

RESOLUTION NO. 2019-127

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA
APPROVING NEW RATE STRUCTURES FOR WATER AND
RECYCLED WATER FEES AND SERVICE CHARGES AND
INCREASING SEWER SERVICE FEES**

WHEREAS, Chapter 62 of the Pomona City Code, Article IV, Municipal Water Utility, Section 62-195 and 62-291, establishes the City's ability to charge bimonthly fees for the supply of water and recycled water to customers within and outside the City of Pomona, and established the City Council's authority to set water and recycled water rates by resolution;

WHEREAS, Chapter 62 of the Pomona City Code, Article V, Sewer Disposal, Section 62-400, establishes the City's ability to charge bimonthly fees for sewer services to customers, and establishes the City Council's authority to set sewer service rates by resolution;

WHEREAS, this resolution adjusting water, recycled water, and sewer service rates shall apply only to Chapter 62 of the Pomona City Code, Article IV and V, Municipal Water Utility and Sewer Disposal, respectively;

WHEREAS, the City previously retained Raftelis Financial Consultants, an independent financial consultant to review the City's water, recycled water, and sewer utilities to determine whether rates for service charges are sufficient to meet increased costs of service, and to prepare a cost of service analysis and rate study (the "Study");

WHEREAS, based on the results of the Study (a copy of which is available for inspection at the office of the City Clerk, and was also posted on the City's website), increases to the rates for water, recycled water, and sewer service fees and charges are necessary;

WHEREAS, the proposed potable water rate structure includes a fixed service charge imposed on a bimonthly basis, and a commodity charge. The fixed service charge includes a meter service charge, determined based on the size of the meter serving the property (measured in inches), and recovers the cost to maintain and replace meters as well as a portion of extra-capacity related costs, and a customer service component, which is the same for all meters regardless of size. The proposed commodity charge is based on the amount of water consumed, measured in dollars per hundred cubic feet ("CCF") delivered to the property, and is divided into domestic and irrigation customer classes based on shared patterns of usage;

WHEREAS, the proposed potable water rate structure also includes fire service charges for certain properties in the City that have private fire service meters installed, and which is charged based on the size of the fire meter serving the property;

WHEREAS, the proposed recycled water rate structure includes a commodity charge, which is determined based on the number of acre feet of recycled water delivered to a property, and a bimonthly recycled water service charge, based on the size of the recycled water meter serving the property;

WHEREAS, the proposed sewer service charges include a bimonthly service charge, which is uniform for all customers, and a consumption charge, which is applied per unit of water consumption defined as the average of two complete months data within the period of December of the previous year through the following March;

WHEREAS, the proposed rate structures are for a period of five years, and are proposed to take effect October 1, 2019, and to increase each January 1 thereafter commencing January 1, 2020, through and including January 1, 2023;

WHEREAS, the proposed potable water, recycled water, and sewer service fees (collectively, the “Fees”) are property-related fees within the meaning of article XIII D of the California Constitution;

WHEREAS, the revenues derived from the Fees will not exceed the funds required to provide the services for which the Fees are imposed, and will be used exclusively for the operation and maintenance of the City’s potable water, recycled water, and sewer systems;

WHEREAS, the Fees are equitable to all customer classes;

WHEREAS, the amount of the Fees will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition;

WHEREAS, the Fees will not be imposed on a parcel unless the service for which such Fees are imposed, is actually used by, or immediately available to, the owner of the parcel;

WHEREAS, article XIII D, section 6 of the California Constitution (“Article XIII D”) requires that prior to imposing any increase to the Fees, the City shall provide written notice (the “Notice”) by mail of the new or increased Fees to the record owner of each parcel upon which the Fees are proposed for imposition and any tenant directly liable for payment of the Fees, the amount of the Fees proposed to be imposed on each parcel, the basis upon which the Fees were calculated, the reason for the Fees, and the date time and location of a public hearing (the “Hearing”) on the proposed Fees;

WHEREAS, on July 19, 2019, the City distributed notices as required by Article XIII D regarding the City Council’s consideration of the proposed rate adjustments to the Fees at the September 16, 2019, public hearing to all property owners of record and utility customers in accordance with Article XIII D, Section 6(a)(1) of the California Constitution, and Government Code Section 53755;

WHEREAS, on September 16, 2019, the City Council held a duly noticed public hearing on the proposed Fees contained in this Resolution, and at that time invited oral and written comments from the public;

WHEREAS, upon close of said public hearing, the City did receive _____ written protests to the proposed Fees; and

WHEREAS, the City Council now desires to establish rates for the Fees, effective October 1, 2019, at the rates and subject to increases on the dates set forth in the schedules included as Exhibit A hereto.

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

SECTION 1. That the adoption of this Resolution 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 after considering the material presented in the Study, the City Council hereby finds as follows:

- (a) Revenues derived from the Fees do not exceed the funds required to provide the property related service;
- (b) Revenues derived from the Fees are not used for any purpose other than for which the Fees or charges is imposed;
- (c) The amount of the Fees imposed upon any parcel or person does not exceed the proportional cost of service attributable to the parcel;
- (d) The Fees are imposed for services that are actually used by, or immediately available to, the owner of the property upon which the Fees are imposed.

SECTION 3. That after receiving public comment and testimony on the new fee structure for water, sewer and recycled water services provided, and absent a majority protest to the proposed fee increases, the new fee schedule for water, sewer and recycled water fees and charges are hereby approved as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 4. That the new fee schedule for water, sewer and recycled water services shall be implemented beginning October 1, 2019, and shall be increased annually on the dates set forth in Exhibit "A" hereto, up to the maximum rates set forth in Exhibit "A" hereto. To the extent any other resolution of the City conflicts with the provisions set forth herein, it is the explicit intent of the City Council that the provisions of this Resolution shall supersede.

SECTION 5. That all water charges subject to the adjusted fee schedule may resume annual CPI adjustment, as outlined in City Code Section 62-271, starting on January 1, 2024.

SECTION 6. The City Clerk shall attest and certify to the passage and adoption of this Resolution.

APPROVED AND ADOPTED THIS 16TH DAY OF SEPTEMBER 2019.

ATTEST:

CITY OF POMONA:

Rosalia A. Butler, MMC City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Sonia Carvalho, 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 Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 16th day of September 2019 by the following vote:

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

Rosalia A. Butler, MMC City Clerk