City of Sacramento
City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: **11/29/2011** **Report Type:** Consent

Title: (Pass for Publication) Ordinance Relating to Utility Service Billing and Utility Service Rates, Fees and Charges

Report ID: 2011-00978

Location: Citywide

Recommendation: Review an ordinance 1) repealing and Reenacting Chapter 13.12; Amending Sections 13.04.030, 13.04.220, 13.04.720, 13.04.730, 13.08.020, 13.08.400, 13.08.410, 13.08.470, 13.10.130, 13.10.440, 13.10.450, 13.10.460, 13.10.475 and 13.10.700; and Repealing Section 13.04.740, of the Sacramento City Code, Relating to Utility Service Billing and Utility Service Rates, Fees, and Charges; and 2) pass for publication the Ordinance title as required by Sacramento City Charter § 32(c), to be forwarded to the City Council for adoption on December 6, 2011.

Contact: Shellette Smallwood, Program Specialist, (916) 808-4928, Department of Utiltiies

Presenter: None

Department: Department Of Utilities
Division: Account Management
Dept ID: 14001631

Attachments:

1-Description/Analysis
2-Background
3-Ordinance.Clean
4-Ordinance.Redline

City Attorney Review
Approved as to Form
Joe Robinson 11/17/2011 1:26:00 PM

City Treasurer Review
Reviewed for Impact on Cash and Debt
Russell Fehr
11/14/2011 12:42:53 PM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 11/16/2011 4:09:18 PM

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Description/Analysis

Issue: The provisions of Chapter 13.12 of the City Code governing utility service billing have not been revised or updated in fifteen years, and some provisions have not been changed in more than 20 years. The proposed ordinance updates Chapter 13.12 to reflect current City practices and also includes revisions necessary to conform the City Code with current State law governing the collection of delinquent utility charges and termination of utility services for nonpayment. The proposed ordinance also revises other City Code provisions pertaining to the City's various utility service charges to reflect current City practices and adopt requirements that are consistent for the various charges.

Policy Considerations: City staff has performed a comprehensive review of the City Code provisions utilized as a basis to bill and collect the City's utility service charges, and based on this review recommends a number of revisions, which are described in more detail in the Background section of this report.

Environmental Considerations: California Environmental Quality Act (CEQA): Ongoing administrative activities, including general policy and procedure making such as adoption of the proposed ordinance, do not constitute a "project" under the California Environmental Quality Act (CEQA), and are exempt from CEQA review (see CEQA Guidelines Sections 15378(b)(2) and 15378(b)(5)).

Sustainability: Not applicable.

Commission/Committee Action: On November 15, 2011, the Law and Legislation Committee approved the proposed ordinance and forwarded it to the City Council for adoption.

Rationale for Recommendation: Adoption of the proposed ordinance will amend the City Code to reflect current City practices and applicable provisions of State law.

Financial Considerations: The proposed ordinance repeals a long-standing City Code provision that requires water rates for retail customers outside of the City to be 1 and ½ times the City's standard water rate, because this provision is inconsistent with the "cost of service" mandate of Proposition 218. Removal of this surcharge will reduce annual water rate revenues by approximately $90,000. This revenue loss likely will be offset to some extent because the proposed ordinance allows the City to include retail water service customers outside of the City in the annual delinquency assessment process, which is not permitted under a current City Code provision that limits the delinquency assessment process to parcels located within the City.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

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BACKGROUND

The proposed ordinance (1) updates City Code Chapter 13.12, governing the billing and collection of utility charges and termination of utility services for nonpayment, and (2) revises other City Code provisions pertaining to the City's various utility service charges, including the following revisions:

Revisions to Chapter 13.12

- A Definitions section is added to provide definitions for the various terms used in the Chapter.
- Provisions making property owner liable for utility service charges revised for greater clarity.
- Provision added to allow the City to bill a tenant if requested by the property owner, provided that the owner remains liable.
- Provisions added to address common utility services for condominium projects, common interest developments, and common irrigation services that are utilized in other situations.
- Billing frequency provision revised to allow billing on other than monthly basis, if approved by the City Council.
- Billing start date guidelines included in the City Code.
- Billing delinquency timelines, late payment penalty amounts and lien provisions revised to be consistent with current City practices and State law.
- Process for imposition and adoption of special assessments for delinquent service charges revised to be consistent with current City practices and State law. Among other changes, these revisions (1) allow the delinquency assessment process to be expanded to included parcels outside the City that receive City utility service, (2) require the City Council to hear objections so long as the objecting party has pursued all prior administrative remedies, and (3) provide that the assessments will not be imposed in the event of a majority protest.
- Provisions governing termination of service for nonpayment revised to eliminate inconsistencies and be consistent with State law. The most significant changes reflect State law limitations and conditions that apply to the termination of residential water service.

Revisions to Other City Code Provisions in Chapters 13.04, 13.08, and 13.10:

- Provisions added to address common utility services for condominium projects, common interest developments, and common irrigation services that are utilized in

other situations, to allow deviation in these situations from the standard requirement to have a separate water service for each parcel.

- Provisions that provide for the amount of utility service rates to be set by resolution revised to allow amounts to be set either by ordinance or resolution.
- Repeals City Code section 13.04.740, which imposes an automatic multiplier on the rate for water service outside the City, because this provision is inconsistent with Proposition 218 requirement that rates to be based on “cost of service.”

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ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE REPEALING AND REENACTING CHAPTER 13.12; AMENDING SECTIONS 13.04.030, 13.04.220, 13.04.720, 13.04.730, 13.08.020, 13.08.400, 13.08.410, 13.08.470, 13.10.130, 13.10.440, 13.10.450, 13.10.460, 13.10.475 AND 13.10.700; AND REPEALING SECTION 13.04.740, OF THE SACRAMENTO CITY CODE, RELATING TO UTILITY SERVICE BILLING AND UTILITY SERVICE RATES, FEES, AND CHARGES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 13.12 of Title 13 of the Sacramento City Code is repealed.

SECTION 2.

Chapter 13.12 is added to Title 13 of the Sacramento City Code to read as follows:

Chapter 13.12 BILLING FOR UTILITY SERVICES

Article I. In General

13.12.010 Definitions.

As used in this chapter:

"Amortization agreement" means an agreement between the city and an owner to pay delinquent utility service charges over a specified period of time after the owner receives a notice of payment delinquency and impending termination of utility services from the city, pursuant to article III of this chapter.

"Assessment roll" means the most recent equalized assessment roll of the county of Sacramento.

"Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development, in accordance with the provisions of the Davis-Stirling Common Interest Development Act, California Civil Code sections 1350 and following.

“Common area” means the area in a common interest development, excluding any area that is a separate interest, and/or an area within such a separate interest where the association or other entity managing the common interest development is authorized to operate a common irrigation system.

“Common interest development” means a common interest development as defined in California Civil Code section 1351(c).

“Condominium association” means a nonprofit corporation or unincorporated association created for the purpose of managing a condominium project, in accordance with the provisions of the Davis-Stirling Common Interest Development Act, California Civil Code sections 1350 and following.

“Condominium project” means a condominium project as defined in California Civil Code section 1351(f).

“Department” means the department of utilities of the city of Sacramento.

“Director” means the director of the department, or his or her authorized representatives.

“Governing documents” means the governing documents of a common interest development, including but not limited to a condominium project, as defined in California Civil Code section 1351(j).

“Hearing officer” means a hearing officer appointed pursuant to section 8.04.070 of this code to hear objections or protests pursuant to section 13.12.100.

“Owner” means the person to whom a parcel of real property was assessed as legal owner in the assessment roll, provided that if the director has actual knowledge of a grant deed or other reliable evidence showing that a different person owns legal title to the parcel, “owner” also may include such different person.

“Owner’s address” means the address of the owner shown on the assessment roll, or a different address of which the director has actual knowledge.

“Person” means any person, company, partnership, agency, or other public or private entity, whether singular or plural.

“Rates, fees and charges” means any rate, fee, tax, assessment, penalty, or other charge established, prescribed or revised under any provision of this code, whether the actual amount is periodically set by city council ordinance or resolution.

“Rendered,” when used to describe utility services being rendered, means that utility services are provided or otherwise made available for use.

"Residential occupant" means a person who occupies real property used for residential purposes, whether such person owns, rents, or leases the property.

"Residential tenant" means a person to whom real property used for residential purposes is rented or leased.

"Separate interest" means a separate interest as defined in California Civil Code section 1351(l).

"Tenant" means a person to whom a parcel of real property is rented or leased.

"Utility services" means all utility services that the city provides or otherwise makes available for use and/or bills for under the provisions of title 13 of this code, including water, storm drainage, sewer, regional sewer, garbage, recycling, garden refuse, and street sweeping service.

"Utility service charges" means any rates, fees, and charges for utility services, including any penalties assessed for delinquent payment pursuant to this chapter.

"Water service connection" means any tap, pipe, or other means of receiving water from the city water distribution system.

13.12.020 Owner liable for charges.

Notwithstanding any provision of this code to the contrary, the owner of a parcel to which one or more utility services are rendered shall be responsible and liable for the payment of all utility service charges for the utility services, and the city may utilize any and all procedures available under this code or state law to collect payment.

13.12.030 Cumulative remedies.

Notwithstanding any provision of this code to the contrary, the remedies specified in this chapter or elsewhere in this code for the delinquent payment or nonpayment of utility service charges, including but not limited to the lien provided for in section 13.12.070, the special assessment provided for in section 13.12.090, and the termination of service provided for in section 13.12.120, are separate, distinct, and cumulative remedies that may be pursued separately or in combination.

Article II. Billing and Collection

13.12.040 Billing for utility services.

A. Utility service charges that apply to utility services rendered to a parcel of real property shall be billed to the owner of the parcel at the owner's address. Utility service charges for various utility services may be billed on one bill in one total amount.

B. Notwithstanding the foregoing, the director may, in the director's sole discretion, send the bill for any or all utility service charges to the tenant of a parcel to which utility services are rendered, instead of to the parcel owner, if the owner signs a written request to bill the tenant on such form as may be specified by the director, provided that the utility services account shall remain in the owner's name and the owner shall be fully responsible and liable for the payment of such utility service charges as if the bill had been sent to the owner. Such request shall be accompanied by payment of the applicable processing fee established pursuant to section 13.04.735 of this code.

C. Notwithstanding the foregoing, if authorized by the director, and subject to such terms and conditions as may be specified by the director:

1. The rates, fees, and charges that apply to one or more utility services rendered to a condominium project's condominium units and/or common area(s) may be billed to the condominium association managing the condominium project, provided that the condominium project's governing documents authorize the condominium association to obtain and pay for such utility services for the condominium units and/or common area(s), as applicable.

2. The rates, fees, and charges that apply to water service rendered to the separate interests and/or common areas(s) of a common interest development, other than a condominium project, that are served by the same water service connection or connections and that are being changed from flat rate to metered rate water service, may be billed to the association managing the common interest development, but only if:

   a. The director determines that due to unique site conditions it is not feasible to provide a separate metered water service connection to each separate interest and/or the common area; and

   b. The common interest development's governing documents authorize the association to obtain and pay for water service for the separate interests and common areas, as applicable.

3. The rates, fees, and charges that apply to irrigation service, as defined in section 13.04.030 of this code, for the common area(s) of a common interest development, may be billed to the association or other entity managing the common interest development, provided that such association or other entity owns an easement that authorizes the association or other entity, or the common interest development's governing documents otherwise authorize the association or other entity, to obtain and pay for irrigation service for the common area(s).

4. The rates, fees, and charges that apply to irrigation service, as defined in section 13.04.030 of this code, for a common irrigation system that crosses parcel lines in a commercial development that is not a common interest development, may be billed to a single owner or the owner's authorized representative, provided that the owner owns all parcels served by the common irrigation system, or the owner owns an easement on any such parcels not owned by the owner that authorizes the owner or the owner's authorized representative to obtain and pay for irrigation service for the common irrigation system.

13.12.050 Billing period.

Utility services shall be billed on a monthly basis, or on such other periodic frequency as may be specified by ordinance or resolution of the city council.

13.12.060 Billing start date for new development.

Billing for utility services serving new development on any parcel of real property shall commence on the date that usage of utility services begins, the date the development is first occupied, or the date the development is given final approval by city officials in accordance with applicable provisions of this code, whichever occurs first. The director may adopt written guidelines to implement the provisions of this section and specify criteria for determining when billing for utility services starts in other situations.

13.12.070 Delinquent utility service charges constitute a lien.

Utility service charges are due upon presentation of the bill for services. Charges unpaid 20 days after presentation of the bill for services become past due (delinquent). Charges that remain unpaid 15 days following the past due date shall be assessed a basic penalty of 10 percent of the delinquent charges. Beginning 45 days following the past due date, an additional penalty of one and one-half percent per month shall be added for any portion of the delinquent charges and basic penalty that remains unpaid. Any portion of the delinquent charges and penalties that remains unpaid 75 days following the past due date shall become a lien on the parcel of real property to which the utility services were rendered, subject to the procedural requirements specified in section 13.12.080.

13.12.080 Lien recorded—Procedure.

A. Any utility service charges that have been delinquent for 75 days or more shall be subject to having the lien provided for in section 13.12.070 recorded with the Sacramento County recorder pursuant to the procedures in this section.

B. Prior to the recordation of the lien, the director shall cause a written notice of the lien and an opportunity for an informal hearing on the delinquent charges to be mailed to the owner at the owner's address. If the owner desires a hearing, the owner shall provide the director with a written request for a hearing within 10

days after the date of the director's notice. Upon receipt of a timely request for hearing from the owner, the director shall provide owner written notice of the date, time, and location of the hearing, which shall be scheduled not less than 10 days after the date of the director's notice of the hearing to the owner. The hearing shall be held before a department employee designated by the director to conduct such a hearing, who shall mail a written notice of his or her decision to the owner at the owner's address as soon as practicable after the hearing. The decision shall be the city's final administrative determination of the matter.

C. If the owner fails to request a hearing within the time specified in subsection B, or if the owner requests a hearing within the time specified in subsection B but fails to appear at the hearing, or if after a hearing the director's designee decides that the lien shall be recorded, the director shall cause the lien to be recorded with the Sacramento County recorder in the form and manner prescribed by law. Thereafter, such lien shall not be released unless and until it is fully paid or rendered invalid by operation of law, provided that the director may release a lien if the director determines that the lien was recorded in error.

D. The director is authorized to determine the minimum amount of delinquency, if any, for recording a lien as provided herein.

13.12.090 Delinquent charges—Collected as special assessment.

Not less often than once a year, the director shall initiate proceedings to make delinquent utility service charges special assessments against the parcels of real property to which the utility services were rendered. Such proceedings shall be initiated and conducted in accordance with the provisions of section 13.12.100.

13.12.100 Report of delinquent utility service charges; special assessment procedure.

A. The director shall prepare a report of delinquent utility service charges, and shall cause a written notice of the city's intention to make the delinquent charges a special assessment against the parcels of real property to which the utility services were rendered, to be mailed to the owner of each parcel of real property identified in the report, at the owner's address. Such notice shall inform the owner of the owner's right to file a written objection or protest with the director. Any objection or protest must be received within 15 days after the date of the director's notice. Upon receipt of a timely objection or protest, and not later than 30 days after the date of the director's notice, the director shall review the objection or protest and mail a written response to the owner at the owner's address.

B. The director's response provided pursuant to subsection A, above, also shall inform the owner of the owner's right to object or protest before a hearing officer, and shall notify the owner of the date, time, and location of the hearing, which

shall be scheduled not less than 15 days after the date of the director's response. Only those owners who filed a timely objection or protest in accordance with the provisions of subsection A, above, shall be permitted to have their objection or protest heard by the hearing officer. Prior to the date of the hearing, the director shall transmit all objections or protests received by the director and the applicable portions of the director's report of delinquent utility service charges to the hearing officer.

C. At the hearing, the hearing officer shall consider the applicable portion(s) of the director's report of delinquent utility service charges together with any objections or protests received prior to or at the hearing. The hearing officer shall be authorized to make revisions to the applicable portion(s) of the director's report of delinquent utility service charges if the hearing officer finds that such revisions are necessary to correct an error or otherwise invalid charge. As soon as practicable after the hearing, the hearing officer shall provide the owners appearing at the hearing with written notice of his or her decision, including any revisions made by the hearing officer to the applicable portion(s) of the director's report of delinquent utility service charges. The hearing officer also shall transmit all such revisions to the director, who shall submit the report of delinquent utility service charges (as revised) to the city clerk to be transmitted to the city council. The director or the city clerk shall mail notice to the owners who appeared before the hearing officer of the date, time, and location of the public hearing described in subsection D of this section.

D. Upon receipt of the report from the hearing officer, the city clerk shall schedule a public hearing before the city council. The city clerk shall cause notice of the hearing to be published pursuant to Government Code section 6066. At the hearing, the city council shall consider any objections or protests de novo, provided that only those owners who filed a timely objection or protest in accordance with the provisions of subsection A, above, and appeared before the hearing officer, shall be permitted to have their objection or protest considered by the city council. At the conclusion of the hearing, the city council may adopt a resolution adopting the report, with or without modifications. If the city council finds that the objections or protests considered by the city council have been made by the owners of a majority of the separate parcels of property described in the report, the report shall not be adopted.

E. After adoption of the report by the city council, the delinquent utility service charges contained therein shall constitute a special assessment and lien, effective in accordance with applicable law, against each parcel of real property to which the utility services were rendered. Thereafter such assessment may be collected at the same time, by the same persons, and in the same manner, together with and not separately, as ordinary secured property taxes are collected, and shall be subject to the same penalties and same procedures of sale as provided for delinquent ordinary secured property taxes. The assessment shall be subordinate to all existing special assessment liens previously imposed upon the property, and

paramount to all other liens except those for state, county, and municipal taxes, with which it shall be on parity. The lien shall be continued until the assessment and all interest and penalties due and payable thereon are paid or the lien is released or is prevented from attaching by operation of law. All laws applicable to the levy, collection, and enforcement of secured property taxes shall be applicable to such special assessment and lien, except as may be provided otherwise by state law.

F. A certified copy of the resolution and report adopted by the city council shall be filed with the county auditor on or before August 10. The descriptions of the parcels of real property subject to the special assessment and lien shall be those used for the same parcels on the county assessor's maps prepared in accordance with Revenue and Taxation Code section 327 for the current year.

13.12.110 Contesting special assessment.

The validity of any special assessment and lien imposed under section 13.12.100 shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the date the city council adopts the resolution confirming the report of delinquent utility services charges.

Article III. Termination of Service

13.12.120 Termination of utility services for nonpayment of charges.

If all or part of any utility service charges for any premises are not paid on or prior to the past due date specified in section 13.12.070, the water service and other utility services to the premises may be terminated in accordance with the procedures set forth in this article. The provisions of this article govern only the termination of utility services for nonpayment and do not apply when utility services are terminated for any other reason.

13.12.130 Termination of utility services for nonpayment—initial notice requirements.

A. Prior to the termination of any utility services for nonpayment, the director shall cause a written notice of the payment delinquency and impending termination to be mailed to the owner of the premises to which the utility services are provided, at the owner's address. If the owner's address is not the address of the property to which such utility services were rendered, the notice also shall be sent to the address of the property to which such utility services were rendered, addressed to "Occupant."

B. The notice shall be mailed not less than 30 days prior to the proposed termination.

C. The notice shall include all of the following in a clear and legible format:

1. The owner's name and address;

2. The amount of the delinquency;

3. The date by which payment or arrangement for payment is required in order to avoid termination of utility services;

4. A description of the opportunity to file a complaint or request an investigation concerning the delinquent utility service charges or applicable services, or to request an extension of time to pay the delinquent charges because the charges are beyond the means of the owner to pay in full within the time required, as provided in section 13.12.140;

5. A description of the procedure by which the owner may request amortization of the delinquent utility service charges;

6. A description of the procedure for the owner to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable; and

7. The telephone number of a department representative authorized to provide additional information or institute arrangements for payment.

D. A notice of the delinquency and impending termination of utility services also shall be mailed to any third party designated to receive notification pursuant to subdivision (c) of section 10010.1 of the California Public Utilities Code, if any, provided that such notification shall not obligate the third party to pay the delinquency nor prevent or delay a termination of utility services.

13.12.140 Complaint or request for investigation concerning delinquent charges or request for extension of time for payment.

An owner desiring to file a complaint or request an investigation concerning the delinquent utility service charges or applicable services, or to request an extension of time to pay the charges because the charges are beyond the means of the owner to pay in full within the time required, must file a written complaint or request with the director not later than 15 days after the date of the mailed notice of delinquency and impending termination.

13.12.150 Departmental review.

A. Upon receipt of a timely complaint, request for an investigation, or request for an extension of time to pay the delinquent charges, the director shall schedule a meeting to review the complaint or request. The meeting shall be held not earlier than 10 days from the date that the director mails written notice of the date, time and place of the meeting to the owner, at the owner's address.

B. The meeting shall be with a department employee designated by the director who shall be authorized to review disputed bills and to correct any errors. If an extension of time to pay is requested, the designated employee shall consider whether the owner should be permitted to amortize the unpaid balance of the utility services account over a reasonable period of time, not to exceed 12 months.

C. At the conclusion of the meeting, the designated employee shall make a decision, which may include adjustment of the amount due and/or extension of the time for payment for a period of up to 12 months. A copy of the decision shall be mailed to the owner at the owner's address.

D. The decision of the designated employee may be appealed pursuant to chapter 1.24 of this code, by filing a notice of appeal with the city clerk not later than 10 days after the date the decision is mailed to the owner.

13.12.160 Limitations on termination of residential services.

A. Notwithstanding any other provision of this article, water service for residential premises shall not be terminated for delinquent payment in the following situations:

1. During the pendency of an investigation by the city of a dispute or complaint concerning the delinquent water service charges or applicable water service;

2. During the pendency of an appeal filed in accordance with section 13.12.150(D);

3. When an owner has been granted an extension of the period for payment , or has entered into an amortization agreement, so long as the owner remains in compliance with the amortization agreement, and also keeps the water service account current as charges accrue in each subsequent billing period; or

4. On the certification of a licensed physician that to do so will be life-threatening to a resident of the premises, and the owner is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with respect to all charges that the owner is unable to pay prior to delinquency. If these requirements are met the owner shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the owner's means to pay within the normal period for payment.

B. Notwithstanding any other provision of this article, no utility service to premises used for residential purposes shall be terminated if it is demonstrated at the meeting held pursuant to section 13.12.150 that the occupant of the premises meets the qualifications set forth in subsections (B)(1) through (B)(4) of section 3.32.170 of this code relating to refund of the communications and cable television user taxes.

C. Where the city furnishes metered water service used by residential tenants in a detached single-family dwelling, or furnishes water service through separate individually metered water service connections to residential tenants in a multiunit residential structure or mobilehome park, and a notice of delinquency and impending termination for water service to such premises is mailed pursuant to section 13.12.130, the following additional requirements shall apply:

1. The city shall provide notice to the residential tenants as specified in subdivision (b) of section 10009 of the Public Utilities Code; and

2. The residential tenants shall have the right to become water service customers without being required to pay the delinquency, to the extent authorized by and in accordance with the provisions of subdivision (c) of section 10009 of the Public Utilities Code.

D. Where the city furnishes water service through a single metered water service connection that supplies water used by multiple residential occupants in a multiunit residential structure or mobilehome park, and a notice of delinquency and impending termination for water service to such premises is mailed pursuant to section 13.12.130, the following additional requirements shall apply:

1. The city shall provide notice to the residential occupants as specified in subdivision (a) of section 10009.1 of the Public Utilities Code;

2. The residential occupants shall have the right to become water service customers without being required to pay the delinquency, to the extent authorized by and in accordance with the provisions of subdivision (b) of section 10009.1 of the Public Utilities Code; and

3. The city shall not discontinue water service if the delinquencies were incurred for services provided by another public agency, or if a public health or building officer certifies that termination of water service would result in a significant threat to the health or safety of the residential occupants or the public.

The director shall adopt rules and regulations necessary to implement this subsection D and ensure that the department has made reasonable efforts to

continue water service to residential occupants in a multiunit residential structure or mobilehome park prior to any termination of such water service due to nonpayment by the owner, manager, or operator of the multiunit residential structure or mobilehome park. The rules and regulations shall include guidelines for assistance in the enforcement of section 10009.1 of the Public Utilities Code and requirements for the notice prescribed by subdivision (a) of section 10009.1 of the Public Utilities Code, including clear wording, large and boldface type, and instructions to ensure full notice to the residential occupants.

13.12.170 Termination of water and other utility services.

A. If a complaint is not filed or a request for investigation or extension of time for payment is not made, as specified in section 13.12.140, or if a complaint is filed or a request is made as specified in section 13.12.140, but the person filing the complaint or making the request fails to appear at the meeting scheduled pursuant to section 13.12.150, the city shall have the right to discontinue water service and other utility services, subject to any limitations specified in this article.

B. If a complaint has been filed or a request has been made as specified in section 13.12.140, and the person filing the complaint or making the request has appeared at the meeting scheduled pursuant to section 13.12.150, and any amount determined to be due by the designated employee holding the meeting is not paid in full within 30 days after the date that the designated employee's decision is mailed, the city shall have the right to discontinue water service and other utility services, subject to any limitations specified in this article.

13.12.180 Final notice of termination.

A. Not less than 48 hours prior to a scheduled termination of water service or other utility service a final notice shall be posted in a conspicuous location on the premises where service is to be terminated, and also shall be mailed to the owner of the premises to which the utility services are provided, at the owner's address. The final notice shall include all of the following in a clear and legible format:

1. The owner's name and address;

2. The amount of the delinquency;

3. The date by which payment or arrangements for payment was required in order to avoid termination of utility services;

4. A description of the procedure for the owner to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable;

5. The telephone number of a department representative authorized to provide additional information or institute arrangements for payment; and

6. If the notice is directed to a residential customer failing to comply with an amortization agreement, a description of the conditions the customer is required to meet to avoid termination.

B. Not less than 24 hours prior to a scheduled termination of water service or other utility services to any premises used for residential purposes, the director shall make a reasonable attempt to contact an adult residing at the premises by telephone or personal contact.

13.12.190 Termination of water service only during business hours.

No water service shall be terminated on any Saturday, Sunday, legal holiday, or at any other time when the customer service office of the department is not open to the public.

SECTION 3.

A. Section 13.04.030 of the Sacramento City Code is amended as follows:

1. The definition of "customer" is amended to read as follows:

"Customer" means the owner of the property to which water service is rendered.

2. A definition of "rendered" is added to read as follows:

"Rendered," when used to describe water service or other utility services being rendered, means that the service is provided or otherwise made available for use.

B. Except as amended in subsection A above, Section 13.04.030 remains unchanged and in full force and effect.

SECTION 4.

Section 13.04.220 of the Sacramento City Code is amended to read as follows:

13.04.220 Condominiums; common interest developments; common irrigation systems.

A. Notwithstanding any contrary provision of this code, if authorized by the director, and subject to such terms and conditions as may be specified by the director:

1. Water service, and other city utility services as applicable, rendered to a condominium project's condominium units and/or common area(s) may be provided at a single point of service or multiple points of service and billed to the condominium association managing the condominium project, provided that the condominium project's governing documents authorize the condominium association to obtain and pay for such service(s) for the condominium units and common areas, as applicable.

2. Water service rendered to the separate interests and/or common areas(s) of a common interest development, other than a condominium project, that are served by the same water service connection or connections and that are being changed from flat rate to metered rate water service, may be provided at a single point of service or multiple points of service and billed to the association managing the common interest development, but only if:

   a. The director determines that due to unique site conditions it is not feasible to provide a separate metered water service connection to each separate interest and/or the common area; and

   b. The common interest development's governing documents authorize the association to obtain and pay for water service for the separate interests and common areas, as applicable.

3. Irrigation service rendered to the common area(s) of a common interest development may be provided at a single point of service or multiple points of service and billed to the association or other entity managing the common interest development, provided that such association or other entity owns an easement that authorizes the association or other entity, or the common interest development's governing documents otherwise authorize the association or other entity, to obtain and pay for irrigation service for the common area(s).

4. Irrigation service for a common irrigation system that crosses parcel lines in a commercial development that is not a common interest development, may be provided at a single point of service or multiple points of service and billed to a single owner or the owner's authorized representative, provided that the owner owns all parcels served by the common irrigation system, or the owner owns an easement on any such parcels not owned by the owner that authorizes the owner or the owner's authorized representative to obtain and pay for irrigation service for the common irrigation system.

B. As used in subsection A, the terms "common area," "condominium project," "condominium association," "governing documents," "common interest

development," "separate interest," and "association" shall have the meanings specified in section 13.12.010 of this code.

SECTION 5.

Section 13.04.720 of the Sacramento City Code is amended to read as follows:

13.04.720 Establishment of rates for water service.

Rates, fees, and charges for water service are established and shall be charged for water service. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council.

SECTION 6.

Section 13.04.730 of the Sacramento City Code is amended to read as follows:

13.04.730 Liability for charges.

Customers to whom water service is rendered shall be responsible and liable for payment of the rates, fees, and charges for the service (on either a flat rate or metered rate basis).

SECTION 7.

Section 13.04.740 of the Sacramento City Code is repealed.

SECTION 8.

A. Section 13.08.020 of the Sacramento City Code is amended as follows:

1. The definition of "customer" is amended to read as follows:

   "Customer" means the owner of the property to which sewer service or storm drain service is rendered.

2. A definition of "rendered" is added to read as follows:

   "Rendered," when used to describe sewer service or storm drain service being rendered, means that the service is provided or otherwise made available for use.

B. Except as amended in subsection A above, Section 13.08.020 remains unchanged and in full force and effect.

SECTION 9.

Section 13.08.400 of the Sacramento City Code is amended to read as follows:

13.08.400 Establishment of rates for sewer service and storm drain service.

Rates, fees, and charges for sewer service and storm drain service are established, and shall be charged for sewer service and storm drain service. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council. The city council may set rates, fees, and charges for sewer service and storm drain service in amounts that apply uniformly throughout the city, or may establish separate amounts for: (i) sewer service rendered by the separate sewer system; (ii) sewer service rendered by the combined sewer system; (iii) storm drain service rendered by the storm drain system; (iv) storm drain service rendered by the combined sewer system; and/or (v) combined sewer and storm drain service rendered by the combined sewer system.

SECTION 10.

Section 13.08.410 of the Sacramento City Code is amended to read as follows:

13.08.410 Liability for charges.

Customers to whom sewer service and/or storm drain service is rendered shall be responsible and liable for payment of the rates, fees, and charges for each service.

SECTION 11.

Section 13.08.470 of the Sacramento City Code is amended to read as follows:

13.08.470 Service connection installation fee.

A service connection installation fee, in the amount set by resolution of the city council, shall be paid prior to the department's installation of a new or modified connection to the city sewer system.

SECTION 12.

Section 13.10.130 of the Sacramento City Code is amended to read as follows:

13.10.130 Establishment of rates for garbage collection service.

Rates, fees, and charges for garbage collection service are established, and shall be charged to owners liable for payment under section 13.10.090. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council.

SECTION 13.

A. Subsection A of Section 13.10.440 of the Sacramento City Code is amended to read as follows:

A. Except as provided otherwise in Section 13.10.475 of this code, the fee shall be and is imposed on all residential properties within the city.

B. Except as amended by revising subsection A as set forth above, Section 13.10.440 remains unchanged and in full force and effect.

SECTION 14.

Section 13.10.450 of the Sacramento City Code is amended to read as follows:

13.10.450 Establishment of rates for lawn and garden service—Residential property.

Rates, fees, and charges for lawn and garden service for residential property are established, and shall be charged to owners of residential property liable for payment under section 13.10.440. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council. In setting the amount of the rates, fees, and charges, the amount for the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth.

SECTION 15.

Section 13.10.460 of the Sacramento City Code is amended to read as follows:

13.10.460 Establishment of rates for lawn and garden service—Nonresidential property; liability for charges.

Rates, fees, and charges for lawn and garden service for nonresidential property are established, and shall be charged to owners of nonresidential property authorized to deposit garden refuse in city streets pursuant to section 13.10.430. The lawn and garden service fee imposed upon depositing garden refuse in city streets from any nonresidential property, where authorized by the solid waste manager pursuant to Section 13.10.430 of this code, shall be based upon the approximate average monthly quantity of garden refuse so deposited from the property. Owners of nonresidential property authorized to deposit garden refuse in city streets as provided herein shall be responsible and liable for payment of the applicable lawn and garden service fee. Owners of all nonresidential properties shall be responsible and liable for payment of the portion of the lawn and garden service fee attributable to street sweeping.

The approximate average monthly quantity of garden refuse deposit shall be determined by the solid waste manager and may be revised from time to time to reflect

actual approximate average quantities deposited in the city streets from the properties to which the service is provided. Any garden refuse placed for collection pursuant to this section shall be subject to the provisions of this article specifying the time, manner and place for placement for collection of garden refuse from residential properties.

The amount of the rates, fees, and charges established in this section shall be set from time to time by ordinance or resolution of the city council. In setting the amount of the rates, fees, and charges, the amount for the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth.

SECTION 16.

A. Subsection F of Section 13.10.475 of the Sacramento City Code is amended to read as follows:

F. Rates, fees, and charges for voluntary containerized collection service are established, and shall be charged to residential customers participating in the voluntary containerized collection service program. Residential customers to whom voluntary containerized collection service is made available shall be responsible and liable for payment of the rates, fees, and charges for the service. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council. The voluntary containerized collection service program rates, fees and charges shall include the street sweeping fee, but in setting the amount of these rates, fees, and charges, the amount of the portion attributable to street sweeping shall be separately set forth. These rates, fees, and charges shall not exceed the city's costs of providing the voluntary containerized collection service and street sweeping service.

B. Except as amended by revising subsection F as set forth above, Section 13.10.475 remains unchanged and in full force and effect.

SECTION 17.

A. Subsection C of Section 13.10.700 of the Sacramento City Code is amended to read as follows:

C. The rates, fees, and charges described in this section are established, and shall be charged to owners of residential property as provided in this section. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council.

B. Except as amended by revising subsection C as set forth above, Section 13.10.700 remains unchanged and in full force and effect.

SECTION 18.

This ordinance establishes procedures and requirements for the billing and collection of rates, fees, taxes, assessments, penalties, and other charges applicable to the services and facilities furnished by the City of Sacramento's water, sanitation (including garbage and recycling collection and lawn and garden service), storm drainage and sewerage systems and enterprises, and is adopted pursuant to: (1) the City's authority under the City's charter to make and enforce all ordinances and regulations regarding municipal affairs, pursuant to article XI, section 5 of the California Constitution; (2) the City's authority to make and enforce all local, police, sanitary, and other ordinances and regulations, and operate public works to furnish water service, pursuant to article XI, sections 7 and 9 of the California Constitution; and, (3) the City's authority under all applicable statutory authorities, including without limitation section 38790.1 and sections 54300 et seq. of the California Government Code, section 40059 of the California Public Resources Code, sections 10001 et seq. of the California Public Utilities Code, and sections 5470 et seq. of the California Health and Safety Code. Section 5473 of the California Health and Safety Code provides that an ordinance or resolution authorizing the collection of utility service charges on the tax role shall remain in effect for the time specified in the ordinance or resolution. This ordinance shall remain in effect until the Sacramento City Council adopts an ordinance repealing this ordinance.

SECTION 19.

The adoption of this ordinance is not intended to and does not affect any administrative, civil, or other actions or proceedings brought or to be brought to implement or enforce any provisions of the Sacramento City Code, as they existed prior to the effective date of this ordinance, including but not limited to any actions or proceedings to bill and collect rates, fees, taxes, assessments, penalties, and other charges applicable to any utility services that the City of Sacramento provides and/or bills for under the provisions of Title 13 of the Sacramento City Code, or to discontinue any such utility services pursuant to the provisions of Chapter 13.12 of the Sacramento City Code, as they existed prior to the effective date of this ordinance. The provisions of Chapter 13.12 and other provisions of the Sacramento City Code as they existed prior to the effective date of this ordinance shall continue to be operative and effective with regard to any such actions or proceedings.

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REDLINE

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE REPEALING AND REENACTING CHAPTER 13.12; AMENDING SECTIONS 13.04.030, 13.04.220, 13.04.720, 13.04.730, 13.08.020, 13.08.400, 13.08.410, 13.08.470, 13.10.130, 13.10.440, 13.10.450, 13.10.460, 13.10.475 AND 13.10.700; AND REPEALING SECTION 13.04.740, OF THE SACRAMENTO CITY CODE, RELATING TO UTILITY SERVICE BILLING AND UTILITY SERVICE RATES, FEES, AND CHARGES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 13.12 of Title 13 of the Sacramento City Code is repealed.

SECTION 2.

Chapter 13.12 is added to Title 13 of the Sacramento City Code to read as follows:

Chapter 13.12 BILLING FOR UTILITY SERVICES

Article I. In General

13.12.010 Definitions.

As used in this chapter:

"Amortization agreement" means an agreement between the city and an owner to pay delinquent utility service charges over a specified period of time after the owner receives a notice of payment delinquency and impending termination of utility services from the city, pursuant to article III of this chapter.

"Assessment roll" means the most recent equalized assessment roll of the county of Sacramento.

"Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development, in accordance with the provisions of the Davis-Stirling Common Interest Development Act, California Civil Code sections 1350 and following.

“Common area” means the area in a common interest development, excluding any area that is a separate interest, and/or an area within such a separate interest where the association or other entity managing the common interest development is authorized to operate a common irrigation system.

“Common interest development” means a common interest development as defined in California Civil Code section 1351(c).

“Condominium association” means a nonprofit corporation or unincorporated association created for the purpose of managing a condominium project, in accordance with the provisions of the Davis-Stirling Common Interest Development Act, California Civil Code sections 1350 and following.

“Condominium project” means a condominium project as defined in California Civil Code section 1351(f).

“Department” means the department of utilities of the city of Sacramento.

“Director” means the director of the department, or his or her authorized representatives.

“Governing documents” means the governing documents of a common interest development, including but not limited to a condominium project, as defined in California Civil Code section 1351(j).

“Hearing officer” means a hearing officer appointed pursuant to section 8.04.070 of this code to hear objections or protests pursuant to section 13.12.100.

“Owner” means the person to whom a parcel of real property was assessed as legal owner in the assessment roll, provided that if the director has actual knowledge of a grant deed or other reliable evidence showing that a different person owns legal title to the parcel, “owner” also may include such different person.

“Owner’s address” means the address of the owner shown on the assessment roll, or a different address of which the director has actual knowledge.

“Person” means any person, company, partnership, agency, or other public or private entity, whether singular or plural.

“Rates, fees and charges” means any rate, fee, tax, assessment, penalty, or other charge established, prescribed or revised under any provision of this code, whether the actual amount is periodically set by city council ordinance or resolution.

“Rendered,” when used to describe utility services being rendered, means that utility services are provided or otherwise made available for use.

"Residential occupant" means a person who occupies real property used for residential purposes, whether such person owns, rents, or leases the property.

"Residential tenant" means a person to whom real property used for residential purposes is rented or leased.

"Separate interest" means a separate interest as defined in California Civil Code section 1351(l).

"Tenant" means a person to whom a parcel of real property is rented or leased.

"Utility services" means all utility services that the city provides or otherwise makes available for use and/or bills for under the provisions of title 13 of this code, including water, storm drainage, sewer, regional sewer, garbage, recycling, garden refuse, and street sweeping service.

"Utility service charges" means any rates, fees, and charges for utility services, including any penalties assessed for delinquent payment pursuant to this chapter.

"Water service connection" means any tap, pipe, or other means of receiving water from the city water distribution system.

13.12.020 Owner liable for charges.

Notwithstanding any provision of this code to the contrary, the owner of a parcel to which one or more utility services are rendered shall be responsible and liable for the payment of all utility service charges for the utility services, and the city may utilize any and all procedures available under this code or state law to collect payment.

13.12.030 Cumulative remedies.

Notwithstanding any provision of this code to the contrary, the remedies specified in this chapter or elsewhere in this code for the delinquent payment or nonpayment of utility service charges, including but not limited to the lien provided for in section 13.12.070, the special assessment provided for in section 13.12.090, and the termination of service provided for in section 13.12.120, are separate, distinct, and cumulative remedies that may be pursued separately or in combination.

Article II. Billing and Collection

13.12.040 Billing for utility services.

A. Utility service charges that apply to utility services rendered to a parcel of real property shall be billed to the owner of the parcel at the owner's address. Utility service charges for various utility services may be billed on one bill in one total amount.

B. Notwithstanding the foregoing, the director may, in the director's sole discretion, send the bill for any or all utility service charges to the tenant of a parcel to which utility services are rendered, instead of to the parcel owner, if the owner signs a written request to bill the tenant on such form as may be specified by the director, provided that the utility services account shall remain in the owner's name and the owner shall be fully responsible and liable for the payment of such utility service charges as if the bill had been sent to the owner. Such request shall be accompanied by payment of the applicable processing fee established pursuant to section 13.04.735 of this code.

C. Notwithstanding the foregoing, if authorized by the director, and subject to such terms and conditions as may be specified by the director:

1. The rates, fees, and charges that apply to one or more utility services rendered to a condominium project's condominium units and/or common area(s) may be billed to the condominium association managing the condominium project, provided that the condominium project's governing documents authorize the condominium association to obtain and pay for such utility services for the condominium units and/or common area(s), as applicable.

2. The rates, fees, and charges that apply to water service rendered to the separate interests and/or common areas(s) of a common interest development, other than a condominium project, that are served by the same water service connection or connections and that are being changed from flat rate to metered rate water service, may be billed to the association managing the common interest development, but only if:

   a. The director determines that due to unique site conditions it is not feasible to provide a separate metered water service connection to each separate interest and/or the common area; and

   b. The common interest development's governing documents authorize the association to obtain and pay for water service for the separate interests and common areas, as applicable.

3. The rates, fees, and charges that apply to irrigation service, as defined in section 13.04.030 of this code, for the common area(s) of a common interest development, may be billed to the association or other entity managing the common interest development, provided that such association or other entity owns an easement that authorizes the association or other entity, or the common interest development's governing documents otherwise authorize the association or other entity, to obtain and pay for irrigation service for the common area(s).

4. The rates, fees, and charges that apply to irrigation service, as defined in section 13.04.030 of this code, for a common irrigation system that crosses parcel lines in a commercial development that is not a common interest development, may be billed to a single owner or the owner's authorized representative, provided that the owner owns all parcels served by the common irrigation system, or the owner owns an easement on any such parcels not owned by the owner that authorizes the owner or the owner's authorized representative to obtain and pay for irrigation service for the common irrigation system.

13.12.050 Billing period.

Utility services shall be billed on a monthly basis, or on such other periodic frequency as may be specified by ordinance or resolution of the city council.

13.12.060 Billing start date for new development.

Billing for utility services serving new development on any parcel of real property shall commence on the date that usage of utility services begins, the date the development is first occupied, or the date the development is given final approval by city officials in accordance with applicable provisions of this code, whichever occurs first. The director may adopt written guidelines to implement the provisions of this section and specify criteria for determining when billing for utility services starts in other situations.

13.12.070 Delinquent utility service charges constitute a lien.

Utility service charges are due upon presentation of the bill for services. Charges unpaid 20 days after presentation of the bill for services become past due (delinquent). Charges that remain unpaid 15 days following the past due date shall be assessed a basic penalty of 10 percent of the delinquent charges. Beginning 45 days following the past due date, an additional penalty of one and one-half percent per month shall be added for any portion of the delinquent charges and basic penalty that remains unpaid. Any portion of the delinquent charges and penalties that remains unpaid 75 days following the past due date shall become a lien on the parcel of real property to which the utility services were rendered, subject to the procedural requirements specified in section 13.12.080.

13.12.080 Lien recorded—Procedure.

A. Any utility service charges that have been delinquent for 75 days or more shall be subject to having the lien provided for in section 13.12.070 recorded with the Sacramento County recorder pursuant to the procedures in this section.

B. Prior to the recordation of the lien, the director shall cause a written notice of the lien and an opportunity for an informal hearing on the delinquent charges to be mailed to the owner at the owner's address. If the owner desires a hearing, the owner shall provide the director with a written request for a hearing within 10

days after the date of the director's notice. Upon receipt of a timely request for hearing from the owner, the director shall provide owner written notice of the date, time, and location of the hearing, which shall be scheduled not less than 10 days after the date of the director's notice of the hearing to the owner. The hearing shall be held before a department employee designated by the director to conduct such a hearing, who shall mail a written notice of his or her decision to the owner at the owner's address as soon as practicable after the hearing. The decision shall be the city's final administrative determination of the matter.

C. If the owner fails to request a hearing within the time specified in subsection B, or if the owner requests a hearing within the time specified in subsection B but fails to appear at the hearing, or if after a hearing the director's designee decides that the lien shall be recorded, the director shall cause the lien to be recorded with the Sacramento County recorder in the form and manner prescribed by law. Thereafter, such lien shall not be released unless and until it is fully paid or rendered invalid by operation of law, provided that the director may release a lien if the director determines that the lien was recorded in error.

D. The director is authorized to determine the minimum amount of delinquency, if any, for recording a lien as provided herein.

13.12.090 Delinquent charges—Collected as special assessment.

Not less often than once a year, the director shall initiate proceedings to make delinquent utility service charges special assessments against the parcels of real property to which the utility services were rendered. Such proceedings shall be initiated and conducted in accordance with the provisions of section 13.12.100.

13.12.100 Report of delinquent utility service charges; special assessment procedure.

A. The director shall prepare a report of delinquent utility service charges, and shall cause a written notice of the city's intention to make the delinquent charges a special assessment against the parcels of real property to which the utility services were rendered, to be mailed to the owner of each parcel of real property identified in the report, at the owner's address. Such notice shall inform the owner of the owner's right to file a written objection or protest with the director. Any objection or protest must be received within 15 days after the date of the director's notice. Upon receipt of a timely objection or protest, and not later than 30 days after the date of the director's notice, the director shall review the objection or protest and mail a written response to the owner at the owner's address.

B. The director's response provided pursuant to subsection A, above, also shall inform the owner of the owner's right to object or protest before a hearing officer, and shall notify the owner of the date, time, and location of the hearing, which

shall be scheduled not less than 15 days after the date of the director's response. Only those owners who filed a timely objection or protest in accordance with the provisions of subsection A, above, shall be permitted to have their objection or protest heard by the hearing officer. Prior to the date of the hearing, the director shall transmit all objections or protests received by the director and the applicable portions of the director's report of delinquent utility service charges to the hearing officer.

C. At the hearing, the hearing officer shall consider the applicable portion(s) of the director's report of delinquent utility service charges together with any objections or protests received prior to or at the hearing. The hearing officer shall be authorized to make revisions to the applicable portion(s) of the director's report of delinquent utility service charges if the hearing officer finds that such revisions are necessary to correct an error or otherwise invalid charge. As soon as practicable after the hearing, the hearing officer shall provide the owners appearing at the hearing with written notice of his or her decision, including any revisions made by the hearing officer to the applicable portion(s) of the director's report of delinquent utility service charges. The hearing officer also shall transmit all such revisions to the director, who shall submit the report of delinquent utility service charges (as revised) to the city clerk to be transmitted to the city council. The director or the city clerk shall mail notice to the owners who appeared before the hearing officer of the date, time, and location of the public hearing described in subsection D of this section.

D. Upon receipt of the report from the hearing officer, the city clerk shall schedule a public hearing before the city council. The city clerk shall cause notice of the hearing to be published pursuant to Government Code section 6066. At the hearing, the city council shall consider any objections or protests de novo, provided that only those owners who filed a timely objection or protest in accordance with the provisions of subsection A, above, and appeared before the hearing officer, shall be permitted to have their objection or protest considered by the city council. At the conclusion of the hearing, the city council may adopt a resolution adopting the report, with or without modifications. If the city council finds that the objections or protests considered by the city council have been made by the owners of a majority of the separate parcels of property described in the report, the report shall not be adopted.

E. After adoption of the report by the city council, the delinquent utility service charges contained therein shall constitute a special assessment and lien, effective in accordance with applicable law, against each parcel of real property to which the utility services were rendered. Thereafter such assessment may be collected at the same time, by the same persons, and in the same manner, together with and not separately, as ordinary secured property taxes are collected, and shall be subject to the same penalties and same procedures of sale as provided for delinquent ordinary secured property taxes. The assessment shall be subordinate to all existing special assessment liens previously imposed upon the property, and

paramount to all other liens except those for state, county, and municipal taxes, with which it shall be on parity. The lien shall be continued until the assessment and all interest and penalties due and payable thereon are paid or the lien is released or is prevented from attaching by operation of law. All laws applicable to the levy, collection, and enforcement of secured property taxes shall be applicable to such special assessment and lien, except as may be provided otherwise by state law.

F. A certified copy of the resolution and report adopted by the city council shall be filed with the county auditor on or before August 10. The descriptions of the parcels of real property subject to the special assessment and lien shall be those used for the same parcels on the county assessor's maps prepared in accordance with Revenue and Taxation Code section 327 for the current year.

13.12.110 Contesting special assessment.

The validity of any special assessment and lien imposed under section 13.12.100 shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the date the city council adopts the resolution confirming the report of delinquent utility services charges.

Article III. Termination of Service

13.12.120 Termination of utility services for nonpayment of charges.

If all or part of any utility service charges for any premises are not paid on or prior to the past due date specified in section 13.12.070, the water service and other utility services to the premises may be terminated in accordance with the procedures set forth in this article. The provisions of this article govern only the termination of utility services for nonpayment and do not apply when utility services are terminated for any other reason.

13.12.130 Termination of utility services for nonpayment—initial notice requirements.

A. Prior to the termination of any utility services for nonpayment, the director shall cause a written notice of the payment delinquency and impending termination to be mailed to the owner of the premises to which the utility services are provided, at the owner's address. If the owner's address is not the address of the property to which such utility services were rendered, the notice also shall be sent to the address of the property to which such utility services were rendered, addressed to "Occupant."

B. The notice shall be mailed not less than 30 days prior to the proposed termination.

C. The notice shall include all of the following in a clear and legible format:

1. The owner's name and address;

2. The amount of the delinquency;

3. The date by which payment or arrangement for payment is required in order to avoid termination of utility services;

4. A description of the opportunity to file a complaint or request an investigation concerning the delinquent utility service charges or applicable services, or to request an extension of time to pay the delinquent charges because the charges are beyond the means of the owner to pay in full within the time required, as provided in section 13.12.140;

5. A description of the procedure by which the owner may request amortization of the delinquent utility service charges;

6. A description of the procedure for the owner to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable; and

7. The telephone number of a department representative authorized to provide additional information or institute arrangements for payment.

D. A notice of the delinquency and impending termination of utility services also shall be mailed to any third party designated to receive notification pursuant to subdivision (c) of section 10010.1 of the California Public Utilities Code, if any, provided that such notification shall not obligate the third party to pay the delinquency nor prevent or delay a termination of utility services.

13.12.140 Complaint or request for investigation concerning delinquent charges or request for extension of time for payment.

An owner desiring to file a complaint or request an investigation concerning the delinquent utility service charges or applicable services, or to request an extension of time to pay the charges because the charges are beyond the means of the owner to pay in full within the time required, must file a written complaint or request with the director not later than 15 days after the date of the mailed notice of delinquency and impending termination.

13.12.150 Departmental review.

A. Upon receipt of a timely complaint, request for an investigation, or request for an extension of time to pay the delinquent charges, the director shall schedule a meeting to review the complaint or request. The meeting shall be held not earlier than 10 days from the date that the director mails written notice of the date, time and place of the meeting to the owner, at the owner's address.

B. The meeting shall be with a department employee designated by the director who shall be authorized to review disputed bills and to correct any errors. If an extension of time to pay is requested, the designated employee shall consider whether the owner should be permitted to amortize the unpaid balance of the utility services account over a reasonable period of time, not to exceed 12 months.

C. At the conclusion of the meeting, the designated employee shall make a decision, which may include adjustment of the amount due and/or extension of the time for payment for a period of up to 12 months. A copy of the decision shall be mailed to the owner at the owner's address.

D. The decision of the designated employee may be appealed pursuant to chapter 1.24 of this code, by filing a notice of appeal with the city clerk not later than 10 days after the date the decision is mailed to the owner.

13.12.160 Limitations on termination of residential services.

A. Notwithstanding any other provision of this article, water service for residential premises shall not be terminated for delinquent payment in the following situations:

1. During the pendency of an investigation by the city of a dispute or complaint concerning the delinquent water service charges or applicable water service;

2. During the pendency of an appeal filed in accordance with section 13.12.150(D);

3. When an owner has been granted an extension of the period for payment , or has entered into an amortization agreement, so long as the owner remains in compliance with the amortization agreement, and also keeps the water service account current as charges accrue in each subsequent billing period; or

4. On the certification of a licensed physician that to do so will be life-threatening to a resident of the premises, and the owner is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with respect to all charges that the owner is unable to pay prior to delinquency. If these requirements are met the owner shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the owner's means to pay within the normal period for payment.

B. Notwithstanding any other provision of this article, no utility service to premises used for residential purposes shall be terminated if it is demonstrated at the meeting held pursuant to section 13.12.150 that the occupant of the premises meets the qualifications set forth in subsections (B)(1) through (B)(4) of section 3.32.170 of this code relating to refund of the communications and cable television user taxes.

C. Where the city furnishes metered water service used by residential tenants in a detached single-family dwelling, or furnishes water service through separate individually metered water service connections to residential tenants in a multiunit residential structure or mobilehome park, and a notice of delinquency and impending termination for water service to such premises is mailed pursuant to section 13.12.130, the following additional requirements shall apply:

1. The city shall provide notice to the residential tenants as specified in subdivision (b) of section 10009 of the Public Utilities Code; and

2. The residential tenants shall have the right to become water service customers without being required to pay the delinquency, to the extent authorized by and in accordance with the provisions of subdivision (c) of section 10009 of the Public Utilities Code.

D. Where the city furnishes water service through a single metered water service connection that supplies water used by multiple residential occupants in a multiunit residential structure or mobilehome park, and a notice of delinquency and impending termination for water service to such premises is mailed pursuant to section 13.12.130, the following additional requirements shall apply:

1. The city shall provide notice to the residential occupants as specified in subdivision (a) of section 10009.1 of the Public Utilities Code;

2. The residential occupants shall have the right to become water service customers without being required to pay the delinquency, to the extent authorized by and in accordance with the provisions of subdivision (b) of section 10009.1 of the Public Utilities Code; and

3. The city shall not discontinue water service if the delinquencies were incurred for services provided by another public agency, or if a public health or building officer certifies that termination of water service would result in a significant threat to the health or safety of the residential occupants or the public.

The director shall adopt rules and regulations necessary to implement this subsection D and ensure that the department has made reasonable efforts to continue water service to residential occupants in a multiunit residential structure or mobilehome park prior to any termination of such water service due to nonpayment by the owner, manager, or operator of the multiunit residential structure or mobilehome park. The rules and regulations shall include guidelines for assistance in the enforcement of section 10009.1 of the Public Utilities Code and requirements for the notice prescribed by subdivision (a) of section 10009.1 of the Public Utilities Code, including clear wording, large and boldface type, and instructions to ensure full notice to the residential occupants.

13.12.170 Termination of water and other utility services.

A. If a complaint is not filed or a request for investigation or extension of time for payment is not made, as specified in section 13.12.140, or if a complaint is filed or a request is made as specified in section 13.12.140, but the person filing the complaint or making the request fails to appear at the meeting scheduled pursuant to section 13.12.150, the city shall have the right to discontinue water service and other utility services, subject to any limitations specified in this article.

B. If a complaint has been filed or a request has been made as specified in section 13.12.140, and the person filing the complaint or making the request has appeared at the meeting scheduled pursuant to section 13.12.150, and any amount determined to be due by the designated employee holding the meeting is not paid in full within 30 days after the date that the designated employee's decision is mailed, the city shall have the right to discontinue water service and other utility services, subject to any limitations specified in this article.

13.12.180 Final notice of termination.

A. Not less than 48 hours prior to a scheduled termination of water service or other utility service a final notice shall be posted in a conspicuous location on the premises where service is to be terminated, and also shall be mailed to the owner of the premises to which the utility services are provided, at the owner's address. The final notice shall include all of the following in a clear and legible format:

1. The owner's name and address;

2. The amount of the delinquency;

3. The date by which payment or arrangements for payment was required in order to avoid termination of utility services;

4. A description of the procedure for the owner to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable;

5. The telephone number of a department representative authorized to provide additional information or institute arrangements for payment; and

6. If the notice is directed to a residential customer failing to comply with an amortization agreement, a description of the conditions the customer is required to meet to avoid termination.

B. Not less than 24 hours prior to a scheduled termination of water service or other utility services to any premises used for residential purposes, the director shall make a reasonable attempt to contact an adult residing at the premises by telephone or personal contact.

13.12.190 Termination of water service only during business hours.

No water service shall be terminated on any Saturday, Sunday, legal holiday, or at any other time when the customer service office of the department is not open to the public.

SECTION 3.

A. Section 13.04.030 of the Sacramento City Code is amended as follows:

1. The definition of "customer" is amended to read as follows:

"Customer" means the owner of the property ~~receiving~~ to which water service is rendered.

2. A definition of "rendered" is added to read as follows:

"Rendered," when used to describe water service or other utility services being rendered, means that the service is provided or otherwise made available for use.

B. Except as amended in subsection A above, Section 13.04.030 remains unchanged and in full force and effect.

SECTION 4.

Section 13.04.220 of the Sacramento City Code is amended to read as follows:

13.04.220 Condominiums; common interest developments; common irrigation systems.

~~Each condominium shall have a separate water service unless otherwise approved by the director.~~

A. Notwithstanding any contrary provision of this code, if authorized by the director, and subject to such terms and conditions as may be specified by the director:

1. Water service, and other city utility services as applicable, rendered to a condominium project's condominium units and/or common area(s) may be provided at a single point of service or multiple points of service and billed to the condominium association managing the condominium project, provided that the condominium project's governing documents authorize the condominium association to obtain and pay for such service(s) for the condominium units and common areas, as applicable.

2. Water service rendered to the separate interests and/or common areas(s) of a common interest development, other than a condominium project, that are served by the same water service connection or connections and that are being changed from flat rate to metered rate water service, may be provided at a single point of service or multiple points of service and billed to the association managing the common interest development, but only if:

a. The director determines that due to unique site conditions it is not feasible to provide a separate metered water service connection to each separate interest and/or the common area; and

b. The common interest development's governing documents authorize the association to obtain and pay for water service for the separate interests and common areas, as applicable.

3. Irrigation service rendered to the common area(s) of a common interest development may be provided at a single point of service or multiple points of service and billed to the association or other entity managing the common interest development, provided that such association or other entity owns an easement that authorizes the association or other entity, or the common interest development's governing documents otherwise authorize the association or other entity, to obtain and pay for irrigation service for the common area(s).

4. Irrigation service for a common irrigation system that crosses parcel lines in a commercial development that is not a common interest development, may be provided at a single point of service or multiple points of service and billed to a single owner or the owner's authorized representative, provided that the owner owns all parcels served by the common irrigation system, or the owner owns an easement on any such parcels not owned by the owner that authorizes the owner or the owner's authorized representative to obtain and pay for irrigation service for the common irrigation system.

B. As used in subsection A, the terms "common area," "condominium project," "condominium association," "governing documents," "common interest development," "separate interest," and "association" shall have the meanings specified in section 13.12.010 of this code.

SECTION 5.

Section 13.04.720 of the Sacramento City Code is amended to read as follows:

13.04.720 Establishment of rates for water service~~, charges and fees by resolution~~.

~~Notwithstanding any provision of this chapter or any other provision of this code to the contrary, the r~~Rates, fees, and charges ~~and fees~~ for water service are established and shall be charged for water service. The amount of the rates, fees, and charges ~~established or provided for in this article~~ shall be ~~established~~set from time to time by ordinance or resolution of the city council.

SECTION 6.

Section 13.04.730 of the Sacramento City Code is amended to read as follows:

13.04.730 Liability for charges.

~~Each c~~Customers to whom ~~receiving~~ water service is rendered ~~from the city~~ shall be responsible and liable for payment of the rates, fees, and charges ~~and fees~~ for the~~at~~ service (on either a flat rate or metered rate basis)~~, as established by resolution of the city council~~.

SECTION 7.

Section 13.04.740 of the Sacramento City Code is repealed.

SECTION 8.

A. Section 13.08.020 of the Sacramento City Code is amended as follows:

1. The definition of "customer" is amended to read as follows:

"Customer" means the ~~person~~ owner of the property to which ~~receiving~~ sewer service or storm drain service is rendered ~~from the city sewer system or storm drain system in accordance with the provisions of this code~~.

2. A definition of "rendered" is added to read as follows:

"Rendered," when used to describe sewer service or storm drain service being rendered, means that the service is provided or otherwise made available for use.

B. Except as amended in subsection A above, Section 13.08.020 remains unchanged and in full force and effect.

SECTION 9.

Section 13.08.400 of the Sacramento City Code is amended to read as follows:

13.08.400 Establishment of rates for sewer service and storm drain service ~~charges and fees~~.

Rates, fees, and charges for sewer service and storm drain service are established, and shall be charged for sewer service and storm drain service. The amount of the rates, ~~The city~~ fees, and charges ~~and fees~~ ~~provided for in this article~~ shall be ~~established~~set from time to time by ordinance or resolution of the city council. The city council may set rates, fees, and charges for sewer service and storm drain service in amounts that apply uniformly throughout the city, or may establish separate amounts for: (i) sewer service rendered by the separate sewer system; (ii) sewer service rendered by the combined sewer system; (iii) storm drain service rendered by the storm drain system; (iv) storm drain service rendered by the combined sewer system; and/or (v) combined sewer and storm drain service rendered by the combined sewer system.

SECTION 10.

Section 13.08.410 of the Sacramento City Code is amended to read as follows:

13.08.410 ~~Service~~Liability for charges.

Customers ~~receiving~~ to whom sewer service and/or storm drain service is rendered ~~from the city~~ shall be responsible and liable for payment of the rates, fees, and charges for each service ~~pay the monthly service charges established for each service from time to time by resolution of the city council~~. ~~The city council may establish monthly service charges for sewer service and storm drain service that apply uniformly~~

~~throughout the city, or may establish separate monthly service charges for: (i) sewer service provided by the separate sewer system, (ii) sewer service provided by the combined sewer system, (iii) storm drain service provided by the storm drain system, (iv) storm drain service provided by the combined sewer system, and/or (v) combined sewer and storm drain service provided by the combined sewer system.~~

SECTION 11.

Section 13.08.470 of the Sacramento City Code is amended to read as follows:

13.08.470 Service connection installation fee.

A service connection installation fee, in the amount set by resolution of the city council, shall be paid prior to the department's installation of a new or modified connection to the city sewer system.

SECTION 12.

Section 13.10.130 of the Sacramento City Code is amended to read as follows:

13.10.130 Establishment of rates for garbage collection service~~, charges and fees by resolution~~.

~~Notwithstanding any provision of this chapter or any other provision of the city code to the contrary,~~ Rates, fees, and charges for garbage collection service are established, and shall be charged to owners liable for payment under section 13.10.090. ~~t~~The amount of the rates, fees, and charges ~~and fees established or provided for in this article~~ shall ~~hereafter~~ be ~~established~~set from time to time by ordinance or resolution of the city council.

SECTION 13.

A. Subsection A of Section 13.10.440 of the Sacramento City Code is amended to read as follows:

A. Except as provided otherwise in Section 13.10.475 of this code, the fee shall be and is imposed on all residential properties within the city ~~and on any newly constructed residence to commence at the beginning of the third full month after such newly constructed residence obtains garbage and water service~~.

B. Except as amended by revising subsection A as set forth above, Section 13.10.440 remains unchanged and in full force and effect.

SECTION 14.

Section 13.10.450 of the Sacramento City Code is amended to read as follows:

13.10.450 ~~Rate of fee~~Establishment of rates for lawn and garden service~~—~~ Residential property~~ies~~.

~~Notwithstanding any provision of this code to the contrary,~~ Rates, fees, and charges for lawn and garden service for residential property are established, and shall be charged to owners of residential property liable for payment under section 13.10.440. The amount of the rates, fees, and charges ~~for residential purposes as established or provided for in this article~~ shall ~~hereafter~~ be ~~established~~set from time to time by ordinance or resolution of the city council. In ~~establishing~~ setting the amount of the ~~said~~ rates, fees, and charges, the amount for the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth ~~and established~~.

SECTION 15.

Section 13.10.460 of the Sacramento City Code is amended to read as follows:

13.10.460 ~~Rate of fee~~Establishment of rates for lawn and garden service~~—~~ Nonresidential property; liability for charges.

Rates, fees, and charges for lawn and garden service for nonresidential property are established, and shall be charged to owners of nonresidential property authorized to deposit garden refuse in city streets pursuant to section 13.10.430. The lawn and garden service fee imposed upon depositing garden refuse in city streets from any nonresidential property, where authorized by the solid waste manager pursuant to Section 13.10.430 of this code, shall be based upon the approximate average monthly quantity of garden refuse so deposited from the property. Owners of nonresidential property authorized to deposit garden refuse in city streets as provided herein shall be responsible and liable for payment of the applicable lawn and garden service fee. Owners of a~~A~~ll nonresidential properties shall be responsible and liable for payment of the portion of the lawn and garden service fee attributable to street sweeping~~, as established from time to time in accordance with the provisions of this section~~.

The approximate average monthly quantity of garden refuse deposit shall be determined by the solid waste manager and may be revised from time to time to reflect actual approximate average quantities deposited in the city streets from the properties to which the service is provided. Any garden refuse placed for collection pursuant to this section shall be subject to the provisions of this article specifying the time, manner and place for placement for collection of garden refuse from residential properties.

~~Notwithstanding any provision of this code to the contrary,~~ The amount of the rates, fees, and charges established ~~or provided for~~ in this section shall ~~hereafter~~ be ~~established~~set from time to time by ordinance or resolution of the city council. In

~~establishing~~ setting the amount of the rates, fees, and charges, the amount for the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth ~~and established~~.

SECTION 16.

A. Subsection F of Section 13.10.475 of the Sacramento City Code is amended to read as follows:

F. Rates, fees, and charges for voluntary containerized collection service are established, and shall be charged to residential customers participating in the voluntary containerized collection service program. Residential customers to whom voluntary containerized collection service is made available shall be responsible and liable for payment of the rates, fees, and charges for the service. The amount of the rates, fees, and charges shall be set from time to time by ordinance or resolution of the city council. ~~Residential customers who subscribe to the voluntary containerized collection service program shall pay the rates, fees and charges established by resolution of the city council.~~ The voluntary containerized collection service program rates, fees and charges shall include the street sweeping fee, but in ~~establishing~~setting the amount of these rates, fees, and charges, the amount of the portion attributable to street sweeping shall be separately set forth ~~and established~~. These rates, fees, and charges shall not exceed the city's costs of providing the voluntary containerized collection service and street sweeping service.

B. Except as amended by revising subsection F as set forth above, Section 13.10.475 remains unchanged and in full force and effect.

SECTION 17.

A. Subsection C of Section 13.10.700 of the Sacramento City Code is amended to read as follows:

C. The rates, fees, and charges described in this section are established, and shall be charged to owners of residential property as provided in this section. The amount of the rates, fees, and charges ~~article~~ shall be ~~established~~set from time to time by ordinance or resolution of the city council.

B. Except as amended by revising subsection C as set forth above, Section 13.10.700 remains unchanged and in full force and effect.

SECTION 18.

This ordinance establishes procedures and requirements for the billing and collection of rates, fees, taxes, assessments, penalties, and other charges applicable to the services and facilities furnished by the City of Sacramento's water, sanitation (including garbage and recycling collection and lawn and garden service), storm drainage and sewerage systems and enterprises, and is adopted pursuant to: (1) the City's authority under the City's charter to make and enforce all ordinances and regulations regarding municipal affairs, pursuant to article XI, section 5 of the California Constitution; (2) the City's authority to make and enforce all local, police, sanitary, and other ordinances and regulations, and operate public works to furnish water service, pursuant to article XI, sections 7 and 9 of the California Constitution; and, (3) the City's authority under all applicable statutory authorities, including without limitation section 38790.1 and sections 54300 et seq. of the California Government Code, section 40059 of the California Public Resources Code, sections 10001 et seq. of the California Public Utilities Code, and sections 5470 et seq. of the California Health and Safety Code. Section 5473 of the California Health and Safety Code provides that an ordinance or resolution authorizing the collection of utility service charges on the tax role shall remain in effect for the time specified in the ordinance or resolution. This ordinance shall remain in effect until the Sacramento City Council adopts an ordinance repealing this ordinance.

SECTION 19.

The adoption of this ordinance is not intended to and does not affect any administrative, civil, or other actions or proceedings brought or to be brought to implement or enforce any provisions of the Sacramento City Code, as they existed prior to the effective date of this ordinance, including but not limited to any actions or proceedings to bill and collect rates, fees, taxes, assessments, penalties, and other charges applicable to any utility services that the City of Sacramento provides and/or bills for under the provisions of Title 13 of the Sacramento City Code, or to discontinue any such utility services pursuant to the provisions of Chapter 13.12 of the Sacramento City Code, as they existed prior to the effective date of this ordinance. The provisions of Chapter 13.12 and other provisions of the Sacramento City Code as they existed prior to the effective date of this ordinance shall continue to be operative and effective with regard to any such actions or proceedings.