

Chapter 29

**WATER, SEWERS AND DRAINS\***

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**ARTICLE I.  
IN GENERAL**

**Secs. 29-1—29-18. Reserved.**

**Sec. 29-19. Functions of public works department relative to water distribution and sewerage operations, generally.**

(a) The public works department shall provide water distribution. The function of water distribution shall entail all water main construction and repair; all pumping and fluoride station maintenance; all hydraulic inspection and control; all meter reading and maintenance; all water connections to buildings; all stock, requisitioning and control of parts; all operation of construction equipment; all maintenance of water buildings and yards; all recording and charging of customer usage; and any allied function normally associated with water distribution.

(b) The public works department shall undertake all sewerage operations. This function shall include all sewer construction and repair; all sewer connections to buildings; all flushing and rodding; all clearing of stoppages and emergency stoppages; all maintenance of pumps; all the stocking and control of repair parts; all operation of construction equipment; and any other allied functions normally associated with sewer operations. (Rev. Ords. 1973, § 23-2; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81)

**Cross reference**—Department of public works and duties of commissioner, §§ 25-1 and 25-3

**State law references**—Public water supplies generally, G.L. c. 40, §§ 38—42;

**Sec. 29-20. Records to be kept by commissioner of public works relative to water distribution and sewerage**

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\***Cross references**—Recycling and trash, Ch. 11; health and human services, Ch. 12

**operations.**

The commissioner of public works shall keep full complete and detailed records of all his doings and correspondence relative to the functions of water distribution and sewerage operations. He shall also keep records and accounts of all work done by his department in providing for said functions, showing the kind of work done, the location and cost thereof and the account to which it is charged. He shall keep a full record of the name of each water taker, the location and description of the building in which the water is used, the character of its use, the kind of service, the quantity supplied and the amount charged therefor, all properly arranged for convenient reference. He shall keep a full record of the amount of water pumped daily, consumed and in store, and generally of all facts pertaining to the condition and use of the works which may be desirable for reference. (Rev. Ords. 1973, § 23-3; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81)

**Sec. 29-21. Inspection of records of public works department relative to water distribution and sewerage operations.**

All books of accounts and records in the public works department relative to water distribution and sewerage operations shall at all times be open to the inspection of any committee of the city council designated to examine them. (Rev. Ords. 1973, § 23-4; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81)

**ARTICLE II.  
WATER****Sec. 29-22. Master plan of city water system.**

The city engineer shall keep a master plan of the entire water system of the city which shall be amended from time to time to show any additions to or changes in such system. (Rev. Ords. 1973, § 23.5, Ord. No. 190, 12-20-76)

**Sec. 29-23. Duty of commissioner of public works to attach meters.**

Except as provided in section 29-24 below, the commissioner of public works shall attach a meter to all services supplying other fixtures than faucets and also to services supplying only faucets where more than three (3) are used, and the commissioner of public works shall also furnish meters to all water takers who desire to use them regardless of the fixtures supplied. (Rev. Ords. 1973, § 23-4; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81; Ord. No. A-52, 12-15-14)

**Sec. 29-24. Cost of, and responsibilities for, meters.**

(a) All meters of two (2) inches or less hereafter set shall be furnished, maintained and renewed at the cost of the city; provided that any meter damaged as a result of the negligence of a water taker or damaged as a result of freezing, shall be repaired at the expense of the water taker.

(b) The initial and subsequent purchase and repair of all meters larger than two (2) inches and outdoor meters as defined in subsection (c) hereafter set shall be the responsibility and at the sole expense of the water taker. All such meters shall conform to the specifications of the commissioner of public works, and shall be installed under the supervision of the commissioner or his designee. Upon installation all such meters shall become subject to the sole control of the city and except as authorized by the commissioner of public works, no person shall thereafter remove, move or re-set such a meter. Upon installation the commissioner of public works shall oversee the maintenance and renewal of such meters; provided that any such meter damaged as a result of negligence of a water taker or damaged as a result of freezing, shall be repaired at the expense of the water taker.

(c) Outdoor meters are devices that may be installed at residential properties that contain no more than four

dwelling units, to measure and register outdoor water consumption such as water used for lawn and garden irrigation and other outdoor uses. Effective July 1, 2015, sewer use charges under section 29-80 of this chapter shall not be made for water consumption registered by or attributable to outdoor meters.

(d) No person shall:

- (1) use water supplied through an outdoor meter for any use except lawn and garden irrigation and other outdoor uses in which water is used in such a way as to not enter public sewers either directly or indirectly; or
- (2) install or arrange plumbing in a manner which causes the water supplied through such a meter to be connected to any fixture which is connected, either directly or indirectly, to the public sewers.

(e) Whoever violates any provision of this section 29-24 shall be liable for the penalty set out in section 1-6 of these ordinances. In addition, upon the determination of the commissioner of public works of a second violation of section 29-24 (d), the privilege of not being charged for sewer use in connection with water consumption registered on or attributable to an outdoor meter pursuant to section 29-24 (c) shall be considered forfeited so long as such estate remains in the same ownership. In such event, the commissioner shall make arrangements to include a sewer use charge upon the rates set forth in section 29-80 (c) (1) on the subsequent bills for water supplied through the outdoor meter(s) at such estate, and shall so notify the owner of the estate. (Rev. Ords. 1973, § 23-7; Ord. No. 190, 12-20-76; Ord. No. T-42, 8-14-89; Ord. No. A-52, 12-15-14; Rev. Ord No. A-52, 12-15-14)

#### **Sec. 29-25. Failure to keep pipes in good order, protect meter.**

The owner and the occupant of the premises in which water is used who fails to protect his meter from frost or fails to keep the service pipes and fixtures in good order and neglects to repair them in three (3) days after they have become defective, or neglects to shut off the water to prevent waste, shall be liable to a forfeiture of two dollars (\$2.00). If such forfeiture is not paid within two (2) days after notice, the water shall be cut off and shall not be cut on until the waste is stopped and the forfeiture paid, together with two dollars (\$2.00) for shutting off and cutting on the water. In case of a second offense within one year the water shall be shut off and shall not be cut on until the payment of such forfeiture, not exceeding ten dollars (\$10.00), as the commissioner of public works shall impose. (Rev. Ords. 1973, § 23-8, Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81)

#### **Sec. 29-26. Inspection of water taker's premises.**

(a) The commissioner of public works or his authorized designee may upon the permission of the owner or person in control of a premises where water is taken enter such premises at any reasonable time for the purpose of making inspections, repairs, removals, or replacements of water meters and appurtenances.

(b) If entry to a water taker's premises is not permitted within sixty (60) days after a written request from the commissioner or his designee is served upon the owner of the record by certified mail, then the commissioner may cut off the water supply to the premises. The water shall not be turned on again until entry to the premises for the purposes stated in the foregoing paragraph is permitted. (Rev. Ords. 1973, § 23-9; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81; Ord. No. A-103, 02-21-17)

#### **Sec. 29-27. Service pipes generally.**

(a) Service pipes are those water pipes which connect water mains to the water meter serving the premises. All service pipes shall be supplied and laid by the commissioner of public works at the expense of the applicant. Applications for such pipes shall be made upon blank forms furnished at the office of the commissioner of public works. No service pipes shall be furnished or laid until the applicant has deposited the cost of the same, as estimated

by the commissioner of public works. When the pipes have been laid and connection made, any cost in excess of the estimated cost shall be paid before the water is turned on and any excess of the estimated cost over the actual cost shall be returned to the applicant.

(b) All service pipes within the street lines shall be maintained and kept in repair, including replacement where necessary, by the public works department.

(c) Unless permission otherwise shall have been granted by the commissioner of public works in accordance with section 29-27(d), all repairs, including replacements, of service pipes outside the street line shall be made by the commissioner of public works at the expense of the owner or occupant. No replacement service pipes shall be furnished or laid until the applicant has deposited the cost of same, as estimated by the commissioner of public works. When the replacement pipes have been laid and connection made, any excess of the estimated cost over the actual cost shall be returned to the applicant. Any cost in excess of the estimated cost of replacement and all other repairs of service pipes shall be promptly billed to the owner or occupant of the premises, and if not paid within thirty (30) days of written demand, the water shall be turned off and not turned on again, except as provided in section 29-33.

(d) Notwithstanding the provisions of subsection (c), when a contractor is engaged in street construction or reconstruction on behalf of the city, the commissioner of public works may grant a license to such contractor to replace existing service pipes outside of the street line for those buildings which are served by a main water pipe located in the street in construction. All such service pipe replacements shall be undertaken pursuant to voluntary private arrangements between the contractor and the owner or occupant of such buildings, and at the expense of the owner or occupant.

Applications for such licenses shall state the estimated cost of the work for each service pipe proposed to be replaced and shall be accompanied by signed statements from all owners or occupants of each of the premises for which a license is sought authorizing the contractor to apply for such license. Applications shall be accompanied by payment of a fee of one hundred dollars (\$100.00) for each street construction or reconstruction project in which the contractor is engaged.

The terms of such licenses shall require that the contractor will cause the excavations to be properly closed up as soon as is reasonably possible; that he will maintain adequate lighting and barriers conspicuously placed over the obstructions from sunset to sunrise; that he will use materials of a quality approved by the commissioner of public works; that he will perform all work in a thorough and workmanlike manner under inspection of the water superintendent; that he will guarantee the same and make good any defects in materials and workmanship and keep and maintain the trenches in repair for a one year period from the completion of the work; and that he will indemnify and hold harmless the city from any damages or cost to which it may be put by reason of damages incurred or injuries sustained by any person resulting from neglect or carelessness in replacing such service pipes, or in not properly fencing or lighting any excavation or obstruction, or in performing any work connected therewith.

Every contractor so licensed, before performing any work by virtue of such license, shall execute a bond to the city in the amount of the estimated total cost of service pipe replacements, and in no case less than five thousand dollars (\$5,000) with good and sufficient sureties licensed to do business in Massachusetts and as approved by the mayor, the condition of which shall be that the licensee shall comply with the terms of the license under which the work is performed and shall furnish the city with a certificate that insurance coverage in an amount satisfactory to the commissioner of public works has been obtained. The contractor shall agree to maintain such insurance until such time that the service pipe replacements have been completed. (Rev. Ords. 1973, § 23-10; Ord. No. 74, 6-2-75; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81; Ord. No. S-141, 10-21-85; Ord. No. V-289, 3-20-00; Ord. No. X-55, 6-16-03)

**Sec. 29-28. Extensions of pipes—Notice of proposed extensions; plan.**

The city engineer shall establish the lines and grades and locations for all proposed extensions of water mains, service pipes and their appurtenances and shall retain plans showing the same in the files of the engineering division of the department of public works. (Rev. Ords. 1973, § 23-11; Ord. No. 190, 12-20-76; Ord. No. R-174, 10-5-81; Ord. No. V-289, 3-20-00)

**Sec. 29-29. Same—Main pipes.**

(a) Extensions of main pipes shall only be made when authorized by the city council. Applications therefor shall be made upon the blanks furnished by the commissioner of public works, upon which shall be endorsed the estimate by the commissioner of public works of the probable cost of the extension desired.

(b) Before any application shall be acted upon, the applicant shall deposit that portion of the estimated probable cost of the extension that is allocable to the property of the applicant in accordance with the provisions of this section. When the extension is laid, any excess of that portion of the actual cost of the extension that is so allocable to the property of the applicant over the amount so deposited shall be paid by the applicant before the water is turned on and any excess of the amount so deposited over that portion of the actual cost of the extension that is so allocable to the property of the applicant shall be returned to the applicant. No property with respect to which the charge imposed by this section shall not have been paid shall be connected to such extension until such charge shall be paid by the owner thereof as though he were an original applicant for such extension. The cost of the extension shall include the cost of the pipes and other materials and of the labor employed in laying them, and other expenses incidental thereto, but shall in no case be greater than the cost of an eight-inch main, which cost and the allocation thereof shall be ascertained and certified by the commissioner of public works.

(c) The portion of the cost of a water main extension allocable to properties served thereby (which the applicant is to pay in accordance with paragraph (b)) shall be:

- (1) In the case of property included in a subdivision approved by the planning board under the provisions of the subdivision control law, the entire cost of such extension, including such extensions as may be necessary to bring the water to such subdivision; or
- (2) In the case of any other property, that portion of the entire cost of the extension which the frontage of such property upon the streets or ways in which the extension is laid is of the total frontage of all the properties on such streets or ways, except other streets or ways or parks and other public grounds not actually connected to such extension.

For the purposes of subparagraph (2) above the word "ways" shall include rights-of-way in private land; contiguous lots in common ownership shall be deemed to be a single property and frontages on streets or ways shall be measured only along that portion of such streets or ways in which the extension is laid, but the commissioner of public works or the city council shall have the right to require that an extension shall be laid along the entire frontage of any property to be served by it.

(d) The city council may by order modify the application of any of the preceding provisions of this section in any case in which it determines that a literal application of them would be inequitable or would result in a charge on any particular property greater than the benefit to such property resulting from the extension.

(e) Same - Main pipes.

Applications for extensions of mains through private ways or grounds shall in no case be granted unless the owner thereof executes a proper instrument securing to the city the right of permanent occupation, free from any acts of interference that would affect the safety of the pipe, and securing to the water department free right of entrance for the purposes of inspection and maintenance. For purposes of this paragraph, any owner or owners of real estate abutting

on a private way who have by deed existing rights of ingress and egress upon such private way shall be deemed an owner of such private way.

(f) Nothing in this section shall be construed as affecting the right of the city council to authorize the extension of the water main without guaranty if, upon a vote taken by yeas and nays, two-thirds (2/3) of the members present and voting shall vote to do so. (Rev. Ords. 1973, § 23-12; Ord. No. 190, 12-20-76; Ord. No. S-142, 9-17-85; Ord. No. V-289, 3-20-00)

**Sec. 29-30. Bills-City may be divided; how divisions to be billed.**

The public works department shall issue bills for each water taker four times per year at intervals of three (3) months. Every alternate bill shall be based on a meter reading in accordance with the rate schedule set out at section 29-36. The commissioner of public works shall issue the remaining bills on the basis of an estimated meter reading and in accordance with such rate schedule, such that each water taker receives actual and estimated bills on an alternating basis. In issuing the estimated bills, the commissioner of public works shall use each water taker's previous meter readings as the basis for estimating the meter reading. (Rev. Ords. 1973, § 23-13; Ord. No. 190, 12-20-76; Ord. No. T-78, 3-5-90)

**Sec. 29-31. Same—When due and payable.**

All bills shall be due and payable to the city collector-treasurer thirty (30) days from their issuance, for water taken, or estimated by the commissioner of public works to have been taken, during the prior three (3) months; and for rendering service or furnishing materials in connection therewith. If in the opinion of the commissioner of public works circumstances so require, charges for water taken, services or materials may be billed at other times, and if so, bills shall be payable thirty days from their issuance. (Rev. Ords. 1973, § 23-14; Ord. No. 190, 12-20-76; Ord. No. S-164, 4-7-86; Ord. No. T-78, 3-5-90)

**State law reference**—Authority to establish due dates, G.L. c. 40, § 42A

**Sec. 29-32. Same—Where bills and notices to be made out; procedure when made out.**

All bills under this chapter and notices thereon properly numbered for identification, shall be made out in the office of the commissioner of public works. Such bills and notices, together with a warrant for their collection, shall be delivered to the comptroller of accounts for forwarding to the city collector-treasurer as soon as made out, and the city collector-treasurer shall thereupon send out the notices and retain the bills until paid. (Rev. Ords. 1973, § 23-15; Ord. No. 190, 12-20-76)

**Sec. 29-33. Same—Nonpayment.**

In every case of the nonpayment of bills for water, services or materials for thirty (30) days after the same are due, the city collector-treasurer shall cause a written demand to be left at the premises where the water is taken or mailed to the owner or occupant thereof, and unless the bill is paid within thirty (30) days thereafter, together with two dollars (\$2.00) for demand, the city collector-treasurer shall give written notice thereof to the commissioner of public works. Thereupon, the commissioner of public works may cut off the water supply unless such bill is due and unpaid from another and previous owner or occupant of such building or premises. The water shall not be turned on again until the amount due, together with such fee and two dollars (\$2.00) for turning off and on is paid. (Rev. Ords. 1973, § 23-14; Ord. No. 190, 12-20-76; Ord. No. R-54, 2-19-80; Ord. No. R-174, 10-5-81)

**Sec. 29-34. Same—Interest when such becomes lien.**

If a bill for water charges becomes a lien, it shall bear interest at the rate provided by law from the date it becomes due until it is committed as a part of a tax as provided in chapter 40, section 42D of the General Laws. (Rev. Ords.

1973, § 23-15; Ord. No. 190, 12-20-76)

**Sec. 29-35. Liability of occupants, owners of tenements for water rent.**

The tenant of any rental unit shall be liable for the payment of the bill for the use of water in such rental unit and the owner shall also be liable. (Rev. Ords. 1973, § 23-16; Ord. No. 190, 12-20-76)

**Sec. 29-36. Rates, schedule.**

(a) Water rates

- (1) Water takers shall pay a price or rate for water for each quarterly billing period in accordance with the following schedule: (*effective July 1, 2020*)

Seven dollars and twelve cents (\$7.12) per hundred cubic feet for consumption from 0 to 10 hundred cubic feet;

Eight dollars and twenty-three cents (\$8.23) per hundred cubic feet for consumption from 11-25 hundred cubic feet;

Nine dollars and forty-six cents (\$9.46) per hundred cubic feet for consumption from 26 to 60 hundred cubic feet

Eleven dollars and eighty cents (\$11.80) per hundred cubic feet for consumption above 60 hundred cubic feet

For outdoor meters the rate shall be thirteen dollars (\$13.00) per hundred cubic feet regardless of the amount of consumption.

(2) Multi-dwelling properties

a) For purposes of this subsection, the term *Single Meter/Multi-Residence* shall have the following meaning: A building, buildings, or part of a building which i) is used for residential use only, ii) contains more than one dwelling unit, and iii) receives water delivered through a single service pipe and meter. The term dwelling unit shall have the meaning set out in the definition that appears in section 30-1.

b) For a Single Meter/Multi Residence property, the applicable price or rate shall be determined by dividing the consumption by the number of dwelling units within such property.

- (3) Where water is supplied by the city through a meter that is not in good working order, the commissioner shall use any reasonable, fair, and appropriate method to determine the quantity of water consumed and shall issue the bill on that basis.

(b) Discount program.

- (1) The rates shall be reduced by a discount of thirty percent (30%) for water supplied to dwellings owned and inhabited by any person who is certified by the board of assessors as qualifying under one or more of the tax exemption and deferral programs set out in General Laws chapter 59, section 5, clauses 17D, 18, 41A, and 41C, provided however that said discount shall not apply to water consumption registered on outdoor meters and shall apply only to:

- a) those bills issued in the name of such person, and
- b) those bills issued during the term of such certification by the board of assessors.

In the event that a person certified hereunder sells the dwelling to which water is supplied, such certification shall terminate as of the date of such sale. The board of assessors shall carry out determinations of eligibility for the water discount program based on qualification for the 41A tax deferral program.

- (2) Water users who own and inhabit dwellings and who were approved, on or prior to the effective date of this subsection, for one or more of such tax exemption and deferral programs shall be certified by the board of assessors as eligible for this water discount program as of the effective date of this subsection. Such certification shall continue until the date which is the statutory deadline for application for such tax exemption and deferral programs for the next successive tax year.
- (3) Water users who own and inhabit dwellings and who choose to apply for one or more of such tax exemption and deferral programs and who receive the approval of the board of assessors for such program(s) shall be certified by the board of assessors as eligible for this water discount program as of the date of such approval. Such certification shall continue until the date which is the statutory deadline for application for such tax exemption and deferral programs for the next successive tax year.
- (4) Water users who own and inhabit dwellings and who qualify under one or more of such tax exemption and deferral programs, but for whatever reason, choose not to apply for such program(s) may apply to the board of assessors for certification of eligibility for this water discount program. The board of assessors shall provide forms for such applications and shall within thirty days (30) of receipt of any such application, determine whether such applicant is eligible. The effective date of certification shall be the date of approval by said board, and such certification shall continue for a period of up to one year; provided, however, that all such certifications shall terminate on June 30 of each year.
- (5) Whenever the board of assessors certify that a water user is eligible for this water discount program, said board shall forthwith so notify the water and sewer division. Upon receipt of such notice the water and sewer division shall take the steps necessary to so reduce the bills issued to such water user. (Rev. Ords. 1973, § 23-17; Ord. No. 632, 3-4-74; Ord. No. 75, 6-2-75; Ord. No. 190, 12-20-76; Ord. No. R-74, 7-14-80; Ord. No. R-174, 10-5-81; Ord. No. S-162, 4-7-86; Ord. No. S-162A, 11-16-87; Ord. No. T-27, 6-5-89; Ord. No. T-77, 3-5-90; Ord. No. T-78, 3-5-90; Ord. No. U-5, 4-26-94; Ord. No. V-124, 7-14-97; Ord. No. V-180, 6-15-98; Ord. No. V-123, 5-17-99; Ord. No. V-308, 6-19-00; Ord. No. W-47, 6-20-01; Ord. No. X-22, 7-8-02; Ord. No. X-56, 6-18-03; Ord. No. X-95, 06-21-04; Ord. No. X-98, 07-12-04; Ord. No. X-149, 05-02-05; Ord. No. X-220, 6-19-06; Ord. No. Y-22, 6-4-07; Ord. No. Z-29, 06-02-08; Ord. No. Z-49, 05-18-09; Ord. No. Z-56, 12-07-09; Ord. No. Z-59, 12-21-09; Ord. No. Z-64, 05-17-10; Ord. No. Z-88, 05-23-11; Ord. No. Z-110, 05-07-12; Ord. No. A-23, 05-20-13; Ord. No. A-39, 05-05-14; Ord. No. A-52, 12-15-14; Ord. No. A-59, 05-04-15; Ord. No. A-75, 05-02-16; Ord. No. A-110, 05-15-17; Ord. No. B-31, 05-06-19)

**Sec. 29-37. Charge to be figured independently for each meter; exception.**

Except where the properties served are owned, occupied and operated by one owner and not sublet to various tenants, the rates for each meter shall be figured independently of all other meters. (Rev. Ords. 1973, § 23-21; Ord. No. 190, 12-20-76)

**Sec. 29-38. Abatements and rebates of charges.**

The commissioner of public works is authorized to make abatements and rebates of charges in all proper cases, subject to the right of the comptroller of accounts to disapprove the same on the ground that they are illegal, excessive

or fraudulent. He shall certify to the comptroller of accounts the amounts of abatements and rebates for forwarding to the collector-treasurer. (Rev. Ords. 1973, § 23-20; Ord. No. 190, 12-20-76)

**State law reference**—Abatement of water charges, G.L. c. 40, § 42E

**Sec. 29-39. Unmetered service to buildings under construction; fee for same.**

The commissioner of public works may furnish unmetered service to one faucet at a building under construction upon the payment in advance of a fee of twenty-five dollars (\$25.00). (Rev. Ords. 1973, § 23-23; Ord. No. 190, 12-20-76; Ord. No. S-163, 4-7-86)

**Sec. 29-40. Fee for turning water on or off generally.**

Except as otherwise provided in this chapter, the fee for turning on or turning off water shall be twenty-five dollars (\$25.00) in each case. (Rev. Ords. 1973, § 23-24; Ord. No. 190, 12-20-76; Ord. No. S-165, 4-7-86)

**Sec. 29-41. Reserved.**

**Sec. 29-42. Cross-connection control program.**

(a) *Purpose*: A cross-connection control program is hereby adopted in the interest of protecting the public potable water supply from the possibility of contamination.

(b) *Responsibility*: The commissioner of public works, or his designee, shall carry out all responsibilities required of a supplier of public water pursuant to the regulations of the Massachusetts Department of Environmental Protection relative to cross-connections, as may be amended from time to time. Such responsibilities shall include, but not be limited to, survey, inspection, testing, reporting, notification and enforcement pursuant to the provisions of such regulations. All such testing of backflow prevention devices shall be conducted by a person who is a certified backflow prevention device tester consistent with the requirements of such regulations.

(c) *Test fee*: A fee of ninety dollars (\$90.00) shall be charged to the owner of the property for each test, as required by regulation, of reduced pressure backflow preventers or double check valve assemblies in use of such property. (Ord. No. T-49, 9-18-89)

**State law references**—DEP role generally and in cross connections, G.L. c. 111, §§ 160, 160A and 310 Code of Massachusetts Regulations § 22.22

**Secs. 29-43—29-57. Reserved.**

**ARTICLE III.  
SEWERS**

**DIVISION I. GENERALLY**

**Sec. 29-58. Definitions.**

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

*A.S.T.M.*: American Society for Testing Materials.

*BOD (denoting Biochemical Oxygen Demand)*: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter.

*Building Drain:* That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*Building Sewer:* The extension from the building drain to the public sewer; also called "house connection" or "private sewer."

*City:* The City of Newton, Massachusetts.

*Commissioner:* The commissioner of public works of the City of Newton or his authorized deputy, agent or representative.

*Connection:* The joining or fastening together of pipes so that substances can be transferred from one pipe to another.

*Domestic Waste:* Spent water from building water supply to which has been added the waste materials of bathroom, kitchen and/or laundry.

*Discharge:* The flow of sewage to a point of treatment or otherwise from a sewerage or storm drain system.

*Excessive Levels:* More than the limits stated within this ordinance, established by the commissioner and/or stated in the M.W.R.A. Rules and Regulations, or levels of such magnitude that, in the judgment of the commission, may:

- (1) cause damage to any facility, be harmful to the wastewater treatment process or reduce its efficiency,
- (2) not be removed in the waste water treatment plant to the degree required to meet the Federal Water Pollution Control Act of 1972, Public Law 92-500,
- (3) create any hazard in the receiving waters,
- (4) exceed the capacity of the M.W.R.A. Sewerage System, or
- (5) otherwise endanger life, limb or public property or constitute a public nuisance.

*Garbage:* Wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

*Industrial Wastes:* Any solid, liquid or gaseous wastes resulting from industrial, manufacturing, trade, or business operations or processes, exclusive of garbage and domestic waste.

*M.W.R.A.:* The Massachusetts Water Resources Authority

*Owner:* A person, as defined below, who holds title jointly, in common, or by the entirety, or who holds the entire fee.

*Person:* Any individual, firm, company, association, society, trust, trustee, corporation, partnership, municipality or other governmental unit.

*pH:* The logarithm of the reciprocal of the hydrogen ion concentration expressed in moles per liter. (Neutral water for example, has a pH value of 7 and a hydrogen ion concentration of  $10^{-7}$ ). Measurement is to be made by the electrometric method unless substitution of the colorimetric method has been approved by the M.W.R.A.

*Properly Shredded Garbage:* 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 (1/2) inch (1.27 centimeters) in any dimension.

*Public Sewer:* Every sewer laid in any land, easement, street or way, public or private, to which all owners of abutting properties have equal rights, and which is controlled by the city. No building sewer shall be deemed to be a public sewer even if such sewer is located in any land, street or way, public or private.

*Receiving Waters:* Any water course, river, pond, ditch, lake, aquifer, ocean or other body of surface or groundwater receiving discharge of wastewater or effluent.

*Sanitary Sewage:* Liquids or water carrying human and domestic wastes from residences, commercial buildings, industrial plants, and institutions, exclusive of ground, storm and surface water and exclusive of industrial wastes.

*Septage:* The liquid and solid wastes of sanitary sewage origin that are removed from a cesspool, septic tank or similar receptacle.

*Sewage:* A combination of the liquid and water carried wastes from residences, businesses and commercial buildings, institutions and industrial establishments, together with minor quantities of ground, surface and stormwaters that are not admitted intentionally.

*Sewage Treatment Plant:* Any arrangement of devices and structures used for treating sewage.

*Sewage Works:* All facilities for collecting, pumping, treating and disposing of sewage.

*Sewer:* A pipe or conduit for carrying sewage; may be called a "sanitary sewer."

*Sludge:* Waste containing varying amounts of solid contaminants removed from water, sanitary sewage waste water or industrial wastes by physical, chemical or biological treatment.

*Slug:* Any discharge of water or sewage 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 (24) hour concentration or flow during normal operation, and which may adversely affect the sewerage system.

*Suspended Solids:* Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering procedure as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association.

*Toxic Wastes:* Wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to (1) injure or interfere with any sewage treatment process, (2) constitute a hazard to humans or animals, (3) create a public nuisance or (4) create any hazard in the receiving waters of the sewage treatment plants, and those wastes so specified in the Rules and Regulations of the M.W.R.A. and in the Water Pollution Control Act of 1972, Public Law 92-500.

*Unpolluted Water:* Water of quality equal to or better than the effluent criteria established by state and federal agencies, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and sewage works provided.

*W.P.C.F.:* Water Pollution Control Federation.

Where terms have not been defined, they shall have their ordinarily accepted meanings or such as the context may imply. (Rev. Ords. 1973, § 18-2; Rev. Ords. 1979, § 29-58; Ord. No. R-153, 6-17-81)

**State law references**—Betterments generally, G.L. c. 80; sewers generally, G.L. c. 83; authority to regulate use of sewers, G.L. c. 40, § 21(5); G.L. c. 83, § 10; G.L. c. 111, § 127; sewer use regulations, 360 Code of Massachusetts Regulations Chapter 10.000

## DIVISION 2. BUILDING SEWERS AND CONNECTIONS

### **Sec. 29-59. Building sewers—When to be provided.**

A separate and independent building sewer shall be provided for every building on which construction begins after July 17, 1981. If such a building sewer cannot be constructed with a length of 200 feet or less from the building drain to the public sewer without encroaching on the privately owned property of another, the owner must, at his own expense (1) obtain any necessary easements over the privately owned property of another which would allow the extension of the sewer through such property and/or (2) provide one manhole for every two hundred (200) feet of the building sewer. All building sewers shall be built in straight lines between manholes. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer, to the extent allowed by law. (Rev. Ords. 1973, § 18-25; Ord. No. 90, 10-6-75; Rev. Ords. 1975, § 29-85; Ord. No. R-153, 6-17-81)

### **Sec. 29-60. Installation of building sewers.**

(a) Unless permission otherwise shall have been granted by the commissioner in accordance with section 29-61, all work related to the installation of building sewers or sewer connections shall ordinarily be performed by employees of the city.

(b) In cases in which the city is engaged, except in exigent circumstances as described in (c), the commissioner shall require the applicant to produce a certificate from the city collector-treasurer that the amount of cost of installing the building sewer, as estimated by the commissioner, has been deposited with the city collector-treasurer, before such building sewer is laid. Except in exigent circumstances, the commissioner shall, before beginning work on any building sewer, require execution of an agreement providing that the final cost of such work, even though in excess of the estimated amount deposited, will be paid within thirty (30) days after the rendering of the bill.

(c) Notwithstanding the ordinary prepayment procedure described in (b), the commissioner shall perform work related to the installation of building sewers or sewer connections on existing residential buildings upon notification by the city council of the city council's determination that exigent circumstances exist and that betterments are to be assessed. The city council may make a determination of exigent circumstances on the basis of an existing health hazard or the applicant's financial hardship. In making such determinations, the city council shall consult with the health and human services commissioner and shall consult as a guideline relative to financial hardship the lower income schedule annually issued by the U.S. Department of Housing and Urban Development for use in the Section 8 housing program.

Where the city council determines exigent circumstances to exist, assessments shall be made upon the owners of estates for the final cost of all work related to the installation of building sewers or sewer connections. The amount assessed and certified by the mayor and city council shall be entered upon the plan proposed for assessment and shall form a lien against the estate until the same is paid. The city clerk shall furnish the city collector-treasurer and the comptroller of accounts with a certified copy of such schedule with the order of the city council thereon, as approved by the mayor. (Rev. Ords. 1973, §§ 18-26, 18-28; Ord. No. 90, 10-6-75; Rev. Ords. 1979, §§ 29-86, 29-88; Ord. No. R-153, 6-17-81; Ord. No. S-84, 9-17-84; Ord. No. X-175, 05-26-05)

### **Sec. 29-61. Same—Requirements for private installation.**

In exceptional cases, as determined by the commissioner upon receipt of an application and payment of a fee of one

hundred dollars (\$100.00), the commissioner may license contractors or individuals of established reputation to perform the work, as described in section 29-60 above. Every person so licensed, before performing any work by virtue of such license, shall execute a bond to the city in the sum of not less than five thousand dollars (\$5,000.00), with good and sufficient sureties licensed to do business in Massachusetts and as approved by the mayor, conditioned that the licensee shall comply with the terms of the license under which the work is performed; that he will cause the excavations to be properly fenced along the street line; that he will maintain adequate lighting and barriers conspicuously placed over the obstructions from sunset to sunrise; that he will properly make all connections and joints in every building sewer constructed by him and will leave no obstructions of any description in such building sewer; that he will properly close up the excavation; that he will use materials of a quality approved by the commissioner of public works; that he will perform all work in a thorough and workmanlike manner under inspection of the commissioner of public works; that he will guarantee the same and make good any defects in materials and workmanship and keep and maintain the trenches in repair for a period of six (6) months from the completion of the work; and that he will indemnify and hold harmless the city from any damages or cost to which it may be put by reason of damages or injuries sustained by any person resulting from neglect or carelessness in making or repairing such sewer, or in not properly fencing or lighting any excavation or obstruction, or in performing any work connected therewith. (Rev. Ords. 1973, §§ 18-10, 18-11, 18-12; Rev. Ords. 1979, §§ 29-66, 29-67, 29-68; Ord. No. R-153, 6-17-81; Ord. No. V-289, 3-20-00; Ord. No. X-55, 6-16-03)

**Sec. 29-62. Existing building sewers—When they may be used.**

Existing building sewers may be used in connection with newly constructed buildings only when, upon examination and test by the commissioner, they are found to meet all requirements of this chapter. (Ord. No. R-153, 6-17-81)

**Sec. 29-63. Construction to conform to codes.**

The size, slope, alignment, and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the State Building and Plumbing Codes and any other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. (Rev. Ords. 1979, §§ 29-89, 29-91, 29-92; Ord. No. R-153, 6-17-81)

**Sec. 29-64. Elevation of building sewer at building; exception.**

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, sewage carried by such building drain shall be lifted by a means approved by the commissioner as being sufficient to lift the volume of sewage anticipated and to assure that a nuisance condition will not result from the operation thereof and will be discharged to the building sewer. (Ord. No. R-153, 6-17-81)

**Sec. 29-65. Connection of sources of ground and surface waters to public sewer forbidden.**

No person shall connect or maintain connections of roof drains, roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer. (Rev. Ord. 1973, § 18-12; Rev. Ords. 1979, § 29-68; Ord. No. R-153, 6-17-81)

**Sec. 29-66. Connection to public sewer to conform to codes.**

The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Codes, any other applicable rules and regulations of the city, and the procedures set forth in appropriate

specifications of the A.S.T.M, and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. When conformance thereto is not possible, the commissioner may grant exceptions to the prescribed procedures and materials, provided such exceptions do not conflict with applicable statutes, ordinances, or state codes, and will not, in the opinion of the commissioner, contribute to a nuisance condition. (Ord. No. R-153, 6-17-81)

**Sec. 29-67. Connections involving gasoline-using establishments.**

Garages and other establishments where gasoline is used or where wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients can be discharged and are connected with public sewers, shall be provided with a suitable trap or separator. All traps or separators shall be of a type and capacity approved by the commissioner and shall be located so as to be readily and easily accessible for cleaning and inspection. (Ord. No. R-153, 6-17-81)

**Sec. 29-67A. Reserved.**

(Ord. No. V-93, 10-21-96; Ord. No. Z-86, 05-16-11; Ord. No. A-104, 02-21-17)

DIVISION 3. PUBLIC SEWERS

**Sec. 29-68. Restrictions on entry, etc., into public sewers.**

No person shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the commissioner. The acquisition of such permission shall not relieve the holder thereof of the responsibility of obtaining any permits from any other city department and/or the M.W.R.A. required by ordinance, statute, code, or regulation. Any person proposing a new connection into the system or a change in the volume or character of pollutants that are being discharged into the system which may result in a change in the characteristics of discharge which (1) constitutes fifteen (15) percent or more of the limitations specified in section 29-76(c); (2) exceed any limit specified in section 29-76(c); or (3) result in the discharge of water or waste specified in section 29-76(b), shall notify the commissioner at least forty-five (45) days prior to the proposed change or connection. (Rev. Ords. 1973, § 18-25; Ord. No. 90, 10-6-75; Rev. Ords. 1979, § 29-85; Ord. No. R-153, 6-17-81)

**Sec. 29-69. Public sewers, order required to lay, connect.**

(a) No public sewer shall be laid or connected with any existing public sewer until both of the following conditions have occurred: (1) the city council has ordered the extension of such sewer and (2) the commissioner of public works has received prepayment for installation of at least one building sewer which will be served by such public sewer; provided, however, that the commissioner's issuance of a license for installation of building sewer by private contractor pursuant to section 29-61 shall be deemed to satisfy this prepayment condition.

(b) The city council shall not make an order for the extension of a public sewer until said city council has held a public hearing and determined that the petitioner(s) for such sewer extension has received estimates of all costs associated with connecting to the proposed public sewer.

(c) The city council shall schedule such public hearings so as to minimize the length of time between the public hearings and the anticipated construction date, taking into consideration the availability of funding and, where applicable, the existence of any public health emergency as determined by the health and human services commissioner. (Rev. Ords. 1973, § 18-3; Rev. Ords. 1979, § 29-60; Ord. No. R-153, 6-17-81; Ord. No. T-231, 7-13-92; Ord. No. X-175, 05-26-05)

**Sec. 29-70. Duty of city engineer as to construction of common sewers; plans and profiles thereof.**

The city engineer shall make and prepare all needed specifications describing and governing the work of construction, and shall make plans and profiles of all common sewers showing their locations with reference to other sewers and the street lines. Such plans and profiles shall be filed in the office of the city clerk, and after being so filed, shall be deposited in the office of the engineering division of the department of public works, which shall be deemed a part of the office of the city clerk for the keeping of such plans. The city engineer shall keep an accurate account of the cost and expenses of each common sewer. (Rev. Ords. 1973, § 18-2; Rev. Ords. 1979, § 29-59; Ord. No. 153, 6-17-81; Ord. No. V-289, 3-20-00)

**State law reference**—Provision authorized, G.L. c. 40, § 21(5)

**Sec. 29-71. Installation cost of new public sewers—City to pay fifty percent.**

A minimum of fifty per cent (50%) of the cost of installation of new public sewers shall be paid by the city. (Rev. Ords. 1973, § 18-6; Rev. Ords. 1979, § 29-62; Ord. No. R-153, 6-17-81)

**Sec. 29-72. Same—Assessments upon owners of estates passed by new sewers.**

(a) Assessments of that part of the cost of installation of new public sewers not borne by the city shall be made upon owners of estates the frontage of which is passed in any part by said new sewer. The assessment shall be made by a uniform unit method which shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served, after having proportioned the cost of special and general benefit facilities. Each sewer unit shall be equal to a single-family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multi-family, commercial, industrial, and semipublic uses shall be converted into sewer units on the basis of residential equivalents, but no assessment in respect to any such estate which by reason of its grade or level or for any other cause cannot be drained into such sewer shall be made, certified or notified until such incapacity is removed. Estates which are presently connected to city sewers shall not be counted as existing or potential sewer units in the uniform unit method calculation.

(b) No such assessments shall be made upon owners of lots having frontage on any street or way in which a sewer shall have been constructed under bond by the developer of a subdivision pursuant to rules and regulations of the planning board. (Rev. Ords. 1973, § 18-7; Ord. No. 50, 1-20-75; Rev. Ords. 1979, § 29-63; Ord. No. R-153, 6-17-81; Ord. No. T-231, 7-13-92; Ord. No. Z-105, 04-02-12)

**State law reference**—sewer betterments, G.L. c. 83 § 15

**Sec. 29-73. Same—Owners of estates not liable to assessments.**

Owners of estates or parts of estates not liable to assessments as set forth in section 29-72, or not in fact assessed, shall pay for the use of public sewers for the disposal of their sewage from such estates or parts of estates such reasonable sum as the city council shall determine. (Rev. Ords. 1973, § 18-8; Rev. Ords. 1979, § 29-64; Ord. No. R-153, 6-17-81)

**Sec. 29-74. Same—Plan of estates to be assessed therefor; entry of assessments thereon; assessments to be lien until paid.**

Upon notification by the city council of the city council's intent to lay out or construct a public sewer, the city engineer shall prepare and submit to the city council plans of the estates to be assessed pursuant to this chapter showing the owners' names, frontages and areas, together with a schedule showing the assessments on the estates abutting and benefited. The amount ascertained, assessed and certified by the mayor and city council shall be entered upon the plan prepared for assessment and shall form a lien against the estate until the same is paid. The city clerk shall furnish the city collector-treasurer, the comptroller of accounts and the engineering division of the department of public works with a certified copy of such schedule with the order of the city council thereon, as approved by the mayor. (Rev.

Ords. 1973, § 18-9; Rev. Ords. 1979, § 29-65; Ord. No. R-153, 6-17-81; Ord. No. V-289, 3-20-00)

**Sec. 29-75. Same—Collection of assessments therefor; apportionment of assessments.**

The city collector-treasurer, upon receipt of the certified copy of the schedule of assessments pursuant to section 29-74 with the order thereon, shall send notices to the parties named therein with demand of payment of the amount assessed, and such amount shall be due and payable thirty (30) days after the assessment list has been committed to the collector-treasurer, after which time interest shall be charged thereon at the highest rate allowed by law, provided that if at any time before demand for payment by the collector-treasurer under the provisions of Chapter 60 of the General Laws, the owner of land assessed gives notice to the board of assessors to apportion such assessment, or if the board in its discretion makes such apportionment at any time before the proceedings for the enforcement of the collection without such notice to the board, such assessment shall be due and payable as provided by law and the first part of such apportionment, with interest thereon at the highest rate allowed by law, shall be added to the next annual tax bill thereafter. The board of assessors shall furnish to the city collector-treasurer and the comptroller of accounts a certificate of all assessments apportioned as above. (Rev. Ords. 1973, § 18-10; Rev. Ords. 1979, § 29-66; Ord. No. R-153, 6-17-81)

**Sec. 29-76. Discharge of certain waters or substances forbidden.**

(a) No person shall discharge or cause to be discharged into any public sewer any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, unpolluted industrial process waters or any other substances, waters or wastes which the commissioner or the M.W.R.A. has identified as likely, either singly or by interaction with other substances, to:

- (1) harm either the sewerage system or the water treatment process,
- (2) be otherwise incompatible with the treatment process,
- (3) cause a violation of the federal or state discharge permits issued to the commission,
- (4) adversely affect receiving waters,
- (5) endanger life, limb, or public property, or
- (6) constitute a nuisance.

(b) Specifically, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the sewage works or the receiving waters of the sewage treatment plant.
- (3) Any waters or wastes having a pH lower than 5.5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to: ash, ashes,

cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc.

(c) Substances or materials with any or all of the following characteristics shall not be discharged into the public sewers without the approval of the commissioner and/or the M.W.R.A.

- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l, or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) F (0° and 65° C) in excess of one hundred (100) mg/l.
- (3) Any garbage that has not been properly shredded as defined in section 29-58.
- (4) Any waters or wastes containing strong acid iron-pickling wastes, or concentrated plating solutions, whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc or similar objectionable or toxic metals, or a toxic pollutant in toxic amounts as defined in standards or guidelines issued pursuant to section 307 (a) of Public Law 92-500 or as established by the commissioner and/or the M.W.R.A.
- (6) Any waters or wastes containing phenols, or other taste-producing or odor-producing substances, in such concentrations as to exceed limits which may be established by the commissioner and/or the M.W.R.A. as necessary to meet the requirements of state, federal or other public agencies.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner and/or the M.W.R.A. to comply with applicable state or federal regulations.
- (8) Materials which exert or cause:
  - a) Unusual concentrations of inert suspended solids (such as, but not limited to, sand, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment plant, or as to cause wastes received at the sewage treatment plant to exceed limits established by the M.W.R.A.
  - d) Unusual volume of flow or concentration of wastes constituting slugs.
- (9) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of state, federal or other public agencies.
- (10) Any waters or wastes which, by interaction with other water or wastes in the public sewers, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to the sewage works.

(11) No municipality shall discharge or cause to be discharged or allow to be discharged into any metropolitan sewer or any sewer tributary thereto any septic tank or cesspool cleanings or any sewage or industrial wastes which originate in any territory outside the limits of the Metropolitan Sewerage District.

(d) The commissioner and/or the M.W.R.A. may allow the discharge of substances in concentrations greater than those set forth in paragraph (c), on a case-by-case basis, when the user demonstrates that the discharge will not contribute to nuisance conditions. In giving such approval, the commissioner and/or the M.W.R.A. shall limit discharges of the above-described substances and materials to concentrations and quantities which, in his opinion, will avoid the following adverse effects: deterioration in quality of the receiving waters; damage to life, limb or public property; damage to, or impairment of the operation of, the sewage works; or creation of a nuisance. Such approval shall be made in accordance with the provisions set forth by Public Law 92-500, and shall consider all relevant factors, such as the quantity of subject waste in relation to flows and velocities in the sewers, the sewage treatment process employed, capacity of the sewage works, and degree of treatability of the sewage. Limitations more restrictive than those in paragraph (c), subparagraphs (1) through (11) above may be prescribed, if necessary, to avoid the adverse effects described herein.

(e) Before accepting into the public sewers any sewage containing materials which have any of the characteristics listed in paragraph (c), subparagraphs (1) through (11) above, the commissioner may, in exercise of his authority to limit discharges as provided above, require any or all of the following:

- (1) Pretreatment of the sewage to an acceptable condition.
- (2) Restriction of rates and quantities of discharge.
- (3) Payment of a surcharge for handling and treating the sewage, to cover any resulting additional cost not covered by other charges imposed under this chapter.

If the commissioner and/or the M.W.R.A. permits the pretreatment or equalization of waste flows, to bring a discharge into compliance with this section, the design and installation of the plants or equipment used shall be subject to review and approval of the commissioner and the M.W.R.A. consistent with the standards of all applicable federal, state, and city codes, ordinances and laws. All such plants or equipment shall be maintained continuously in satisfactory and effective operation by the owner at his expense. In maintaining such plants and equipment the owner shall be responsible for the proper removal and disposal by appropriate means of any residue and shall maintain records of the dates and means of disposal, which are subject to review by the commissioner and the M.W.R.A. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by licensed waste disposal firms.

(f) The commissioner and/or the M.W.R.A. may refuse to accept into the public sewers any sewage which contains materials having any of the characteristics listed in paragraph (c), subparagraphs (1) through (11), above, when necessary to avoid the adverse effects described in paragraph (d) herein. (Rev. Ords. 1973, § 8-4; Rev. Ords. 1979, § 29-41; Ord. No. R-153, 6-17-81)

**Editor's note**—Paragraph (c)(11) originally provided for municipal discharge for non-MDC originating sewage, etc., by permission until 12-31-79.

**Cross reference**—360 Code of Massachusetts Regulations Chapter 10.000

### **Sec. 29-77. Control manholes, etc.**

The owner of any property serviced by a building sewer carrying industrial wastes shall within a reasonable time, but in no event to exceed six (6) months, install a suitable control manhole or other structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole or other structure shall be accessibly and safely located. Construction shall not begin on such manhole or other structure until the plans for the same are approved by the commissioner, who shall grant such

approval if the plans appear adequate, under accepted engineering practices, to accomplish the purposes and requirements of this section. The manhole or other structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. (Ord. No. R-153, 6-17-81)

**Sec. 29-78. Information to be given to commissioner upon request.**

The commissioner may require any person discharging industrial wastes to provide information needed to determine compliance with this ordinance. These requirements may include but are not limited to:

- (1) Sewage discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of sewage conducted by an approved wastewater testing laboratory.
- (3) Information on raw materials, processes and products affecting sewage volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- (6) Details of sewage pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer. (Ord. No. R-153, 6-17-81)

**Sec. 29-79. Standards for waste analysis.**

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be conducted in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be conducted at the control manhole or other structure provided, or upon suitable samples taken at said structure. In the event that no special manhole or other structure has been required, the control manhole shall be a sampling point, determined by the commissioner or, should none be established, shall be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to determine the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property and to determine the existence of damage or impairment to the operation of the sewerage works. (Ord. No. R-153, 6-17-81)

**Sec. 29-80. Sewer use charge.**

(a) Estates whose building sewers discharge directly or indirectly into public sewers of the city, shall pay a charge for the use of sewage works in proportion to water consumption. Water consumption amounts registered on or attributable to outdoor meters installed at residential properties in accordance with section 29-24 of this chapter shall not be included in the charge for use of sewage works.

- (1) Sewer rates

A charge for the use of sewer, which charge shall be made in proportion to water consumption, based on the water meter reading, or estimated water meter reading, excluding outdoor meters for the same property, for the prior quarterly billing period shall be made at the following schedule of rates or prices (effective July 1, 2020). Such sewer bill shall be issued on a quarterly basis:

Ten dollars and ninety-eight cents (\$10.98) per hundred cubic feet for consumption from 0 to 10 hundred

cubic feet;

Twelve dollars and eighty-five cents (\$12.85) per hundred cubic feet for consumption from 11 to 25 hundred cubic feet;

Thirteen dollars and eighty cents (\$13.80) per hundred cubic feet for consumption from 26-60 hundred cubic feet

Fifteen dollars and eighty-seven cents (\$15.87) per hundred cubic feet for consumption above 60 hundred cubic feet.

(2) Multi-dwelling properties

a) For purposes of this subsection, the term Single Meter/Multi-Residence shall have the following meaning: A building, buildings, or part of a building which i) is used for residential use only, ii) contains more than one dwelling unit, and iii) receives water delivered through a single service pipe and meter. The term dwelling unit shall have the meaning set out in the definition that appears in section 30-1.

b) For a Single Meter/Multi-Residence property, the applicable price or rate for use of sewer shall be determined by dividing the consumption by the number of dwelling units within such property.

(3) Where water is supplied by the city through a meter that is not in good working order, the commissioner shall use any reasonable, fair, and appropriate method to determine the quantity of water consumed and shall issue the sewer use bill on that basis.

(b) Such charges shall be reduced by a discount of thirty percent (30%) for those dwellings which are owned and inhabited by any person who is certified as eligible for the water discount program described in section 29-36(b). Whenever the board of assessors determines that a person is eligible for such water discount program, such board shall also determine said person to be eligible for a discount from the sewer use charges pursuant to this section, which certification shall continue for the same term as such person's certification for the water discount program; and said board shall forthwith so notify the Water and Sewer Division. Upon receipt of such notice, the Water and Sewer Division shall take the steps necessary to so reduce the bills issued for sewer use.

(c) All bills issued under this section, properly numbered for identification, shall be made out in the office of the commissioner. Such bills, together with a warrant for their collection, shall be delivered to the comptroller of accounts for forwarding to the city collector-treasurer as soon as made out, and the city collector-treasurer shall thereupon assume responsibility for such collection. Bills shall be due and payable thirty (30) days from their issuance.

(d) All charges shall constitute a lien upon the land connected with the public sewer from the time of assessment and shall continue for the same period and under the same conditions as a lien established under General Laws, Chapter 80.

(e) If a bill for sewer use becomes a lien, it shall bear interest at the rate provided by law from thirty (30) days after the date of billing until it is committed as part of a tax.

(f) The occupant of any building shall be liable for the payment of the sewer use charge for such building, and the owner shall also be liable.

(g) Except where the properties served are owned, occupied and operated by one owner and not sublet to various tenants, the rates for each meter shall be figured independently of all other meters. In multiple tenant properties served by one meter, the rates shall be based upon water usage recorded from said meter billed to the owner accordingly.

(h) The commissioner is authorized to make abatements and rebates of charges when disproportionate to the service rendered. The commissioner shall certify to the comptroller of accounts the amounts of abatements and rebates for forwarding to the city collector-treasurer. (Rev. Ords. 1973, § 18-18; Rev. Ords. 1979, § 29-64; Ord. No. R-153, 6-17-81; Ord. No. T-28, 6-5-89; Ord. No. T-77, 3-5-90; Ord. No. T-78, 3-5-90; Ord. No. U-5, 4-26-94; Ord. No. V-76, 5-1-96; Ord. No. V-124, 7-14-97; Ord. No. v-180, 6-15-98; Ord. No. V-123, 5-17-99; Ord. No. V-308, 6-19-00; Ord. No. W-47, 6-20-01; Ord. No. X-22, 7-8-02; Ord. No. X-56, 6-18-03; Ord. No. X-95, 06-21-04; Ord. No. X-98, 07-12-04; Ord. No. X-212, 05-24-06; Ord. X-220, 6-19-06; Ord. Y-22, 06-04-07; Ord. No. Z-29' 06-02-08; Ord. No. Z-49, 05-18-09; Ord. No. Z-56, 12-07-09; Ord. No. Z-64, 05-17-10; Ord. No Z-88, 5-23-11; Ord. No. Z-110, 05-07-12; Ord. No. A-23, 05-20-13; Ord. No. A-39, 05-05-14; Ord. No. A-52, 12-15-14; Ord. No. A-59, 05-04-15; Ord. No. A-71, 03-21-2016; Ord. No. A-75, 05-02-16; Ord. No. A-110, 05-15-17; Ord. No. A-125, 12-18-17; Ord. No. B-11, 05-07-18; Ord. No. B-21, 02-04-19; Ord. No. B-31, 05-06-19)

**Historical note**—Ord. Nos. T-77 and T-78 permitted certain estates with garden sprinkler meters to be billed on a water use basis only for water consumed prior to 12-30-90.

#### DIVISION 4. PROTECTION FROM DAMAGE

##### **Sec. 29-81. Damage, etc., to sewage works forbidden.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. (Ord. No. R-153, 6-17-81)

##### **Sec. 29-82. Laying of other pipes, etc., not to obstruct; removal.**

Whenever any street is opened for laying or repairing any utilities or for any other purpose, the work shall be executed so as not to obstruct the course, capacity or construction of a public sewer. When any pipe or conduit shall be found to exist in such location as to interfere with the building of any public sewer, the person having charge of or maintaining the same shall, on notice, at once remove, change or alter such pipe or conduit, in such a manner as the commissioner shall direct; and if said person neglects or refuses to do so, the commissioner may make such removal, change or alteration at the expense of the party so notified. In instances involving conflicts with other municipal utilities the city engineer shall provide the necessary revisions in locations and grade which must be followed to resolve such conflicts. (Rev. Ords. 1973, § 18-4; Ord. No. 90, 10-6-75; Rev. Ords. 1979, § 29-61; Ord. No. R-153, 6-17-81)

##### **Sec. 29-83. Duty to maintain building sewers in proper working order; failure to maintain after notice.**

Whenever any building sewer connecting with any public sewer shall become clogged, broken, obstructed, out of order or detrimental to the use of a public sewer, or unfit for carrying sewage, the owner, agent, occupant or person having charge of any building or lot of land or premises in which such building sewer is located shall, upon written notification by the commissioner, remove, reconstruct, alter, clean or repair such building sewer as the condition thereof may require. In case of neglect or refusal to comply with such notice within five (5) days after the same is given, the commissioner may cause the building sewer to be removed, reconstructed, repaired, altered or cleaned, as he may deem expedient, at the expense of such owner, agent, occupant or other person so notified, who shall also be liable to a penalty of not more than twenty dollars (\$20.00) for such neglect or refusal. (Rev. Ords. 1973, § 18-30; Ord. No. 90, 10-6-75; Rev. Ords. 1979, § 29-90; Ord. No. R-153, 6-17-81)

#### DIVISION 5. POWERS AND AUTHORITY OF INSPECTORS

##### **Sec. 29-84. Recourse of commissioner when entry is denied.**

No owner, occupant, or other person shall refuse, impede, inhibit, interfere with, restrict or obstruct entry and free access to properties by the commissioner where inspection is sought in order to assure compliance with applicable

ordinances, statutes, codes and/or regulations. (Ord. No. R-153, 6-17-81)

**Sec. 29-85. Occupant to be held harmless for damages; exceptions.**

While performing the necessary work on private properties referred to in section 29-84 above, the commissioner or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the occupant and the city shall indemnify the occupant against loss or damage to its property by city employees, except as such may be caused by negligence or failure of the occupant to maintain safe conditions. (Ord. No. R-153, 6-17-81)

**Sec. 29-86. Commissioner permitted to enter properties with easement.**

The commissioner and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds any sewer easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry, and any subsequent work on said easements, shall be done in full accordance with the terms, if any, of the easement pertaining to the private property involved. (Ord. No. R-153, 6-17-81)

DIVISION 6. PENALTIES

**Sec. 29-87. Violators to be served with notice.**

Any person found to be violating any provision of this chapter except Article IV shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Ord. No. R-153, 6-17-81)

**Sec. 29-88. Fine for continued violation.**

Any person who shall continue any violation beyond the time limit provided for in a notice, shall be subject to a fine not to exceed two hundred dollars (\$200.00). Each day in which any such violation continues shall be deemed a separate offense. (Ord. No. R-153, 6-17-81)

**Sec. 29-89. Liability of violators.**

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. (Ord. No. R-153, 6-17-81)

DIVISION 7. VALIDITY

**Sec. 29-90. Conflicting ordinances repealed.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed. (Ord. No. R-153, 6-17-81)

**Sec. 29-91. Invalidity of one part not to affect other parts.**

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts. (Ord. No. R-153, 6-17-81)

**Sec. 29-92. Compliance with M.W.R.A. regulations.**

No provision in this sewer use ordinance shall contravene nor render ineffective any lawfully established rules and regulations of the Massachusetts Water Resources Authority. (Ord. No. R-153, 6-15-81; Ord. No. R-180, 11-2-81)

**Secs. 29-93—29-111. Reserved.**

## **ARTICLE IV. DRAINS**

### **DIVISION 1. GENERALLY**

#### **Sec. 29-112. Definitions.**

For the purposes of this article the following words shall have the meanings respectively ascribed to them in this section:

*Drain*: A pipe or conduit for the conveyance of storm or surface water.

**Cross reference**—Rules of construction and definitions generally, § 1-3

#### **Sec. 29-113. Duty of city engineer as to construction of main drains; plans and profiles thereof.**

The city engineer shall make and prepare all needed specifications describing and governing the work of construction, and shall make plans and profiles of all main drains showing their locations with reference to other drains and the street lines, and showing the locations of all private drains entering them. Such plans and profiles shall be filed in the office of the city clerk, and after being so filed, shall be deposited in the office of the engineering division of the department of public works, which shall be deemed a part of the office of the city clerk for the keeping of such plans. He shall keep an accurate account of the cost and expenses of each main drain. (Rev. Ords. 1973, § 18-2; Ord. No. V-289, 3-20-00)

**State law references**—Betterments generally, G.L. c. 80; drains generally, G.L. c. 83

#### **Sec. 29-114. Main drain described; order required to lay, connect.**

Every drain laid in any land, street or way, public or private, opened or proposed to be opened for public travel and accommodation shall be deemed to be a main drain, and no such drain shall be laid or connected with any existing main drain except by an order of the city council. (Rev. Ords. 1973, § 18-3)

**State law reference**—Provision authorized, G.L. c. 40, § 21(5)

#### **Sec. 29-115. Laying of other pipes not to obstruct; removal.**

Whenever any street shall be opened for laying or repairing water or gas pipes, or for any other purposes, the work shall be executed so as not to obstruct the course, capacity or construction of a main drain and whenever pipes for that purpose, or any work of construction, shall be found to exist in such location as to interfere with the main drain, the persons having charge of or maintaining the same shall, upon notice, at once remove, change or alter such pipe in such manner as the commissioner of public works shall direct. If they neglect or refuse to do so, the commissioner of public works may make or cause to be made such removal, change or alterations, and the cost of the same shall be paid by such persons. (Rev. Ords. 1973, § 18-4)

#### **Sec. 29-116. Obstruction of drainage system.**

Whoever by himself, his agent or servant deposits in or along any ditch, brook or drain constituting part of the public drainage system of the city, or within the limits of any easement of the city through which such ditch, brook or drain runs, or within the limits of any sidewalk or street, any material in such manner that the same may fall or slide or be

blown or washed or may otherwise enter into any public drain and obstruct the free flow of water therein shall be punished as provided in section 1-6. (Rev. Ords. 1973, § 18-5)

**Sec. 29-117. Grade for drainage.**

The crown of each sewer laid out by the city council shall be established as the grade for drainage for the territory for which such sewer is laid out. (Rev. Ords. 1973, § 18-11)

**Sec. 29-118. Steam exhaust, not to be connected.**

No exhaust from steam engines and no blowoff from steam boilers shall be connected with any main drain or any private drain connected therewith. (Rev. Ords. 1973, § 18-12)

**Sec. 29-119. Construction of new buildings or structures; substantial removal of existing buildings or structures with replacement or reconstruction; topographic plan required.**

All instances of construction of new buildings and structures, excepting utility sheds and detached garages no greater than 700 square feet in gross floor area, or instances where there is the removal of a building or structure on more than thirty (30) percent of the footprint of said building or structure and its subsequent replacement or reconstruction, whether residential or commercial, shall require the prior filing with and the written approval of the city engineer and the commissioner of inspectional services of a topographic plan prepared by a certified land surveyor, showing existing and proposed final contours and grade of the land, regardless of whether or not it is anticipated that such construction, or removal with subsequent replacement or reconstruction will result in any alteration of the existing contours or grade of the land, as defined in section 30-1, "grade." (Ord. No. V-148, 11-17-97)

**Sec. 29-120 Stormwater use charge (section effective July 1, 2016)**

(a) Every owner of property in the city, excepting owners of cemeteries, shall pay a charge for use of public main drains and stormwater facilities, which shall be based on the following annual rates. Such charge shall be billed quarterly:

- (1) 1-4 family dwellings ..... \$100.00
- (2) All other properties: \$0.0470 per square foot of impervious surface area, except that if the square footage charge multiplied by the total impervious area of the parcel equals a sum less than \$150.00, then the annual fee shall be ..... \$150.00

(b) Property owners that are certified as eligible for the water discount program described in section 29-36(b) shall also be eligible for a discount of thirty percent (30%) off the stormwater use charge.

(c) The provisions of sections 29-80 (d) through (f) pertaining to billing and liens shall apply to stormwater use charges.

(d) The commissioner of public works may establish a stormwater use charge credit policy and may grant credits of up to fifty percent (50%) to be applied against the stormwater use charge.

(e) The commissioner of public works may establish policies and may promulgate rules and regulations necessary to implement this section. (Ord. No. A-71, 03-21-16; Ord. No. A-76, 05-02-16; Ord. No. B-24, 03-04-19)

**Secs. 29-121—29-129. Reserved.**

#### DIVISION 2. PRIVATE DRAINS

**Sec. 29-130. Prerequisites to entering private drains into main drains; application.**

All applications for entering private drains into any main drain shall be in such form as the commissioner of public works shall prescribe and shall be filed with him. No person shall enter a private drain into a main drain without a permit from the commissioner of public works, nor without first paying such sum as the city council shall determine for the privilege. (Rev. Ords. 1973, § 18-24)

**Sec. 29-131. Duty to maintain private drains in proper working order; failure to maintain after notice.**

Whenever any private drain connecting with any main drain shall become clogged, obstructed, broken, out of order or detrimental to the use of such main drain, or unfit for the purpose of drainage, the owner or other person having charge of any building, yard, lot of land or other premises which are drained by such private drain, within five (5) days after notice in writing from the commissioner of public works, shall remove, reconstruct, alter, cleanse or repair such private drain as the condition thereof may require. In case of neglect or refusal to remove, reconstruct, repair, alter or cleanse such private drain within the five (5) days, the commissioner of public works shall cause the same to be removed, reconstructed, repaired, altered, or cleansed, as he may deem expedient, at the expense of the owner or persons having charge of same, who shall also be liable to a penalty of not more than twenty dollars (\$20.00) for such neglect or refusal. (Rev. Ords. 1973, § 18-30)

**Sec. 29-132. Cleanouts required; removal of cleanout.**

All private drains connecting with any main drain shall have a main cleanout, which shall have a heavy brass threaded cover with an inverted nut approximately one inch square. After the installation of such cleanout and cover, no person shall remove, or suffer or permit the removal of the cleanout cover for any purpose, except the commissioner of public works or any department employee authorized by the commissioner of public works. (Rev. Ords. 1973, § 18-31)

**Sec. 29-133. Fall required from bottom of cellars; failure to construct cellars with proper fall.**

The bottom of the cellar or basement cellar of every building hereafter constructed shall be at such an elevation that the private drain from such cellar or basement cellar shall have a fall of at least one in fifty (50) to the crown of the main drain, unless the city council shall otherwise permit. If any person constructs or attempts to construct or use any cellar or basement cellar in violation of this section, the city council may order the owner or occupant of such cellar or basement cellar to so alter and construct the same as to conform to the requirements of this section. If such owner or occupant fails to comply with such order within ten (10) days after service thereof according to law, the city council may cause the required alterations to be made therein, the expense of which shall constitute a lien upon the land wherein such cellar or basement cellar shall be constructed, and upon the building thereon erected, and may be collected in the manner provided by law for the collection of taxes upon real estate. (Rev. Ords. 1973, § 18-32)

#### ARTICLE V.

#### PROHIBITION OF ILLICIT DISCHARGES TO THE STORM DRAIN SYSTEM

**Sec. 29-134. Purpose.**

(a) Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the

municipal storm drain system is necessary for the protection of the natural resources and infrastructure of the City of Newton (hereafter the “city”), and to safeguard the public health, safety, welfare and the environment.

(b) The objectives of this article are:

- (1) To prevent pollutants from entering the city’s municipal storm drain system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the (MS4);
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this article through inspection, monitoring, and enforcement. (Ord. No. A-108, 04-18-17)

**Editor’s Note:** The term “MS4” as used in federal and state regulations is an acronym for “municipal separate storm sewer systems.” As used in this article, “MS4” refers to the city’s municipal storm drain system.

### **Sec. 29-135. Definitions.**

For purposes of this article, the meaning of the terms used shall be as follows:

*Best Management Practice (BMP):* An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

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

*CFR:* The Code of Federal Regulations

*CMR:* The Code of Massachusetts Regulations

*Commissioner:* The commissioner of the department of public works or his/her designee.

*Discharge of Pollutants:* The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

*Discharger:* A person or persons who discharge or allows to be discharged any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

*Groundwater:* Water that comes from or resides in the ground.

*Illicit Connection:* A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain 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 or approved before the effective date of this article.

*Illicit Discharge:* Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted herein. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit or to discharges or flows exempted pursuant to the provisions of section 29-141 hereof.

*Impervious Surface:* Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

*MS4:* 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, or other drainage structure(s) that together comprise the storm drainage system owned or operated by the city. MS4 is an acronym for “municipal separate storm sewer system.” As used in this article, MS4 refers to the city’s municipal storm drain system.

*National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:* A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes and regulates the discharge of pollutants to waters of the United States.

*Non-Stormwater Discharge:* Discharge to the MS4 not composed entirely of stormwater.

*Notice of Violation:* A written notice given to a person by the commissioner that states that said person has violated the provisions of this article on any specified occasion.

*Outfall:* the terminus of a storm drain or other stormwater structure where stormwater is discharged.

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

*Pollutant:* 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. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil, gasoline and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes;
- (7) sewage, septage, fecal coliform and pathogens;
- (8) dissolved and particulate metals;
- (9) animal wastes;
- (10) rock, sand, salt, soils;
- (11) construction wastes and residues; and

(12) noxious or offensive matter of any kind.

*Process Wastewater:* 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.

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

*Stormwater:* Runoff from precipitation or snow melt.

*Surface Water Discharge Permit:* A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorize the discharge of pollutants to water of the Commonwealth of Massachusetts.

*Toxic or Hazardous Material or Waste:* 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, 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 G.L. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

*Watercourse:* A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

*Waters of the Commonwealth:* 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:* Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. (Ord. No. A-108, 04-18-17)

#### **Sec. 29-136. Applicability.**

This article shall apply to flows entering the MS4, a watercourse, and any waters of the Commonwealth located within the boundaries of the City of Newton. The provisions of this article shall take precedence over any conflicting provisions of any ordinances or parts of ordinances of the city. (Ord. No. A-108, 04-18-17)

#### **Sec. 29-137. Authority.**

This article is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34. (Ord. No. A-108, 04-18-17)

#### **Sec. 29-138. Responsibility for Administration and Enforcement.**

The commissioner of the department of public works or his/her designee shall administer, implement and enforce the provisions of this article. (Ord. No. A-108, 04-18-17)

**Sec. 29-139. Regulations.**

The commissioner may promulgate rules and regulations to effectuate the purposes of this article. Failure by the commissioner to promulgate such rules and regulations shall not have the effect of suspending or invalidating the provisions of this article. (Ord. No. A-108, 04-18-17)

**Sec. 29-140. Prohibited Activities.**

(a) Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, into a watercourse, or into the waters of the Commonwealth.

(b) Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(c) Obstruction of the MS4. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior consent from the commissioner. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the open watercourses (swales, brooks and streams) that make up the MS4. (Ord. No. A-108, 04-18-17)

**Sec. 29-141. Exemptions.**

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the MS4, as determined by the commissioner:

- (1) Waterline and hydrant flushing;
- (2) Flow from potable water sources;
- (3) Discharge of flow resulting from firefighting activities;
- (4) Discharge from de-chlorinated swimming pool water (less than one part per million chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (5) Discharge from landscape irrigation or lawn watering;
- (6) Water from individual residential car washing;
- (7) Discharge from street sweeping;
- (8) Dye testing, provided verbal notification is given to the commissioner prior to the time of the test;
- (9) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (10) Flow from springs;
- (11) Natural flow from riparian habitats and wetlands;
- (12) Diverted stream flow;

- (13) Rising groundwater;
- (14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the written approval, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the commissioner as necessary to protect public health, safety, welfare or the environment. In particular, this exemption shall apply to sand and salt that is applied to driveways, sidewalks, streets and parking lots for de-icing and public safety purposes. (Ord. No. A-108, 04-18-17)

**Sec. 29-142. Emergency Suspension of Storm Drainage System Access.**

(a) The commissioner may suspend MS4 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. In the event any person fails to comply with an emergency suspension order, the commissioner may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

(b) No person shall reinstate MS4 access that has been suspended or terminated without the prior written approval of the commissioner. (Ord. No. A-108, 04-18-17)

**Sec. 29-143. Industrial or Construction Activity Discharges.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit may be required to provide proof of compliance with said permit in a form acceptable to the commissioner prior to the allowance of discharges to the MS4. The commissioner shall be permitted to enter and inspect facilities subject to regulation as often as may be necessary to determine compliance with this article. (Ord. No. A-108, 04-18-17)

**Sec. 29-144. Watercourse Protection and Maintenance.**

Every person owning or in control of property through which a watercourse passes, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly restrict the flow of water through the watercourse. The provisions in this section are intended to complement, not replace, maintenance responsibilities of the city where a drainage easement has been established. (Ord. No. A-108, 04-18-17)

**Sec. 29-145. Notification of Spills.**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the MS4, a watercourse, or waters of the Commonwealth, said person shall take all necessary steps to ensure containment, and cleanup of the release in accordance with the provisions of this article and any regulations promulgated pursuant to this article. Further, in the event of a release of oil or hazardous materials, the person shall immediately notify the city's fire department and the commissioner. In the event of a release of other pollutants, the person shall notify the commissioner no later than the next business day. Notification of a release to the commissioner shall include all pertinent information regarding the release including proof of notification to the Massachusetts Department of Environmental Protection if such notification was required. (Ord. No. A-108, 04-18-17)

**Sec. 29-146. Enforcement.**

(a) The commissioner shall enforce the provisions of this article and any regulations promulgated hereunder and may issue and prosecute violation notices and enforcement orders and may pursue all civil and criminal remedies for such violations.

(b) **Entry to Perform Duties Under This Article:** To the extent permitted by state law, upon reasonable notice to the owner or other party in control of the property, or if authorized by the owner or other party in control of the property, the commissioner, his/her agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this article and the regulations promulgated hereunder and may make or cause to be made such examinations, surveys or sampling as the commissioner deems reasonably necessary. What constitutes reasonable notice shall be determined by the commissioner in his/her sole discretion, based upon the nature and the imminence of a threat to the city's natural resources, environment, infrastructure, public health, public safety or public welfare.

(c) **Civil Relief:** The commissioner may seek injunctive relief in a court of competent jurisdiction to restrain a person from continued violations of the provisions of this article or the regulations promulgated hereunder, or any notices, orders or written approvals or to compel said person to abate or remediate violations hereunder.

(d) **Orders:** The commissioner may issue a written order to enforce the provisions of this article and the regulations promulgated hereunder, which may include:

- (1) elimination of illicit connections or discharges to the MS4;
- (2) performance of monitoring, analyses, and reporting;
- (3) that unlawful discharges, practices, or operations shall cease and desist;
- (4) remediation of contamination in connection therewith;
- (5) payment of a fine to cover administrative and remediation costs; and
- (6) implementation of source control or treatment BMPs.

(e) If the commissioner determines that abatement or remediation of contamination is required, the order shall set forth a deadline 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 deadline, the city may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

(f) Within thirty (30) days after completion by the city of all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the city, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the commissioner within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the commissioner affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, 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 on any unpaid costs in accordance with the provisions of Massachusetts law.

(g) Notices of Violation and Orders shall be written and shall be served by the city upon the persons to whom or

to which they apply.

(h) **Criminal Penalty:** Any person who violates any provision of this article, the regulations promulgated hereunder, or an order or written approval issued hereunder, shall be subject to a written warning for the first offense, and shall be subject to a fine of (\$300.00) for subsequent offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. Violations may result in the revocation of city licenses.

(i) **Non-Criminal Disposition:** As an alternative to criminal prosecution or civil action, the city may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, §21D.

(j) **Appeals:** The decisions or orders of the commissioner shall be final. Further relief shall be to a court of competent jurisdiction.

(k) **Remedies Not Exclusive:** The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law. (Ord. No. A-108, 04-18-17)

#### **Sec. 29-147. Severability.**

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article. (Ord. No. A-108, 04-18-17)

#### **Secs. 29-148—29-156. Reserved.**

### **ARTICLE VI. REQUIRED REMOVAL AND REPLACEMENT OF BUILDING SEWER, WATER SERVICE PIPES AND SIDEWALKS**

#### **Sec. 29-157. Definitions.**

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

*Building sewer pipe:* The sewer pipe which connects a building's sewer system to the public sewer main.

*CCTV inspection:* A closed circuit television inspection.

*Commissioner:* The commissioner of public works of the City of Newton or his authorized deputy, agent or representative.

*Substantially remodeled or rehabilitated:* When a dwelling or building is (1) renovated and/or gutted more than fifty percent (50%) or (2) an addition to a building is constructed that increases the footprint by more than 1,000 square feet, or increases the total square footage more than 1,000 square feet.

*Water service pipe:* The water pipe which connects a building's plumbing system to the nearest water gate valve serving the building. (Ord. No. B-42, 10-07-19)

#### **Sec. 29-158. Updates to building sewer, water service pipes and sidewalks.**

(a) When a dwelling or building is demolished and a new building is constructed, or when a building is substantially remodeled or rehabilitated, the following shall be removed and replaced, or installed at the owner's expense:

- (1) The building sewer pipe(s) to the public sewer main;
- (2) The water service pipe(s) to the water valve; and
- (3) The sidewalk and curbing across the entire public way frontage of the lot(s) the dwelling or structure is located on.

(b) The existing building sewer pipe(s), water service pipe(s), and sidewalk and curbing shall be removed and replaced, or installed in accordance with the provisions of this article and shall conform to the requirements of the State Building and Plumbing Codes, any standards and specifications established by the city engineer, and any other applicable federal, state, and city laws, ordinances, rules and regulations. (Ord. No. B-42, 10-07-19)

**Sec. 29-159. Building sewer pipe removal and replacement procedure.**

When removing and replacing building sewer pipe(s) under this article, the owner shall comply with the procedures and standards set forth in sections 29-60 and 29-61 of article III, which includes the approval of materials by the commissioner of public works. (Ord. No. B-42, 10-07-19)

**Sec. 29-160. Building sewer pipe exemption.**

The commissioner, upon request from an applicant, may determine that a building sewer pipe(s) is not required to be removed and replaced if all of the following requirements are met:

- (1) the existing building sewer pipe(s) is less than twenty (20) years old;
- (2) the owner obtains a CCTV inspection of the interior of the existing building sewer pipe(s) by an entity licensed to conduct such an inspection and submits with the building permit application a copy of the CCTV inspection along with a signed statement from the inspector attesting to the date of the inspection and the address of the property inspected; and
- (3) the commissioner makes a determination, based on the material and manner of construction of the building sewer pipe(s) and the CCTV inspection, that the existing building sewer pipe(s) has the ability to be adequately reused without replacement. (Ord. No. B-42, 10-07-19)

**Sec. 29-161. Water service pipe update procedure.**

When removing and replacing water service pipe(s) under this article, the owner shall comply with the procedures and standards set forth in section 29-27 of article II, which includes the approval of materials by the commissioner of public works. (Ord. No. B-42, 10-07-19)

**Sec. 29-162. Water service pipe exemption.**

The commissioner, upon request from an applicant, may determine that the water service pipe(s) is not required to be removed and replaced if all of the following requirements are met:

- (1) the existing water service pipe(s) is less than twenty (20) years old; and
- (2) the commissioner makes a determination, based on the material and manner of construction of the water service pipe(s), that the existing water service pipe(s) has the ability to be adequately reused without replacement. (Ord. No. B-42, 10-07-19)

**Sec. 29-163. Adjoining sidewalks and access curb cuts.**

Replacement or installation of sidewalk and curbing under this article shall include appropriate transition to adjoining curbing and walkways, including accessible curb cuts and other access as required. (Ord. No. B-42, 10-07-19)

**Sec. 29-164. Sidewalk exemption.**

(a) The commissioner, upon request from an applicant, may determine that the sidewalk and/or curbing across the entire frontage of a lot is not required to be replaced, or installed under this article at those locations where the commissioner determines that either:

- (1) the existing sidewalk complies with the current applicable codes, standards and specifications and is in good condition;
- (2) the lack of existing sidewalk and/or curbing is consistent with the current or future nature of the neighborhood; or
- (3) such updates are not feasible due to public safety, site constraints, or conflicts with future plans for the area. (Ord. No. B-42, 10-07-19, Ord. No C-56, 01-06-2025)

**Sec. 29-165 Compliance.**

The city engineer shall certify to the commissioner of inspectional services when the provisions of this article have been complied with. The commissioner of inspectional services shall not issue a certificate of occupancy for any property subject to this article prior to receipt of such certification. (Ord. No. B-42, 10-07-19)

**Sec. 29-166. Severability.**

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article. (Ord. No. B-42, 10-07-19)

## Article VII INFILTRATION AND INFLOW MITIGATION

**Sec. 29-167. Definitions.**

For purposes of this article, the meaning of the terms used shall be as follows:

*Infiltration:* Water other than wastewater that enters the 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:* The quantity of water from both infiltration and inflow without distinguishing the source.

*Inflow:* Water other than sanitary flow that enters the sewer system (including sewer service connections) from sources which include, but are not limited to, roof leaders, cellar drains, yard drains, area rains, 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. (Ord. No. B-45, 11-04-19)

**Sec. 29-168. Purpose.**

Infiltration and inflow causes a range of problems including reducing the ability of wastewater treatment facilities to adequately cleanse sanitary flows, increasing operations and maintenance costs for sanitary pumping equipment, limiting capacity for sanitary flows, and creating sanitary system overflows. The city's existing sewer infrastructure is old and has limited capacity. Particularly during intense rain events, the city's public sewer system has insufficient capacity to accommodate the flows, thereby creating flooding and surcharges or overflows at manholes or into buildings, particularly into below grade plumbing fixtures. New developments substantially increase the burden on the system and detrimentally impact its capacity and capability. The purpose of the mitigation requirement is to decrease the burden on the city's capacity-limited and overtaxed public sewer system by ensuring that infiltration/inflow is removed in sufficient amounts to accommodate the increased demand on the public sewer system resulting from new developments. Mitigation of infiltration/inflow is necessary for the protection of the infrastructure of the city and to safeguard the public health, safety, welfare and the environment. (Ord. No. B-45, 11-04-19)

**Sec. 29-169. Mitigation Requirement.**

(a) For all new residential and commercial building connections to the public sewer and for all existing residential and commercial connections where the existing building is demolished or substantially remodeled or rehabilitated, infiltration/inflow must be removed from the public sewer at a rate of four gallons of infiltration/inflow removal for each gallon of wastewater that will be discharged to the public sewer.

(b) A property is "substantially remodeled or rehabilitated" when: (1) a building is renovated and/or gutted more than 50% or (2) a dwelling or structure has an addition constructed that increases the footprint by more than 1,000 square feet or increases the total square footage more than 1,000 square feet.

(c) The city engineer may require a higher removal rate per gallon of sewer flow in sensitive areas, such as where there are frequent sewer overflow events, where overflows have the potential to impact wetlands, water resources or nitrogen sensitive areas, or where the area is so burdened by infiltration/inflow as to be a hazard to public health, as confirmed by the city's department of public health and human services.

(d) The removal of infiltration/inflow and/or payment of any monetary fee assessed in accordance with this article is required prior to the issuance of a building permit for the subject property. (Ord. No. B-45, 11-04-19)

**Sec. 29-170. Exemptions.**

Residential and mixed-use buildings that include four or fewer residential dwelling units on any parcel or contiguous parcels comprising a development site are not subject to the infiltration/inflow mitigation requirement contained in this article.

For by-right projects, the Commissioner of Public Works, for good cause shown upon petition, may abate in whole or in part the infiltration/inflow mitigation fee for a particular building or project.

For projects subject to a special permit, the City Council, for good cause shown, may abate in whole or in part the infiltration/inflow mitigation fee for a particular building or project.

For projects seeking a Comprehensive Permit pursuant to M.G.L. c. 40B, the Zoning Board of Appeals, for good cause shown, may abate in whole or in part the infiltration/inflow mitigation fee for a particular building or project. (Ord. No. B-45, 11-04-19)

**Sec. 29-171. Calculation of Wastewater Flow.**

In accordance with the Department of Environmental Protection regulations for the calculation of wastewater flows at 310 CMR 15.203, flow rate is based on the following:

(a) For residential dwellings, the flow rate is based on the number of bedrooms and the flow rate of 110 gallons per day per bedroom.

(b) For commercial buildings, the flow rate is based on the estimated generated flow for the proposed use set forth in 310 CMR 15.203.

The calculation of wastewater flow is based on the flow to be generated by the proposed development or the proposed building renovation, minus the wastewater flow generated by the existing building(s) based on the flow rates provided in this Section. For the purpose of encouraging the installation of water-efficient fixtures and equipment, the city engineer shall use the low of (1) the manufacturer's specifications for such fixtures and/or equipment proposed to be installed as part of any development or (2) the estimated flow set forth in 310 CMR 15.00.

The city engineer is responsible for calculating the current and proposed flows and fees for the use of any building or portion thereof for which a building permit application is submitted and will provide applicants with a detailed response to their application within ten (10) business days of its filing. (Ord. No. B-45, 11-04-19)

#### **Sec. 29-172. Application.**

Applicants required to perform the infiltration/inflow mitigation requirement pursuant to this article may elect to pay a fee based on the project's infiltration/inflow calculated requirement. The fee will be deposited into a dedicated account that funds public sewer system rehabilitation and sewer cleaning and lining projects administered by the department of public works.

The per-gallon fee shall be established annually by the commissioner of public works on the first day of each calendar year based on the program costs to remove infiltration/inflow and shall be made available to the public. This fee shall be calculated by the city engineer based on a capital cost analysis report prepared by the city's consulting engineer and retained in the files of the engineering division of the department of public works.

Alternatively, applicants have the option of implementing the public sewer system capital improvement program, subject to the approval of the commissioner of public works and in accordance with plans and calculations approved by the city engineer, and it shall be the applicant's responsibility for completing the infiltration/inflow removal project prior to connecting to the public sewer. (Ord. No. B-45, 11-04-19)

#### **Sec. 29-173. Effective Date.**

The requirements of this Article VI shall not apply to any building permit, special permit or comprehensive permit issued prior to the effective date of this amendment of January 1, 2020. (Ord. No. B-45, 11-04-19)

#### **Sec. 29-174. Severability.**

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article. (Ord. No. B-45, 11-04-19)

### **Article VIII. STORMWATER MANAGEMENT AND EROSION CONTROL**

**§29-148 General provisions****(a) Purpose**

The purpose of this ordinance is to protect, maintain, and enhance public safety, environmental health, and general public welfare by controlling the volume and rate of stormwater runoff resulting from land disturbing activities (during and after such activities), managing stormwater at its source and directing it into the ground rather than sending it into a system of storm drain pipes and channels.

This ordinance establishes a permit system to ensure that all applicable projects are reviewed and comply with established standards, the city's legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring and enforcement and a mechanism by which the City can meet the requirements of its National Pollutant Discharge Elimination System (NPDES) general permit.

**(b) Definitions.** For the purposes of this ordinance the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Alter or alteration:* Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing, or location of runoff flowing from the area. Such changes include change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area. Alter may also be referred to as “alteration of drainage characteristics,” and “conducting land disturbance activities.”

*Best management practice (BMP):* A structural or nonstructural activity, procedure, restraint, or structural improvement that helps to reduce the quantity of or improve the quality of stormwater runoff. A structural stormwater best management practice may include a basin, discharge outlet, swale, rain garden, filter, or other stormwater treatment practice or measure either alone or in combination, including without limitation any overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging, or treating stormwater. Nonstructural stormwater best management practices may include source control and pollution prevention measures.

*Conveyance:* Any structure or device, including, but not limited to, pipes, drains, culverts, curb breaks, paved swales and man-made swales, natural and man-made channels, and ditches, designed or utilized to move or direct stormwater runoff or existing water flow; any impervious surface/sheet flow utilized to remove rainfall (for example, a parking lot) which drains directly onto a vegetated surface or public road without any curbing or stormwater system to intercept the flow.

*Erosion and sedimentation control plan:* A document containing a narrative, drawings and details developed by a registered professional civil engineer (PE) or a registered professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

*Impervious Surface or Area:* Any material or structure in, on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, driveways, etc.), roof tops, swimming pools, stone patios/pavers, gravel, and compacted dirt surfaces such as driveways and roads.

*Land disturbance:* Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material. Examples include, but are not limited to, demolition, construction (of buildings or retaining walls), site preparation, grading, paving, tree cutting, and earth moving.

*Low impact development (LID):* A site design strategy for managing stormwater by maintaining or replicating the predevelopment hydrologic functions using design techniques to create a functionally equivalent hydrologic landscape.

*Municipal Storm Drain System or Municipal Separate Storm Sewer System (MS4):* The system of conveyances designed or used for collecting or conveying stormwater, including any road with a stormwater management system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, or other drainage structure(s) that together comprise the storm drainage system owned or operated by the city.

*Person Aggrieved:* all record owners of the subject property or an owner of property directly abutting the subject property.

*Stormwater Management and Erosion Control Permit:* A permit issued by the Engineering Division of the Department of Public Works, after review of an application, plans, calculations, and other supporting documents, in accordance with the provisions of this ordinance.

*Stormwater Management Certificate of Compliance (SMCC):* A document issued by the Engineering Division after all construction activities have been completed which states that all conditions of an issued Stormwater Management and Erosion Control Permit (SMP) have been met and that a project has been completed in compliance with the conditions set forth in a SMP.

*Stormwater management plan:* A plan submitted as part of an application for a stormwater management and erosion control permit, as required by Section 29-150(A) of this ordinance. A document containing narrative, drawings and details prepared by a registered professional civil engineer (PE), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operation and maintenance plan describing the maintenance requirements for structural best management practices.

*Stormwater management system:* the collective system for conveying, collecting, storing, discharging, recharging, or treating stormwater on-site, including stormwater best management practices, and any pipes and outlets intended to transport and discharge stormwater to the groundwater, a surface water, or a municipal separate storm sewer system.

**(c) Applicability**

This ordinance shall apply to all land-disturbing activities over the thresholds below, within the jurisdiction of the city. A stormwater management and erosion control permit shall be required prior to undertaking any alteration or land disturbing activity as follows:

(1) Land disturbance

- (a) Projects that will or could disturb over 5,000 square feet (SF) of land.

(2) Minor stormwater management

- (a) Any residential development or redevelopment with four or fewer units, provided the land disturbance is less than 0.5-acre (or 21,780 SF) .
- (b) Any residential, commercial, industrial, institutional, or municipal alteration, development or redevelopment creating 401 to 1,000 SF of new impervious area.
- (c) The construction of any new retaining wall required due to proposed changes in grade, unless already approved by Special Permit (per Chapter 30 Section. 5.4.2).
- (d) Trench excavation requiring dewatering.

(3) Major stormwater management

- (a) Any alteration, disturbance, development, or redevelopment exceeding the thresholds listed in § 29-148(C)(1) and (2) above.

**(d) Exemptions**

The commissioner of public works may establish exemptions from the requirements of this ordinance, which exemptions shall be set forth in the city of Newton stormwater management and erosion control rules and regulations.

**§29-149 Administration**

**(a) Administration**

The commissioner of public works or his or her designee shall administer, implement, and enforce this ordinance.

**(b) Rules and regulations**

The commissioner of public works shall adopt, and periodically amend as deemed necessary, rules and regulations relating to the detailed requirements, procedures, and administration of this ordinance.

**§29-150 Permit procedures**

**(a) Permit required**

No alteration and/or land disturbing activity that meets the criteria specified in Section 29-148(c) may commence prior to the issuance of a stormwater management and erosion control permit as set forth in this ordinance.

**(b) Procedures and Requirements**

The commissioner of public works shall set forth the application procedures and requirements - including but not limited to content of applications, stormwater management plan and operations and maintenance plan contents, technical requirements, inspections, and project closeout process in the rules and regulations promulgated under Section §29-149(b) of this ordinance.

The fees for stormwater management and erosion control permits shall be as follows:

Land Disturbance (only) Permit fee.....	\$50
Minor Stormwater Permit fee.....	\$100
Major Stormwater Permit fee:	
1-4 family dwellings.....	\$300
All other properties.....	\$1,000

**(c) Deadline for Action**

Failure of the commissioner of public works or his or her designee to take action within sixty (60) days of receipt of a complete stormwater management and erosion control permit shall be deemed approval of said application, unless extension of the sixty (60) days is agreed upon, in writing, by the applicant.

**§29-151 Entry, inspections and close-out**

To the extent permitted by law, the commissioner of public works or his or her designee may enter upon privately owned property for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or sampling as the commissioner of public works or his or her designee deems reasonably necessary to determine compliance with the permit

**§29-152 Final report and certificate of compliance**

Upon completion of the work done pursuant to a permit issued for a minor or major stormwater land disturbing activity, the permittee shall request a final inspection and submit the following: (Note: Land disturbance only permits do not require a certificate of compliance)

- (1) Certified as-built construction plans from a Massachusetts Registered Professional Engineer (P.E.) and/or Registered Professional Land Surveyor (P.L.S) depicting all final grade changes, water, sewer and stormwater utilities and any BMPs installed.
- (2.) A note on the As-built plan from the Engineer of Record indicating that the stormwater management system(s) have been constructed in accordance with, and meet the requirements of, the Stormwater Management Permit. Any discrepancies between the approved plan and the as-built plan shall be noted.
- (3.) Proof of recording the Operations and Maintenance Plan at the South Middlesex County Registry of Deeds.

The city engineer will issue a stormwater management certificate of compliance upon receipt of these items and upon determination that all work of the permit has been satisfactorily completed and is in conformance with this ordinance. The commissioner of inspectional services shall not issue a certificate of occupancy for any property subject to this Section 29 prior to receipt of such certificate of compliance.

### **§29-153 Enforcement**

The commissioner of public works shall have authority to enforce this ordinance and the associated rules and regulations; issue orders, violation notices, and enforcement orders as necessary; and may pursue all available civil and criminal remedies for such violations.

#### **(a) Violation notices and enforcement orders**

- (1) The commissioner of public works may issue a written order to enforce the provisions of the stormwater management and erosion control ordinance or the rules and regulations, which may include demands to:
  - (a) Cease and desist from further alterations or land disturbance activity until there is compliance with the stormwater management and erosion control ordinance and/or the stormwater management and erosion control permit.
  - (b) Maintain, install or perform additional erosion and sedimentation control measures.
  - (c) Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity.
  - (d) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management system.
  - (e) Eliminate discharges, directly or indirectly, into a watercourse or into the waters of the Commonwealth.
- (2) If the commissioner of public works determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation

must be completed.

- (3) If a person violates the provisions of this ordinance, regulations, permit, notice, or order issued thereunder, the commissioner of public works may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**(b) Penalties**

Pursuant to Section 17-21 of the City Ordinances, any person who violates any provision of the Stormwater Management and Erosion Control Ordinance, or order or permit issued thereunder, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$300.00 per violation, excluding the cost of damages. Each day or part thereof that such violation occurs or continues shall constitute a separate violation.

**(C) Non-Criminal Disposition**

As an alternative to criminal prosecution, the commissioner of public works may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, § 21D.

**(D) Appeals**

Judicial review. Any person aggrieved by the grant or denial of a permit may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

**§29-154 Severability**

Any finding of the invalidity of any section, provision, paragraph, sentence, or clause of this ordinance shall not invalidate any other section, provision, sentence, or clause thereof, nor shall it invalidate any permit or determination that has been previously issued under this ordinance.