

RESOLUTION NO. 2874

A RESOLUTION TEMPORARILY SUSPENDING APPLICATION OF THE SEWER EXTRA STRENGTH CHARGE

Findings

A. In January 1983, the City adopted an Industrial Pretreatment Program (IPP) by Ordinance NS-1368 (the Program). The Program prohibits discharges of contaminants that exceed certain limits and also requires certain industrial dischargers to obtain a permit and provide reports on their discharges. Any entity discharging sewage to the City's sewer collection and treatment system is referred to as a "User."

B. The Program was codified at Bend Code Sections 4.410 – 4.499. The City Council has approved an ordinance that moves Bend Code Sections 4.410 – 4.499 to a new chapter 15.20 Wastewater Pretreatment. The amendments renumber and make minor edits to the provisions, but do not alter its substance. The Program remains in effect without substantive change.

C. High strength wastewater results in increased costs for collection and ultimate treatment of the waste at the City's Water Reclamation Facility (sewage treatment plant). Treatment often takes longer as a result of high strength wastes being received at the Water Reclamation Facility. Higher strength discharges can also shorten the effective life of collection facilities including pump stations and pipelines.

D. To offset the increased costs associated with high strength sewage discharges, the City adopted a sewer extra strength charge (ESC), which is separate from and in addition to the Program. The ESC was first adopted by Resolution No. 1605 in 1982, and has remained in place with no change in the formula for computing the charge since that time. IPP and Finance staff along with a consultant analyzed the ESC program in 2003 but no action was ever taken on that study's results. The ESC is now part of the City's Fee Resolution. Payment of the ESC is mandatory for Users who exceed the limits set forth in the Fee Resolution.

E. Only non-residential City of Bend water customers who consume more than 1000 cubic feet of water per month and exceed specific wastewater limits for chemical oxygen demand (COD) and/or total suspended solids (TSS) are subject to paying the ESC. Payment of the ESC does not authorize discharges above the maximum limits set by the Program.

F. The ESC achieves two purposes. One is that it provides revenue to partially pay the costs associated with collecting and treating extra strength sewer discharges. The other is that it encourages Users that would otherwise have extra strength discharges to provide some level of on-site pretreatment so that they discharge at the lower strengths, which is beneficial to the collection and treatment system

G. Currently, 12 entities are charged the sewer ESC. The City believes that other entities may be consuming more than 1000 cubic feet per month and discharging sewage at concentrations that would require payment of the extra strength charge, but has not had the resources to determine the strength of sewage discharges by all potential extra strength Users.

H. City staff has concluded that the formula it uses to determine the amount of the ESC is dated and that, with new information and more advanced tools and techniques, the City can adopt a new approach for the ESC program that will accurately and fairly recover costs from those who discharge extra strength waste.

I. City staff, working with an expert consultant, has been working on developing a new approach to the ESC. While some work, including public outreach and input, remains to be completed, the work has progressed far enough that staff is confident that a new approach to ESC's can be developed with adequate public input, and be presented to Council within 14 months. Staff is confident that the new approach will be fair, easy to administer, and contain procedural safeguards to ensure that Users will pay only their fair share of the costs.

J. Because it is now apparent that a better formula/system for ESC's can be put in place, staff has recommended to Council that it suspend the current extra-strength charge for a period of approximately 14 months to allow the new program to be finalized. This timeline provides approximately 12 months to work with the business community in designing the new program and 3 months for hearings with the Council. A prolonged suspension or termination of the program would shift the increased costs of dealing with extra strength discharges to all sewer customers, most of whom discharge at regular strength levels.

Based on these findings,

THE CITY OF BEND RESOLVES AS FOLLOWS:

Section 1. The extra-strength charge imposed by Section 5.2.05a of the Fee Resolution (Resolution No. 2838 as amended by Resolutions 2847 and 2852) is suspended. The suspension takes effect for the period beginning May 1, 2012 through June 30, 2013. The suspension will remain in effect until a new extra-strength charge formula or approach is adopted and effective on July 1, 2013. If no new formula or approach is adopted by July 1, 2013 the suspension shall terminate and the existing extra strength charge as found in Section 5.2.05a of the Fee Resolution shall be reinstated.

Section 2. Staff is directed to use its best efforts to bring a revised extra strength charge formula or approach to Council within 12 months that fairly assigns the costs of the treatment of extra strength effluent to the businesses that

generate it. Council agrees that an approach that assigns certain types of businesses to high, medium, low and no impact categories, with a provision for reassignment to a different category based on actual discharge strength, is an appropriate approach to sewer extra strength charges. Staff shall continue to monitor and sample extra strength dischargers as required under the existing program in order to maintain the ESC database. In addition, staff will sample specific business types, who by industry standards, are most likely to fall under the ESC program in the future. By doing so we will be able to show the businesses what their potential ESC will be before the new program is in place. Staff shall continue to make information available to the public and to potential payers of the extra strength charge.

Section 3. In accordance with the City's Fiscal Policies, Council directs the ESC be paid on behalf of the Users from other sewer system revenues during the suspension period.

Section 4 Staff is directed to engage the business community and City committees with expertise in this area to help create the new Extra Strength Charge program. An advisory board shall be formed and consist of representatives from the following entities with up to 9 participants:

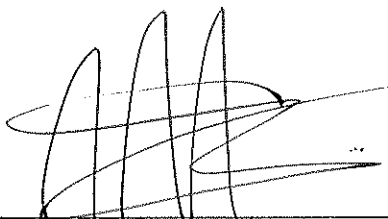
- Two members of the Infrastructure Advisory Committee.
- One member of the Bend Economic Development Advisory Board.
- One member of the Budget Review Committee.
- One member of the local craft brewing industry.
- Two members of the local restaurant community.
- Two members from the at-large business community.

This resolution takes effect immediately on passage.

Adopted by roll call vote of the Bend City Council on May 16, 2012.

YES: Tom Greene
Scott Ramsay
Mark Capell
Jodie Barram
Kathie Eckman
Mayor Jeff Eager

NO: Jim Clinton



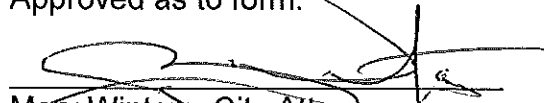
Jeff Eager, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney