

City of Biddeford
Policy Committee
January 09, 2020 6:00 PM

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Adjustments to the Agenda**
- 4. Acceptance of Minutes**
 - 4.1. September 9, 2019 Policy Committee Meeting Minutes
[9-09-2019 Policy Committee Minutes.docx](#)
- 5. Discussion/Review**
 - 5.1. Ch. 42, Motor Vehicles & Traffic/Sec. 42-90.1-No Parking during special events/Removal of certain streets
[Special Event Parking-Repeal part of Sec 42-90.1.doc](#)
 - 5.2. Ch. 70 Utilities/Art. II-Wastewater System, Division 4. Use Regulations and Art. III-Wastewater System Capacity Management
[Chapter 70-Utilities-various amendments.docx](#)
- 6. Adjourn**

**Policy Committee Meeting
September 9, 2019**

Committee Member, Norman Belanger called the meeting to order at 6:37 p.m.

Roll Call: Councilor Norman Belanger; Committee Members Renee O’Neil and Nathan Bean

Councilors Marc Lessard and Laura Seaver were excused.

Staff Members present: Carmen Morris, City Clerk and Roger Beaupre, Police Chief

The Committee recited the Pledge of Allegiance.

There were no adjustments to the agenda.

Discussion Item: Request by C.M. Cimino Realty, Inc. of Ledgewood Apartments to Waive Code Enforcement Inspection Fees for Multi-Unit Buildings

Christopher Cimino, Executive Vice President of Cimino Realty, Inc. addressed the Committee. He stated that Ledgewood Apartments (9 Graham Street) is a Section 8 regulated housing complex; and is asking for consideration of a waiver for the inspection fees for multi-unit buildings. Ledgewood Apartments are inspected annually by the Maine Housing Authority and their inspections have scored between 95 and 100, with the maximum score being 100. Ledgewood Apartments are regularly inspected by the Biddeford Fire Department and the building is completely sprinklered. In return for the waiver, Cimino Realty offers to provide the City with all their yearly inspections by all inspecting authorities.

Code Enforcement Officer, Roby Fecteau noted that under the current ordinance, there is no waiver condition included. He suggested that if the Policy Committee would like some sort of waiver language included in the ordinance, he can certainly work on coming up with some language. Roby went on to explain that when the Code Enforcement conducts an inspection under the current inspection program, there are numerous items that are looked at, including: handrails, fire separations, travel distances, fire alarms, sprinklers, etc. He is not aware of what the Maine Housing Authority looks at when they do their inspections.

Member O’Neil asked if there are other properties within the City that may fall into the category or classification as Ledgewood Apartments.. Roby believes there are three or four others in the City that operate under similar programs as Ledgewood Apartments.

Roby asked that if a waiver condition is added to the current inspection program ordinance, that some kind of inspection process is still in place for the City to follow – even if at a reduced fee. Such inspection process would include the review of reports and written inspections that are completed by other and outside agencies throughout the year. This would allow Codes to determine any deficiencies and to work with the property owner to gain compliancy.

Member O’Neil would like to have Roby draft some language that would allow for inspection waivers that the Policy Committee can consider; and she also suggested allowing Cimino Realty to weigh in on any proposed ordinance change. Councilor Belanger agreed.

Discussion/Review:

A. Amendment/Ch. 42. Motor Vehicles & Traffic/Sec. 42-90-No Parking/Add on Evans Road @ Intersection with Lester B. Orcutt Blvd.

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**, be amended by adding or deleting to read as follows:

Evans Road, both sides, beginning at the intersection with Lester B. Orcutt Blvd., thence northeasterly to end of approved street.

Motion by Member Bean, seconded by Member O'Neil to recommend approval of the ordinance amendment. Vote: Unanimous.

B. Amendment/Ch. 42, Motor Vehicles & Traffic/Sec. 42-89-Stop Intersections/Add on Evans Road @ Lester B. Orcutt Blvd.

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 42-89 Stop Intersections**, be amended by adding or deleting to read as follows:

Evans Road, at Lester B. Orcutt Blvd.

Motion by Member Bean, seconded by Member O'Neil to recommend approval of the ordinance amendment. Vote: Unanimous.

C. Amendment/Ch. 42, Motor Vehicles & Traffic/Sec. 42-96-Three-way stop streets/ Add Lester B. Orcutt Blvd. @ Mile Stretch Road and Delete Lester B. Orcutt @ First Street

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 42-96 Three-way stop streets**, be amended by adding or deleting to read as follows:

Lester B. Orcutt Boulevard at Mile Stretch Road

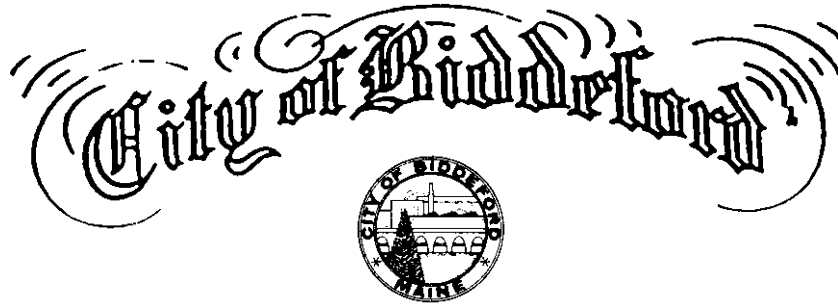
~~Lester B. Orcutt Boulevard at First Street~~

Motion by Member Bean, seconded by Member O'Neil to recommend approval of the ordinance amendment. Vote: Unanimous.

Motion by Member Bean, seconded by Member O'Neil to adjourn.

Vote: Unanimous.

Time: 6:59 p.m.



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 42-90.1 No Parking during special events**, be amended by adding or deleting to read as follows:

There is no parking on the following streets during a special event that is held at either the Waterhouse Field and/or at the St. Louis Field:

Ashland Avenue, odd-numbered side

Bald Avenue, even-numbered side, from West Street to end

~~Belmont Avenue, even-numbered side~~

~~Belmont Avenue, odd-numbered side, from Prospect Street to end~~

Debbie Avenue, even-numbered side

Dupont, even-numbered side

Forest Street, odd-numbered side, from Ashland to West Streets

~~Free Street, even-numbered side~~

Gertrude Avenue, odd-numbered side, from West Street to Harding Street

Greenfield Lane, even-numbered side

~~Harding Street, odd-numbered side, from Graham Street to Prospect Street~~

Havey Avenue, even-numbered side

~~Herring Avenue, even-numbered side~~

~~Herring Extension, even-numbered side~~

~~Hill Street, even-numbered side from Clarendon Street to West Street~~

~~Hill Street Extension, both sides~~

~~Hillside Avenue, even-numbered side, from Prospect Street to Hill Street~~

~~Hubert Street, even-numbered side~~

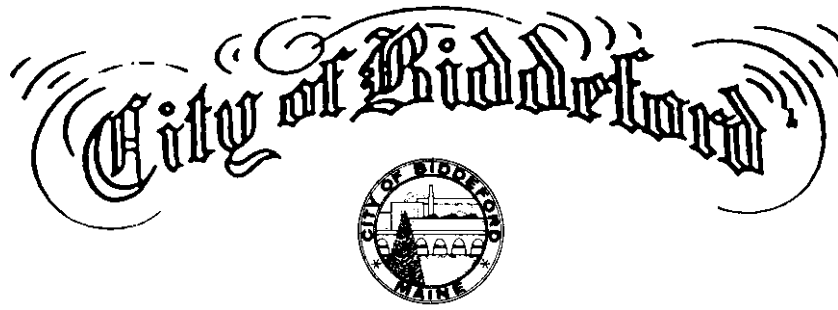
~~John Street, even-numbered side~~

~~Laurier Street, even-numbered side~~

~~Liberty Avenue, even-numbered side~~

Penney Avenue, even-numbered side

Prospect Street, even-numbered side from Clarendon to West Street



~~Ritz Avenue, even-numbered side~~

~~Sunrise, even-numbered side~~

~~Sunset, even-numbered side~~

~~Victory Avenue, even-numbered side~~

~~Wendell Avenue, even-numbered side~~

~~West Street, even-numbered side, from Five Points to Graham Street Extension.~~

~~West Street, odd-numbered side, from Granite Street to Hill Street~~

~~Westfield, even-numbered side~~

~~Wilson Street, even-numbered side~~

Chapter 70. Utilities

ARTICLE II. WASTEWATER SYSTEM

DIVISION 4. USE REGULATIONS

Sec. 70-104. General rules and regulations for customers of sewer system.

(a) Agreement.

The following rules and regulations, and such regulations as may be hereafter established by the Street Committee shall be considered binding with every customer who uses the sewer, and such customer shall be bound thereby.

(b) Definitions and statements.

APPLICANT The same as customer and may be used interchangeably.

CUSTOMER Any person, firm, corporation, governmental unit or subdivision supplied with sewer service by the City and is the owner or agent thereof for the property being serviced.

SERVICE CONNECTION The point of connection of the customer's piping at the City main.

All sewer mains within the limits of the highway, of appropriate easements, including manholes and appurtenances, shall be owned and maintained by the City of Biddeford.

From the service connection at the main in the right-of-way to the premises served, shall be owned and maintained by the customer.

SEWER MAIN(S) The pipe or pipes which convey the customer's effluent away from his premises. The sewer main is generally dedicated for sanitary purposes, however, a combined storm drain/sewer line may also serve a sewer main in the absence of a dedicated line if the combined line was in use for this purpose.

Sewer mains installed in a private road (not City accepted) as part of a private subdivision shall remain the property of the developer. These lines will not be accepted by the City for the operation and maintenance unless the roadway is accepted by the City in the future.

Construction of the sewer lines will be in accordance with state and City requirements.

SEWER SERVICE The connection between the tap at the City main and the customer's source of sewage and shall include all of the pipe, fittings, and couples necessary to make the connections.

(c) Enforcement.

Any violation of the rules and regulations hereby established or failure on the part of any customer utilizing the sewer to promptly pay any and all claims of the Department, shall be considered sufficient cause for the Sewer Department to take the appropriate steps as allowed by law to recover their interests.

(d) Required use.

As specified in federal, state and local ordinances and/or regulations all buildings located within a reasonable distance from said sewer connection or reasonable extension thereof shall be

connected to the municipal sewer determined by the authorized agent of the City of Biddeford. Any request for a variance will be appealed as outlined in Section 70-104(o) of these general rules.

(e) Application for service.

All applications for sewer entrances must be made at the City Clerk's office stating fully and truly the uses to which the entrance is required. Such applications must be signed by the customer or his duly authorized agent. A fee of ~~\$400~~ **\$500** shall be made with each application before work is begun on a new service. If the service as determined by the authorized City representative must enter a manhole then this connection requires boring and the proper booting contractor should secure a private company to do this work. In the event no private company is available, then the City can be contracted for the boring and an additional ~~\$300~~ **\$500** must be paid for this work.

All septage haulers that discharge septage waste at the Biddeford WWTP shall be licensed by the Sewer Department. License fee of \$25 per year will be paid on or before July of each year. If no violations occur in that twelve-month period, the next year's license will be granted at the same charge. Failure to obtain a license or revocation of the license will prohibit the septic hauler from pumping septic tanks within the City of Biddeford or discharging any waste at the Biddeford WWTP.

Exceptions:

(1) Subdivisions:

The entrance fee for subdivisions shall be the entrance fee of \$400 plus \$100 per lot. Said charges to be paid before the subdivision will be opened for use.

(2) Easements:

Certain sewer easements may exempt the customer from the entrance fee. This will be clearly stated in the easement itself.

(3) Liens: See Section 70-104(p).

(4) Apartments and condominiums:

The entrance fee for an apartment building/complex or for a condominium complex shall be the entrance fee of \$400 plus \$100 per ~~unit~~ **lot**. These charges shall be paid before the connections are started.

(f) Size of service.

The minimum size of the service connection shall be four inches. Actual sewer services may be four inches or six inches as the situation dictates. Any sewer serving a single building containing three or more units will be a minimum of six inches.

(g) Installation.

(1) The customer shall make arrangements and pay for the remaining sewer service from the service connection at the main to the house entrance. Service pipe and fixtures shall

conform to the requirements of the Sewer Ordinance (Article II of Chapter 70 of the Municipal Code of Ordinances).

(2) A minimum slope of 1/4 inch per foot (two-percent slope) and a minimum of three feet of cover is standard practice for sewer service as stated in the design and construction of sanitary and storm sewers, MREP No. 37 or MOP No. 9. One-way valves are recommended for all lines and are required when sewer services are installed at minimum slope.

(3) Except as provided in the Sewer Ordinance or approved by the Street Committee each building shall have an independent sewer connection.

(4) Ordinarily no new sewer services or extensions for mains will be installed during winter conditions (November 15 to April 15) unless the customer shall defray all extra expenses incurred.

(5) Service connections shall not be made in manholes unless the depth of the sewer main is in excess of 15 feet in which case an inside drop may be used if approved by the City Engineer or an authorized City representative. All services entering a manhole will be bored and booted.

(h) Pipes and fixtures.

(1) No persons except those duly authorized by the City Council as specified in Section 70-28 of the Code of Ordinances of the City of Biddeford will tap any sewer main or connect any sewer service thereto.

(2) Applicants desiring more than one sewer service on the same premises shall pay all costs in connection therewith.

(3) Repairs and/or modifications to applicant's service connections, whether required as a result of freezing or other causes, will be charged to the customers on a cost basis. All work must be done under authorization and/or supervision of the authorized City representative.

(4) No service pipe shall be laid in the same trench with gas pipes, water pipes, or any facility of a public utility not within three feet of any open excavation or vault.

(5) No cross connection between the sewer service and any drainage appurtenances will be allowed. No connection capable of causing blockages in the City mains or enabling drainage overflows into the sewer will be permitted.

(i) Connecting and disconnecting.

Twenty-four hours' advance notice is required for connecting and disconnecting sewer connections. The requested service will be provided as soon as possible thereafter. All expenses involved will be the responsibility of the applicants. Overtime charges at the rate of time and 1/2 will be charged before or after duty hours, with a minimum two-hour charge.

(j) Miscellaneous charges.

Charges for labor and material shall be billed upon completion of the work which the bill covers. If such bills are not paid within 30 days, the sewer will be disconnected or become a lien on the property or both. Collection procedures will be taken and any costs will be charged to the customer.

(k) Interruption of service.

The City of Biddeford reserves the right to shut off service temporarily whenever it becomes necessary to make extensions, alterations or repairs.

(l) Violations.

(1) Failure to pay charges when due or violations of any regulations established by the street committee whether by a current or past owner shall result in the filing of an attachment against the property being served as provided by state statutes. The customer shall be responsible for all costs associated with the filing.

(2) Violations for septage haulers that will be cause for revocation of license include but not limited to:

a. Failure to pay monthly bills in a timely manner.

b. Failure to pretreat septage hauled as requested by the Superintendent and/or plant operator of the WWTP.

c. Failure to notify the Superintendent and/or plant operator of the WWTP of the strong or abnormal waste prior to discharge to any point in the City's collection system or treatment works.

(3) Failure to provide required information on dump slips.

(4) Revocation of the license will be subject to a majority vote of the City Council. The septage hauler will be notified of the date of the hearing and may be present to defend the charges.

(5) A septage hauler that has had his/her license revoked has the right to appeal to the City Council.

(m) Inspection.

Any employee acting as authorized representative of the City of Biddeford with proper identification shall be allowed access to the customer's premises between the hours of 8:00 a.m. and 6:00 p.m. for examination of pipes, fixtures, connection, and the manner of use. In case of emergency, no prior notice need be given and, in the event of refusal of entry, application can be made to the courts for an appropriate order with all legal costs being charged to the customer.

(1) Any residence or commercial establishment found to have roof, drain, floor drain, foundation drain, etc. (refer to Section 70-73 Biddeford Code of Ordinances) hooked into the City sewer after August 15, 1978, upon notification will cease such violation within 30 days or be subject to penalties as stated in the Biddeford Code of Ordinances Section 70-31.

(2) Any residence or commercial establishment found to have items (refer to Section 70-73), tied into the City sewer system prior to August 15, 1978, shall pay a minimum fee of \$75 to offset the costs of required additional treatment. A higher fee may be set if excessive quantities of inflow are discharged. This determination will be made by the environmental specialist or Director of Public Works.

(n) Rates.

(1) Actual rates are as recommended by the Street Committee and are reviewed annually. The City Council shall approve all rate recommendations.

(2) All property owners are liable for the entire cost of installation, maintenance, repairs, alterations or removal from their house to their service connection at the main.

(3) Labor rate of \$12.50 per hour. Minimum labor charge of two hours. Overtime charges at a rate of time and 1/2 will be charged before or after duty hours being 7:00 a.m. to 3:00 p.m. with a minimum two-hour charge.

(4) Any calls for a sewer blockage at the same address that exceeds three calls in a twelve-month period and are determined to be the owners problem in each case will subject to the charges stated herein.

(5) Rates for special equipment shall be as follows:

a. Sewer jet \$110 per hour with a two-hour minimum charge.

b. Dye testing \$40 per one hour minimum charge.

c. Boring machine \$300 per hole (when machine becomes available).

If another community needs emergency help, the above charges will be negotiable or won't apply.

(6) All monies from fees and rates charged will be placed into a special account within the sewers and drains budget to offset capital and ongoing costs created by the adoption of these general rules. Excess revenue will be reflected in the following years recommendation for fees and rates.

(o) Variance/appeals.

(1) All requests for variances or appeals to these regulations and the Sewer Ordinance are to be directed to the Street Committee all requests to meet with the street committee must be received at least two weeks prior to the meeting to allow for proper notification. Appeals of street committee decisions go to the City Council.

(2) Total variance from the mandatory use requirement [Section 70-104(d)] will not be granted as that violates state and federal laws. Time extensions will be granted for good causes allowing more than 90 days for the hook-up period. Conditional variances are possible.

(3) The Street Committee recognized that some buildings might be located in excess of 500 feet from the sewer line while the property line may be within five feet. In these situations, the committee will consider requests for variances and make a decision based on the specific conditions involved. A conditional variance may be granted.

(p) New mains and liens.

(1) When a subdevelopment is built, the costs of all work associated with the installation of sewer service is borne by the developer as provided in the Subdivision Ordinance and Construction Ordinance.

(2) Should the City of Biddeford install a main line or extend a sewer main, whether by petitions of the abutters or for the public good, the total City cost shall be determined and be proportionate cost for each abutter shall become a lien on such abutting property as provided by the construction ordinance. Payment must be made prior to any connection to the City line and may be arranged through the City treasurer. Note: Payment of a lien supersedes the entrance fee, provided it is larger than the entrance fee as outlined in Section 70-104(e).

(3) Any individual dissatisfied with the determination of his/her proportionate share of costs may appeal as outlined in Section 70-104(o).

(4) If an individual/company beyond the terminus of an existing sewer main desires to connect to the line, that individual/company shall extend the sewer main along his/her entire lot frontage (or to the limits of gravity flow with the City of Biddeford). All costs for this extension shall be borne by the individual/company unless the extension is installed via petition in which case the preceding paragraphs dealing with liens overrides this paragraph.

(q) Changes to these rules and regulations.

The forgoing rules and regulations are subject to change with the pleasure of the Biddeford Street Committee, but all such changes will be given reasonable publicity and final approval will be the decision of the City Council.

ARTICLE III. WASTEWATER SYSTEM CAPACITY MANAGEMENT

DIVISION 1. GENERALLY

Sec. 70-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AFFILIATE: A person with whom an applicant under this article has a direct financial, business or management interest.

CAPACITY: Not only the ability of the treatment plant to physically receive a particular amount of flow per day but the ability of the treatment plant to properly and effectively treat the flow within all limits established by any federal or state license.

COMMENCEMENT OF CONSTRUCTION: The placement of the foundation, whether a frost wall, floating slab, or complete cellar, the walls and/or the floor of which must be considered complete by the Building Inspector.

Sec. 70-127. Entry of wastewater, permit required; permit limitations.

(a) No person may undertake any development activity which will create new wastewater flow into the City sewer system or which will increase existing flow from any property without first obtaining a sewer use permit from the City Engineer under this article. Sewer use permits shall not be required for the replacement or addition of plumbing fixtures within existing residential units.

(b) Neither the Building Inspector nor the Plumbing Inspector may issue any building permit, occupancy permit, or any other type of permit, to anyone who, prior to September 18, 1990, had received a sewer use permit under this article, or for any project appearing in the appendix to the ordinance from which this chapter was derived which is on file in the City Clerk's office, unless the applicant presents a certificate from the City Engineer that the applicant has complied within the provisions of this chapter.

(c) Regardless of allotted capacity, as determined for any period, and as shown in the documents on file in the City Clerk's office for any period, no sewer use permit may be issued during periods when no capacity remains, as determined by the City Engineer. The prohibition set forth in this subsection applies notwithstanding any other provision of this chapter.

Sec. 70-128. Findings, statement of emergency and purpose.

(a) The design capacity of the wastewater treatment plant, ~~3,300,000~~ **6,500,000** million gallons per day, is met or exceeded during spring runoffs when groundwater, infiltration, inflow, cellar sumps and yard drains are tied into the sewer system. Rainfall also leads to exceeded capacity by entering through combined sewer systems and roof drains. These flow conditions overburden hydraulic equipment at the treatment plant causing overflow situations. Current average hydraulic loading to the treatment plant is between ~~3,000,000~~ **2,000,000** million and ~~3,100,000~~ **3,300,000** million gallons per day. Current design is ~~3,300,000~~ **6,500,000** million gallons a day.

~~Estimated time for completion of upgrade of the wastewater facility is four years. The City has estimated an allocation of 240,000 gallons over the four year period. This estimate is subject to change. This article provides for periodic review, by the City Engineer, of the actual capacity remaining to be allocated.~~

(b) During periods when no remaining capacity exists, new flow into the system will be prohibited until capacity is restored or created through upgrade or removal of infiltration and inflow or other methods. Educational efforts will be required by both the public and private sectors to encourage conservation, to help create available capacity.

While the City is taking steps to cure these problems and to increase the system's capacity, these steps cannot all be accomplished immediately. Accordingly, it is the intent of this article that new or additional sewage be discharged into the system in moderate amounts to permit some growth and to ensure that any excess capacity which develops is portioned out fairly and over a period of time until the City has taken all steps necessary to cure the system's problems and significantly increase its capacity.

(c) An additional element of this article is the implementation of voluntary and mandatory conservation measures designed to effectively increase available capacity.

(d) Because existing plant capacity could be greatly exceeded if immediate efforts are not undertaken to control and manage new wastewater flow and because this article is a vital part of the City's efforts to plan for orderly growth, the City Council determines that the facts justifying this article constitute an emergency within the meaning of Article III, Section 8, of the Charter.

(e) It is the intent of the City to establish, in the long run, a program under which anyone seeking to enter new flow into the system will be required to remove a defined percentage of the amount of the proposed new flow through the elimination of infiltration and inflow. Once the inflow and infiltration removal program is in place, the allocation system may be eliminated.

Sec. 70-129. Capacity of plant.

(a) At the time of any reenactment or amendment of this article, and at such other times as the City Council may direct, the City Engineer shall establish the total remaining capacity of the wastewater treatment plant, determine the nature and extent of efforts to remove infiltration and inflow from the system, and report that information to the City Council.

~~(b) Until such time as the final inflow and infiltration removal program set out in this chapter is implemented, any applicant for a sewer use permit is subject to the interim provisions of Section 70-172.~~

~~(e)~~ **(b)** Any person who received a sewer use permit prior to September 18, 1990, or whose project appears in the documents on file in the City Clerk's office, is subject to the provisions of Section 70-127(b).

Sec. 70-130. Expiration of article; program monitoring; amendments.

~~(a) This article shall be in effect for one hundred eighty-day renewable periods and should be maintained by future City Councils until such time as a capital improvement program is completed that increases the City's treatment plant capacity to 5,500,000 million gallons per day.~~

~~(b)~~ The capital improvement program shall be reviewed and monitored by the City Council through the City Engineer to determine the program's effectiveness. Amendments deemed necessary should be made at the time of renewal under this section or at such times as deemed necessary by the City Council.

Sec. 70-131. Penalties for violation of article.

Any person who violates this article commits a civil violation for which a forfeiture of \$2,500 shall be imposed. Each day of violation constitutes a separate violation. The City Solicitor, in addition to seeking forfeitures, may request injunctive relief, as necessary.

Sec. 70-132. Growth management program renewed.

The provisions of this Article III (Wastewater System Capacity Management), of the Biddeford Code of Ordinances, as most recently revised and ordained on March 5, 1991, be renewed in its entirety in accordance with the provisions of Section 70-130 hereof, and that this measure take effect upon passage.

Sec. 70-133. through Sec. 70-140. (Reserved)

DIVISION 2. PERMITS

Sec. 70-141. Application; fee; determination of discharges.

(a) Applications for permits under this article shall be on forms provided by the City Engineer, and shall be accompanied by such plans as he may require. As the case may be, applications must be accompanied by written evidence of final approval from the Planning Board, Zoning Board or Building Inspector, where approvals of or permits for the development activity are required from those boards or officials. Applications shall be accompanied by a nonrefundable fee of ~~\$50~~ **\$200**.

(b) In determining the amount of wastewater flow likely to be discharged from any development activity, the City Engineer shall be guided by the State of Maine Internal Plumbing Rules. His determination is final.

Sec. 70-142. Expiration of permits.

Permits issued under this article shall expire if construction of the development for which each permit is issued has not commenced within one year of the permit being issued, except that the City Engineer may extend the life of such permits if the holder is able to demonstrate that he has been delayed in his development by natural conditions beyond his control or that he has been diligently pursuing other licenses required for the development but has not yet received approval through no fault of his own. Decisions of the City Engineer under this section may be appealed to the City Council.

Sec. 70-143. Nontransferability.

Permits issued under this article may not be transferred to other development projects on other real estate but shall run with the real estate which is the subject of the proposed development for which the permit is issued, but only for the life of the permit as indicated in Section 70-142.

Sec. 70-144. through Sec. 70-155. (Reserved)

DIVISION 3. CONSERVATION

Sec. 70-156. Mandatory.

(a) Notwithstanding any other provisions of this Code, the following provisions apply to development which will create new wastewater flow into the City sewer system or which will increase existing flow from any property.

(1) All toilet fixtures, whether for residential or nonresidential uses, must have flushing volumes less than or equal to 1.6 gallons.

(2) All shower and faucet fixtures for residential and nonresidential uses must be installed with volume reduction devices. This requirement may be waived for certain nonresidential uses by the Codes Enforcement Officer at his discretion when the requirement interferes with the fixture's purpose, such as but not limited to industrial showers designed to treat burn victims.

(b) The standards of this section must be met by all units inspected by the City Plumbing Inspector as of the date of passage of the ordinance from which this article derives, in order to receive a certificate of occupancy.

Sec. 70-157. Voluntary.

In order to avoid requiring conversion to low-volume toilets in the City's existing households and businesses, the City requests users of the City's sewer system to, as an example, reduce discharge volumes by installing displacement devices such as bricks and milk containers in toilet holding tanks. The installation of water flow reduction devices in showerheads and faucets are other inexpensive means of reducing both residential and nonresidential wastewater discharge.

Sec. 70-158. through Sec. 70-170. (Reserved)

DIVISION 4. INFLOW AND INFILTRATION REMOVAL

Sec. 70-171. Study by City Engineer; report; amendment of article.

(a) The City Engineer ~~shall~~ **may** forthwith investigate the areas within the existing sewer system which may be changed, altered or repaired to remove infiltration and inflow, and determine both the nature and extent of such repairs, the specific amounts of gallons per day removed for any particular repair project, and the associated cost per gallon per day of any such repair. He will, in addition, determine an average cost per gallon per day of removal for all projects in such a fashion that the average cost may be adjusted from time to time to reflect changing conditions.

The determinations by the City Engineer will be used to create a fee to be charged to applicants of the removal of infiltration and inflow in an amount equal to a specific percentage of the amount of new flow into the system which the applicant is proposing to create. That percentage shall conform to any requirements imposed on the City by state or federal agencies.

(b) The City Engineer shall report the results of his study under this section to the City Council. The City Council may then, consistent with the terms of federal and state approvals, implement and adopt a mandatory inflow and infiltration removal requirement. Under the terms of the requirement, a sewer use permit may only be obtained to remove an adequate amount of inflow and infiltration from the system or if the sewer user has paid the appropriate fee in lieu of completing a project.

(c) At the time of the submittal of the results of his study under this section, the City Engineer shall present to the City Council a proposed amendment to this article setting out the method of administration of the removal requirement, and demonstrating compliance with any provisions of law restricting the creation of such a program, including the creation of any dedicated fund into which fees will be placed.

Sec. 70-172. Issuance of permit; interim fee.

(a) Pending completion of the study, report and presentation set forth in Section 70-171, and subject to the availability of capacity at the treatment plant and compliance with all other provisions of this article, a sewer use permit may be given after an applicant complies with this section.

(b) An applicant for a sewer use permit shall, in addition to other information required by this article, pay the **interim** fee set out in Subsection (c) of this section. The City Engineer may require such other information as he deems necessary.

(c) Except as indicated in Subsection (d) of this section, applicants shall pay a fee equal to five times \$2.72 times the number of gallons of proposed new flow, as that flow is finally determined by the City Engineer under Section 70-141(b). Fees received under this subsection shall be segregated from the projects designed to remove inflow and infiltration from the sewer system as finally determined after the completion of the study, report and presentation set forth in Section 70-171. Fees, or any portion of those fees, actually paid, which exceed the actual cost of removal, or which are not expended according to the removal schedule to be finally adopted, shall not be refunded. These unexpended fees shall be deposited in a designated enterprise account segregated from the City's general revenues and be earmarked to help defray the cost of future more costly inflow and infiltration removal projects.

(d) Persons who had received a sewer use permit prior to September 18, 1990, projects appearing in Appendix B of this section which is on file in the City Clerk's office and lots of record as of September 18, 1990, which were within 200 feet of the existing sewer system at the time, are subject to a fee equal to one times \$2.72 times the number of gallons of proposed new flow, as that flow is finally determined by the City Engineering Department under Section 70-141.

FORMULA:

For 180-day period commencing:

Total remaining capacity:

Divided by semiannual terms remaining:

Equals semiannual allotment:

Minus preferred allotment:

Equals remaining allotment:

_____ % remaining allotment = Residential allotment of

_____ % remaining allotment = Nonresidential allotment of

*All noted figures in thousands of gallons per day.

City Engineer

(e) An applicant for a sewer use permit where said permit is proposed to be issued and includes flows to the pump station located adjacent to 528 Alfred Road shall pay an impact fee for said pump station equal to \$3.35 times the number of gallons of proposed new flow as that flow is finally determined by the City Engineer under Section 70-141(b). Fees collected under this provision shall be deposited in a designated account segregated from the City's general revenues and reserved for inflow and infiltration removal projects. The City reserves the right to verify the estimate of flow for up to five years and to increase the impact fee as necessary.

f. An applicant for a sewer use permit where said permit is proposed to be issued and includes flows to a pump station located in an area that will serve the flows to be produced from a new or upgraded project shall pay an impact fee for said pump station equal to a prorated share of the costs of any upgrades needed for the pump station and/or associated conveyance system to receive and convey the flows to be produced. The cost of the prorated share will be the ratio of the existing flows to the new flows times the cost of needed upgrades as finally determined by the City Engineer. Fees collected under this provision shall be deposited in a designated account segregated from the City's general revenues and reserved for the needed upgrades to the affected pump stations. The City reserves the right to verify the estimate of flow for up to five years and to increase the impact fee as necessary.

Sec. 70-173. through Sec. 70-195. (Reserved)