

City of Biddeford
Policy Committee
August 13, 2018 6:30 PM

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Adjustments to the Agenda**
- 4. Acceptance of Minutes**
 - 4.1. February 12, 2018 Policy Committee Meeting Minutes
[2-12-2018 Policy Committee Meeting Minutes.doc](#)
- 5. Discussion/Review**
 - 5.1. Ch. 42, Motor Vehicles & Traffic/Sec. 42-90-No Parking/Add on Yale Street
[No Parking - Yale Street.doc](#)
 - 5.2. Policy Opinion: Scheduling of Organization Events & Possible Special Event Permit Amendments
[8-13-2018 Briefing Memo - Organization Event Scheduling.docx](#)
 - 5.3. Policy Review: Sewer Abatement Policy
[Policy Committee Briefing Memo - Sewer Abatement Policy](#)
[Attachment 1 - Current Sewer Abatement Policy](#)
[Attachment 2 - Draft Sewer Abatement Policy](#)
- 6. Adjourn**

City of Biddeford, Maine
Policy Committee Meeting
Monday February 12, 2018

Minutes

- 1. Roll Call** – Meeting called to order at 6:30 p.m. by Policy Committee Chair councilor Marc Lessard. Other Policy Committee members present were: Councilors Laura Seaver and Norman Belanger; member Renee O’Neil. Committee member Nathan Bean was excused.
- 2. Pledge of Allegiance** – The American flag was honored through the Pledge of Allegiance.
- 3. Adjustments to the Agenda** – No adjustments. Councilor SEAVER informed the Committee that City Attorney Keith Jacques would have a draft of the Solicitation Ordinance ready for Committee review at the March 12, 2018. Further, Councilor BELANGER would be reviewing this ordinance language with the City Attorney.
- 4. Acceptance of Minutes:** *Motion by SEAVER seconded by BELANGER to accept the minutes of the August 14, 2017 meeting as printed. Vote unanimous.*

5. Discussion/Review

5.1 Ch.22, Businesses/Sec. 22-35 Ice cream truck/Add language pertaining to location.

The Committee considered the following language:

2018. IN BOARD OF CITY COUNCIL...

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 22, Businesses, **Section 22-35 Ice cream truck**, is amended by adding or ~~deleting~~ to read as follows:

Sec. 22-35 Ice cream truck

Added 2-1-2011 by Ord. No. 2011.3]

(a) Purpose. The purpose of this section is to regulate the number of ice cream trucks licensed within the City of Biddeford, and to limit the areas within the City where these trucks may operate, and in consideration for the public's safety.

(b) License required. A person, business or corporation may not operate an ice cream truck subject to these provisions without first having obtained a license from the City of Biddeford.

(c) Application. A person, business or corporation applying for a license under this provision shall complete forms provided by the City Clerk's office and provide the following information:

(1) The name, address and telephone number of the company, as well as the name, address and phone number of the ice cream truck operator(s).

(2) A photocopy of the valid ice cream truck registration(s) that will be operating with the City.

(3) A certificate or other evidence of liability insurance covering all ice cream trucks and drivers.

(d) Prohibitions.

(1) Each licensee may not operate more than one truck engaged in the sale of ice cream products within the City at any one time; or park within 500 feet of any other licensed ice cream truck engaged in the selling of ice cream products.

(2) No ice cream truck may engage in the sale of products on any of the City's streets that have been identified as a major route of travel for vehicular traffic. These streets include, but are not limited to:

- a. Elm Street.
- b. Alfred Street.
- c. Pool Street.

(3) When an ice cream truck is stopped and left standing or parked, a person may not operate a sound system in or on the ice cream truck on a public way at a volume that is audible at a distance of greater than 25 feet.

(4) The operator of an ice cream truck may not occupy any parking space within a No Parking Zone, Permit Parking Only Zone, Fire Lane, or park in any other place that impedes or interferes with the normal movement of vehicular or pedestrian traffic.

(5) Vending must be from the right side of the vehicle only. No vending is permitted from the side of the vehicle that is exposed to oncoming traffic.

(e) Penalty. A person or company who violates any provision of this section will be subject to the penalties set forth under Chapter 1, Section 1-12 of this Code;

and in addition thereto, such violation may be cause for the suspension or revocation of the vendor's license to operate within the City of Biddeford.

Motion by BELANGER and seconded by SEAVER to accept the Order as printed.

DISCUSSION:

Mr. Lowe, who does business for Northeast Ice Cream, addressed the Committee expressing his opposition to the proposed Ordinance changes. Mr. Lowe's opposition centered on his belief that these changes would negatively impact his business. Under Committee discussion, debate centered on the changes to item (d)1 and its imposition of parking within 500 feet of any other licensed ice cream truck engaged in the selling of ice cream products. Committee Chair LESSARD, suggested that the Committee consider items 4 & 5 of the proposal be treated and voted on separately.

BELANGER withdrew his original Motion, and SEAVER withdrew her second.

*Motion by BELANGER and seconded by SEAVER to accept items of this Order identified as numbers 4 and 5, above, and to forward the Order to the City Council with a recommendation for Adoption. Vote: unanimous.
The Committee agreed to not consider the proposed language change under (d) 1 above.*

5.2 Ch.22, Business/Article III - Criteria.

The Committee reviewed the following language:

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 22, Businesses, **Article III-Criteria, Section 22-17 et al. Mobile Food Vendor**, is amended by adding or ~~deleting~~ to read as follows:

ARTICLE V

Sec. 22-17. Purpose.

The purpose of this Ordinance is to regulate mobile food vending on property owned or under the control of the City of Biddeford and mobile food vending on private property in order to create a desirable situation where mobile food apparatuses may conduct business.

Sec. 22-18. Definitions.

Edible goods may include, but are not limited to:

- a. Prepackaged food including, but not limited to candy, beverages, chips, popsicles and ice cream.

- b. Prepared food including, but not limited to hot dogs, desserts, sandwiches and pizza.
- c. On-site prepared food including, but not limited to shaved ice, sandwiches and tacos.

Mobile food vendors shall mean any business which sells edible goods from a non-stationary location within the city. The terms shall include, but not be limited to:

- a. Mobile food trucks: a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers: a vending unit which is pulled by a motorized unit and has no power to move on its own.

Non-refrigerated shall mean edible goods that are not required to be kept at a temperature below 41 degrees Fahrenheit.

Sec. 22-19. Application and Permit.

Permit. Every mobile food vendor shall have a permit issued by the city to conduct business in the city.

Application. Every mobile food vendor shall apply for a permit on a form promulgated by the city. Each vending unit requires a separate permit. Applications for permits meeting the requirements for mobile vendors shall be processed within ten (10) business days.

Mobile Food Vendor Application Form. A complete application shall require the following information from the applicant to be considered:

- a. Name of applicant; as well as physical street address; mailing address; telephone number(s); and email address
- b. Legal name of business or entity.
- c. Signed permission form or provide notarized affidavit from the private property owner granting permission for unit placement.
- d. Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.
- e. Proposed itinerary with route, vending locations and times.
- f. Contact name and phone number for mobile food vending unit while in route.
- g. Description of product being sold.

- h. Site plan where the Mobile food vending unit will be located on the property.
- i. Valid and current vehicle/trailer registration of mobile food unit.

Sec. 22-20. Permit Regulations.

The application fee for a mobile food vendor permit shall be \$200.00. Each mobile food vendor unit shall be permitted separately.

Mobile food vendor permits shall expire on December 31st of each year.

Upon renewal the applicant shall pay the renewal \$200.00 fee, and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

The City Manager is authorized to make reasonable rules and regulations, not inconsistent with this Section, governing the design, construction and location of pushcarts or food trucks.

Display of Permit. Every permit, including those from the city, shall be displayed at all times in a conspicuous place where it can be read by the general public on the mobile food vendor's truck or concession trailer.

Sec. 22-21. Permit Denial.

A permit may be denied where:

- (1) The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food vendor.
- (2) The opportunity to issue a permit has been denied due to previous violations as described in this section.

Sec. 22-21.a. Prohibited Conduct.

1. Distance Regulations:

- a. No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the Code Enforcement Officer.
- b. A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment except during city sponsored or other community events.
- c. A mobile food vendor shall not be located within 40 feet from another mobile food vendor except during city sponsored or other community events.

2. A mobile food vendor shall not conduct sales at a stationary location:

- a. For a duration exceeding sixty (60) minutes on any public street or public streets adjacent to public parks and recreational facilities, next to fire lanes and no-parking designated areas. Mobile vendors parking on public streets may not move to a new location without prior approval from the City.
- b. In congested areas where the operation impedes vehicular or pedestrian traffic.
- c. Between the hours of 1:00 a.m. and 6:00 a.m.
- 3. *Offenses and regulations*
 - a. It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the city unless it's principal or employer has received a permit under this section.
 - b. A permit issued under this section is not transferable.
 - c. It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the city in the name of another individual, organization, or entity.
 - d. It shall be unlawful for any individual directly or through an agent or employee to sell goods within the corporate limits of the city after the expiration of the permit issued by the city under this section.
 - e. It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this section.
 - f. It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the city constitutes the city's endorsement or approval of the product for sale.

Sec. 22-21.b. Mobile Food Vendor Requirements.

The following regulations shall apply to mobile food vendors:

- a. Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
- b. Mobile food vendor may not have a drive through.
- c. Continuous music or repetitive sounds shall not project from the mobile unit.
- d. A five-foot clear space shall be maintained around the mobile food vending unit.

- e. All mobile units shall have a gray water holding tank.
- f. The mobile unit will be subject to inspection upon permit application through the code enforcement, health department and the fire department, and may be subject to random inspection and upon reissuance of the permit.
- g. No sales are allowed within public park facilities while park concession units are operating. Mobile units operating in public parks and on streets adjacent to public parks or recreational facilities requires approval by the City's Recreation Director.

Motion by BELANGER and seconded by SEAVER to accept the Order as presented, and to forward the Order to the City Council with a recommendation for Adoption. Vote: unanimous.

5.3 Discussion: Ch. 42, Motor Vehicles & Traffic/Sec. 42-99 – No through trucks/Add on Main Street.

The Committee reviewed the following language:

2018. IN BOARD OF CITY COUNCIL...

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations, **Section 42-99 No Through Trucks**, is amended by adding or ~~deleting~~ to read as follows:

[Code 1975, § 14-88; Ord. of 10-17-1989; Ord. of 7-15-1997(3); Ord. No. 2000.42, 4-18-2000; Ord. No. 2000.57, 6-20-2000; Ord. No. 2001.87, 10-16-2001; Ord. No. 2002.110, 11-6-2002]

(a) One-and-one-half-ton and over. There shall be no through trucks over 1 1/2 ton in size on the following streets:

[Amended 6-20-2017 by Ord. No. 2017.61]

Diamond Street, no trucks greater than 1 1/2 ton; local deliveries only

Stone Street, no trucks greater than 1 1/2 ton; local deliveries only

Summer Street, signs to be placed at Summer Street and Harrison Street and Summer Street and Birch Street

(b) Five tons and over. There shall be no through trucks over five tons gross vehicle weight on the following streets:

Edwards Avenue

Graham Street, any part between Crescent Street and Alfred

Streets

Grayson Street, any part between Elm Street and Hill Street
[Amended 6-20-2017 by Ord. No. 2017.61]

Janelle Street

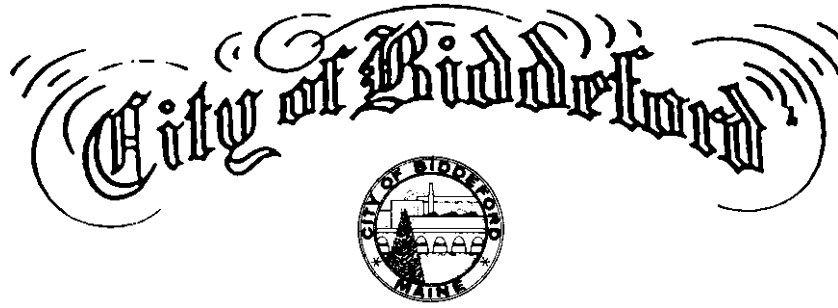
Maple Avenue, any part

May Street, any part

Main Street, from Alfred to Elm Street; local deliveries only.

Motion by BELANGER and seconded by SEAVER to accept the Order as presented, and to forward the Order to the City Council with a recommendation for Adoption. Vote: None in FAVOR, 4 in OPPOSITION. Motion fails

6. Adjourn – *Motion by BELANGER and seconded by SEAVER to adjourn at 7:09 p.m. Vote unanimous.*



BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations, **Section 42-90 No Parking**, is amended by adding or ~~deleting~~ to read as follows:

Yale Street, even numbered side, from May Street to Round Hill Street



City of Biddeford

Chief Operating Officer/Technology Dept/IPP
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Phone: (207) 571-0032 • Fax: (207) 571-0656

Briefing Memo

TO: Chairman Marc Lessard and Members of the Policy Committee

CC: James Bennett, City Manager
Roger Beaupre, Police Chief & Staff Liaison
Carl Walsh, Recreation Director

FROM: Brian S. Phinney, COO

DATE: August 6, 2018

RE: **Policy Opinion: Scheduling of Organization Events & Possible Special Event Permit Amendments**

Staff is seeking a general policy opinion on a proposed plan to establish a more formal process for coordinating the use of Biddeford's facilities by outside organizations, namely the use of parks and beaches. During the summer in particular, outside organizations often plan outings at Biddeford's parks, beaches, and some athletics fields as part of their program offerings. These organizations generally coordinate directly with the Biddeford Recreation Department to schedule outings although no formal requirement is in place that they perform such notification. As a result, conflicts may arise as organizations expand their summer programs and look to Biddeford for outing opportunities.

In preparation for next year, staff would like to obtain an understanding of whether the Policy Committee agrees that (1) the Recreation Department should proceed with establishing a formal plan/process for managing organization events, (2) that the program should be administered operationally, and (3) that the Recreation Department should prepare a fee schedule for such use and begin charging for such events as applicable. Currently, other communities charge the Biddeford Recreation Department for the use of some parks and beaches. Staff proposes to establish a similar program.

As noted above, the current proposal is to manage scheduling as an operational item. The Recreation Department uses the MyRec software program to schedule and collect online payment for various recreation program fees. The same software and website could be used to coordinate organization events. Requests can be submitted online and fees can be paid through MyRec. This will reduce the administrative burden for Recreation staff and streamline the process for participating organizations.

It should be noted that a special event application review process was established in 2011 to better review and control gatherings defined as special events. The ordinance establishes a coordinating committee comprised of police, fire, codes, public works, and recreation and grants permitting authority to the Director of Parks and Recreation, the Police Chief, and the City Council based on the anticipated size, type, and proposed location of the gathering.

The current definition of a special event is as follows:

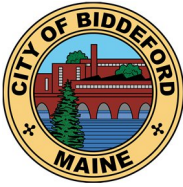
An event or function occurring within the City of Biddeford that is open to, or intended to attract the general public, and requires the closure of a public way, or any part thereof, for a period longer than two hours. Large-scale public events may involve or take place on a public way or in or on publicly held facilities. Depending on the location and time of the event, smaller-scale events involving a brief or transitory closure of a public way, or any event that requires the full or partial closure of a street for a period of less than two hours, e.g., a parade, shall be reviewed by the Police Chief, who may choose to refer it to the full Coordinating Committee for approval. Except for Route No. 1, a special event may involve the closure of primary streets within the City.

The Ordinance further specifies that a permit is required for “Any person who desires to conduct or sponsor an event at a public park, public ground, or street of the City in which it could reasonably be assumed that 25 or more persons might gather or participate...”

These organizations can often exceed 25 members and have the potential of negatively affecting residents, park maintenance, and facility parking if more than one organization plans to visit the same location on the same day. The special event permit process has worked well; however, the definition does not include private gatherings by organizations such as schools, community organizations, daycares, recreation departments from other communities, etc., nor is the process responsive enough to accommodate organization events as they have been defined in this memo.

If the Policy Committee feels the scheduling of organization events should be codified rather addresses as an operational matter, one alternative would be to prepare amendments to Chapter 6, Article V, Special Events. The amendment could include a definition for “organization events” along with the development of a recreation-specific review process.

Based on the Committee’s policy opinion, Recreation staff will either implement the program operationally in preparation for next summer or gather data and prepare Chapter 6 amendments for consideration at a future meeting.



City of Biddeford

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Briefing Memo

TO: Chairman Marc Lessard and Members of the Policy Committee

CC: James Bennett, City Manager
Roger Beaupre, Police Chief and Staff Liaison
Jeff Demers, Public Works Director
Tom Milligan, City Engineer
Cheryl Fournier Finance Director
Wastewater Management Commission

FROM: Brian S. Phinney, COO

DATE: August 9, 2018

RE: **Policy Opinion: Sewer Abatement Policy**

The water meter replacement project initiated by Maine Water in 2017 resulted in a number of Petition for Abatement (PFA) requests, some of which involved tens of thousands of dollars. The significance of the PFAs resulted in a critical review of the abatement process by both staff and the Wastewater Management Commission (Commission). In general, the Commission is looking for more guidance on evaluating PFAs and staff is looking for a better-defined system for processing PFAs.

The subject of abatement is addressed generically in Chapter 70 at Sec. 70-32(g):

(g) Review of charge.

(1) Any user who feels his sewer bill is in error may make written application to the Commission requesting a review of his/her user charge. Said written request shall, where necessary, show the actual or estimated average flow and/or strength of his/her wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

(2) In lieu of abatement — request of payment equal to last quarter/monthly amount to be based on previous history before coming to the wastewater Commission, if there is no previous history, amount must be paid in full.

(3) Review of the request shall be made by the Commission and, if substantiated, the Commission shall direct that appropriate action be taken. Any charge abated shall become a credit against the next billing period if under \$50 and refunded if over \$50.

The current sewer user abatement policy dates back to 1996 and is similarly generic (see Attachment 1).

The proposed Sewer Abatement Policy is provided as Attachment 2. The draft policy is intended to address a number of issues as outlined below:

Reduces the impact caused by estimated bills. The policy establishes a notification process independent of any procedures the water company may utilize to inform users that their bill is being estimated and providing them with an opportunity to correct. By managing an independent notification system, the City is able to tract notifications (registered mail) and with confirmation that a user was notified of the ability to correct, deny a PFA is based solely on reconciliation of estimated bills at a future date. However, instituting a program to limit future PFAs is only half the equation. The draft policy also provides guidance for addressing PFAs that may be based on meter reconciliation for periods prior to implementation of the notification system in a consistent manner.

Provides guidance on how to evaluate various types of PFAs. The draft policy provides guidance on eleven (11) items and identifies a number of PFA scenarios that are not eligible for abatement. These include minimum payment limitations, PFAs associated with non-compliance and misrepresentation, addresses PFAs where the disputed amount is known to enter as well as not enter the sewer, PFAs associated with administrative billing errors, and guidance for “all other” requests.

Clarifies the PFA process. The draft policy now includes clear responsibilities, submittal requirements, and timelines to ensure the PFA review process progresses in a consistent and timely manner. All PFAs (and appeals) are submitted in writing through the finance director using a city-provided form. The finance director performs an administrative review of the PFA to ensure it is complete and then performs a technical review, which includes developing a recommendation for consideration by the Commission. The use of a form ensures that reviews are consistent and all steps are documented. This streamlines the process for staff, provides the Commission with organized and consistent materials to review, and provides a uniform process the applicants are able to anticipate and understand.

Develops an accurate and complete PFA record. The draft policy includes recordkeeping requirements that consist of developing a PFA Record and a PFA Summary. The PFA record consists of the PFA form, all supporting documents, and all decisions associated with each PFA. The PFA summary compiles the critical information associated with all PFAs into one summary document. This enables staff to ensure recommendations are consistent and provides the Commission with an ongoing reference of all PFA decisions. If a decision is appealed, the Finance Committee will have a complete record of the current PFA decision and will be able to

review the PFA summary and the appeal argument to verify whether or not the Commission's decision is arbitrary, capricious or unsupported by substantial evidence.

Staff is looking to make the Policy Committee aware of the proposed policy and to incorporate any recommendations offered. Once the recommendations are incorporated, or if none, staff intends to create the PFA form and begin implementation.

SEWER USER ABATEMENT POLICY

No abatement will be considered if over 90 days from the most current billing Date.

Wastewater, which did not enter the sewer system:

Based on evidence of receipts/invoice provided by homeowners/business professionals, or by inspection by a City Employee, then the city will abate all the difference between the current consumption value and the average of the last three years of billing history. In the event that the previous billing consumption values are estimated or are suspect, then the Comptroller will substitute representative consumption values.

Wastewater, which did enter the sewer system:

If, in the opinion of the Commission, the wastewater did enter the collection system, then partial abatements may be given based on the following criteria, except no abatement will be considered that will reduce the bill below the minimum charge.

Billing Errors:

The City may issue a “make-up” bill for services that the user received, but were previously unbilled.

- (1) If the “make-up” bill is for service that was unbilled because of an error; made by the City or the Biddeford-Saco Water Company, or a meter failure that could not reasonably have been detected by either the City, the Water Company, or the user; then the City may bill or collect for services that occurred for one (1) year prior to the issuance of the “make-up” bill for a period not to exceed one (1) year from the issuance of the “make-up” bill.
- (2) If the “make-up” bill is for service that was previously unbilled because of unauthorized use or misrepresentation by the user, the City may bill for service that occurred up to ten (10) years before the issuance of the “make-up” bill.
- (3) In all cases where actual flow data is unavailable, the Commission shall estimate the water usage based on Historical usage, comparable facilities, or engineering estimates. No abatement will be considered that will reduce the bill below the minimum charge.

Leaking Fixtures:

If, in the opinion of the Commission, water entered the sewer system from a leaking fixture, it will only come to the Commission if over \$999.99, or at the discretion of the Comptroller of City Services. The Commission can abate up to 50% of the difference between the highest consumption value and the average consumption value over the previous three years.

The above shall follow all procedures of PFA (Petition For Abatement).

Abatement Amount = (Disputed consumption – Highest Consumption) X (up to) 50%

Appeal Process:

The decision made by the Wastewater Commission, denying the abatement, under this section can be appealed by the owner to the Finance Committee in writing. The Wastewater Commission reasons for its decisions shall be included in the writing forwarded to the Finance Committee. Action by the finance Committee shall notify the Wastewater Commission and the claimant of the time and place when the Finance Committee will take up the recommendation of the Wastewater Commission. If the claimant disagrees with the recommendation of the Wastewater Commission, the claimant shall be given an opportunity to show that the recommendation is arbitrary, capricious, or unsupported by substantial evidence. The Wastewater Commission shall also be given the opportunity to be heard. The Finance Committee shall approve the recommendations of the Wastewater Commission unless it finds that it is arbitrary, capricious, or unsupported by substantial evidence. The Finance Committee shall order the claim dismissed or paid in accordance with this decision, which shall be final.

The following Sewer Abatement Policy (Policy) shall define the procedures for consistent and timely Petition for Abatement (PFA) processing. The Policy establishes responsibilities for the applicant, finance director or the finance director designee, the Wastewater Management Commission (Commission) and the Finance Committee.

Background

Maine Water, previously Biddeford & Saco Water Company (Company), installs and maintains water meters at business and residential facilities receiving water from the Company. In areas serviced by city sewer, the Company provides periodic flow data to the City for each account. The water bill data (input) is assumed to equal the sewer discharge (output) from each associated account. Thus for these accounts, sewer billing is based on data provided by the Company.

Sewer users obtaining water from a source other than the Company must install and maintain a meter to measure the sewer discharge. All such meters must be inspected and approved by the City and must be available for inspections during the year. For these accounts the user must report the meter reading.

By ordinance, residential users receive quarterly sewer bills based on actual water usage as determined by the Company's meter readings. Commercial and industrial users, who receive water bills from the Company on a monthly basis, also receive sewer user bills from the city on a monthly basis.

If a residential, commercial, industrial, or institutional user has a consumptive use of water, or, in some other manner, uses water which is not discharged into the collection system, the user charge for that contributor may be based on readings of wastewater meter(s) or a separate water meter(s) (sub-meter), which must be purchased through the City to ensure conformity and calibration, and installed and maintained at the user's expense.

PFA requests may be submitted for any number of reasons. One such reason involves reconciliation of estimated accounts. Occasionally the Company is not able to perform an actual meter reading or a user fails to report or reports incorrect data. When the Company is not able to read a meter, the Company estimates the water bill and subsequently the data the City receives for sewer billing is also estimated. The Company, by practice reports that a card is left on the premises indicating the inability to read the meter and notifying the resident that the bill will be estimated unless the actual meter reading is "called in". The Company replaces water meters periodically either due to a specific concern or as part of a larger upgrade project. In most instances, users receiving sewer bills based on actual readings do not see any impact to the sewer bill. For users receiving sewer bills based on estimated readings, depending on the length of time between initial account estimation and verification of an actual meter reading, the catch-up billing may be significant albeit representative of actual use.

Given that the City is impacted by and must evaluate and address sewer billing questions and PFAs based on estimated water readings and reporting by sewer users of which the City would have no prior responsibility as to the accuracy of the information, the City has modified its procedures to ensure sewer users are aware of the implications of estimated billings and to limit the City's exposure with regard to estimated accounts and PFA resolutions.

Notification Procedure for Estimated Accounts

The Finance Department shall compile and maintain a list of all sewer users whose bill is calculated based on estimated water meter readings. This initial list shall be based on data provided by the Company. Thereafter, the City will receive an updated list of estimated accounts monthly.

The City, through the Finance Department, will provide a one-time notice to each named account holder on the list informing the user of the updated city policy on abatement procedures. The notice shall be transmitted by certified mail and issued within 15 days of receipt of the list. The notice shall inform the user that the upcoming bill will be estimated unless the user provides a meter reading or schedules an actual meter reading within 30 days of their receiving the notice otherwise the bills (water and sewer) will be based on estimated usage. Finally, the notice will clearly state that failure to provide accurate data or arrange for a meter reading may result in reconciliation at a future date. The user is responsible for payment of the reconciled amount.

PFA Submittal and Recordkeeping

PFAs shall be submitted in writing to the finance director using only a city-provided form. The finance director shall establish a recording system that at a minimum includes date of receipt, the PFA contact information, the account address, the amount of the PFA request, the reason for the request, the date of the PFA review, the PFA review decision and rationale, the amount of the abatement if issued, and any appeal dates, decisions, and amounts (PFA Summary).

PFA Processing

Administrative Review

The finance director or the finance director designee shall administratively review each PFA to determine if the submittal is complete. The finance director or designee may request additional information. Once the PFA is administratively complete, it shall be accepted for technical review.

Technical Review

The finance director or designee shall perform a technical review of the PFA and provide an opinion of eligibility (eligible or not eligible for abatement) along with a recommendation as to the amount of an abatement if applicable. The eligibility opinion, abatement recommendation, and rationale shall be documented and become part of the PFA. The eligibility opinion and abatement recommendation shall be performed in accordance with the General PFA Review Criteria. The finance director may request that engineering and or wastewater department staff review the information submitted and provide data on expected flows, verify calculations, and or provide technical guidance as to the reasonableness and accuracy of the information submitted in support of the PFA. Upon completion of technical review, the PFA shall be forwarded to the Commission.

General PFA Review Criteria

- PFA requests equal to the last quarter/monthly amount where no previous history exists shall be deemed ineligible for abatement. (Sec. 70-32(g)(2))
- PFA requests involving a disputed amount identified as a prohibited discharge (Sec. 70-86), associated with failure to comply with requirements specified in Sec. 70-90 *Protection from accidental discharge of prohibited material; notification requirements*, or listed as a *prohibited discharge* (Sec. 71-5) shall be deemed ineligible for abatement.
- A PFA shall be deemed ineligible for abatement when the finance director determines and the Commission confirms the abatement is based solely or in part on unauthorized use of the sewer system or misrepresentation by the user.
- A PFA shall be deemed ineligible for abatement when the finance director determines and the Commission confirms the abatement is based solely or in part upon the user failing to obtain the necessary municipal permits or authorizations for activity at the physical address associated with the account, including but not limited to failing to request and install a sub meter.
- A PFA shall be deemed ineligible if submitted more than three (3) billing cycles from the most recent sewer bill identifying a disputed amount as referenced by the PFA. For the purpose of clarification a PFA may cover a period longer than three (3) billing cycles but a PFA must be submitted within three (3) billing cycles of becoming aware of the disputed amount.
- In all cases where a PFA is deemed eligible and a credit is to be calculated based on estimated data, the maximum allowable credit shall be based on the estimated value but in no event shall be greater than the minimum applicable charge over the period in question.
- PFA requests where the disputed amount is solely the result of reconciling one or more estimated bills - by way of example but not limitation, reconciling due to the sale of a property, the replacement of a meter, or a meter upgrade – the PFA shall be deemed ineligible for any period after documented notification that the bill is being estimated.
- PFA requests where the disputed amount covers a period prior to documented notification that the bill is being estimated and is solely the result of reconciling one or more estimated bills - by way of example but not limitation, reconciling due to the sale of a property, the replacement of a meter, or a meter upgrade – the PFA shall be evaluated and if deemed eligible, processed in accordance with the following:

For small single-family residential units, defined as up to three units (on one account) one of which must be owner occupied, the user shall be responsible for the applicable sewer fee for a period no greater than the last 36 months.

For all other accounts, the user shall be responsible for the applicable sewer fee for a period no greater than the last 10 years.

- For a PFA request where the disputed amount is confirmed to not have entered the sewer system, based on evidence such as receipts, invoices, etc., or through a documented opinion from a qualified municipal employee, or for a one-time filling of a pool, the Commission may consider a full abatement of the disputed amount.
- For a PFA request where the disputed amount is confirmed to have entered the sewer system, based on evidence such as receipts, invoices, etc., or through a documented opinion of a qualified municipal employee, the Commission may consider a partial abatement of no more than 50% of the difference between the disputed amount and the average of the last three years of billing history multiplied by the identified PFA period. In the event the previous billing consumption values rely on estimates or suspect values, the finance director or the finance director designee shall document and use representative consumption values in calculations.
- For a PFA request, determined to be the result of an administrative billing error, the finance director or designee shall verify the disputed amount and upon verification deem the PFA eligible, the Commission may consider full abatement of the disputed amount.
- For all other PFA requests, the finance director or designee shall evaluate the PFA on a case-by-case basis in accordance with this policy and past practice and submit a recommendation to the Commission. In the event the PFA is unique and no applicable past practice exists, the finance director shall document the final determination to serve as future evidence of past practice.

Once the technical review is complete, the finance director shall submit all PFAs to the Commission for review and consideration at the next regular Commission meeting. For the purpose of clarification, a PFA with a completion of technical review date after the agenda preparation date, which is typically one (1) week prior to a scheduled meeting, shall be considered by the Commission no later than the second regular Commission meeting following technical review.

Commission Review

The Commission shall review each PFA and render a determination after consideration of the weight of the evidence provided and the testimony offered. The determination shall be consistent with the intent and guidance provide in this policy.

All Commission PFA decisions shall include a formal determination consisting of either a tabling, an approval, or a denial.

- Tabled PFAs shall not remain tabled for more than the lesser of 90 days or such time needed for the Commission to receive requested information.
- Approvals and denials shall be documented with such documentation consisting of the determination (approval or denial), the specific amount of any abatement issued, and the rationale supporting the determination.
- All Commission decisions shall become part of the PFA (PFA record).

Appeals

A decision by the Commission may be appealed to the Finance Committee.

All PFA appeals must be submitted to the finance director in writing and clearly identify the basis for the appeal. The finance director shall attach the PFA record to the appeal. The PFA record and the PFA summary shall be submitted to the Finance Committee. The finance director shall notify the person submitting the appeal of the date, time, and location of the appeal meeting.

The appeal shall be heard at the next regular meeting of the Finance Committee. In the event the request for PFA appeal is received after the agenda preparation date, the appeal will be heard at the Finance Committee's second regularly scheduled meeting after receipt of the request for appeal.

The Finance Committee shall approve the Commission's decision(s) unless it finds that the decision is arbitrary, capricious, or unsupported by substantial evidence. The Finance Committee shall order the claim dismissed or paid in accordance with this decision, which shall be final.

PFA Limitations

- In no event shall the period of time associated with a PFA exceed ten (10) years prior to the date of PFA submittal.
- In no event shall a credit associated with a PFA result in payment of less than the greater of the sum of the undisputed amount paid over the period identified in the PFA or the sum of applicable minimum charge(s) for the period identified in the PFA, administrative billing errors notwithstanding.