

## Exhibit A

## a. Add 17.36.010 BB. as follows:

**BB.** "Seed". A population of microorganisms capable of oxidizing biodegradable organic matter that is added to a wastewater sample as part of the analysis of biochemical oxygen demand (BOD). Approved seed shall be prepared primary effluent from the City's Columbia Boulevard Waste Water Treatment Plant.

## b. Renumber existing 17.36.010 BB.-KK. to 17.36.010 CC.-LL.

## c. Renumber and amend 17.36.030 as follows:

**17.36.19030 Appeal.**

If a property owner or owner's agent does not agree that the calculation of connection or user charges was administered as set forth in this Section, he or she may appeal to the Director for an administrative review. The owner or owner's agent must file a written appeal to the Director prior to payment or within 10 days of payment of the charge. ~~Upon receipt of the statement, the Bureau schedules the matter for review by the Director.~~ The owner or owner's agent has an opportunity to present evidence in the course of the review. The Bureau provides the owner or owner's agent a decision in writing within 10 days of the receipt of appeal request. Upon receipt of the statement, the Bureau of Environmental Services shall schedule the matter for review by the Director or his or her designated representative. The user shall receive a decision in writing within 30 days of the receipt of appeals request. A person aggrieved by any decision or determination of the administrative review process may appeal the decision to the Code Hearings Officer as provided in Chapter 22.10 of the Code of the City. ~~A request for an appeal hearing must be filed within 10 days after the date of the written decision of the Director. The Code Hearings Officer may waive this requirement for good cause shown. The request for an appeal hearing must be in writing and must contain a copy the decision appealed from and a statement of grounds upon which it is contended that the decision is invalid, unauthorized, or otherwise improper, together with such other information as the Code Hearings Officer may by rule require. The Code Hearings Officer may specify and provide hearing request forms to be used by persons requesting hearings.~~

**A. Appeals to specific programs.** The following specific programs have distinct appeal and administrative review processes as established in program administrative rules found on Portland Policy Documents:

1. Extra Strength Program (PPD item ENB 4.25)
2. Clean River Rewards Program (PPD item ENB 4.16)
3. Sewer User fees (PPD item ADM 14.02)

## d. Replace 17.36.110 to incorporate new seed [sub-bullet B.1.a.(3)] and class average requirements [B.2] and to reorganize and clarify the section as follows:

**17.36.110 Extra-Strength Wastewater Charges.**

**A.** Wastewater discharged to a City sewer, either directly or indirectly, is subject to the extra-strength sewage charge if the discharge has a biochemical oxygen demand or a total suspended solids concentration in excess of concentrations determined by the Director. The Director may establish concentrations of other pollutants which are to be subject to extra-strength sewage charges, and for the period until the next rate study, the rates to be charged for exceeding those allowed concentrations, as established, annually, by general ordinance. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of Chapter 17.34 Sanitary Wastewater Discharges.

- 1.** Concentration. Pollutants in excess of the allowable concentrations, specified in this Title, and by general ordinance, are subject to the extra-strength sewage charge rate (in dollars per 100 cubic feet) for the period throughout the time interval between sample periods or as defined by the Director.

**2. Volume.** The volume used to bill the extra-strength charge must be the total metered water supply to the premises. However, where the industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses must be made. For multiple tenant buildings with shared water service, extra-strength sewer charges shall be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.

**B. Methodologies for calculating extra-strength sewage charge rates.**

**1. Rolling Average.** The average concentration of daily representative samples taken over a representative period of 5 days is used to begin an extra strength sewage charge rate for a rolling average, except when another period is specified by the Director. Samples are taken at an approved sampling manhole or other appropriate location, as determined by the Director, so that samples will be representative.

**a. Self-monitoring.** The Director may authorize a user to submit monitoring data in support of extra-strength sewage charge rate calculations. Samples of wastewater being discharged into the sewer system must be representative of the discharge.

**(1) Self monitoring reports.** Self-monitoring reports must include sufficient information, for purposes of calculating the rolling average for Extra Strength Sewer Charges.

**(2) Analytical procedures.** All analytical data submitted for calculating extra-strength sewage charge rates must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register.

**(3) Laboratories analyzing for BOD must use approved seed in their analysis.** Laboratory reports must indicate the use of approved City seed in order for the data to be used in extra-strength sewage charge rate calculation. The Director may require that the City be provided with a split of any independent sample collected by the user for the purpose of extra-strength sewage charge rate calculation.

**b. Additional sample requests; fees.** Any user subject to rolling average monitoring may request the City to collect samples in excess of the prescribed criteria. Requests for the City to collect additional samples must be submitted in writing and accompanied by full payment, in accordance with the re-sampling fees established, annually, by general ordinance.

**(1) Split samples.** The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge rate be split with the user, as provided for in administrative rule.

**c. Slugloads.** The Director may allow the slugload provision as defined in Chapter 17.34 of this Code for purposes of Extra Strength Sewer Charges if the following conditions are met:

**(1) The discharge is non-representative of the industrial discharge due to it being a defined and unique event;**

**(2) The slugload was reported to the City within 24 hours of the incident;**

**(3) The sample result from the slugload exceeds 3 times the established standard deviation.** Once the Director allows the slugload provision, the City will follow the standard procedure for slugload as defined in Chapter 17.34 of this Code. The sample results will be used for calculating a single Extra Strength Sewer Charge based on the duration of the slugload and the concentrations of the results. The results will not be used for purposes of calculating the rolling average for Extra Strength Charges. The number of Extra Strength Sewer Charges slugloads may not exceed two per calendar year.

**2. Extra Strength Class averages.** The Director may establish through administrative rule a rate structure for users be billed extra-strength sewer charges based on the average

discharge concentration of their business class. Businesses subject to class average extra-strength sewage charges shall be eligible for rate reductions based on the verifiable implementation of approved best management practices, using criteria to be established by administrative rule.

**3. Other charge computations.** If unusual effluent conditions make calculation by the rolling average or the extra strength class average method difficult or impossible, the Bureau may implement another method of sampling and computation acceptable to the Director, and based on the rates established, annually, by general ordinance. The Director has the right to establish custom rates based on site specific conditions per the criteria in administrative rule.

**C. Billing.** Extra-strength sewage charges are either included with the City utility bill or are billed separately by the City Auditor. Extra-strength sewage charges are enforceable and collectable in the same manner as water and sewer user charges. If such charges are not paid pursuant to Title 21 of this Code, such nonpayment is cause for termination of water and/or sewer services.

**D. Minimal charges; suspension.** The Director may establish a minimum limit for periodic extra-strength charges using the rolling average method. The billing for all accounts whose periodic extra-strength sewage charges are below this minimum limit will be suspended or changed to the class average method until such time as they are found to be higher.

**E. Adjustments.** The Director may sample sewage strength as outlined in this Section and adjust charges where applicable at any time in accordance with the most recent analysis.