

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA ESTABLISHING A WRITTEN UTILITY SERVICE POLICY FOR DELINQUENT RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL USERS

WHEREAS, the State legislature has enacted Senate Bill 998 ("SB 998"), the Water Shut Off Protection Act; and

WHEREAS, SB 998 is intended to help residential water users who lose access to water service due to their inability to pay; and

WHEREAS, SB 998 requires water purveyors such as the City of Madera to adopt written procedural protections (hereafter "Shut Off Policy") before residential water service can be discontinued for non-payment; and

WHEREAS, the City is required to comply with SB 998 by February 1, 2020; and

WHEREAS, to comply with SB 998 it is necessary to update the City's current utility policy relating to delinquencies.

WHEREAS, staff has presented a new policy that will ensure compliance with SB 998.

NOW, THEREFORE, the City Council of the City of Madera resolves as follows:

Section 1. Recitals. All the recitals herein contained are true and correct.

Section 2. The City Council establishes the City of Madera Utility Service Policy for Delinquent Residential and Multi-Family Customers which is attached to this resolution as Exhibit A and incorporated by reference.

Section 3. The Finance Director is hereby authorized to implement the Policy as required by SB 998.

Section 4. Effective Date. This resolution shall take effect upon adoption.

* * *

PASSED AND ADOPTED by the City Council of the City of Madera this 15th day of January 2020 by the following vote:

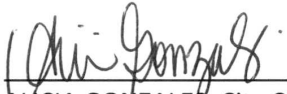
- AYES: Mayor Medellin, Council Members Garcia, Gallegos, Holley, Montes, Rodriguez.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Council Member Robinson.

APPROVED:



ANDREW J. MEDELLIN, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



CITY OF MADERA
UTILITY SERVICE POLICY
FOR DELINQUENT RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL CUSTOMERS

APPLICATION OF POLICY AND TELEPHONE NUMBER

This policy enumerates the City of Madera’s administrative procedures and actions for the collection of delinquent accounts, including notifications, fee assignments and discontinuation of service. This policy together with Title 8, Chapter 7 of the Madera Municipal Code serves to comply with Water Shut Off Protection Act set forth in SB 998 (Health and Safety Code Sections 116900 to 116926). This policy will be made available to the public on the City Finance (Utility Billing) Department’s website at www.madera.gov/SB-998. The City Finance Utility Billing can be contacted by telephone at (559) 661-5459 to discuss options for averting discontinuation (also referenced “shut off”) of water service for nonpayment under the terms of this policy.

- I. **Definition of Delinquent Account:** An account becomes delinquent upon the dates specified in the City of Madera Municipal Code. Any revision to such dates in the Municipal Code will be reflected in this policy. The current date established in the Municipal Code is the 26th day of the billing month unless the due date falls on a weekend or holiday then the due date will be the next business day.

- II. **Delinquent Account – Fees and Notification**
 - A. **Fees.** If an account is past due for over 30 days, a 10% penalty is assessed and an ongoing interest of 1.5% per month is charged after 30 calendar days. Service to a delinquent account may be discontinued for nonpayment when a customer has been delinquent for at least sixty (60) calendar days subject to the Notice and other requirements under this policy. A shut-off fee of \$50 will be assessed if service is discontinued.

 - B. **Notices.** A Notice of Vacancy or Notice of Delinquency is mailed to the account holder ten (10) calendar days before the account becomes delinquent and/or the customer is contacted by telephone. The Notice will indicate that the water will be shut off if the delinquent balance is not paid in full by the required payment date, as established in the City of Madera Municipal Code. The Notice is required for those accounts that are delinquent and are not already on a Payment Arrangement. The written Notice will be mailed to the mailing address designated on the account. The Notice will include:
 - Customer’s name and address

- Amount past due
- Date by which payment or payment arrangements are required to avoid termination of service
- Description of the process to apply for payment arrangements
- Description of the process to dispute or appeal a bill
- City Finance Department's telephone number and a web link to the City Finance Utility Billing Department's written delinquent account policy

The City shall not discontinue water service for non-payment until payment by the customer has been delinquent for at least sixty (60) days.

Ten (10) calendar days prior to termination of service, a Notice that water service will be discontinued is mailed to the customer. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed to the service address and addressed to "Occupant". If unable to reach customer by telephone or the mailed Notification has been returned undeliverable, the City will make every effort to hand deliver or post a Notice in a conspicuous place to the shut off process. City will terminate services if the account holder has made no response to the Notification.

The notices under this section shall be made available in English, Spanish, Chinese, Filipino (Tagalog), Vietnamese, Korean, and any other language spoken by ten (10) percent or more of the customers in City's service area.

III. Payment Arrangements

Any customer who is unable to pay for water service within the normal payment period may request an alternative payment arrangement to avoid disruption of service. A down payment of one half (1/2) of the total past due amount is to be paid at the time of the execution of the Payment Arrangement form. The balance will then be amortized over a period not to exceed 12 months. In addition to the current payment, the delinquent payment is to be made timely over the agreed upon period. The customer must comply with the Payment Arrangement Plan and remain current as charges accrue in each subsequent billing period.

Only one additional extension is allowed over the 12-month period for repayment. If account holder can show good cause for an additional extension, the Finance Director or his/her designee may agree to a second extension. Each account will be allowed only one Payment Arrangement per year. A Payment Arrangement may not be approved until one year after the commencement of the last agreement.

A Payment Arrangement cannot be executed once service has been terminated without express authorization of the Finance Director or his/her designee.

If customer fails to comply with the Payment Arrangement for at least sixty (60) calendar days or more, service may be discontinued no sooner than five (5) business days after posting Notification of Delinquency. The Notification will be posted in a conspicuous place at the service address. City will terminate services if there has been no contact from the account holder to execute a Payment Arrangement.

IV. Conditions Prohibiting Discontinuation

The City shall not discontinue residential water service if all the following conditions are met:

A. Health Conditions – The customer or tenant of the customer submits certification of a primary care provider that discontinuation of water service would (i) be life threatening, or (ii) pose a serious threat to the health and safety of a person residing at the property;

B. Financial Inability – The customer demonstrates he or she is financially unable to pay for water service within the water system’s normal billing cycle. The customer is deemed “financially unable to pay” if any member of the customer’s household is: (i) a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the customer declares the household’s annual income is less than 200% of the federal poverty level; and

C. Alternative Payment Arrangements –The customer is willing to enter into an alternative payment arrangement consistent with the provisions of Section III above.

V. Process for Determination of Conditions Prohibiting Discontinuation of Service

The burden of proving compliance with the conditions described in Section IV, above, is on the customer. In order to allow the City sufficient time to process any request for assistance by a customer, the customer is encouraged to provide the City with the necessary documentation demonstrating the medical issues financial inability under Subdivision and willingness to enter into any alternative payment arrangement under Section IV above as far in advance of any proposed date for discontinuation of service as possible.

Upon receipt of such documentation, the Finance Director, or his or her designee, shall review that documentation and respond to the customer within three (3) calendar days or to notify the customer that additional information is necessary or to notify customer of the payment option

Customers who fail to meet the conditions described in Section IV above, must pay the delinquent amount, including any penalties and other charges, owing to the City within the latter to occur of: (i) two (2) business days after the date of notification from the City of the City's determination the customer failed to meet those conditions; or (ii) the date of the impending service discontinuation, as specified in the Overdue Notice.

VI. Special Rules for Low Income Customers

Customers are deemed to have a household income below 200% of the federal poverty line if: (i) any member of the customer's household is a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the customer declares the household's annual income is less than 200% of the federal poverty level. If a customer demonstrates either of those circumstances, then the following apply:

- A. Reconnection Fees: If service has been discontinued and is to be reconnected, then any reconnection fees during the City's normal operating hours cannot exceed \$50.00. Those fees cannot exceed the actual cost of reconnection if that cost is less than the statutory caps. Those caps may be adjusted annually for changes in the Customer Price Index for [add applicable CPI used by Madera] beginning January 1, 2021.
- B. Interest Waiver: The City shall not impose any interest charges on delinquent bills.

VII. Shut Off Procedure

Payment files should be updated prior to sending the Field Representative out to terminate service. As a courtesy, the Field Representative will attempt to contact the adult individual(s) residing at the service address prior to termination of service. Regardless of whether contact has been made, the Field Representative will proceed to terminate services and confiscate the refuse containers.

Service will not be restarted until the entire account balance, penalties, and fines are paid in full or a deposit will be required to re-activate service if there is no deposit on file. A check will not be accepted as payment to restart service.

Service will not be terminated at any time the Finance Department is not open: Saturdays, Sundays, holidays, after hours, or while an appeal is pending, or unless a payment extension is granted

Tampering with City property (shut off valves, valve locks etc.) shall constitute a misdemeanor. The Finance Director or his/her designee will notify the Madera Police Department, and the cost of replacement and monitoring will be charged to the account.

VIII. Delinquent Account: Landlord-Tenant Accounts

A Notification of Vacancy/Delinquency is mailed to the account holder ten (10) calendar days before the account becomes delinquent and/or the customer is contacted by telephone. The Notification will indicate that the water will be shut off if the delinquent balance is not paid in full by the required payment date, as established in the City of Madera Municipal Code. The Notification is required for those accounts that are delinquent and are not already on a Payment Arrangement. The written Notification will be mailed to the mailing address designated on the account.

Ten (10) calendar days prior to termination of service, a Notification that water service will be discontinued is mailed to the customer. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed to the service address and addressed to "Occupant". If unable to reach customer by telephone or the mailed Notification has been returned undeliverable, the City will make every effort to hand deliver or post a Notice in a conspicuous place to the shut off process. City will terminate services if the account holder has made no response to the Notification.

The Notice will advise tenant/occupant that they have the right to become customers of the City without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at the address(es) served by the master meter. Tenants must have the opportunity to transfer the account into their name. Services will be terminated if all monies, including penalty and interest have not been paid within the required time frame.

IX. Payment Arrangements: Landlord-Tenant Accounts

Any customer who is unable to pay for water service within the normal payment period may request an alternative payment arrangement to avoid disruption of service. A down payment of one half (1/2) of the total past due amount is to be paid at the time of the execution of the Payment Arrangement form. The balance

will then be amortized over a period not to exceed 12 months. In addition to the current payment, the delinquent payment is to be made timely over the agreed upon period.

Only one additional extension is allowed over the 12-month period for repayment. If account holder can show good cause for an additional extension, the Finance Director or his/her designee may agree to a second extension. Each account will be allowed only one Payment Arrangement per year. A Payment Arrangement may not be approved until one year after the commencement of the last agreement.

A Payment Arrangement cannot be executed once service has been terminated without express authorization of the Finance Director or his/her designee.

If customer fails to comply with the Payment Arrangement for at least sixty (60) calendar days or more, service may be discontinued no sooner than five (5) business days after posting Notification of Delinquency. The Notification will be posted in a conspicuous place at the service address. City will terminate services if there has been no contact from the account holder to execute a Payment Arrangement.

Account holders that have not complied with the Payment Arrangement are sent a Notification that services will be terminated ten (10) calendar days prior to service termination.

X. Shut off procedure – Landlord-Tenant Accounts

Payment files should be updated prior to sending the Field Representative out to terminate service. As a courtesy, the Field Representative will attempt to contact the adult individual(s) residing at the service address prior to termination of service. Regardless of whether contact has been made, the Field Representative will proceed to terminate services and confiscate the refuse containers.

Service will not be restarted until the entire account balance, penalties, and fines are paid in full or a deposit will be required to re-activate service if there is no deposit on file. A check will not be accepted as payment to restart service. Service will not be terminated at any time the Finance Department is not open: Saturdays, Sundays, holidays, after hours, or while an appeal is pending, or unless a payment extension is granted.

Tampering with City property (shut off valves, valve locks etc.) shall constitute a misdemeanor. The Finance Director or his/her designee will notify the Madera

Police Department, and the cost of replacement and monitoring will be charged to the account.

XI. Service Termination by Account Holders

Account holders wanting to terminate their service must do so in writing by specifying the date service is to be discontinued. If a request for termination has not been made in writing, the account holder will be held responsible for utility services provided to the service location.

Temporary service termination by the account holder must also be in writing. If the account holder is deceased, a family member may submit a written request for service termination with a copy of the death certificate.

XII. Appeals

The Account holder has the right to appeal the bill giving rise to delinquency. To do so, he/she must do the following:

The account holder shall complete a City of Madera Appeal form addressing his or her concern and, if there is a dispute with a Finance Department Policy, the account holder or complaining party should indicate where possible, the policy with which they disagree. The completed appeal form shall be date stamped upon receipt by the City of Madera Finance Department.

A review committee, consisting of the Finance Director and an additional person who does not have a direct involvement with the utility billing and collection process shall hear the appeal. A hearing with this committee will be granted upon request. A written notice of the date and time of the hearing shall be sent to the complaining party within five (5) business days of the hearing date.

The Hearing will be held within ten (10) working days of the receipt of the completed appeal form. The City Attorney may be consulted for his/her advice relating to the committee's findings.

The review committee will provide a written notice to the account holder concerning the outcome of the hearing. If the account holder disagrees with the decision of the committee, a request to appeal to the City Council can be made. This request for appeal to the City Council must be made within fifteen (15) calendar days from the date of the decision of the appeal committee. The written response will notify the complainant of his or her right to appeal the decision and the procedures for doing so.

XIII. Notice In Other Languages: This policy and notices required under SB 998 shall be made available in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by ten (10) percent or more of the customers in the City's service area.