

## CHAPTER 11

### SIDEWALKS, SEWERS, LAYOUT OF STREETS, SUBDIVISION OF LAND

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#### ARTICLE I: SIDEWALKS

##### Section 11.101: STATE LAW ADOPTED

The provisions of Chapter 252 N.H. RSA are hereby adopted and declared to be in force in the City of Portsmouth.

##### Section 11.102: PETITIONS

All petitions for new sidewalks shall be presented to the City Council and shall be made on blanks prepared and furnished by the Department of Public Works which blanks shall contain the provisions of said Part 22, Chapter 188, so far as it relates to sidewalks and the provisions of this Ordinance.

##### Section 11.103: FORM

All petitions shall be signed by the owner of the property and shall contain a description of the premises, the street and number, the assessor's lot and plan number, and the kind of sidewalk desired.

##### Section 11.104: CONSTRUCTION

All sidewalks in the City shall be laid upon the grade, width and slope established by the Department of Public Works, and constructed as said department shall provide.

##### Section 11.105: PAYMENT

As soon as a petition shall be filed, the Superintendent of Public Works shall estimate the cost thereof and shall then notify the petitioner, who shall, before any action is taken on said petition, pay the City one-half of such estimated cost. If the actual cost of the work shall exceed the estimate, then the petitioner shall pay one-half of such excess; and if it shall be less than the estimated cost, then one-half of such difference shall be returned to the petitioner.

## **ARTICLE II: SEWERS**

### **Section 11.201: ENABLING LEGISLATION**

All design, construction, maintenance and improvement of storm and sanitary sewers within the corporate limits of the City shall be as approved by the City Council and in accordance with and consonance with that legislation of the State of New Hampshire as presented in Chapters 147 and 252 of the N.H. RSA, 1955 and section 406 of this Ordinance.

### **Section 11.202: DEFINITIONS**

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

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees C, expressed in milligrams per liter.
2. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
3. "City Engineer" shall mean the City Engineer of the City of Portsmouth or his authorized deputy, agent or representative.
4. "Drain Layer" shall mean a person licensed by the Department of Public Works as a layer of drains.
5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
6. "House Drain" shall mean that part of the lowest horizontal piping of drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer, beginning 8 feet outside the outer face of the building wall. For the purposes of this Ordinance the terms "Building Drain" and "Building Sewer" shall be synonymous with the terms "House Drain" and "House Sewer" as defined in Section 15.101 of the Plumbing Code.
7. "House Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal including that portion of the line on public property.
8. "Hearing Board" shall mean the Board appointed according to provisions of Article XI.
9. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
10. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

11. "Person" shall mean an individual, firm, company, association, society, corporation or group.
12. "PH" shall mean the logarithm of the reciprocal of the weight of hydrogenions in grams per liter of solution.
13. "Plumbing Inspector" shall mean the person employed by the City of Portsmouth to inspect plumbing or his authorized deputy, agent or representative.
14. "Properly Shredded Garbage" shall mean 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 ½ inch (1.27 centimeters) in any dimension.
15. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
16. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.
17. "Sewage" shall mean a combination of the water carried wastes from residence, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
18. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
19. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.
20. "Sewer" shall mean a pipe or conduit for carrying sewage.
21. "Shall" is mandatory; "may" is permissive.
22. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hour concentration or flows during normal operation.
23. "Storm Drain" (sometimes termed as "storm sewer") shall mean a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes other than unpolluted cooling water.
24. "Suspended Solids" shall mean 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.
25. "Watercourse" shall mean a channel in which a flow of water occurs either continuously or intermittently.

### **Section 11.203: USE OF PUBLIC SEWERS REQUIRED**

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Portsmouth, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within said City of Portsmouth or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human occupancy, recreation or other purposes is hereby required to install thereon suitable toilet facilities and provided said property abuts upon any street, alley or right of way in which there is located a public sewer and further provided that said premises are located within 150 feet of the property line abutting said street, alley or right of way, the owner shall connect said facilities with the public sewer subject to any waiver granted under Section 11.204 (E).

### **Section 11.204: PRIVATE SEWAGE DISPOSAL**

- A. Where a public sanitary or combined sewer is not available under the provisions of Section 11.203, paragraph D, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.
- B. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any, plans, specifications, percolation test results and other information as are deemed necessary by the Plumbing Inspector. A permit and inspection fee to be determined in accordance with Chapter 1, Article XVI or similar wording and paid at the time the application is filed. (Amended 3/18/2002).
- C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. He shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered, the inspection shall be made within 24 hours of the receipt of notice by the Plumbing Inspector.
- D. The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the N.H. Water Supply and Pollution Control Commission. No permit shall be issued for any private sewage disposal system employing subsurface facilities where the percolation test results indicate poor drainage conditions exist. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

- E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, subject to the waiver provision below, a direct connection shall be made to the public sewer in compliance with this Ordinance and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. The City Engineer may extend the period to connect from ninety (90) days to no more than one hundred and fifty (150) days for winter conditions or other good cause. Owners of private sewage disposal systems may apply for and receive a waiver of the connection requirement provided that the private sewage disposal system is adequately functioning to serve the current property uses and legally permitted under State law. The waiver shall be withdrawn, and connection required, when the private sewage disposal system is no longer adequately functioning or is not legally permitted by State law.
- F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
- G. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
- H. A public sewer becomes available for purposes of this ordinance when any house, building or property is used for human occupancy and is located within 150 feet of the property line abutting the street, alley or right of way in which the sewer main is laid.

#### **Section 11.205: BUILDING SEWERS AND CONNECTIONS**

- A. Only licensed Drain Layers shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof the Drain Layer must first obtain a signed permit from the Department of Public Works.
- B. There shall be two classes of building sewer permits:
  - 1. The residential and commercial service; and
  - 2. For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the City Engineer. A permit and inspection fee to be determined in accordance with Chapter 1, Article XVI or similar wording for a residential or commercial building sewer permit shall be paid to the City at the time the application is filed. (Amended 3/18/2002).

- C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. 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. The owner shall be obligated to pay all costs and expenses of operation, repairs, and maintenance and of reconstruction (if needed) of the building sewer including the connection to the public sewer.
- D. A separate and independent building sewer shall be provided for every building; except where one building stands at rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one application and approved by the City Engineer.

- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this Ordinance.
- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall be noted on exhibit A of the permit application, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of a code of 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. The entire line when completed shall be gas tight and watertight.
- G. 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, sanitary sewage carried by such building drain shall be lifted by a means approved by the City Engineer and discharges to the building sewer.
- H. No person shall make connection of roof downspouts, exterior foundations drains, areaway drains, or other sources of surface run-off or ground water to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.
- I. The method of connection to the building sewer into the public sewer shall be acceptable to the City Engineer and shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedure set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedure and materials must be approved by the City Engineer before installation.
- J. The applicant for the building sewer permit shall notify the City Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Engineer or his representative.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. Prior to any excavating on any public property, a trenching permit must be obtained from the Department of Public Works.

#### **Section 11.206: USE OF PUBLIC SEWERS**

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City Engineer. Industrial cooling water or unpolluted process waters may be discharged on approval of the City Engineer, to a storm sewer, combined sewer, or natural outlet.

- C. 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, naptha, fuel oil, or other flammable or explosive liquid, solid or gas;
  2. Any waters or wastes containing toxic or poisonous solids, liquids, 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 receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes is discharged to the public sewer.
  3. Any waters or wastes having a PH lower than 5.5 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, 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. either whole or ground by garbage grinders.
- D. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the City Engineer that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the City Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
1. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C);
  2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 - 150 degrees F;
  3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipment with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the City Engineer;
  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, mercury, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City Engineer for such materials;

6. Any waters or wastes containing phenols or other taste, or odor producing substances, in such concentrations exceeding limits which may be established by the City Engineer, as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies or jurisdiction for such discharge to the receiving waters;
  7. Any radioactive wastes or isotopes of such half-life, or concentration as may exceed limits established by the City Engineer in compliance with applicable State or Federal regulations;
  8. Any waters or wastes having a PH in excess of 9.5;
  9. Materials which exert or cause:
    - a. Unusual concentrations of inert suspended solids (such as, but not limited to, fullers 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 sewage treatment works;
    - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
  10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent can not meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Paragraph D of this Section, and which in the judgement of the City Engineer, may have a deleterious effect upon the sewage, works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Engineer may:
1. Reject the wastes;
  2. Require pretreatment to an acceptable condition for discharge to the public sewer;
  3. Require control over the quantities and rates of discharge; and/or
  4. Require payment to cover the added cost of handling and treating wastes not covered by existing taxes or sewer charges under the provisions of Paragraph J. of this Section.
- If the City Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City Engineer, and subject to the requirements of all applicable codes, ordinances and laws.
- F. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection.



- G. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. When required by the City Engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City Engineer. The manhole 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.
- I. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined 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 determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to 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 reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfall of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from 24 hour composites of all outfalls whereas PH's are determined from periodic grab samples.)
- J. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character maybe accepted by the City for treatment, subject to payment therefore, by the industrial concern.

#### **Section 11.207: PROTECTION FROM DAMAGE**

No authorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or temper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.

### **Section 11.208: POWERS AND AUTHORITY OF INSPECTORS**

- A. The City Engineer and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The City Engineer or his representative shall have the authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- B. While performing the necessary work on private properties referred to in Section 11.208, Paragraph A above, the City Engineer or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 1.206, Paragraph H.
- C. The City Engineer 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 a duly negotiated easement for the purpose 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 subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

### **Section 11.209: PENALTIES**

- A. Any person found to be violating any provision of this Ordinance except Section 11.207 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.
- B. Any person who shall continue any violation beyond the time limit provided for in Section 11.209, Paragraph A shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$100.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of this Ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reasons of such violation.

### **Section 11.210: VALIDITY**

- A. All ordinances or parts of ordinances in conflict herewith are repealed.
- B. 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.

### **Section 11.211: LIMITS OF LIABILITY**

The approval of permit applications or the acceptance of any sewer construction by any of the City's appointed officials does not indicate nor should it be construed as to mean acceptance of any liability by the City of Portsmouth or any of its employees for claims which may arise due to errors, oversights, inferior material, poor workmanship or damages incurred in connection with construction of building sewers or private sewage disposal systems as set forth in Section 11.204 and Section 11.205 of this Ordinance.

### **Section 11.212: ORDINANCE IN FORCE**

This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

### **Section 11.213: HEARING BOARD**

- A. A hearing board shall be appointed as needed for arbitration of differences between the City Engineer and sewer users on matters concerning interpretation and execution of the provisions of this Ordinance by the City Engineer. Cases not resolved by arbitration will be referred to the City Council for resolution. Cases arbitrarily resolved adverse to the City Engineer may be referred to the City Council by the City Manager.
- B. One member of the Board shall be a civil or sanitary engineer;  
One member shall be a licensed drain layer;  
One member shall be a lawyer;  
Two members shall be residents of the City of Portsmouth.  
No member will be elected officials or employees of the City of Portsmouth and no member will act upon a case in which he or his employer is an active participant.

### **Section 11.214: PERMIT SYSTEM**

It is accepted practice for those political entities using the Permit System to call for three classes of permits:

- A. For the installation of private sewage disposal facilities;
- B. For the residential and commercial building sewers; and
- C. For industrial sewer connections.

### **Section 11.215: CHANGE IN VOLUME/CHARACTER**

Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent of Public Works at least 45 days prior to the proposed change or connection.

## **Section 11.216: SEWER USER CHARGES/RECORDS/HOOK-UP**

- A. All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent of Public Works or duly authorized employees of the City may reasonably require including installation use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent of Public Works. Such records shall be made available upon request by the Board to other agencies having jurisdiction over discharges to the receiving waters.
- B. The owner of any house, building, or property used for human occupancy, employment, recreation or other purposes which is connected to a public sewer shall pay a sewer user charge. The sewer user charge shall be established by the City from time to time to defray the cost of management, maintenance, operation and repair, including replacement, of the municipal waste water system. Sewer user charges shall be based upon water use whenever possible. No allowance shall be made for watering lawns or watering gardens, except for customers who have installed at their cost an approved irrigation system and a second water meter, meeting the specifications determined by the Water Department to measure water use which is reasonably calculated not to be discharged into the sewer system. Where such second meters have been installed, a separate account will be established and no sewer charges will be applied to this usage. A monthly service fee shall be charged for each irrigation meter in addition to the consumption charge, said fee to be determined by the City Council during its annual budget process.

Users of the City of Portsmouth's water system may request a permit for the installation of an irrigation system and irrigation meter. An application must be completed and submitted to the Water Department for the installation of an irrigation system and irrigation meter prior to the issuance of an irrigation permit. The Water Department may deny the issuance of a permit for an irrigation system or irrigation meter when the existing water main does not provide sufficient water volume/pressure to support the demands of an irrigation system without causing unacceptably low water pressure for other customers on the same water main.

Irrigation service lines and meters shall be installed not more than four feet from the prime meter and shall be installed parallel to the prime meter. Sewer charges shall not apply to water amounts measured by irrigation meters. Shut off valves are required ahead and behind the irrigation meter and must be within one foot of the meter. A back flow preventer (approved by the City) to protect against contamination of the water system must be installed behind the irrigation meter.

Only a landscape irrigation system designed and installed by an Environmental Protection Agency Watersense Certified Irrigator in accordance with the criteria set forth in this section shall be deemed to be in compliance with subparagraph (a) of this section. The Certified Irrigator must certify in writing to the Water Division that the landscape irrigation system has been designed and installed in accordance with subparagraph (a) of this section. This certification shall be provided to the Water Division at the time of requesting final inspection of the system.

(a) Automatic irrigation systems shall:

- (1) Be maintained in compliance with the provisions of this section;
- (2) Be rendered inoperative by or at the direction of the irrigation system owner or operator pending repairs if damaged in a manner that results in leakage or excessive discharge of water from broken components;
- (3) Include rain sensors to be installed and maintained on all irrigation systems equipped with automatic irrigation controllers and set to render the irrigation system inoperative at  $\frac{1}{4}$  inch of moisture or more;
- (4) Include freeze sensors to be installed and maintained on all irrigation systems equipped with automatic irrigation controllers, which will render the system inoperative at 35 degrees Fahrenheit or ~~higher~~ lower;
- (5) Be designed so that spray or rotary heads are at least four (4) inches inside from any curbing, sidewalk, fencing, or building;
- (6) Be designed so that heads spray only towards pervious surface or landscaped area;
- (7) Be designed to include a zonal irrigation system; and
- (8) Be designed to include a master valve.

(b) Operation of irrigation systems or devices.

From April 1 to September 30, landscape irrigation utilizing water, in whole or in part, obtained from the City water system, is prohibited except during the times between 6:00 p.m. and 10:00 a.m. The City Manager, or his or her designee, may further restrict landscape irrigation to specified days of the week or otherwise restrict the irrigation schedule as circumstances dictate.

If records of metered water use are not available or do not reasonable reflect the quantity of waste discharged into the sewage system, the sewer user charge shall be based upon estimated water use or on actual measurement of the volume of waste discharged into the sewer system. Sewer surcharges shall be levied upon users whose waste characteristics are found to be above normal strength. For the purpose of evaluating waste characteristics, the terms of the Report on the Proposed Rates and Charges for Sewer Services by the City of Portsmouth, prepared by Coffin and Richardson, dated June 15, 1976, are incorporated herein by reference.

- C. Owners of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes situated within the City and not connected into a public sewer, if found to be in violation of Section 11.203, Paragraph C or Section 11.204, Paragraph H of this Ordinance shall pay sewer user charges as if connected to a public sewer.
- D. In the event that the owner or owners of a business which is commercial or industrial can clearly define and separate a portion of the potable water entering the business establishment which is totally consumed in process, the owner or owners may, at their own expense, install and maintain an A.W.W.A. approved water meter in the line supplying the portion of the water consumed in process. This meter shall be considered to be a deduct meter; the volume of water flowing through the deduct meter shall be

subtracted from the volume measured by the primary water metering device located on the premises for the purpose of computing the sewer fee charge.

*Not an Official Copy*

## **ARTICLE III: LAYOUT AND CONSTRUCTION OF STREETS**

### **Section 11.301: ENABLING LEGISLATION**

All layout, improvement, construction, and the acceptance and dedication of streets by the City Council and within the corporate limits of the City, shall be in accordance and in conformity with the legislation of the State of New Hampshire as presented in Chapter 36, Sections 1-26, N.H. RSA 1955 and Section 406 of this Ordinance which regulates procedure and defines those provisions which pertain to the development and adoption of an official community map and the regulation of sub-divisions.

### **Section 11.302: DEFINITIONS**

- A. "Street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. It shall at all times and according to its classification also mean a mall, park or parking area. The various street classifications shall be considered as follows:
1. "Arterial Streets" and highways are those which are primarily for the fast or heavy traffic.
  2. "Collector Streets" are those which carry traffic from minor streets to the major systems or arterial streets and highways, including the principal entrance streets of a residential development, neighborhood or city district and streets for circulation within such areas and districts.
  3. "Minor Streets" are those which are used primarily for access to the abutting properties.
  4. "Marginal Access Streets" are minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
  5. "Alleys and Courts" are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting a streets.
  6. "Street improvement" as used herein shall mean complete sectional reconstruction of existing streets, the laying out and construction of new streets within subdivision developments and/or the laying out and construction of new streets within the City's limits.

### **Section 11.303: REQUESTS FOR STREET IMPROVEMENTS AND ACCEPTANCE**

All requests for street improvements and acceptance shall be presented to the Planning Board for review and recommendation before final action and acceptance by the City Council.

### **Section 11.304: PLANS**

All requests for street acceptance or improvement shall be accompanied by record plans sufficient in scope and accurate in detail so as to allow plans upon review by the Planning Board and approval by the City Council to be incorporated within and made a part of the City's official map. Such plans must be certified by a registered engineer. Standard typical cross-sections of roadway, sidewalk, and grading shall be provided as required by the Department of Public Works. All profiles shall be as approved by the Department of Public Works and all elevations shall be based upon a datum plane also so approved.

### **Section 11.305: SIDEWALKS**

Sidewalks with a minimum width of not less than 5 feet shall be constructed on each side of all streets except when otherwise recommended by subdivision regulations approved by the Planning Department.

### **Section 11.306: MONUMENTS**

Monuments shall be placed at all block corners, angle points, points of curves in streets, and at other intermediate points as shall be required by the Superintendent of Public Works and Highways. Such monuments shall be of granite or reinforced concrete 4 feet in length with a 3/8 drill hole on the top to indicate the point. The tops shall be set flush with the finished right of way line grade.

### **Section 11.307: STREET WIDTHS**

The minimum width for all streets shall be shown on the City's Master Plan or Official Map and shall when not so indicated be not less than as follows:

Arterial; State and Municipal Requirements	
Business Collector	60 feet
Business Minor	50 feet
Residential Collector	50 feet
Residential Minor	50 feet
Marginal Access	50 feet

These widths shall be measured from lot line to lot line. In cases where the topography, physical conditions or area use make a street of the required minimum width impractical, the Planning Board may request a modification of the above requirements. Special use streets within municipal recreational areas may be so designed in widths as to be applicable to the use of the area.

### **Section 11.308: MAINTENANCE BOND**

There shall be posted in amount satisfactory to the City Manager and the Public Works Department and for a period of not less than 1 year from the date of acceptance, a maintenance bond to be provided by that person/s, company, or corporation who by contract or for development purposes constructs or improves a street area within the City's limits.



**Section 11.309: PREREQUISITES FOR REVIEW AND APPROVAL**

The Planning Board will review for recommendation of approval and acceptance only those street improvements which have been qualified by the City Manager and Superintendent of Public Works as meeting the standards and specifications contained herein. A certificate from the Superintendent of Public Works as to the satisfactory construction of such street improvements and the correct installation of all drainage sewer and water facilities shall be included with all recommendations for street acceptance as are presented to the City Council.

**Section 11.310 and Section 11.311 (Deleted 04/19/2010)**

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## **ARTICLE IV: SUBDIVISION OF LAND**

### **Section 11.401: AUTHORITY OF PLANNING BOARD TO APPROVE PLATS**

The Planning Board is hereby authorized and empowered to approve or disapprove plats showing new streets, roads, highways, alleys, or the widening thereof, or parks.

### **Section 11.402: FILING OF CERTIFICATE OF AUTHORITY**

The City Clerk shall forthwith file with the Registrar of Deeds of Rockingham County a certificate showing that the Planning Board has been so authorized, setting forth the date of such authorization.

### **Section 11.403: APPROVAL OF STREET OR HIGHWAY PLAT BY PLANNING BOARD**

No plat showing the layout of any street or highway upon private property or of building lots in connection with such streets and highways within the municipality shall hereafter be filed or recorded in the office of the Registrar of Deeds until it shall have been approved by the Planning Board, and until such approval shall have been endorsed in writing on the plat. After such plat is approved and filed, and the streets and parks shown thereon accepted by the City Council these shall become part of the official map of the municipality and dedicated to the municipality by the owner of the plat. The filing or recording of a plat without such approval shall be void.

### **Section 11.404: SUBDIVISION REGULATIONS AND STANDARDS**

The Planning Board shall adopt such other regulations and standards other than those herein described governing the subdivisions of land within the municipality as will provide against such scattered and premature, subdivisions of land as would involve danger and injury to health, safety, or prosperity by reason of lack of water supply, drainage, transportation or public funds for the supply of such services.

### **Section 11.405: EFFECT OF FINAL PLAT APPROVAL BY PLANNING BOARD**

Approval of a final plat by the Planning Board shall not be deemed to constitute or effect an acceptance of the municipality of the dedication of any street or other ground or open space shown on the plat until the City Council shall have accepted the streets shown on the plat.

### **Section 11.406: POWER OF THE MUNICIPALITY**

- A. The municipality shall not hereafter accept, layout, open, improve, grade, pave or light any street or lay or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street, within any portion of the municipality unless such street:
  - 1. Shall have been accepted or opened as, or shall otherwise have received the legal status of a public street prior to the conferring of platting jurisdiction upon the Planning Board, or unless such street;

2. Correspond to its location and lines with a street shown on the official map or with a street shown on a subdivision plat approved by the Planning Board or with a street on a street plat made by or adopted by the Board. The City Council may, however, accept, locate and construct any street not shown on or not corresponding with a street on the official map or an approved subdivision plat, providing the petition for accepting, locating, and construction of such street be first submitted to the Planning Board for its approval and, if approved by the Board, be approved by a majority vote of the entire membership of the City Council, or if disapproved by not less than two-thirds of the entire membership of the City Council. A street approved in approved street as fully as though it had been originally shown on the official map, or on a subdivision plat approved by the Planning Board, or had been originally platted by the Planning Board.
- B. No building shall hereafter be erected on any lot within any part of the municipality nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be place;
1. shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the granting of platting jurisdiction to the Planning Board; or unless such street
  2. correspond in its location and lines with a street shown on the official map or with a street on a subdivision plat approved by the Planning Board or with a street on a street plat made and adopted by the Planning Board, or with a street located and accepted by the City Council, after submission to the Planning Board, and in case of said Planning Board's disapproval by the favorable vote of 2/3 of the entire membership of the City Council.

Wherever the enforcement of the provisions of this paragraph would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the buildings, structure or part thereof to be related to the existing or proposed streets, the applicant for such permit may appeal from the decision of the Building Inspector to the Board of Adjustment. In passing on such appeal, after public hearing, the Board of Adjustment may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, where the issuance of the permit would not tend to distort the official map or increase the difficulty of carrying out the master plan which it is based.

**Section 11.407:       PENALTY FOR SALE BEFORE PLANNING BOARD APPROVAL  
AND RECORDING AND FILING OF PLAT**

Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells or agrees to sell or negotiates to sell any land by reference to, or exhibition of, or by other use of, a plat of a subdivision, before such plat has been approved by the Planning Board and recorded or filed in the office of the Registrar of Deeds shall forfeit and pay a penalty of not more than \$100.00 for each lot or parcel so transferred or sold or agreed or negotiated to be sold, and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. Upon receipt of valid proof of such violation, the City Attorney shall take immediate steps to enforce the penalty provisions of this Ordinance. All such penalties must be discharged by payment to the municipality before any plat can be approved by the Planning Board. In cases where enforcement of this Ordinance would, in the opinion of the applicant, involve practical difficulties or unnecessary hardship, an appeal for desirable relief, which would not substantially deviate from the purposes and intent of this Ordinance, may be filed by the applicant with the Board of Adjustment.

## **ARTICLE V: STREET NAMES AND NUMBERS**

### **Section 11.501: STREET NAMES**

- A. The naming of all public streets and rights of way which are to receive or have received legal status by acceptance shall be subject to approval by the Planning Board and all existing public street and right of way now of legal status and as such are shown upon the tax maps, may be renamed by the Planning Board as it determines necessary for the welfare or convenience of the public. Such renaming may be considered upon the motion of the Planning Board or upon petition by the owners or occupants of such land as may be located upon said public streets and rights of way and such determination shall be made by the Planning Board after due public hearing of the matter.
- B. No existing or proposed street name shall duplicate the name or names of other proposed or existing streets irrespective of the use of the suffix, "Street", "Avenue", "Boulevard", "Drive", "Place", "Way", "Court", or the like. The extension of an existing street shall have the same name as the existing street.

### **Section 11.502: HOUSE NUMBERS**

- A. The Public Works Department shall make all measurements necessary to determine numbers to be assigned to all structures and dwellings but not accessory buildings now or to be upon accepted and approved streets. Such numbers upon determination shall become matters of public record and shall so be filed within the office of the Assessor. Even numbers shall be assigned to all structures on the right side of a public street and right of way and odd numbers to structures located upon the left side of said street or way.
- B. The beginning of a street shall be that end which intersects a street of primary status and so far as possible shall be that end closest in distance to Market Square. Right and left shall be relative to a person's position when standing at the beginning of said street and facing out of town.
- C. The numbers of structures as assigned shall be the quotient as obtained in dividing the distance from a structure's street entrance to the beginning of the street by a factor of 10 with such results being modified to obtain the required even or odd numbers. Where a structure is located within a rear lot and access to said structure cannot qualify as a legally accepted street then the centerline of such access way as serves as the structure's main entrance shall be assigned to the entire premises. All measurements shall be centerline measurements and shall start at the beginning of the street at its intersection with the curb line of the primary street.
- D. A mobile home park shall be assigned a number in the same manner and by the same method as used for the assignment of a number to a rear lot structure. Roadside cabins, motels and such other highway structures devoted to tourist and/or transient trade shall be assigned but one number and in the same manner as would be used for any main entrance measurement.
- E. Where separate ownership exists between common wall construction within the central business district or within a district zoned for business such section of single ownership whose main front entrance is upon a public street may be assigned to a single and consecutive number.
- F. Any building or structure for which a number has been designated shall have such number affixed thereto in such manner so as to be plainly visible from the street, which abuts the main entrance to the property.

- G. The owner of any building or structure who shall fail to affix such number within 30 days written notice from the Public Works Department shall be fined not more than \$25.00 for each day that such number is not affixed.

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## **ARTICLE VI: REFERRALS TO PLANNING BOARD (Added 12/21/2009)**

### **Section 11.601: INTENT**

The intent of this Article is to ensure that proposed municipal actions relating to land acquisition, disposition or use, and to the laying out, construction or discontinuance of public streets, are considered in the context of the City's comprehensive planning.

### **Section 11.602: REFERRAL AND REPORT**

- A. The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:
  - (1) Any acquisition or disposition of municipal real property, including fee transfers, and easements;
  - (2) Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.
- B. No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or sixty (60) days have elapsed since the referral without such report.
- C. The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral.

## **ARTICLE VII: SUBDIVISION REGULATIONS**

### **Section 11.701: SUBDIVISION OF LAND**

The subdivision of all land in the City of Portsmouth shall be regulated by the subdivision regulations adopted by the Portsmouth Planning Board and duly recorded with the Registry of Deeds. Copies of these regulations may be obtained from the Planning Director of the City of Portsmouth.

### **Section 11.702: CONFLICT**

Where a conflict exists between the ordinance regulations of the City of Portsmouth and the Subdivision Regulations passed by the Planning Board of the City of Portsmouth, the more stringent regulation shall be enforced.

### **Section 11.703: PENALTY**

Any person violating any provision of this Chapter or of the Subdivision Regulations of the City of Portsmouth shall be fined not more than \$100.00, but not less than \$25.00. Each day that such violation continues shall constitute a separate offense.

### **Section 11.704: HEARING NOTICE**

In any case in which the Planning Board is required to give notice pursuant to RSA 36:23, the Planning Board shall notify, in addition to the persons specified in RSA 36:23, all persons owning property within 300 feet of the property for which subdivision approval is sought. Failure to give notice beyond that required by statute shall not confer upon any person, rights of appeal or protest.

Additional notices required by this Ordinance shall be given in the same manner as the statutory notices.

The requirements of this Ordinance shall not apply to cases within the Central Business District.



## **ARTICLE VIII: SITE PLAN REVIEW**

### **Section 11.801: AUTHORITY**

Pursuant to authority granted in RSA 674:43 as it may be from time to time amended, the Portsmouth Planning Board is hereby granted authority to review and approve or disapprove site plans for the development of tracts for non-residential uses and for multi-family dwelling units containing three (3) or more dwelling units when completed. This authority to review site plans shall exist whether or not the proposed development includes a subdivision or resubdivision of the site. (Amended 12/21/2009)

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