

Administrative Rules for Public Sewer and Stormwater Management User Charges

ENB-4.09

July 1, 2025



ENVIRONMENTAL SERVICES
CITY OF PORTLAND

working for clean rivers

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These are administrative rules of the Bureau of Environmental Services (BES) governing sanitary sewer and stormwater management user charges.

1. Applicability

Any person who discharges to the City's sanitary sewer, combined sewer, or storm sewer system, or who receives a direct or indirect benefit from City sanitary or stormwater management services will be subject to applicable user charges. Sewer user charge rates, class averages, minimum use discharge volumes, and stormwater billable area (SBA) tier assignments are published in the bureau's annual rate ordinance, Binding City Policy ENB-4.20.

2. Purpose

The purpose of these rules is to assess fair, equitable, and appropriate sanitary sewer and stormwater management user charges.

3. Definitions

Certain terms used in these rules are defined in Portland City Code (PCC) Chapters 17.04 and 17.36, Portland Policy Documents ENB-4.01, ENB-4.25, and ENB-4.32, and by the following:

- A. Billing Error.** See PCC 17.36.020 (Definitions). For the purpose of clarification and not of limitation, single-dwelling residential SBA tier assignments and updates to previously-assigned tiers are not considered billing errors or billing adjustments.
- B. Billing Period.** A specified period for which user charges are billed.
- C. Facial Challenge.** A challenge to a requirement that is based on an argument that the requirement cannot be applied fairly or reasonably in any situation. By contrast, an as-applied challenge is one based on an argument that a requirement should not be applied to the challenger's particular situation because of factors that, in the challenger's view, distinguish it from similar situations.
- D. Metered Water Volume.** The measured water usage, as indicated by a water meter.
- E. Mixed-Use.** A combination of residential and nonresidential uses on the same tax lot, property, or site.
- F. Nonresidential Customer.** A ratepayer in possession of a property identified in county tax records as a nonresidential use such as, but not limited to, a commercial, industrial, or institutional use.
- G. Residential Customer.** A ratepayer in possession of a property identified in county tax records as residential use, such as, but not limited to, single-dwelling and multi-dwelling residential uses.
- H. Unit of Water.** The equivalent of 100 centum cubic feet (ccf) of water.
- I. User.** A person who uses the property that is connected or discharges to the City's sanitary sewer, combined sewer, or stormwater management system or who receives a direct or indirect benefit from City sanitary sewer or stormwater management services.

4. Regulatory Authority

These rules are authorized by PCC Chapter 3.13 and implement PCC Chapter 17.36.



5. Sanitary Sewer User Charges

Sanitary sewer user charges apply to any person who discharges into the City's sanitary or combined sewer system, regardless of source, or who receives a direct or indirect benefit from City sanitary sewer management services. Sanitary sewer user charges may be based on metered, estimated, or class-average discharge volumes. In addition to volumetric user charges, submeter or special meter fees, account service fees, and extra-strength sewer charges may apply.

- A. Residential User Charges.** Residential accounts are generally billed for sanitary sewage discharge volume based on metered water volumes recorded during the winter review billing period (December 1 through April 30) and an average winter water use during all non-winter review billing periods. The City will assign a minimum use discharge volume for accounts with minimal metered water volumes recorded during the winter review billing period. In situations where there is insufficient usage data or where water is supplied by a non-City source, the City may bill sanitary sewer user charges on a class average discharge volume.
- 1. Winter Review Period.** Residential accounts are billed based on the metered water volume during the winter review period. The winter review period generally represents the volume of water used indoors and discharged to the sanitary sewer system, thereby reducing the potential of including metered water volumes attributed to irrigation usage.
 - 2. Non-winter Period.** For all non-winter billing periods, residential accounts with a winter average are billed based on that winter average or on actual use, whichever is less. Ratepayers without a winter average are billed based on class average or actual use, whichever is less.
 - 3. Winter Average.** Winter averages are comprised of all meter reads recorded during the winter review period (December 1 through April 30) and prorated to the length of the billing period. Winter averages for monthly, bimonthly and quarterly billing frequencies are calculated based on the average metered water volume recorded between discrete periods:
 - a.** Charges for accounts that are billed monthly are calculated based on the average metered water volume billed between December 1 and April 30.
 - b.** Charges for accounts that are billed bimonthly are calculated based on the average metered water volume billed between January 1 and April 30.
 - c.** Charges for accounts that are billed quarterly are calculated based on the average metered water volume billed between February 1 and April 30.
 - 4. Minimum Use Discharge Volume.** Residential accounts with metered water volumes of 1 ccf or less during the winter review period will be billed based on a minimum use discharge volume. The minimum discharge volume establishes an equitable means to cover the cost of the facilities and systems that serve all customers, regardless of actual usage.



5. **Class Average Discharge Volume.** A residential account will be billed based on a class average discharge volume when any of the following are true:
 - a. **Metered Water Volume Unavailable.** Metered water volumes are unavailable or have not been received to calculate user charges for the billing period, including metered water volume data for customers served by other water service providers.
 - b. **New Accounts After Winter Review.** For new residential accounts activated after the designated winter review period, historical water usage data is unavailable for establishing an accurate baseline.
 - c. **Insufficient Winter Usage Data.** There is insufficient data to establish a winter average.
 - d. **Water Not Supplied from a Public Water Service Provider.** Water is supplied from a source other than the City or other public water service provider, such as, but not limited to, a well, spring, river, or creek.
- B. **Nonresidential User Charges.** A nonresidential account is billed sanitary sewer user charges based on the metered or estimated volume discharged to the sanitary or combined sewer system. Methods for determining discharge volumes include, but are not limited to, metered water volumes, approved discharge meters, and submetering consistent with the City’s Submeter Program and Administrative Rule ENB-4.32.
 1. **Mixed use.** Where residential and nonresidential uses share the same water supply, the City will calculate user charges consistent with nonresidential user charge methodology. User accounts will be billed at the nonresidential user charge rate unless water usage for all residential and nonresidential use areas is metered and billed separately.
 2. **Non-City-supplied water sources.** When water is supplied from a source other than the City, user accounts will be billed at the nonresidential user rate based on metered or estimated discharge volumes consistent with the City’s Submeter Program and Administrative Rule ENB-4.32.
 3. **Extra-Strength User Charge.** Any person discharging high-strength wastewater to the sanitary or combined sewer system will be subject to applicable extra-strength sewer charges, in addition to the nonresidential volume-based user charge. Extra-strength sewer user charge program requirements and charge methodologies are described in Administrative Rule ENB-4.25.
 - a. An account for a property identified in county tax records as a residential use that is also permitted for nonresidential uses or activities may be classified as mixed use for billing purposes and subject to applicable nonresidential and extra-strength user charges.



6. Stormwater Management User Charges

Stormwater management user charges apply to any person who receives a direct or indirect benefit from City stormwater management services. Stormwater management user charges are based on the user's proportionate share of City stormwater management services. These charges are calculated based on stormwater equivalent service units (ESU) and the amount of stormwater billable area (SBA). The City will round the ESU value up to the nearest hundredth when the ESU is calculated based on the amount of SBA or number of dwelling units.

A. Stormwater Equivalent Service Units

1. **Residential Users.** The stormwater equivalent service unit (ESU) for residential uses will be calculated as follows:
 - a. A property with a single dwelling residential unit, duplex, or a single dwelling unit with an Accessory Dwelling Unit (ADU) on the same account will be assigned 1.0 ESU per dwelling unit.
 - b. A property with a multi-dwelling residential development of three or more dwelling units per account will be assigned 0.65 ESU per dwelling unit.
 - c. The ESU for floating home communities will be based on the amount of overland SBA, where 2,400 square feet equals 1.0 ESU.
2. **Nonresidential Users.** The ESU for nonresidential users will be calculated based on the amount of SBA, where 2,400 square feet equals 1 ESU.
3. **Mixed Use.** Properties defined as mixed use will be assigned 0.65 ESU for each dwelling unit.

B. Stormwater Billable Area

1. **Residential Users.** Residential accounts will be billed based on an assigned tier, a class average, or the measured or estimated amount of SBA as published in the bureau's rate ordinance, Binding City Policy ENB-4.20.
 - a. For residential accounts billed based on an assigned SBA tier (i.e., Tier 1, Tier 2, or Tier 3), the ratepayer may petition the City to change the tier by providing additional site-specific SBA data. The City will review the data and, if appropriate, update the SBA tier assignment. Updates will be effective upon the City's determination. A change to an assigned SBA tier is not considered a billing error or billing adjustment. Charges billed prior to any SBA tier update are not eligible for refund or credit.
 - b. For residential accounts billed on an assigned tier, the City will assign an SBA amount consistent with Tier 2 when sufficient SBA data is unavailable.
2. **Nonresidential Users.** Nonresidential accounts will be billed based on the measured or estimated amount of SBA.
3. **Mixed Use.** Mixed-use properties will be billed based on the measured or estimated amount of SBA.



4. **Unoccupied or Vacant Properties.** Accounts for unoccupied or vacant properties that receive a direct or indirect benefit from City stormwater management services will be billed applicable stormwater management user charges. An account for an unoccupied or vacant property will not be billed stormwater management user charges if the property contains no SBA.
 - a. Previously developed properties will not be billed stormwater management user charges following confirmation by the City Administrator that the site has no SBA. Confirmation will be based on available City records including, but not limited to, final demolition permits and archived aerial photography. When a demolition permit exists, the date the permit was finalized by the City will be the date used to confirm that all SBA was removed.
- C. **Multiple Accounts on a Single Tax Lot.** Where multiple accounts are associated with a single tax lot, the City may consolidate and allocate all stormwater management user charges to a single account.
- D. **Managed Floodplain (previously called Drainage Districts).** Residential and nonresidential user accounts for properties within the managed floodplain (formerly drainage district) boundaries may be billed based on a unique stormwater management user charge rate. User charges are calculated consistent with the residential and nonresidential stormwater management user charge methodologies described in this rule.
- E. **Clean River Rewards.** A ratepayer who controls and manages the quality and quantity of stormwater runoff from impervious surfaces on their property may receive discounts on the eligible component of the total stormwater management user charge. Discount amounts are based on providing onsite stormwater management consistent with the City's Clean River Rewards Program and associated Administrative Rule ENB-4.16.

7. Portland Harbor Superfund Charge

The Portland Harbor Superfund charge is collected to support cleanup activities related to the Portland Harbor Superfund Site. This charge is billed as an additional sewer user charge and is the sum of the following two rate calculations:

- **Sanitary Volume.** This portion of the charge is the billed sanitary sewer user volume multiplied by the Portland Harbor Superfund sanitary sewer volume rate.
- **Stormwater Billable Area.** This portion of the charge is the stormwater billable area multiplied by the Portland Harbor Superfund stormwater billable area rate.

8. Other Discharges Subject to User Charges

As a general user charge policy, all discharges to the City sanitary sewer, combined sewer, or stormwater management system will be subject to applicable sewer user charges. Users authorized to discharge to these systems are subject to applicable BES Submeter Program, batch discharge authorization, and construction dewatering permit requirements. User charges are based on metered, measured, or estimated discharge volumes. User charge rates are determined based on the receiving system:

- Any discharge to the sanitary or combined sewer system, regardless of source, will be charged at the applicable sanitary sewer volume rate.



- Non-stormwater discharges meeting water quality requirements that are authorized for discharge into the municipal separated storm system (MS4) will be charged at the clean-to-storm volume rate.

In addition to volumetric user charges, submeter or special meter fees, account service fees, permitting or authorization fees, and extra-strength sewer charges may apply.

9. Submeter Program Fees, Charges, and Credits

Nonresidential customers may request or be directed to participate in the BES Submeter Program to meter discharge volumes into the City’s sanitary sewer, combined sewer, or stormwater management systems. Program participants will be required to pay applicable Portland Water Bureau and BES administrative or special meter charges for each meter in use, which are assessed each billing cycle. Submeter program requirements, fees, charges, and credits are established in Administrative Rule ENB-4.32.

10. Collection of Charges

Utility billing, payments, service discontinuation, and billing adjustments are governed by PCC Chapter 17.36.

11. Administrative Review

A person may request reconsideration of a BES decision through administrative review as described in this Section. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal of a decision with the Code Hearings Officer (CHO) per PCC Title 22.

- A. **Administrative Review Requests.** A person to whom a notice was addressed will have 20 business days from the date the notice is issued to submit a written request for administrative review of a decision described in the notice. The requestor must provide all information known to the requestor that supports an assertion made in the written request for administrative review. The requestor must provide such information via graphic, written, or recorded communication or in person at the administrative review meeting. BES will hold an administrative review meeting within 15 business days of receipt of the written request for administrative review unless BES determines in its reasonable discretion that a delay is justified. The requestor may provide detailed information in writing in lieu of attending the administrative review meeting.
- B. **Non-Reviewable Items.** A BES decision made under these rules is subject to administrative review except that BES will not grant administrative review for the following:
 1. Public sewer and stormwater management user rates and charges, including class average and minimum use values, adopted by City Council;
 2. Public sewer and stormwater management user billing methodology;
 3. A change to the assigned SBA tier following the City’s review of a petition submitted by the ratepayer;
 4. A requirement stated in these rules or in associated City Code provisions; and
 5. A Facial Challenge, as that term is defined in these rules, to a requirement in these rules or associated City Code provisions, or to any technical standard.



- C. **BES Evaluation.** BES will use authorizing City Code provisions, the provisions of these rules, City records, and the testimony and documentation provided by the requestor to make a final determination on the issue that is the subject of the administrative review.
- E. **Final Determination.** BES will issue to the requestor a written determination within 15 business days of the administrative review meeting unless BES determines that extenuating circumstances justify a reasonably longer period of evaluation. The written final determination will provide information about the process for filing an appeal to the CHO.

