

City of Philadelphia



(Bill No. 140607-AA)

AN ORDINANCE

Amending Title 19 of The Philadelphia Code (Finance, Taxes, and Collections), Chapter 1600 (Water and Sewer Rents), by providing for installment payment agreements, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 1600. WATER AND SEWER RENTS.

* * *

§19-1605. Limitation on Action to Enforce Collection; *Income-Based Water Rate Assistance Program*.

* * *

(1) The Department may waive any claim for unpaid water, sewer and stormwater charges (also referred to in this Chapter as “water or sewer rent”) after the expiration of 15 years following the year in which such charges become due.

(2) *Definitions. For purposes of this Section 19-1605, each of the following terms has the meaning specified or referred to in this section:*

(a) *Customer means a natural person who (i) is receiving or (ii) is in the process of requesting or simultaneously requests to receive or restore service from the Water Department at such person’s primary residence in Philadelphia. A person shall cease to qualify as a customer under the second category if his or her application for service is ultimately denied.*

(b) *Income shall have the same definition as for Section 19-1305.*

(b.1) *FPL means the Federal Poverty Level, as determined annually by the United States Census Bureau, or, at the discretion of the Revenue Department, roughly equivalent levels of income measured by Area Median Income, as determined annually by*

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the United States Department of Housing and Urban Development. Any limitations based on FPL may be translated into their rough equivalent in Area Median Income.

(c) IWRAP means the Income-Based Water Rate Assistance Program described in this section.

(d) Low-income shall be defined as income equal to or less than one hundred fifty percent (150%) of FPL.

(e) Monthly household income means the monthly income received by the customer and all adults residing in the customer's household.

(f) Special Hardship may include, but is not limited to, the following conditions: (i) the addition of a dependent; (ii) a seriously ill household member; or (iii) circumstances that threaten the household's access to the necessities of life if payment of a delinquent bill is required.

(3) The IWRAP program is authorized under the following terms and conditions:

(a) Monthly IWRAP bills shall be affordable for low-income households, based on a percentage of the household's income and a schedule of different percentage rates for (i) households with income up to fifty percent (50%) of FPL, (ii) households with income from fifty percent (50%) to (100%) of FPL, and (iii) households with income from one hundred percent (100%) to one hundred fifty percent (150%) of FPL, and shall be charged in lieu of the Department's service, usage, and stormwater charges. That goal shall be achieved through a discount on generally-applicable residential rates or other bill calculation mechanism based upon each Customer's actual income and, if practicable, historical usage, in a manner consistent with applicable federal law. The percentage of income limitations to be imposed at each level by the first sentence shall be determined by the Water, Sewer and Storm Water Rate Board, which also shall have discretion to establish more, but not fewer, Low-Income tiers. Bills issued pursuant to this IWRAP program shall be deemed to comply with Philadelphia Code Section 13-101(4)(d). The Department shall have discretion to offer more favorable terms than the standard rates upon an individualized finding of Special Hardship. Historical usage shall not include significant usage attributable to leaks or activities not customary to a residential setting.

(b) Individual Financial Assessment. Customers may request an individual financial assessment comparing household income and expenses in order to demonstrate Special Hardship.

(c) More Affordable Alternative. Prior to enrolling a customer in IWRAP and upon each recertification of eligibility, the Department shall determine whether, on the basis of such customer's monthly bills, the customer would receive more affordable

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bills under another available payment agreement or rate discount. In such event, the Department shall provide the customer with such more affordable payment agreement and rate discount, if applicable, in lieu of IWRAP.

(d) Timely payment of his or her monthly IWRAP bill shall satisfy all of a customer's current water liabilities, so that there is no addition to his or her arrears. Timely payment shall be payment postmarked or received within one month of that payment's due date.

(e) Any amount paid for a monthly IWRAP bill in excess of the customer's current water liabilities shall reduce the balance of his or her arrears.

(f) In the event an IWRAP customer's service is terminated for non-payment of IWRAP bills, such customer shall be entitled to restoration of service (i) upon payment of such unpaid IWRAP bills and other charges assessed during the period such customer's service was off, (ii) upon such customer's entry into a payment agreement with the Department regarding such unpaid IWRAP bills or other charges, as applicable, or (iii) upon a finding of Special Hardship by the Department. Upon restoration of service pursuant to this subsection (f), a customer shall automatically be entitled to continue in IWRAP, or to apply for IWRAP, as appropriate.

(g) Eligibility for the IWRAP program shall be understood in all cases to require showing of financial or Special Hardship. Customers demonstrating monthly household income that is Low-Income shall have satisfied this eligibility requirement.

(h) Total bill. Low-income customers who are enrolled in IWRAP shall be required to make no additional payment in respect to any pre-IWRAP arrears to maintain service.

(h.1) Minimum bill amounts consistent with the goal of providing affordability may be established for cases where a bill calculated under rates set pursuant to subsection (3)(a) would result in a nominal amount.

(h.2) Earned forgiveness. Earned forgiveness of arrearages shall be available under such terms and conditions as are adopted by regulation. Customers with household income from one hundred fifty percent (150%) to two hundred fifty percent (250%) of FPL, shall be offered payment plans that result in a total bill – including arrearages – that is affordable.

(i) Eligibility and Enrollment in IWRAP.

(.1) A Customer shall be enrolled in IWRAP upon approval of a completed application on or with which the applicant shall be required to provide proof

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that he or she (i) is a resident at the property in question; and (ii) qualifies for IWRAP because of financial hardship or Special Hardship. The Department shall design an appropriate application and shall set appropriate standards for what constitutes proof of those criteria. Requirements for proof of criteria other than ownership should be consistent with those under Philadelphia Code Section 19-1305.

(.2) The Department shall accept determinations of income and/or residency made within the prior twelve months pursuant to §19-1305.

(.3) The Department may deny a customer's eligibility for IWRAP or a payment agreement for good cause, provided that such denial shall constitute an adverse decision subject to the provisions of subsection (3)(g) of this Section. A customer who is otherwise eligible for an IWRAP agreement under this Section shall not be denied an IWRAP agreement based on the customer's nonpayment of prior bills due to the Department or default or failure to comply with a non-IWRAP payment agreement.

(j) IWRAP Enrollment Confirmation. Upon a customer's entry into an IWRAP agreement, the Department shall provide a written statement setting forth the terms and conditions of the customer's participation in IWRAP.

(k) Decisions in writing. Any decision or determination of the Department relating to (i) initial or continued eligibility for IWRAP, (ii) a Department payment agreement, (iii) the amount of IWRAP or other arrears for which the customer is responsible, (iv) the completeness of a customer's application, and the adequacy or completeness of any documentation submitted in connection with an application, for an IWRAP or a Department payment agreement, or (v) the customer's performance of his or her obligations under an IWRAP or a Department payment agreement, shall be provided to the customer in writing, and shall include a specific reason for the decision or determination, and a statement of the customer's right to an administrative hearing to dispute such decision.

(l) The Tax Review Board is authorized to review any adverse final decision or determination of the Department relating to initial or continued eligibility for an IWRAP agreement or to the Customer's performance of his or her obligations under an IWRAP agreement with the same effect as a petition for review pursuant to Chapter 19-1700 of this Title.

(m) The Department and the Water Department shall promulgate standards governing stay, postponement, and holds of pending enforcement actions or service terminations to allow customers time to apply for and enter into IWRAP or other payment agreements, and/or to seek legal representation or assistance from community based organizations. The Department and the Water Department shall also promulgate standards regarding circumstances under which pending enforcement actions shall be discontinued after a customer enters into IWRAP.

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(n) Warning of Risk of Water Foreclosure Action. No less than ninety days before filing any water foreclosure action, the Department shall send the customer, and shall deliver to each dwelling unit at the service address, a Warning of Risk of Water Foreclosure Action containing the following information:

(.1) a brief description of any possible legal action and its consequences, including a clear and conspicuous statement, where appropriate, that the customer will become in danger of losing his or her home or property if he or she does not act; a brief description of IWRAP and the other available assistance programs available for residential customers; the steps the customer must take to enter into such programs, and the deadline for doing so; and a brief description of any charges, fees, penalties, or interest that may be imposed;

(.2) the total amount required to pay off the arrears in full, the date by which it must be paid, the addresses where payments can be made, and accepted forms of payment;

(.3) a statement explaining the types of other City-related debt that may be capable of being liened against a property including, without limitation, property tax, nuisance and demolition fees and fines, and a brief explanation of how the customer may request confirmation as to the existence and amounts of any such debt;

(.4) lists of the free housing counseling agencies and the legal services agencies that offer relevant services and may be available to assist the customer, including addresses and phone numbers.

(o) IWRAP Recertification, Recalculation, and Repayment Agreements. Upon written request of the Department and no more frequently than once every year, a customer must re-certify to the Department his or her income and eligibility. No person shall intentionally make any false statement when applying to enter into an IWRAP agreement. If it is determined that a customer entered into an IWRAP agreement on the basis of an intentionally false statement, the agreement shall be null and void.

(p) In the event of a change in household income or household size, prospective IWRAP bills will be calculated according to subsection (3)(a) above and such recalculation shall be done promptly at the request of the customer. A customer also may request a determination or redetermination of Special Hardship at any time he or she experiences a change in circumstances. In the event of a change in household income that results in a determination that the customer is no longer eligible to participate in IWRAP, such customer shall receive the benefit of any forgiveness earned during the period of the IWRAP agreement.

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(q) Conservation Measures. Each participating IWRAP customer shall agree to accept and reasonably maintain any free conservation measures offered to the customer by the Water Department.

(4) Arrears Determination.

(a) Upon the customer's enrollment in an IWRAP agreement, the Department shall determine and notify the Customer in writing of the amount of such customer's arrears.

(b) The Department's determination of arrears shall not impair a customer's ability to request review of, or to challenge in any informal hearing, appeal, or other administrative or legal process, the validity or amount of any such arrears.

(c) A customer qualifying for an IWRAP agreement shall receive IWRAP bills pursuant to subsection (3)(a) notwithstanding the customer's request for review of, or challenge to, the Department's arrears calculation. In the event of any adjustment to the arrears, the amount of forgiveness earned by such customer shall be recalculated as if such adjusted arrears were determined as of such customer's IWRAP enrollment.

(5) Information for Residential Customers.

(a) Both the Department and the Water Department shall provide information about the IWRAP program and about organizations that can assist in applying for IWRAP to any individual who contacts those departments under circumstances that suggest the individual may qualify for and may benefit from the program.

(b) Information Available Online. The Department shall clearly and conspicuously post information regarding IWRAP on its website.

(c) Language Access/Non-English Speakers. The Department shall take reasonable steps to ensure meaningful access to IWRAP and other payment agreements for Limited English Proficient (LEP) persons. Such steps shall include providing copies of all vital documents in English and Spanish, both on-site and on-line translations of all vital documents, including notices and agreements, as well as providing translated "taglines" on all English language notices in Spanish and other languages advising LEP persons that telephone interpreter services are available at the Department.

(6) Rules and Regulations. The Department shall promulgate such rules, regulations, written policy, forms, and other documentation as are deemed necessary to effectuate the purpose of this Section, including but not limited to a schedule of documentation that shall be accepted as proof of ownership consistent with subsection 2(f).

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(7) Reporting.

(a) By March 31 of each year, the Department shall submit a written report to the Mayor, with a copy to the President and Chief Clerk of Council, regarding activities undertaken pursuant to this Section during the previous calendar year.

(b) Each such report shall include the following information for the twelve-month period covered:

(.1) how many applicants were enrolled in IWRAP and a breakdown of such enrollments by income level, and the gross amount of arrears calculated;

(.2) how many applicants were not enrolled in IWRAP and a breakdown of the reasons for the same (e.g., lack of residency, failure of customer to follow up, and so on);

(.3) the total number of non-IWRAP payment agreements and a breakdown of such payment agreements by type, term, and amount covered, which amount shall be further broken down into principal, interest, penalties, and other fees or costs; and

(.4) the total number of IWRAP customers who defaulted during the applicable period and the reason(s) (e.g., non-payment, failure to recertify eligibility) for the default.

(8) Access to Records. Any customer or his or her designated representative (who need not be an attorney) seeking an agreement under this chapter, may request in writing or may visit the Department in person during regular working hours, to review and receive copies of any available records relevant to the water, sewer and storm water service at such individual's primary residence. As used in this section, the term "records" refers to all physical and electronic records in the Department's possession.

(9) Implementation. The IWRAP program shall go into effect as soon as practicable after the first decision by the Water, Sewer and Storm Water Board on new rates and charges, but in any event the later of July 1, 2017 or 15 months following such decision by the Board.

* * *

SECTION 2. This Ordinance shall be effective immediately.

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Explanation:

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 19, 2015. The Bill was Signed by the Mayor on December 1, 2015.



Michael A. Decker
Chief Clerk of the City Council