

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, ADOPTING A DISCONTINUATION
OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT
POLICY

WHEREAS, existing law declares that it is the established policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes; and

WHEREAS, on September 28, 2018, Senate Bill 998 (SB 998) was signed into law by the Governor amending the California Health and Safety Code and introducing new restrictions on the discontinuation of residential water service for delinquent utility accounts; and

WHEREAS, SB 998 was codified as "The Water Shutoff Protection Act," Health and Safety Code Section 116900, et seq.; and

WHEREAS, the requirements of SB 998 require the City of Fresno (City) to have a written policy on the discontinuation of residential water services which will require the City to notify delinquent utility customers; and

WHEREAS, SB 998 will also require the City to take a number of steps before discontinuing water service, and to also report the number of water discontinuations to the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1 of 3

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No. _____

1. The City Council approves and adopts the City of Fresno Discontinuation of Residential Water Service for Nonpayment Policy (Policy) set forth in Exhibit A, attached hereto.

2. The City Council authorizes the Finance Director, or designee, to take steps necessary to implement the Policy.

3. This resolution shall be effective on the same date as the corresponding changes to the Chapter 6, Article 1 of the Fresno Municipal Code.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2021.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2021
Mayor Approval/No Return: _____, 2021
Mayor Veto: _____, 2021
Council Override Vote: _____, 2021

TODD STERMER
City Clerk

By: _____ Date

Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____ Date
Jennifer M. Quintanilla
Senior Deputy

Attachment: Exhibit A

Exhibit A



CITY OF FRESNO DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT POLICY

1. Purpose

The City of Fresno (City) recognizes all Californians have the right to safe, accessible, and affordable water as declared by California Water Code section 106.3. When a residential water account becomes delinquent, the City will apply the following Discontinuation of Residential Water Service for Nonpayment Policy (Policy) as authorized by and consistent with the Fresno Municipal Code (FMC).

The purpose of this policy is to establish guidelines for discontinuation of residential water service for nonpayment of a delinquent account, including how account holders and/or occupants are notified of this policy, how they may obtain a payment arrangement or alternative payment schedule, how they may contest or appeal water charges, and how they may restore service after it has been discontinued for nonpayment.

This Policy provides for the compliance with Senate Bill No. 998 (SB 998), the Water Shutoff Protection Act. SB 998 (Cal. Health & Safety Code section 116900 et. seq.) was approved on September 28, 2018, and became effective February 1, 2020. The Water Shutoff Protection Act outlines the requirements for discontinuation of residential water service for nonpayment of a delinquent account.

2. Scope

This Policy shall apply only to residential water service for non-payment. All existing policies and procedures shall continue to apply to commercial and industrial water service accounts. "Residential service" means water service to a residential connection that includes single-family residences, multifamily residences, mobilehomes, including but not limited to mobilehomes in mobilehome parks, or farmworker housing. Further assistance concerning the payment of water bills and the alternatives set forth in this Policy to avoid discontinuation of service can be obtained by calling the Utilities Billing and Collection Division at (559) 621-6888.

3. General Provisions

A. All City residential customers will pay a monthly water service charge as determined by the Controller (FMC Section 6-104(d)). Charges will become delinquent on the business day following the due date set forth on the utility bill (FMC Section 6-104(c)).

B. The City will attempt to contact the occupant of a property and provide notice of discontinuation of water service as provided in this Policy.

C. The City will discontinue water service for charges that have become delinquent for a period of no less than 60 days. At the time of discontinuation, the City will provide notice of discontinuation with information on how to restore water service.

D. Customers whose water service has been discontinued may contact the City by telephone or in person regarding restoration of service. Restoration will be subject to payment of the service charge designated in the Master Fee Schedule (FMC Section 6-106(c)). The City may also require a written request to restore service from the owner of the property. Payments may be made by cash, certified funds, electronic funds transfer or credit cards online, at the discretion of the Utilities Billing and Collection Division.

4. Notices to Customers

The City will contact the customer named on the delinquent account by telephone or written notice no less than 7 business days before discontinuation of residential services for nonpayment.

A. Telephone Notice to Customers.

If the City elects to contact the customer by telephone, the City will offer to provide, in writing, to customer a copy of this Policy. The City will also offer to discuss options to avert discontinuation of residential service for nonpayment, including, but not limited to, alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal.

B. Written Notice to Customers.

If the City elects to contact the customer by written notice, the City will mail a written notice of delinquent account and impending discontinuation of service to the customer of the residence to which the residential service is provided.

If the customer's address is not the address of the property to which residential service is provided, the notice will also be sent to the address of the property to which residential service is provided, addressed to "Occupant(s)."

The notice will contain the following:

1. The name and address of the customer whose account is delinquent.
2. The amount of the delinquency.
3. The date by which payment or arrangement for payment is required in order to avoid discontinuation of service.
4. The procedure by which the customer may petition to initiate a bill review and appeal or request an investigation concerning service or charges.
5. The procedure by which the customer may request deferred, reduced, or alternative payment schedule, including amortization of the unpaid charges.
6. The procedure by which the customer may apply for an extension of time to pay the delinquent charges.

C. Other Personal Notice and Posting at Service Address

If the City is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned through the mail as undeliverable, the City shall make a good faith effort to visit the residence and leave, or make other arrangements for placement in a conspicuous place of, a notice of imminent discontinuation of residential service for nonpayment and this Policy.

5. Service to Tenants or Occupants

This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

A. Written Notice to Tenants

Pursuant to Health & Safety Code section 116916:

1. If the City furnishes individually metered residential service to residential occupants of a detached single family dwelling, multiunit residential structure, mobile home park, or permanent residential structure in a labor camp, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the City shall make every good faith effort to inform the residential occupants, by written notice, when the account is in arrears and that service is subject to discontinuation at least 10 days prior to the discontinuation.
2. In the case of a detached single-family dwelling, the City may do any of the following:
 - a. Give notice of discontinuation of service at least 7 days prior to the proposed discontinuation.
 - b. In order for the amount due on the delinquent account to be waived, require an occupant who becomes a customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling.

Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.
3. The written notice must inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay the amount due on the delinquent account.

B. The City is not required to make service available to the tenants/occupants unless all tenants/occupants agree to the terms and conditions for service and meet the City's requirements and rules.

C. However, if (i) one or more of the tenants/occupants assumes responsibility for subsequent charges to the account to the City's satisfaction, or (ii) there is a physical means to selectively discontinue service to those tenants/occupants who have not met the City's requirements, then the City may make service available only to those tenants/occupants who have met the requirements.

D. Residence at the property and proof of prompt payment of rent, or other credit obligation acceptable to the City, for one year prior to the application for water service, is sufficient to establish credit pursuant to FMC Section 6-105.

E. If a tenant/occupant becomes a customer of the City and the tenant's/occupant's rent (or other periodic payments) include charges for residential water service and those charges are not separately stated, the tenant/occupant may deduct from future rent (or applicable periodic payment) all reasonable charges paid to the City during the prior payment period.

6. Customer Assistance and Options to Avert Discontinuation of Residential Water Service for Nonpayment

Customers who have received a notice concerning discontinuation of residential services for nonpayment shall be provided information concerning their account delinquency and shall be informed of the options available to avert discontinuation. Available options are outlined below:

A. Pay Delinquent Bill. Customers can pay the delinquent amount on their residential service account through one of the following options:

1. **Pay Online**. Customers may make an online payment by credit card or ACH by logging into their online account at <https://www.fresno.gov/utilitybill>. Customers must register and create an online profile in order to make an online payment. Online payment may be made via eCheck/ACH, credit, or debit card. All credit/debit transactions are subject to a 2.3% service fee and all eCheck/ACH transactions are subject to a flat \$0.89 processing fee – both fees are not forward to the City, but instead collected by the City's e-payment processing agent.

2. **Pay by U.S. Mail**. Customers may send the bottom portion of their bill with a check, or certified funds payable to:

City of Fresno
Utilities Billing and Collection Division
P.O. Box 2069
Fresno, CA 93718-2069

3. **Pay in Person**. Customers may make a payment in person by cash, check, certified funds and credit or debit card at the Utilities Billing and Collection Division, Monday – Friday 8am-5pm, located at:

Fresno City Hall
Utilities Billing and Collection Division
2600 Fresno Street,
First Floor, Suite 1096
Fresno, CA 93721

4. **Pay by Phone**. Customers may pay using their credit card by calling (559) 621-6888.

B. Participate in an Alternative Payment Schedule. Customers who are unable to pay the delinquent amount on their bills may participate in an alternative payment schedule to avoid discontinuation of residential water service for nonpayment.

Customers who are unable to pay the delinquent amount on their bill may contact the Utilities Billing and Collection Division Customer Contact Center at (559) 621-6888 or visit the Utilities Billing

and Collection Division in person, to speak to a customer service representative to discuss this option and enroll in an alternative payment schedule to avoid discontinuation of their residential service.

C. Initiate Bill Complaint or Review.

Consistent with FMC Section 6-104, the customer may initiate a complaint or request an investigation by the Controller into the charges on their bill in writing, stating the reason why the charges are believed to be incorrect. The Controller will analyze the facts of the case and is authorized to make adjustments in the charges as may be necessary to effect an equitable settlement.

Pursuant to Health & Safety Code section 116908(b), if an adult at the residence appeals the water bill, the City will not discontinue residential service while the appeal is pending.

D. Contact.

Customers are encouraged to contact the Utilities Billing and Collection Division for further details regarding this Policy or to discuss options for averting discontinuation of residential water service for nonpayment.

The Utilities Billing and Collection Division contact information is as follows:

By Phone: (559) 621-6888, Monday through Friday, 8 a.m. – 3:45 p.m., excluding City holidays

In Person: Customers may also visit
Fresno City Hall
Utilities Billing and Collection Division
2600 Fresno Street
First Floor, Suite 1096
Fresno, CA 93721

Monday through Friday, from 8 a.m. to 5 p.m., excluding City holidays.

7. **Circumstances where Discontinuation of Service is Prohibited**

The City shall not discontinue residential water service where all the below conditions (listed under 7(A) through 7(C)) are met:

- A. Medical Conditions: The customer or tenant of the customer submits certification of a primary care provider, as defined in Welfare and Institutions Code section 14088(b)(1)(A), that discontinuation of water service would (i) be life threatening, or (ii) pose a serious threat to the health and safety of a resident of the premises where residential service is provided;
- B. Financial Inability: The customer demonstrates he or she is financially unable to pay for residential water service within the City's normal billing cycle. The consumer is deemed financially unable to pay for residential water service within the City's normal billing cycle if:
 - 1. Any member of the customer's household is a current recipient of the following benefits: 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

2. The customer declares, in writing, on a City provided form, that 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 amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with Section 6 of this Policy, with respect to all delinquent charges.

Customers who believe they meet all of the conditions listed above should contact the Utilities Billing and Collection Division by telephone or in person. Contact information is provided in Section 6(D) of this Policy.

D. Repayment Options for Qualifying Accounts.

1. If all the conditions in Section 7(A) through 7(C) above are met, the City shall offer the customer one or more of the following options:
 - a. Amortization of the unpaid balance.
 - b. Participation in an alternative payment schedule.
 - c. A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.
 - d. Temporary deferral of payment.
2. The City may choose the payment option the customer will undertake, and set the parameters of that payment option. The payment option offered by the City should result in repayment of any remaining outstanding balance within 12 months. The City may grant a longer repayment period if it finds the longer period is necessary to avoid undue hardship to the customer based on the circumstances of the individual case.

E. Discontinuation of Service for Noncompliance with Repayment Terms.

Once the City and a customer with a qualifying account agree to a payment option, if 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 60 days or more, or 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 sixty (60) days or more, the City may discontinue water service no sooner than 5 business days after posting a final notice of intent to disconnect service in a prominent and conspicuous location at the premises.

Such notice entitles the customer to further investigation or review by the City regarding the delinquent amount owed, so long as customer continues to meet the requirements under Section 7(A) through 7(C).

8. Other Remedies

In addition to discontinuation of water service, the City may pursue any other remedies available in law or equity for nonpayment of water service charges, including, but not limited to: securing delinquent amounts by filing liens on real property, filing a claim or legal action, or referring the unpaid amount to collections. In the event a legal action is decided in favor of the City, the City

will be entitled to the payment of all costs and expenses, including attorneys' fees and accumulated interest.

9. Discontinuation of Water Service for Other Customer Violations.

The City reserves the right to discontinue residential service for any violations of City ordinances, rules, or regulations other than nonpayment.

10. Restoration of Residential Water Service

A. When residential service has been discontinued due to nonpayment, the City will provide information on how to restore that service. The service will not be restored until all required delinquent charges and fees to re-establish service have been paid.

B. Residential customers that have a household annual income less than 200 percent of the federal poverty line, are automatically eligible for both of the following discounts:

1. Restoration Fees: If service has been discontinued and is to be restored, the customer will pay a restoration fee of \$50 if the restoration is to occur during normal business hours, and \$150 if the restoration is to occur during non- operational hours. However, these fees cannot exceed the actual cost of restoration if that cost is less than the statutory caps. The restoration fees are set forth in the Master Fee Schedule.
 - a. Restoration fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021.
2. Interest Waiver: The City shall waive interest charges on delinquent bills once every 12 months.

C. The City shall deem a residential customer to have a household income less than 200 percent of the federal poverty line if any member of the household that 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 on a City provided form that the household's annual income is less than 200 percent of the federal poverty level.

D. The charges applicable to the restoration of service shall be set forth in the Master Fee Schedule.

11. Annual Disconnection Reporting

Pursuant to Health & Safety Code section 116918, the City shall report the number of annual discontinuations of residential service for inability to pay on the City's website (www.fresno.gov) and to the State Water Resources Control Board.

12. Translations

Pursuant to Health & Safety Code sections 116906 and 116922, this Policy and all written notices required by the Water Shutoff Protection Act (Health & Safety Code section 116900 et. seq.) shall be provided in the following languages:

English
Spanish

Chinese
Tagalog
Vietnamese
Korean
Hmong
Punjabi

This Policy is available, in the languages stated above, on the Utilities Billing & Collection Division website, and in person at Fresno City Hall located at 2600 Fresno Street, First Floor, Suite 1096 Fresno, CA 93721.