

ORDINANCE NO. 2481

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 15.90.030 PER POUND EXTRA STRENGTH WASTEWATER CHARGES

Recital

- A. In January 1983, the City of Bend adopted Ordinance NS-1368, which regulated industrial wastewater discharges. Ordinance NS-1368 expressly authorized a sewer extra strength charge ("ESC").
- B. In January 2014, the City amended the Bend Municipal Code to add a new Chapter 15.90, Sewer Extra Strength Charge. The purpose of the extra strength sewer charge is to recover the cost of treating extra strength wastewater discharged into the City of Bend sewer system. The additional charges to ratepayers for extra strength wastewater is necessary for rate equity and to prevent the high cost of treatment of extra strength wastewater from being passed on to all other ratepayers.
- C. Chapter 15.90.030 instituted two rate structures applicable to ratepayers who discharged extra strength wastewater. The first, the "Industry Average Rate," requires nonresidential ESC customers to pay a low, medium, high, and super high rate set by Council resolution based on industry average discharges. The second, the "Monitored Rate," allows certain nonresidential customers to pay a rate set by Council based on the actual strength of the discharge based on samples taken periodically by either the customer or the City.
- D. In April 2022, The City conducted a follow up rate study in 2022 that identified an additional rate type, known as the "Per Pound Rate," to allow the City to refine billing for ESC customers with pre-treatment capabilities.
- E. The Bend City Council now wishes to amend Section 115.90.030 to authorize per pound rate for ESC billing. The Per Pound Rate type requires customers to determine the daily amount of BOD and TSS discharged in the City's sewer system in order to more accurately calculate the cost to the City for treatment of the wastewater. This encourages customers to pre-treat waste, which in turn reduces overall treatment costs, and promotes water conservation.
- F. This amendment also modifies the average biochemical oxygen demand ("BOD") and total suspended solids ("TSS") concentrations above which a noncommercial customer is required to participate in the Monitored Rate program. This change aligns with the Monitored Rate program requirements with the Extra Strength Categories Table used for the Industry Average Rate.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

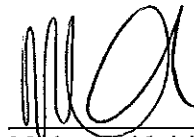
- Section 1.** Section 15.90.030 of the Bend Code is amended to read as shown on the attached Exhibit A.
- Section 2.** All other provisions of Chapter 15.90.030 Bend Code remain unchanged and in full effect.
- Section 3.** If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading Date: June 7, 2023

Second Reading and adopted by roll call vote on June 21, 2023

YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Megan Perkins
Councilor Ariel Méndez
Councilor Mike Riley

NO: none



Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

15.90.030 Rate Types.

Ratepayers who discharge extra strength wastewater shall pay an ESC using either the (A) Industry Average Rate, (B) the Monitored Rate, or (C) the Per Pound Rate.

A. *Industry Average Rate.*

1. All nonresidential customers who are not paying the Monitored Rate or Per Pound Rate whose wastewater discharges exceed residential strengths for BOD or TSS shall pay the Industry Average Rate.

2. The ESC Industry Average Rate shall be established by Council resolution setting rates based on the following categories: low, medium, high, and super high. The City Council shall establish by resolution an Extra Strength Category Table that lists the industries in each category. The City Manager shall maintain and may amend the Extra Strength Category Table.

3. The ESC sewer volume charge shall be based on the winter quarter average water consumption of the customer, and the amount shall be adjusted annually in the spring based on the most recent winter quarter average data. For new customers, the volume charge shall be based on a default average consumption value established in the City's fee resolution. The rates in the ESC industry average rate may include a phased rate increase, with initial rates that do not cover all extra strength costs, over a period to be established by City Council resolution.

4. Any changes in use of a nonresidential property or in processes that may affect the strength of wastewater discharges shall be reported to the City's Utility Billing Department by the customer. In addition, any changes in business practices at a particular nonresidential property that may affect the strength or distribution of strengths of wastewater shall be reported to the City's Utility Billing Division.

5. When a single sewer account includes discharges from multiple sources, the account holder shall assign a proportionate share to each use, subject to City review and approval. The sewer volume charge will be applied by the City taking into account the proportionate use provided by the account holder. In the event that the account holder does not provide the City with an assignment of proportionate use, the total volume for the account will be assigned the highest strength among the sources of discharge on the account.

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6. Any customer may request reclassification under BC 15.90.050 at the time the classification is initially assigned, after any change in classification, or after any change in use or practice at the property.

B. Monitored Rate.

1. Nonresidential sewer customers may pay the ESC based on their sewer discharge if they are eligible for and participate in the ~~Monitored Rate~~, as established in this subsection (B).

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2. Customers are eligible to participate in the monitored rate program if there is a secure and accessible sampling location for the customer's discharge that allows representative samples to be taken; and

3. Customers with an average ~~BOD concentration of 2,000 mg/L and/or TSS concentration greater than 2,000 mg/L~~ must participate in the ~~Monitored Rate~~, unless the customer applies for and is accepted into the Per Pound Rate.

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4. Any nonresidential customer may apply to be in the ~~Monitored Rate~~. The application shall be accompanied by an application fee in an amount established in the City's fee resolution. Customers that paid an ESC to the City prior to January 1, 2013, shall be exempt from the application fee for applications submitted prior to January 1, 2015.

5. An individual monitored program for each customer shall be established and agreed to in writing by the applicant for inclusion in the monitoring program. Each monitoring program shall be consistent with the City's sampling standards and include:

- a. A description of the sampling location.
- b. A sampling schedule for the samples to be taken by the customer.
- c. The ability for the City to access the sampling site and take samples.
- d. A requirement that the customer samples be analyzed for BOD and TSS by an independent laboratory approved by the City.
- e. An agreement on when the data will be presented to the City for monthly billing purposes.

6. On determination of the actual strength of the discharge as monitored, the customer shall pay the rate based on monitored load established by the Extra Strength Category Table, based on a 12-month rolling average basis.

7. The application for participation in the Monitored Rate shall include a consent to the City's inspection of the property where the sewage discharge occurs to take samples and to inspect for compliance with the Monitored Rate and established agreement. [Ord. NS-2242, 2015; Ord. NS-2212, 2014]

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C. Per Pound Rate.

1. Nonresidential sewer customers may pay the ESC based on their sewer discharge if they are eligible for and participate in the Per Pound Rate as established in this subsection (C).

2. Customers are eligible to participate in the Per Pound Rate if there is a secure and accessible sampling location for the customer's discharge, as defined in Chapter 15.60.020, that allows flow paced composite samples to be taken, and the customer has approved sampling and monitoring equipment necessary to provide daily self-analysis of BOD and TSS concentrations and daily process wastewater flow. Samplers shall be located in an area accessible by the City during regular business hours.

3. Any nonresidential customer may apply to participate in the Per Pound Rate. The application shall be accompanied by an application fee in an amount established in the City's fee resolution.

4. Accounts that are accepted into the Per Pound Rate must enter into an agreement with the City that is consistent with the City's sampling standards and include:

- a. A description of the sampling location.
- b. A description of the sampling equipment and processes to be utilized.
- c. A sampling schedule identifying the time of day the flow paced composite sample will be taken.
- d. An agreement on when the data will be presented to the City for monthly billing purposes.

5. On determination of eligibility and upon execution of the agreement, customer shall pay a rate set forth in the City's fee schedule based on total pounds of BOD and TSS discharged per day, as well as the volume of waste discharged into the sewage system.

7. The application and agreement for participation in the Per Pound Rate shall include a consent to the City's inspection of the property where the sewage discharge occurs to take samples and to inspect for compliance with the Per Pound Rate and established agreement.