally admitted.

Sediment means mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

Sedimentation means the process or act of deposition of sediment.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwaters, surface waters, and stormwaters as may be present.

Site means any lot or parcel of land or area of property where land disturbances are, were, or will be performed.

Soil means any earth, sand, rock, gravel, or similar material.

Storm drain means a pipe or conduit that carries surface water, stormwater and groundwater or runoff and is exclusive of sanitary sewage.

Stormwater means water resulting from rainfall or other precipitation that runs off surfaces during or after a storm.

Stormwater management plan means a plan required as part of the application for a stormwater management permit.

Stream means a body of running water, including brooks, creeks, and other water courses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may be naturally obscured or flow through a culvert or beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year) or perennial.

Toxic or hazardous material or waste means any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, or welfare or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E and the regulations at 310 CMR 30.00 and 310 CMR 40.00 et seq.

User means any person or entity, whether or not physically located within the city, who discharges or causes or permits the discharge of wastewater into the city's sanitary sewers, storm drains, or interceptors owned by MWRA located within the city. Such person or entity is not limited to the owner of the property from which the offending discharge is made.

User charge means a charge levied on users of the treatment works for the cost of operation of said works in accordance with Section 204(b) of the Clean Water Act.

Watercourse means a channel in which a flow of water occurs either continuously or intermittently.

Waters of the Commonwealth of Massachusetts means all waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

Wastewater means sanitary sewage, together with any groundwater, stormwater and surface water that may be present.

Wastewater system means the devices, equipment or works used in transportation, pumping, storage, treatment, recycling or reclamation of wastewater or in the disposal of the effluent.

Wetlands means coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to MGL c. 131, § 40 and 310 CMR 10.00 et seq.

Sec. 11-141. - City engineer duties.

- (a) *Generally.* The city engineer shall make such surveys, plans, estimates and descriptions, and he or she shall perform all other such services, and impart such information concerning any department of the city's affairs, properly relating to the office of the city engineer, as may be required of him or her by the mayor, the city council or any committee thereof, or any board of officers of the city. He or she shall be consulted in relation to public improvements of every kind when the advice of a civil engineer would be of service.
- (b) *Descriptions of certain lands.* The city engineer shall furnish to the city treasurer and collector of taxes, whenever requested, an accurate description in writing of the locations and boundaries of all lands which may become liable to sale for nonpayment of sewer, sidewalk or other betterment assessments.

- (c) *Custodian of all plans.* The city engineer shall have the charge of all plans of every kind, not especially belonging to other departments, and shall keep the same properly classified and indexed and he or she may make such rules concerning the taking of plans from his or her office as he or she may deem necessary to ensure their safety.
- (d) *Information on streets.* The city engineer shall give to all applicants, so far as the files and records of his or her office will permit, any information they may desire as to the lines and grades of streets on which their estates are situated, or upon which they intend to build and all information of this character furnished to owners of estates, or persons representing them or to those intending to build, shall be without charge.
- (e) *Annual report.* The city engineer shall annually, in the month of January, present to the city council a report in relation to his or her division, showing the number of persons employed, the detailed expenses of the department, the general nature of the work, the property under his or her charge, the condition of all structures under his or her supervision that are in process of construction or that have been completed during the previous year, and such other general information in relation to the same as he or she may deem expedient.

Sec. 11-142. - Pipes, sewer, conduit, poles or other structures on, above, or under streets.

- (a) No gas pipe, sewer, conduit, street railway tract, pole, or any other structure, except wires, whether belonging to the city or to any individual or corporation, shall be placed upon, beneath or above any street, unless a plan showing the proposed location thereof shall have first been deposited with the city engineer, and such location approved by him or her or authorized by the city council. Upon the completion of work approved or authorized as aforesaid a final plan shall be filed with the city engineer, showing the accurate location and manner of construction.
- (b) Any person violating the foregoing provision shall be subject to a penalty in accordance with section 1-11 and shall remove such structure if required so to do by the city engineer, or the city engineer may cause the same to be removed.

Sec. 11-143. - Excavating streets and other public places.

- (a) *Street opening permit.* No person, except one authorized to do so as an employee of the city, shall dig up any street or other public place unless said person first obtains a written permit therefore from the commissioner of public works or the city engineer, and unless such permit is at all times in the possession of some person actually engaged in or supervising such digging, which permit shall be exhibited to any police officer of the city whenever said officer shall demand to see the same. Such permits for the purpose of laying or repairing drains shall be issued by the city engineer, and for all other purposes by the commissioner of public works, who shall grant such permits subject to the conditions set forth below and on such further terms as they may deem expedient.
- (b) *Notification requirement.* No permit to allow the excavation of a public way shall be issued by the commissioner of public works or the city engineer until the following notification requirements have been provided by the applicant for said street opening permit.
 - (1) *Written notice to abutting property owners and residents.* The applicant must give written notification of its "street opening permit" application to abutters within 300 feet of the location in which the opening is proposed. The notification must be mailed by certified mail with return receipt at least seven days before the street opening permit is issued and must contain a description of the work to be performed, start date, contact personnel with telephone number and expected length of project.
 - (2) *Posting the application.*
 - a. The applicant is responsible for ensuring that notice of proposed street opening is posted continuously in a publicly visible place at the location for at least seven days prior to the issuance of the street opening permit. Such notice shall be on a form prepared by public works department.

- b. The applicant, through the city clerk's office, shall post notice of the proposed street opening in city hall for at least seven days prior to the issuance of the street opening permit.
- (3) *Affidavit of compliance.* An affidavit of compliance with the notice and posting requirements of this section including copies of certified mail return receipts must be submitted to the commissioner of public works or the city engineer before the street opening permit may be issued.
- (c) *Emergency street opening.* The above notification requirements may be waived by the commissioner of public works or the city engineer in the event of an emergency street opening. An "emergency" shall exist only when the public health and safety is threatened as determined by the commissioner of public works or city engineer. A written notice of emergency shall be made to commissioner of public works or city engineer.

Sec. 11-144. - Openings in streets.

- (a) No person shall make or maintain, or allow to be made or maintained, any vault, coal-hole or other opening in or under a street without permission from the city council.
- (b) The opening of a coal-hole shall be circular and not more than 18 inches in diameter and furnished with a cover of iron having a rough upper surface. Such cover shall be kept securely fastened at all times when the coal-hole is not used, and shall be supplied with iron rods at least two feet in length fitting closely to the side of the opening and projecting downwards, so that the cover can be lifted perpendicularly, but cannot be tipped or easily removed from the opening, or shall be provided with such other safety device as the commissioner of public works shall require.
- (c) The location, size, shape, and manner of construction of such vault, coal-hole, or other opening, and the material to be used therefor, shall be stated in such permission, or if not so stated, shall be subject to the approval in writing of the commissioner of public works.

Sec. 11-145. - Stormwater runoff.

On any lot in the City of Somerville, no impervious surface shall be constructed, expanded or altered such that it generates an increase in stormwater runoff onto adjacent lots or any public or private right-of-way.

Sec. 11-146. Managing Adverse Impacts of Stormwater Runoff

- (a) *Purpose; objectives; statutory authority; conflicts with NPDES permit.*
 - (1) The purpose of this section is to implement the requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from small municipal separate storm sewer systems issued by the U.S. Environmental Protection Agency; protect the public health, safety and welfare of Somerville residents; protect the natural resources, water bodies, groundwater resources, environment and municipal facilities of the city; satisfy the appropriate water quality requirements of the Federal Clean Water Act; eliminate or reduce the adverse effects of soil erosion and sedimentation as a result of land-disturbing activities; manage stormwater runoff to minimize adverse impacts to the city, its residents and the environment; and establish the legal authority to ensure compliance with the provisions of this section through inspection, monitoring and enforcement.
 - (2) The Site Construction Permit establishes stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts off site and downstream which would be borne by abutters, residents, and the general public. In addition, the Site Construction Permit establishes stormwater management standards for land disturbances that have harmful impacts of soil erosion and sedimentation.
 - (3) The objectives of this ordinance are to:

- a. require practices to control the flow of stormwater from new and redeveloped sites in order to prevent flooding, erosion, and adverse impacts to water quality.
 - b. protect groundwater and surface water from degradation.
 - c. promote groundwater recharge and infiltration.
 - d. prevent pollutants from entering the city's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4.
 - e. ensure adequate long-term operation and maintenance of stormwater best management practices so that they work as designed.
 - f. require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbances.
 - g. ensure that soil erosion and sediment control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
 - h. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
 - i. comply with state and federal statutes and regulations relating to stormwater discharges.
 - j. establish the city's legal authority to ensure compliance with the provisions of this ordinance, through inspection, monitoring, and enforcement.
- (4) This section is adopted under authority granted by the Home Rule Amendments of the Massachusetts Constitution, the Massachusetts Home Rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34. The provisions of this section shall apply to all property owners in the city and to users where applicable.
- (5) To the extent this section conflicts with the requirements of the NPDES General Permit, the terms and conditions of the permit shall apply.
- (b) *Applicability.*
- (1) No person may undertake a construction activity, including clearing, grading, paving, and excavation, that results in a land disturbance that could potentially increase runoff or introduce pollutants to the city's storm drainage system without a site construction permit from the city engineer. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or the original purpose of the site.
- (2) *Exemptions.*
- a. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - b. Construction of utilities other than drainage (gas, electric, telephone, etc.) which will not alter terrain or drainage patterns;
 - c. Projects permitted and approved by the City of Somerville prior to the effective date of this section; and
 - d. Emergency work to protect life, limb, or property.
- (c) *Administration.*
- (1) The city engineer shall administer, implement, and enforce this ordinance. Any powers granted to or duties imposed upon the city engineer may be delegated in writing by the city engineer to its employees and agents.
- (2) Rules and regulations. The rules and regulations governing the issuance of a site construction permit shall be determined and published by the city engineer, and may be revised from time to time. The city engineer shall provide the city council with the rules and regulations on or before January 1 of each year, and whenever the rules and regulations are revised. The rules and regulations may include a de minimis exemption

for minor work performed, at the discretion of the city engineer in consultation with the city council.

- (d) *Permits, fees, and procedures.* Permits, fees, and procedures shall be defined and included as part of the rules and regulations promulgated as required in this ordinance.
- (e) *Waivers.* The city engineer may waive strict compliance with any requirement of this section or the rules and regulations promulgated hereunder, where such action is allowed by federal, state and local statutes and/or regulations; is in the public interest; is not inconsistent with the purpose and intent of this section, and the waiver would be for a small-scale project with de minimis impacts. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the section does not further the purposes or objectives of the section.
- (f) *Performance guarantee.* The city engineer shall require from the applicant a surety or cash bond, or other means of security acceptable to the city treasurer, prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this section and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the city engineer, submission of "as-built" plans, and certification of completion by the city engineer of the stormwater management facilities being in compliance with the approved plan and the provisions of this section.
- (g) *Enforcement.*
 - (1) The city engineer shall enforce this section and any regulation, decision, permit or order issued under this section and may pursue all civil and criminal remedies for violations of their provisions.
 - (2) If, in the estimation of the city engineer, corrective work is required to protect the environment, and the property owner fails to perform said corrective work within a reasonable period of time as set by the city engineer, he or she may order the same to be performed by a party to be determined by it, and the property owner shall be required to reimburse the city for all costs incurred. These costs will be in addition to the fines described below.
 - (3) *Penalties.* In addition to the other means of enforcement otherwise available for violations of this section, including, but not limited to, where applicable, the provisions of Section 1-11 of the Code of Ordinances, violations may be penalized, as provided by MGL c. 40, § 21D, pursuant to the noncriminal disposition provisions of Section 1-11(b) of the Code of Ordinances. Each day a violation continues shall constitute a separate offense. If the property owner violates more than one provision of this section or any condition of an approval issued hereunder, each provision or condition so violated shall constitute a separate offense. Fines issued and costs assessed shall constitute a municipal lien upon the property and shall accrue interest as provided by applicable law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the city engineer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing its duties and may make or cause to be made such examinations, surveys or sampling as the city engineer deems reasonably necessary to enforce the provisions of this section. In the alternative, whoever violates any provision of this ordinance may be penalized by indictment or on complaint brought in the District Court. The penalty shall be three hundred dollars for each offense. Each day on which any violation exists shall be deemed a separate offense.

ARTICLE VII. – SEWERS

DIVISION 1. - GENERALLY

Sec. 11-155. Definitions.

For the purposes of this Article, the definitions provided for in Section 11-140 of the Code of Ordinances are incorporated herein by reference.

Sec. 11-156. - Common sewers.

No common sewer shall be laid or shall be connected with any existing common sewer except by the city.

Sec. 11-157. - Sewer specifications.

Main drains or common sewers, which shall be ordered by the city council to be made, shall be laid in such places and manner and shall be made of such materials and dimensions as the city engineer shall determine, unless the city council shall otherwise specially direct.

Sec. 11-158. – Private sewer or drain specifications.

Every private sewer or drain which enters into any common sewer shall be built of such size and materials, in such place and direction, at such grade, and in such manner as shall be satisfactory to the city engineer, and with a due observance of all regulations of the board of health, so far as applicable thereto.

Sec. 11-159. - Plans of sewers and drains.

The city engineer shall make accurate plans of all main drains and common sewers, showing their location, depth, and the materials of which they are made, and their size, shape, thickness, and manner of construction; also all existing connections with said sewers and all future connections as they are made.

Sec. 11-160. - Catch basin locations.

The location of all catch basins shall be under the direction of the city engineer.

Sec. 11-161. - Report of main drain and common sewer costs.

The city engineer shall keep an accurate account of the cost of each main drain or common sewer constructed, and make report thereof to the city council.

Sec. 11-162. - Sewer assessments.

The city council shall make assessments for all main drains or common sewers heretofore constructed or reconstructed by the city, the expenses of which have not already been assessed and collected, in the same manner as for those which may hereafter be constructed; and the city engineer shall render all the services and perform all the duties in regard to the main drains or common sewers heretofore constructed the expenses of which have not already been assessed and collected, which he or she is required to render and perform in regard to those hereafter to be constructed. The city council shall deliver a list of such assessments, when made, to the collector of taxes, for collection.

Sec. 11-163. - Exemptions for sewer assessments.

No estate, to the owner of which permission has been or may be given to construct private sewers or drains for such estate, shall by reason of the construction of such private sewers or drains be exempt from any assessment lawfully imposed for constructing common sewers in its vicinity.

Sec. 11-164. - Sewer user charges.

(a) User charges.

- (1) Established.* Charges for sewer service shall be established by the superintendent of the water and sewer department, subject to the approval of the mayor and city council. Prior

to setting the new sewer service charge, the water and sewer superintendent shall conduct a public hearing on the proposed charge no later than May 15 of any given year with notice of any new charges provided to the city council at least 14 days prior to the public hearing. Any proposed new charges shall be provided to the city council on or before June 1 of any given year for its review and approval. Charges may be adjusted, subsequent to initial approval by the superintendent, with the approval of the mayor and city council, without the necessity of a public hearing, to reflect any changes in any charge assessed to the city by any governmental body or agency of the commonwealth. If any such adjustment results in a lower charge than previously set, the new charge shall take effect immediately upon approval by the mayor and city council. If such adjusted charge is higher than otherwise set, the new charge shall take effect no sooner than 30 days after approval by the mayor and city council. Failure to hold a public hearing or provide the proposed charges to the board for its review on or before June 1 as required above shall prohibit the city from increasing charges.

- (2) *Method of assessment.* Rates shall be established based upon a uniform rate per 100 cubic feet of water consumed. At a user's option and expense, assessments may be made on continuously metered sewage flow, or upon water sales to activities resulting in a discharge to the sewer. Said assessments shall be made pursuant to readings obtained from metering devices approved by the commissioner. For users whose bill is based upon metered sewage, the rate shall be 1.11 times the rate established for those whose bill is based upon metered water. Where water consumption data is not available, bills for sewer services shall be based upon estimated consumption, as determined by the commissioner.
 - (3) *Payment.* Bills for sewer service shall be rendered a minimum of two per year and a maximum of six per year for commercial and four per year for residential and are due and payable within 45 days. Interest shall accrue on bills not paid within 45 days from the date of mailing at the rate established by Section 57 of Chapter 93 of the General Laws.
- (b) *Appeals.* Persons aggrieved of bills rendered pursuant to subsection (b) of this section shall have the following rights of appeal:
- (1) *Notification.* Within the time frame allowed for payment of said bills, the aggrieved party shall notify the commissioner that said bill is contested. The notification shall include an explanation as to why the bill is contested, and should provide the commissioner with such information as is necessary to determine the validity of the claim. The commissioner may prescribe such forms as are necessary to expedite this process.
 - (2) *Resolution.* Upon receipt of an appeal, the commissioner shall act upon same as quickly as possible and shall inform the claimant in writing of the result of the investigations. The determination of the commissioner shall also be transmitted to the treasurer who shall take the following action:
 - a. For first claims and claims found to be valid, the date of billing shall be revised to the date of the commissioner's determinations. Revised charges shall then be due and payable as is specified in subsection (b)(3) of this section.
 - b. For second and subsequent claims found to be invalid, the date of billing shall be as originally issued, and charges and interest shall be computed as specified in subsection (b)(3) of this section.
- (c) *Tax liens of overdue charges.* Charges for sewer use which are overdue and uncontested shall become a tax lien as is provided in Sections 16A through 16F of Chapter 83 of the General Laws.
- (d) *Increases restricted.* The superintendent of the water division shall prepare and submit to the city council on or before April 1, 1984, a plan for the installation of water meters in each residence, business, industrial or other location where no meter currently exists. Said plan shall provide for the complete metering of water services in the city by December 31, 1986. The superintendent of the water division shall submit to the city council on or before December 8 in each year of the installation period, a statement, signed under the penalties of perjury, that not less than one-third

of the total number of unmetered services existing on December 8, 1984, have been installed during such year. If the total number of water meters out of service in any year next succeeding the end of the installation period on December 31, 1986, exceeds 500 meters, then no sewer rate increase shall be authorized or approved under subsection (b)(1) or (b)(2) of this section, without additional approval of the city council.

Sec. 11-165. – Stormwater.

- (a) All stormwater, except as hereinafter otherwise provided, shall be excluded directly or indirectly from any combined sewers, sanitary sewers, and/or storm drains that discharge to combined sewers. Stormwater may only discharge to the Municipal Separate Storm Sewer System. The locations of the Municipal Separate Storm Sewer System in the city will be determined and published by the city engineer.
- (b) The city engineer may, with the approval of the mayor, whenever in the judgment of the city engineer the exigencies of the case so require, give notice to the owner or agent of any premises situated in any part of the city so to change the drainage system thereof, within a reasonable time, specified in such notice, that no roof water, surface water or other drainage matter, except sewage, shall flow from said premises, directly or indirectly, into any public sewer which is used for conducting house drainage into the metropolitan sewerage systems; and such owner or agent shall, within the time specified in such notice, make such changes in said drainage system as may be necessary to comply with such notice. No person shall cause or allow such roof water, surface water, or other drainage matter to enter, directly or indirectly, any public sewer, in violation of the foregoing provisions of this section.
- (c) Any private sewer or drain, maintained in violation of any of the provisions of this section, whether in an existing building or one hereafter erected, shall forthwith be changed so as to conform thereto, and may, by order of the city council, or by order of the city engineer when in his or her judgment immediate action is required, be cut off and disconnected or otherwise disposed of until such provisions are complied with in a manner satisfactory to him or her.
- (d) The city engineer, except as hereinafter otherwise provided, shall not grant a permit to enter any private sewer or drain into any such main drain or common sewer, or into any other private sewer or drain which connects, immediately or ultimately, with any such main drain or common sewer, unless it shall appear to his or her satisfaction that such private sewer or drain, for which such permit to enter is required, and will not conduct any roof water, surface water, or other drainage matter, in violation of the provisions of this section. Before any such permit is granted, he or she may require to be cut off or disconnected or may himself or herself cut off or disconnect from the private sewer or drain for which such permit to enter is required, any private sewer or drain which does not conform to the provisions of this section.
- (e) The city engineer may in special cases for good cause shown, and subject to the approval of the mayor, grant written permission to enter any private sewer or drain contrary to the provisions of this section for such length of time and upon such condition as he or she may deem advisable.

Sec. 11-166. – Main drain or common sewer work.

No person shall cut into, interfere with or obstruct a main drain or common sewer, or shall enter, or attempt to enter, a private or other drain or sewer therein, or into any private drain connecting with any main drain or common sewer, except in accordance with a permit in writing from the city engineer.

Sec. 11-167. - Interference with sewers.

- (a) No water pipe, gas pipe or other structure shall be so laid in a street as to obstruct or interfere with a common sewer or the maintenance thereof.
- (b) If any water pipe, gas pipe or other structure interferes with or obstructs any existing common sewer or the maintenance thereof, or the construction or maintenance of any common sewer which the city council may hereafter order to make, the department of the city, corporation or

person maintaining the same shall, upon notice from the city engineer, at once remove or change such pipe or other structure in such manner as he or she may direct, and upon failure so to do he or she may make such removal or change, and the cost thereof shall be paid by such department, corporation or person to the city.

Sec. 11-168. - Drain layers and work on common sewers.

No one shall employ any person other than a licensed drain layer to perform any work opening into a common sewer for the purpose of connecting a private sewer or drain therewith, and the repairs of every private sewer or drain laid from any house, building, cellar or land to such common sewer, and every opening into such drain, and all openings and excavations in any street for the purpose of constructing or repairing any private drain.

Sec. 11-169. - Private sewers or drains subject to tidewater.

No private sewer or drain connecting with a common sewer subject to the action of tidewater shall be constructed without a plug or clapper sufficient to prevent completely the reflux of drainage matter, storm or tidewater.

Sec. 11-170. - Substances prohibited from common sewers.

No exhaust from a steam engine and no blowoff from a steam boiler shall be connected with any common sewer or private sewer or drain. No gasoline or other explosive or inflammable substance shall be caused or allowed to enter directly or indirectly any common sewer or private sewer or drain.

DIVISION 2. - INFILTRATION AND INFLOW MITIGATION

Sec. 11-172. - Infiltration and inflow mitigation.

Any person or entity changing, altering, repairing, adding to or improving property in any way that may impact the City of Somerville sewer system, or any person or entity proposing to add additional wastewater to an existing sewer connection, or any person or entity establishing a new connection to the city's common sewer system shall be required to mitigate infiltration/inflow entering the city's common sewer system. Said person or entity shall be subject to payment of a fee established by the city engineer to mitigate infiltration/inflow. In the alternative, subject to approval of both the city engineer and city council, said person or entity may complete repairs, alterations or improvements to the city's main drain and common sewer system to eliminate infiltration/inflow in accordance with plans and calculations approved by the city engineer. Such calculations shall include an administrative and oversight fee payable to the city in connection with the work to be performed. In the event a connection is subject to conditions issued by the Massachusetts Department of Environmental Protection, the Massachusetts Environmental Policy Act Unit or the Massachusetts Water Resources Authority as part of a state or regional permitting process requiring the removal of infiltration/inflow prior to connection, said removal of infiltration/inflow shall be credited toward complying with the requirements of this ordinance.

The mitigation requirements, fee schedule and methodology for calculating mitigation and fees, shall be determined and published by the city engineer, and may be revised from time to time. The city engineer shall provide the city council with the mitigation requirements, fee schedule and methodology for calculating mitigation and fees on or before January 1 of each year, and whenever the fee schedule and/or methodologies are revised. The city engineer shall adopt rules and regulations setting forth the mitigation requirements, fee schedule and methodology for calculating mitigation and fees. The mitigation requirements may include a de minimis exemption for minor work performed, at the discretion of the city engineer in consultation with the city council.

DIVISION 3. - ILLICIT DISCHARGES TO STORM DRAINAGE SYSTEM

Sec. 11-176. - Illicit discharges to storm drainage system.

- (a) *Purpose.*
 - (1) Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow into waterways; alteration or destruction of aquatic and wildlife habitat; and flooding.
 - (2) Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the city's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.
 - (3) The objectives of this division are:
 - a. To prevent pollutants from entering the city's municipal separate storm sewer system (MS4);
 - b. To prohibit illicit connections and unauthorized discharges to the MS4;
 - c. To require the removal of all such illicit connections;
 - b. To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - c. To establish the legal authority to ensure compliance with the provisions of this division through inspection, monitoring, and enforcement.
- (b) *Applicability.* This division shall apply to flows entering the municipal storm drainage system. The provisions of this division shall take precedence over any conflicting provisions of the general ordinances.
- (c) *Authority.* This division is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and pursuant to MGL c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135 to 140, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.
- (d) *Responsibility for administration.* The city engineer shall administer, implement and enforce this division and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the city engineer may be delegated in writing by the city engineer to employees or agents of the city engineer.
- (e) *Regulations.* The city engineer may promulgate rules and regulations to effectuate the purposes of this division. Failure by the city engineer to promulgate such rules and regulations shall not have the effect of suspending or invalidating this division.
- (f) *Prohibited activities.*
 - (1) A person is considered to be in violation of this division if they connect a line conveying sewage and/or wastewater to the municipal storm drain system or, once detected, allows such a connection to continue.
 - (2) *Illicit discharges.* No person shall dump, discharge, cause or allow to be discharged any pollutant or nonstormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth of Massachusetts.
 - (3) *Illicit connections.* No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
 - (4) *Obstruction of municipal storm drainage system.* No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drainage system without prior written approval from the city engineer.
- (g) *Exemptions.* The following nonstormwater discharges or flows are exempt from the prohibition of nonstormwater, provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:
 - (1) Municipal water line flushing;
 - (2) Uncontaminated groundwater or uncontaminated pumped groundwater;
 - (3) Water from exterior foundation drains footing drains, crawl space pumps or air conditioning condensation;

- (4) Water from sump pumps and other pumps that remove flow from basements, except that this provision excludes water contaminated by sewage;
 - (5) Water discharge from irrigation or watering of lawns, trees, landscaping and gardens;
 - (6) Water from property management activities, including washing walkways, patios, house siding, windows or similar property management activities, provided that no detergents are used in conducting such activities;
 - (7) Discharge from dechlorinated swimming pool water (less than one ppm of chlorine or bromine), provided that the pool is not drained in a manner designed to flood or otherwise adversely affect neighboring or downstream properties;
 - (8) Consolidated public works ice, snow and street sweeping management operations;
 - (9) Flow resulting from fire-fighting activities;
 - (10) Dye testing, provided that written notification is given to the engineering department two business days prior to the time of the test;
 - (11) Maintenance or replacement of existing landscaping, gardens or lawn areas;
 - (12) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - (13) Construction of utilities other than drainage (for example, gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
 - (14) Projects that commenced prior to the effective date of this division, provided that they are completed within one year from such effective date;
 - (15) Natural flow from riparian habitats and wetlands;
 - (16) Springs;
 - (17) Diverted stream flow;
 - (18) Rising groundwater;
 - (19) Nonstormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - (20) Discharge for which advanced written approval is received from the city engineer as necessary to protect public health, safety, welfare or the environment.
- (h) *Emergency suspension of municipal stormwater drain access.*
- (1) The city engineer may suspend municipal storm drainage system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.
 - (2) No person shall reinstate municipal storm drain system access to premises terminated pursuant to this section without the prior inspection and approval of the engineering department. An unapproved reinstatement shall constitute a violation of this section.
 - (3) In the event any person fails to comply with an emergency suspension order or reinstates access in violation of this section, the city engineer may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- (i) *Notification of spills.* Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a property or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts or United States, said person shall take necessary steps to ensure the discovery, containment and cleanup of the release. In the event of such a release of hazardous materials, said person shall also immediately notify emergency response officials of the occurrence by calling E911. In the event of a release of nonhazardous materials, said person shall notify the

Engineering Division in person, by phone or by email no later than 4:00 p.m. of the next business day.

(j) *Enforcement.*

- (1) The city engineer or appointed designee shall enforce this division and any regulations promulgated hereunder and may issue and prosecute violation notices and enforcement orders and may pursue all civil and criminal remedies for violations hereunder.
- (2) *Civil relief.* The city engineer may seek injunctive relief in a court of competent jurisdiction to restrain a person from continued violations of the provisions of this division and the regulations promulgated hereunder or of any notices, order or written approvals or to compel said person to abate or remediate the violation(s).
- (3) *Orders.* The city engineer or an authorized agent of the city engineer may issue a written order to enforce the provisions of this division or the regulations thereunder, which may include:
 - a. Elimination of illicit connections or discharges to the MS4;
 - b. Performance of monitoring, analyses, and reporting;
 - c. That unlawful discharges, practices, or operations shall cease and desist; and
 - d. Remediation of contamination in connection therewith.
- (4) If the city engineer determines that abatement or remediation of contamination is required, the order described in Section J.3. above shall set forth deadlines in accordance with the city's NPDES General Permit by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadlines in accordance with the city's NPDES General Permit, the city may, at its option, undertake such work or cause the work to be performed, and expenses thereof shall be charged to the violator. If a violator fails to comply with the order, the city may cause the work to be performed, and charge the owner of the property and place a lien against the property for expenses incurred, provided any entry onto private property pursuant to this provision is consistent with the Constitutions of the United States and Commonwealth of Massachusetts. In the event of an emergency, however, the city engineer may require immediate compliance with an order and may take all necessary action to secure compliance with this ordinance. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the city engineer shall issue a bill for all expenses incurred by the city in performing the work. The bill shall provide that all expenses are due and payable within 30 days. The violator or property owner may file a written objection to the bill within 30 days of receipt. If the amount due is not received by the expiration of the time in which to file a written objection, if no written objection is filed, or within 30 days following a decision of the city engineer affirming or reducing the bill, if a written objection is filed, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall accrue in accordance with G.L. c. 59, s. 57.
- (5) *Violations.* It is unlawful for any owner or occupant of real property to fail to comply with the requirements of this section or any order of the city engineer enforcing the requirements of this section. The provisions of this section may be enforced by the city engineer by a noncriminal disposition pursuant to G. L. c. 40, s. 21D. Each violation of a provision of this section is a separate and distinct offense and in a case of a continuing violation, each day that the violation continues constitutes a separate offense. Any person, firm, corporation, association or other entity violating any provision of this division shall be punished in accordance with Section 1-11 of this Code. Any interested person may request, in writing, a hearing before a municipal hearing officer to contest the issuance of a fine, as provided in Chapter 106 of the Acts of 2008. The imposition of penalties herein prescribed shall not preclude the city from instituting other remedies to

- abate violations of this ordinances as permitted by law, including, but not limited to criminal proceedings, application for equitable relief, or receivership proceedings.
- (6) *Entry to perform duties under this division.* To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the city engineer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this division and associated regulations and may make or cause to be made such examinations, surveys or sampling as the city engineer deems reasonably necessary.
 - (7) *Appeals.* The decisions or orders of the city engineer shall be final. Further relief shall be to a court of competent jurisdiction.
 - (8) *Remedies not exclusive.* The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law.
 - (k) *Transitional provisions.* Residential property owners shall have 90 days from the effective date of this division to comply with its provisions, provided that good cause is shown for the failure to comply during that period.

Be it further ordained by the City Council, Section 1-11(b) of the Code of Ordinances is hereby amended, by adding the following:

Offense	Fine	Enforcing Personnel
Illicit Discharge (Sec. 11-146)	1st offense: warning 2nd offense: \$100 3rd & subsequent offense: \$300	City Engineer
Stormwater Management (Sec. 11-176)	1st offense: warning 2nd offense: \$100 3rd & subsequent offense: \$300	City Engineer

APPROVED:

President
City Council