

**ORDINANCE NO. 24-0375**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLVANG, CALIFORNIA AMENDING VARIOUS SECTIONS OF CHAPTER 2 (SEWER CODE) AND CHAPTER 3 (WATER CODE) OF TITLE 9 (WATER AND SEWER) OF THE SOLVANG MUNICIPAL CODE TO REQUIRE UTILITY ACCOUNTS TO BE IN THE PROPERTY OWNER'S NAME, INCORPORATE STATE REQUIREMENTS FOR DISCONNECTION OF DELINQUENT RESIDENTIAL ACCOUNTS, PROVIDE ADDITIONAL ENFORCEMENT OPTIONS AND MAKE OTHER CONFORMING EDITS; AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, the City provides water and sewer service to its residents and businesses; and

**WHEREAS**, there are a handful of water and sewer accounts at any given time that are delinquent on their utility bills in amounts in the hundreds of dollars and sometimes higher; and

**WHEREAS**, on February 26th staff requested City Council direction on how to exercise enforcement discretion when discontinuing water service to delinquent accounts and whether the City should require water service accounts to be in the property owner's name instead of a tenant; and

**WHEREAS**, on February 26th the City Council directed staff to enforce against delinquent accounts consistent with, and to the extent allowed under, state law and to bring back an ordinance amending the municipal code to require water utility accounts be in the property owner's name; and

**WHEREAS**, the City is authorized pursuant Chapter 2 and Chapter 3 of Title 9 of the Solvang Municipal Code to disconnect water and sewer service for non-payment of charges and fees; and

**WHEREAS**, the Water Shutoff Protection Act, Health and Safety Code Sections 116902 et seq. and Public Utilities Code Sections 10010 and 10010.1 establish certain procedures to disconnect residential water service; and

**WHEREAS**, Chapter 2 and Chapter 3 of Title 9 are generally consistent with state requirements but the City Council finds such Chapters would benefit from certain clarifying edits to better put the public on notice of state requirements and allow for more effective enforcement against delinquent accounts; and

**WHEREAS**, pursuant to Section 9-3A1-1 of the Solvang Municipal Code, the City currently allows water utility accounts to be in the tenant's name provided the owner of the property accepts responsibility to pay any tenant unpaid water and sewer charges on the property; and

**WHEREAS**, the City has encountered difficulty in recovering delinquent charges incurred by tenants from owners despite the requirement for owners to accept responsibility for such charges; and

**WHEREAS**, the City Council finds that going forward utility accounts should be in the name of the owner of the property because the owner has an interest in maintaining its property and timely paying utility bills and is in the best position, through its lease, to ensure a tenant contributes their share of any utilities; and

**WHEREAS**, the City Council finds that language clarifying the City's authority to bring suit, utilize collections services, and impose liens for delinquent water and sewer charges and associated penalties and other conforming edits are needed to allow for more effective enforcement of Chapter 2 and Chapter 3 of Title 9 (Water and Sewer); and

**WHEREAS**, the City Council finds that this action constitutes general policy making that will not result in a direct impact to the environment and is not subject to the California Environmental Quality Act (CEQA).

**NOW, THEREFORE**, the people of the chartered City of Solvang do ordain as follows:

**SECTION 1.** Section 9-2E-5 (Collection of water and sewer charges) of Chapter 2 (Sewer Code) of Title 9 (Water and Sewer) is hereby amended to read as follows:

All users of the sewer system shall be deemed to have contracted with the city for the services of such system and shall be deemed to have agreed to comply with all provisions of this code. No payment of water charges shall be accepted without payment of the sewer service charges. The city shall discontinue water service to any premises for which the sewer service charges are in arrears and any such discontinuance of water service shall be in accordance with Section 9-3C-5.

- A. Premises Using Both Sewer and Water. When premises are served by the city water system, sewer service charges shall be collected together with and not separately from the charges for water services rendered by the City, and all sewer and water charges shall be billed upon the same bill to the account established pursuant to Section 9-3A1-1 and collected as one item. Consistent with Section 9-3A1-1, the account for sewer services shall be held by the owner of the property and the owner of the property shall be fully responsible and liable for payment of all sewer charges, and any delinquent sewer service charges, and any penalties applicable to his or her property.
- B. Premises Using Only Sewer. Where the user of the sewer system is not also a user of the City water system, the user shall be billed separately for sewer service charges. Sewer service to a user of the sewer system who shall fail to pay sewer charges for his or her premises before they become delinquent shall be disconnected. The City inspector shall estimate the cost of disconnection from and reconnection to the system, and such user shall deposit the cost as estimated of disconnection and reconnection before such user is reconnected to the system. In the event such arrearages are paid, and the user is reconnected to the system, the City inspector shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.

**SECTION 2.** Subsection B of Section 9-2E-6 (Delinquent Accounts) of Chapter 2 (Sewer Code) of Title 9 (Water and Sewer) is hereby amended to read as follows:

- B. Suit and Collections. All unpaid rates and charges and penalties herein provided may be collected by suit. Defendant shall pay all costs of suit, including attorney fees, in any judgment rendered in favor of City. In any such action, the delinquent balances may also be collected through a collection agency.

**SECTION 3.** Section 9-3A1-1 (Application for Water Service) of Article A1 (Installations and Connections) of Chapter 3 (Water Code) of Title 9 (Water and Sewer) is hereby amended to read as follows:

- A. Applications for regular water services shall be made in such form as prescribed by the City. An application must be on file prior to water service being turned on and will signify the customer's willingness and intention to comply with the provisions of this code relating to regular water service, and to make payment for water service required.
- B. All accounts for City water services shall be established by, and held in the name of, the owner of the property to which the City provides water services for such account. The owner of a property receiving City water services shall be fully responsible and liable for the payment of all water service charges, any delinquent water service charges, and any penalties applicable to his or her property.

1. At the time application for water service is requested, and upon request by the City, the applicant shall provide proof of ownership of the property to be served.
  2. The owner of a property receiving City water services may designate, upon such form as may be specified by the City, any other person or entity, including a tenant on the property, to receive the bill for such water services; however the account shall remain in the name of the owner of the property and in the event the person designated by the owner to receive the bill fails to pay the bill, the owner of the property shall be fully responsible and liable for the payment of any charges, fines, penalties or amounts incurred under such account as if the bill had been sent to the owner of the property.
- C. No application will be accepted unless payment in full has been made for water service previously rendered to the applicant by the City. Water will not be turned on if outstanding charges remain for water service previously rendered to the applicant by the City.
- D. Subsection B shall apply to all applications for water service submitted to the City after the effective date of the ordinance revising this section to require accounts to be established solely in the name of the owner and shall not be retroactive.

**SECTION 4.** Subsection E is hereby deleted in its entirety from Section 9-3C-4 (Billing) of Chapter 3 (Water Code) of Title 9 (Water and Sewer); all other portions of Section 9-3C-4 remain the same.

**SECTION 5.** Section 9-3C-5 (Discontinuing Service) of Chapter 3 (Water Code) of Title 9 (Water and Sewer) is hereby amended to read as follows:

- A. Disconnection for Nonpayment.
1. Residential Services. The City Council shall adopt a residential water discontinuation policy by resolution to comply with and implement the Water Shutoff Protection Act (Health and Safety Code §§ 116902 et seq.) and Public Utilities Code Sections 10010 and 10010.1. The City may discontinue residential water service for delinquent payment but only in the manner set forth in the City's residential water discontinuation policy.
  2. Non-residential Services. The City may discontinue non-residential water service in accordance with this subsection.
    - i. The City may discontinue non-residential water service for nonpayment of statements 60 days after the twenty-fifth (25th) day of the month following the month during which the statement was sent. At least seven days prior to such discontinuance, the non-residential customer will be contacted by either a phone call and/or a final written notice informing them that discontinuance will be enforced if payment is not made within the time specified in said notice. The failure of the non-residential customer to receive any of the said notices shall not affect the City's power hereunder. A non-residential customer's water service may be discontinued if water service furnished to that non-residential customer at a previous location is not paid for within the time herein fixed for the payment of statements. If a non-residential customer receives water service at more than one location and the bill for service at any one location is not paid within the time provided for payment, water service at all locations may be turned off. Residential service, however, will not be turned off for nonpayment of statements for non-residential service.
    - ii. Utility Bill Appeal and Alternative and Deferred Payment Plans.
      - a. Utility Bill Appeal. Utility Bills may be appealed by filling out a Utility Bill Appeal Form available on the city of Solvang website at [www.cityofsolvang.com](http://www.cityofsolvang.com) or in person at City Hall at 1644 Oak Street. Water will not be shut off while a utility bill appeal is pending.
      - b. Alternative Payment Plans. Utility customers may be granted an alternative payment plan, where the past due balance is extended no more than 20 calendar days out

with no additional fees to the customer. A customer may receive no more than three alternative payment plans a calendar year.

- c. Deferred Payment Plan. The City may offer a one-time per calendar year deferred payment plan where the past due balance is amortized over a period not to exceed 12 months in duration.
  - d. Customers may be allowed a penalty waiver of late fees not to exceed one time per calendar year.
- B. Disconnection and Reconnection Charges.
- 1. Disconnection Charge. A disconnection charge shall be assessed as soon as City personnel leave City offices to initiate a disconnection of service for non-payment. The disconnection charge shall be in an amount established by resolution of City Council.
  - 2. Reconnection. Disconnection charges, any delinquent charges and applicable penalties shall be imposed and collected prior to reconnection of water service following discontinuance of service for nonpayment of City fees and charges. Following payment of all fees and charges, including the disconnection charge, any delinquent fees and charges, and any applicable penalties, the City shall reconnect water service on the next business day or as soon thereafter as reasonably possible.
    - i. Charge for After-hours Reconnection. Upon request by a customer and payment of the after-hours reconnection fee, the City may at the City's sole discretion reconnect water service outside of normal business hours (8:00 a.m. to 4:00 p.m. Monday through Friday except holidays). The after-hours reconnection fee shall be in an amount to be determined by resolution of City Council.
    - ii. Charges for Reconnection of Certain Residential Customers. A residential customer who demonstrates a household income below 200 percent of the federal poverty line adjusted for household size shall be charged a reconnection fee and after-hours reconnection fee in amount set by City Council and consistent with Health and Safety Code Section 116914. Demonstration of a household income below 200 percent of the federal poverty line shall be in accordance with Health and Safety Code Section 116914.
  - 3. Charge for Returned Checks. A charge, in an amount to be determined by resolution of the City Council, shall be imposed for checks returned by the bank for any reason. If a check given to avoid discontinuation of service is returned by the bank or any reason, an additional disconnection charge, in an amount to be determined by resolution of City Council, shall be assessed as soon as City personnel leave City offices to initiate a disconnection of service for non-payment as a result of such returned check. The City reserves the right to require payment in the form of cash or its equivalent.
- C. Prohibited Acts and Conditions. Water services may be refused or discontinued to any premises, both residential and non-residential, for the following acts or conditions:
- 1. Unsafe Apparatus. Where apparatus or appliances are in use which might endanger or disturb the service to other customers.
  - 2. Cross Connections. Where there exists a cross connection in violation of state or federal laws, and/or where backflow prevention is determined necessary by the City inspector to protect the public health and safety.
  - 3. Fraud or Abuse. To protect the City against fraud or abuse.
  - 4. Noncompliance with Regulations. For noncompliance with this code or any other regulation related to the water service.
- D. Vacation of Premises. Any customer desiring to discontinue service should so notify the City two working days prior to vacating the premises. Unless discontinuance of service is ordered, the customer shall be liable for charges whether or not any water is used.
- E. Short-Term Disconnection. Upon notification to the City, short-term disconnections will be made where the time involved is greater than 45 consecutive calendar days.

**SECTION 6.** Section 9-3C-6 (Collection and enforcement) of Chapter 3 (Water Code) of Title 9 (Water and Sewer) is hereby amended to read as follows:

All users of the water system shall be deemed to have contracted with the City for the services of such system and to have agreed to comply with all the regulations of the City in regard thereto. No payment of water charges shall be accepted without payment of the sewer service charges. The City shall discontinue water service to any premises for which the sewer service charges are in arrears and any such discontinuance of water service shall be in accordance with Section 9-3C-5.

A. Service to Premises.

1. Using Both Sewer and Water. When premises are served by the City water system, sewer service charges shall be collected together with and not separately from the charges for water services rendered by the City, and all sewer and water charges shall be billed upon the same bill to the account established pursuant to Section 9-3A1-1 and collected as one item. If all or any part of the bill is not paid, the City may discontinue sewer services for which the bill was rendered. The City may also discontinue water services pursuant to Section 9-3C-5.
2. Using Only Sewer. Where the user of the sewer system is not a user of the City water system, they shall be billed separately for sewer service charges.

B. Penalty on Delinquency. All bills not paid on or before the twenty-fifth (25th) day of the month following the month service is rendered shall be delinquent, unless the twenty-fifth (25th) falls on a Saturday, Sunday, or holiday the payment would be due by five (5:00) p.m. the next business day, and a penalty of 10% of the bill or amount due may be collected as a part of the principal amount thereof.

C. Nuisance During Disconnection. During the period of such disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the City Council shall cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. In such an event, and as a condition of reconnection, there is to be paid to the City a reasonable attorney fee and costs of suit arising in said action.

D. Enforcement and Remedies.

1. Disconnection. The procedure for disconnecting delinquent premises, as set out in section 9-3C-5 of this article, is established as a means of enforcement of collection of said charges, and not as a penalty.
2. Tax Bill Collection. In case any such charges remain unpaid at the time specified for fixing the tax rate of the City, if the property is owned, controlled or in the possession of the same person who owned, controlled or was in possession of it during the time such charges were incurred, or if the only transfers made of the property since the date such charges were incurred have been transfers by gifts, descent, or devise, the amount due for such charges may be added to and become a part of the annual taxes levied against the land served by the City facilities. Such charges so added constitute a lien on said land. If the taxes are divided and made payable in two installments, the unpaid charges may be added to and become a part of the first installment. The City Council shall include in the statement of tax rate transmitted to the tax authorities the amount of such charges to be levied against the land served, which amount shall be included in the tax bill.
3. Suit and Collections. All unpaid rates and charges and penalties herein provided may be collected by suit. Defendant shall pay all costs of suit, including attorney fees, in any judgment rendered in favor of the City. In any such action, the delinquent balances may also be processed through a collection agency.
4. All remedies included herein are cumulative to each other and to the remedies available under all laws of this state and this municipal code.

**SECTION 7.** This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations), and the City's environmental procedures. The City has determined that this Ordinance is exempt from CEQA because the Ordinance is not a project pursuant to CEQA Guidelines Section 15378(b)(2) and (5). The Ordinance constitutes administrative activities and general policy-making that will not result in direct or indirect physical changes in the environment.

**SECTION 8.** If any section, subsection, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by State or Federal legislation, such decision or legislation shall not affect the validity of the remaining provisions of this ordinance.

**SECTION 9.** Solvang is a Charter City and has adopted its own rules for summarizing and posting ordinances once they are adopted. A summary of this ordinance will be prepared by the City Clerk. The summary will be posted in three locations after adoption as directed in the Solvang Municipal Code. A true and correct copy of the full ordinance together with a record of the vote of each Councilmember shall be kept by the City Clerk.

**SECTION 10.** This Ordinance shall take effect thirty (30) days after its passage.

**PASSED, APPROVED, AND ADOPTED** on this 10th day of June 2024.

DocuSigned by:  
*Mark Infanti*  
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Mark Infanti, Mayor

APPROVED AS TO FORM:

ATTEST:

DocuSigned by:  
*Chelsea E. O'Sullivan*  
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Chelsea O'Sullivan, City Attorney

DocuSigned by:  
*Annamarie Porter*  
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Annamarie Porter, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA    )  
CITY OF SOLVANG                )

I, Annamarie Porter, City Clerk of the City of Solvang, California do hereby certify that the foregoing Ordinance No. 24-0375 was duly introduced at a regular meeting of the City Council held on the 28th day of May 2024, and was duly adopted at a regular meeting of said City Council held on the 10th day of June 2024, and thereafter signed and approved by the Mayor and attested by the City Clerk, and that said Ordinance was adopted by the following vote:

AYES:            BROWN, CLARKE, INFANTI, C ORONA, E ORONA

NOES:            NONE

ABSTAIN:        NONE

ABSENT:         NONE

DocuSigned by:  
  
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Annamarie Porter, City Clerk