

## Athena Ordinances

**ORDINANCE NO. 430**

AN ORDINANCE PRESCRIBING MONTHLY SERVICE CHARGES FOR THE USE AND BENEFIT OF THE SEWER FACILITY OF THE CITY; PROVIDING FOR THE METHODS OF CHARGES FOR SEWER SERVICE; PROVIDING FOR A PENALTY FOR NONPAYMENT; PROVIDING FOR THE DISPOSITION OF FUNDS COLLECTED FROM THE MONTHLY SEWER USE CHARGES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

The City of Athena, Oregon ordains as follows:

**Section 1.****Companion Ordinance.**

- (A) The ordinance is a companion ordinance to the City of Athena ordinance(s) that provide for systems development charges and the rules and regulations for the regulation and use of the public sewer system.

**Section 2.****Repeal.**

- (A) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3.****Definition of Terms.**

**BOD (denoting Biochemical Oxygen Demand).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

**City.** City of Athena, a municipal corporation of the state of Oregon.

**City Engineer.** The city engineer of the City of Athena or the city's duly authorized agent.

## Athena Ordinances

**Commercial Unit.** All buildings or premises used for any purpose other than a dwelling unit having a sewage discharge of a kind, type and volume similar to a single-family dwelling unit or multiunit residential structure, but not an industrial waste contributor.

**Commercial user.** The occupant or lessee of any premise used for commercial or business purposes which is not an industrial user as defined in this ordinance.

**Council.** The city council of the city of Athena.

**Domestic User.** Any person who discharges only domestic sewage.

**Dwelling Unit.** Includes each single-family dwelling unit used for human habitation.

**Industrial Unit.** Any business, occupation or enterprise having a sewage discharge which, by reason of the manufacture or industrial process involved or through services rendered, is any volume in excess of a single-family residence because of the discharge of chemicals or by-products of the industrial process. The city shall determine when a user is an industrial user with the use of sampling equipment. When the user is declared to be an industrial user by the city, such user shall be directed by the city to furnish its own sampling equipment at the user's expense, all test results from the user's equipment shall be copied and a copy submitted to the city for the city's use.

**Industrial user.** Any non-residential discharger who discharges industrial wastewater directly or indirectly into the city sewer system.

**Industrial Wastewater.** Any non-domestic liquid gaseous substance or semi-solid from any producing, manufacturing business or trade, or processing operation of whatever nature (as distinct from sanitary sewage), and the contents of chemical toilets, septic tanks and waste holding tanks.

**Mobile Home.** A modular unit built on a chassis designed to be used as a dwelling, with or without a permanent foundation.

**Multi-Family Dwelling Unit.** Any building designed as two or more dwelling units.

**Operation and Maintenance.** Activities required to assure the dependable and economical function of treatment works.

## Athena Ordinances

- (i) **Maintenance:** Preservation of functional integrity and efficiency of equipment and structures. This includes preventative maintenance, corrective maintenance and replacement of equipment.
- (ii) **Operation.** Control of the unit processes and equipment, which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

**Public Works Superintendent.** The public works superintendent for the City of Athena or the city's authorized representatives.

**Replacement.** Obtaining and installing equipment, accessories, or appurtenances, which are necessary during the design or useful life, whichever is longer, or the treatment works to maintain the capacity and performance for which such works were designed and constructed.

**Sewage.** Water carried wastes from dwelling units, commercial buildings and industrial users excluding ground surface and storm waters.

**Sewer System.** All facilities for collecting, pumping, treating and disposing of wastewater, but which are not specifically designed to carry ground, surface and storm water.

**Sewage Treatment Plant.** Any arrangement of devices, structures and equipment used for treating wastewater.

**Shall.** Is mandatory; may is permissive.

**Suspended Solids.** Solids that either floats on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

**Trailer.** Shall mean mobile home as defined in this ordinance.

**User Charge.** A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works.

**Wastewater.** Liquid or water-carried pollutants including any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the publicly owned treatment works.

## Athena Ordinances

**Section 4.****Monthly Sewer Use Charge.**

- (A) **Charges Levied.** There is hereby levied and imposed upon all residents, inhabitants, or users of property having a connection with the sewer system of the city of Athena, Oregon, both within and without the corporate limits of said city, and upon all subsequent parts, just and equitable charges for service, maintenance, operation and replacement of the sewerage system.
- (B) **Financial Self-Sufficiency.** The just and equitable charges shall be fixed at such amounts to assure the financial self-sufficiency of the sewerage system, and thereafter be reviewed annually and amended as necessary by resolution of the city council..
- (C) **Sewer use Charges.** The sewer use charges for sewer service are hereby levied and imposed upon:
- (1) All property and sewer users served by the City of Athena's sewerage system and
  - (2) Upon other property within the city limits requiring sewage disposal on which there is a dwelling or other building to which sewer service is readily available, and being used.
  - (3) A "sewer user" means a person, corporation, firm, association, or partnership being the:
    - (a) Owner or agent to the owner, or user of the property described in subparagraphs (1) and (2) above which uses and receives the benefits of the City of Athena's sewerage system.
      - (1) The sewerage system user defined in this section as sewer user, shall be billed monthly for the use of the city's sewer system unless written notice is received by the city from the property owner stating that such property is vacant and that the sewerage system is not being used. In any event, the property owner shall be responsible for the "2.50 monthly charge to pay off the General Obligation Bonds as voted by the residents of the City of Athena in the 1988 Sewer bond Election". Such charge will apply to all properties that have a hook-up to the City of Athena's sewerage system whether vacant or occupied.

## Athena Ordinances

- (D) **Customer Classes Defined.** For the purpose of determining rates and assigning service charges, users shall be grouped into one of the following customer classifications:
- (1) Residential/small commercial – all single family residential services, multi-family residential services and commercial units which have individual water meters for each unit whose discharge strengths (BOD or SS) not exceeding 240 mg/liter of discharge flow.
  - (2) Other commercial/industries – all other commercial and industrial users having sewage discharge which, by reason of the commercial manufacturers or industrial process involved or through services rendered, are any volume in excess of a single-family residence or are of a kind or type dissimilar to that of a single family.
- (E) **Rate Structure.** Sewer service rates for each of the respective customer classifications enumerated in Subsection (D) of this section shall be derived and calculated in accordance with the following standards and fixed by resolution of the city council:
- (1) Residential/small Commercial – a monthly flat fee based on average residential sewage discharge.
  - (2) Other Commercial/Industrial – The actual or estimated sewage contribution based upon water consumption multiplied by a unit charge per 100 cubic feet of water plus an extra strength fee based on measured or estimated sewage parameters as established by the city.
- (F) **Charges to Customers Outside the City.** Any person having connection to the city sewerage system which is outside the corporate boundaries of the City of Athena may, in addition to the fees and charges for services called for in Subsection (E) of this section, be charged monthly fees derived and calculated in accordance with the following standard and levied by resolution of the city council:
- (1) A fee in lieu of property tax payments supporting principle and interest for the retirement of indebtedness associated with investment in capital facilities necessary to the sewerage system.
- (G) **Review and Revision of Rates.** The sewer user charges established in attached Exhibit “A” of this ordinance shall, as a minimum, be reviewed annually by the city council of the city of Athena and revised periodically to reflect actual costs of operation, maintenance, and replacement of the treatment works and to maintain the equitability of the user charge with respect to proportional distribution of the costs of operation and maintenance in proportion to each user’s contribution to the total wastewater loading of the treatment works. In conjunction with annual review of sewer user

## Athena Ordinances

charges the Water and Sewer Commission shall review and revise as appropriate the schedule of measure or estimated sewer parameters applicable to the Non-Standard discharge Strength Customer class.

**(H) Notification.** Every user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges, which are attributable to wastewater treatment services. On or before May 15<sup>th</sup> of each year, the city recorder shall post for public review at City Hall a listing of the sewage parameters and corresponding categories of businesses which serve as basis for the derivation of extra strength fees for users in the non-standard discharge strength customer class as specified in subsections (D) and (E) of this section.

**(I) Anneals.** Any sewer user, regardless of customer classification, who believes their sewer user charge, as applied to his or her premises, is not within the intent of the foregoing provisions may make written application to the City Hall within twenty (20) days of the date of billing requesting a review of their user charge. The written request shall, where necessary, show the actual or estimated average flow of the user's wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

Review of the request shall be made by the City Council. The City Council shall respond within forty-five (45) days of the receipt of the appeal. If the sewer user desires to appeal further, they shall request in writing that the city place their appeal on the next regular city council meeting. The decision of the city council shall be final. If the city council determines that the user's charges should be recomputed, based on approved revised flow and/or strength data, the new charges thus recomputed may be applied retroactively for a period of up to six (6) months.

**Section 5. Payment of Charges.** The monthly sewer use charges outlined above shall be due and payable ten (10) days after date of billing. Interest may be charged and collected on any sewer use charges not so paid, at the rate of one and one-half percent (1 ½%) per month until paid.

Any change in sewer user shall result in the new user paying the sewer use charges commencing from the date of change. Any new sewer user shall commence paying the sewer use charges from the time of connection. The sewer use charges shall be prorated on a one-half month basis. For sewer user services less than one-half of a month, the sewer use charge shall be one-half of the monthly charge, if more than one-half of a month, then the charge shall be for a whole month.

## Athena Ordinances

**Section 6. Collection of Charges.** Such sewer use charges levied in accordance with the ordinance shall be a debt due the city. If this debt is not paid within thirty (30) days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action at law against the sewer user. All sewer use charges accruing, accrued or delinquent accounts may be enforced in any lawful manner and also pursuant to provisions of ORS 454.225. Administrative costs for collecting said sewer use charges and administering this ordinance shall be payable from said sewer use charges.

**Section 7. Discontinuance of Service.** In the event of failure to pay sewer use charges after they become delinquent, or failure to comply with the provisions of this ordinance, or failure to have flow or sampling devices in proper operating condition for more than a week, the city shall serve the sewer user with a written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. If the sewer user shall continue the violation beyond the time limit stated previously, the city shall have the right to discontinue, remove or close sewer connections and enter upon the property for accomplishing such purpose.

The expense of such discontinuance, removal or closing as well as the expense of restoring service shall be a debt due to the city and may be recovered by civil action against the sewer user and also pursuant to provisions of ORS 454.225.

Any sewer user wishing to obtain a discontinuance of billing for a period of time due to “nonuse” for any reason shall be required to notify Public Works to disconnect the service lateral from the public main and properly cap the stub-out as directed by the city and with inspection by the public works superintendent or his duly authorized representative.

**Section 8. Sewer Service Account Fee.** Any new application for a sewer service account shall be charged as per fee schedule, a non-refundable fee at the time of application.

**Section 9. Abutting Property.** When charges are made in those instances where sewer service is not in fact furnished, but the service is available or abutting the property charged (as referred to in Section 4 [C2]), said charges may be waived by the city. Application for such a waiver shall be made by the property owner to the city council stating fully the grounds for the application. Before a waiver of the sewer charge may be granted, the city shall first determine:

- (A) That special topographical conditions affecting the property exist that are not common to all property in the area.
- (B) That such special topographical condition would necessitate the installation and maintenance of pumps or other special equipment which

## Athena Ordinances

- will thereby increase the cost of sewer service to the applicant over and about that or other property owners in the area.
- (C) That the waiver of the sewer service complies with the spirit and of these regulations and will not be detrimental to the public health, safety or welfare, or injurious to other properties in the vicinity.
  - (D) The city shall act upon the application or waiver of sewer service charges within thirty (30) days after the filing thereof. If the city disapproves the application, it shall mail to the applicant forthwith a notice of its action.
  - (E) Any person aggrieved shall have the right to appeal the decision of the City Council to denial of the application to the city council. The appeal shall be taken within ten (10) days after receipt of notice and shall be made by written notice to the city council that the aggrieved person appeals the denial of the application. The city council shall act upon the appeal at the next regular scheduled city council meeting after receipt of said notice of appeal. The decision of the city council shall be final.

**Section 10. Handling of Funds; Sewer fund; Use.** The recorder is hereby directed to deposit in the Sewer Fund and the Sewer Repair Fund all gross revenues received from charges, rates and penalties collected for the use of the sewerage system as herein provided. Division of the receipts between the two funds shall be determined by the approved budget for the appropriate fiscal year.

The revenues thus deposited in the two funds shall be used exclusively for the operation, maintenance, repair and replacement of the sewerage system, reasonable administration costs; expenses of collection of charges imposed by this ordinance and payments of the principal and interest on any debts of the sewerage system of the City of Athena.

**Section 11. Severability.** It is hereby declared to be the intent of the city council that if a provision, sentence, clause, section or part of this ordinance is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences clauses, sections of parts of this ordinance or their application to other persons and circumstances.

**Section 12. Savings Clause.** All ordinances and/or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Passed by the council and approved by the mayor February 12, 1991.  
Passed by the council and approved by the mayor November 15, 2007.