

AN ORDINANCE TO AMEND CHAPTER 45 OF THE CITY CODE REGARDING MONTHLY BILLING FOR WATER, SEWER AND STORMWATER CHARGES TO ALLOW FOR INSTALLMENT OF AN INCOME BASED WATER RATE ASSISTANCE PROGRAM

#0213

WHEREAS the Council of the City of Wilmington (the “Council”) has enacted

Sponsor:

Chapter 45 of the Wilmington City Code, which concerns city utilities; and

**Council
Member
Darby**

WHEREAS Article II of Chapter 45 establishes a system of storm water rates and charges; and

Co-sponsor:

WHEREAS, § 45-2 provides that Council “shall have full power and authority to fix the rates, fees or charges for the services, facilities and commodities of such undertaking” “and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting”; and

WHEREAS, § 45-3 provides that the “Department of Finance shall have jurisdiction, supervision and control of the collection of the rates, fees or charges established by the city council”; and

WHEREAS, the Council deems it necessary and proper to create an Income-Based Water Assistance Program to allow for affordable billing to those who meet the requirements of low income defined below as “income equal to or less than one hundred fifty percent (150%)” of the federal poverty level or who qualify for a special hardship as defined below as “circumstances that threaten the household’s access to the necessities of life if payment if a payment of a delinquent bill is required, including, but not limited to, the addition of a dependent or the serious illness of a household member”; and

WHEREAS, in light of the foregoing, City Council deems it necessary and appropriate to amend Chapter 45 of the City Code to allow for an Income-Based Water Assistance Program.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. A new division, Division 3, is hereby added to Chapter 45 (“Utilities”), Article II (“Sewers, Sanitary and Storm Water Rates and Charges”) by adding the following underlined language to read as follows:

**DIVISION 3. – INCOME-BASED WATER RATE ASSISTANCE PROGRAM
(IWRAP)**

Sec. 45-64. – Definitions.

For purposes of this Division, each of the following terms has the meaning specified or referred to in this section:

- (a) Customer- shall mean the owner, or any other person supplied with water by the department, as defined in Section 45-77.
- (b) Department- For purposes of this section department shall mean the Department of Finance.
- (c) Federal Poverty Level (“FPL”) - Shall mean the Federal Poverty Level, as determined annually by the United States Census Bureau, or, at the discretion of the U.S. Revenue Department, roughly equivalent levels of income measured by Area Median Income, as determined annually by 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.
- (d) IWRAP - means the Income-Based Water Rate Assistance Program described in this section.
- (e) Low-income - shall be defined as income equal to or less than one hundred fifty percent (150%) of FPL.

- (f) Monthly household income - means the monthly income received by the customer and all adults residing in the customer's household.
- (g) Special Hardship - circumstances that threaten the household's access to the necessities of life if payment of a delinquent bill is required, including, but not limited to, the addition of a dependent or the serious illness of a household member.

Sec. 45-65 – IWRAP GENERAL INFORMATION

(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 Stormwater Citizens Advisory Board ("CAB"). Bills issued pursuant to this IWRAP program shall be deemed to comply with the City Code § 45-59.

(b) Individual Financial Assessment- Customers may request an individual financial assessment comparing household income and expenses in order to demonstrate a special hardship under the IWRAP program.

(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 bills under another available payment agreement or rate discount. In such event, the Department shall provide the customer with more affordable

payment agreements and rate discounts, if applicable, in lieu of IWRAP.

(d) 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.

(e) In the event an IWRAP customer's service is terminated for nonpayment of IWRAP bills, such customer shall be entitled to restoration of service (i) upon payment of the unpaid IWRAP bills and other charges assessed during the period the customer's service was off, or (ii) upon such customer's entry into a payment agreement with the Department regarding the unpaid IWRAP bills or other charges, as applicable, or (iii) upon a finding of Special Hardship by the Department.

(f) Upon restoration of service pursuant to this subsection 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.

Sec. 45-66 – IWRAP ELIGIBILITY AND ENROLLMENT

(i) Eligibility and Enrollment in IWRAP

(1) A Customer shall be enrolled in IWRAP upon approval of a completed application showing low-income as described in 45-64(e) or a special hardship as defined in 45-64(g).

(2) The Department of Finance shall accept determinations of income and/or residency made within the prior twelve months to satisfy eligibility requirements.

(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. 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 of Finance 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) The Department and the Department of Public Works 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 Department of Public Works shall also promulgate standards regarding circumstances under which pending enforcement actions shall be discontinued after a customer enters into IWRAP.

Sec. 45-67 – IWRAP WARNING OF WATER FORECLOSURE ACTION

(l) Warning of Risk of Water Foreclosure Action - No less than ninety days before filing any water foreclosure action, the Department shall send the customer a letter informing him or her of a Warning of Risk of Water Foreclosure action. In addition, the Department must deliver to the customer's dwelling 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.

Sec. 45-68 – IWRAP RECERTIFICATION, RECALCULATION AND REPAYMENT AGREEMENTS

(m) 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.

(n) In the event of a change in household income or household size, prospective IWRAP bills will be calculated according to subsection (2)(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.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... August 25, 2022
Second Reading..... August 25, 2022
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2022.

Mayor

SYNOPSIS: This Ordinance amends Chapter 45 of the City Code to allow for an Income-Based Water Rate Assistance Program.

FISCAL IMPACT STATEMENT: This Ordinance has no quantifiable fiscal impact at this time.