

ORDINANCE NO. 5541

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 10 TO ADD NEW LANGUAGE REGARDING THE ADJUSTMENT OF SEWER BILLS AND FEES; TO MODIFY EXISTING LANGUAGE REGARDING THE CHARGING OF INTEREST, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Albany wants to clarify how and when sewer bills will be adjusted and make the adjustment process more consistent among customer classes; and

WHEREAS, the Council of the City of Albany desires a fair and equitable system for administering fees and charges in the sewer system

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Title 10 of the Albany Municipal Code is hereby amended to incorporate the changes noted herein.

10 01 90 Collection

The City of Albany is hereby directed to collect the fees and charges provided in this chapter from each owner or tenant of property which disposes of wastewater, whether in the City system or otherwise and ~~on the first day of each month~~ **monthly** each owner or tenant shall be charged the rates set forth in **accordance with the provisions of AMC 10.01.070 and 10.01.080.** ~~Furthermore, each user of the system shall be notified, at least annually, in conjunction with a regular bill, of the rate and portion of the user charges which are attributable to wastewater treatment services.~~

(1) Administrative Costs The administrative costs for collection of all fees and charges shall be paid from the sewer fund.

~~(2) Adjustments Due to Underground Leaks. Where a water leak exists underground between the meter and the building during the monitoring period for wastewater flow charges, causing the total consumption to be greater than one half the average amount which has been previously charged to the premises, and the same is repaired within 30 days after the premises has been notified of such leak, the utility may allow for an adjustment on the wastewater variable charges.~~

~~The variable charges will be adjusted back to past winter water consumption records for the property. Where past water consumption records are not available, the variable charges will be adjusted back to the residential average.~~

~~Adjustments shall not be permitted due to leaking plumbing fixtures or the apparent continued waste of water due to a negligent failure to repair.~~

~~(3) (2) Delinquency~~ Such sewer use charges or sewer system development charges levied in accordance with this chapter shall be a debt due to the City and shall be a lien upon the property. If this debt is not paid within 30 days after it is due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the City against the property owner, the person, or both. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating the debt due.

(4) (3) Means of Collection – Interest. Should the City find it necessary to collect any delinquent fees or charges for sewer connection or sewer use, it shall be entitled to use any means provided by the laws of the State or permitted by the Charter and ordinances of the City; or any delinquencies in payment of either sewer system development charges or sewer use charges may be certified to the Tax Assessor of Linn County for collection in the manner and as provided by ORS 454.225 Fees and charges which are delinquent shall draw interest at **nine (9) percent per annum. Interest shall not be charged if the account is brought current within 60 days of becoming due and payable. If not so paid, interest shall accrue from the date the debt is due.** ~~in accordance with City Council policy. If not paid after becoming due and payable, the interest charge is effective.~~ Any interest charge due hereunder which is not paid when due may be recovered in an action at law by the City

(5) (4) Penalty for Certification In the event it becomes necessary to certify the service charges

established because of the nonpayment therefor, there shall be added to the charges a penalty in the amount of 10 percent thereof and the same shall bear, when certified, interest at the rate set by City Council policy of **nine (9) percent per annum** from the date of such ~~certification~~ **certification**.

~~(6)~~ **(5) Hearing Rights.** Customers shall have the opportunity, if they do not agree with the billing, to have a hearing on their account. The hearing shall be held by a hearings officer appointed by the Finance Director. The hearings officer's decision shall be binding. Notice to the utility by the customer of his/her request for a hearing must be given in writing with an explanation of why the customer feels that the bill is incorrect. If a hearing is held and the hearings officer finds in favor of the customer, any or all appropriate charges may be returned to the customer or customer's account based upon his/her findings (Ord. 5016, 1992).

10.01.095 Adjustments, Back-billing, Credits and Refunds.

(1) The Utility may make adjustments, back-bill, apply credits, pay refunds, or waive fees and charges in accordance with City Council policy. If no Council policy exists, the Utility may make adjustments where it is deemed necessary for the proper conduct of the business of the Utility. A full explanation of the reason for the adjustment or refund must be filed with the office records and will be made available upon request. Refunds are to be made to the party that made the payment.

When the Utility determines that a customer has been mistakenly charged too much for sewer services, the Utility will apply a credit to the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed six (6) years, whichever is less. If the date cannot be reasonably determined, the Utility will estimate the amount of the credit based on a period not to exceed six (6) years.

When the Utility determines that a customer has not been charged or has not been charged enough for sewer services, the Utility will back-bill the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed six (6) years, whichever is less. If the date cannot be reasonably determined, the Utility will estimate the bill for a period not to exceed one year. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

(2) Non-registering Meters. The utility may bill the customer for water consumed while the meter was not registering. The sewer bill will be calculated using an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

(3) Adjustments Due to Leaks. Where a water leak exists underground between the meter and the building during the monitoring period for wastewater flow charges, the Utility may allow for an adjustment on the wastewater variable charges. In order to qualify for a credit, the leak must be large enough to cause the total consumption to be greater than one and one-half the average amount that has been previously charged to the premises, and the leak must be repaired within 30 days after the customer has been notified of such leak.

For most customers, the variable charges will be adjusted to reflect past winter water consumption records for the property. For customers that are billed based on actual monthly water consumption, the variable charges will be calculated using an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions. Where past water consumption records are not available, the variable charges will be adjusted to reflect the average water consumption for similar accounts.

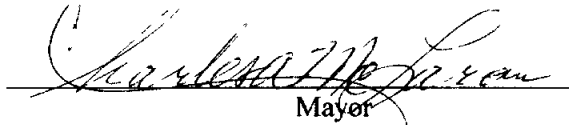
No adjustment to the sewer bill will be allowed where it is determined that excess water consumption is due to the apparent continued waste of water due to a negligent failure to repair a leak.

Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, safety, and health of the citizens of the City of Albany, Oregon, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by Council October 9, 2002

Approved by the Mayor: October 9, 2002

Effective Date: October 9, 2002



Mayor

ATTEST:



City Recorder *CL*