

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

RULES PROVIDING FOR APPEALS OF THE DEPARTMENT'S DETERMINATION OF WASTEWATER VOLUME FOR PURPOSES OF ASSESSING

SEWER SERVICE CHARGES

PUC Resolution No. 03-0112

Approved June 10, 2003

Section 1. Introduction

These rules establish procedures for reviewing and deciding appeals of the department's calculation of wastewater discharges for purposes of assessing sewer service charges. The determination of the volume of wastewater subject to sewer service charges is based on the volume of water consumed by the user.

The annual San Francisco Public Utilities Commission sewer service charge rate setting process for residential users includes an estimate that on an annual basis, 90% of the water consumed by each residential user is discharged to the sewer system as wastewater. A residential user who can substantiate that less than 90% of the water usage is discharged to the sewer system may be eligible for a reduced flow factor. Residential users who are dissatisfied with the department's wastewater volume calculations may have that determination reviewed by the Residential Users Appeals Board (hereafter "Board").

A residential user who disagrees with the department's calculation of wastewater volume may appeal such determinations in accordance with the following rules.

Section 2. Residential Users Appeals Board

(a) The Board shall elect a chairperson from among its members at the first meeting of the Board in January of each year. The chairperson shall preside at all meetings of the Board. The chairperson may appoint one of the Board members to be the acting chairperson in his or her absence.

(b) The chairperson shall assure a fair hearing is provided to all appellants and that these rules are followed during every appeal hearing. The majority of the Board shall be responsible for assuring that the duties of the chairperson are properly exercised.

(c) The Board's purpose in reviewing appeals is to determine whether department staff properly applied the criteria listed in Section 6 of these rules to the appellant's specific circumstances in determining the appropriate volume of wastewater discharged into the sewerage system. The Board's deliberations shall be conducted in open public session at a duly noticed Board hearing.

Section 3. Executive Secretary

(a) The General Manager shall appoint a member of his or her staff to act as the executive secretary of the Board.

(b) The executive secretary of the Board shall provide administrative support to the Board. The executive secretary shall make investigations and reports of the Board's hearings and official actions, and shall prepare all notices of decision and orders and all documents relating to such decisions. The executive secretary shall examine incoming mail for proper referral, answer correspondence, and maintain records of accounts and operations. All communications between appellants, the Board

and department staff not occurring during a duly noticed Board hearing, shall be directed by and through the executive secretary.

(c) The executive secretary shall set a time and place for the Board's hearings, and shall prepare a calendar for each hearing. The executive secretary shall prepare minutes and record by tape the proceedings of each Board hearing.

Section 4. Appeals

(a) If a residential user believes that the volume of his or her discharge of wastewater into the system is less than 90% of the water usage, he or she may submit a request for adjustment of the flow factor used in calculation of sewer service charges. Such requests shall be submitted in writing to the General Manager (or in all instances in these rules, his or her designated department staff) of the San Francisco Public Utilities Commission.

(b) Each such request shall contain the name and address of the residential user and a statement that substantiates the percentage of incoming water discharged to the sewer. The department staff designated by the General Manager to perform such duties will determine the volume of wastewater discharged to the City's sewerage system for the purpose of assessing the user's sewer service charges.

(c) The decision by department staff shall be transmitted to the residential user within 90 days of receipt of the request for the flow factor adjustment, unless the residential user agrees to an extension of time beyond the 90 days. The decision transmittal shall include reasons for the decision and copies of supporting documentation.

(d) A residential user who is dissatisfied with the decision of department staff may submit a written appeal to the Board within 30 days of receipt of the department staff's decision. The executive secretary of the Board, upon receipt of an appellant's request for a hearing with the Board, shall schedule and communicate by mail the date, time and place of the hearing when the appellant's appeal will be heard by the Board.

(e) Appellant shall provide an original and three copies of any supporting documentation to be considered by the Board no less than twenty (20) days prior to the appellant's scheduled hearing date.

(f) At the appellant's request, the executive secretary shall make available for the appellant's review all relevant department documentation related to the appellant's appeal.

(g) The decision of the Board shall be transmitted to the appellant within 45 days of receipt of the appellant's written appeal, unless the appellant agrees to an extension of time beyond the 45 days. The Board's decision shall include a written statement of reasons justifying the decision.

(h) The Board may hear and decide only those appeals from appellants who have submitted flow factor adjustment requests to, and received decisions from department staff in accordance with Sections 4(a), 4(b) and 4(c).

Section 5. Board Hearings

(a) Board hearings shall be held on the fourth Friday of each month. If the regular meeting day falls on a legal holiday, it shall instead be held on the third or fifth Friday of the month, or may be cancelled. Board hearings shall be open to the public and held at such times and places as the executive secretary may determine.

(b) Notices of hearings and the hearing calendar shall be posted as required by applicable state and local laws. Notices of hearings shall be mailed by the executive secretary to all interested parties who have requested such notification, not less than five days before the hearing for which the matter is scheduled.

(c) The appellant shall be allowed five minutes for presentation of relevant testimony and evidence. The department staff shall have five minutes for presentation of relevant testimony and evidence. Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

(d) Photographs may be used in presentations at the hearing. Except by ruling of the chairperson for sufficient cause, no other written materials will be accepted by the Board during the public hearing.

(e) The rules of parliamentary practice, as set forth in Robert's Rules of Order, shall govern all meetings of the Board, except as otherwise provided by these rules.

(f) Two members of the Board shall constitute a quorum. A tie vote constitutes a decision to uphold department staff's recommendation or the Board may continue an appeal at a future hearing.

Section 6. Criteria For Determining The Volume Of Wastewater Discharged To The City's Sewerage System

(a) The determination of the volume of wastewater discharged to the City's sewerage system shall be based on the following formulas. The purpose of the following formulas is to provide a structured method of estimating the discharge volume. These formulas will result in a flow factor (ff) that approximates the annual wastewater discharged divided by the annual water usage. The difference between water usage and wastewater discharged is presumed to be irrigation.

(b) The basic formula used to determine the flow factor is as follows:

Flow Factor = Annualized Inside Household Need divided by Total Annual Consumption

The annualized inside household need is presumed to be discharged to the City's sewer system. The department has two methods in calculating the annualized inside household need, thus the department utilizes two formulas: (i) the irrigation potential formula and (ii) the wet/dry formula. The formulas are explained below in detail.

The department makes the determination as to which formula will be applied based on the following criteria:

- Use the flow factor that results to an average daily consumption between 40 gallons to 80 gallons per day per person or that is closest to 40 gallons per day per person if with ultra low flush toilets or closest to 80 gallons per day per person if without ultra/low flush toilets.

1.6 gal / flush
3

(i) Irrigation Potential

The use of the *irrigation potential (IP)* method to calculate the flow factor provides the information necessary to determine an equitable flow factor assignment. This method assumes a seven (7) month irrigation season.

The Department bases the flow factor assignment on physical data gathered during an on-site inspection conducted by an SFPUC Water Service Inspector of the irrigated area(s). Such physical data includes a qualitative and quantitative assessment of the square footage, the numbers and type of plants, shrubs, ground cover, trees, and turf. Deductions are made to the estimated annual irrigation usage for lawn, garden, and shrub areas that are not fully green (% brown) or fully planted (% patchy).

Formula:

$$\text{Flow Factor} = \frac{\text{Annualized Inside Household Need}}{\text{Total Annual Consumption}}$$

Step 1: *Total* the Irrigation Potential for lawns, gardens and/or shrubs based on the following factors:

- a). Irrigation Potential for lawn or garden is equal to one (1) cubic foot of water per square footage of lawn or garden area
- b). Irrigation Potential for shrub needs one half (1/2) cubic foot of water per square footage of shrubbery
- d). 100 cubic feet of water is equal to one (1) billing unit of water

RESULT: Irrigation Potential in billing units of water per bi-monthly billing period

Step 2: *Multiply* the Irrigation Potential (as calculated in Step 1) by the percentage of the total area that is planted or the percentage of the total area that is green when lawn, garden and/or shrub areas are not fully green or fully planted.

RESULT: Adjusted Irrigation Potential in billing units of water per bi-monthly billing period

Step 3: *Multiply* the Irrigation Potential or Adjusted Irrigation Potential by 3.5 (represent seven (7) month irrigation season)

RESULT: Annualized Garden Need

Step 4: *Total* the six (6) bi-monthly billing periods immediately preceding the effective date of the appeal

RESULT: Total Annual Consumption

Step 5: *Subtract* the Annualized Garden Need from the Total Annual Consumption

RESULT: Annualized Inside Household Need

Step 6: *Divide* the Annualized inside household need by the Total Annual Consumption

RESULT: Flow Factor Percentage

(ii) Wet/Dry

The use of the wet/dry method is based on the premise that irrigation does not occur year round and that a resident doing substantial irrigation should have a larger usage of water in the summer than the winter. This formula assumes that a customer's average usage inside the home (presumed to go to the sewer) is represented by the average consumption on their two lowest bills in the winter (wet) season.

Formula:

$$\text{Flow Factor} = \frac{\text{Annualized Inside Household Need}}{\text{Total Annual Consumption}}$$

Step 1: *Add* the two lowest wet months and *multiply* sum by 3 to annualize usage

Given Factors:

For Odd Month Billing Cycle, the wet months are January, March and May.

For Even Month Billing Cycle, the wet months are December, February and April.

RESULT: Annualized Inside Household Need

Step 2: *Total* the six (6) bi-monthly billing periods immediately preceding the effective date of the appeal

RESULT: Total Annual Consumption

Step 3: *Divide* the annualized inside household need by the Total Annual Consumption

RESULT: Flow Factor Percentage

Section 7. Flow Factor Surveys

Nothing in these rules shall prohibit or limit the department's authority to perform periodic flow factor surveys and audits for the purpose of determining the accuracy of assigned residential user flow factors. Nothing in these rules shall prohibit or limit the department's authority to adjust assigned residential user flow factors, based on the findings of a survey or audit that the assigned flow factors are no longer valid.

Section 8. Amendments

These rules may be amended by a majority vote of the Public Utilities Commission at a duly noticed public meeting.

Sec 149.2. Residential Users Appeal Procedure

Residential users may appeal the correctness of the determination of the volume of wastewater discharged to the City's sewerage system for the purpose of assessing such user's Sewer Service Charges. Such appeals shall be processed in the following manner:

(a) An appeal by a residential user shall be initially submitted in writing to the Director or his designated representative. Each such appeal shall contain the name and address of the appellant and a statement that substantiates the percentage of incoming water discharged to the sewer and shall be filed with the Director within 60 days of receipt of such Sewer Service Charge. The Director or his designated representative shall have the power and duty to decide on such appeals from residential users that involve the percentage of incoming water discharged to the sewer; all at not cost to the appellant. The decision by the Director or his designated representative shall be transmitted to the appellant within 90 days of receipt unless the appellant agrees to an extension of time beyond the 90 days.

(b) Should the appellant be dissatisfied with the decision of such appeal by the Director, then said appellant may have his appeal referred to the Board by submitting a written request therefor to the Director of Public Works within 30 days of receipt of aforementioned decision. The Board shall have the power and duty to hear and decide only those appeals from appellants who have made prior appeals to the Director. The decision of the Board shall be transmitted to the appellant within 45 days of receipt of said appeal by the Board unless the appellant agrees to an extension of time beyond the 45 days. (Amended Ord. 191-78, App. 4/13/78)

Sec. 149.3. Hearing

Upon receipt of notice of appeal, the Secretary shall set a time and place for hearing such appeal by the Board. Notice of the time and place of such hearing shall be given by mail to the appellant. At the hearing, the appellant may appear in person or by agent or by attorney. Appeals shall be considered by the Board at the earliest opportunity. (Amended Ord. 191-78, App. 4/13/78)

Sec.149.4. Effective Date of Appeal

For the purpose of this Article, the date upon which the Director receives an appeal that the Director considers to be a valid appeal, or that the Board considers to be a valid appeal, shall be the effective date of appeal. Adjustments to the Sewer Service Charges as a result of an appeal may apply retroactively only to the last billing prior to the effective date of appeal. (Amended Ord. 191-78, App. 4/13/78)