



**DATE:** April 28, 2020

**CATEGORY:** New Business

**DEPT.:** Finance and Administrative Services

**TITLE:** **Policy on Discontinuation of Residential Water Service for Nonpayment in Compliance with The Water Shutoff Protection Act (SB 998) and Introduction of an Ordinance Relating to Discontinuation of Water Service for Nonpayment**

### **RECOMMENDATION**

1. Adopt a Resolution Establishing a Policy on the Discontinuation of Residential Water Service for Nonpayment, Implementing Senate Bill 998, to be read in title only, further reading waived (Attachment 1 to the Council report); and
2. Introduce an Ordinance Amending Chapter 35 of the City Code Relating to Discontinuation of Water Service for Nonpayment, to be read in title only, further reading waived, and set second reading for May 12, 2020 (Attachment 2 to the Council report).

### **BACKGROUND**

It is the established policy of the State that everyone has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. In furtherance of that policy, on September 28, 2018, the Governor of the State of California approved Senate Bill 998 (SB 998) pertaining to the discontinuation of residential water service for urban and community water systems and urban water suppliers. SB 998 requires urban water suppliers such as the City to have a written policy posted on the City's website relating to the discontinuation of residential water service (shutoff) and provide that policy in English, a minimum of five other specified languages, and any other language that is spoken by at least 10 percent of the people residing in the City's service area. SB 998 prohibits discontinuation of water service until a bill has been delinquent for 60 days and provides for a process to work through hardship situations.

Staff is recommending a written policy for the Council's consideration to be adopted by resolution. In addition, the City's Municipal Code must be amended to reflect the new

policy and implementation of SB 998. Staff recommends that Council adopt a resolution (Attachment 1) approving the policy (Exhibit A to Attachment 1) and introduce the ordinance (Attachment 2).

## **ANALYSIS**

SB 998 prohibits disconnection of residential water service for nonpayment of any residential customer who has been delinquent for less than 60 days. It requires the provider to give notice in writing or by telephone at least seven business days before disconnection, and include an offer to discuss alternative payment methods or deferred payments and information about available appeals and extensions. If the occupant of the property is not the account holder, the provider must also notify the occupant of the impending disconnection.

SB 998 prohibits disconnection of customers that meet all of the following parameters: (1) the customer provides certification from a primary care provider that disconnection would pose a health and safety threat; (2) the customer demonstrates they are financially unable to pay; and (3) the customer is willing to enter into an alternative payment arrangement. If all these conditions are met, the provider may only disconnect service if the customer fails to comply with the alternative payment arrangement for more than 60 days.

SB 998 sets limits on reconnection charges if a customer demonstrates a household income below 200 percent of the Federal poverty line. The legislation also requires water service providers to report the number of disconnections of residential service for inability to pay on the provider's website and to the State Water Resources Control Board. The requirements set forth in SB 998 became effective February 1, 2020.

Violation of these provisions is punishable by a civil penalty issued by the State Water Resources Control Board in an amount not to exceed \$1,000 for each day in which the violation occurs and would require the enforcement moneys collected by the State Water Resources Control Board to be deposited in the Safe Drinking Water Account.

## **Written Policy on Discontinuation of Residential Service for Nonpayment**

The provisions of the City's written policy on the discontinuation of residential water service for nonpayment consists of the following:

1. Plan for deferred or reduced payments.

2. Alternative payment schedules.
3. A formal mechanism for customers to contest or appeal a bill.
4. Telephone number for customers to discuss options for averting discontinuation of residential service for nonpayment:
  - a. Offer to provide written policy on discontinuation of residential service for nonpayment.
  - b. Offer to discuss options to avert discontinuation of residential service for nonpayment (alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal).

**Discontinue Residential Service After Payment has been Delinquent for at Least 60 Days**

For any residential water service account that has a payment delinquent for at least 60 days, the City's policy includes the following:

1. The City must make every good-faith effort to contact the customer no less than seven business days before discontinuation:
  - a. If by phone, must:
    - i. Offer to provide written policy.
    - ii. Offer to discuss options to avert discontinuation (alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of unpaid balance, and petition for review and appeal).
  - b. If in writing, mail written notice of payment delinquency and impending discontinuation to the customer (and to "occupant" at property address, if different). Notice must include:
    - i. Customer name and address.
    - ii. Amount of delinquency.

- iii. Date payment or arrangement for payment is required to avoid discontinuation.
    - iv. Description of process to apply extension of time to pay.
    - v. Description of procedure to petition for bill review and appeal.
    - vi. Description of procedure to request deferred, reduced, or alternative payment schedule, including amortization of delinquent charges.
  - c. If unable to contact, leave notice regarding imminent discontinuation and policy for discontinuation at property in conspicuous location.
2. The City cannot discontinue service if an appeal is pending or if all of the following conditions are met:
  - a. Certification received from primary care provider that discontinuation of residential service will be life-threatening or pose a serious threat to the health and safety of a resident.
  - b. Customer demonstrates they are financially unable to pay, as defined in SB 998.
  - c. Customer is willing to enter alternative payment agreement. If willing to do so, must offer one of the following (City's choice):
    - i. Amortization of unpaid balance (up to 12 months to repay).
    - ii. Alternative payment schedule (up to 12 months to repay).
    - iii. Partial/full reduction of unpaid balance finance.
    - iv. Temporary deferral of payment.
3. The City must post final notice of intent to disconnect on property and wait five business days before disconnecting if customer fails to comply with alternative payment plans AND is 60 days delinquent.

4. The City can disconnect if a customer is on a payment plan but customer goes 60 days delinquent on current charges.
5. The City is required to waive interest charges (once every 12 months) and cap reconnection fee (lesser of \$50 or cost during business hours, \$150 or cost for nonbusiness hours, adjusted for CPI) for residential customer who demonstrates household income 200 percent below Federal poverty line.
6. The City may give tenants an opportunity to take over water bill if services are in the name of the owner and provide at least 10 days' notice to tenant before water is shut off.
7. The City must report annual discontinuations (shut-offs) of residential services on the City's website and to the State Water Resources Control Board.

The policy would go into effect at the same time as the proposed ordinance.

### **Ordinance**

Staff also recommends that Council introduce an ordinance (Attachment 2) amending City of Mountain View Municipal Code Section 35.5, "Right of city to shut off water for failure to pay for municipal services," relating to discontinuation of water service in order to ensure the City Code reflects the City's implementation of SB 998. If the Council acts to introduce the ordinance as recommended, it will be returned for adoption at the next regular meeting, currently scheduled for May 12, 2020, and will become effective 30 days thereafter.

### **Current Discontinuation of Services for All Customers**

The City sends out about 16,000 utility bills bimonthly, where each customer receives a bill every two months. The majority of the City's customers pay their bill on time. The number of customers, including residential and nonresidential, that are delinquent (late) each month ranges from 555 to 1,050. The number of customers that have had their water discontinued for nonpayment after 30 days ranges from 12 to 39 each month. The new policy required by SB 998 would extend the time before the City can discontinue water service for nonpayment.

Since February 1, 2020, the City has not discontinued (i.e., shut off) water service to any residential customers for nonpayment of their water bill. Due to the COVID-19 pandemic, the Governor issued an executive order on April 2, 2020 prohibiting

discontinuance or shutting off of residential water service for nonpayment and prohibiting discontinuance of service to businesses in critical infrastructure sectors. This executive order went into effect immediately on April 2, 2020 and is in effect while the Statewide emergency is in place.

### **FISCAL IMPACT**

The fiscal impact of adopting the resolution and approving the ordinance could result in lost Water Enterprise Fund revenue of approximately \$125,000 per year due to accounts that remain connected and subsequently unpaid during the legal process or through payment arrangements. There will also be an additional estimated cost of \$2,000 to translate the policy into six languages. There will be an impact to the Finance and Administrative Services Department staff related to the time it will take to review eligibility documents submitted by customers and setting up alternative payment arrangements.

**ALTERNATIVES** – Amend the SB 998 policy prior to adoption.

**PUBLIC NOTICING** – Agenda posting.

Prepared by:

Jesse Takahashi  
Finance and Administrative  
Services Director

Approved by:

Kimbra McCarthy  
City Manager

JT/EC/5/CAM  
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Attachments: 1. Resolution with Exhibit A (Policy)  
2. Ordinance  
3. SB 998 Bill Legislation