Exhibit B

Downspout Disconnection Program

Administrative Rules

November 24th, 2008

ENVIRONMENTAL SERVICES
CITY OF PORTLAND

working for clean rivers

Exhibit B

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1. Introduction and Program History

The Downspout Disconnection Program was created in 1995 as a part of the Bureau's *Combined Sewer Overflow Management Plan*. The *Combined Sewer Overflow Management Plan*, approved by City Council and the Environmental Quality Commission, described how the City would reduce combined sewer overflows and meet the requirements of the *Amended Stipulation and Final Order* (ASFO). As part of the *Combined Sewer Overflow Management Plan*, Cornerstone Projects were proposed to remove stormwater from the combined sewer system to help reduce combined sewer overflows to the Columbia Slough and Willamette River. The Downspout Disconnection Program was one Cornerstone Project adopted to remove large volumes of stormwater from the combined sewer systems in order to reduce the size of required conveyance, storage, and treatment facilities.

On May 10th, 1995, City Council adopted Ordinance No. 168972, authorizing the Director of Environmental Services to create a Downspout Disconnection Program by creating City Code 17.37. The Downspout Disconnection Program was created to remove flow from the combined sewer system and to engage citizens and community groups in the problem and the solution in a cost-effective manner. The Program would be created to provide a one-time incentive per downspout disconnected to program standards within the target area. This incentive would be provided to property owners that did the work themselves or to community groups who would provide free services to property owners who requested assistance in disconnecting downspouts. The City would also contract with stormwater professionals to provide free services to property owners who requested assistance in disconnecting downspouts. Engaging community groups and stormwater professionals would create positive partnerships, build public awareness, and encourages participation in the program.

On May 15th, 1996, City Council adopted Ordinance No. 170113, authorizing the Director the ability to designate mandatory disconnection areas based on consideration of a variety of factors, including meeting ASFO goals and significant dollar savings over other alternatives. At this time, the administrative procedures and policies for mandatory program areas were added to City Code 17.37. Disconnection procedures and standards for both mandatory and voluntary areas were described in detail.

In order to implement the Downspout Disconnection Program, BES has entered into an agreement with the Bureau of Development Services that describes the standards for safe disconnection. On July 15, 1996, the Bureau of Buildings (now the Bureau of Development Services) enacted the *Residential Roof Drains Disconnections and Additions Program Guide*. This program guide authorized Downspout Disconnection staff to inspect and approve disconnected downspouts at residential properties within the program area. On August 1, 2004, the Bureau of Development Services enacted the *Combined Sewer Area Downspout Disconnection at Existing Properties Program Guide*. This program guide expanded the ability of Downspout Disconnection staff to inspect and approve disconnected downspouts at residential, small commercial and small multifamily properties of structures of roof areas less than 5,000 square feet within the program area. In order to receive the one-time incentive for disconnected downspouts, each disconnected downspout must meet the safety standards outlined in the program guide.

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The Downspout Disconnection Program pursues the objective of disconnecting downspouts directly connected to the combined sewer on eligible properties in the program area no later than the deadlines specified in the ASFO:

A. December 1, 2000 for properties located in a combined sewer basin which drains to the Columbia Slough;
B. December 1, 2001 for properties located in the Sellwood, Fiske B, and St. Johns B basins which drain to the Willamette River; and
C. December 1, 2011 for properties located in the remaining combined sewer basins east of the Willamette River which drain to the Willamette River.

Because of these deadlines, the Downspout Disconnection Program has had different approaches for each distinctive geographic target area:

A. Voluntary disconnection at residential properties in combined sewer basins draining to the Columbia Slough[1];
B. Mandatory disconnection at residential properties in the Fiske B, Oregonian, Oswego, St. Johns A and St. Johns B combined sewer basins[1];
C. "Aggressive" voluntary disconnection at residential, small multifamily and small commercial properties in the Sellwood combined sewer basin. If the disconnection rate as set in the *Combined Sewer Overflow Management Plan* had not been achieved, mandatory options would have been pursued[1];
D. Voluntary disconnection at residential, small multifamily and small commercial properties in sumped sewer basins draining to the Willamette River; and
E. Voluntary disconnection at residential, small multifamily and small commercial properties in un-sumped sewer basins draining to the Willamette River.

While a voluntary approach was proven successful in the Columbia Slough, the tight timelines for distinct sewer basins required a mandatory approach. The mandatory and "volandatory" (aggressively voluntary) approaches helped BES meet strict regulatory goals on time. As of summer 2008, the disconnection rate for the sewer basins targeted for mandatory and "volandatory" approaches is as follows:

Sewer Basin	Total number of properties	Disconnection Rate
Fiske B	397	61.2%
Oregonian	1330	87.4%
Oswego	1064	88.8%
Sellwood	1003	73.0%
St. Johns A	654	86.8%
St. Johns B	684	76.7%

[1] Program goals for 2000 and 2001 were met and the program is no longer actively marketed in those distinct target areas; however, the Downspout Disconnection Program offers services to all eligible property owners within the program area upon request.

While a mandatory approach worked to achieve high disconnection rates in a short period of time, a voluntary approach is much more successful in meeting other program goals of community engagement and education. At this time, BES does not intend to create any more mandatory areas because of the success of voluntary approaches in meeting current deadlines, but reserves the right to establish mandatory areas if required by regulatory needs.

In 2004, the City revised the *Stormwater Management Manual* and clarified stormwater policies by means of a stormwater hierarchy. The *Stormwater Management Manual* was revised in 2008. In light of these revisions, the Downspout Disconnection Program revisited and revised City Code, brochures, and Program Guides to be consistent with City stormwater policies and procedures, including the creation of Downspout Disconnection Program Administrative Rules.

2. Policy Goals

The Downspout Disconnection Program was created to meet the following policy goals:

2.1 Downspout disconnection is a cost-effective method to removing stormwater flow from combined sewer systems in a sustainable method to meet regulatory needs, combined sewer system needs, and stormwater management and system needs.

2.2 Developing partnerships with community members in being a part of the solution leverages resources, builds awareness, and increases support of bureau programs.

3. Guiding Principles

Environmental Services will implement the Downspout Disconnection Program consistent with the following guiding principles:

3.1 Multiple pathways to participation.
Eligible property owners are encouraged to participate in a variety of ways:

3.1.1 Property owners are encouraged to do the work themselves. If property owners disconnect eligible downspouts to program standards, they will earn a one-time economic incentive and, upon request, receive a sign for their front yard that proclaims that their property helps the river. Property owners will be offered free technical assistance in determining which downspouts can be disconnected to program standards and reimbursement as provided in Section 5.

3.1.2 Property owners who request assistance in disconnection downspouts for any reason will receive free services conducted by workers authorized by the Director. Downspouts will be disconnected to program standards under direction of city staff.

3.1.3 Property owners and other community members can volunteer with community or non-profit organizations to disconnect downspouts for other

property owners who request assistance in disconnecting their downspouts. Building partnerships with community or non-profit organizations helps leverage resources, build skills, and increases awareness of city programs.

3.1.4 The City will contract with stormwater professionals to provide free services to property owner that request assistance. Building partnerships with stormwater professionals helps leverage resources, support local community businesses, and increases awareness of city programs.

3.2 Community Engagement and Education.
By engaging property owners, community members and groups, and stormwater professionals, the City helps build interest and awareness of stormwater and program goals and solutions, create economic incentives for meeting the City's stormwater goals, and

3.2.1 The City will provide educational opportunities on downspout disconnection and stormwater management in active outreach areas as appropriate.

3.2.2 The city will develop and implement outreach and technical assistance strategies to include eligible property owners and occupants.

3.2.2.1 Outreach techniques include, but are not limited to, direct mail, telephone calls, public events and fairs, advertisements, bill stuffers, use of other media, cooperative efforts with community partners, websites, and door-to-door canvassing.

3.2.2.2 Technical assistance strategies include, but are not limited to, on-site technical assistance, property records research, site planning, design guidance, and management of other workers as directed by the Director to meet site specific stormwater goals.

3.2.3 Program information, websites, publications, brochures and other information will use language and graphics that are clear and understandable to property owners that are unfamiliar with City stormwater policies, programs, and management techniques.

3.3 Consistency with Stormwater Management Policies and Standards.
The City will develop standards for downspout disconnection techniques and other stormwater management systems that are consistent with existing stormwater policies and goals. These standards will be made available in publications. Any downspout disconnection or stormwater management system for which reimbursement is provided must meet city standards.

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4. Definitions

The following definitions apply to terms and concepts used by the Downspout Disconnection Program.

4.1 **Combined Sewer**. A sewer which carries both sanitary sewage and stormwater.

4.2 **Disconnection Area.** Properties located within the boundaries of the combined sewer basins to the east of the Willamette River.

4.3 **Disconnection.** Physically plugging or capping the direct rain drain connection of a downspout to the combined sewer and redirecting the roof water onto the property either on the surface of the property or under the ground. This may require alterations to gutters and downspouts.

4.3.1 For properties that have access to a public separated storm sewer, disconnection from the combined sewer may be accomplished by a direct storm connection through a private lateral to the public storm system. New connections to a public system would be subject to the *Stormwater Management Manual* requirements for new connections to public systems.

4.3.2 For properties where surface or underground disposal of roof water is not feasible, disconnection may include a curb cut which discharges roof water to a curbed street. New storm connections to a public storm system or public sewer are subject to the requirements of the *Stormwater Management Manual* requirements for new connections to public systems and City approval will depend on the capacity of downstream systems.

4.3.3 New subsurface stormwater facilities are required to meet requirements of the *Stormwater Management Manual*.

4.3.4 New private stormwater management facilities that treat existing impervious area that would require city permits are required to meet the *Stormwater Management Manual* requirements for stormwater retrofits on private property.

4.4 **Downspout.** The conductor that conveys stormwater from the gutter on the exterior of a building or other structure to another place of discharge.

4.5 **Eligible Property.** Property located within the disconnection area that is either:

4.5.1 Developed for uses covered by the “residential use” category in Portland City Code 33.920; or

4.5.2 Developed for uses covered by the "commercial use" category in Portland City Code 33.920 and has site conditions that would allow for safe and effective disconnection as provided in Portland City Code 17.37.040.

4.6 Workers Authorized by the Director. Includes, but is not limited to, City employees, neighborhood volunteers, community organizations, members of federal community service programs, and contractors hired by the City.

5. Reimbursement Policies

Economic incentives are useful tools for encouraging property owners to make physical and permanent changes to their property. A one-time economic incentive was established to increase participation and to reimburse for time, materials and miscellaneous expenses. The one-time incentive is appropriate because property owner's actions will reduce the size and cost of future facilities needed for the sewer system, reducing rate increases for all ratepayers citywide.

5.1. Reimbursement per eligible downspout

The Downspout Disconnection Program provides a one-time reimbursement for each eligible downspout that is disconnected to program standards. Reimbursement will be provided to property owners who do the work themselves, or to workers authorized by the Director on the behalf of property owners who request assistance in disconnecting downspouts.

If property owners or workers authorized by the Director receive free supplies from the Downspout Disconnection Program, the actual cost of supplies will be subtracted from their total reimbursement up to the maximum amount for supplies. Workers authorized by the Director will not be reimbursed for landscaping and miscellaneous unless otherwise agreed upon per contract. Downspouts disconnected to approved stormwater management systems installed by property owners will also be reimbursed at the same rate per eligible downspout.

Reimbursement per eligible downspout:	**Minimum**	**Maximum**
Supplies	unit cost	$25
Labor	unit cost	$13
Landscaping and miscellaneous	unit cost	$15

5.2 Reimbursement for alternate stormwater management systems

Disconnection reimbursement will be made for the least expensive method of disconnection that is effective, as determined by workers authorized by the Director. In targeted area, such as mandatory program areas or sewer basins with specific stormwater management needs, additional techniques may be needed to achieve necessary flow removal goals. Appropriate stormwater management systems and implementation plans will be determined on a site by site basis as determined by basin specific flow removal goals as authorized by the Director, including:

5.2.1 Downspout disconnection requiring alterations to gutters or downspouts; approved private stormwater management systems; creation of underground stormwater systems; or downspout disconnection to a curb cut (roof discharge to curbed streets) or private lateral which connects to a branch leading to a public storm system will be reimbursed as follows:

5.2.1.1 A site plan and the lowest of three bids from qualified contractors of the owners' choice shall be submitted to City for approval prior to the work being performed. Reimbursement will include restoring all planted areas disturbed during construction to a condition equal to what existed prior to construction and any required permit fees, labor and materials needed to complete the work in place.

5.2.1.2 Owner may authorize the City to complete the work, including site restoration, using workers authorized by the Director at no charge to the owner and the owner will receive no reimbursement.

6. Mandatory Program Areas Policies and Procedures

In order to meet regulatory compliance schedules, it may be necessary to establish areas in which disconnection of eligible downspouts is made mandatory.

6.1 Establishment of Mandatory Program Areas.

The Director of Environmental Services may establish mandatory target areas and require property owners in such areas to disconnect their downspouts. The decision to establish mandatory disconnection areas shall be based on consideration of the following factors:

6.1.1 amount of stormwater flow which must be diverted according to the *CSO Management Plan*, *Amended Stipulation and Final Order*, project design memoranda or plans for adequately conveying or managing flow within combined sewer basins,

6.1.2 amount of time available to achieve necessary stormwater flow removal based on system modeling, design, and capacity needs,

6.1.3 feasibility of implementing programs which represent a significant dollar savings over other alternate plans to reduce CSOs,

6.1.4 ability to reduce costs of conveyance to other parts of the sewer system for treatment where sewer basins are in remote areas at the end of interceptors making capture and conveyance of CSOs costly,

6.1.5 differing soil and geographic conditions affecting water percolation into the soil and groundwater,

6.1.6 importance of severely reducing or eliminating CSOs in sensitive areas such as City parks or natural areas,

6.1.7 the sizes of major conveyance and storage facilities which are designed dependent upon a certain rate of stormwater removed from the combined sewer system.

The Director will prepare written findings describing the reasons for establishing each mandatory program area. The findings will be filed with the Council Clerk and shall be reviewed by the Council upon the request of any member of the Council.

6.2 Access to Properties within Mandatory Program Areas.

For the purpose of administering disconnection procedures within mandatory program areas, the Director or other workers authorized by the Director may, upon production of proper identification and with consent from the property owner or occupant, enter upon the land or premises of eligible property. The purpose of such entry is to survey a downspout to determine whether it is connected, to provide technical assistance regarding proper disconnection, to disconnect downspouts or to inspect downspouts which have been disconnected. Prior to surveying downspouts, workers shall either contact a competent resident of the property and obtain consent to the survey or, if consent cannot be obtained, shall obtain an administrative search warrant.

6.3 Notice of Mandatory Disconnection.

Owners of eligible properties located in mandatory program areas are required to disconnect their downspouts within one year following written notice from the City. Written notice shall be deemed to have been received upon the mailing of said notice by first class mail or upon delivery of the notice in person.

6.4 Reconnection of Downspouts In Mandatory Program Areas.

Property owners in mandatory program areas are prohibited from reconnecting to the combined sewer unless the City determines that the disconnection poses a threat to health, safety or property and approves the reconnection. Homeowners must contact the Downspout Disconnection Program if they believe reconnection is necessary.

6.5 Declaration of Nuisance

6.5.1 Any property located in a mandatory program area whose downspout have not been granted an exception and remain connected or are reconnected to the combined sewer without approval of the City are in violation of

17.37.030. B.3 are hereby declared a nuisance and subject to abatement or correction as provided for in 17.37.080. Whenever the Director believes such a nuisance exists, a notice shall be posted on the property directing that the nuisance be abated or corrected. The notice shall substantially be in the following form:

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NOTICE TO REMOVE NUISANCE

Failure to Disconnect Downspouts
From the Combined Sewer System

[Date]

To the owner of the property located at [address(es)]

within the Combined Sewer Area for Portland, Oregon:

1. You are hereby notified that this property is
declared a public nuisance because the downspouts have
not been disconnected from the combined sewer as
required by Portland City Code Section 17.37.030 B.3.

2. You are required to disconnect the downspouts
connected to the combined sewer within 30 days of the
posting date of this notice as set out above.

3. In the event of your failure to disconnect the
downspouts within that time, the City may thereafter
do any of the following: disconnect the downspouts
from the combined sewer system, take such other
necessary action(s) to abate the nuisance.

4. In the event the City does take action to correct
the nuisance, an administrative fee may be charged
against the property and made a lien thereon.

5. If you have questions concerning this notice and
your rights concerning an administrative review of the
City's intended actions, you should contact:

Downspout Disconnection Program
1120 SW 5th Ave, Suite 1000
Portland, OR 97204
(503) 823-5858
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6.5.2 Within 5 days of the posting of the notice described above, the Director shall mail a copy of the notice, postage prepaid, to the owner of the real property as it appeared on the last equalized assessment of the tax roll in the County where the property is located or such other address as the Director believes will give the owner actual notice of the nuisance notice.

6.5.2.1 An error in the name of the owner or agent or use of a name other than that of the true owner or agent of the property shall not render the notice void, but in such cases the posted notice shall be deemed sufficient.

6.5.3. The owner will have 90 days from receiving the notice to abate the nuisance.

6.6 Administrative Review and Appeal

The owner or their authorized representative shall have the right to request administrative review and appeal of the decision by BES to declare their connected downspouts a nuisance. Within 90 days of receipt of the City notice referred to in Section 17.37.080, the owners or their authorized representative shall have the right to file a written request for administrative review with the Director setting out the facts relating to the nuisance declaration.

6.6.1 The request for administrative review shall state the following:

6.6.1.1 Why no nuisance exists; citing why the connected downspouts do not jeopardize public health and safety, or

6.6.1.2 Why the City declaration is unfair or inaccurate, or

6.6.1.3 Why more time is needed to rectify the nuisance.

6.6.2 Alleging merely that no nuisance exists, or allegations concerning the necessity or propriety of the Downspout Disconnection Program, the accuracy of state agency orders, or the City's legislative determination of a nuisance shall not be sufficient to initiate administrative review.

6.6.3 Upon receipt of a valid request, the Director shall schedule an administrative review with notice of the time and location being provided to the owner not less than 5 days prior to the time set for the review. At the time set for the administrative review, the owner shall be allowed to present all relevant evidence tending to show that no nuisance exists.

6.6.4 All determinations made pursuant to the administrative review shall be in writing and set forth the reasons underlying the determination.

6.6.5 An owner aggrieved by the determination of the administrative review may appeal the determination to the Code Hearings Officer as provided for in Chapter 22.10 of this Code.

6.7 Disconnection Enforcement in Mandatory Disconnection Areas

6.7.1 If the nuisance described in the notice has not been removed or cause shown why the nuisance still exists, the City may apply, consistent with the terms of Title 22, to the Code Hearings Officer for an order authorizing the City to remove or correct the nuisance within 90 days.

6.7.2 The City's submittal to the Code Hearings Officer shall consist of an application together with a proposed form of order. The application shall be in the form of an affidavit and shall state the following:

6.7.2.1 The address and legal description of the property;

6.7.2.2 The name(s) and address(es) of the property owner(s) and/or legal title holder(s);

6.7.2.3 That a Notice to Remove Nuisance has been posted and mailed as provided in this Chapter, and that more than 30 days has elapsed since the posting and mailing or since the conclusion of any administrative review and/or appeal to the Code Hearings Officer pursuant to Section 17.37.080;

6.7.2.4 That the downspouts have not been disconnected from or have been reconnected without approval to the combined sewer and that the property constitutes a nuisance; and

6.7.2.5 A statement of the action(s) the City is seeking authorization to undertake to remove the nuisance. Specifically, the City may seek authorization for the City, its agents, and employees, to:

6.7.2.5.1 Enter onto the property and undertake such actions as may be required to disconnect the downspouts from the combined sewer system;

6.7.2.5.2 Impose penalties and fines as authorized in 17.37.080 (new enforcement code section) when other remedies listed above are not feasible or determined appropriate by the Code Hearings Officer pursuant to Chapter 22.

6.7.2.6 To enter onto the property and undertake such other actions as may be necessary or appropriate to remove the nuisance.

6.7.3 A copy of the application, proposed order and a notification of a right to hearing shall be sent by regular mail and certified mail, return receipt requested, to the owner(s) of the property at the address listed in the affidavit; however, failure of an owner to receive actual notice of the

application, proposed order, and right to a hearing will not affect any proceedings pursuant to this section. The notification of right to a hearing shall contain:

6.7.3.1 A statement that the City has applied to the Code Hearings Officer for authorization to remove the nuisance;

6.7.3.2 A statement of the actions to remove the nuisance for which the City is seeking authorization;

6.7.3.3 A statement that the owner(s) and/or legal title holder(s) may request a hearing before the Code Hearings Officer to contest the application of the City by filing a request for hearing with the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing; and

6.7.3.4 A statement that if a request for hearing is not filed with the Office of the Code Hearings Officer within fifteen (15) days of the date of the mailing, the Code Hearings Officer will grant the City the authorization sought in the application and proposed order.

6.8 Hearing Officer Actions

6.8.1 If no request for hearing is received by the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing, the Code Hearings Officer shall grant the authority requested in the City's application and shall enter the proposed order as a final order of the Code Hearings Officer.

6.8.2 If a request for hearing is received by the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing, the Code Hearings Officer shall schedule and hold a hearing pursuant to Chapter 22.10 on the City's application. After hearing, the Code Hearings Officer may enter an order granting, modifying, or denying the City the authority requested in the proposed order. In addition to any order, the Code Hearings Officer may impose any additional penalties determined appropriate by the Code Hearings Officer pursuant to Chapter 22.

6.9 Enforcement Charges

In the event that the City needs to enforce the terms of the Code Hearings Officer's order referred to in Section 17.37.080, an administration fee of $300 for each occurrence and associated costs for each occurrence for enforcing the terms of the order shall be billed to the property owner of the property in accordance with the provisions of Chapter 22.06. If the administrative fee remains unpaid after 90 days, the administrative fee shall be made a lien on the property in accordance with the provisions of Chapter 22.06.

6.10 Withholding Services provided by the Bureau of Environmental Services

Except as provided elsewhere in this Title or when the public welfare is endangered; the Bureau of Environmental Services may at its discretion withhold from the owner(s) (or the owner's agent) of disconnection delinquent property as defined in Section 17.37.030, any service that is provided by the Bureau. This may include but is not limited to refusal to accept application for permits relating to development on property of the said owner(s) other than the disconnection delinquent property.

This withholding may continue until the disconnection delinquency no longer exists.

Appendix A

Ordinance No. 168792, adopted May 10, 1995

Exhibit B

ORDINANCE No. 168792

*Authorize Downspout Disconnection Program in Sections of the Combined Sewer Overflow Area (Ordinance; add Code Chapter 17.37)

The City of Portland Ordains:

Section 1. The Council finds:

1. Nearly every time it rains in Portland, a mixture of sanitary sewage and stormwater enters the Willamette River and Columbia Slough. In an average year, 6 billion gallons of combined sewer overflows enter the River and the Slough.

2. The City of Portland has signed a Stipulation and Final Order (SFO) with the Department of Environmental Quality to reduce the combined sewer overflows over the next 20 years.

3. The Combined Sewer Overflow (CSO) Management Plan, approved by City Council and the Environmental Quality Commission, describes how the City will reduce combined sewer overflows and meet the requirements of the SFO. The Plan is based on extensive research on options for reducing CSOs.

4. The Plan recommends reducing CSOs by funding Cornerstone Projects to remove stormwater from the combined sewer system prior to building large conveyance, storage and treatment facilities. These Projects are expected to reduce the current CSO volume by 50% and save $300 million.

5. Downspout Disconnection, one of the Cornerstone Projects, is expected to reduce 20% of the CSO volume and save $31.47 million in costs. The CSO Management Plan recommends removing roofwater from the combined sewer system for 50% of the residential property within the portions of the CSO area where street sumps will be installed.

6. During large storms, rainwater from private property can flow overland into the street. Therefore, downspout disconnection is most effective when done in areas where there is an alternative to the combined sewer in the street. The CSO Management Plan recommends two additional Cornerstone Projects to remove street flow from the sewer. These include widespread installation of sumps in street intersections which will allow stormwater to percolate into the ground and limited installation of separate storm sewers.

7. Single family properties are good candidates for disconnection because there is pervious area on the property to absorb roofwater and inexpensive methods exist for disconnection.

8. An estimated 55,000 single family properties are located in areas where the CSO Management Plan estimates that installation of street sumps would be effective. Of these, an estimated 90% have downspouts which carry their roof water directly to the combined

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sewer.

9. Other cities around the United States and Canada have or are currently implementing downspout disconnection programs.

10. Economic incentives are useful tools for encouraging property owners to disconnect their downspouts in ways that can benefit the City. The PURB report to City Council on April 12 recommended discontinuing the drainage discount and providing a one time incentive payment to participants in the new Downspout Disconnection Program for CSO target areas. This incentive payment should be comparable to the amount provided to current discount holders to compensate for the loss of the discount.

11. A one time incentive payment to participants in the new Downspout Disconnection Program for CSO target areas is appropriate because property owner's actions will reduce the size and cost of future facilities needed for the sewer system. This will save money for the City and the sanitary ratepayers.

Now Therefore, the Council directs:

a. Portland City Code Title 17 is amended by adding a new chapter 17.37 as follows:

17.37.010 Purpose. The purpose of the downspout disconnection is to remove roof water from the combined sewer system in order to reduce the amount of combined sewer overflows which enter the Columbia Slough and Willamette River. Removing roofwater from the combined sewer can reduce the cost of large conveyance, storage and treatment facilities needed to capture and treat combined sewage in order to meet the goals of the Stipulation and Final Order with the Department of Environmental Quality.

17.37.020 Definitions. For the purpose of this Chapter, the following definitions shall apply:

A. Downspout. The conductor that conveys storm water from the eavestrough on the exterior of a building or other structure to another place of disposal.

B. Rain Water Leader. The conductor that conveys storm water from the roof on the exterior of a building or other structure to another place of disposal.

C. Director. The Director of Environmental Services or his or her designated representative.

D. Owner. Each property's owner of record according to County assessment and taxation records.

E. Affected area. Properties located within the boundaries of the portion of the CSO area where street sumps have been or will be installed to capture stormwater from the streets.

F. Eligible property. The property is located within the affected area, is devoted primarily to Household Living use within

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the meaning of PCC Title 33 and the development of the property consists exclusively of House or Attached House development and accessory developments within the meaning of PCC Title 33.

G. Disconnection. Physically plugging the direct connection of a downspout or rainleader to the combined sewer and disposing of the roof water on the property either on top of or under the ground.

H. Combined Sewer. A sewer which carries both sanitary sewage and stormwater.

17.37.030 Establishment of Downspout Disconnection Program. A program is established to remove storm water connections to the combined sewer from existing roof drain systems having downspouts or rainleaders located on the exterior of eligible properties with direct connections to the property's external sanitary sewer lateral. The existence of a direct connection will be determined by researching City Plumbing Records and verifying the information with site surveys of eligible properties.

A. Deadlines. The Downspout Disconnection Program shall pursue the objective of disconnecting downspouts directly connected to the combined sewer on eligible properties in the affected area no later than:

1. December 1, 2000 for properties located in a sewer basin which drains to the Columbia Slough
2. December 1, 2001 for properties located in Sellwood, Fiske B, and St. Johns B basins which drain to the Willamette River
3. December 1, 2011 for properties located in remaining sewer basins which drain to the Willamette River.

B. Program Phases. The Director will determine appropriate phases for implementing the Program in the affected area in order to meet the deadlines.

C. Exceptions. The Director may decline to disconnect a connected downspout upon determination that the disconnection would not meet the guidelines for safe disconnection, is not prudent and is not feasible. This includes situations where disconnection could result in possible damage to the property or adjoining properties, create a possible nuisance to the property or involve excessive cost. Procedures for processing exceptions will be developed by the Bureau of Environmental Services.

D. Access to Eligible Property. For the purpose of administering this code chapter, the Director or other workers authorized by the Director may, upon production of proper identification, enter upon the land or premises of eligible property. The purpose is to survey a downspout or rain leader to determine whether it is connected, to provide technical assistance regarding proper disconnection and to inspect downspouts which have been disconnected. Prior to surveying downspouts, workers shall attempt to contact the resident of the property.

17.37.040 Disconnection Procedures. All downspouts that are

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disconnected from the combined sewer shall conform with the disconnection methods or systems approved by the Director. Downspouts may be disconnected with roof water disposed on the surface of the property or underground.

A. Guidelines for safe disconnection to the surface of the property shall be included in the BES Design Manual.

B. Guidelines for safe disconnection to an underground disposal system shall be included in the Unified Plumbing Code.

The Director will, on request from an owner, provide technical assistance to determine the appropriate method of disconnection for any downspout.

17.37.050 Disconnection Reimbursement. Disconnection reimbursement will be paid in the following manner:

A. Disconnection reimbursement will be made for the most cost effective method of disconnection as determined by the Director.

B. Owners who complete the disconnection work themselves or use their own contractor and receive a satisfactory inspection will be compensated according to the following unit costs per downspout:

1. $25 per downspout disconnected for supplies
2. $13 per downspout for time and effort
3. $15 per downspout for landscaping and miscellaneous

C. When the Director believes that a surface system will provide safe and effective disconnection, owners who wish to install an underground system which is more costly must pay the difference between the compensation in A and the cost of their preferred underground system which must be designed, constructed and maintained according the Unified Plumbing Code.

D. Owners whose downspouts are satisfactorily disconnected by other workers authorized by the Director and at no charge to the owner will receive no additional compensation.

E. The Director is authorized to make reimbursement payments to property owners from funds within the Sewer System Operating Fund.

F. Once a downspout is disconnected and receives a satisfactory inspection, the property owner shall be responsible for ensuring that the new surface or underground system is not removed and is properly maintained and operated.

17.37.060 Reports. The Director will prepare an annual report which includes a summary of the number of downspouts disconnected, costs, and any other information deemed pertinent by the Director.

b. The Council declares an emergency exists because the implementation of the first phase of the Downspout Disconnection Program must begin in late May of 1995. This is critical in order to obtain additional data on flow removal from the combined sewer

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system in order to complete the final design of the consolidation conduit. If this information is not obtained during the first phase, the conduit may be sized too large and therefore add to the costs of solving the CSO problem. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council MAY 10 1995
Commissioner Mike Lindberg

Barbara George
May 5, 1995
1453111/0/5161

BARBARA CLARK
Auditor of the City of Portland
By
Britta Olson
Deputy

Appendix B

Ordinance No. 170113, adopted May 15, 1996

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ORDINANCE No. 170118

*Expand the Downspout Disconnection Program (Ordinance; amend Code Chapter 17.37)

The City of Portland Ordains:

Section 1. The Council finds:

1. Nearly every time it rains in Portland, a mixture of sanitary sewage and stormwater enters the Willamette River and Columbia Slough. In an average year, 6 billion gallons of combined sewer overflows enter the River and the Slough.

2. The City of Portland has signed an Amended Stipulation and Final Order (SFO) with the Department of Environmental Quality to reduce the combined sewer overflows over the next 20 years.

3. The Combined Sewer Overflow (CSO) Management Plan, approved by City Council and the Environmental Quality Commission, describes how the City will reduce combined sewer overflows and meet the requirements of the SFO. The Plan is based on extensive research on options for reducing CSOs.

4. The Plan recommends reducing CSOs by funding Cornerstone Projects, including downspout disconnection, to remove stormwater from the combined sewer system prior to building large conveyance, storage and treatment facilities. These Projects are expected to reduce the current CSO volume by 50% and save $300 million.

5. The CSO Management Plan recommends removing roofwater from the combined sewer system for residential property within the portions of the CSO area where street sumps will be installed. The Plan also recommends removing roofwater from the combined sewer system in local separation basins within the CSO area where new separate storm sewers and some sumps will be installed.

6. The Bureau of Environmental Services will be responsible for implementing a Downspout Disconnection Program and other Cornerstone Projects in order to meet the flow removal goals in the CSO Management Plan by 2011.

7. On May 11, 1995, the City Council approved code language to authorize a Downspout Disconnection Program within certain portions of the CSO area. The program, implemented beginning in June 1995, motivates property owners to do their own disconnection work as well as develops partnerships with City neighborhood organizations to promote the program and do disconnection work for property owners.

8. Involving Portland's neighborhood organizations and non-profit groups in promoting the downspout disconnection program and doing

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disconnection work will create positive partnerships between the neighborhoods and the City that will save money and help to reinvest money into the neighborhoods, encourage cooperative neighborhood partnerships, build public awareness and understanding, encourage participation in the program and strengthen neighborhood organizing skills.

9. Economic incentives are useful tools for encouraging property owners to disconnect their downspouts in ways that can benefit the City. A one-time incentive payment to participants in the Downspout Disconnection Program for CSO target areas is appropriate because property owner's actions will reduce the size and cost of future facilities needed for the sewer system. This will save money for the City and sewer system ratepayers. In addition, property owners in CSO target areas are currently connected to the sewer according to City requirements and the City is now changing the private connection policies.

10. The City Code needs to be amended to expand the current program to additional sewer basins within the CSO area. It also needs to be amended to clarify program policies.

11. The intent is to rely on a voluntary Downspout Disconnection Program whenever possible within the combined sewer overflow area. If the Director of Environmental Services determines that a mandatory program is essential to meet stormwater flow removal goals on schedule, the Director will have authority to designate areas where disconnection is mandatory.

12. It is appropriate to encourage or mandate disconnection from the combined sewer system in some sewer basins within the CSO area but not in others due to the following engineering and financial considerations: (1) differing soil and geographic conditions affecting water percolation into the soil and groundwater, (2) feasibility of implementing programs which represent a significant dollar savings over other alternate plans to reduce CSOs (3) ability to reduce costs of conveyance to other parts of the sewer system for treatment where sewer basins are in remote areas at the end of interceptors making capture and conveyance of CSOs costly (4) amount of stormwater flow which must be diverted according to the CSO Management Plan, Amended Stipulation and Final Order and project design memoranda (5) amount of time available to achieve necessary stormwater flow removal (6) importance of severely reducing or eliminating CSOs in sensitive areas such as City parks (7) the sizes of major conveyance and storage facilities which are designed dependent upon a certain rate of stormwater removed from the combined sewer system;

13. For properties located in designated voluntary or mandatory target areas, the City will provide reimbursement or free disconnection service for the least expensive method of disconnection that will be effective. Owners will not be reimbursed for downspouts disconnected prior to receiving official notification from the Downspout Disconnection Program that they are in a target area.

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Now Therefore, the Council directs:

a. Portland City Code chapter 17.37 is amended to read as follows:

17.37.010 Purpose. The purpose of the downspout disconnection is to remove roof water from the combined sewer system in order to reduce the amount of combined sewer overflows which enter the Columbia Slough and Willamette River. Removing roofwater from the combined sewer can reduce the cost of large conveyance, storage and treatment facilities needed to capture and treat combined sewage in order to meet the goals of the Amended Stipulation and Final Order with the Department of Environmental Quality. Flow removal goals, policies and options for disconnection will be determined by the Director depending on the location of the property within the CSO area.

17.37.020 Definitions. For the purpose of this Chapter, the following definitions shall apply:

A. Downspout. The conductor that conveys storm water from the [eavestrough] gutter on the exterior of a building or other structure to another place of disposal.

[B. Rain Water Leader. The conductor that conveys storm water from the roof on the exterior of a building or other structure to another place of disposal.]

[C]B. Director. The Director of Environmental Services or his or her designated representative.

[D]C. Owner. Each property's owner of record according to County assessment and taxation records.

[E]D. [Affected] Disconnection area. Properties located within the boundaries of the [portion of the] combined sewer overflow area [where street sumps have been or will be installed to capture stormwater from the streets]. The disconnection area is shown on the map attached as Figure 7.

[F]E. Eligible property. [The] [p]Property [is] located within the [affected] disconnection area that is either: [devoted primarily to Household Living use within the meaning of PCC Title 33 and the development of the property consists exclusively of House or Attached House development and accessory developments within the meaning of PCC Title 33.] (1) developed for uses covered by the 'residential use' category in PCC chapter 33.920; or (2) is developed for uses covered by the 'commercial use' category in PCC chapter 33.920 and is adjacent to streets containing new separated storm sewers or has site conditions would allow for safe and effective disconnection as determined by the Director.

[G]F. Disconnection. Physically plugging the direct connection of a downspout [or rainleader] to the combined sewer and

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disposing of the roof water on the property either on [top of]the surface of the property or under the ground. This may require rehanging gutters. For properties that have a branch constructed to the edge of the property line from a storm sewer, disconnection from the combined sewer is accomplished by direct connection through a private lateral to the storm sewer. For properties where surface or underground disposal of roof water is not feasible, disconnection may include a curb cut which carries the roof water to the street.

[H]G. Combined Sewer. A sewer which carries both sanitary sewage and stormwater.

H. Workers Authorized By The Director. Includes, but is not limited to, City employees, neighborhood volunteers including members of non-profit organizations, members of federal community service programs, contractors hired by the City.

17.37.030 Establishment of Downspout Disconnection Program. A program is established to remove storm water connections to the combined sewer from existing roof drain systems having downspouts [or rainleaders] located on the exterior of eligible properties with direct connections to the property's external sanitary sewer lateral. The existence of a direct connection will be determined by the City using methods including researching City Plumbing Records and verifying the information with site surveys of eligible properties.

A. Deadlines. The Downspout Disconnection Program shall pursue the objective of disconnecting downspouts directly connected to the combined sewer on eligible properties in the [affected] disconnection area and removing necessary amounts of stormwater from the combined sewer no later than the deadlines specified in the Amended Stipulation and Final Order:

1. December 1, 2000 for properties located in a sewer basin which drains to the Columbia Slough

2. December 1, 2001 for properties located in Sellwood, Fiske B, and St. Johns B basins which drain to the Willamette River

3. December 1, 2011 for properties located in remaining sewer basins which drain to the Willamette River.

These deadlines may be met sooner based upon the schedule for the projects in specific sewer basins.

B. Program Phases. The Director will determine appropriate phases and methods for implementing the program in the [affected] disconnection area in order to meet the deadlines.

1. Within the disconnection area, the Director may establish voluntary target areas and encourage property owners in these areas to disconnect their downspouts. The Director will periodically compare program results to the flow removal goals and deadlines in the CSO Management Plan, Amended Stipulation and Final Order, and design memoranda for basin projects. If the Director concludes that a goal will not be met on schedule, the Director will establish a mandatory program in the appropriate area.

2. Within the disconnection area, the Director may establish mandatory target areas and require property owners in such areas to

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disconnect their downspouts. The decision to establish mandatory disconnection areas shall be based on consideration of the following factors: (1) amount of stormwater flow which must be diverted according to the CSO Management Plan, Amended Stipulation and Final Order and project design memoranda, (2) amount of time available to achieve necessary stormwater flow removal, (3) feasibility of implementing programs which represent a significant dollar savings over other alternate plans to reduce CSOs, (4) ability to reduce costs of conveyance to other parts of the sewer system for treatment where sewer basins are in remote areas at the end of interceptors making capture and conveyance of CSOs costly, (5)differing soil and geographic conditions affecting water percolation into the soil and groundwater, (6) importance of severely reducing or eliminating CSOs in sensitive areas such as City parks, (7)the sizes of major conveyance and storage facilities which are designed dependent upon a certain rate of stormwater removed from the combined sewer system. The Director will prepare written findings describing the reasons for establishing each mandatory program area. The findings will be filed with the Council Clerk and shall be reviewed by the Council upon the request of any member of the Council.

3. Owners of eligible property located in mandatory program areas are required to disconnect their downspouts within one year following written notice from the City. For purposes of this section, notice shall be deemed to have been received upon the mailing of said notice by first class mail or upon delivery of the notice in person

C. Exceptions. The Director may decline to disconnect a connected downspout, and may exempt downspouts from mandatory disconnection requirements, upon his or her determination that the disconnection would not meet the guidelines for safe disconnection, is not prudent [and]or is not feasible. This includes situations where disconnection could result in possible damage to the property or adjoining properties, create a possible nuisance to the property or involve excessive cost. Procedures for processing exceptions will be developed by the Bureau of Environmental Services.

D. Access to Eligible Property. For the purpose of administering this code chapter, the Director or other workers authorized by the Director may, upon production of proper identification, enter upon the land or premises of eligible property. The purpose of such entry is to survey a downspout [or rain leader] to determine whether it is connected, to provide technical assistance regarding proper disconnection, to disconnect downspouts [and] or to inspect downspouts which have been disconnected. Prior to surveying downspouts, workers shall [attempt to] either contact [the] a competent resident of the property and obtain consent to the survey or, if consent cannot be obtained, shall obtain an administrative search warrant.

E. Partnerships With Non-Profit Community Organizations. The Director is authorized to establish partnerships with neighborhood based non-profit groups that serve the Downspout Disconnection Program target area. Such groups may include, but are not limited

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to, neighborhood associations and other association organizations such as neighborhood watch groups, neighborhood emergency response teams, community development corporations (CDCs), church groups, youth groups. Such partnerships will provide downspout disconnection services for owners who desire assistance with the disconnection work.

17.37.040 Disconnection Procedures in Voluntary and Mandatory Program Areas. All downspouts that are disconnected from the combined sewer through this program shall conform with the disconnection methods or systems approved by the Director. Downspouts may be disconnected with roof water disposed on the surface of the property, [or] underground, through a curb cut or through a private lateral which directly connects the property to the new storm sewer.

A. Guidelines for safe disconnection to the surface of the property shall be included in the BES Design Manual or in the Bureau of Buildings Program Guide to Procedures and Requirements.

B. Guidelines for safe disconnection to an underground disposal system shall be included in the [Unified Plumbing Code] Oregon Plumbing Specialty Code or in the Bureau of Buildings Program Guide to Procedures and Requirements.

C. Guidelines for safe disconnection to a curb cut or private lateral shall be included in the Standard City Construction Specifications.

In voluntary program areas, [T]the Director will, on request from an owner, provide technical assistance to determine the appropriate method of disconnection for any downspout. In mandatory program areas, the Director will provide technical assistance to determine the appropriate plan for each downspout at each property.

17.37.050 Disconnection Reimbursement in Voluntary and Mandatory Program Areas. Disconnection reimbursement will be paid in the following manner:

A. Disconnection reimbursement will be made for the [most cost effective] least expensive method of disconnection that will be effective, as determined by the Director. Reimbursements will not be processed until the new disposal system has been inspected and approved. Owners will not be reimbursed for downspouts disconnected prior to receiving official notification from the Downspout Disconnection Program that they are eligible for downspout disconnection reimbursement. Reimbursement will only be provided within the target areas identified in section 17.37.030(B)(1) and (2).

B. Downspout disconnection to surface systems will be reimbursed as follows:

[B] 1. Owners who complete the disconnection work themselves or use their own contractor and receive a satisfactory inspection will be reimbursed according to the following unit costs per downspout:

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[1]a. $25 per downspout disconnected for supplies
[2]b. $13 per downspout for time and effort
[3]c. $15 per downspout for landscaping and miscellaneous

Owners who receive free supplies from the City for their disconnection work will not receive the $25 amount for supplies.

[C]2. When the Director believes that a surface system will provide safe and effective disconnection, owners who wish to install an underground system or curb cut which is more costly must pay the difference between the reimbursement in [A] subsection B.1 above and the cost of their preferred [underground] system [which must be designed, constructed and maintained according the Unified Plumbing Code].

3. Nonprofit community organizations authorized by the Director to do disconnection work for owners who request assistance will be reimbursed according to the unit costs per downspout in 17.37.050 B.1. Groups who receive free supplies from the City for their disconnection work will not receive the $25 amount for supplies.

[D.]4. Owners whose downspouts are satisfactorily disconnected by other workers authorized by the Director and at no charge to the owner will receive no [additional compensation] reimbursement.

C. Downspout disconnection requiring rehanging gutters or underground systems will be reimbursed as follows:

1. Lowest of three bids from qualified contractors of owners choice, submitted to City for approval prior to the work being performed. Reimbursement will include restoring all planted areas disturbed during construction to a condition equal to what existed prior to construction and any required permit fees, labor and materials needed to complete the work in place.
2. Owner may authorize the City to complete the disconnection work, including site restoration, using authorized workers at no charge to the owner and the owner will receive no reimbursement.

D. Downspout disconnection to a curb cut or private lateral which connects to a branch leading to new storm sewer will be reimbursed as follows:

1. Lowest of three bids from qualified contractors of owners choice, submitted to City for approval prior to the work being performed. Reimbursement will include restoring all planted areas disturbed during construction to a condition equal to what existed prior to construction and any required permit fees, labor and materials needed to complete the work in place.
2. Owner may authorize the City to complete the disconnection

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work, including site restoration, using authorized workers at no charge to the owner and the owner will receive no reimbursement

E. The Director is authorized to make reimbursement payments to property owners from funds within the Sewer System Operating Fund.

F. [Once a downspout is disconnected and receives a satisfactory inspection, t]The property owner shall own the new disposal system and be responsible for ensuring that the new [surface or underground system]is not removed and is properly maintained and operated. Homeowners are prohibited from reconnecting to the combined sewer unless the City determines that the disconnection poses a threat to health, safety or property.

17.37.060 Declaration of Nuisance.

A. Any property whose downspouts have not been granted an exception and remain connected to the combined sewer system in violation of 17.37.030.B.3. is hereby declared a nuisance and subject to abatement or correction as provided for in Section 17.37.080. Whenever the Director believes such a nuisance exists, a notice shall be posted on the property directing that the nuisance be abated or corrected. The notice shall be substantially in the following form:

Notice to Remove Nuisance

Failure to Disconnect Downspouts
From the Combined Sewer System

Date:
To the owner of the property located at _____
_____
within the Combined Sewer Area for Portland, Oregon:

1. You are hereby notified that this property is declared a public nuisance because the downspouts have not been disconnected from the combined sewer as required by Portland City Code Section 17.37.030 B 3.

2. You are required to disconnect the downspouts connected to the combined sewer within 30 days of the posting date of this notice as set out above.

3. In the event of your failure to disconnect the downspouts within that time, the City may thereafter do any or all of the following: disconnect the downspouts from the combined sewer system, take such other necessary action(s) as will abate the nuisance.

4. In the event the City does take action to correct the nuisance, an administrative fee may be charged against the property and made a lien thereon.

5. If you have questions concerning this notice and your rights concerning an administrative review of the City's intended actions, you should contact:

Downspout Disconnection Program
1211 SW Fifth Ave, Room 800
Portland, OR 97204-3713
(503) 823-5858

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B.1. Within 5 days of the posting of the notice described above, the Director shall mail a copy of the notice, postage prepaid, to the owner of the real property as it appeared on the last equalized assessment of the tax roll in the County where the property is located or such other address as the Director believes will give the owner actual notice of the nuisance notice.

2. An error in the name of the owner or agent or use of a name other than that of the true owner or agent of the property shall not render the notice void, but in such cases the posted notice shall be deemed sufficient.

17.37.070 Abatement by Owner; Challenge and Administrative Review; Appeal.

A. Within 30 days of the mailing of the notice referred to in Section 17.37.060, the owners or their authorized representative shall cause the nuisance to be abated or file a written statement with the Director setting out the facts why no nuisance exists along with a ten dollar ($10.00) filing fee.

B. Alleging merely that no nuisance exists, or allegations concerning the necessity or propriety of the Downspout Disconnection Program, the accuracy of state agency orders, or the City's legislative determination of a nuisance shall not be sufficient to initiate administrative review.

Upon receipt of a valid statement, the Director shall schedule an administrative review with notice of the time and location being provided to the owner not less than 5 days prior to the time set for the review.

Sometime prior to the time set for administrative review, the Director shall cause a review of the Bureau of Environmental Services' records concerning the nuisance.

At the time set for the administrative review, the owner shall be allowed to present all relevant evidence tending to show that no nuisance exists.

All determinations made pursuant to the administrative review shall be in writing and set forth the reasons underlying the determination. In the event that the Director determines that no nuisance in fact exists, the filing fee shall be refunded.

C. An owner aggrieved by the determination of the administrative review may appeal the determination to the Code Hearings Officer as provided for in Chapter 22.10 of this Code.

17.37.080 Disconnection Enforcement.

A. If the nuisance described in the notice has not been removed or cause shown why the nuisance does not exist, the City may apply, consistent with the terms of Title 22, to the Code Hearings Officer for an order authorizing the City to remove or correct the nuisance.

B.1. The City's application to the Code Hearings Officer shall consist of an application together with a proposed form of order.

2. The application shall be in the form of an affidavit and shall state the following:

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a. The address and legal description of the property

b. The name(s) and address(es) of the property owner(s) and/or legal title holder(s).

c. That a Notice to Remove Nuisance has been posted and mailed as provided in this Chapter, and that more than 30 days has elapsed since the posting and mailing or since the conclusion of any administrative review and/or appeal to the Code Hearings Officer pursuant to Section 17.37.070.

d. That the downspouts have not been disconnected from the combined sewer and that the property constitutes a nuisance.

e. A statement of the action(s) the City is seeking authorization to undertake to remove the nuisance. Specifically, the City may seek authorization for any or all of the following:

i. For the City, its agents, and employees, to enter onto the property and undertake such actions as may be required to disconnect the downspouts from the combined sewer system.

ii. For the City, its agents, and employees, to enter onto the property and undertake such other actions as may be necessary or appropriate to remove the nuisance.

iii. For the City to impose penalties and fines when other remedies listed above are not feasible or determined appropriate by the Code Hearings Officer pursuant to Chapter 22.

C. 1. A copy of the application, proposed order and a notification of a right to hearing shall be sent by regular mail and certified mail, return receipt requested, to the owner(s) of the property at the address listed in the affidavit; however, failure of an owner to receive actual notice of the application, proposed order, and right to a hearing will not affect any proceedings pursuant to this section.

2. The notification of right to a hearing shall contain:

a. A statement that the City has applied to the Code Hearings Officer for authorization to remove the nuisance.

b. A statement of the actions to remove the nuisance for which the City is seeking authorization.

c. A statement that the owner(s) and/or legal title holder(s) may request a hearing before the Code Hearings Officer to contest the application of the City by filing a request for hearing with the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing.

d. A statement that if a request for hearing is not filed with the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing, the Code Hearings Officer will grant the City the authorization sought in the application and proposed order.

D.1. If no request for hearing is received by the Office of the Code Hearings officer within fifteen (15) days of the date of mailing, the Code Hearings Officer shall grant the authority requested in the City's application and shall enter the proposed order as a final order of the Code Hearing Officer.

2. If a request for hearing is received by the Office of the Code Hearings Officer within fifteen (15) days of the date of mailing, the Code Hearings Officer shall schedule and hold a hearing pursuant to Chapter 22.10 on the City's application. After hearing, the Code Hearings Officer may enter an order granting,

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modifying, or denying the City the authority requested in the proposed order. In addition to any order, the Code Hearings Officer may impose any additional penalties determined appropriate by the Code Hearings Officer pursuant to Chapter 22.

17.37.090 Enforcement Charges. In the event that the City needs to enforce the terms of the Code Hearings Officer's order referred to in Section 17.37.080, an administration fee of $300 for each occurrence shall be made a lien on the property in accordance with the provisions of Chapter 22.06.

17.37.100 Withholding Services Provided by the Bureau of Environmental Services. Except as provided elsewhere in this Title or when the public welfare is endangered, the Bureau of Environmental Services may at its discretion withhold from the owner(s) (or the owner's agent) of disconnection delinquent property as defined in Section 17.37.030, any service that is provided by the Bureau. This may include but is not limited to refusal to accept application for permits relating to development on property of the said owner(s) other than the disconnection delinquent property.

This withholding may continue until the disconnection delinquency no longer exists.

17.37.110 Interference with Disconnection Activities Unlawful. It shall be unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever such officer, employee, contractor, agent, or authorized representative of the City is engaged in the work of disconnecting downspouts from the combined sewer under the authority of an order of the Code Hearings Officer issued pursuant to subsection 17.37.080 C. above.

17.37.120 Liability. Neither the City nor any of its officers, employees, contractors, agents, or authorized representatives shall be liable for any damage to or loss of the real property of any improvements, emblements, or personal property thereon due to the enforcement or administration of this Chapter.

17.37.130 Civil Remedies.

A. In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties and other charges as determined by the Director.

B. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.

17.37.140 Notice Sufficiency. For the purposes of any noticing

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procedure as set forth by this Chapter, notice shall be deemed to have been received upon mailing of that notice. An error in the name of the owner or agent of the owner or the use of a name other than that of the true owner or agent for the property shall not render the notice void.

17.37.150 Bureau Actions. All City bureaus shall, to the fullest extent consistent with their authority, carry out their programs in such a manner as to further the provisions of this Title, and shall cooperate to the fullest extent in enforcing the provisions of this Chapter.

17.37.160 Severability. If any provision of this Chapter, or its application to any person or circumstances, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

17.37.[060]170 Reports. The Director will prepare an annual report which includes a summary of the number of downspouts disconnected, costs, and any other information deemed pertinent by the Director.

b. The Council declares an emergency exists because the Downspout Disconnection Program in certain sewer basins must be initiated in June 1996 due to recent project schedule changes within the CSO Program. The Bureau must have the authority to mandate the program in these basins prior to mailing informational publications. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, MAY 15 1996
Commissioner Mike Lindberg.

BARBARA CLARK
Auditor of the City of Portland
By
Britta Olson
Deputy

Barbara George
May 6, 1996
14531110/5161

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