

ORDINANCE NO. 4266

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
POMONA, CALIFORNIA, REVISING CERTAIN PROVISIONS OF
CHAPTER 62 OF THE POMONA CITY CODE PERTAINING TO RATES
AND CHARGES FOR WATER AND SEWER SERVICE**

SECTION 1. Findings.

- A. The City has conducted an in-depth study and analyses of operational and maintenance costs for the sustainability of the City's infrastructure for water and waste water (sewer) systems and facilities (the "Study");
- B. The Study included review of provisions for setting fees, as set forth in Chapter 62, Article IV "Municipal Water Utility," for compliance with Proposition 218, as it relates to increasing water user fees and charges for sewer services;
- C. Based on the Study's findings, certain sections of Chapter 62, Article IV are proposed for amendment or deletion;
- D. Section 62-271, "Annual updating of rates and fees" is being amended to add language applicable to property-related fees;
- E. Section 62-291, "Inside the city" and Section 62-292, "Outside the city" are being amended and deleted, respectively, because there is currently no circumstance that requires different water rates for utility users located outside the city boundaries;
- F. Section 62-293, "Private fire service" is being amended because there is currently no circumstance that requires different water rates for private fire service for properties located outside the city boundaries;
- G. Section 62-294, "Special zone charges for certain territory annexed to city," is being deleted because there is no longer outstanding bond service debt to be paid for infrastructure expansion to the annexed territory;
- H. Section 62-400, "Sewer service charge," is being amended to reflect that sewer service fees are established by City Council resolution; and
- I. Section 62-424, "Fees," is being deleted because there is currently no circumstance that requires different sewer service charges for customers outside of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. Environmental Determination: That the proposed code amendment falls within a statutory exemption from environmental review pursuant to sections 15273, 15060(c)(2) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which pertain to the establishment, modification, structuring, restructuring, or approval of rates and charges by public agencies which the public agency finds are for the purpose of meeting operating expenses, and pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under CEQA Regulations.

SECTION 2. That Pomona City Code Section 62-271, “Annual updating of rates and fees,” set forth below, is hereby deleted in its entirety. .

Sec. 62-271. Annual updating of rates and fees.

- (a) **With the exception of property-related fees or charges adopted pursuant to the procedural and substantive requirements of article XIII D of the California Constitution including, without limitation, those fees described in Sections 62-291 through 62-295,** ~~The~~ the fees and charges set forth in this article shall be updated annually on January 1 each year by an adjustment of all rates and fees as set forth in this section. **Property-related fees and charges shall be subject to increases as set forth in the respective schedule of rates and charges.**
- (b) The annual adjustment shall be made by multiplying each rate and fee included in this article by the Los Angeles - Riverside - Orange County Consumer Price Index for All Urban Consumers of the preceding July and by dividing the result of such multiplication by the same index of the July of the prior year, as reported by the CPI Detailed Report, Bureau of Labor Statistics. The result of such calculation shall be rounded to the next lower cent and added to the old rate to become the rate and the amount for the ensuing year. The new rates shall be effective on January 1.
- (c) Additionally, on January 1 each year beginning January 1, 2000, the fees and charges set forth in this article shall be updated annually for the following expenses:
 - (1) Federal and state water quality requirements;
 - (2) Cost of purchased water adjustments;
 - (3) Groundwater basin replenishment assessments and other costs; and
 - (4) Other extraordinary operating expenses which exceed the Consumer Price Index adjustment.

SECTION 3. That Pomona City Code Section 62-291, “Within the city,” shall be amended to read as follows:

Sec. 62-291. Within city service area.

All water service furnished by the department ~~for use within the city~~ shall be subject to the ~~bimonthly~~ rates as set by the city council by resolution.

SECTION 4. That Pomona City Code Section 62-292, “Outside city,” as shown below shall be deleted in its entirety.

Sec. 62-292. -- Outside city.

~~All water service furnished by the department for use outside the city shall be subject to the bimonthly rates as set by the city council by resolution.~~

SECTION 5. That Pomona City Code Section 62-293, “Private Fire Service,” shall be amended to read as follows:

Sec. 62-293. - Private fire service.

~~This section provides the funding for servicing and maintaining private fire service connections. The charge per diameter inch inside the city is one-half the availability service charge for all other users. The bimonthly rates for outside city limits are 1.25 times that charge for in-city private fire service rates. The bimonthly rates for private fire service protection shall be subject to the bimonthly rates as set by the city council by resolution.~~ **All water service provided by the department for private fire service shall be subject to rates as set by city council resolution.**

SECTION 6. That Pomona City Code Section 62-294, “Special zone charges for certain territory annexed to city,” as shown below shall be deleted in its entirety.

Sec. 62-294. -- Special zone charges for certain territory annexed to city.

~~Territory annexed to the city pursuant to Resolution No. 68-182, known as Phillips Ranch Annexation, and also that territory in the city described as lots 2, 3, and 4 as shown on the record of survey filed in book 83, pages 62 and 63 of records of surveys in the office of the county recorder, except that land located south of the Pomona Freeway, as shown on exhibit A to the ordinance from which this section is derived, shall be subject to a special zone for water rate charges. Notwithstanding the other sections of this article, the following rates shall apply to all water delivered by the department within such territory:~~

- ~~(1) For each family unit for residential uses a fee set by resolution of the city council shall be charged in addition to the regular water rate established by this article generally within the city.~~
- ~~(2) For commercial and industrial uses, in addition to the regular water rate established by this article generally within the city, the special zone charges per month shall be set by resolution of the city council.~~
- ~~(3) For fire service for building sprinklers in private systems, the fee shall be set by resolution of the city council.~~

SECTION 7. That Pomona City Code Section 62-400, “Sewer service charge,” shall be amended to read as follows:

Sec. 62-400. Sewer service charge.

- (a) **All sewer service furnished by the department** ~~Effective at the beginning of the first billing period on/or subsequent to the first day of July, 2003, and continuing thereafter until changed by resolution of the city council, there is hereby imposed~~ **shall be subject to** a service charge for sewer use comprised of a fixed charge and a volumetric charge.
- (1) The "fixed charge" shall be a set fee established by resolution of the city council ~~and adjusted as set forth in subpart (b) and (c) below.~~
 - (2) The "volume charge" shall be computed by multiplying the volumetric charge rate, as established by resolution and adjusted by paragraphs (i), (ii) and (iii) below, by each 100 cubic feet (hcf) of water consumed ("volumetric data"), regardless of whether the sewage be generated from residential, commercial or industrial land uses, except that single family residential use shall be on a "winter-months basis" as defined below. Volumetric data for residential, commercial and industrial sewer users shall be based upon records of water consumption available to the City of Pomona for each sewer customer location. Such data shall be compiled by the city utilizing water consumption records for each sewer user location, regardless of water provider or duration of service to such sewer user.
 - i) For City of Pomona single-family residential water customers, each July 1, the "winter months' basis" for each such user shall be calculated, where such basis is defined as an average of two complete months data within the period of December of the previous year through the following March. The city may utilize historical data of prior users at such location for such computation if insufficient data exists for said at such location until appropriate data is established.
 - ii) For all other City of Pomona water customers, volumetric data shall be computed on a bi-monthly basis. Where insufficient data initially exists, the city may utilize historical data at such users location for such computation without regard to the duration of use by said customer at said location until appropriate data is established.
 - iii) For all City of Pomona water customers, where volumetric data is not available, due to a loss of data, or other occurrence, the city shall use the lesser of the average for all similarly situated customers in the city or the 12-month average for the prior user as such location. This process would apply to a new or incoming user until a 12-month review period or winter-months basis (as applicable) has been determined. Such calculation shall be used until the appropriate data is established for normalized calculation.
 - iv) For City of Pomona sewer users who receive water service from a provider other than the City of Pomona ("Non-Pomona water customer"), where volumetric data is not available to the City of Pomona, aggregated data available from the water service provider will be used to establish an average user volumetric data consumption amount ("aggregated average"). For residential customers, the aggregated average will be computed to establish an aggregated winter months' basis each July 1 for the Non-City of Pomona water service area in which that address is situated. For all other customers, the aggregated average will be computed to establish an aggregated average based on industrial and commercial

users respectively each July 1 by averaging the previous 12 months data for each such use in each non-City of Pomona water service area in which that address is sited.

- v) Nothing in this section shall prevent any Non-Pomona water customer from providing or authorizing release of water records to the City of Pomona for computation of more accurate volumetric water data ("released records"). Released records shall be used to provide volumetric data to calculate adjusted volume sewer charges in accordance with procedures for calculating city provided water customers. Such adjusted volume sewer charges will become effective the billing period following release of such data. A Non-Pomona water customer's released records shall be removed from any calculation of any aggregated average for the following computation period. Any City of Pomona sewer user authorizing release of water records from a non-city water provider to the City of Pomona shall agree that such authority to release will remain effective for a period of no less than five years and continue in effect until written notice is received by both the water service provider and the city rescinding such authorization by said user. In the event a Non-Pomona water customer rescinds the city's access to released records, volume sewer charges for volume sewer charges for such Non-Pomona water customer shall be calculated by the method described in subpart iv) above.
- (3) The sewer service charge shall be invoiced and collected bi-monthly in the same manner as the water service charges are billed within the city or in such manner as the city council shall determine. For partial payment of utility billing, the utility services director reserves the right to credit any monies remitted for payment of sewer service charges. The city council reserves the right to adjust the sewer service charges for actual discharge and metered usage or other special circumstances. Nothing in section 62-400(a) shall cause any written agreement between a City of Pomona water and/or sewer customer and the City of Pomona relating to sewer service charges existing and in force at the time of adoption of such section to be abrogated.
- ~~(b) Notwithstanding any other section of this Code, the fees and charges set forth in this section shall be automatically updated annually on January 1 each year, beginning January 1, 2004, by an adjustment of all rates and fees contained in this section as follows: The annual adjustment shall be made by multiplying each rate and fee included in the fee resolution by the Los Angeles Long Beach Consumer Price Index for All Urban Consumers of the preceding July and by dividing the result of such multiplication by the same index of the July of the prior year, as reported by the CPI Detailed Report, Bureau of Labor Statistics rate to become the rate and the amount for the ensuing year. The new rates shall be effective of January 1 without further approval by the city council.~~
- ~~(c) Additionally, on January 1 of each year beginning January, 2004, the fees and charges set forth in this section shall be updated annually for the following expenses:~~
 - ~~(1) Federal and state water quality requirements;~~
 - ~~(2) Cost of purchased water adjustments;~~

~~(3) Groundwater basin replenishment assessments and other costs; and~~

~~(4) Other extraordinary operating expenses which exceed the Consumer Price Index adjustments.~~

SECTION 8. That Pomona City Code Section 62-424, "Fees," as shown below shall be deleted in its entirety.

Sec. 62-424. Fees.

~~(a) The council prescribes a fee set by resolution as a charge for services and facilities furnished by the city outside its territorial limits in connection with its sewer system.~~

~~(b) The charge shall be paid annually and be the sum set by resolution of the city council per year for each connection to the city sewer system on all connections of private property owners made outside of the territorial city limits.~~

~~(c) The money collected from charges imposed by this division shall be used for the acquisition, construction, reconstruction, and maintenance and operation of sewage facilities.~~

SECTION 9. Effective Date. The amendments to the sections of the City Code set forth herein shall be implemented beginning October 1, 2019.

SECTION 10. Severability. If any portion of this ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of the ordinance remains in effect.

SECTION 11. The City Clerk shall attest to the passage and adoption of this ordinance, causing it to be posted as required by law, and it shall become effective thirty (30) days after its adoption.

PASSED AND ADOPTED THIS __th DAY OF _____, 2019.

ATTEST:

CITY OF POMONA:

Rosalia A. Butler, MMC City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF POMONA)

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on the 15th day of July, 2019 and adopted at second reading at a regular meeting of the City Council on the ____ day of _____, 2019, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Rosalia A. Butler, MMC City Clerk