

PCC Chapter 17.36

2023 Update Summary of Changes

Chapter Title

- Focused changes to the title provide clarity and predictability regarding the intent of this Chapter.

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- Focused changes reflect updated section numbering and headings.

17.36.010 Intent.

- Focused changes improve clarity regarding the intent of this chapter to align terms with charter and code content language, and reflect the full scope of BES charges.

17.36.020 Definitions.

The following definitions were removed from Chapter 17.36:

- **“Branch”** This charge has been eliminated. Accordingly, this definition is no longer needed to support PCC Chapter 17.36.
- **“Branch Charge”** This charge has been eliminated. Accordingly, this definition is no longer needed to support PCC Chapter 17.36.
- **“Congregate Housing Facility”** Updates to sanitary SDC methodology are based on DFUs, not EDUs assigned to various structure or development types. As such, this definition is no longer needed to support PCC Chapter 17.36.
- **“Groundwater”** The same definition is also included in PCC Chapter 17.38. Removed from PCC Chapter 17.36 to avoid redundancy and to minimize the potential for inconsistent definitions resulting from future code updates to 17.38. A unique definition for this term is not needed for PCC Chapter 17.36.
- **“Groundwater Discharge”** The same definition is also included in PCC Chapter 17.38. Removed from PCC Chapter 17.36 to avoid redundancy and to minimize the potential for inconsistent definitions resulting from future code updates to 17.38. A unique definition for this term is not needed for PCC Chapter 17.36.
- **“ITE Manual”** Updates to Stormwater SDC methodologies no longer rely on vehicle trips or frontage. As such this definition is no longer needed to support PCC Chapter 17.36.

- **“Line Charge”** This charge has been eliminated. Accordingly, this definition is no longer needed to support PCC Chapter 17.36.
- **Net New Vehicular Trips”** Updates to Stormwater SDC methodologies no longer rely on vehicle trips or frontage. As such this definition is no longer needed to support this chapter.
- **“Non-Routine Discharge.”** Updates to the ESC section no longer require this definition. This term and associated policies are included in current BES Administrative Rule ENB-4.25.
- **“Sanitary Sewer Conversion Charge”** This charge will be removed from Chapter 17.36. Accordingly, this definition is no longer needed to support PCC Chapter 17.36.
- **“Seed”** This definition relates to the Extra Strength Charge Program but is not needed to support PCC Chapter 17.36.
- **“Stormwater Management Facility”** The current definition of this term is included in PCC Chapter 17.38. The definition in Chapter 17.36 is obsolete and has been removed for clarity.
- **“Transportation SDC Study”** Updates to Stormwater SDC methodologies no longer rely on vehicle trips or frontage. As such this definition is no longer needed to support PCC Chapter 17.36.

The following definitions were added to Chapter 17.36:

- **“Equivalent Service Unit (ESU)”** This definition was added to support updates affecting the basis of charge for stormwater management user charges.
- **“High-Strength Wastewater”** The existing definition from ENB-4.25 was added to Chapter 17.36 because this term is fundamental to extra strength sewer charges.

The following four definitions were edited or added to clarify and describe the area on a site that is subject to stormwater management charges:

- **“Impervious Area”** - edited
- **“Impervious Surface”** - added
- **“Stormwater Billable Area”** - added

Minor editorial changes to the following definitions were needed to improve clarity and minimize ambiguity:

- **“Billing Error”**

- “Equivalent Dwelling Unit”
- “Extra Strength Charge”
- “Connection Charge”
- “Rate”
- “System Development Charge”
- “Temporary Structure”
- “User Charge”

Edits to the definition of “Ratepayer” were needed to facilitate levying special tax assessments on property owners for past due tenant bills.

17.36.030 Annual Rate Ordinance.

Minor editorial changes were made to improve clarity and minimize ambiguity.

17.36.040 System Development Charges (Former section heading: “Sewer System Connection Charges”)

Changes to this section:

- Rename the title of this section from “Sewer System Connection Charges” to “System Development Charges.” The term "Connection Charges" as defined in current 17.36 includes line, branch, and SDCs. The elimination of line and branch charges reduce this section to just SDC policies. As a result, this section has been retitled and updated to consolidate sanitary and stormwater SDC policies under a single heading.
- Include updated policy language for sanitary SDCs. As proposed, sanitary SDC calculations are based on the net increase of sanitary flow to the public sanitary sewer system as measured by proposed drainage fixture units (DFU).
- Include updated policy language for calculating stormwater SDCs. As proposed, stormwater SDCs for residential and commercial development are based on the net increase of impact on the storm system using measured square feet of stormwater billable area on a site.
- Retain policy language regarding SDC credits for prior purchases. No substantive policy changes were made.
- Retain policy language regarding payment, prepayment, and deferral of SDCs. No substantive policy changes were made.

- Retain policy language for temporary uses. No substantive policy changes were made.
- Add existing policy language from current administrative rule regarding SDC exemptions for transparency. No substantive policy changes were made.
- Add references to associated BES administrative rule where customers can access implementing guidelines and decision-making criteria.
- Remove obsolete language regarding “True-ups.” Existing code provisions no longer reflect current program elements.
- Remove obsolete language regarding SDC calculations for groundwater. Existing code provisions no longer reflect current program elements.
- Removed sections on sanitary line charge, branch charge, and sewer conversion charge because the bureau will no longer be imposing these charges. These charges supported expansion of the sanitary sewer system to serve properties on septic systems. The number of properties without sanitary sewer service is now small enough that a programmatic charge for system expansion is no longer needed.

17.36.050 User Charges.

Changes to this section:

- Consolidate all sanitary sewer charges under the subheading of “Sanitary Sewer Services.” While this section was reformatted and updated to improve clarity and ease of use, no substantive policy changes affecting sanitary sewer user charges were made.
- Include references to applicable BES administrative rule for details regarding implementing decision-making criteria, guidelines, and methodologies.
- Reorganize and consolidate policy language pertaining to ‘Meters Required’ and ‘Credits’ to more appropriate subsections within Chapter 17.36, including sewer user Charges, Submeter Program, and Clean River Rewards.
- Add existing policy language from current administrative rule regarding residential and nonresidential sanitary sewer user charges to improve clarity and transparency.
- Move the Extra Strength Charge information from subsection 17.36.060 to subsection 17.36.050. As part of this change, existing policy language was consolidated by removing obsolete information and information that is already included in, and more appropriate for, BES Administrative Rule ENB-4.25.
- Consolidate policy language regarding submeters and credits by removing obsolete information and information that is already included in, and more appropriate for, BES Administrative Rule ENB-4.32.

- Provide updated policy language for how stormwater management user charges are calculated. As proposed, stormwater user charges are calculated based on the site's measured or estimated stormwater billable area, and equivalent service units. The stormwater billable area is the sum of the impervious area and area of pervious pavement, excluding areas covered by compacted soils and compacted gravels.
- Specify the City's authority to apply unique rates for drainage districts.
- Updates and consolidates policy language for clean river rewards.
- Retains existing policy language for the Portland Harbor Superfund Charge.

17.36.060 Additional Service Fees. (Former section heading: "Special User Charges")

Updates to this section:

- Rename this section from "Special User Charges" to "Additional Service Fees and Charges."
- Remove fees and charge descriptions that are more closely related to user charges, including Extra Strength Charges and Submeter Program fees and charges. The Extra Strength and Submeter Program language was moved to Section 17.36.050 User Charges. These changes are intended to consolidate and organize related fees and charges to improve usability and predictability.
- Include non-substantive changes to improve clarity regarding the following fees and charges: development review fees, industrial wastewater permits, discharge and batch discharge authorization review, construction dewatering permit review, and additional sampling charges.
- Add the ability to reduce or waive development review fees. This code authority was added so BES could consider reducing fees for affordable housing development.
- Acknowledge the City's existing authority to change administrative fees and penalties for, but not limited to, the collection of delinquent utility bills, processing special tax assessments, denial of entry, or falsification of records.
- Add a provision authorizing the ability to charge for services not otherwise specified in this chapter. Charges for services not otherwise specified are based upon cost-of-service principles and recover the cost of materials and services provided by the Bureau.

17.36.070 Service Outside the City.

Minor editorial changes were made to improve clarity and minimize ambiguity.

17.36.080 Collection of Charges.

Updates to this section:

- Add clarifying language regarding the collection of delinquent user charges, fees, and penalties.
- Add code authority 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.

17.36.090 Adjustments, Corrections, and Refunds. (Former section heading: “Adjustment of Bills”)

Updates to this section:

- Rename this section from “Adjustment of Bills” to “Adjustments, Corrections, and Refunds” to better align with the intended purpose of this section.
- Authorize the Director to authorize adjustments up to \$5,000, sperate from the of in addition to the amount of a billing error correction.

17.36.100 Financial Assistance (Former section heading: “Inspections and Enforcement”)

Updates to this section:

- Add authority to provide financial assistance to eligible property owners. Similar financial assistance language appears in PCC Section 17.33.075. Elimination of line and branch charges, and nonconforming sewer conversion charges require comprehensive updates to Chapter 17.33, including Section 17.33.075. In recognition of the anticipated changes to PCC Chapter 17.33, the broad nature of the financial assistance program, and the relevance of the financial assistance program to PCC Chapter 17.36, financial assistance language has been incorporated into Chapter 17.36.
- Separate the information in the former “Inspections and Enforcement” section to create two distinct sections: Inspections, and Enforcement, respectively. Enforcement-related items were moved from former Section 17.36.100 to Section 17.36.120. This change is consistent with the content and structure found in other Title 17 Chapters administered by BES.

17.36.110 Inspections. (Former section heading: “Administrative Review and Appeal”)

Updates to this section:

- Move existing Administrative Review and Appeal language to [new] Section 17.36.130.

- Retain and update existing inspection language formerly included as part of Section 17.36.100.

17.36.120 Enforcement.

Updates to this section:

- Retain and update existing enforcement language formerly included as part of Section 17.36.100.
- Add standardized language regarding violations. This change is consistent with the content and structure found in other Title 17 Chapters administered by BES.
- Clarify that denying the City's legal right to entry is a violation of Chapter 17.36 and may be subject to enforcement.
- Add clarifying language that the City can suspend reduced charges or credits, and can suspend or disqualify a ratepayer's participation from the applicable program as possible enforcement actions.
- Adds, and updates, existing code language regarding non-operational submeters and the City's ability to bill for the full amount of water passing through the public supply meter (or an amount deemed appropriate by the Director).
- Clarify that civil penalties are assessed pursuant to Administrative Rule ENB-4.15.

17.36.130 Administrative Review and Appeal (formerly Section 17.36.110)

No Change.



CITY OF PORTLAND ENVIRONMENTAL SERVICES



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M E M O R A N D U M D R A F T

September 22, 2023

TO: Dawn Uchiyama, Bureau Director

FROM: Anthony Martin, Rate Study Project Manager

RE: Rate Study Implementation Recommendations

In 2019, BES underwent a consultant-led comprehensive review of sanitary sewer and stormwater rates, the Clean River Rewards stormwater discounts, system development charges, and other fees. This process is known as a 'rate study'. The desired outcomes of the rate study are below:

- Recovers costs in proportion to the demands various customer classes place on the sanitary sewer and stormwater system;
- Considers the financial impacts on all Portlanders;
- Reflects Environmental Services' values;
- Is administratively feasible to implement;
- Removes barriers to accessing services and incentive programs; and
- Serves as the basis for larger conversations around affordability, equity, and long-term revenue needs.

It is important to note that several items were not considered in the rate study: low-income assistance or other affordability programs, changes in our mission, increases or decreases in revenue, or changes in the capital improvement program.

In December 2019, the consultant provided a Utility Benchmarking memo comparing BES to peer agencies and industry standards as well as an Environmental Scan memo that summarized the key themes from policy discussions and technical workshops with stakeholders. These memos provided the basis of areas to focus on during the rate study.

In March 2022, the bureau received a report from the consultant titled 'Preliminary Report: Sanitary Sewer & Stormwater Comprehensive Rate Study'. The report identified multiple options for each of the areas under analysis based on desired outcomes.

In August 2022, after internal discussions about the difficulty of large-scale public involvement with so many options, the consultant produced two recommended packages of options for how to move forward with rates, fees, SDCs, and credits.

Starting in February 2023, the bureau conducted public outreach to gather community feedback on changes to the rate methodology as well as larger issues like affordability.

The output memo, 'Rate Study Community Engagement Summary', summarizes the public input received and changes to the recommendations based on that feedback.

This memo summarizes the final rate study recommendations based on the documents listed above. For additional references and information, please refer to the reports and memos mentioned above.

Recommendation 1 – Align Rates with Cost of Services

The first recommendation from the rate study is to align rates with the updated cost of providing service. As noted in reports, bureau investments and programs have changed since the last comprehensive rate study in 2005. Additionally, certain adjustments are necessary to align special customer class rates with the cost of providing service. This results in the following high-level changes to the rate structure:

- Revenue collection shifts to collect less revenue from sanitary rates and more from stormwater rates to reflect the current levels of spending in these two areas.
- Portland Harbor Superfund cost allocation between sanitary sewer and stormwater is adjusted to match the peak flow of the combined system.
- Cost recovery of financial assistance programs shifts so that it come from all customers rather than residential customers only.
- Special customer class rates are adjusted to match the cost of providing service. This results in:
 - Extra strength and special meter rates decrease.
 - Customers within the drainage districts will now pay rates that are 96.6% of stormwater rates for the rest of the city. These customers currently pay rates that are 65% of stormwater rates for the rest of the city.
 - Customers with overwater structures will again pay stormwater user charges and will be charged rates that are 88% of the stormwater rates charged for over-land impervious area. These structures currently are not subject to stormwater rates.
- The rate for publicly-owned drinking or single-pass water fountains will not be adjusted to the cost of providing service. Recognizing that this rate is only charged internally to the City of Portland and is for popular items such as the Benson Bubblers, BES will continue discussions about the appropriate cost recovery level.

Recommendation 2 – Modify Stormwater Charge Basis

The second recommendation is to modify the stormwater charge basis. Currently, stormwater rates are charged to customers based on stormwater billable area (SBA)¹. Costs are shown on a customer's bill as 'on-site' (35%) and 'off-site' (65%). The recommended rate structure removes the on-site/off-site distinction and adds Equivalent Service Units (ESUs) to the stormwater charge.

The proposed rate structure bills customers based on SBA and ESUs. SBA will cover 80% of the costs, the remaining 20% will be charged based on ESUs. An ESU is calculated based on number of people per dwelling where 1 single family dwelling is 1 ESU, 1 multifamily dwelling is 0.65 ESU, and 2,400 SF of stormwater billable area is 1 ESU. Commercial customer ESUs are calculated based solely on SBA as commercial customers do not have dwellings.

¹ Stormwater billable area means "the sum of the impervious area, overwater billable area, and area of pervious pavement, excluding areas covered by compacted soils and compacted gravels." This is an update to the current customer statistic of impervious area, which was defined in multiple sections of the code differently and unintentionally excluded certain billable surfaces.

By using the combination of ESUs and SBA, the new stormwater charge reflects the impact of SBA on our storm system, while also accounting for population impacts on the storm system via the ESU charge.

Recommendation 3 – Tier Stormwater Rates for Single Family Dwelling Structures

The third recommendation is to tier stormwater rates for single family dwellings. Currently, all single family dwellings are charged 2,400 square feet (SF) of SBA per unit. The proposed structure places each single family dwelling into four tiers based on estimated SBA on the property. The four tiers are:

- Tier 1 (charged 1,200 SF) – Properties with less than 1,600 SF of SBA. Approximately 20% of the customer class will be in this tier.
- Tier 2 (charged 2,400 SF) – Properties with between 1,601 and 3,200 SF of SBA. Approximately 60% of the customer class will be in this tier.
- Tier 3 (charged 3,600 SF) – Properties with more than 3,201 SF of SBA. Approximately 20% of the customer class will be in this tier. BES is still defining the upper limit of tier 3.
- Tier 4 (charged actual SBA)– Properties that will be charged based on measured SBA. BES is still defining the lower limit of tier 4. Very few properties will be in tier 4.

Recommendation 4 – Update System Development Charges (SDCs)

There are several recommendations to update System Development Charges, or one-time charges to development and redevelopment for the increased usage of the sanitary and stormwater systems. Changes to the current SDC system are in two categories – unit cost of capacity and service unit requirements.

First, the rate study recommended updates to the unit cost of capacity, or the capacity of the system and costs included in the SDC. The sanitary sewer system capacity was increased to account for recent capacity improvements at the treatment plant. The Stormwater system capacity was adjusted based on updated buildout development assumptions. On the cost of the SDC, there is a recommendation to include 0.5% to SDCs related to the cost of complying with SDC law, a standard practice for cities collecting SDCs.

The rate study also recommended changes to the SDC service unit requirements, or how development impacts are measured and SDCs charged to a specific property. For the sanitary SDC, the charge basis has been updated from a flow-based charge based on equivalent dwelling units (EDUs) to a flow- and load-based charge based on drainage fixture units (DFUs). While EDUs are still used to calculate the capacity of the system, specific developments will be charged based on DFUs. For the stormwater SDC, the charge basis has been updated to only charge impervious area instead of impervious area, trips, and linear feet of frontage. Additionally, both SDCs previously charged dwellings based on class average impacts of a dwelling. With the readily available data, it is recommended to move to charge dwellings based on actual impacts.

Recommendation 5 – Update Clean River Rewards

The next recommendation is to update the Clean River Rewards program to simplify the application, increase ratepayer accountability, and update underlying qualifications. The maximum credit is currently 35% of the total stormwater charge, which will stay the same.

Program adjustments include adding a renewal requirement, removing the requirement that accounts have no outstanding balances, including drainage district customers, and

shifting from a fairly complex credit calculation to a simpler credit calculation based on compliance with existing stormwater regulations. In addition, BES will update the eligibility criteria to give applicants the opportunity to address or fix potentially disqualifying issues on their property before they are removed from the program.

BES Recommendation – 3-Year Phase-In of Rate Changes

The final recommendation is to phase in rate adjustments related to the rate study over the three-year period following implementation. This recommendation is based on public outreach in which BES heard the need to phase in rate impacts as a way to mitigate the impact of changes, particularly increases, some customers will experience.

While a longer phase-in could further mitigate the impact of increases for some customers, it also lengthens the time in which certain customers are paying more than the cost of providing service. Additionally, phasing in rates over long periods of time, particularly as BES is required to have annual council approval of rate changes, is administratively difficult.

Three years balances the desire to mitigate large changes in the short term while achieving cost of service rates in a reasonable amount of time.

Summary Rate Table and Impact Change

A summary of the package decisions and general impacts are shown below.

Element	Current	Recommended
System Cost Allocations	Current framework	Updated COS framework
Sanitary Sewer Rate Structure	Volumetric charge	Volumetric charge
Stormwater Rate Structure: Basis for Charge	IA charge (100 percent)	IA charge (80 percent) ESU charge (20 percent)
Stormwater Rate Structure: Single-Family Residential Customers	Uniform charge (no tiers)	4-Tiered (3 class average tiers, plus one measured)
Stormwater Rate Structure: Special Customers	Current policy provides exemption for overwater structures, 35% discount for drainage district customers	Cost-of-service-based rates for overwater and drainage district customers
Clean River Rewards	35% discount Once enrolled, always enrolled Accounts with outstanding balances denied Drainage district customers not eligible for discount Direct dischargers automatic full credit	35% discount Require enrollment to be renewed periodically Accounts with outstanding balances accepted Drainage district customers eligible for discount Direct dischargers credit based on outcomes-based program eligibility
SDC - System Asset Allocations	CSO assets allocated to sanitary sewer system only	CSO assets allocated to sanitary sewer system only
Sanitary Sewer SDC Structure	Flow structure based on Equivalent Dwelling Units (EDUs)	Flow and load structure based on Drainage Fixture Units (DFUs)
Stormwater SDC Structure	IA, average daily trips, and front footage	IA only structure
SDC Compliance Costs	Exclude compliance costs	Include compliance costs
Phase-In	N/A	3-Years

In general, the recommended changes produce the following impacts on customers.

Rate Impacts

- Cost recovery shifts:
 - From wastewater to stormwater.
 - From residential to commercial customers.
 - In stormwater, from single family and commercial customers to multifamily customers.
- Customers who will generally see lower bills include customers with high extra strength usage (restaurants, breweries, certain industrial developments), higher sewer flow, and single family customers in Tier 1.
- Customers who will generally see higher bills include commercial customers with higher impervious area, dense multifamily customers, customers with overwater structures, customers within the drainage district, and single family customers in Tier 3 and Tier 4.

Clean River Rewards Impacts

- Increase participation in the program.
- Increase accountability by adding renewals for unregulated participants.
- Increase connection between CRR and stormwater regulations.

SDC/Fee Impacts

- Reduce SDC for smaller housing and multifamily housing units.
- Increase SDC for large commercial/industrial developments with high impervious area.
- Increase SDC for large single family housing.
- Increase SDC for customers with high-strength sewer flow.

Supplemental Recommendation – Remove the Line and Branch and Nonconforming Sewer Charges

The final recommendation relates to charges for connecting to the sanitary system. Unlike SDCs which are charged for a development's impact on the capacity of the system, these charges are for the cost to connect to the system. The recommendation is to remove line and branch and nonconforming sewer charges.

The direct recommendation from the consultant was to update the methodology behind line and branch charges. In convening a group of BES stakeholders on updating the methodology, several other issues were identified as well as the relation to BES' nonconforming sewer charges. After deliberation, staff recommended to remove line and branch and nonconforming sewer charges.

Already Implemented Recommendations – Adjust Fee Methodologies

The final set of recommendations cover the consultant related recommendations to the miscellaneous BES fee methodologies. BES felt these recommendations were aligned with best practices and implemented them without public outreach.

- Round fees to the nearest \$5
 - BES implemented this recommendation in the FY 2022-23 rate ordinance.
- Update administrative support factors and update projects included in the Offsite Management Fee charged for lack of regulatory compliance.
 - BES implemented these recommendations in the FY 2023-24 rate ordinance.