

ORDINANCE NO. 4188
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA
AMENDING CHAPTER 62, ARTICLE IV, OF THE POMONA CITY CODE
TO REFLECT WATER POLICIES ESTABLISHED ADMINISTRATIVELY
AND ADDING A NEW DIVISION 3, “CONTINUITY OF UTILITY
SERVICES PROGRAM – RENTAL PROPERTIES”

WHEREAS, the City Council desires to establish a means for owners of rental properties to have water/utilities services automatically continue when tenant vacancies occur;

WHEREAS, Staff believes that providing a convenient means to keep water utilities in place during periods of tenant vacancies will improve outdoor maintenance of such properties;

WHEREAS, a new Division 3, within Chapter 62, Article IV has been created that sets forth the terms and conditions for owners of rental properties to participate in a Continuity of Utility Services Program; and

WHEREAS, modifications to Chapter 62, Article IV, Divisions 1 and 2 have also been incorporated to update various sections to reflect policies and procedures that have been in place and applied administratively related to establishing new water/utility accounts.

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

SECTION 1. That Sec. 62-191, “Definitions” within Article IV, Division 1 of Chapter 62 shall hereby be amended as follows:

Sec. 62-191. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

After Hours means the hours after 5:00 p.m. and before the start of City Hall business hours - Monday through Thursday, and any Friday, Saturday, Sunday and any day designated as a City holiday.

Authorized Agent means any representative of a real estate company, property management company, home owners’ association or lending institution requesting water utility services from the public works department on behalf of the property owner of record, subject to submittal of supporting documentation as shall be required by the Director, or designee of the public works department.

Authorized tenant means any person, other than the property owner of record, requesting water/utility services from the public works department and presenting a valid rental, lease agreement, or affidavit, signed by applicant for water/utility services, and the property owner of record.

Consumer means any person who is the recipient of water/utility services from the ~~utility~~ services public works department.

Department means ~~the utility services~~ public works department.

Director (or designee) means the director (or designee) of the public works department.

Front footage means that footage measure along the side of a lot abutting a public street or easement wherein a water main is or may be installed from which service may be taken.

Manager means the manager of ~~the utility services department~~ as assigned by the public works director.

SECTION 2. That Chapter 62, Article IV, Division 2, Sections 62-241, “Application for connection,” 62-242, “Charges,” and 62-243, “Advance payment required,” shall be amended as follows:

Sec. 62-241. Applications for connection and activation of water service.

- (a) **Connection:** Before water shall be supplied to any premises, application by the owner or **authorized** agent of the property thereof shall be made in writing to the department for the proper service and stating the official building number and street to be served. ~~Thereupon—~~Service connection will be made at the nearest distribution main by the department ~~only and after the~~ **applicable** charges have been paid.
- (b) **Activation of water/utility service:** **Before water/utility services shall be supplied to any premises:**
 - 1) **A completed city application form shall be submitted to the department by the owner, authorized agent, or authorized tenant of the property thereof stating the street address, unit number to be served, if applicable, and the date for service to be activated. A copy of the application shall be kept on file by the department.**
 - 2) **Appropriate verifiable legal documentation that supports the status as owner, authorized agent, or authorized tenant shall be required. The department reserves the right to require an affidavit signed by the legal owner/authorized agent of the property to be filed with the department. A copy of such documentation shall be kept on file by the department.**
 - 3) **An applicant requesting service as an individual shall provide his or her driver’s license, state-issued identification card or government issued passport/identification that shows applicant’s full legal name, date of birth and address to verify identity of the applicant prior to the establishment of service in accordance with the City’s Identity Theft Prevention Program. Social Security number may also be requested. A copy of such documentation shall be kept on file by the department.**

- 4) An applicant requesting service on behalf of a corporation, home owners' association, property management company, etc., shall provide sufficient documentation, as determined solely by the city, that authorizes the applicant to act as the agent on behalf of the property owner. A copy of such documentation shall be kept on file by the department.
- 5) A ~~one-time~~ charge, set by city council by resolution, shall be collected by the department to ~~cover the cost of establishing~~ activate an new account. This charge ~~includes the cost of~~ provides for turning water on or off Monday through Thursday between the start of city hall business hours of 8:00 a.m. and 4:00-5:00 p.m, exclusive of weekends and holidays. Requests for water/utility services to be turned on or off afterhours, will be subject to A ~~an~~ additional charge, set by the city council by resolution, ~~shall be made if water is requested to be turned on or off between the hours of 4:00 p.m. and 8:00 a.m. and on weekends and holidays.~~

Sec. 62-242. Service Installation Charges.

A charge for installing any water service or meter shall be ~~made~~ an amount as set by the city council by resolution and must be paid to the ~~utility services~~ department before the installation is made. Installation of sServices and/or meters three inches and larger ~~and all services and meters outside the incorporated city limits~~ shall be charged ~~for at~~ the actual cost of equipment, labor, materials, direct payroll costs and employee benefits, plus 30 percent for overhead expenses. However, the minimum charge for any service and meter installed outside the incorporated city limits shall be set by the city council by resolution.

Sec. 62-243. Advance payment required.

The ~~utility services~~ department shall require an applicant for water/utility service ~~or for restoration of water service after turnoff for a delinquent bill~~ to make an advance payment as established by city council resolution, which is due and payable within twenty (20) days from the billing date, equal to the estimated bimonthly bill for related to water service, sewer (wastewater) service, solid waste service, and/or other city charges collected on the water/utility bill. ~~No advance payment for such services combined shall be less than nor more than as set by the city council by resolution. The utility services department shall develop a formula for estimating advance payments in excess of the minimum amount as set by the city council by resolution in order to establish uniformity.~~ The advance payment shall be applied only to the closing bill and shall not be credited against current service. Restoration of water service after an account is closed, due to nonpayment of services, shall require an advance payment to be made by the account holder in advance of re-establishing services.

SECTION 3. That Chapter 62, Article IV, is hereby amended by inserting a new Division 3 "Continuity of Utility Services Program – Rental Properties" as set forth below and re-numbering the existing Division 3, and Division 4:

DIVISION 3.
CONTINUITY OF WATER/UTILITY SERVICES
PROGRAM – RENTAL PROPERTIES

Sec. 62-260. Purpose.

The Continuity of Utility Services Program (the “Program”) allows property owners (Owners) or authorized agents of property owners (Authorized Agents) with a current Rental Business License issued by the city for said property, the ability to maintain uninterrupted water/utility services for rental properties should tenant vacancies occur.

Sec. 62-261. Application Agreement for Owners/Authorized Agents wishing to participate in the Continuity of Utility Services Program

- (a) Owners/Authorized Agents wishing to participate in the Program shall enter into an Application/Agreement and pay applicable Program charges as established by City Council resolution.
- (b) A separate Application/Agreement shall be required for each rental business license that identifies properties to be included in the Program. Each Application/Agreement must designate either Option A or B, pursuant to Sec. 62-264(a), which shall apply to all properties included in the Application/Agreement. A Program Master Account shall be established for each approved Application/Agreement.
- (c) Properties included in the Program must maintain a current city of Pomona rental business license.
- (d) Appropriate verifiable legal documentation that supports the status as Owner or Authorized Agent shall be required. The department reserves the right to require an affidavit signed by the legal owner/authorized agent of the property to be filed with the department. A copy of such documentation shall be kept on file by the department.
- (e) A property owner requesting participation in the Program as an individual shall provide his or her driver’s license, state-issued identification card or government issued passport/identification that shows applicant’s full legal name, date of birth and address to verify identity of the applicant prior to the establishment of service in accordance with the City’s Identity Theft Prevention Program. Social Security number may also be requested. A copy of such documentation shall be kept on file by the department.
- (f) An applicant requesting participation in the Program on behalf of a corporation, home owners’ association, property management company, etc., shall provide sufficient documentation, as determined solely by the city, that authorizes the applicant to act as the agent on behalf of the property owner. A copy of such documentation shall be kept on file by the department.
- (g) Any request(s) for Program Modification to add properties to or remove properties from a Program Master Account shall be submitted to the department in writing on a form provided by the city and signed by the Owner/Authorized Agent on file with the department. Processing of such requests shall be subject to the applicable fee(s).
- (h) Any request by participant for termination of a Program Master Account established pursuant to an Application/Agreement shall be submitted in writing to the department at least ten (10) days prior to the requested termination date.

Sec. 62-262. Water/Utility Service Provisions under the Continuity of Utility Services Program

- (a) Upon city's receipt of notification from a tenant to terminate service, the water/utility services account will automatically be transferred to the Owner/Authorized Agent on the date specified by tenant and Owner/Authorized Agent will become responsible for services billed. The city bears no responsibility to notify participants under this program upon transfer of services from tenant to Owner/Authorized Agent.
- (b) In order to have water/utility services transfer from Owner/Authorized Agent to a new tenant, the Owner/Authorized Agent is responsible for insuring that the new tenant submits an application for water/utility services. Services will be transferred to the new tenant's account upon receipt of a completed application with the effective date of transfer based on the start date listed in the application.
- (c) Participating in the Program does not prevent discontinuation of service due to nonpayment of water/utility bills. In the event of nonpayment or unauthorized water usage, or if the water meter is found to be tampered with, water/utility service to the property will be disconnected per Section 62-299.
- (d) An Owner/Authorized Agent taking responsibility for payment of water/utility services under the Program shall be responsible for all water/utility service billing incurred for all properties included in the Program during tenant vacancies, except as provided under section 62-264(a)2. Water/utility service billings may include charges for water, sewer, solid waste, utility user's tax, GSF services, and/or other charges depending on the property, including applicable Program charges.
- (e) If any Owner's/Authorized Agent's water/utility services for any property(ies) included under the Program is scheduled for disconnection, the Owner/Authorized Agent will be terminated from the Program immediately and such Owner/Authorized Agent will be ineligible for further participation in the Program for a period of twelve (12) months. After the requisite twelve (12) month period has lapsed, such Owner/Authorized Agent may reapply for participation in the program.

Sec. 62-263. Continuity of Utility Services Program Charges

- (a) A Program Master Account set-up charge shall apply to each Application/Agreement processed for participation in the Program. A Program Master Account set-up charge shall be set by City Council resolution.
- (b) Each transfer of water/utility service from a tenant account to an Owner/Authorized Agent Program Master Account will be subject to a Program Account Transfer Fee. A Program Account Transfer Fee shall be set by City Council resolution.
- (c) Properties may be added or removed from the Program Master Account by requesting a Program Account Modification. A Program Account Modification Fee shall apply for each property added or deleted from the Program. A Program Account Modification Fee shall be set by City Council resolution.

- (d) Unless waived pursuant to Sec. 62-263(e), Owners/Authorized Agents agree to pay an Advance Payment, as set forth in section 62-243, each time a tenant(s) account closes and services are transferred to the Owner/Authorized Agent.
- (e) The City may waive the Advance Payment set forth in section 62-263(d) when it has been determined the Owner/Authorized Agent has never had a City of Pomona water/utility services account disconnected for non-payment and has met the following qualifications:
 - 1. Has had no more than one final notice issued for any Pomona water/utility services account within the past 24 month period; and

Has a current active City of Pomona utility account for a period of five (5) years with no history of scheduled disconnection, or, upon providing to the department a letter of credit worthiness from another utility agency, as approved by the city, for the past 5 years, up to the most recent billing period.

Sec. 62-264. Accounts Closed Due to Non-Payment by Tenant(s)

- (a) Program participants shall select a single option (Option A or B) on each Application/Agreement at the time of submittal. The option specified will dictate the manner in which a closed account, due to nonpayment of services by the tenant, shall be handled. The option specified shall apply to all properties included in such agreement regardless of whether the tenant still occupies the premises:
 - 1. Option A: The city shall continue to provide water/utility services at the property and bill the Owner/Authorized Agent for the services until the current tenant re-establishes the account, or a new tenant submits an application for a new water/utility account; or
 - 2. Option B: The city shall not continue water/utility services. Under Option B, the following shall apply:
 - a. A request to re-establish service shall be made within 60 days of account closure due to nonpayment. Such request shall be made in writing to the department on a form provided by the city. The request must state the service start date and be signed by Owner/Authorized Agent on record with the department.
 - b. Re-establishment of such service shall be subject to charges set forth in section 62-241(b)5.
 - c. If a new tenant account is not established, or the Owner/Authorized Agent does not transfer service and take over responsibility for payment of water/utility services within 60 days of the tenant's account being closed, the subject property shall be removed from the Program.

Sec. 62-265. Termination by City from the Program.

- (a) Any Owner/Authorized Agent that fails to adhere to the provisions set forth in this Division may be subject to termination from participation in the Program.

- (b) The City reserves the right to terminate any Master Program Account, if it determines such account exceeds the intended scope of the Program, as solely determined by the department.
- (c) Termination from the Program may result in assessment of any water/utility services and/or related fees for properties that were included under the Program

Secs. 62-266 – 62-270. Reserved.

SECTION 4. Any provision of the Pomona City Code that is inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are modified to the extent necessary to affect the provisions of this Ordinance.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Pomona hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 6. The City Clerk shall certify to the passage and adoption of this ordinance, causing it to be posted as required by law, and it shall be effective thirty (30) days after its adoption.

APPROVED AND ADOPTED THIS 7TH DAY OF JULY 2014.

ATTEST:

CITY OF POMONA:

Eva M. Buice, MMC, City Clerk

Elliott Rothman, Mayor

APPROVED AS TO FORM:

Arnold Alvarez-Glasman, City Attorney

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

I, EVA M. BUICE, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced at the Regular Meeting of the City Council of the City of Pomona held on the 16th day of June 2014, and adopted at a Regular Meeting on the 21st day of July 2014 by the following vote:

AYES: Nolte, Robledo, Carrizosa, Lantz, Escobar, Martin, Mayor Rothman

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Pomona, California, this _____ of _____ 2014.

Eva M. Buice, MMC, City Clerk