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# Ordinance Regulating the Use of Public and Private Sanitary Sewerage and Stormwater Systems



**southburlington**  
VERMONT

**CITY CLERK'S OFFICE**

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Attest:

A handwritten signature in cursive script, appearing to read "Donna Kinville".

Donna S. Kinville, City Clerk

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The Council of the City of South Burlington hereby ordains:

## ARTICLE I - GENERAL

### 1.1 Definitions

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

**Affordable Housing** shall mean either of the following:

- (1) Housing that is owned by its inhabitants, whose gross annual household income does not exceed eighty percent (80%) of the median income for the Burlington-South Burlington Metropolitan Statistical Area (MSA), as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than thirty percent (30%) of the household's gross annual income; or
- (2) Housing that is rented by its inhabitants whose gross annual household income does not exceed eighty percent (80%) of the median income for the Burlington-South Burlington Metropolitan Statistical Area (MSA), as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than thirty percent (30%) of the household's gross annual income.

**Authorized Person** The City Manager, Director of Public Works, Deputy Director of Environmental Services, Stormwater Superintendent, Wastewater Superintendent and such other persons as they specifically appoint or authorize to perform duties for the Stormwater Division or Wastewater Division.

**Best Management Practices (BMPs)** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to the Stormwater System or waters of the State of Vermont or the United States. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

**Building Drain** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the Building Sewer. The Building Drain extends five feet beyond the outer face of the building wall.

**Building Sewer** That part of the sewage system which receives the sewage from the Building Drain and conveys it to the nearest end of the House Connection unless a House Connection is not available,

whereby the Building Sewer shall be extended to the nearest available "Y" branch on the Main Sanitary Sewer.

**City Center Sewer Service Area** That area of the City shown in Appendix A, City Center Sewer Service Area, in this Ordinance.

**City Center Uncommitted Reserve Capacity** shall be established as 150,000 gallons per day upon the adoption of this amendment, which amount shall be reduced from time to time upon the granting of final allocations for development within the City Center Sewer Service Area.

**City Manager** The City Manager of the City of South Burlington, or his authorized deputy, agent, or representative.

**Combined Sewer** A sewer receiving both stormwater runoff and sewage.

**Committed Reserve Capacity** The total amount of Development Wastewater Flow (gallons per day) from all projects/buildings for which final allocations have been granted but are not yet discharging to the SEWER.

**Construction Activity** shall mean activities including, but not limited to clearing and grubbing, grading, excavating, and demolition.

**Connection Fee** A one-time fee imposed on applicants to connect to the municipal sewer system.

**Credit** An ongoing reduction in the stormwater user fee for certain identified and approved qualifying and ongoing private actions or activities that reduces the potential impact of increased Stormwater Discharges that result from development of a property.

**Department of Public Works Wastewater Division** That City department responsible for construction, operation and maintenance of the sewage works.

**Developed Property** Any property that is altered from a natural state by construction or installation of more than five hundred (500) square feet of Impervious Surface.

**Developer** Any individual, corporation, association, or other organization engaged in land development or building construction.

**Development Wastewater Flow** The flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, adopted as rules by the Vermont Department of Environmental Conservation, as promulgated at the time a connection permit application is made.

**Discharge Permit** A permit issued by the Vermont Department of Environmental Conservation pursuant to authority granted in 10 V.S.A., Chapter 47, or the U.S. Environmental Protection Agency pursuant to 33 U.S.C. § 1251, et. seq.

**Exclusively Residential** As used in Article VII of this Ordinance shall mean land development in the City comprised of properties containing solely residential uses and permitted accessory uses, such as one-family, two-family and multi-family dwelling units. Land development with commercial, industrial or other non-residential uses is excluded.

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

**Hazardous Material** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**House Connection** That part of the sewage system that runs from the Main Sanitary Sewer to the property line and includes all necessary fittings.

**Impervious Surface** Those manmade surfaces, including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways, sidewalks, walkways, compacted gravel and soil surfaces, storage areas, and awnings and other permanent fabric or plastic coverings, from which precipitation runs off rather than infiltrates.

**Illicit Discharge** Any direct or indirect Non-Stormwater Discharge to the Stormwater System.

**Industrial Activity** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**Industrial Wastes** The liquid wastes from an industrial manufacturing process, trade, or business. Industrial Wastes do not include sanitary sewage.

**Main Sanitary Sewer** The sewers laid longitudinally along the center line or other part of the streets or other rights-of-way and which all owners or abutting properties have equal rights and which is controlled by public authority.

**MS4 Permit** The Vermont Agency of Natural Resources' General Permit #3-9014, as amended or re-issued, pursuant to which the City obtained coverage for Stormwater discharges from its municipal separate storm sewer system.

**National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit** A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Natural Outlet** Any outlet into a Watercourse, pond, ditch, lake, or other body of surface or groundwater.

**Non Single Family Residence (NSFR)** All types of Developed Property in the City except Single Family Residences.

**Non-Stormwater Discharge** Any discharge to the Stormwater System that is not composed entirely of Stormwater or such other waters or materials as are specifically authorized herein. It shall also include placing or depositing any Hazardous Material or Pollutant in the Stormwater System.

**On-Site Sewage Treatment and Disposal System** A septic tank and leaching field system utilizing natural soil to treat and disperse sewage in such a manner as to protect public health, and both groundwater and surface water from contamination.

**Permitted Wastewater Flow** The maximum Plant Wastewater Flow authorized in the Discharge Permit on an annual average (365 day average) basis, or on the high seasonal use period as defined in the Discharge Permit.

**Person** Any individual, firm, company, association, society, corporation, institution, partnership, governmental entity, group or other entity.

**Plant Wastewater Flow** The wastewater passing through the treatment plant in gallons per day on an annual average basis (365 day average) except where flows vary significantly from seasonal development. In the latter case, Plant Wastewater Flow is determined as the average throughout the high seasonal use period, as determined by the BOARD.

**Plants** Municipal sewage treatment plants owned by the City of South Burlington.

**Private Sewage System or Facilities** All facilities for collecting, pumping, treating, and disposing of sewage that is not under the control of nor operated by the City of South Burlington.

**Public Sewage System or Facilities** All facilities for collecting, pumping, treating and disposing of sewage and is controlled and operated by the City of South Burlington.

**Public Stormwater System** All elements of the Stormwater System located in the City of South Burlington that are controlled and operated by the City of South Burlington or that carry water that drains from any public property, including street rights-of-way.

**Pollutant** Any introduced substance which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Regulated Private System** Those Stormwater Systems located on privately owned property in the City that are subject to or required to obtain a permit for Stormwater Discharges under federal or state law, which permits routinely require installation and maintenance of stormwater management or treatment improvements.

**Reserve Capacity** The Permitted Wastewater Flow minus the actual Plant Wastewater Flow during the preceding 12 months.

**Sanitary Sewer** A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

**Sewage or Wastewater** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

**Sewage and Stormwater Commissioners** (or "Commissioners", or "Board") Members of the City Council acting as a Board of Sewage and Stormwater Commissioners under 24 V.S.A., Section 3614.

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

**Sewer** A pipe, culvert, ditch, swale or other conduit for carrying sewage or Stormwater.

**Sewer Service Area** That area of the City that is within 200 feet horizontally from existing municipal collection lines and manholes, excluding the City Center Sewer Service Area, as shown on the Sewer Service Area Map, dated January 3, 2001, located in Map 5, Public Utilities #2, of the South Burlington Comprehensive Plan. The Sewer Service Area may be altered by adoption of an amendment to this Ordinance. If there is any conflict between the Sewer Service Area shown on the above-referenced map and the City Center Sewer Service Area, as defined herein, the area included within the City Center Sewer Service Area shall control.

**Sewers** - The sewage collection and transmission system owned by the City of South Burlington.

**Shall** is mandatory; "may" is permissive.

**Single Family Residence (SFR)** Detached single family homes, duplexes, and triplexes.

**Slug** 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 fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

**Storm Drain** A sewer intended to carry only stormwater and surface waters.

**Stormwater** Excess water from rainfall and snow melt that does not evaporate or penetrate into the ground, which flows overland and is collected and transported to waters of the State of Vermont or the United States by the Stormwater System, together with any material that becomes dissolved or suspended in such water during its overland flow before entering the Stormwater System.

**Stormwater Appeal Board** The City Manager, Public Works Director, and a third person appointed by the City Council.

**Stormwater Discharge** Any Stormwater that is transported, naturally or otherwise, from a Developed Property to the Public Stormwater System or to a Watercourse.

**Stormwater Services Division** That City division within the Department of Public Works responsible for construction, operation and maintenance of the Public Stormwater System.

**Stormwater System** Natural and man-made drainage structures, conveyances, Storm Drains, catch basins, and any other appurtenant device or structure where Stormwater is collected, transported, pumped, treated, or disposed of.



**Stormwater Superintendent** That employee of the City of South Burlington who shall be designated from time to time by the City Manager to oversee the Stormwater Services Division.

**Stormwater Upgrade Feasibility Analysis or SUFA** Those standards and procedures, as adopted and amended by City Council, defining the processes of engineering feasibility analysis for upgrade, repair and maintenance of Stormwater Systems in the City, which shall be incorporated by reference herein.

**Subdivision** A tract of land, owned or controlled by a Person as defined herein, which has been partitioned or is intended to be divided for the purpose of sale or lease into two (2) or more lots. The dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, court ordered partition or filing of a plot plan on the city records where the act of division creates one or more parcels of land of less than 10 acres in area, but excluding leases subject to the provisions of Chapter 153 of Title 10 relating to mobile homes. Subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plot plan on the city records, whichever shall first occur; or the commencement of building development with intent to subdivide, such that the building development will be located upon a parcel of land less than 10 acres in size.

**Suspended Solids** Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering or use of BMPs.

**Uncommitted Reserve Capacity** That portion of the Reserve Capacity remaining after subtracting the Development Wastewater Flow of all projects for which a final allocation has been granted but are not yet discharging to the SEWER and any capacity reserved by the City Council for allocation to development in the City Center Sewer Service Area.

**VSMM** The Vermont Stormwater Management Manual, as amended from time to time by the Agency of Natural Resources, which shall be incorporated by reference herein.

**Wastewater Superintendent** That employee of the City of South Burlington who shall be designated from time to time by the City Manager to oversee the Department of Public Works Wastewater Division.

**Watercourse** A channel in which a flow of water occurs, either continuously or intermittently.

## 1.2 Abbreviations

<b>ASTM</b>	American Society for Testing and Materials.
<b>WPCF</b>	Water Pollution Control Federation.
<b>pH</b>	The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
<b>Ppm</b>	Parts per million.
<b>mg/l</b>	Milligrams per liter.
<b>Degrees F</b>	Degrees Fahrenheit.
<b>Degrees C</b>	Degrees Centigrade.

- cm.** Centimeter.
- m.** Meter.
- l.** Liter.

## **ARTICLE II - SANITARY SEWER SYSTEM**

### **2.1 Use of Public Sanitary Sewer System Required**

- (A) It shall be unlawful for any Person to place, deposit, or permit to be deposited on public or private property within the City of South Burlington, 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 the City of South Burlington, 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 provisions of this Ordinance.
- (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, leach field or other facility intended or used for the disposal of sewage.
- (D) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is located a public sanitary or Combined Sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within one hundred and eighty (180) days after date of official notice to do so, unless specifically exempted from this provision by the City Council.

### **2.2 Private Sewage Disposal**

- (A) Where a public sanitary or combined sewer is not available under the provisions of Section 2.1, paragraph (D), the Building Sewer shall be connected to a Private Sewage System complying with the provisions of this Section 2.2
- (B) Before commencement of construction of a Private Sewage System the owner shall first obtain a written permit signed by the City Manager. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the City Manager. A permit and inspection fee of \$25.00 shall be paid to the City at the time the application is filed.
- (C) A permit for a Private Sewage System shall not become effective until the installation is completed to the satisfaction of the City Manager. 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 City Manager 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 City Manager, excluding Saturday, Sunday, and holidays.

(D) The type, capacities, location, and layout of a Private Sewage System shall comply with all recommendations of the Vermont Health Regulations, Chapter 5, Sanitary Engineering, Sub Chapter 10 Wastewater Treatment and Disposal, Individual on-site systems. No septic tank or cesspool shall be permitted to discharge to any Natural Outlet. Amended 5/5/92.

(E) At such time as a public sewer becomes available to a property served by a Private Sewage System, as provided in Section 2.1, paragraph (D), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage thoroughly and properly cleaned, disinfected, and filled in or removed according to good sanitation practice and under the inspection and direction of the City Manager or his representative.

(F) The owner shall operate and maintain the Private Sewage Facilities in a sanitary manner at all times, at no expense to the City.

(G) No statement contained in this Section 2.1 shall be construed to interfere with any additional requirements that may be imposed by the City of South Burlington Health Officer.

### **2.3 Building Sewers and Connections**

(A) No unauthorized Person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Wastewater Superintendent. 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 Wastewater Superintendent at least 45 days prior to the proposed change or connection. No such change or connection shall be made without written approval from the Wastewater Superintendent, issued in accordance with Article III of this Ordinance.

(B) There shall be three (3) classes of Building Sewer permits: (i) for residential, (ii) for commercial service, and (iii) for service to establishments producing Industrial Wastes. In each case, the owner or the owner's agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Wastewater Superintendent. The City Council may establish fees for review and issuance of permits and approvals, inspections and connections.

(C) All costs and expense incident to the installation, connection, maintenance and repair 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, connection, maintenance, and repair of the Building Sewer.

(D) A separate and independent Building Sewer shall be provided for every building; except where one building stands at the rear of another or 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, in which case the Building Sewer from the front building may be extended to the rear building and the whole considered as one Building Sewer. Use of private sewers which accept and convey flow from more than one building may not be used except when found, on examination and test by the City, to be in satisfactory condition and meeting all requirements of this Ordinance. The burden of proof and all expenses incurred by the City to

determine the condition and adequacy of the private sewer shall be borne by the Owner of said private sewer.

(E) The City may require the Owner of a project or Developer to install a water meter so recorded flow can be used to determine the yearly wastewater charge. Water saving fixtures or equalization tanks may be required by the City for projects/buildings and developments connecting to the sewer system.

(F) Old Building Sewers may be used in connection with new buildings only when they are found, on examination and test by the Wastewater Superintendent, to meet all requirements of this Ordinance.

(G) The size, slope, location, alignment, materials of construction, of a Building Sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and shall also conform to the rules and requirements of the Wastewater Division and the State of Vermont. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and the latest edition of the WPCF Manual of Practice No. 9 shall apply.

(H) Whenever possible, the Building Sewer shall be brought to the building at an elevation below the basement floor. No Building Sewer shall be laid parallel to or within three (3) feet (91.4 cm) of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The Building Sewer shall be laid at uniform grade in the direction from the main sewer to the building and in a straight alignment insofar as possible. Change in direction shall be made only with properly curved pipe and fittings with suitable clean-outs or flush holes as described in paragraph (R) of this Section. In all buildings in which any Building Drain is too low to permit gravity flow to the public sewer, sanitary sewage to be carried by such sewer shall be lifted by an approved artificial means and discharged to the Building Sewer. Such lifting devices shall be located outside the building foundation and have no access or ventilation through the building.

(I) No Person shall make connection of roof downspouts, exterior and interior foundation drains, areaway drains, basement sumps or other sources of surface runoff or groundwater to a Building Sewer or Building Drain which in turn is connected directly or indirectly to a public Sanitary Sewer. All such connections which exist shall be disconnected by the owner, at his expense within thirty (30) days upon receipt of notification by the City.

(J) The connection of the Building Sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and the State of Vermont, and shall also conform to the rules and requirements of the Wastewater Division, or the procedures set forth in appropriate specifications of the ASTM and the latest edition of the WPCF Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Wastewater Superintendent before installation.

(K) Prior to any connection to the House Connection "Y" or to the main sewer, the City shall be given two working days notice in order that they may supervise such work. If the City has not been properly notified, they may require the completed work to be uncovered for examination, at the owner's expense.

(L) The diameter of the Building Sewer shall not be less than four (4) inches (10.2 cm). The Building Sewer shall be laid on a uniform grade, wherever practicable, in a straight alignment, of at least one-fourth (1/4) of an inch per foot (2%). Where, in special cases, a minimum grade of one-fourth (1/4) inch per foot cannot be maintained, a grade of one-eighth (1/8) inch per foot (1%) may be permitted, but only after the City gives their written approval for the specific connection.

(M) When installing the Building Sewer, the trenches shall be dug in a careful manner and properly sheathed where required. The excavated materials shall be placed in a separate pile from road materials and shall be piled in a compact heap so placed as to cause the least possible inconvenience to the public. Proper barricades and lights must be maintained around the trench to guard against accidents.

(N) In backfilling, the material under, around and for two (2) feet (61 cm) immediately over the pipe shall be selected so it contains no stones capable of damaging the installation. This must be carefully tamped, the balance of the trench to be backfilled in a workmanlike manner, tamping and filling in eight (8) inch (20.3 cm) layers so as to avoid excessive settlement. When the trench has been filled to the proper height, the road material is to be replaced and heavily tamped or rolled.

(O) Where the trench is excavated in rock, the rock must be carefully excavated to a depth of six (6) inches (15.2 cm) below the bottom of the sewer and the trench brought to the proper elevation with gravel or other material satisfactory to the City. The remainder of the trench must be backfilled with suitable material as described in paragraph (N) of this Section.

(P) Where subsurface-soil conditions warrant, special precautions must be taken as may be directed by the City. In quicksand, all pipes must be laid out on pressure treated planking two (2) inches (5.1 cm) thick by at least six (6) inches (15.2 cm) wide.

(Q) The connection of the Building Sewer to the main sewer shall be made at the house connection at the property line or, if no House Connection exists, connection shall be made at the nearest available "Y" connection on the main sewer. The City will designate the position of the end of the House Connection at the property line or the "Y" connection on the main sewer, whichever is appropriate. If it becomes necessary to cut into the main sewer, when no other source of connection is available, then such connection shall be made as directed by and under the supervision of the City. The dead-ends of all pipes not immediately connected with the house plumbing system must be securely closed by a water-tight cover of imperishable material and properly marked and located.

(R) The use of clean-outs on the Building Sewer shall be made by installing a "Y" and one-eighth (1/8) bends. The clean-outs shall ordinarily be installed at the point of connection between the Building Sewer and the outside part of the house plumbing system, at all curves on the Building Sewer and on the straight part of the house sewer to the main sewer. The clean-out shall be brought up from the Building Sewer to four (4) inches (10.2 cm) below ground level and properly capped. Locations of all clean-outs shall be recorded and turned over to the City. Where the distance from the building to the point of connection at the main sewer is less than fifty (50) feet (15.2 m), at least one (1) clean-out twenty (20) feet (6.1 m) from the house shall be provided. Clean-outs shall be of the same diameter as the Building Sewer.

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- (S) Before any portion of an existing Building Sewer or the house plumbing system outside of the building is connected to the main sewer, the owner shall prove, to the satisfaction of the City, that it is clean and conforms in every respect to this Ordinance and all joints are gas tight and water tight.
- (T) Where pipe is installed for Building Sewers, such work shall be performed by a licensed plumber.
- (U) The City shall apply appropriate tests to the pipes. The plumber and contractor, at their own expense, shall furnish all necessary tools, labor, materials and assistance for such tests and shall remove or repair any defective materials when so ordered by the City.
- (V) Any Person performing work on public property for the purpose of installing a Building Sewer shall file with the City evidence of adequate insurance coverage for liability and property damage. Minimum amounts of coverage will be established by the City and posted in the City Clerk's Office.
- (W) All work shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, curbs, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City and other authorities having jurisdiction.
- (X) The Contractor shall not block any driveway, street or road at any time without permission of the City and other controlling agencies. Every effort shall be made to permit the movement of vehicular traffic at all times. Whenever it becomes necessary to cross or interfere with roads, walks or drives, whether public or private, the Contractor shall maintain, at his own expense and subject to the approval of the City, safe bridges or other means of egress.
- (Y) Maintenance of all Private Sewage Disposal Facilities including, but not limited to, (1) house plumbing systems, (2) Building Sewers to the main sewer, (3) House Connections, (4) sewers and (5) appurtenances shall be the responsibility of the owner, at his or her expense. The owner shall be solely responsible for continually maintaining such facilities in satisfactory operating condition. Maintenance shall include, but not be limited to, (1) maintaining flow, (2) clearing obstructions, (3) maintaining all joints gas and water-tight, (4) repair or replace collapsed, deteriorated or defective materials, and (5) all other work which is necessary and essential to maintaining proper operation and preserving the structural integrity and water-tightness of the system.
- (Z) The owner is obligated by sewer and any other permits to construct the project/building/development to meet all specifications for which the permits/approvals were issued. The building inspector or some Authorized Person will inspect existing buildings and construction sites from time to time during each construction phase to assure permit specifications are being met. A final inspection shall be made prior to the connection from the building to the main sewer line by the City.

#### **2.4 Prohibited Discharges into the Public Sanitary Sewer System**

- (A) No Person shall discharge or cause to be discharged any Stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any Sanitary Sewer.
- (B) No Person shall discharge or cause to be discharged any of the following described waters or wastes to any public Sanitary Sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
  - (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
  - (3) Any waters or wastes having a pH lower than 5.5, or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the Public Sewage Facilities.
  - (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 Public Sewage Facilities 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.
- (C) 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 Wastewater Superintendent 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 Wastewater Superintendent 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 one hundred fifty (150)°F (65°C).
  - (2) Any water or wastes containing fats, wax grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150)°F and (0 and 65°C).
  - (3) Any garbage that has not been properly shredded. As used herein “properly shredded” means that the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Wastewater Superintendent.
  - (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 settleable solids, iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine demand, exerting an unusual

chemical oxygen demand or containing any other material or constituent in concentrations which exceed the limits established by the Wastewater Superintendent 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 Wastewater Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, and other public agencies of 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 Wastewater Superintendent in compliance with applicable State or Federal regulations.

(8) Any chemicals or chemical compounds of the following nature or characteristics or having similarly objectionable characteristics: alcohols, arsenic and arsenicals, phenols or cresols, formaldehydes, iodine, manganese, cyanide, heavy metals and other metal finishing or plant wastes, acid pickling waste, mercury and mercurials, silver and silver compounds, sulfonamides, toxic dyes (organic or mineral), zinc, all strong oxidizing agents such as chromates, dichromates, permanganates, peroxide and the like, compounds producing hydrogen sulfide, or any other toxic, inflammable or explosive gases, either upon acidification, alkalization, oxidation or reduction, strong reducing agents such as nitrites, sulphides, sulphites, and the like, radioactive materials or isotopes, whether neutralized or not.

(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 the dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works which may cause the effluent limitations of the Discharge Permit to be exceeded.

(d) Unusual volume of flow or concentration of wastes constituting a Slug 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 cannot meet the requirements of its Discharge Permits or of other agencies having jurisdiction over discharge to the receiving waters.

(11) Any waters or wastes containing Suspended Solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant.

(12) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(13) Any waters or wastes if it appears likely, in the opinion of the Wastewater Superintendent, that such waste can harm either the sewers, treatment plant process or equipment, would have an adverse



effect on waters of the State of Vermont or the United States, or could otherwise endanger human or animal life, limb, public property or constitute a nuisance.

(D) The admission into the public Sanitary Sewers of any waters or wastes having (a) a five (5) day BOD greater than 400 mg/l or (b) containing more than 400 mg/l of Suspended Solids or (c) containing any quantity of substances having the characteristics described in paragraph (C) and (D) above, having an average daily flow greater than two percent (2%) of the average daily sewage flow received at the sewage treatment plant shall be subject to the review and approval of the Wastewater Superintendent. The Wastewater Superintendent may:

- (1) Reject the wastes, or,
- (2) Require control over the quantities and rates of discharge, or
- (3) Require payment to the City to cover the added cost of handling, treating and disposing of the wastes not covered by sewer charges established under the provisions of Article IV of this Ordinance, or
- (4) Require pretreatment to an acceptable condition for discharge to the public sewers, or
- (5) Require any combination of the foregoing.

If the City Manager permits the pretreatment or equalization of waste flows, the design, plans, specifications and any other pertinent information relating to proposed equipment and facilities shall be submitted for the approval of the City Manager and the Agency of Natural Resources and no construction of such facilities shall be commenced until said approvals are obtained in writing. Further, such pretreatment facilities must be consistent with the requirements of any state pretreatment permit issued to the industry.

(E) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Wastewater Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and or other harmful ingredients. Such interceptors shall not be required for private living quarters. All interceptors shall be of a type and capacity approved by the Wastewater Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(F) The user shall maintain records (which are subject to review by the Wastewater Superintendent) of the dates and means of disposal of accumulated interceptor wastes. Any removal and hauling of the collected materials not performed by the user's personnel must be performed by currently licensed waste disposal firms

(G) To facilitate compliance with this Section, the user shall apply for a permit and furnish as part of the permit application a plan and description of the device. Where grease, oil or sand interceptors or similar appurtenances are involved, approval must be granted from both the Wastewater Superintendent and the Public Works Director.

(H) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight.

(I) Where installed, all grease, oil, hair, and sand interceptors shall be maintained by the owner, at his/her expense, in continuously efficient operation at all time. Materials collected shall not be introduced into the Public Sewage System.

(J) 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/her expense.

(K) All industries discharging into a public sewer shall perform such monitoring of their discharges as the Wastewater Superintendent may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Wastewater Superintendent. Where industrial pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the appropriate agency in accord with such permit. Such records shall be made available upon request by the Wastewater Superintendent to the State agency or to other agencies having jurisdiction over discharges to the receiving waters. Records of any monitoring will be supplied by the Wastewater Superintendent to the Vermont Secretary of the Agency of Natural Resources on request.

(L) All measurements, tests, and analyses 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 analyses involved will determine whether a twenty-four (24) hour flow composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and Suspended Solids analyses are obtained from 24-hr proportioned composites of all outfalls whereas pH's are determined from periodic grab samples.

(M) Any industry held in violation of the provisions of this Ordinance may have its disposal authorization terminated.

(N) When required by the Wastewater Superintendent, the Owner of any property served by a Building Sewer carrying Industrial Wastes shall install a suitably controlled manhole in the Building Sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Wastewater Superintendent. The manhole shall be installed by the Owner, at his/her expense, and shall be maintained by the owner so as to be safe and accessible at all times.

(O) Scavenger waste consists of septage, sludge or other forms of waste brought to the wastewater facility for treatment and disposal. The waste must meet all article II requirements.

(1) The discharge of scavenger wastes at designated septage receiving areas at the City's wastewater treatment facilities may be permitted. The discharge of scavenger wastes from sources outside of the City may be permitted with approval of the Wastewater Superintendent of Wastewater Division.

(2) There will be a fee charged each time a load of scavenger waste is discharged at the City's wastewater treatment facilities. Such fee will be determined by the City Council and will be based upon the quantity and quality of the discharged waste.

(P) No statement in this Ordinance 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 may be accepted by the City for treatment, subject to payment therefore, by the industrial concern, provided that such agreements do not contravene any requirements of existing Federal laws and are compatible with any user charge and industrial cost recovery system in effect.

## **2.5 Protection from Damage**

No Person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the public sanitary sewage system. Any Person violating this provision shall be subject to immediate arrest under the charge of unlawful mischief as set forth in Title 13, Section 3701 of the Vermont Statutes Annotated.

## **ARTICLE III - CAPACITY ALLOCATION**

### **3.1 Ownership of Capacity**

(A) The City of South Burlington owns and operates sewage treatment and disposal plants (PLANTS) and a sewage collection and transmission system (SEWERS) as defined in 24 V.S.A., Section 3501(6) and 3601. The PLANTS have a permitted capacity, and are operated in accord with discharge permits issued by the Vermont Department of Environmental Conservation under authority granted in 10 V.S.A., Chapter 47. The City is obligated by law to comply with conditions of those permits, and to operate and manage the PLANTS and SEWERS as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

(B) The permitted capacity of the PLANTS and SEWERS is the property of the City of South Burlington.

### **3.3 Reserve Capacity Allocation**

(A) Determination of Amount of Allocation. All allocations to projects shall be based on the Development Wastewater Flow. Any differential between actual flows and Development Wastewater Flows that occurs is not available to the development owner for reallocation to another project or a project expansion.

(B) Application Process. Persons seeking an allocation of Uncommitted Reserve Capacity or City Center Uncommitted Reserve Capacity of the PLANTS and SEWERS, shall apply to the Wastewater Superintendent for a preliminary allocation on a form prescribed by the Wastewater Division. Such application shall:

- (1) Be accompanied by a calculation of the Development Wastewater Flow to be generated by the project/development;
- (2) Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the Wastewater Superintendent;
- (3) Unless waived by the Wastewater Superintendent all calculations required in (1) and (2) above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.

### **3.4 Preliminary Allocation Determination**

(A) Upon receipt of the application for capacity allocation and supportive documents, the Director of Public Works shall make a preliminary determination regarding allocation of Uncommitted Reserve Capacity or City Center Uncommitted Reserve Capacity. The Director of Public Works shall award a preliminary allocation upon making affirmative findings that:

- (1) The proposed wastewater is of domestic, sanitary origin or, the proposed wastewater is not of domestic sanitary origin and that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the PLANTS and SEWERS and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the PLANTS without treatment, interfere with or otherwise disrupt the proper quality and disposal of PLANT sludge or be injurious in any other manner to the PLANT or SEWERS and that there is sufficient Uncommitted Reserve Capacity to accommodate the strength and volume of the proposed development;
- (2) There is sufficient Uncommitted Reserve Capacity or City Center Uncommitted Reserve Capacity as of the date of the application to accommodate the Development Wastewater Flow of the proposed development.

(B) A preliminary determination by the Director of Public Works allocating capacity shall not constitute a binding commitment of capacity to the applicant and may be revoked by the Director of Public Works before a final allocation of capacity is granted if Uncommitted Reserve Capacity ceases to be available. A preliminary determination may be used by an applicant as evidence that a proposed development has sufficient sewer capacity available.

### **3.5 Final Capacity Allocation**

(A) An applicant who holds a preliminary allocation of capacity granted pursuant to Section 3.4 above, may apply for a final allocation upon occurrence of the following:

- (1) Obtained site plan, conditional use and/or variance approval(s), if such approvals are the only approvals, except a zoning permit, required for the proposed development under City zoning and subdivision regulations then in effect; or

- (2) Obtained final approval for a Subdivision, PUD or PRD if such approvals are the only approvals, except a zoning permit, required for the proposed development under City zoning and subdivision regulations then in effect; or
  - (3) Obtained all approvals required under sub-paragraphs (1) and (2) above, if such approvals are required for the proposed development under City zoning and subdivision regulations then in effect; or
  - (4) Obtained a zoning permit if that is the only approval required under City zoning and subdivision regulations then in effect; or
  - (5) Does not require any approvals under City zoning and subdivision regulations then in effect.
- (B) Upon receipt of an application for final allocation, the Director of Public Works shall grant a final allocation upon determination that the applicant has a preliminary allocation which has not been revoked and that sufficient Uncommitted Reserve Capacity is available for the development.
- (C) A grant of final allocation shall constitute a binding commitment of sewer capacity to the applicant subject to applicant's compliance with all conditions imposed on such allocation.

### **3.6 Final Allocation Conditions**

- (A) A final allocation shall specify the allowed volume, flow rate, strength frequency and any other characteristics of the proposed discharge determined appropriate by the Director of Public Works.
- (B) The capacity allocation is not transferable to any other Person or development, except a successor in interest of the development for which the allocation has been granted.
- (C) The construction of the connection and, if necessary, the municipal SEWER extension, must be overseen to assure compliance with the plans and specifications and good construction practice in a manner acceptable to the City.
- (D) A final capacity allocation shall expire on the first to occur of the following events unless prior to such date the development for which the allocation has been granted has commenced discharging into the SEWER:
- (1) the date that any approval required for grant of the final allocation, as identified in Section 3.5 above, expires, unless prior to such date the applicant has applied for any required zoning permit(s) to construct the development;
  - (2) the date that any zoning permit authorizing construction of improvements for which the allocation has been granted expires;
  - (3) ten (10) years from the date the final allocation is granted, for any development that requires any approval under the City zoning or subdivision regulations, or two (2) years from the date the final allocation is granted, for any development that does not require approval under the City zoning or subdivision regulations.

(E) An Applicant for development involving a single use or unit shall pay one hundred (100%) percent of all Connection Fees prior to grant of a final allocation. If the development involves multiple uses and/or units that will connect to the SEWER, the applicant shall pay fifty (50%) of all Connection Fees prior to grant of final allocation and the remaining fifty percent (50%) will be prorated based on the development flow for each use or unit. The prorated payment for a use or unit shall be payable upon issuance of a zoning permit for construction of improvements for the use or unit. If the development is an Affordable Housing project, one hundred percent (100%) of all Connection Fees will be prorated based on the number of uses and/or units. The prorated portion for a use or unit shall be payable upon issuance of a zoning permit for construction of improvements for the use or unit. If the development does not require issuance of a zoning permit, applicant shall pay one hundred percent (100%) of all Connection Fees prior to grant of a final allocation.

## **ARTICLE IV - SEWAGE DISPOSAL CHARGES, TIME OF PAYMENT THEREOF, AND PENALTIES FOR NON-PAYMENT**

### **4.1 Operation and Maintenance**

An annual charge, which shall be determined by the City Council, is hereby imposed upon every Person having a building or structure on their premises and who are served by the municipal Public Sewage System where sewage may be collected for the use of the premises by the owners, or other users of real property within the City of South Burlington. The annual charge shall be for the purpose of the payment associated with the costs of operating, maintaining and repairing said system. The City Council may establish annual charges separately for bond payments, for fixed operating and maintenance costs not dependent on actual or estimated use and for variable operations and maintenance costs dependent on actual or estimated use. The charges and/or connector fees shall be set by resolution of the City Council.

### **4.2 Sewer Use Rates, Applicability**

The sewer use rates established in Section 4.1 and defined hereinafter shall be charged whether or not the property is occupied, when the property is connected to the Public Sewage System by the necessary Building Sewer as required under the terms of this ORDINANCE. The rate structure shall incorporate the requirements of 40 CFR, §35.935-13 or §35.2140, as applicable.

### **4.3 Annual Charges, Basis**

The annual charges stipulated in Section 4.1 shall be based upon a water meter measurement. The City Council will determine the actual charge from measurements of each user so as to yield charges which are approximately in proportion to the strength and quantity of waste discharged. If the City Council establishes annual charges separately for bond repayment and fixed operations and maintenance costs, no user will be billed less than the average single family charge for the fixed charges, plus flow related charges.

#### **4.4 Capital Costs**

The design, construction and development costs of all Public Sewage System expansions and extensions which have been approved by the Development Review Board shall be borne by the Developers and property owners requiring, requesting or directly benefitting from such extensions and/or expansions, unless alternative funding method is approved by the City Council.

#### **4.5 Collection**

Collection of the delinquent sewer use rates may be enforced by the City pursuant to 24 V.S.A., Chapter 129; 24 V.S.A., Section 3612; and 24 V.S.A., Section 3615. In the event any sewer rent is not paid within thirty (30) days from the billing date, a late penalty charge will be added to the sewer rent together with interest charges. The amount of the late penalty charge and the interest rate on the overdue accounts shall be the same as those applied to delinquent taxes. If such payment is not made, such sewer rent shall be a lien upon such real estate and shall be collected according to the procedures allowed for in 24 V.S.A. §§ 3504 and 3612. Any payment made to the City for utility fees shall first be allocated to delinquent water, then delinquent sewer, then delinquent stormwater fees. The remaining amount of the payment shall first be allocated to current water, then current sewer, then current stormwater fees.

#### **4.6 Sinking Fund/Set-Asides for Major Expenditures**

The following provides for and restricts the use of set-aside (sinking) funds to finance future major maintenance/replacement costs and plant expansion costs.

(A) A separate sinking fund may be utilized for major maintenance/ replacement expenditures and for expansion/upgrading expenses associated with the wastewater facility in the City of South Burlington. Sinking fund establishment for maintenance/ replacement expenditures shall be through written policy of the City. Any sinking fund policy shall contain at least the following in writing: major maintenance/ replacement identification, estimated expenditures, estimated year of expenditure, payment amount, type of account used to accumulate sinking fund assets, source of funding and when payments are to stop. All sinking funds shall be established and maintained in accord with 24 V.S.A., Section 3616.

(B) City reserves the right to increase, decrease, stop and/or maintain regular deposits to a sinking fund not exceeding 15% of the normal total budgeted expenses for maintenance/ replacement in that year. The fees charged for expansion cost shall be deposited into a separate account and a record shall be kept to show payment date, person making payment and payment amount. The City Council holding office have the authority to withdraw sinking fund amounts only for the purpose of paying for major expenditures/plant expansion for which the fund was established.

(C) sinking fund assets are not disbursed fully for major maintenance/replacement expenditures and/or plant expansion, excess money shall remain in the sinking fund for future related expenditures similar in nature. Revenues established for plant expansion dedicated funds may be generated from connection/impact fees paid by prospective users to defray and pay expansion costs. This fund shall not exceed the estimated future expansion cost for the wastewater treatment facility. When the City so votes,

the expansion/upgrade sinking fund may be used to finance major maintenance/replacement expenditures, but under no circumstances shall the major maintenance replacement sinking fund be used to finance wastewater expansion/upgrade expenses.

## **ARTICLE V - STORMWATER SYSTEM**

### **5.1 Purpose**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of South Burlington through the regulation of Stormwater Discharges to the Stormwater System.

### **5.2 Applicability**

Any discharge of Stormwater from Developed Property in the City shall be subject to the provisions of this Article.

### **5.3 Required Approvals**

(A) No owner of Developed Property in the City shall change or alter, or allow to be changed or altered, the discharge of Stormwater from such property occurring on the effective date of this Article without first obtaining any permit or approval required under this or any other City Ordinance, state law, or federal law. As used herein, change or alter shall mean an act done which will result in a direct or indirect impact on the contribution of Stormwater into the Public Stormwater System.

(B) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public Storm Drain or appurtenance thereof without first obtaining a written permit from the Stormwater Superintendent. The owner shall indemnify the City for any loss or damage directly or indirectly occasioned by the construction or installation of the private drain or storm sewer system, including damages from back flow from the municipal storm sewer system.

### **5.4 Compliance with Existing Permits**

It shall be a violation of this Article for any owner of Developed Property that is subject to any local, state, or federal permit requirements regarding the discharge of Stormwater to fail to comply with such permit requirements.

### **5.5 Use of the Public Stormwater System:**

(A) The following may be discharged into the Public Stormwater System, subject to obtaining and complying with any required permit:

- (1) Stormwater;



(2) Water line flushings; landscape irrigation or lawn watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling; diverted stream flows; rising ground water; uncontaminated ground water; uncontaminated pumped ground water; discharges from potable water sources; foundation or footing drains where flows are not contaminated with process materials, and to which there are no floor drain, septic wastewater, or grey water connections; uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from the outside storage of refrigerated gasses or liquids; uncontaminated water from crawl spaces; irrigation water; spring water; flows from riparian habitats and wetlands; swimming pools (if dechlorinated - typically less than one PPM chlorine); discharges from emergency/unplanned fire-fighting activities; fire hydrant flushing; pavement and external building wash waters to which no detergents or other chemicals have been added; incidental windblown mists; and any other water source not containing Pollutants;

(3) Discharges specified in writing by an Authorized enforcement Person as being necessary to protect public health and safety;

(4) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agent prior to the time of the test;

(5) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drain system.

(B) It shall be a violation of this Ordinance for any Person to cause or allow to occur any Illicit Discharge to the Public Stormwater System or allow any Illicit Discharge existing on the date this Article becomes effective to continue regardless of whether such existing discharge was permissible under law or practices applicable or prevailing at the time the discharge commenced.

## **5.6 Best Management Practices**

(A) The Stormwater Superintendent will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to an Illicit Discharge to the Stormwater System. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from an accidental Illicit Discharge into the Public Stormwater System. Further, any Person responsible for a property or premises, which is, or may be, the source of an Illicit Discharge to the Public Stormwater System, may be required to implement, at said Person's expense, additional BMPs to prevent or discontinue the Illicit Discharge. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed in compliance with the provisions of this Section.

(B) Every Person owning property through which a Watercourse passes, or such Person's lessee, shall keep and maintain that part of the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water

through the Watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

(C) Notwithstanding other requirements of law, as soon as any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in an Illicit Discharge into the Stormwater System, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said Person shall notify the Stormwater Superintendent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Stormwater Superintendent within three business days of the phone notice. If the Illicit Discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### **5.7 Protection from Damage**

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Public Stormwater System.

## **ARTICLE VI - STORMWATER SYSTEM USER FEES**

### **6.1 Establishment of Stormwater User Fees**

(A) A user fee based on an Equivalent Residential Unit (ERU) shall be imposed on every owner of non-exempt Developed Property within the City. An ERU shall equal that square footage that represents the median of the area of Impervious Surface for all Single Family Residences in the City. The City Council shall, by resolution, establish the square footage that constitutes one ERU on a periodic basis.

(B) The City Council shall have the authority to set and modify the user fee rates so that the total revenue generated by said charges, and any secondary sources of revenue, shall be sufficient to fund the City's stormwater program.

(C) The City council shall establish by resolution the monthly rate for each ERU. The monthly user fee for a specific property is determined by multiplying the rate per ERU times the number of ERUs allocated to the property.

### **6.2 User Fee Credits**

(A) The Stormwater Superintendent shall prepare for the City Council's approval, a "Stormwater User Fee Credit Manual" specifying the design and performance standards of on-site stormwater systems,

facilities, activities and services which qualify for application of a user fee credit and the method of calculating Credits. The City Council shall have the authority to approve, modify and approve or disapprove the Credit Manual.

(B) Following approval of a Credit Manual, the Stormwater Superintendent may, at the request of a property owner, reduce the user fee established for any property by awarding a Credit based on the policies and conditions set forth in the Manual. No Credit shall exceed fifty percent (50%) of the applicable monthly user fee for a given property. Any property owner may appeal the Stormwater Superintendent's determination regarding an award of a Credit by filing a written notice of appeal with the Stormwater Appeal Board within ten (10) business days of the Superintendent's decision. The Stormwater Appeal Board shall review such appeal at a meeting preceded by fifteen (15) calendar days written notice of the meeting date to the property owner. Following the meeting, the Stormwater Appeal Board shall issue its decision on the appeal in writing, which decision shall be final.

(C) Credits shall be applied to user fees on the next billing period after the completed credit application is approved.

(D) Any award of Credit shall be conditioned on continuing compliance with the City's design and performance standards as stated in the "Stormwater User Fee Credit Manual" and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the Credit is based. The Stormwater Superintendent may revoke or reduce a Credit at any time for non-compliance by providing thirty (30) days written notice of a non-complying condition and intent to revoke or reduce the Credit to the property owner. If the non-compliance is not cured within the thirty (30) day period, the Stormwater Superintendent shall eliminate the Credit for user fee bills issued to the property owner after such period. A property owner may appeal the Stormwater Superintendent's determination regarding Credit revocation or reduction in the same manner set forth in paragraph (B), above.

### **6.3 Establishment of ERUs**

(A) Each SFR shall be allocated one (1) ERU.

(B) The ERUs allocated to NSFR properties, except City owned roads, shall be determined in the following manner:

(1) The amount of Impervious Surface on each parcel shall be divided by the gross area of the parcel resulting in the percent of imperviousness for the parcel.

(2) Based on the percent imperviousness, a "tier factor" shall be determined, based on the following categories:

IMPERVIOUS PERCENTAGE	TIER FACTOR
1 to 10.99%	* See Below
11 to 20.99%	0.15
21 to 30.99%	0.25
31 to 40.99%	0.35
41 to 50.99%	0.45
51 to 60.99%	0.55
61 to 70.99%	0.65
71 to 80.99%	0.75
81 to 90.99%	0.85
91 to 100%	0.95

\*Fee will be based on actual amount of Impervious Surface, measured in square feet. The gross area of the parcel shall be multiplied by the tier factor, and then divided by the ERU. The resulting value is rounded up to the nearest whole number which is the number of ERUs for the property.

(C) The ERUs allocated to properties comprised solely of City owned roadways shall be determined by dividing two-thirds of the total Impervious Surface for the property by the ERU. The resulting value is then rounded up to the nearest whole number which is the number of ERUs for the property.

**6.4 Billing and Collection**

(A) Stormwater user fees will be billed quarterly and shall be reflected on the water and sewer bills for each property owner, where applicable. The bill shall also state the ERUs allocated to each property.

(B) A property owner may appeal an allocation of ERUs to the Stormwater Superintendent by submitting a written notice of appeal to the Stormwater Superintendent within fifteen (15) calendar days of the mailing date of the bill. The Stormwater Superintendent shall promptly meet with the property owner and issue a decision of the allocation of ERUs. A property owner may appeal the Stormwater Superintendent’s determination regarding Credit revocation in the same manner set forth in Section 6.2(B). The filing of an appeal shall not relieve a property owner of the obligation to pay the user fee when due.

(C) In the event any stormwater user fee is not paid within thirty (30) days from the billing date, a late penalty charge will be added to the fee together with interest charges. The amount of the late penalty charge and the interest rate on the overdue accounts shall be the same as those applied to delinquent taxes. If such payment is not made, such stormwater user fee shall be a lien upon such real estate and may be

collected in the manner provided in 24 V.S.A., §§ 3504 and 3612. Any payment made to the City for utility fees shall first be allocated to delinquent water, then delinquent sewer, then delinquent stormwater fees. The remaining amount of the payment shall first be allocated to current water, then current sewer, then current stormwater fees.

## **6.5 Expenditures**

(A) The user fees, as well as any secondary sources of revenue, shall be used to fund the City's efforts to manage Stormwater. Acceptable expenditures include, but are not limited to, capital construction, maintenance and operations, engineering and planning, regulation and enforcement, water quality programs, special services, administration and management, coverage requirements, reserve funds, staff or labor costs, vehicle and equipment purchases and miscellaneous overhead costs.

(B) Excess revenues will be placed into a sinking fund, and may be retained and expended in the manner set forth in Section 4.6.

## **ARTICLE VII – ACCEPTANCE OR INSPECTION OF REGULATED PRIVATE SYSTEMS**

### **7.1 Exclusively Residential Regulated Private Systems**

(A) Subject to the terms and conditions of this Ordinance, the City may accept conveyance of and assume responsibility for Regulated Private Systems that serve Exclusively Residential development in the City, provided the Owner of such Regulated Private System meets the following conditions:

(1) The Regulated Private System shall comply with the VSMM and the City Ordinance: Stormwater Upgrade Feasibility Analysis ("SUFA").

(a) Stormwater improvements projects previously completed in collaboration with the City, following a separate Engineering Feasibility Analysis (EFA) process, do not need to meet the requirements of section 7.1(A)(1) if they complete the steps identified in 7.1(B) through 7.1(D) by 12/1/22. This includes the Owner of a Regulated Private System covered by State stormwater permits 6285-9030, 3153-9010.R, 2-0825, 2-0100, or 2-0848.

(2) Regulated Private Systems shall satisfy the goals outlined in any Agency of Natural Resources-approved plan for the City to meet MS4 Permit requirements (e.g., Flow Restoration Plan, Phosphorus Control Plan, etc).

(3) The Superintendent determines that allowing the Regulated Private System to obtain coverage under the City's MS4 Permit would not place an undue burden on the City.

(B) The Owner of any Regulated Private System listed in Section (A), above, may offer to convey such system to the City by:

(1) Applying to the Stormwater Superintendent, using forms developed by the Stormwater Superintendent;

(2) Paying the applicable fee as determined from time to time by the South Burlington City Council; and

(3) Agreeing to reimburse the City for any reasonable costs, fees, expenses and other charges the City incurs in evaluating the Regulated Private System's design and inspecting the Regulated Private System's Stormwater management and treatment improvements prior to acceptance of such Regulated Private System.

(C) Upon receipt of a complete application described in Section (B), above, the Stormwater Superintendent shall determine whether the Regulated Private System meets the applicable standards which determination shall be final.

(D) Upon a determination that a Regulated Private System meets applicable standards, the Stormwater Superintendent, working with the City Attorney or the City Attorney's designee, shall direct the Owner of the Regulated Private System to prepare all documents, using forms developed by the Stormwater Superintendent, the City Attorney, or the City Attorney's designee, necessary to convey the Regulated Private System, free and clear of all encumbrances, to the City and transfer any applicable permit to the City. The Stormwater Superintendent, City Attorney or the City Attorney's designee shall review such documents to determine their accuracy and completeness.

(1) Regulated Private Systems subject to section 7.1(A)(1)(a) shall complete updated documents and forms as necessary to comply with this Ordinance.

(E) Upon an Owner of the Regulated Private System's satisfactory completion of the work required under paragraphs (A) through (D) above, and payment of any sums due under paragraph (B) above, the Stormwater Superintendent shall submit to the City Council the Owner's offer to convey the Regulated Private System to the City. The City Council may accept such offer if it determines that such acceptance is in the best interests of the City.

(F) Upon acceptance of a Regulated Private System pursuant to paragraph (E) above, the City shall be responsible for operating, maintaining, and repairing, the Regulated Private System to comply with any applicable permit and for renewing or obtaining any permit required for operation and maintenance of the Regulated Private System, except that the Former Owner of the Regulated Private System shall be responsible for all costs, fees, charges and expenses for:

(1) Remedying damage caused by the Former Owner of the Regulated Private System; or

(2) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System. As used herein, an "extreme unforeseen circumstance" shall mean an act, event, cause or condition that is beyond the City's reasonable control such as a fire, storm, earthquake, flood, lightening, landslide, hurricane, tornado, war, strike, terrorism, riot or insurrection.

(3) Upgrades to any stormwater treatment practice necessary to comply with any State or Federal regulatory requirements that the City or property owner is subject to.

(G) For a period of twenty (20) years from the date the City accepts a Regulated Private System and other than the User Fee described in Article VI hereof, the City shall not impose an assessment or surcharge

that is unique to the Former Owner of such accepted Regulated Private System to cover all or a portion of the cost of performing the City's duties outlined in paragraph (F) above, unless the City imposes a similar assessment or surcharge on other Former Owners of other similar Regulated Private Systems, or in the event of a need to remedy damage described in subparagraphs (F)(1) and (F)(2) above, or to reconstruct the system as described in subparagraph (F)(3) above.

(H) For purposes of this Article VII, the phrase "Former Owner" includes the successors in interest of Owners of Regulated Private Systems that have been accepted by the City pursuant to the procedures outlined in paragraphs (B) through (G) of this Section 7.1. If a "Former Owner" is a membership organization, company, corporation or other entity, whether for profit or not-for-profit, the phrase "Former Owner" shall also include its officers, members, directors and their respective successors in interest.

## **7.2 Regulated Private Systems That Are Not Exclusively Residential**

(A) Subject to the terms and conditions of this Ordinance, the City may, , allow Regulated Private Systems that serve properties with non-residential uses to obtain permit coverage under the City's MS4 Permit provided the Owner of such Regulated Private System meets all of the following conditions:

(1) The Regulated Private System shall comply with the VSMM and the Stormwater Upgrade Feasibility Analysis ("SUFA").

(2) Regulated Private Systems shall satisfy the goals outlined in any Agency of Natural Resources-approved plan for the City to meet MS4 Permit requirements (e.g., Flow Restoration Plan, Phosphorus Control Plan, etc).

(3) The Owner of a Regulated Private System enters into an agreement with the City obligating the Owner of the Regulated Private System to maintain the Regulated Private System in accordance with the MS4 Permit, the VSMM, and the SUFA, as applicable to that Regulated Private System, and grants the City access by license:

(a) To monitor and inspect the Regulated Private System at regular intervals to confirm compliance with the MS4 Permit, the VSMM, and the SUFA, as applicable to that Regulated Private System; or

(b) To maintain the Regulated Private System only in the event the Superintendent determines that the Owner of the Regulated Private System has failed to perform maintenance of the Regulated Private System in accordance with the VSMM or the SUFA, as applicable to that Regulated Private System and that the public good requires the City to perform such maintenance on the Regulated Private System. The City's performance of maintenance on a Regulated Private System shall be performed at its sole discretion and shall not relieve the Owner from complying with the MS4 Permit, the VSMM, and the SUFA, as applicable. If the City chooses to perform such maintenance after the Owner's failure or refusal to do so, the Owner shall reimburse the City for its costs, fees, expenses and other charges it incurs as a result of the Owner's failure or refusal to perform such maintenance. If the Owner refuses to reimburse the City within thirty days of the City's mailing of a bill for such charges, such charges shall be a lien on the Owner's property in accordance with 24 V.S.A. § 3504.

(4) The Superintendent determines that allowing the Regulated Private System to obtain coverage under the City's MS4 Permit would not place an undue burden on the City.

(B) The Owner of a Regulated Private System meeting the requirements of paragraph (A), above, may request coverage under the City's MS4 Permit by:

(1) Applying to the Superintendent, using forms developed by the Stormwater Superintendent;

(2) Paying the applicable fee as determined from time to time by the South Burlington City Council;

(3) Submitting a plan for maintenance and repair of the Regulated Private System to ensure compliance with the MS4 Permit, the VSMM, and the SUFA, as applicable to that Regulated Private System; and

(4) Agreeing to reimburse the City for any reasonable costs, fees, expenses and other charges the City incurs in evaluating the Regulated Private System's design and inspecting the Regulated Private System's Stormwater management and treatment improvements prior to the City accepting coverage of such Regulated Private System under its MS4 Permit.

(C) Upon receipt of a complete application as described in paragraph (B) above, the Superintendent shall determine whether the Regulated Private System meets the VSMM and the SUFA, as applicable to that Regulated Private System. The Superintendent's determination shall be final.

(D) Upon determination that a Regulated Private System satisfies the VSMM and the SUFA, as applicable to that Regulated Private System, the Stormwater Superintendent, working with the City Attorney or the City Attorney's designee, shall direct the Owner of the Regulated Private System to prepare all documents, using forms developed by the Stormwater Superintendent, the City Attorney or the City Attorney's designee, necessary for the Regulated Private System to obtain coverage under the City's MS4 Permit. The Stormwater Superintendent, City Attorney or the City Attorney's designee shall review such documents to determine their accuracy and completeness.

(E) Upon an Owner of the Regulated Private System's satisfactory completion of the work required by paragraphs (A) through (D) above, and payment of any sums due under paragraph (B) above, the Stormwater Superintendent shall submit to the City Council the Regulated Private System Owner's request to obtain coverage under the City's MS4 Permit. The City Council may approve such request if it determines that such approval is in the best interests of the City.

(F) Upon allowing a Regulated Private System to obtain coverage under the City's MS4 Permit pursuant to paragraph (E) above, the City shall periodically monitor, inspect and report on the Regulated Private System per the City's MS4 Permit requirements. Notwithstanding such coverage, the Owner of the Regulated Private System remains responsible for all costs, fees, charges and expenses for:

(1) Operation, maintenance, repair, improvement or replacement of the Regulated Private System to ensure compliance with the MS4 Permit and with the VSMM and the SUFA, as applicable to that Regulated Private System;

(2) Remedying damage caused by the Owner of the Regulated Private System; and



(3) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System. As used herein, an “extreme unforeseen circumstance” shall mean an act, event, cause or condition that is beyond the City’s reasonable control such as a fire, storm, earthquake, flood, lightening, landslide, hurricane, tornado, war, strike, terrorism, riot or insurrection.

(G) For a period of twenty (20) years from the date the City allows a Regulated Private System to obtain coverage under the City’s MS4 Permit and other than the User Fee described in Article VI hereof, the City shall not impose an assessment or surcharge that is unique to the Owner of such Regulated Private System to cover all or a portion of the cost of performing the City’s duties outlined in paragraph (F) above unless either:

(1) The City imposes a similar assessment or surcharge on Owners of other similar Regulated Private Systems;

(2) In the event of a need to remedy damage caused by negligence or malfeasance on the part of the Owner;

(3) In the event that an extreme unforeseen circumstance requires extraordinary repair and reconstruction measures unique to the Regulated Private System; or

(4) If the City deems in the reasonable exercise of its discretion that the Owner has failed to maintain, repair or improve the Regulated Private System to comply with the City’s MS4 Permit and such maintenance, repair or improvement is necessary, as determined by the Stormwater Superintendent’s sole discretion, to ensure compliance with the City’s MS4 Permit.

(H) For purposes of this Section 7.2, the term “Owner” includes the successors in interest of Owners of Regulated Private Systems that have obtained coverage under the City’s MS4 Permit. If an “Owner” is a membership organization, company, corporation or other entity, whether for profit or not-for-profit, the phrase “Owner” shall also include its officers, members, directors and their respective successors in interest.

(I) In addition to the rights and remedies for non-compliance with this Ordinance provided in Article VIII below, if the Owner of the Regulated Private System fails to operate, improve, inspect, maintain, repair and replace its Regulated Private System in accordance with the City’s MS4 Permit, the VSMM or the SUFA, as applicable to that Regulated Private System, then the Superintendent in his sole discretion and at any time may terminate the agreement described in Section 7.2(A)(3), above, provided the Superintendent mailed a notice of termination to the Owner thirty (30) days in advance of such termination.

## **ARTICLE VIII – MUNICIPAL COST SHARING**

### **8.1 Purpose**

The Purpose of this article is to establish a City policy regarding cost sharing of upgrading or improving Stormwater Treatment Practices that are required by the MS4 Permit, Flow Restoration Plans (FRPs), Phosphorus Control Plans (PCPs) or any other future MS4 permit requirement.

### **8.2 Applicability**

(A) This section shall apply to stormwater system upgrades or improvements as required by Article VII of this document.

### **8.3 Municipal Share of Stormwater Project Costs**

(A) The City shall share in the cost of upgrading or improving Stormwater Treatment Practices (STPs) that are required by the MS4 Permit, Flow Restoration Plans (FRPs), and/or Phosphorus Control Plans (PCPs) as follows:

- (1) The City shall contribute funds from the stormwater utility budget for the construction of upgrades or improvements to STPs on a pro rata basis. Cost sharing shall be determined by the percentage of impervious surface area that is publicly owned and covered by the existing stormwater permit as compared to the total impervious surface area covered by the existing stormwater permit;
  - (a) Areas outside of the existing stormwater permit that drain to the STP will not be included in this calculation unless the additional off-site area is routed to the STP as part of the upgrade or improvement. If offsite areas are being redirected to the STP as part of the upgrade or improvement, then these areas will be included as part of the City's impervious surface area in the cost sharing calculation.
- (2) The City's share of funding for upgrades or improvement of any particular STP will be determined on a schedule established by and at the discretion of the City. The City will update this schedule on an annual basis, as needed, to ensure that expenditures are budgeted in a way that is sustainable for the stormwater utility sinking fund, stormwater utility rate payers and permit required objectives.
- (3) The City will cost share in the upgrade or improvement of an STP to the minimum design requirements that achieve the stormwater treatment necessary to satisfy FRPs, PCPs and Vermont Stormwater Management Manual (VSMM). Work included as part of any upgrade or improvement that is beyond the minimum necessary to meet the minimum design requirements will be the responsibility of the Owner of the Regulated Private System. The City will not share in the cost of any work undertaken that is not directly related to the STP.

(4) The City shall review and will share in the costs of any change orders during construction until the total of change order requests exceeds 10% of the estimated total project cost. Change order requests seeking cost increases beyond 10% of the estimated total project cost will be borne by the Owner of the Regulated Private System, unless otherwise agreed to by the City and is in the Stormwater Superintendent's sole and complete discretion.

(5) The City shall not contribute funds for engineering or design services incurred as part of upgrades or improvements to STPs unless;

- (a) The City obtains grant or other outside funding for the engineering or design project and a signed stormwater system improvement agreement with the Owner of the Regulated Private System that addresses engineering or design cost sharing is in place;
- (b) The City will not be responsible for engineering or design costs that were incurred prior to the effective date of a stormwater system improvement agreement for the upgrade or improvement to the STP.

(6) The City will provide its pro rata share of STP upgrade or improvement costs only after the Stormwater Superintendent or the Stormwater Superintendent's designee has inspected the stormwater treatment system and the STP upgrade or improvement and certified that it has been constructed in accordance with the previously approved project plans.

(7) The City is not required to obtain grants or other outside funding for any individual project. Grants will be obtained at the discretion of the Stormwater Superintendent based on staff availability and other factors.

(8) If a grant or outside funding is obtained by the City for a STP upgrade or improvement project, such grant or outside funding will first be applied to offset the City's pro rata share of the STP upgrade or improvement costs. Any amount in exceedance of the City's pro rata share may be applied to the Regulated Private System Owner's pro rata share of the STP upgrade or improvement project costs at the discretion of the Stormwater Superintendent.

(9) STP upgrade or improvement projects that are eligible for City cost sharing must follow the process outlined for inclusion of the stormwater treatment system under the City's MS4 Permit as established in Sections VII of this document.

- (a) If a Regulated Private System Owner performs an upgrade or improvement to an STP, but does not intend to obtain coverage under the City's MS4 Permit and instead obtains permit coverage directly from the State of Vermont, they may still obtain cost sharing from the City pursuant the requirements of this Article. In order to be eligible, these projects must:
  - (i) Submit engineering and design plans for STP upgrade or improvement to the Stormwater Superintendent and obtain written approval of these plans prior to incurring any costs that would be eligible for cost sharing; and
  - (ii) Sign a stormwater system improvement agreement with the City that establishes pro rata cost sharing for all parties involved; and

- (iii) Obtain the Stormwater Superintendent's written confirmation that the STP upgrade or improvement was constructed in conformance with the approved plans once construction is complete.

## **ARTICLE IX - INSPECTION AND ENFORCEMENT**

### **9.1 Power and Authority of Inspectors**

(A) Any Authorized Person bearing proper credentials and identification shall be permitted to enter all properties subject to regulation under this Ordinance for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. Authorized Persons shall have the right to set up such devices as are necessary to conduct monitoring and/or sampling of any regulated discharge from the property. Authorized Persons may also examine and copy records required to be kept under any permit subject to this ordinance. Authorized Persons shall have no 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 public sanitary and stormwater systems.

(B) Any Authorized Person bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance or any portion of the Public Sewage System or Public Stormwater System 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 easement pertaining to the private property involved.

(C) If a property owner has security measures in force which require proper identification and clearance before entry into onto the property, the owner shall make the necessary arrangements to allow access to any Authorized Person.

(D) Any temporary or permanent obstruction to safe and easy access to any property to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of any Authorized Person and shall not be replaced. The costs of clearing such access shall be borne by the property owner.

(E) Causing an unreasonable delay in allowing an Authorized Person access to a property subject to regulation under this Ordinance is a violation of this Ordinance.

(F) If an Authorized Person is refused access to any part of the property containing facilities, records or discharges subject to regulation under this Ordinance, and if the Authorized Person is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the

community, then the Authorized Person may seek issuance of a search warrant from any court of competent jurisdiction.

(G) While performing the necessary work on private properties referred to in this Section, Authorized Persons shall observe all safety rules applicable to the premises established by the property owner and the property owner shall be held harmless for injury or death to the City employees and the City shall indemnify the property owner against loss or damage to its property for personal injury or property damage asserted against the property owner and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the property owner to maintain safe conditions as required by law.

## **9.2 Administrative Enforcement**

(A) Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(B) Any Person found to be violating any provision of this ordinance 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. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of Illicit Discharges;
- (3) The cessation of improper practices and operations and implementation of proper practices and operations;
- (4) The abatement or remediation of any contamination of the public sewage or Stormwater System and waters of the State of Vermont or the United States and restoration of any property impacted by such contamination;
- (5) Establishment of time limits for the completion of all required work;
- (6) Payment of a fine; and
- (7) State that the Notice may be appealed in the manner set forth in paragraph (F), below.

(C) The City has the right to require a property owner found to be in violation of this Ordinance to install monitoring equipment and maintain such equipment in proper operating condition, including proper calibration, all at the property owner's expense.

(D) If a violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City or persons retained by the City may enter upon the subject property to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any Person, owner, agent or Person in possession of any premises to refuse to allow the City or designated persons to enter upon the premises for the purposes set forth above.

(E) Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the City Manager or the City Manager's designee ("City Manager"), or by the expiration of the time in which to file an appeal, the charges shall constitute a lien on the property for the amount of the assessment and shall bear interest at the rate of one percent (1%) per month, or portion thereof.

(F) The City Manager may, without prior notice, suspend stormwater or sewer system discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Stormwater System, sewer system or waters of the State of Vermont or the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Manager may take such steps as deemed necessary to prevent or minimize damage to the Stormwater System, sewer system or waters of the State of Vermont or United States, or to minimize danger to persons.

(G) Any Person discharging to the stormwater or sewer system in violation of this ordinance may have their stormwater system or sewer system access terminated if such termination would abate or reduce an Illicit Discharge. The City Manager will notify a violator of the proposed termination of its stormwater system or sewer system access. The violator may appeal the City Manager's determination to the City Council by filing a written notice of appeal with the City Manager within ten (10) business days of the Manager's decision. The City Council shall review such appeal at a meeting of the Council preceded by fifteen (15) calendar days written notice of the meeting date to the Violator. Following the meeting, the Council shall issue its decision on the appeal in writing, which decision shall be final.

(H) A Person commits an offense if the Person reinstates stormwater system or sewer system access to premises terminated pursuant to paragraph (F), above, without the prior approval of the City Manager.

### **9.3 Judicial Enforcement**

(A) This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59. Any Person who violates a provision of this Ordinance or who violates any condition of a permit issued hereunder shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. Any law enforcement officer or the Director of Public Works, City Engineer, Deputy Director of Public Works, or Stormwater Superintendent may act as an Issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any violation of any provision of this Ordinance.

(B) In addition to the enforcement procedures available before the Judicial Bureau, the City Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. Nothing herein shall be construed to limit other rights, remedies or penalties available by law.

**9.4 Civil Penalty; Waiver Fee**

(A) An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$160
Second offense	\$320
Third offense	\$480
Fourth offense	\$640
Fifth and subsequent offenses	\$800

(B) An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amounts, for any Person who declines to contest a municipal complaint and pays the waiver fee:

First offense	\$100
Second offense	\$250
Third offense	\$400
Fourth offense	\$550
Fifth and subsequent offenses	\$700

Each day the violation continues shall constitute a separate violation.

**9.5 Severability**

If any portion of this Ordinance is held to be invalid by a court of competent jurisdiction, such finding shall not invalidate any other part of this Ordinance.

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ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE  
SANITARY SEWERAGE AND STORMWATER SYSTEMS

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Adopted at South Burlington, Vermont this 6 day of July 2021, and to be effective upon adoption.

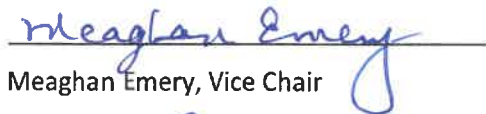
SOUTH BURLINGTON CITY COUNCIL



Helen Riehle, Chair



Matt Cota



Meaghan Emery, Vice Chair



Thomas Chittenden



Tim Barritt, Clerk

Received and recorded this 28 day of July, 2021.



Donna Kinville, City Clerk