

Administrative Rules for Refunds of Sewer Connection and Repair Permit Fees ENB – 4.29

[Month of Adoption] 2018



ENVIRONMENTAL SERVICES
CITY OF PORTLAND

working for clean rivers

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These are administrative rules of the Bureau of Environmental Services (BES) governing the issuance of refunds for sewer connection and repair permits.

1. Applicability

These administrative rules apply to all sewer connection and repair permits issued by the Bureau of Environmental Services (BES).

2. Purpose

These rules specify the criteria governing when BES may refund permit fees for connections to the City's sewer, storm sewer, and drainage system or repairs of private systems located in City right-of-ways or easements. These rules support the following City interests and program goals:

- A. Acknowledge that certain situations may warrant refunds of sewer connection and repair permit fees;
- B. Recover the cost of BES staff resources expended on processing sewer connection and repair permit applications; and
- C. Diminish the number of speculative sewer connection and repair permits that are issued by BES but that never materialize into actual system connections or repairs.

3. Definitions

The definitions of Portland City Code (PCC) section 17.32.020 apply to these rules.

4. Regulatory Authority

These rules are authorized by PCC Section 3.13.040 and implement PCC Section 17.32.110 E.

5. Refund Criteria

BES may refund up to 80 percent of permit fees paid for a permit for a new sewer connection or repair if any of the following apply:

A. Cancelled Permits.

- 1. The City cancels the permit for reasons other than permit expiration; or
- 2. The property owner cancels the work authorized by the issued permit. To be eligible for a refund, a contractor who is a permit applicant must show that a written contract to complete sewer connection or repair work was executed with the property owner on a date prior to the date of submission of the sewer connection or repair permit application.

B. Permit Modification.

- 1. The City requires changes to the details of the connection or repair work proposed in the permit application; or

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2. The City determines that a different permit or additional permits are required for the work that the permit applicant has proposed.

6. Refund Requests

All refund requests must be made in writing to the BES Systems Development Manager. A contractor requesting a refund based on project cancellation by the property owner must provide a copy of:

- A. The signed contract with the property owner that pre-dates the permit application, per section 5.A.2 of these rules; and
- B. Written notice from the property owner of the project's cancellation.

7. Administrative Review and Appeal

A person may request reconsideration of a BES decision through administrative review as described in this Section. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal of a decision with the Code Hearings Officer (CHO) per Portland City Code Title 22. A person may only appeal a decision that is subject to administrative review by BES.

- A. **Administrative Review Requests.** A person to whom a notice was addressed will have 20 business days from the date the notice is issued to submit a written request for administrative review. The requestor must provide all information known to the requestor that supports an assertion made in the written request for administrative review. The requestor must provide such information via graphic, written, or recorded communication, or in person at the administrative review meeting. BES will hold an administrative review meeting within 15 business days of receipt of the written request for administrative review unless BES determines that extenuating circumstances justify a reasonably longer timeframe or the requestor asks BES to delay the meeting. The requestor may provide detailed information in writing in lieu of attending the administrative review meeting.
- B. **Non-Reviewable Items.** A BES decision made under these rules is subject to administrative review except that BES will not grant administrative review for the following items:
 1. BES's determination of bureau administrative costs associated with issuing and canceling a sewer connection or repair permit; and
 2. Any requirement stated in these rules or in associated City Code.
- C. **BES Evaluation.** BES will use authorizing code, the provisions of these rules, City records, and the testimony and documentation provided by the requestor to make a final determination on the issue that is the subject of the administrative review.

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D. Final Determination. BES will issue to the requestor a written determination within 15 business days of the administrative review meeting unless BES determines that extenuating circumstances justify a reasonably longer period of evaluation. The written final determination will provide information about the process for filing an appeal to the CHO.

APPENDIX A—BACKGROUND INFORMATION

ENB-4.29 provides criteria for Portland Bureau of Environmental Services (BES) decision-making surrounding refunds of fees paid for BES work associated with sewer connection and repair permits. At the time these rules were adopted, Portland City Code (PCC) section 17.32.100 E acknowledged that certain situations could warrant refunds of permit fees and required BES to adopt administrative rules that established criteria for issuing refunds of sewer connection and repair permit fees. Temporary rules adopted in July 2014 laid out these criteria and associated requirements. The permanent rules now contained in ENB-4.29 were adopted in [month of adoption] 2018 and replaced the previously adopted temporary rules. There were no significant substantive differences between the temporary rules and the permanent ones adopted in 2018. Rather, in adopting the permanent rules contained in ENB-4.29, BES aimed to provide the public with greater clarity of refund criteria and requirements.

ENB-4.29 was also intended to support efficient use of ratepayer dollars. The rules authorize a maximum refund of 80% of the sewer connection or repair permit fee. This refund cap discourages citizens from seeking speculative permits that require BES staff resources to issue, and cancel, but that never materialize into actual system connections or repairs. In addition, by authorizing BES to refund less than 80% of a permit fee, the rules help ensure that BES can recover administrative costs associated with issuing and cancelling a particular permit.