



ORDINANCE

RELATIVE TO THE WASTEWATER SYSTEM FUND AS A SEWER FUND

CITY OF NASHUA

In the Year Two Thousand and Seventeen

The City of Nashua ordains that the Nashua Revised Ordinances as amended, are hereby further amended as follows:

1. In Part II “General Legislation”, Chapter 255 “Sewage Disposal”, Article IX “Sewer Use Fees”, delete the struck-through language and add the new underlined language as shown:

§ 255-60. Purpose.

This article provides for a system of sewer use fees to be paid by all users of the City wastewater system, the classification of users, and the creation of a wastewater system fund as a municipal enterprise and a legal and accounting entity. This wastewater system fund is the “sewer fund” required by NH RSA 149-I:10.

§ 255-61. Wastewater system fund.

A. The wastewater system fund shall be a legal and accounting entity of the City. Pursuant to state law, the fund shall be kept as a separate and distinct fund, shall not be commingled with city tax revenues, and shall not be deemed part of the municipality’s general fund accumulated surplus. All revenues from sewer use fees, connection charges and any other revenues related to the collection and treatment of wastewater will be credited to this fund and all expenditures for the operation and maintenance of the system, including contract summary and change orders as well as a scope of work for each contract or change order related to the EPA consent decree associated with the separation of wastewater and stormwater and/or storage facilities as well as other designs presented for approval shall contain only items related to the storage treatment and separation of wastewater or stormwater and conveyance systems. Submission of plans and/or change orders shall contain only what is necessary to complete and restore disturbed areas as deemed appropriate by the Board of Public Works and the Board of Aldermen.

Appropriate uses also include capital replacement and improvements will be charged to this fund. A detailed summary of these plans shall be updated yearly and submitted to the Board of Aldermen for review. The earnings and other reserves of the system will be retained in this fund. ~~Surplus retained earnings will not be used for any purpose other than those specified above without the prior approval of the Board of Public Works and the Board of Aldermen.~~ Pursuant to state law, the fund may be expended only for the cost of design, construction, expansion, replacement, management, maintenance, operation, and repair of sewer lines and systems and sewerage treatment and disposal works and facilities, as well as payment of the interest on any related debt incurred.

2. In Part I “Administrative Legislation”, Chapter 5 “Administration of Government”, Article XXVIII “Municipal Budget Control”, Section 5-145 “Preparation of combined annual municipal budget and use of Northeast Consumer Price Index - Urban”, delete the struck-through language and add the new underlined language as shown:

“§ 5-145. Preparation of combined annual municipal budget and use of Northeast Consumer Price Index—Urban Gross Domestic Product Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment.

- A. The combined annual municipal budget, prepared in accordance with Section 56-c of the City Charter, shall consist of accounts and line items of the City of Nashua annual municipal budget, to include all departmental revenue and department expenditures, contingency accounts, bonded debt service, capital reserve accounts, capital improvement accounts, and the solid waste management-and wastewater treatment operation and maintenance enterprise funds.
- B. The combined annual municipal budget for purpose of Section 56-c of the City Charter does not include the following: the fund balance account, the special revenue funds, all prior-year escrow accounts, Hillsborough County taxes, the overlay assessment, all capital projects funded by bonds ~~or sewer user fees~~, the wastewater system fund (sewer fund), the capital reserve, conservation and trust funds, the reserve fund established pursuant to Section 56-e of the City Charter, and the public capital facilities impact fee accounts.
- C. When calculating the limitation on budget increases under Section 56-c of the City Charter, the ~~Northeast Consumer Price Index—Urban (CPI-U)~~ Gross Domestic Product Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment shall be used.”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This legislation shall take effect upon passage.

LEGISLATIVE YEAR 2017

ORDINANCE: O-17-031

PURPOSE: Relative to the wastewater system fund as a sewer fund

ENDORSERS: Mayor Jim Donchess

COMMITTEE ASSIGNMENT:

FISCAL NOTE: This legislation removes the wastewater system fund (sewer fund) in the preparation of the combined annual municipal budget.

ANALYSIS

This legislation confirms that the city's "wastewater system fund" is the "sewer fund" required by NH RSA 149-I:10. Under state law, the city must retain and segregate all sewer use fees (called "sewer rents" in state law) and sewerage related expenses in a separate and distinct fund. This fund cannot be commingled with city tax revenue, surplus in the fund is not part of the city's general fund balance, and the fund cannot be spent on any purpose other than sewerage related expenses.

Given that both the revenues and expenditures of the wastewater system fund do not affect or impact tax rates for the city, the fund should not be subject to the Charter §56-c limitation on budget increases. Further, NRO §5-145 makes an indefensible distinction by currently including wastewater treatment operation and maintenance in the limitation on budget increases but not including wastewater capital projects in the limitation on budget increases, even though both are fully funded through sewer user fees.

In addition, the wastewater system fund functions as a special revenue fund (RSA 31:95-c). Special revenue funds are limited to activities funded primarily through user fees, and restrict revenues from a specific source to expenditures for specific purposes related to the purpose or source of the revenue. Special revenue funds are separate from the general fund and any surplus is not part of the general fund accumulated surplus. Recognizing that these funds do not impact the tax rate, NRO §5-145 already states that special revenue funds are not included in the charter limitation on budget increases, and the wastewater system fund is such a fund.

Also, the legislation updates the index used when calculating the limitation on budget increases under Section 56-c of the City Charter, pursuant to a voter-approved charter amendment.

Approved as to account number and/or structure, and amount:

Financial Services Division

By: 

Approved as to form:

Office of Corporation Counsel

By: 

Date: 