

**CHAPTER 17.36 – PUBLIC SEWER AND
DRAINAGE SYSTEM SERVICE CHARGES
AND FEES**

(Chapter replaced by Ordinance No. _____,
effective _____.)

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17.36.010 Intent.

This Chapter governs the collection of public sewer and drainage system service charges and fees by the Bureau of Environmental Services (BES) as authorized by the City Charter. It also includes collection processes applicable to other charges assessed by BES.

17.36.020 Definitions.

The following definitions apply to this Chapter:

- A. **“Billing Error”** means an instance in which a calculation or method used by the City for billing is not consistent, in the determination of the City, with adopted City Code or administrative rule provisions for billing sewer volume and stormwater management charges.
- B. **“Biochemical Oxygen Demand (BOD)”** means the quantity of oxygen utilized in the biochemical oxidation of organic matter per 40 CFR 136, “Guidelines Establishing Test Procedures for the Analysis of Pollutants.”
- C. **“Connection Charge”** is a general term used to describe any charge assessed by the city for providing public sewer and stormwater management services to a property. Connection charges include, but are not limited to, System Development Charges (SDCs).
- D. **“Director”** means the Director of BES or the Director’s designee.

- E.** “**Equivalent Dwelling Unit (EDU)**” means the estimated monthly equivalent impact on the public sewer and drainage system of an average residential single-dwelling development.
- F.** “**Equivalent Service Unit (ESU)**” means a measure of a property’s impact on the City’s stormwater management services. For residential uses, it is based on the estimated average occupancy of a dwelling. For commercial ratepayers, it is based on an estimated class average stormwater billable area.
- G.** “**Extra-Strength Charge**” means the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Chapter, administrative rule, and annual rate ordinance.
- H.** “**High-Strength Wastewater**” means wastewater that has a BOD concentration in excess of 300 mg/L or a TSS concentration in excess of 350 mg/L.
- I.** “**Impervious Area**” means the measured or estimated area of impervious surfaces on a site.
- J.** “**Impervious Surface**” means any surface exposed to rainwater off of which most water runs. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, vegetated or pervious areas over pavement or structures, parking lots or storage areas, concrete or asphalt paving, and compacted gravel or compacted soil.
- K.** “**Net New Stormwater Billable Area**” means the difference between existing stormwater billable area on a property and any increase in stormwater billable area that results from a proposed use of the property.
- L.** “**Rate**” means the multiplication factor used to generate a service charge based on cost-per-unit proxies including, but not limited to, gallons of discharge, drainage fixture units, or square feet. Rates can be multiplied by other factors.
- M.** “**Ratepayer**” means a person who:
1. Has the right to possession of a property;
 2. Causes or permits the discharge of sanitary sewage into the public sewer and drainage system; or
 3. Benefits directly or indirectly from sewer or stormwater management services provided to the property by the City.
- N.** “**Rolling Average**” means the average of the 10 most recent monthly averages of representative City- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate, unless another period is approved by the Director.

- O. **“Sanitary Sewage”** means wastewater discharged to the public sewer and drainage system by permit or other approval of the Director and includes, but is not limited to, domestic wastewater, industrial and commercial process wastewater, and contaminated stormwater.
- P. **“Stormwater Billable Area”** means the sum of a property’s impervious area and area of pervious pavement, excluding areas covered by compacted soils and compacted gravels.
- Q. **“Stormwater Management Services”** means services and actions that collect, convey, detain, retain, treat, or dispose of stormwater. These services include managing stormwater runoff from public streets, mitigating flooding, preventing erosion, improving water quality of stormwater runoff, collecting and conveying stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigating impacts to natural habitats caused by stormwater runoff, and protecting properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.
- R. **“System Development Charge”** means a charge imposed on development that creates new or increased demand of the public sewer and drainage system.
- S. **“Temporary Connection”** means a connection to the public sewer and drainage system where the duration of the connection is less than three years and connection and disconnection each occur only once. A connection made to the public sewer and drainage system made for the purpose of environmental remediation will not be considered a temporary connection unless approved by the Director.
- T. **“Temporary Structure”** means a structure, including associated surface impervious areas, that is separate and distinct from all other structures and is created and removed in its entirety within three years.
- U. **“Total Suspended Solids (TSS)”** means the total suspended matter that either floats on the surface or is suspended in water or wastewater and that is removable by laboratory filtering in accordance with 40 CFR 136 Table B.
- V. **“User Charge”** means a charge for the use or benefit of public sanitary or stormwater management services.

17.36.030 Annual Rate Ordinance.

Charges authorized by this Chapter pay for the City to provide sewer and stormwater management services. Charges are calculated based on true costs of service or may be based on rates per unit volume, usage, or area served. Charges, fees, and rates are established through the BES rate ordinance, adopted annually by the City Council.

17.36.040 System Development Charges.

All development projects that create a new or increased demand on the public sewer and drainage system are subject to sanitary and stormwater SDCs. SDCs are intended to promote equity between new and existing customers by recovering a proportionate share of the cost of existing and future capital facilities that serve or will serve the developing property.

- A.** Sanitary System Development Charge. Sanitary SDCs for residential and nonresidential development are based on the net increase of sanitary flow to the public sewer and drainage system as measured by proposed drainage fixture units (DFU). For the purposes of calculating sanitary SDCs, DFU values are determined based on the Oregon Plumbing Specialty Code (OPSC). The methodologies used to calculate sanitary SDCs and SDC credits are described in Administrative Rule ENB-4.05. Sanitary SDC credits, if available, remain with the property to which they were purchased and are not transferable.

- B.** Stormwater System Development Charges. Stormwater SDCs for residential and nonresidential development are based on the net increase of impact on the storm system using measured square feet of stormwater billable area on a site. The methodologies used to calculate stormwater SDCs and SDC credits are described in Administrative Rule ENB-4.05. Stormwater SDC credits, if available, remain with the property to which they were purchased and are not transferable.

- C.** Payment. Payment of SDCs is required prior to issuance of a building permit, connection permit, or plumbing permit.
 - 1.** Prepayment. A person may pre-pay connection charges by providing a letter of intent that includes the parcel description and address, if applicable, and an estimate of DFUs, stormwater billable area, and dwelling units. The Director may grant a refund at any time for excess charges at the rate in effect at the time of building permit or connection. Prepayment does not guarantee reserved system capacity or usage of public sewer and drainage system.

 - 2.** Bonding. The Director may accept a cash or surety bond posted by the owner of the occupancy in lieu of immediate payment of the charge if:
 - a.** The amount of DFUs, stormwater billable area, or dwelling units for the occupancy cannot be determined before the permit is issued; or

 - b.** The Director has determined the amount of DFUs, stormwater billable area, or dwelling units for the occupancy but the applicant does not agree with the Director's determination.

3. Deferral. Users who qualify to defer SDCs but who want to connect to the system can defer payment until such date as the Director may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid after a period of 90 days from the date due and bear interest and penalties. Users may convert the deferral to an installment payment loan.
- D. Temporary Use. Temporary structures and connections are not subject to SDCs. SDCs, including penalties and interest charges, become due and payable for structures or connections that are not removed within three years. Temporary structures and temporary connections are not exempt from paying user charges, including extra-strength charges.
- E. Exemptions. Certain structures and uses are exempt from some or all SDCs as described in PCC Chapter 17.14 and Administrative Rule ENB-4.05.

17.36.050 User Charges.

- A. Sanitary Sewer Services
 1. Sanitary Sewer User Charge. All ratepayers who discharge to the City's sanitary sewer system must pay the sanitary sewer user charge. Charges for sanitary sewer services may include, but are not limited to, sanitary sewer volume charges and account service charges. These charges are calculated on a routine basis, such as monthly, bi-monthly, or quarterly frequencies. The methodologies used to calculate sanitary sewer user charges are described in Administrative Rule ENB-4.09. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.
 - a. Residential. Residential ratepayers are billed based on the actual metered water volume recorded during the winter billing period as described in Administrative Rule ENB-4.09. The winter billing period is designed to estimate water volume used indoors and discharged to the sanitary sewer system.
 - (1) During the non-winter billing period, residential ratepayers are billed based on a winter average, minimum use average, or class average as described in Administrative Rule ENB-4.09.

- (2)** Class Average. Class average volumes are assigned for:
 - (a)** Any ratepayer account for which the City does not receive meter reads to verify water use, including those with private or alternative water sources;
 - (b)** New ratepayer accounts started outside the winter billing period; and
 - (c)** Existing ratepayer accounts that have insufficient data to determine the winter average or billable sewer volume.

b. Nonresidential. Nonresidential ratepayers, including commercial, industrial, and institutional users, are billed sanitary sewer user charges based on metered or estimated sewer discharge volume multiplied by the non-residential sewer services rate. Methods for measuring or estimating sewer volume include charge meters, process inflow meters or water meters, historical water use, measured discharge, or other methods approved by the City. Any measured or estimated volume determinations that include water not entering the sewer system may be eligible for a reduction in sewer user volume charges pursuant to Administrative Rule ENB-4.32.

- (1)** Mixed Use. Where residential and nonresidential uses share the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for nonresidential uses unless water usage is metered or billed separately for residential and nonresidential uses.
- (2)** Mobile Discharges. User charges are applicable to all wastewater discharges to the City sewer system regardless of the source. In circumstances where the wastewater discharge is not from a fixed location, including, but not limited to, ships, barges, houseboats, and other movable facilities or dwelling units, the Director will estimate the volume of water to which user charges apply unless the ratepayer has provided another method of determining the volume that has been approved by the Director.

- (2) The total metered water volume supplied to the premises. The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or non-contact cooling waters and the user provides a meter or other measurement method as identified in administrative rule. For multiple tenant buildings with shared water service, extra-strength charges will be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.
- (3) The billing methodologies identified in Administrative Rule ENB-4.25, which include:

 - (a) Measured ESC Method. This method is based on rolling average sampling and analysis of the ratepayer's wastewater discharge volume and pollutant loading. Billing is based on a rolling average of sample results as described in Administrative Rule ENB-4.25.
 - (b) Class Average ESC Method. This method is based on a ratepayer's business type and its assumed average discharge concentration per the Class Average Table included in Administrative Rule ENB-4.25.
- b. The Director may approve a custom billing methodology for a ratepayer when the characteristics of their wastewater discharge make it impractical to apply the calculation methodologies as prescribed in administrative rule. Custom billing methodologies will be consistent with the intent and purpose of this Chapter and Administrative Rule ENB-4.25.

B. Stormwater Management Services

1. Stormwater Management User Charge. All ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the stormwater management user charge. This charge is based on the user's proportionate share of City stormwater management services.

 - a. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.

- 2.** Basis of Charge. Stormwater user charges are calculated based on the site's measured or estimated stormwater billable area and equivalent service units. The following areas are excluded from a property's stormwater billable area: Right-of-way dedicated to the public and over which the City exercises regulatory jurisdiction and management; and outdoor recreation areas, except for associated parking lots and buildings, that are owned by governmental bodies and available to the general public at all times without fees for use.

 - a.** Class Average. A property's stormwater billable area is assumed to be equal to the class average stormwater billable area for the property's class unless the property has been measured to the satisfaction of the Director.
- 3.** User Service Charges. Stormwater user charges are calculated based on the user's proportionate share of City stormwater management services. The methodologies used to calculate stormwater user charges are described in Administrative Rule ENB-4.09. Rates are published in the annual rate ordinance, Binding City Policy ENB-4.20.

 - a.** Residential. Residential users are charged based on tiered class averages, class averages, or measured stormwater billable area, depending on the number of dwelling units on a tax lot.
 - b.** Nonresidential. Nonresidential users are charged based on measured stormwater billable area.
 - c.** Drainage Districts. Users within a drainage district boundary are charged a unique rate for each user type. The basis of charge is the same as for users in the rest of the city.
 - d.** Multiple Accounts on a Single Tax Lot. Where multiple nonresidential ratepayer accounts are associated with a single tax lot, BES will allocate all stormwater management user charges to a single account.
- 4.** Clean River Rewards. Ratepayers that control and manage the quality and quantity of stormwater runoff from their properties may receive discounts towards the eligible component of the total stormwater management charge. Discount amounts are based on meeting the applicable standards of the Stormwater Management Manual (SWMM). Clean River Rewards program requirements are described in Administrative Rule ENB-4.16.

17.36.060 Additional Service Fees.

The following fees are only applicable to certain user groups and are assessed in addition to other user charges. Users may be subject to one or more of these charges. The applicable charge rates are provided in the BES annual rate ordinance.

- A.** Development Review Fees. BES may establish fees for the review of development, including building plans and land use proposals, to ensure compliance with the requirements of this Title. The Director may enter into agreements with the Bureau of Development Services to manage the collection of these fees on behalf of BES. The Director shall have the discretion and authority to waive all or a portion of development review fees and may adopt rules and procedures to refund, reduce, or waive development review fees in administrative rule or BES's annual rate ordinance.
- B.** Industrial Wastewater Permit Fees. Permitted industrial users must pay industrial wastewater permit fees based on the level of permit complexity, regulatory history, and amount of BES administrative oversight. Fee components are based on whether an industrial discharger is a categorical industrial user, significant industrial user, or neither. Additional charges, including extra-strength charges, may be applied as described in this Chapter and administrative rule. Discharge rates are published in the BES annual rate ordinance, Binding City Policy ENB-4.20.
- C.** Batch Discharge Authorization Review Fees. Users requesting authorization for controlled discharge of a discrete, contained volume of wastewater from their site must pay the batch discharge review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Batch discharge volumes are charged at the nonresidential sanitary sewer rate and may be subject to additional extra-strength charges. Discharge rates are published in the BES annual rate ordinance, Binding City Policy ENB-4.20.
- D.** Construction Dewatering Permit Review Fees. Users requesting authorization for temporary construction dewatering to the public sewer must pay a dewatering permit review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Discharge rates are determined by the receiving sewer system as published in the annual rate ordinance, Binding City Policy ENB-4.20. Discharges to the sanitary sewer system may be subject to additional extra-strength sewer charges.

- E.** Discharge Authorization (DA) Review Fees. Users that request or that are required to obtain a DA pursuant to PCC Chapters 17.34 or 17.39 must pay a discharge authorization review fee. This fee reimburses the City for services including, but not limited to, site research, system capacity analysis, pretreatment and source control evaluation, permit administration, and monitoring. Discharge rates are determined by the receiving sewer system as provided in the BES annual rate ordinance, Binding City Policy ENB-4.20. Discharges to the sanitary sewer system may be subject to additional extra-strength sewer charges.
- F.** Additional Sampling Fees. Additional City sampling and analysis beyond the cost already incorporated in other compliance or monitoring fees is based on cost-of-service principles and recovers the cost of materials and services provided by BES.
- G.** Administrative Fees and Penalties. The City may charge administrative fees and penalties to users for, but not limited to, the collection of delinquent utility bills, processing special tax assessments, denial of entry, or falsification of records. Fees are published in the annual rate ordinance, Binding City Policy ENB-4.20, or are based on the City's cost recovery principles.
- H.** Charges for Other Services. For the provision of services for which a charge is not otherwise established by Code, administrative rule, or policy, charges shall be calculated as provided in the City's comprehensive financial management policies. Charges are calculated based upon cost-of-service principles and recover the cost of materials and services provided by BES.

17.36.070 Service Outside the City.

- A.** The City charges for the use of sanitary sewer and stormwater management services from properties outside the city in compliance with the City's urban services policy and based on annually-established rates.
- B.** The Director determines whether a property is inside or outside of the city limits. For purposes of this Section, the property is outside of the city limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the city limits.
- C.** The Director may require and enter into agreements for and on behalf of the City permitting connection and providing sanitary sewer or stormwater management services to properties outside the city when the Director finds such service feasible and appropriate.

17.36.080 Collection of Charges.

- A.** All charges for services provided to a property are the responsibility of, in the City's sole determination, the ratepayer or, if different, the property owner. This responsibility may attach to the ratepayer's or property owner's subsequent City utility accounts and applies whether the ratepayer or property owner is the sole user of the services or furnishes them in turn to third parties.

1. For an account for which the City does not have the ability to curtail water service, the City may certify to the appropriate County Tax Assessor the amount of any delinquent user charges, fees, and penalties associated with services provided. Those charges, fees, and penalties will then be assessed and collected in the same manner as property taxes.
 - a. The City may include in the assessed amount additional penalties. Penalties will be described in BES's annual rate ordinance.
 - b. Both tenant-occupied and owner-occupied properties are subject to assessment. The owner of a tenant-occupied property may be subject to collection efforts and special tax assessment for all unpaid City utility charges, fees, and penalties.
- B. Billing Due Dates. User charges are computed monthly, bimonthly, or quarterly, coincident with user charges for water service.
 1. When billed with the utility bill, user charges are due and payable on the date provided on the utility bill. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.
 2. For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly.
- C. Collections. Upon determination by the Director that a charge is past due or otherwise delinquent, the City may avail itself of the full range of actions authorized by this Code.
- D. Discontinuation of Services. Charges not paid in accordance with the due date in the bill or invoice may be subject to water shutoff pursuant to Title 21 of this Code. The Director, with approval of the Commissioner-in-Charge, may also discontinue sanitary sewer service by plugging the sewer service line to properties whose delinquent user charges exceed \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to plug the sewer not less than 30 days prior to disconnection. Payment of, or a City-approved payment plan for, the delinquent amount, including outstanding user charges, accrued interest and collection costs, and all costs associated with plugging and reconnecting the sewer line, must be received by the City before the property may be reconnected to the public sewer.

17.36.090 Adjustments, Corrections, and Refunds.

- A. The Director may authorize an adjustment of up to \$5,000 to a ratepayer's utility account separate from or in addition to the amount of a billing error correction when it is deemed necessary for the proper conduct of the business of BES to do so.

- B. When BES determines that a billing error has occurred, the Director may authorize an adjustment of the ratepayer's utility account for the period of the error, not to exceed three years from the date the error is identified and documented by BES. Corrections can only be made when consumption or billable area data and billing amounts can be validated by ratepayer or City records, to the satisfaction of the Director.
- C. Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end six months after the date a final bill was issued for the subject account. The Director may authorize an adjustment to the outstanding balance of a closed utility account more than six months after the issuance of the account's final bill if the error resulted from fraudulent activity or inaccurate information provided to the City.
- D. Adjustments will be in the form of credits or additional charges to active utility accounts. Refunds for billing adjustments are reserved for ratepayers who do not have active utility accounts and must be approved by the Director.
- E. Ratepayers who receive a back-billing or a delayed billing resulting from a City billing error will be offered the opportunity to pay the balance due over a set period based on then-current City collection policies.

17.36.100 Financial Assistance

BES may provide financial assistance to eligible property owners to assist with sewer connections and to prevent disruption of service. Financial assistance in the form of loans and payment deferrals is available as described in Administrative Rule ENB-4.28.

17.36.110 Inspections.

- A. Right of Entry. To the full extent permitted by the law, the City may enter all private and public premises at any time for the purpose of inspecting sources of potential or actual discharges to the public sewer and drainage system and to perform any other lawful act required by or authorized under this Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices as necessary to conduct sampling, inspection, testing, monitoring, and metering operations to determine compliance with the requirements of this Chapter. City representatives may not be required to, and will not, sign any type of confirmation, release, consent, acknowledgement, or other type of agreement as a condition of entry.
- B. Conditions for Entry.
 - 1. The City representative will present appropriate credentials at the time of entry.

2. The City representative will comply with routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator must provide the City representative with any facility-specific safety protective equipment necessary for entry.

17.36.120 Enforcement.

- A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:
 1. Meter Tampering. It is unlawful to install, change, bypass, adjust, or alter any metering device or piping arrangement connected therewith in order to falsify the quantity of water discharging to the public sewer and drainage system.
 2. Sampling Tampering. It is unlawful to tamper in any manner with City-owned or City-installed sampling equipment or samples therefrom.
 3. Falsifying Applications of Record. Ratepayers shown to have falsified applications and records may be subject to enforcement.
 4. Denial of Entry. Ratepayers that do not allow the City right-of-entry as described in this Chapter may be subject to enforcement.
- B. Enforcement. Enforcement actions may include, but are not limited to:
 1. Withholding of City services;
 2. Withholding of City permits;
 4. Reversal or suspension of reduced charges or credits, as appropriate, and disqualification from applicable program participation;
 5. Account billing for the full amount of water passing through the supply meter or an amount deemed appropriate by the Director; and
 6. Assessed civil penalties per Administrative Rule ENB-4.15.

C. Civil Remedies.

- 1.** In addition to the remedies provided by any other provision of this Chapter, the City may obtain, in any court of competent jurisdiction, a judgment against a person or property failing to comply with the provisions of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit charges, overhead costs, penalties, and other charges as determined by the Director.
- 2.** In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may commence and maintain an action or proceeding in any court of competent jurisdiction to compel compliance with, or prevent by injunction, the violation of any provision of this Chapter.

17.36.130 Administrative Review and Appeal.

A ratepayer, property owner, or owner's agent may request modification of a BES decision related to this Chapter as described in this Chapter via administrative review with BES staff to the extent allowed by administrative rule. After the requestor has exhausted all BES administrative reviews, the requestor may appeal a BES decision to the Code Hearings Officer per PCC Title 22 to the extent allowed by administrative rule.