

CITY OF SOMERVILLE
ORDINANCE NO. 2020-
IN THE CITY COUNCIL: _____, 2020

Be it ordained by the City Council, in session assembled, that the Code of Ordinances of the City of Somerville Article VII of Chapter 11 is hereby amended, by adding the underlined language and deleting the struck-through language to read as follows:

ARTICLE VII. - SEWERS

DIVISION 1. - GENERALLY

Sec. 11-156. - Common sewers.

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

(Code 1963, § 8-29)

Cross reference— City engineer duties, § 11-141.

Sec. 11-157. - Sewer specifications.

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

(Code 1963, § 8-29)

Cross reference— City engineer duties, § 11-141.

Sec. 11-158. – Private Sewer or Drain specifications.

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

(Code 1963, § 8-30)

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

The city engineer shall make accurate plans of all main drains and common sewers, showing their location, depth, and the materials of which they are made, and their size, shape,

thickness, and manner of construction; also all existing connections with said sewers and all future connections as they are made.

(Code 1963, § 8-31)

Cross reference— City engineer duties, § 11-141.

State Law reference— Provision authorized, M.G.L.A. c. 40, § 21(5).

Sec. 11-160. - Catch basin locations.

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

(Code 1963, § 8-32)

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

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

(Code 1963, § 8-33)

Sec. 11-162. - Sewer assessments.

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

(Code 1963, §§ 8-34, 8-36)

State Law reference— Sewer assessments, M.G.L.A. c. 83, §§ 14-24.

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

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

(Code 1963, § 12-35)

Sec. 11-164. - Sewer user charges.

- (a) The definitions provided for in Section 11-140 of the Code of Ordinances are incorporated herein by reference.

User charges.

- (1) *Established.* Charges for sewer service shall be established by the superintendent of the water and sewer department, subject to the approval of the mayor and city council. Prior to setting the new sewer service charge, the water and sewer superintendent shall conduct a public hearing on the proposed charge no later than May 15 of any given year with notice of any new charges provided to the city council at least 14 days prior to the public hearing. Any proposed new charges shall be provided to the city council on or before June 1 of any given year for its review and approval.

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

- (2) *Method of assessment.* Rates shall be established based upon a uniform rate per 100 cubic feet of water consumed. At a user's option and expense, assessments may be made on continuously metered sewage flow, or upon water sales to activities resulting in a discharge to the sewer. Said assessments shall be made pursuant to readings obtained from metering devices approved by the commissioner. For users whose bill is based upon metered sewage, the rate shall be 1.11 times the rate established for those whose bill is based upon metered water. Where water consumption data is not available, bills for sewer services shall be based upon estimated consumption, as determined by the commissioner.
- (3) *Payment.* Bills for sewer service shall be rendered a minimum of two per year and a maximum of six per year for commercial and four per year for residential and are due and payable within 45 days. Interest shall accrue on bills not paid within 45 days from the date of mailing at the rate established by Section 57 of Chapter 93 of the General Laws.
- (c) *Appeals.* Persons aggrieved of bills rendered pursuant to subsection (b) of this section shall have the following rights of appeal:

- (1) *Notification.* Within the time frame allowed for payment of said bills, the aggrieved party shall notify the commissioner that said bill is contested. The notification shall include an explanation as to why the bill is contested, and should provide the commissioner with such information as is necessary to determine the validity of the claim. The commissioner may prescribe such forms as are necessary to expedite this process.
- (2) *Resolution.* Upon receipt of an appeal, the commissioner shall act upon same as quickly as possible and shall inform the claimant in writing of the result of the investigations. The determination of the commissioner shall also be transmitted to the treasurer who shall take the following action:
 - a. For first claims and claims found to be valid, the date of billing shall be revised to the date of the commissioner's determinations. Revised charges shall then be due and payable as is specified in subsection (b)(3) of this section.
 - b. For second and subsequent claims found to be invalid, the date of billing shall be as originally issued, and charges and interest shall be computed as specified in subsection (b)(3) of this section.
- (d) *Tax liens of overdue charges.* Charges for sewer use which are overdue and uncontested shall become a tax lien as is provided in Sections 16A through 16F of Chapter 83 of the General Laws.
- (e) *Increases restricted.* The superintendent of the water division shall prepare and submit to the city council on or before April 1, 1984, a plan for the installation of water meters in each residence, business, industrial or other location where no meter currently exists. Said plan shall provide for the complete metering of water services in the city by December 31, 1986. The superintendent of the water division shall submit to the city council on or before December 8 in each year of the installation period, a statement, signed under the penalties of perjury, that not less than one-third of the total number of unmetered services existing on December 8, 1984, have been installed during such year. If the total number of water meters out of service in any year next succeeding the end of the installation period on December 31, 1986, exceeds 500 meters, then no sewer rate increase shall be authorized or approved under subsection (b)(1) or (b)(2) of this section, without additional approval of the city council.

(Code 1963, § 8-35; Ord. No. 2016-15, 10-23-2016; Ord. No. 2019-08, 4-25-2019)

State Law reference— Apportionment of betterments, M.G.L.A. c. 80, § 13; charges for use of sewers, M.G.L.A. c. 83, § 16.

Sec. 11-165. – Stormwater.

- (a) All stormwater, except as hereinafter otherwise provided, shall be excluded directly or indirectly from any combined sewers, sanitary sewers, and/or storm drains that discharge to combined sewers. Stormwater may only discharge to the Municipal Separate Storm

Sewer System. The locations of the Municipal Separate Storm Sewer System in the city will be determined and published by the city engineer.

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

(Code 1963, §§ 8-37—8-40)

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

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

(Code 1963, § 12-32)

Cross reference— Opening and repairing drains and sewers, sidewalk repair, § 8-41 et seq.

Sec. 11-167. - Interference with sewers.

- (a) No water pipe, gas pipe or other structure shall be so laid in a street as to obstruct or interfere with a common sewer or the maintenance thereof.
- (b) If any water pipe, gas pipe or other structure interferes with or obstructs any existing common sewer or the maintenance thereof, or the construction or maintenance of any common sewer which the city council may hereafter order to make, the department of the city, corporation or person maintaining the same shall, upon notice from the city engineer, at once remove or change such pipe or other structure in such manner as he or she may direct, and upon failure so to do he or she may make such removal or change, and the cost thereof shall be paid by such department, corporation or person to the city.

(Code 1963, § 12-33)

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

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

(Code 1963, § 12-34)

Cross reference— Opening and repairing drains and sewers, sidewalk repair § 8-41 et seq.

Sec. 11-169. – Private sewer or drains subject to tidewater.

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

(Code 1963, § 12-36)

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

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

(Code 1963, § 12-37)

DIVISION 2. - INFILTRATION AND INFLOW MITIGATION

Footnotes:

--- (7) ---

Editor's note— Ord. No. 2018-07, adopted May 10, 2018, set out provisions intended for use as §§ 11-181 and 11-182. Inasmuch as there were already provisions so designated, the provisions have been redesignated as §§ 11-171 and 11-172.

(Ord. No. 2018-07 , 5-10-2018)

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

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

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

(Ord. No. 2018-07 , 5-10-2018)

Division 3. Illicit Discharges to Storm Drainage System

11- ____ . Illicit Discharges to Storm Drainage System

A. Purpose.

(1) Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow into waterways; alteration or destruction of aquatic and wildlife habitat; and flooding.

(2) Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the City's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.

(3) The objectives of this article are:

- (a) To prevent pollutants from entering the City's municipal separate storm sewer system (MS4);
- (b) To prohibit illicit connections and unauthorized discharges to the MS4;
- (c) To require the removal of all such illicit connections;
- (d) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (e) To establish the legal authority to ensure compliance with the provisions of this article through inspection, monitoring, and enforcement.

B. Applicability.

This article shall apply to flows entering the municipal storm drainage system. The provisions of this article shall take precedence over any conflicting provisions of the General Ordinances.

C. Authority.

This article is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and pursuant to MGL c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135 to 140, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

D. Responsibility for administration. The city engineer shall administer, implement and enforce this article and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the city engineer may be delegated in writing by the city engineer to employees or agents of the city engineer.

E. Regulations. The city engineer may promulgate rules and regulations to effectuate the purposes of this article. Failure by the city engineer to promulgate such rules and regulations shall not have the effect of suspending or invalidating this article.

F. Prohibited activities.

- (1) A person is considered to be in violation of this article if they connect a line conveying sewage and/or wastewater to the municipal storm drain system or, once detected, allows such a connection to continue.
- (2) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or nonstormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- (3) Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- (4) Obstruction of municipal storm drainage system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drainage system without prior written approval from the city engineer.

G. Exemptions. The following nonstormwater discharges or flows are exempt from the prohibition of nonstormwater, provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:

- (a) Municipal water line flushing;
- (b) Uncontaminated groundwater or uncontaminated pumped groundwater;
- (c) Water from exterior foundation drains footing drains, crawl space pumps or airconditioning condensation;
- (d) Water from sump pumps and other pumps that remove flow from basements, except that this provision excludes water contaminated by sewage;
- (e) Water discharge from irrigation or watering of lawns, trees, landscaping and gardens;
- (f) Water from property management activities, including washing walkways, patios, house siding, windows or similar property management activities, provided that no detergents are used in conducting such activities;
- (g) Discharge from dechlorinated swimming pool water (less than one ppm of chlorine or bromine), provided that the pool is not drained in a manner designed to flood or otherwise adversely affect neighboring or downstream properties;
- (h) Consolidated public works ice, snow and street sweeping management operations;
- (i) Flow resulting from fire-fighting activities;
- (j) Dye testing, provided that written notification is given to the Engineering Department two business days prior to the time of the test;
- (k) Maintenance or replacement of existing landscaping, gardens or lawn areas;

- (l) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (m) Construction of utilities other than drainage (for example, gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
- (n) Projects that commenced prior to the effective date of this article, provided that they are completed within one year from such effective date;
- (o) Natural flow from riparian habitats and wetlands;
- (p) Springs;
- (q) Diverted stream flow;
- (r) Rising groundwater;
- (s) Nonstormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (t) Discharge for which advanced written approval is received from the city engineer as necessary to protect public health, safety, welfare or the environment.

H. Emergency suspension of municipal stormwater drain access.

- (1) The city engineer may suspend municipal storm drainage system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.
- (2) No person shall reinstate municipal storm drain system access to premises terminated pursuant to this section without the prior inspection and approval of the Engineering Department. An unapproved reinstatement shall constitute a violation of this section.
- (3) In the event any person fails to comply with an emergency suspension order or reinstates access in violation of this section, the city engineer may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

I. Notification of spills. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a property or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts or United States, said person shall take necessary steps to ensure the discovery, containment and cleanup of the release. In the event of such a release of hazardous materials, said person shall also immediately notify emergency response officials of the occurrence by calling E911. In the event of a release of nonhazardous materials, said person shall notify the Engineering Division in person, by phone or by email no later than 4:00 p.m. of the next business day.

J. Enforcement.

(1) The city engineer or appointed designee shall enforce this 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 violations hereunder.

(2) Civil relief. The city engineer may seek injunctive relief in a court of competent jurisdiction to restrain a person from continued violations of the provisions of this article and the regulations promulgated hereunder or of any notices, order or written approvals or to compel said person to abate or remediate the violation(s).

(3) Orders. The city engineer or an authorized agent of the city engineer may issue a written order to enforce the provisions of this article or the regulations thereunder, which may include:

- (a) Elimination of illicit connections or discharges to the MS4;
- (b) Performance of monitoring, analyses, and reporting;
- (c) That unlawful discharges, practices, or operations shall cease and desist; and
- (d) Remediation of contamination in connection therewith.

(4) If the city engineer determines that abatement or remediation of contamination is required, the order described in Section J.3. above shall set forth deadlines in accordance with the City's NPDES General Permit by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadlines in accordance with the City's NPDES General Permit, the City may, at its option, undertake such work or cause the work to be performed, and expenses thereof shall be charged to the violator.

If a violator fails to comply with the order, the City may cause the work to be performed, and charge the owner of the property and place a lien against the property for expenses incurred, provided any entry onto private property pursuant to this provision is consistent with the Constitutions of the United States and Commonwealth of Massachusetts. In the event of an emergency, however, the city engineer may require immediate compliance with an order and may take all necessary action to secure compliance with this ordinance.

Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the city engineer shall issue a bill for all expenses incurred by the City in performing the work. The bill shall provide that all expenses are due and payable within 30 days. The violator or property owner may file a written objection to the bill within 30 days of receipt. If the amount due is not received by the expiration of the time in which to file a written objection, if no written objection is filed, or within 30 days following a decision of the city engineer affirming or reducing the bill, if a written objection is filed, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall accrue in accordance with G.L. c. 59, s. 57.

(5) Violations. It is unlawful for any owner or occupant of real property to fail to comply with the requirements of this section or any order of the city engineer enforcing the requirements of

this section. The provisions of this section may be enforced by the city engineer by a noncriminal disposition pursuant to G. L. c. 40, s. 21D. Each violation of a provision of this section is a separate and distinct offense and in a case of a continuing violation, each day that the violation continues constitutes a separate offense. Any person, firm, corporation, association or other entity violating any provision of this article shall be punished in accordance with section 1-11 of this Code. Any interested person may request, in writing, a hearing before a municipal hearing officer to contest the issuance of a fine, as provided in Chapter 106 of the Acts of 2008. The imposition of penalties herein prescribed shall not preclude the city from instituting other remedies to abate violations of this ordinances as permitted by law, including, but not limited to criminal proceedings, application for equitable relief, or receivership proceedings.

(6) Entry to perform duties under this article. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the city engineer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this article and associated regulations and may make or cause to be made such examinations, surveys or sampling as the city engineer deems reasonably necessary.

(7) Appeals. The decisions or orders of the city engineer shall be final. Further relief shall be to a court of competent jurisdiction.

(8) Remedies not exclusive. The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law.

K. Transitional provisions. Residential property owners shall have 90 days from the effective date of this article to comply with its provisions, provided that good cause is shown for the failure to comply during that period.

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

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

APPROVED:

City Council
President