

**Meeting Date:** 5/12/2015

**Report Type:** Consent

**Report ID:** 2015-00051

**Title:** Ordinance Amendments to Chapters 13.04 and 13.12 of the Sacramento City Code, Relating to Water Service Connections, Outdoor Water Conservation, Utility Billing and Collection, and Utility Service Termination (Passed for Publication 04/28/2015; Published 05/01/2015)

**Location:** Citywide

**Recommendation:** Pass an Ordinance amending sections 13.04.060, 13.04.070, 13.04.220, 13.04.305, 13.04.760, 13.04.860, 13.04.870, 13.04.890, 13.04.900, 13.12.010, 13.12.040, 13.12.080, 13.12.100, 13.12.110, 13.12.130, 13.12.150, and 13.12.160, and adding sections 13.04.225 and 13.12.041, of the Sacramento City Code.

**Contact:** Shellette Smallwood, Program Manager, (916) 808-4928; Bill Busath, Director, (916) 808-1434, Department of Utilities

**Presenter:** Susan Goodison, Business Services Manager; Shelle Smallwood, Program Manager

**Department:** Department Of Utilities

**Division:** Account Management

**Dept ID:** 14001631

**Attachments:**

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

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**City Attorney Review**

Approved as to Form  
Joe Robinson  
5/5/2015 10:06:38 AM

**Approvals/Acknowledgements**

Department Director or Designee: Bill Busath - 2/6/2015 3:39:54 PM

## Description/Analysis

**Issue Detail:** The proposed ordinance updates Chapter 13.12 of the City Code (utility billing, collection, and termination) to reflect current City practices. The updates also include revisions necessary to align the City Code with current State law governing the collection of delinquent utility charges and termination of utility services for nonpayment. Additionally, the proposed ordinance revises City Code provisions pertaining to the City's water service connections to reflect current practices, and new requirements that are consistent with best practices, and adopts new outdoor water use limitations to implement current requirements.

**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.

**Economic Impacts:** Not applicable.

**Environmental Considerations:** 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:** The Law and Legislation Committee reviewed the proposed ordinance on February 10, 2015, and forwarded the ordinance to the City Council without a recommendation, pending further discussion on the topic of requiring security deposits for tenant water service accounts established to avoid water service termination, when the tenant's landlord does not pay the water service bill.

The ordinance presented to the Law and Legislation Committee included a provision authorizing the Department of Utilities to require a security deposit of up to three times the average monthly water bill, as allowed under State law. The purpose of the security deposit is to provide security for payment of the water bill if the tenant subsequently fails to pay, since the City is unable to collect on a delinquent tenant water service account through the normal lien and special assessment process utilized for property owner accounts. Law and Legislation Committee members expressed concerns about a low income tenant having to pay a security deposit, and that requiring a deposit seems to penalize the tenant for the landlord's failure to pay the utility bill.

To address concerns expressed by Law and Legislation Committee members, City staff is proposing a revision to the ordinance language that was presented to the Committee (in City Code section 13.12.160.B), to prohibit termination of water service for the property owner's nonpayment if it is demonstrated that **either** the owner or the occupant of the premises meets the City's low income criteria. For low-income tenants, this means that water service would not be terminated for their landlord's failure to pay, so no tenant water service account or security deposit would be required in such cases.

In addition, to ensure consistent treatment in cases when a tenant water service account is established, the ordinance language presented to the Law and Legislation Committee has been revised to authorize a security deposit equal to three times the average monthly water bill (as

authorized under State law), rather than “up to” three times the average bill. In cases where a tenant does not meet the low-income criteria, but still demonstrates financial hardship, the Department will allow security deposits to be made in installments. It also bears noting that if a tenant water service account is established, State law authorizes a tenant to deduct their monthly water service payment from their rent payment if water service is included in the rent.

The ordinance being presented to the City Council includes three other provisions that have been added since the February 10 Law and Legislation meeting:

1. A minor amendment to City Code section 13.04.070 governing multiple water service connections, to treat commercial and residential customers the same.
2. Amendments to City Code section 13.04.305 to make the City Code’s guidelines for water meter retrofit in condominium and townhomes projects more detailed, and clarify that the City’s installation of water meters within such a project’s private water distribution system does not make the City responsible or liable for the condition or operation of the private system.
3. An additional amendment to City Code section 13.04.870 (outdoor water conservation) to prohibit outdoor irrigation with City water during and within 48 hours after measurable rainfall, to implement this component of the emergency water conservation regulations adopted by the State Water Resources Control Board on March 17, 2015.

**Rationale for Recommendation:** Adoption of the proposed ordinance will amend the City Code to reflect current City practices and applicable provisions of State law or regulation. A detailed summary of the proposed changes is provided in the Background section of this report.

**Financial Considerations:** There are no fiscal impacts associated with the adoption of this proposed ordinance.

**Local Business Enterprise (LBE):** No goods or services are being purchased under this report.

## **BACKGROUND**

The proposed ordinance (1) updates and revises City Code Chapter 13.12, governing the billing and collection of utility charges and termination of utility services for nonpayment, and (2) revises City Code provisions in Chapter 13.04, pertaining to water service connections and rates and outdoor water use limitations, including the following revisions:

### **Revisions to Chapter 13.12**

#### **Utility Billing and Collection:**

- Modifies the provisions governing the creation of liens for delinquent utility service charges to incorporate State law terminology and requirements.
- Modifies the provisions governing the imposition of special assessments for delinquent utility service charges to be consistent with current City practices, and adds language stating that not following the procedures specified for challenging a special assessment constitutes a failure to exhaust administrative remedies.
- Adds authorization to require security deposits for utility service accounts, in accordance with procedures established by the Department of Utilities (DOU). The amount of a security deposit would be three times the estimated monthly bill for water, sewer, and/or storm drainage services.
- Expands the definition of “owner” for purposes of utility service charges to include a duly authorized executor or receiver.
- Adds a new Code section to address billing for water service to projects that consist of vertical parcels that will be served by the same water service connection.

#### **Termination for Nonpayment:**

- Makes the following changes to the process and requirements that apply to termination of utility services for nonpayment:
  - Requires the City’s initial notice of termination to describe the opportunity to avoid termination of utility services by demonstrating that the household income of the owner or occupant (i.e., either owner or tenant) is not more than the low-income threshold (described below).
  - Maintains requirement for DOU to review, investigate, and respond to any complaint or request for investigation, in accordance with State law, but removes the current requirement to schedule a meeting for this purpose, which is not required by State law.

- Allows DOU to provide an amortization period for payment of delinquent charges in excess of 12 months, if DOU finds that a longer amortization period is necessary to avoid undue hardship based on the circumstances of an individual case.
- The City Code prohibits termination for nonpayment of utility services to low-income occupants, and defines low-income using the same criteria that apply to refunds of the communications and cable television user taxes (generally a household income of \$25,000 or less). The proposed ordinance clarifies that this applies to owners or occupants (i.e., tenants), and changes the low-income criteria to 100% of the federal poverty guideline, which is regularly updated and sets forth different amounts based on household size. Under this provision, water service accounts would not be terminated and would remain in the property owner's name if either the owner or the occupant meets the low-income criteria. The proposed ordinance also requires the owner or occupant to notify the City of their low-income status within 25 days after the date of the City's initial termination notice.
- Adds more detail governing the initiation and management of tenant water service accounts that are established; authorizes DOU to require tenant security deposits equal to three times the estimated monthly water service bill; clarifies that the rental property owner remains liable for all other utility service charges; clarifies that the tenant water service customer is responsible for compliance with the City's outdoor water use requirements; and clarifies payment responsibilities when the tenant moves out.

**Revisions to Chapter 13.04:**

**Water Service Connections and Rates:**

- Adds provision allowing DOU to better control new water service connections for properties that can connect to an existing or planned future water main located in either an easement or in a street/alley adjacent to the property.
- Adds provisions allowing the City Council to adopt water rates that allocate the metered water bill for a water connection serving multiple units in a common interest development among the unit residents when the connection is retrofitted with a meter, as an alternative to billing the homeowner's association.
- Adds a new Code section to authorize water service to projects consisting of vertical parcels at a single water service connection serving multiple parcels, provided that the parcel owners authorize a single entity to receive and pay

- for the water service on behalf of all parcels owners, and enter into a water service agreement with DOU on specified terms.
- Makes a minor amendment to City Code section 13.04.070 governing multiple water service connections, to treat commercial and residential customers the same.
  - Amends City Code section 13.04.305 to make the City Code's guidelines for water meter retrofit in condominium and townhomes projects more detailed, and clarify that the City's installation of water meters within such a project's private water distribution system does not make the City responsible or liable for the condition or operation of the private system.

### **Outdoor Water Use Limitations:**

- Makes an administrative change by modifying the provisions governing outdoor water use violations, to allow penalties to be included on the water service bill after issuance of the notice of violation, but subsequently removed if the penalty is waived after the customer's attendance at a water conservation seminar or after a successful appeal.
- Adds more detail to the appeal process that applies to outdoor water use violations.
- Adds two limitations on outdoor water use that previously were adopted as part of the Council's 2014 water shortage resolutions, to prohibit water runoff from specified non-irrigation uses, and to prohibit use of City water in fountains without recirculating devices. Adding these limitations to the City Code will ensure their continued applicability when the current water shortage condition ends.
- Adds a limitation imposed by the emergency water conservation regulations adopted by the State Water Resources Control Board on March 17, 2015, to prohibit outdoor irrigation with City water during and within 48 hours after measurable rainfall. Because the State regulation does not define "measurable rainfall," City staff is proposing to define this as a rainfall event for which 0.125 inches of precipitation or more is recorded at the National Weather Service rain gauge located at the Sacramento Executive Airport, which is a rain gauge often cited as the City's "official" rain gauge. Staff proposes this standard because this amount of precipitation (1/8 inch) is the lowest-level detection setting for most Smart irrigation controllers that use either of the common wafer or tipping gauge technologies for rain detection, and 1/8 inch of precipitation is a sufficient amount of applied water to adequately saturate the soil for warm season turf grass to skip an irrigation cycle otherwise allowed under the City's outdoor water use restrictions.

## ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

### AN ORDINANCE AMENDING AND ADDING VARIOUS SECTIONS IN CHAPTERS 13.04 AND 13.12 OF THE SACRAMENTO CITY CODE, RELATING TO WATER SERVICE CONNECTIONS, OUTDOOR WATER CONSERVATION, UTILITY BILLING AND COLLECTION, AND UTILITY SERVICE TERMINATION

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

#### SECTION 1.

- A. Subsection B of section 13.04.060 of the Sacramento City Code is amended to read as follows:
- B. To be eligible for water service, ~~a parcel~~~~the property to which service is to be provided~~ must abut a ~~dedicated~~ public easement or a city street or alley right-of-way in which a distribution main is ~~constructed~~ located at a point immediately adjacent to the property, unless the director authorizes the extension of a distribution main.
1. If the parcel abuts both a public easement and a street or alley right-of-way in which distribution mains are located, the director shall specify which distribution main will be used for any new water service connection.
  2. If the parcel abuts only a public easement in which a distribution main is located, and the distribution main is scheduled in the department's capital improvement program to be abandoned when a new distribution main is constructed in a street or alley right-of-way adjacent to the parcel, the director may require, as a condition of allowing a new water service connection to the existing distribution main, that the parcel's private water lines be configured to allow the parcel to be connected to the new distribution main after it is constructed.
- B. Except as amended in subsection A above, all provisions of section 13.04.060 remain unchanged and in full effect.

## SECTION 2.

Section 13.04.070 of the Sacramento City Code is amended to read as follows:

### **13.04.070 Multiple service connections.**

Except for separate irrigation service connections and fire service connections, each lot or parcel shall have only one service connection; provided that requests for multiple service connections ~~to a single commercial lot or parcel~~ (excluding separate irrigation service and fire service connections) may be approved on a case by case basis by the director, ~~consistent with the department's then-current commercial tap policy.~~

- A. Backup service connections are considered to be temporary and shall be subject to termination by city at a future date specified by the director.
- B. If permanent multiple service connections require a public water main extension, the main extension shall be installed to the satisfaction of the director at the customer's expense.
- C. Where multiple service connections already exist, and a lot split, lot merger, or a change of business or operations occurs, the excess service connection shall be removed at the customer's expense, if required by the director.

## SECTION 3.

A. Subsection A.2 of section 13.04.220 of the Sacramento City Code is amended to read as follows:

- 2. In a common interest development, if a meter is installed on an existing unmetered water service connection, or if an existing metered service connection is changed from flat rate to metered rate billing, ~~the water service provided at the service connection and billed at a~~ metered rate for the service connection shall be billed to the association managing the common interest development, ~~or to the owners of the separate interests served by the service connection in accordance with a rate allocation established by ordinance or resolution of the city council~~; this does not include water service provided at a water service connection serving only one separate interest, which shall be billed to the owner of the separate interest.

B. Except as amended in subsection A above, all provisions of section 13.04.220 remain unchanged and in full effect.

## SECTION 4.

Section 13.04.225 is added to the Sacramento City Code to read as follows:

**13.04.225 Water service to projects consisting of vertical parcels.**

A. Notwithstanding any contrary provision of this code, the director may authorize water service to be:

1. Rendered to a project consisting of vertical parcels at a single metered point of service or multiple metered points of service, with sub-meters for each parcel, as specified by the director; and
2. Billed to a single person authorized to receive and pay for the water service for and on behalf of all the parcel owners, referred to in this section as the “authorized party”.

B. If the director authorizes water service pursuant to subsection A, before receiving any water service connection the authorized party and all parcel owners must enter into a water service agreement with the department, in a form approved by the city attorney, that includes the terms and conditions specified by the director, including, at a minimum, the following:

1. The owners and authorized party shall be solely responsible for all water distribution facilities within the project, including the sub-meters for all parcels;
2. The authorized party shall pay when due the rates, fees, and charges for water service rendered to the city’s metered points of service; shall be solely responsible for the allocation, billing, and collection of these costs among the parcels within the project based on sub-metering; and, if required by the director, shall furnish a security deposit to assure payment;
3. If the authorized party fails to pay all or any portion of the rates, fees, and charges for water service rendered to the city’s metered points of service when and as required:
  - a. The city may discontinue water service provided through the city’s metered points of service until all rates, fees, and charges are paid in full; and
  - b. All of the parcel owners will be liable for payment as specified in section 13.12.020, and will be subject to the delinquent service charge procedures specified in sections 13.12.070 through 13.12.100;
4. The owners and authorized party shall release any and all claims arising from the City’s discontinuance of water service for nonpayment, including unknown claims arising under California Civil Code section 1542;

5. The owners and authorized party shall defend, indemnify, and hold harmless the city, its officers, employees, and agents against any and all liabilities and costs (including attorney fees) arising from:
  - a. Any action or failure to act by the owners or authorized party, or their respective members, officers, employees, contractors, or agents;
  - b. Any discontinuance of water service for nonpayment; or
  - c. Any claim related to the authorized party's authority to act on behalf of the parcel owners;
6. The agreement shall be recorded so that the agreement's obligations are covenants that run with all parcels within the project, in accordance with Section 1468 of the Civil Code, and bind all members, successors, and assigns of the owners and authorized party;
7. If the services of any attorney are required by a party to secure performance of the agreement, or due to a breach or default of a party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of the agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and other expenses, in addition to any other relief to which the party may be entitled; and
8. Except as provided otherwise in the agreement, the provision of city water service shall be subject to all applicable provisions of the city charter, this code, and any other statute, regulation, ordinance, resolution, or city policy or procedure.

## SECTION 5.

Section 13.04.305 of the Sacramento City Code is amended to read as follows:

### **13.04.305 Conversion to metered connections for common interest developments.**

- A. If an existing unmetered water service connection in a common interest development is changed to a metered connection, the meter shall be installed on the existing connection. If the water service connection serves more than one separate interest, the department may install within the development's private water distribution system separate metered water service connections may be installed for the water meters for each separate interests, if requested by the association managing the common interest development and the owners of the separate interests, and the director determines that it is feasible and appropriate to do so:
  1. Provided that the association and owners, at no cost to the city:

a. Locate and expose those portions of the development's private water distribution system where the separate water meters would be installed as may be required by the director to determine whether it is feasible to install separate water meters,

ab. Install all piping and other improvements required by the director to install separate ~~meters~~metered water service connections, and

ac. Convey to the city all easements or other property rights required by the director for installation, operation, maintenance, repair, and replacement of the separate meters and the meter boxes containing them; and

2. Subject to such other terms and conditions specified by the director.

B. If an existing unmetered water service connection ~~serv~~esing more than one separate interest in a common interest development ~~is changed to a metered connection, and the common interest development that~~ does not have an association, the director may require that the owners of all separate interests in the common interest development, at no cost to the city, and as a condition of continuing to receive city water service:

1. Locate and expose those portions of the development's private water distribution system where separate water meters would be installed for each separate interest,

~~12.~~ Install all piping and other improvements required by the director to install separate metered water service connections for the separate interests; and

~~23.~~ Convey to the city all easements or other property rights required by the director for installation, operation, maintenance, repair, and replacement of the separate meters and the meter boxes containing them.

C. The department's installation, operation, maintenance, repair, or replacement of separate water meters and meter boxes within a common interest development's private water distribution system shall not create or impose on the city any responsibility or liability of any kind for the condition, operation, maintenance, repair, or replacement of any portion of the private water distribution system.

~~CD.~~ As used in this section, the terms "association," "common interest development," and "separate interest" have the meanings specified in Section 13.12.010.

## SECTION 6.

Section 13.04.760 of the Sacramento City Code is amended to read as follows:

### **13.04.760 Additional charges.**

The director may ~~cause to be accomplished~~ undertake any ~~extra~~ work or service on or for a premises' water service connection that the director deems ~~reasonably~~ necessary to ~~provide water service to a property in a manner that~~ maintains the safety of the city's water supply, or to corrects any condition in violation of this chapter. The owner of the premises shall be responsible for the cost thereof, which may ~~shall~~ be added to the regular billing for thesuch premises' water service and ~~be collected in the same manner as other utility service charges are~~ collected pursuant to ~~C~~chapter 13.12.

## SECTION 7.

Section 13.04.860 of the Sacramento City Code is amended to read as follows:

### **13.04.860 Water runoff prohibited.**

- A. No person shall knowingly or willingly cause or allow any city water applied to any landscaping, including new landscaping, or used for any other irrigation purposes, to flow away as water waste runoff from property owned or occupied by ~~thatsuch~~ person.
- B. No person shall knowingly or willingly cause or allow any city water used for non-irrigation purposes to flow away as water waste runoff from property owned or occupied by that person, unless the water is used in compliance with subsections A or B of section 13.04.870 or the director provides prior written consent for the runoff.

## SECTION 8.

A. Section 13.04.870 of the Sacramento City Code is amended as follows:

1. Subsection G of section 13.04.870 is repealed.

~~G. Upon declaration of a water shortage, the city council may impose revised and/or additional limitations on outdoor water use, as specified in Section 13.04.910, and no person shall use, or cause to be used, city water in violation of such limitations while the water shortage remains in effect.~~

2. A new subsection G is added to section 13.04.870, to read as follows:

G. No person shall use, or cause to be used, any city water in a fountain or other decorative water feature unless it uses a recirculating system.

3. A new subsection H is added to section 13.04.870, to read as follows:

H. No person shall use, or cause to be used, any city water for landscape irrigation during and within 48 hours after measurable rainfall. As used in this subsection, “measurable rainfall” means a rainfall event for which 0.125 inches of precipitation or more is recorded at the National Weather Service rain gauge located at the Sacramento Executive Airport.

4. A new subsection I is added to section 13.04.870, to read as follows:

I. Upon declaration of a water shortage, the city council may impose revised and additional limitations on outdoor water use, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of those limitations while the water shortage remains in effect.

B. Except as amended in subsection A above, all provisions of section 13.04.870 remain unchanged and in full effect.

#### SECTION 9.

A. Section 13.04.890 of the Sacramento City Code is amended as follows:

1. Subsection A.2 of section 13.04.890 is amended to read as follows:

2. Second Violation During Any ~~Twelve (12)~~ Month Period. A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of ~~twenty five dollars (\$25.00)~~ shall be imposed, but this penalty shall be removed from the water service bill for the premises waived if the owner ~~of the premises where the violation occurred~~, or the occupant (if different than the owner, and the occupant committed the violation), attends a water conservation seminar offered by the department within ~~sixty (60)~~ days after the date of the penalty notice; provided that only one removal of this such penalty ~~waiver~~ shall be allowed for the premises within any ~~twenty four (24)~~ month period.

2. Subsection C of section 13.04.890 is amended to read as follows:

C. The penalties specified in subsection A shall be imposed on the owner of the premises where the violation occurs regardless of who committed the violation ~~whether the violation is committed by the owner of the premises or any other person.~~ After the notice of violation is issued, the penalty amount shall be included on the water service bill for the premises and shall be collected in accordance with chapter 13.12, subject

to subsection A.2 of this section and section 13.04.900.D. All penalties collected shall be used by the department to fund water conservation programs.

- B. Except as amended in subsection A above, all provisions of section 13.04.890 remain unchanged and in full effect.

## SECTION 10.

Section 13.04.900 of the Sacramento City Code is amended to read as follows:

### **13.04.900 Appeal.**

- A. The owner or occupant of the premises where the violation occurred may appeal a notice of violation issued under ~~Section 13.04.890.(A) to the director for review and determination,~~ by filing a written notice of appeal with the director not later than ~~thirty (30) days~~ after the notice of violation is issued. ~~The~~ Such notice of appeal shall specify the grounds for appeal, and shall provide the appellant's telephone number and address ~~and telephone number, with a statement that the appellant agrees to accept service at such address of for receipt of the city's written notices relating to the appeal of the time and place of the appeal hearing and the determination of the director or the director's designee.~~
- B. Upon receipt of a timely notice of appeal, the director ~~or the director's designee~~ shall set the matter for an informal hearing at the earliest practical date. Not less than seven days prior to the hearing date of hearing, the director ~~or the director's designee~~ shall provide written notice of the hearing to the appellant. At the hearing, the director ~~or the director's designee~~ shall hear any relevant evidence presented by the appellant or department staff, and may uphold, modify, or rescind the notice of violation, including the penalty imposed by the notice of violation, if any. The appellant person filing the appeal shall be provided written notice of the determination of the director ~~or the director's designee, which shall that sets forth findings in support of the determination. The determination of the director is~~ be the city's final administrative determination of the matter.
- C. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal in accordance with the provisions of this section ~~shall constitute~~ s an irrevocable waiver of the right to appeal and a failure to exhaust ~~the owner's and occupant's~~ administrative remedies with regard to the notice of violation.

- D. ~~Upon determination after appeal by~~ If the director or the director's designee determines that a penalty shall not be imposed, the penalty shall be removed from the water service bill for the premises where the violation occurred ~~or upon issuance of a notice of violation and penalty and expiration of the appeal period specified in subsection A with no notice of appeal being filed,~~ the penalty amount shall be included on the bill for water service provided to the premises where the violation occurred and shall be collected in accordance with the provisions of Chapter 13.12 of this code. Any penalties collected shall be used by the department to fund water conservation programs.
- E. The director may designate one or more employees of the department to hear and determine appeals of any notice of violation, provided that the designated employee(s) shall not be employed within the section issuing the notice of violation.

#### SECTION 11.

A. Section 13.12.010 of the Sacramento City Code is amended as follows:

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

"Owner" means the person to whom a parcel of real property was assessed as legal owner in the assessment roll. ~~\_, provided that if~~ 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~~ includes the such different person. "Owner" also includes an owner's duly authorized executor or receiver.

2. The definition of "rates, fees and charges" is amended to read as follows:

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

B. Except as amended in subsection A above, all provisions of section 13.12.010 remain unchanged and in full effect.

#### SECTION 12.

A. Section 13.12.040 of the Sacramento City Code is amended as follows:

1. Subsection C.2 of section 13.12.040 is amended to read as follows:

2. In a common interest development, the rates, fees, and charges for an unmetered water service connection that is changed to a metered service connection with metered rate billing, or for a metered water service connection that is changed from flat rate to metered rate billing, ~~other than a service connection serving only one separate interest,~~ shall be billed ~~to the association managing the common interest development,~~ as provided in ~~S~~section 13.04.220(A)(2).

2. A new subsection G is added to read as follows:

G. The director may require the owner to provide a security deposit equal to three times the estimated monthly bill for water, sewer, and/or storm drainage service rendered to the owner's parcel, in accordance with section 10009.6 of the California Public Utilities Code. The director may establish procedures and requirements governing the collection, maintenance, use, and return of security deposits.

B. Except as amended in subsection A above, all provisions of section 13.12.040 remain unchanged and in full effect.

### SECTION 13.

Section 13.12.041 is added to the Sacramento City Code to read as follows:

#### **13.12.041 Billing for water service to projects consisting of vertical parcels.**

Notwithstanding any contrary provision of this code, if the director authorizes water service to a project consisting of vertical parcels pursuant to section 13.04.225:

A. The rates, fees, and charges for water service rendered to the city's metered points of service shall be billed to the "authorized party" defined in section 13.04.225;

B. The "authorized party" defined in section 13.04.225 shall be fully responsible for payment to the city of all amounts billed, and the city shall have no responsibility for, nor any involvement in, the authorized party's allocation, billing, and collection of these costs from the owners or occupants of the parcels; and

C. The "authorized party" defined in section 13.04.225 is considered the "owner" for purposes of the termination of service procedures specified in article III of this chapter.

### SECTION 14.

Section 13.12.080 of the Sacramento City Code is amended to read as follows:

**13.12.080 Lien ~~created~~recorded—Procedure.**

- A. If the owner fails to request a hearing within the time specified in ~~S~~section 13.12.070, or if the owner timely requests a hearing ~~within the time specified in Section 13.12.070~~ but fails to appear ~~at the hearing~~, or if after a hearing the director's designee decides that delinquent charges and penalties are owing, the director shall ~~cause a lien to be recorded for that portion of the delinquent charges and penalties that remains unpaid seventy-five (75) days following the past due date.~~ file a lien by recording with the Sacramento County recorder's office a certificate or report, in the format specified by the recorder's office. The certificate or report shall identify the owner's name, the real property to which the utility services were rendered, and the amount of the delinquent charges and penalties that remains unpaid 75 days following the past due date. From the time the certificate or report is recorded, the amount required to be paid, together with applicable penalties, constitutes a lien in accordance with and subject to the provisions of section 5473.11 of the California Health and Safety Code, and may be enforced or collected upon as provided in state law. The lien shall be recorded with the Sacramento County recorder in the form and manner prescribed by law. Thereafter, the lien shall not be released unless and until it is fully paid, ~~is or~~ rendered invalid by operation of law, ~~or provided that the director may release a lien if~~ the director determines that ~~it~~the lien was recorded in error. The owner is responsible for payment of any fees applicable to the lien release.
- B. The director is authorized to determine the minimum amount of delinquency, if any, for recording a lien as provided herein.

**SECTION 15.**

Section 13.12.100 of the Sacramento City Code is amended to read as follows:

**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 mail to the owner of each parcel of real property identified in the report, at the owner's address, ~~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.~~ TheSuch 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 by the director within ~~fifteen (15)~~ days after the date of the director's notice.

~~B.~~ Upon receipt of a timely written objection or protest, ~~and not later than thirty (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,~~ 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 ~~fifteen (15)~~ days after the date of the director's response. An owner must request a hearing within ten days after the date of the director's response.

~~C.~~ Only those owners who filed a timely objection or protest in accordance with ~~the provisions of~~ subsection A of this section, and made a timely request for a hearing in accordance with subsection B of this section, shall be permitted to have their objection or protest heard by the hearing officer. ~~Before~~ Prior to the date of the hearing, the director shall transmit to the hearing officer all the objections or protests from owners who filed a timely objection or protest and made a timely request for a hearing, received by the director and a list of the applicable ~~portions of the director's report of~~ delinquent utility service charges, and all other relevant information to the hearing officer.

~~C.D.~~ 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, and other relevant information received ~~before~~ prior to or at the hearing. The hearing officer ~~is~~ shall be authorized to make revisions to the ~~applicable portion(s) of the director's report of~~ delinquent utility service charges for any owner appearing at the hearing 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~~ any 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 to the owners who appeared before the hearing officer written notice ~~to the owners~~

~~who appeared before the hearing officer~~ of the date, time, and location of the public hearing described in subsection ~~DE~~ of this section.

~~DE~~. Upon receipt of the report from the hearing officer, the ~~city clerk~~ director shall schedule a public hearing before the city council. The city clerk shall cause notice of the hearing to be published pursuant to California Government Code ~~S~~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 and a timely request for a hearing in accordance with the provisions of subsections A and B of this section, 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.

~~EF~~. 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 ~~the~~ such assessment ~~may~~ shall 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 ~~the~~ such special assessment and lien, except as may be provided otherwise by state law.

~~FG~~. On or before August 10<sup>th</sup>, A certified a copy of the resolution and report, endorsed by the city clerk as a true copy of the resolution and report adopted by the city council, shall be filed with the Sacramento County auditor ~~on or before August 10th~~. The descriptions of the parcels of real property subject to the special assessments s and liens s shall be those used for the same parcels ~~by~~ on the Sacramento county assessor's ~~maps prepared in accordance with Revenue and Taxation Code Section 327~~ for the current year.

SECTION 16.

Section 13.12.110 of the Sacramento City Code is amended to read as follows:

**13.12.110 Contesting special assessment.**

The validity of any special assessment and lien imposed under ~~S~~section 13.12.100 shall not be contested in any action or proceeding unless the action or proceeding is commenced within ~~thirty (30)~~ days after the date the city council adopts the resolution confirming the report of delinquent utility services charges. An owner's failure to file a timely objection or protest, make a timely request for a hearing, appear at the hearing, or present their objection or protest to the city council, in accordance with section 13.12.100, constitutes a failure to exhaust administrative remedies with regard to the special assessment.

SECTION 17.

A. Subsection C of section 13.12.130 of the Sacramento City Code is amended to read as follows:

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 ~~S~~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. A description of the opportunity to avoid termination of utility services by demonstrating that a residential owner's or occupant's household income is not more than the threshold specified in section 13.12.160.B; and

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

B. Except as amended in subsection A above, all provisions of section 13.12.130 remain unchanged and in full effect.

## SECTION 18.

Section 13.12.150 of the Sacramento City Code is amended to read as follows:

### **13.12.150 Departmental review.**

A. ~~Upon receipt of a~~ A department employee designated by the director shall review and investigate 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 ten (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 ~~twelve (12) months,~~ unless the designated employee finds that a longer amortization period is necessary to avoid undue hardship based on the circumstances of an individual case.

~~CB.~~ After this review and investigation ~~At the conclusion of the meeting,~~ the designated employee shall ~~render~~ make a written decision, which may include adjustment of the amount due ~~and/or~~ amortization of the unpaid balance of the utility services account over a specified period of time ~~extension of the time for payment for a period of up to twelve (12) months.~~ A copy of the decision shall be mailed to the owner at the owner's address.

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

SECTION 19.

Section 13.12.160 of the Sacramento City Code is amended to read as follows:

**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 ~~S~~section 13.12.150 ~~C(D)~~;
3. When an owner ~~has been granted an extension of the period for payment, or~~ has entered into an amortization agreement for payment of an unpaid balance, 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. When an owner submits to the director ~~On~~ the certification of a licensed physician that termination of water service 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 the owner 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 twelve (12) months,~~ the unpaid balance of any bill asserted to be beyond the owner's means to pay within the normal period for payment over a period not to exceed 12 months, unless the director finds that a longer amortization period is necessary to avoid undue hardship based on the circumstances of an individual case. Water service may be terminated if the owner fails to comply with the amortization agreement or fails to keep the water service account current as charges accrue in each subsequent billing period.

B. Notwithstanding any other provision of this article, no utility service to premises used for residential purposes shall be terminated if it is demonstrated prior to utility service termination at the meeting held pursuant to Section 13.12.150

that the household income of the owner or 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. is not more than 100% of the applicable federal poverty guideline established and updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. section 9902(2); provided that this subsection B does not apply if the owner or occupant fails to provide notice to the department of their household income within 25 days after the date of the initial notice of impending termination provided by the director under section 13.12.130. The director may adopt requirements for the documentation of household income, including a periodic income recertification if the payment of utility service charges for the premises remains delinquent.

- 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 ~~thesuch~~ premises is mailed pursuant to ~~S~~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 ~~S~~section 10009 of the California 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 ~~S~~section 10009 of the California Public Utilities Code, upon execution of a water service agreement as required by the department. A residential tenant who becomes a water service customer pursuant to this subsection does so solely for the purpose of continuing the water service already being used by the tenant when the water service otherwise would be terminated for delinquent payment. This subsection does not authorize a tenant to become a water service customer under any other circumstances. A residential tenant who becomes a water service customer pursuant to this subsection after termination of water service shall pay all applicable fees for service reconnection.

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 ~~thesuch~~ premises is mailed pursuant to ~~S~~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 ~~S~~section 10009.1 of the California 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 ~~S~~section 10009.1 of the California Public Utilities Code, upon execution of a water service agreement as required by the department. A residential occupant who becomes a water service customer pursuant to this subsection does so solely for the purpose of continuing the water service already being used by the occupant when the water service otherwise would be terminated for delinquent payment. This subsection does not authorize a residential occupant to become a water service customer under any other circumstances. A residential tenant who becomes a water service customer pursuant to this subsection after termination of water service shall pay all applicable fees for service reconnection; 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 ~~thesuch~~ 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 ~~S~~section 10009.1 of the California Public Utilities Code and requirements for the notice prescribed by subdivision (a) of ~~S~~section 10009.1 of the California Public Utilities Code, including clear wording, large and boldface type, and instructions to ensure full notice to the residential occupants.

E. A residential tenant in a detached single-family dwelling, or a residential tenant or occupant in a multiunit residential structure or mobilehome park, may not become a water service customer except as authorized by subsection C.2 or subsection D.2 of this section. If a residential tenant or occupant becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section:

1. The residential tenant or occupant is liable for the rates, fees, and charges applicable to water service rendered while the tenant or occupant is the water service customer, including any penalties imposed if payment of these rates, fees, and charges is delinquent;
2. Penalties imposed under section 13.04.890 for any violation of the city's outdoor water conservation requirements that occurs on the parcel inhabited by the tenant or occupant while the tenant or occupant is the water service customer shall be imposed on the tenant or occupant as the water service customer;
3. The owner of the parcel to which the water service is rendered remains liable for the utility service charges for all other utility services rendered to the parcel, and for all delinquent utility service charges, to the fullest extent allowed under this code and state law; and
4. The director may require the residential tenant or occupant to provide a security deposit equal to three times the estimated monthly water service bill, in accordance with section 10009.6 of the California Public Utilities Code. The director may establish procedures and requirements governing the collection, maintenance, use, and return of security deposits.

F. If a residential tenant or occupant who becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section fails to pay any portion of the water service charges or penalties applicable to the premises inhabited by the tenant or occupant, the water service to the premises may be terminated as provided in this article, state law, or the tenant's or occupant's water service agreement. For purposes of the termination process described in sections 13.12.130, 13.12.140, 13.12.150, and 13.12.180, the tenant or occupant shall be considered to be the "owner" of the premises.

G. When a residential tenant or occupant who becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section ceases to be a water service customer because the tenant's or occupant's water service

agreement is terminated or the tenant or occupant moves from the premises to which the water service is rendered, the owner of the premises shall be liable for all utility service charges for water service rendered to the premises after the tenant or occupant ceases to be a water service customer. A tenant or occupant moving from the premises to which the water service is rendered shall not cease to be the water service customer for the premises until the tenant or occupant actually moves, or two weeks after the tenant or occupant provides notice to the department that the tenant or occupant is moving or has moved, whichever occurs last.

SECTION 20.

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.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective:

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING AND ADDING VARIOUS SECTIONS IN CHAPTERS 13.04 AND 13.12 OF THE SACRAMENTO CITY CODE, RELATING TO WATER SERVICE CONNECTIONS, OUTDOOR WATER CONSERVATION, UTILITY BILLING AND COLLECTION, AND UTILITY SERVICE TERMINATION**

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

SECTION 1.

- A. Subsection B of section 13.04.060 of the Sacramento City Code is amended to read as follows:
  - B. To be eligible for water service, a parcel must abut a public easement or a city street or alley right-of-way in which a distribution main is located at a point immediately adjacent to the property, unless the director authorizes the extension of a distribution main.
    - 1. If the parcel abuts both a public easement and a street or alley right-of-way in which distribution mains are located, the director shall specify which distribution main will be used for any new water service connection.
    - 2. If the parcel abuts only a public easement in which a distribution main is located, and the distribution main is scheduled in the department's capital improvement program to be abandoned when a new distribution main is constructed in a street or alley right-of-way adjacent to the parcel, the director may require, as a condition of allowing a new water service connection to the existing distribution main, that the parcel's private water lines be configured to allow the parcel to be connected to the new distribution main after it is constructed.
- B. Except as amended in subsection A above, all provisions of section 13.04.060 remain unchanged and in full effect.

SECTION 2.

Section 13.04.070 of the Sacramento City Code is amended to read as follows:

**13.04.070 Multiple service connections.**

Except for separate irrigation service connections and fire service connections, each lot or parcel shall have only one service connection; provided that requests for multiple service connections (excluding separate irrigation service and fire service connections) may be approved on a case by case basis by the director.

- A. Backup service connections are considered to be temporary and shall be subject to termination by city at a future date specified by the director.
- B. If permanent multiple service connections require a public water main extension, the main extension shall be installed to the satisfaction of the director at the customer's expense.
- C. Where multiple service connections already exist, and a lot split, lot merger, or a change of business or operations occurs, the excess service connection shall be removed at the customer's expense, if required by the director.

SECTION 3.

- A. Subsection A.2 of section 13.04.220 of the Sacramento City Code is amended to read as follows:
  - 2. In a common interest development, if a meter is installed on an existing unmetered water service connection, or if an existing metered service connection is changed from flat rate to metered rate billing, the metered rate for the service connection shall be billed to the association managing the common interest development, or to the owners of the separate interests served by the service connection in accordance with a rate allocation established by ordinance or resolution of the city council; this does not include water service provided at a water service connection serving only one separate interest, which shall be billed to the owner of the separate interest.
- B. Except as amended in subsection A above, all provisions of section 13.04.220 remain unchanged and in full effect.

SECTION 4.

Section 13.04.225 is added to the Sacramento City Code to read as follows:

**13.04.225 Water service to projects consisting of vertical parcels.**

- A. Notwithstanding any contrary provision of this code, the director may authorize water service to be:
  - 1. Rendered to a project consisting of vertical parcels at a single metered point of service or multiple metered points of service, with sub-meters for each parcel, as specified by the director; and
  - 2. Billed to a single person authorized to receive and pay for the water service for and on behalf of all the parcel owners, referred to in this section as the “authorized party”.
  
- B. If the director authorizes water service pursuant to subsection A, before receiving any water service connection the authorized party and all parcel owners must enter into a water service agreement with the department, in a form approved by the city attorney, that includes the terms and conditions specified by the director, including, at a minimum, the following:
  - 1. The owners and authorized party shall be solely responsible for all water distribution facilities within the project, including the sub-meters for all parcels;
  - 2. The authorized party shall pay when due the rates, fees, and charges for water service rendered to the city’s metered points of service; shall be solely responsible for the allocation, billing, and collection of these costs among the parcels within the project based on sub-metering; and, if required by the director, shall furnish a security deposit to assure payment;
  - 3. If the authorized party fails to pay all or any portion of the rates, fees, and charges for water service rendered to the city’s metered points of service when and as required:
    - a. The city may discontinue water service provided through the city’s metered points of service until all rates, fees, and charges are paid in full; and
    - b. All of the parcel owners will be liable for payment as specified in section 13.12.020, and will be subject to the delinquent service charge procedures specified in sections 13.12.070 through 13.12.100;

4. The owners and authorized party shall release any and all claims arising from the City's discontinuance of water service for nonpayment, including unknown claims arising under California Civil Code section 1542;
5. The owners and authorized party shall defend, indemnify, and hold harmless the city, its officers, employees, and agents against any and all liabilities and costs (including attorney fees) arising from:
  - a. Any action or failure to act by the owners or authorized party, or their respective members, officers, employees, contractors, or agents;
  - b. Any discontinuance of water service for nonpayment; or
  - c. Any claim related to the authorized party's authority to act on behalf of the parcel owners;
6. The agreement shall be recorded so that the agreement's obligations are covenants that run with all parcels within the project, in accordance with Section 1468 of the Civil Code, and bind all members, successors, and assigns of the owners and authorized party;
7. If the services of any attorney are required by a party to secure performance of the agreement, or due to a breach or default of a party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of the agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and other expenses, in addition to any other relief to which the party may be entitled; and
8. Except as provided otherwise in the agreement, the provision of city water service shall be subject to all applicable provisions of the city charter, this code, and any other statute, regulation, ordinance, resolution, or city policy or procedure.

**SECTION 5.**

Section 13.04.305 of the Sacramento City Code is amended to read as follows:

**13.04.305 Conversion to metered connections for common interest developments.**

- A. If an existing unmetered water service connection in a common interest development is changed to a metered connection, the meter shall be installed on the existing connection. If the water service connection serves more than one separate interest, the department may install within the development's private water distribution system separate water meters for each separate interest, if requested by the association

managing the common interest development and the owners of the separate interests and the director determines that it is feasible and appropriate to do so:

1. Provided that the association and owners, at no cost to the city:
    - a. Locate and expose those portions of the development's private water distribution system where the separate water meters would be installed as may be required by the director to determine whether it is feasible to install separate water meters,
    - b. Install all piping and other improvements required by the director to install separate meters, and
    - c. Convey to the city all easements or other property rights required by the director for installation, operation, maintenance, repair, and replacement of the separate meters and the meter boxes containing them; and
  2. Subject to such other terms and conditions specified by the director.
- B. If an existing unmetered water service connection serves more than one separate interest in a common interest development that does not have an association, the director may require that the owners of all separate interests in the common interest development, at no cost to the city, and as a condition of continuing to receive city water service:
1. Locate and expose those portions of the development's private water distribution system where separate water meters would be installed for each separate interest,
  2. Install all piping and other improvements required by the director to install separate metered water service connections for the separate interests; and
  3. Convey to the city all easements or other property rights required by the director for installation, operation, maintenance, repair, and replacement of the separate meters and the meter boxes containing them.
- C. The department's installation, operation, maintenance, repair, or replacement of separate water meters and meter boxes within a common interest development's private water distribution system shall not create or impose on the city any responsibility or liability of any kind for the condition, operation, maintenance, repair, or replacement of any portion of the private water distribution system.
- D. As used in this section, the terms "association," "common interest development," and "separate interest" have the meanings specified in Section 13.12.010.

SECTION 6.

Section 13.04.760 of the Sacramento City Code is amended to read as follows:

**13.04.760 Additional charges.**

The director may undertake any work or service on or for a premises' water service connection that the director deems necessary to maintain the safety of the city's water supply, or to correct any condition in violation of this chapter. The owner of the premises shall be responsible for the cost thereof, which may be added to the regular billing for the premises' water service and collected pursuant to chapter 13.12.

SECTION 7.

Section 13.04.860 of the Sacramento City Code is amended to read as follows:

**13.04.860 Water runoff prohibited.**

- A. No person shall knowingly or willingly cause or allow any city water applied to any landscaping, including new landscaping, or used for any other irrigation purposes, to flow away as water waste runoff from property owned or occupied by that person.
- B. No person shall knowingly or willingly cause or allow any city water used for non-irrigation purposes to flow away as water waste runoff from property owned or occupied by that person, unless the water is used in compliance with subsections A or B of section 13.04.870 or the director provides prior written consent for the runoff.

SECTION 8.

A. Section 13.04.870 of the Sacramento City Code is amended as follows:

- 1. Subsection G of section 13.04.870 is repealed.
- 2. A new subsection G is added to section 13.04.870, to read as follows:
  - G. No person shall use, or cause to be used, any city water in a fountain or other decorative water feature unless it uses a recirculating system.
- 3. A new subsection H is added to section 13.04.870, to read as follows:
  - H. No person shall use, or cause to be used, any city water for landscape irrigation during and within 48 hours after measurable rainfall. As used in this subsection, "measurable rainfall" means a rainfall event for which

0.125 inches of precipitation or more is recorded at the National Weather Service rain gauge located at the Sacramento Executive Airport.

4. A new subsection I is added to section 13.04.870, to read as follows:
  - I. Upon declaration of a water shortage, the city council may impose revised and additional limitations on outdoor water use, as specified in section 13.04.910, and no person shall use, or cause to be used, city water in violation of those limitations while the water shortage remains in effect.
- B. Except as amended in subsection A above, all provisions of section 13.04.870 remain unchanged and in full effect.

#### SECTION 9.

- A. Section 13.04.890 of the Sacramento City Code is amended as follows:
  1. Subsection A.2 of section 13.04.890 is amended to read as follows:
    2. **Second Violation During Any 12 Month Period.** A written notice describing the violation and the penalty shall be issued to the owner and the occupant (if different than the owner) of the premises where the violation occurred. A penalty of \$25.00 shall be imposed, but this penalty shall be removed from the water service bill for the premises if the owner, or the occupant (if different than the owner, and the occupant committed the violation), attends a water conservation seminar offered by the department within 60 days after the date of the penalty notice; provided that only one removal of this penalty shall be allowed for the premises within any 24 month period.
  2. Subsection C of section 13.04.890 is amended to read as follows:
    - C. The penalties specified in subsection A shall be imposed on the owner of the premises where the violation occurs regardless of who committed the violation. After the notice of violation is issued, the penalty amount shall be included on the water service bill for the premises and shall be collected in accordance with chapter 13.12, subject to subsection A.2 of this section and section 13.04.900.D. All penalties collected shall be used by the department to fund water conservation programs.
- B. Except as amended in subsection A above, all provisions of section 13.04.890 remain unchanged and in full effect.

## SECTION 10.

Section 13.04.900 of the Sacramento City Code is amended to read as follows:

### **13.04.900 Appeal.**

- A. The owner or occupant of the premises where the violation occurred may appeal a notice of violation issued under section 13.04.890.A by filing a written notice of appeal with the director not later than 30 days after the notice of violation is issued. The notice of appeal shall specify the grounds for appeal, and shall provide the appellant's telephone number and address for receipt of the city's written notices relating to the appeal.
- B. Upon receipt of a timely notice of appeal, the director shall set the matter for an informal hearing at the earliest practical date. Not less than seven days prior to the hearing date, the director shall provide written notice of the hearing to the appellant. At the hearing, the director shall hear any relevant evidence presented by the appellant or department staff, and may uphold, modify, or rescind the notice of violation, including the penalty imposed by the notice of violation, if any. The appellant shall be provided written notice of the determination of the director that sets forth findings in support of the determination. The determination of the director is the city's final administrative determination of the matter.
- C. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal in accordance with the provisions of this section constitutes an irrevocable waiver of the right to appeal and a failure to exhaust administrative remedies with regard to the notice of violation.
- D. If the director determines that a penalty shall not be imposed, the penalty shall be removed from the water service bill for the premises where the violation occurred.
- E. The director may designate one or more employees of the department to hear and determine appeals of any notice of violation, provided that the designated employee(s) shall not be employed within the section issuing the notice of violation.

SECTION 11.

A. Section 13.12.010 of the Sacramento City Code is amended as follows:

1. The definition of “owner” is amended to read as follows:

“Owner” means the person to whom a parcel of real property was assessed as legal owner in the assessment roll. 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 includes the different person. “Owner” also includes an owner’s duly authorized executor or receiver.

2. The definition of “rates, fees and charges” is amended to read as follows:

“Rates, fees, and charges” means any rate, fee, tax, assessment, penalty, or other charge established, prescribed, revised, set, charged, or collected under any provision of this code or any ordinance or resolution adopted pursuant to this code.

B. Except as amended in subsection A above, all provisions of section 13.12.010 remain unchanged and in full effect.

SECTION 12.

A. Section 13.12.040 of the Sacramento City Code is amended as follows:

1. Subsection C.2 of section 13.12.040 is amended to read as follows:

2. In a common interest development, the rates, fees, and charges for an unmetered water service connection that is changed to a metered service connection with metered rate billing, or for a metered water service connection that is changed from flat rate to metered rate billing, shall be billed as provided in section 13.04.220(A)(2).

2. A new subsection G is added to read as follows:

G. The director may require the owner to provide a security deposit equal to three times the estimated monthly bill for water, sewer, and/or storm drainage service rendered to the owner’s parcel, in accordance with section 10009.6 of the California Public Utilities Code. The director may establish procedures and requirements governing the collection, maintenance, use, and return of security deposits.

- B. Except as amended in subsection A above, all provisions of section 13.12.040 remain unchanged and in full effect.

**SECTION 13.**

Section 13.12.041 is added to the Sacramento City Code to read as follows:

**13.12.041 Billing for water service to projects consisting of vertical parcels.**

Notwithstanding any contrary provision of this code, if the director authorizes water service to a project consisting of vertical parcels pursuant to section 13.04.225:

- A. The rates, fees, and charges for water service rendered to the city's metered points of service shall be billed to the "authorized party" defined in section 13.04.225;
- B. The "authorized party" defined in section 13.04.225 shall be fully responsible for payment to the city of all amounts billed, and the city shall have no responsibility for, nor any involvement in, the authorized party's allocation, billing, and collection of these costs from the owners or occupants of the parcels; and
- C. The "authorized party" defined in section 13.04.225 is considered the "owner" for purposes of the termination of service procedures specified in article III of this chapter.

**SECTION 14.**

Section 13.12.080 of the Sacramento City Code is amended to read as follows:

**13.12.080 Lien created—Procedure.**

- A. If the owner fails to request a hearing within the time specified in section 13.12.070, or if the owner timely requests a hearing but fails to appear, or if after a hearing the director's designee decides that delinquent charges and penalties are owing, the director shall file a lien by recording with the Sacramento County recorder's office a certificate or report, in the format specified by the recorder's office. The certificate or report shall identify the owner's name, the real property to which the utility services were rendered, and the amount of the delinquent charges and penalties that remains unpaid 75 days following the past due date. From the time the certificate or report is recorded, the amount required to be paid, together with applicable penalties, constitutes a lien in accordance with and subject to the provisions of section 5473.11 of the California Health and Safety Code, and may be enforced or collected upon as provided in state law. Thereafter, the lien shall not be released unless and until

it is fully paid, is rendered invalid by operation of law, or the director determines that it was recorded in error. The owner is responsible for payment of any fees applicable to the lien release.

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

**SECTION 15.**

Section 13.12.100 of the Sacramento City Code is amended to read as follows:

**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 mail to the owner of each parcel of real property identified in the report, at the owner's address, 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. The 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 by the director within 15 days after the date of the director's notice.
- B. Upon receipt of a timely written objection or protest, the director shall review the objection or protest and mail a written response to the owner at the owner's address. The director's response 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 not less than 15 days after the date of the director's response. An owner must request a hearing within ten days after the date of the director's response.
- C. Only those owners who filed a timely objection or protest in accordance with subsection A of this section, and made a timely request for a hearing in accordance with subsection B of this section, shall be permitted to have their objection or protest heard by the hearing officer. Before the date of the hearing, the director shall transmit to the hearing officer the objections or protests from owners who filed a timely objection or protest and made a timely request for a hearing, a list of the applicable delinquent utility service charges, and all other relevant information.
- D. At the hearing, the hearing officer shall consider the delinquent utility service charges together with any objections, protests, and other relevant information

received before or at the hearing. The hearing officer is authorized to make revisions to the delinquent utility service charges for any owner appearing at the hearing if the hearing officer finds that 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 delinquent utility service charges. The hearing officer also shall transmit any 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 shall mail to the owners who appeared before the hearing officer written notice of the date, time, and location of the public hearing described in subsection E of this section.

- E. Upon receipt of the report from the hearing officer, the director shall schedule a public hearing before the city council. The city clerk shall cause notice of the hearing to be published pursuant to California 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 and a timely request for a hearing in accordance with the provisions of subsections A and B of this section, 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.
- F. After adoption of the report by the city council, the delinquent utility service charges contained therein 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 the assessment shall 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 continue 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 the special assessment and lien, except as may be provided otherwise by state law.

- G. On or before August 10<sup>th</sup>, a copy of the resolution and report, endorsed by the city clerk as a true copy of the resolution and report adopted by the city council, shall be filed with the Sacramento County auditor. The descriptions of the parcels of real property subject to the special assessments and liens shall be those used for the same parcels by the Sacramento County assessor for the current year.

#### SECTION 16.

Section 13.12.110 of the Sacramento City Code is amended to read as follows:

##### **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. An owner's failure to file a timely objection or protest, make a timely request for a hearing, appear at the hearing, or present their objection or protest to the city council, in accordance with section 13.12.100, constitutes a failure to exhaust administrative remedies with regard to the special assessment.

#### SECTION 17.

- A. Subsection C of section 13.12.130 of the Sacramento City Code is amended to read as follows:
  - 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;
7. A description of the opportunity to avoid termination of utility services by demonstrating that a residential owner's or occupant's household income is not more than the threshold specified in section 13.12.160.B; and
8. The telephone number of a department representative authorized to provide additional information or institute arrangements for payment.

- B. Except as amended in subsection A above, all provisions of section 13.12.130 remain unchanged and in full effect.

**SECTION 18.**

Section 13.12.150 of the Sacramento City Code is amended to read as follows:

**13.12.150 Departmental review.**

- A. A department employee designated by the director shall review and investigate a timely complaint, request for an investigation, or request for an extension of time to pay the delinquent charges. 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, unless the designated employee finds that a longer amortization period is necessary to avoid undue hardship based on the circumstances of an individual case.
- B. After this review and investigation, the designated employee shall render a written decision, which may include adjustment of the amount due or amortization of the unpaid balance of the utility services account over a specified period of time. A copy of the decision shall be mailed to the owner at the owner's address.

- C. 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 ten days after the date the decision is mailed to the owner.

SECTION 19.

Section 13.12.160 of the Sacramento City Code is amended to read as follows:

**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.C;
  - 3. When an owner has entered into an amortization agreement for payment of an unpaid balance, 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. When an owner submits to the director the certification of a licensed physician that termination of water service will be life-threatening to a resident of the premises, the owner is financially unable to pay for service within the normal payment period, and the owner 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 the unpaid balance of any bill asserted to be beyond the owner's means to pay within the normal period for payment over a period not to exceed 12 months, unless the director finds that a longer amortization period is necessary to avoid undue hardship based on the circumstances of an individual case. Water service may be terminated if the owner fails to comply with the amortization agreement or fails to keep the water service account current as charges accrue in each subsequent billing period.

- B. Notwithstanding any other provision of this article, no utility service to premises used for residential purposes shall be terminated if it is demonstrated prior to utility service termination that the household income of the owner or occupant of the premises is not more than 100% of the applicable federal poverty guideline established and updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. section 9902(2); provided that this subsection B does not apply if the owner or occupant fails to provide notice to the department of their household income within 25 days after the date of the initial notice of impending termination provided by the director under section 13.12.130. The director may adopt requirements for the documentation of household income, including a periodic income recertification if the payment of utility service charges for the premises remains delinquent.
- 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 the premises is mailed pursuant to section 13.12.130, the following additional requirements apply:
1. The city shall provide notice to the residential tenants as specified in subdivision (b) of section 10009 of the California 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 California Public Utilities Code, upon execution of a water service agreement as required by the department. A residential tenant who becomes a water service customer pursuant to this subsection does so solely for the purpose of continuing the water service already being used by the tenant when the water service otherwise would be terminated for delinquent payment. This subsection does not authorize a tenant to become a water service customer under any other circumstances. A residential tenant who becomes a water service customer pursuant to this subsection after termination of water service shall pay all applicable fees for service reconnection.
- 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 the premises is mailed pursuant to section 13.12.130, the following additional requirements apply:

1. The city shall provide notice to the residential occupants as specified in subdivision (a) of section 10009.1 of the California 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 California Public Utilities Code, upon execution of a water service agreement as required by the department. A residential occupant who becomes a water service customer pursuant to this subsection does so solely for the purpose of continuing the water service already being used by the occupant when the water service otherwise would be terminated for delinquent payment. This subsection does not authorize a residential occupant to become a water service customer under any other circumstances. A residential tenant who becomes a water service customer pursuant to this subsection after termination of water service shall pay all applicable fees for service reconnection; 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 the 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 California Public Utilities Code and requirements for the notice prescribed by subdivision (a) of section 10009.1 of the California Public Utilities Code, including clear wording, large and boldface type, and instructions to ensure full notice to the residential occupants.

- E. A residential tenant in a detached single-family dwelling, or a residential tenant or occupant in a multiunit residential structure or mobilehome park, may not

become a water service customer except as authorized by subsection C.2 or subsection D.2 of this section. If a residential tenant or occupant becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section:

1. The residential tenant or occupant is liable for the rates, fees, and charges applicable to water service rendered while the tenant or occupant is the water service customer, including any penalties imposed if payment of these rates, fees, and charges is delinquent;
  2. Penalties imposed under section 13.04.890 for any violation of the city's outdoor water conservation requirements that occurs on the parcel inhabited by the tenant or occupant while the tenant or occupant is the water service customer shall be imposed on the tenant or occupant as the water service customer;
  3. The owner of the parcel to which the water service is rendered remains liable for the utility service charges for all other utility services rendered to the parcel, and for all delinquent utility service charges, to the fullest extent allowed under this code and state law; and
  4. The director may require the residential tenant or occupant to provide a security deposit equal to three times the estimated monthly water service bill, in accordance with section 10009.6 of the California Public Utilities Code. The director may establish procedures and requirements governing the collection, maintenance, use, and return of security deposits.
- F. If a residential tenant or occupant who becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section fails to pay any portion of the water service charges or penalties applicable to the premises inhabited by the tenant or occupant, the water service to the premises may be terminated as provided in this article, state law, or the tenant's or occupant's water service agreement. For purposes of the termination process described in sections 13.12.130, 13.12.140, 13.12.150, and 13.12.180, the tenant or occupant shall be considered to be the "owner" of the premises.
- G. When a residential tenant or occupant who becomes a water service customer in accordance with subsection C.2 or subsection D.2 of this section ceases to be a water service customer because the tenant's or occupant's water service agreement is terminated or the tenant or occupant moves from the premises to

which the water service is rendered, the owner of the premises shall be liable for all utility service charges for water service rendered to the premises after the tenant or occupant ceases to be a water service customer. A tenant or occupant moving from the premises to which the water service is rendered shall not cease to be the water service customer for the premises until the tenant or occupant actually moves, or two weeks after the tenant or occupant provides notice to the department that the tenant or occupant is moving or has moved, whichever occurs last.

SECTION 20.

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.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective: