

ADMINISTRATIVE POLICIES AND PROCEDURES

SUBJECT: PROCEDURE AND NOTICE REQUIREMENTS
FOR DISCONTINUATION OF RESIDENTIAL
WATER SERVICE FOR NONPAYMENT

EFFECTIVE: February 1, 2020 (Replaces previous policy dated 8/1/2005)

I. PURPOSE:

To establish a uniform procedure that shall be followed for discontinuation of residential water service for nonpayment.

II. POLICY:

Under the holdings in a California Court of Appeals case¹, the City is required to follow the termination procedure set forth in Division 5 of the Public Utilities Code, Sections 10001 *et seq.*, governing the operation of utilities owned by municipal corporations, specifically including charter cities. The procedures set forth herein comply with the minimum statutory requirements set forth in Public Utilities Code Sections 10010, 10010.1, and SB 998 – the Water Shutoff Protection Act (California Health and Safety Code 116900 *et seq.*).

California Health and Safety Code section 116908(a)(1)(A) requires that prior to discontinuing residential service for nonpayment, the City will contact the customer named on the account by telephone or written notice. The City has elected to make contact with the customer by written notice.

III. PROCEDURES:

A. Billing and Imposition of Late Penalty

1. The Finance Department shall mail a bill for water service to each customer every month. Payment is due upon receipt.

¹ *California Apartment Association v. City of Stockton* (2000) 80 Cal.App.4th 699

2. The customer shall have a 20 calendar day grace period, from the date on the bill, to pay the bill before a late penalty is imposed.
3. If payment, in full, is not received during the grace period (i.e. by the end of the 20th calendar day), the bill will be considered delinquent from the date on the bill and a ten (10) percent late penalty will be imposed on the amount delinquent.
4. For a residential customer who demonstrates household income below 200 percent of the federal poverty line, the interest charges on a delinquent bill, if any, shall be waived once every 12 months.

B. Initial Written Courtesy Notice of Payment Delinquency and Impending Discontinuation of Service for Nonpayment

1. If payment is not received during the grace period, then on or after the 21st calendar day following the date on the initial bill, an Initial Written Courtesy Notice of Payment Delinquency and Impending Discontinuation of Service for Nonpayment (“Initial Notice”) shall be mailed to the customer of the residence to which residential service is provided.

C. Second Notice of Delinquency and Impending Discontinuation of Service for Nonpayment

1. If payment is not received within 14 calendar days from the date on the Initial Notice, a Second Notice of Delinquency and Impending Discontinuation of Service for Nonpayment (“Second Notice”) shall be mailed to the customer of the residence to which residential service is provided.

D. Final Notice of Delinquency and Discontinuation of Service for Nonpayment

1. If payment is not received within 14 calendar days from the date on the Second Notice, a Final Notice of Delinquency and Discontinuation of Service for Nonpayment (“Final Notice”)

shall be mailed to the customer of the residence to which residential service is provided.

2. Pursuant to California Health and Safety Code section 116908(a)(1)(C), the Final Notice shall include all of the following information:
 - a. The customer's name and address.
 - b. The amount of the delinquency.
 - c. The date by which payment or arrangement for payment is required in order to avoid discontinuation of residential service.
 - d. A description of the process to apply for an extension of time to pay the delinquent charges.
 - e. A description of the procedure to petition for bill review and appeal
 - f. A description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including amortization of the delinquent residential service charges.
 - g. The procedure for the customer to obtain information on the availability of financial assistance, private, local, state or federal source, if applicable.
 - h. The proposed date of discontinuation of service shall be at least 60 calendar days from the date on the initial bill and at least seven (7) business days from the date of the Final Notice.
3. The Final Notice shall be in English, the languages listed in Section 1632 of the Civil Code, and any language spoken by 10 percent or more of the customers in the City's water system service area.

4. If the customer's address is not the address of the property to which residential service is provided, the Final Notice shall also be sent to the address of the property to which service is provided addressed to "Occupant".
5. An advisement to the Occupant that the Occupant has a right to become a customer, to whom the service will be billed, without being required to pay any amount which may be due on the delinquent account.

E. **Additional Courtesy Notifications**

1. The same day the Final Notice is mailed, an automated courtesy telephone call will be placed instructing the customer to call the Finance Department regarding the status of their utility accounts.

F. **Discontinuation of Residential Water Service for Nonpayment**

1. If the delinquent customer does not make the required payment, request an appeal or request a payment agreement for the unpaid charges, water service shall be terminated by Public Works Department on the date specified in the Final Notice.
 - a. The date of discontinuation of service shall be at least 60 calendar days from the date on the initial bill and at least seven (7) business days from the date of the Final Notice.

G. **Discontinuation of Residential Water Service for Nonpayment Prohibited**

1. Discontinuation of residential water service for nonpayment is prohibited in the following instances:
 - a. While an appeal is pending
 - b. During a pending investigation by the City of a customer complaint.

- c. When the customer has been granted an extension of the period for payment of a bill.
- d. Primary care provider certification of threat to life or serious threat to health and safety of a resident of premises.
 - (1) The customer, or a tenant of the customer, submits the certification of a primary care provider that discontinuation of residential service would be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises and where residential service is provided; and
 - (2) The customer demonstrates that s/he is financially unable to pay for the service within the normal billing cycle, and the customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment with respect to all delinquent charges.
- i. The customer is deemed financially unable to pay for residential service within the normal billing cycle if any member of the customer's household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants and Children, or the customer declares that the household's annual income is less than the 200 percent federal poverty level.
- (3) If conditions d.1. and d.2 are met, the City shall offer one of the following:
 - i. Amortization of the unpaid balance.

- ii. Participation in an alternative payment schedule.
- iii. A partial or full reduction of the unpaid balance financed without additional charges to other rate payers.
- iv. Temporary deferral of payment.
- v. The City may choose which of the payment options the customer may undertake and set parameters for that payment option with repayment within 12 months unless a longer period is necessary to avoid undue hardship to the customer based upon the circumstances of the individual case.
- vi. Service may be disconnected no sooner than 5 business days after a Final Notice is posted in a prominent and conspicuous location at the property under either of the following circumstances:
 - (a) The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for more than 60 days or more; or
 - (b) While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay his or her current residential service charges for 60 days or more.
- vii. On any Saturday, Sunday, legal holiday or at any time which the Finance Department office is not open to the public.

H. **Multi-unit or Multi-tenant Residential Structures**

1. Multi-unit or multi-tenant residential structures or mobile home parks where water service is provided through a master meter will be held to the same delinquency process as the single residential customers
2. Multi-unit customers will receive all three past due and termination/discontinuation of service notices. The Public Works Department shall post an additional Notice of Delinquency and Impending Termination on the door of each residential occupant at least 14 days prior to actual termination.
3. If it is not reasonable or practicable to post the notice on the door of each residential unit under Section 2 above, the Public Works Department shall post five (5) copies of the Notice of Delinquency and Impending Termination in each accessible common area and at each point of access to the structure or structures.
4. The Notice of Delinquency and Impending Termination for multi-unit and multi-tenant residential structures or mobile home parks shall further include the following information:
 - a. When the account is in arrears.
 - b. The service will be terminated on the specified date.
 - c. The residential occupants may become customers, and if so, the occupants will be billed for water services. To do so the occupants must agree to the terms and conditions of service and meet the requirements of the City's rules and tariffs.
 - d. The occupants will not be required to pay the delinquent amount.
 - e. What the residential occupants are required to do to prevent termination or reestablish the service.

- f. The title, address, and telephone number of a representative of the Finance Department who could assist the residential occupants in continuing service.
 - g. The address and telephone number of a legal services project recommended by the local county bar association.
5. Residential water service may be discontinued no sooner than 7 business days after the City posts a Final Notice of intent to disconnect service in a prominent and conspicuous location of the property under either of the following circumstances:
 - a. The customer fails to comply with the alternative payment schedule for the delinquent charges for 60 days or more.
 - b. While undertaking the alternative payment schedule, the customer does not pay his or her current residential charges for 60 days or more.
6. Any residential customer who has initiated a complaint, requested an appeal, or made a request for a payment agreement, shall be given the opportunity for review of said complaint, investigation or payment agreement by the Finance Department.
7. The review under Section 6 shall include consideration of whether the customer shall be permitted to start a payment agreement of the delinquent balance of the account over a reasonable period of time, not to exceed 12 months.
8. No termination of service shall be effected for any customer complying with the payment agreement, provided that the customer also keeps the account current as charges accrue in each subsequent billing period.

I. **Restoration of Service**

1. If service is terminated, in order to restore service a service fee up to \$75 must be paid. If a deposit is not currently on the account, a three (3) month security deposit may be required.

J. **Options to Avert Discontinuation of Residential Water Service**

1. In order to assist customers in averting the discontinuation of residential water service, the City is willing to discuss the following options:
 - a. Alternative payment schedules;
 - b. Deferred payments;
 - c. Minimum payments
 - d. Amortization of unpaid balances

APPROVED:



City Manager