

RESOLUTION NO. 2023-0017

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCFARLAND
ADOPTING THE UPDATED WRITTEN POLICY FOR DISCONTINUATION OF
RESIDENTIAL WATER SERVICE**

**THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES HEREBY FIND,
DETERMINE, ORDER AND RESOLVE AS FOLLOWS:**

- Section 1. Recitals.** The City Council of the City of McFarland hereby finds as follows:
- The City collects rates and charges for water services and facilities furnished by the City.
 - In some cases, residential water customers become delinquent on the payment of their rates and charges for water services and facilities.
 - The California State Legislature adopted SB 998 to require the City to adopt a written policy on discontinuing residential service for nonpayment.
 - The City Council wishes to adopt the updated policy attached hereto as Exhibit A (the "Policy").

Section 2. The City Council hereby adopts the Policy and directs staff to amend the City Policy Handbook section on the "Utility Billing and Customer Account Management Policy and Procedure" to reflect the Policy adopted pursuant to this Resolution.

Section 3. The City Clerk shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true and correct copy of the resolution of the City Council of the City of McFarland at a meeting held on Thursday, February 9, 2023, moved by Councilmember Cano and seconded by Councilmember A. Ayon, duly adopted and passed by the following vote: 5/0

AYES: S. Ayon, Cano, A. Ayon, Gonzalez, Periz
NOES: None
ABSENT: None
ABSTAIN: None

Francisca Alvarado, City Clerk



Saul Ayon, Mayor

DISCONTINUATION OF RESIDENTIAL WATER SERVICE POLICY
for
the City of McFarland, California

The City of McFarland recognizes that all of its' water customers have a right to safe accessible and affordable drinking water and that the loss of water services causes tremendous hardship and undue stress, including health risks to vulnerable populations. The City has established this policy to minimize the number of customers who lose access to water service due to the inability to pay because water service discontinuations threaten human health and well-being and water service discontinuation have disproportionate impact on certain segments of the population. These segments include infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with the life-threatening medical conditions. This policy is adopted in accordance with the guidelines established by California Health and Safety Code Section 116900 et seq also known as the Water Shutoff Protection Act. Prior to discontinuing the water service of any residential customer on account of nonpayment of a duly owed water service rate, charge, or fee, the City will comply with the procedures and requirements of this Policy. This Policy is only applicable to residential customer accounts based on nonpayment and does not preclude the City from discontinuing service for other unauthorized customer actions.

1. Contact Information. A residential customer may call the following phone number during normal business hours to discuss options to avert a service discontinuation:
661-792-3058.
2. Account Delinquency. A water bill is due and payable upon receipt by the customer. A water bill not paid in full by the 20th day after it has been mailed is delinquent and subject to an applicable penalty. 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 his or her household's annual income is less than 200 percent of the federal poverty level, then the City will waive interest charges on delinquent bills once every 12 months
3. Delinquency Period Causing Discontinuation. Residential water service may be discontinued for nonpayment if a required customer payment has been delinquent for at least sixty (60) days.

Water service will not be discontinued on any Saturday, Sunday, legal holiday, or at any time during outside the City's normal business hours.

4. Procedure for Discontinuing Service.
 - a. At least seven (7) business days before discontinuing the customer's service, a representative of the City will contact the customer by telephone, in writing, or both to warn of the impending service discontinuation, make available and explain the terms of this Policy, discuss options to avoid the service discontinuation, and

provide other information required by law. Notice provided by mail shall be mailed to the customer's address on file with the City.

- i. If provided telephonically, the representative will specifically do the following: (1) offer to provide a copy of this Policy; (2) offer options to avert the service discontinuation, including alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance; (3) and explain the process to request a review and/or appeal of the delinquent service rate, charge, or fee.
 - ii. If the notice is provided in writing, the notice will specifically contain the following: (1) the customer's name and address; (2) the delinquent amount; (3) the date by which payment or arrangement for payment is required in order to avoid service discontinuation; (4) a description of the process to apply for an extension of time to pay the delinquent service rate, charge, or fee; (5) a description of the procedure to petition for bill review and appeal; and (6) a description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent residential service charges, consistent with this Policy. If the customer's address is not the address of the property to which water service is provided, the notice also shall be sent to the address of the property to which water service is provided, addressed to "Occupant."
 - b. If the City is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned as undeliverable, the City will visit the residence and post a conspicuous notice of imminent discontinuation of water service and a copy of this Policy.
5. Bill Review and Appeal. Any customer or adult resident in receipt of a notice of impending service discontinuation may appeal the delinquent rate, charge, or fee giving rise to the discontinuation notice, unless an appeal of the same rate, charge, or fee has previously been received and resolved. The appeal shall be filed within five (5) business days of receiving the disputed bill, or by delivering a written notice of appeal on a form provided by the City that explains the basis for the appeal, including an explanation of any alleged errors in the City's billing practices. The appeal will be reviewed, heard, and resolved in accordance with the following procedure:
- a. The Administrative Services Director ("Review Manager") shall review the appeal form and all materials submitted in support of the appeal and shall issue a tentative decision regarding the appeal within ten (10) business days from the date of receipt of the appeal.
 - b. The Review Manager shall mail the tentative decision to the appellant.
 - c. The appealing party has ten (10) business days from the date of decision to accept the tentative decision or request a hearing with the Review Manager.
 - d. If a hearing is requested, the Review Manager shall schedule and hold a hearing within thirty (30) calendar days.

- e. At least ten (10) business days prior to the hearing, written notice of the date and time of the hearing shall be mailed to the customer.
 - f. At the conclusion of the hearing, the Review Manager shall have fifteen (15) business days to issue a final, written decision justifying his or her decision. The Review Manager may grant the appeal and adjust or rescind the delinquent rate, charge, or fee under the following circumstances:
 - i. The rate, charge, or fee was erroneously calculated and therefore imposed in error due to a meter defect, accounting mistake, or other reason;
 - ii. During the relevant billing period, there was a leak of water at the customer's residence which could not have been reasonably discovered by the customer and which was corrected immediately upon its discovery;
 - iii. In the interest of fairness or justice, extraordinary circumstances merit an adjustment or rescission of the rate, charge, or fee.
 - g. Such decision shall be mailed to the appellant.
 - h. The customer may appeal an adverse determination by the Review Manager to the City Council.
6. Deferred or Reduced Payments. The City may allow customers to defer or reduce delinquent rates, charges, or fees in accordance with the terms of this Section 6. A Deferred Plan shall be defined as a plan where the total delinquent amount, or an agreed upon reduced amount, is agreed to be paid in total on a date certain.

A customer must contact the Utilities Division to arrange a mutually agreed upon payment plan to defer or reduce delinquent rates, charges, or fees. Any such payment plan will ordinarily result in repayment of the delinquent amount within twelve (12) months. The City will not grant more than two requests for a deferred or reduced payment plan within one fiscal year (July 1 to June 30).

If the customer breaches the agreed upon plan or does not pay his or her current residential services charges for sixty (60) days or more, then service may be discontinued no sooner than five (5) business days after the City posts a final notice of intent to discontinue service in a prominent and conspicuous location at the customer's property.

7. Alternate Payment Schedules. The City may provide an amortization or alternative payment to customers for delinquent rates, charges, or fees in accordance with the term of this Section 7. An alternate payment plan shall be defined as a plan where the total delinquent amount is agreed to be paid over multiple monthly or weekly payments.

A customer must contact the Utilities Division to arrange a mutually agreed upon payment plan to pay a delinquent amount. Any such alternate payment schedule will ordinarily result in repayment of the delinquent amount within twelve (12) months. The City will not grant more than two requests for an amortization or alternative payment plan within one fiscal year (July 1 to June 30).

If the customer breaches the agreed upon plan or does not pay his or her current residential services charges for sixty (60) days or more, then service may be discontinued no sooner

than five (5) business days after the City posts a final notice of intent to discontinue service in a prominent and conspicuous location at the customer's property.

8. Prohibitions on Discontinuation. Water service will not be discontinued for nonpayment under any of the following situations:
 - a. During any appeal of the City's decision to discontinue service.
 - b. During the pendency of an investigation by the City of a customer dispute or complaint.
 - c. During any period where the customer is in compliance with a duly authorized alternative payment schedule or a plan for deferred or reduced payment in accordance with Section 6 or 7 of this Policy.
 - d. In situations where the customer satisfies all of the following three conditions (the "Need-Based Exemption"):
 - i. The customer, or the customer's tenant, submits a certification of a primary care provider that discontinuation of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises serviced by the delinquent account;
 - ii. The customer demonstrates that he or she is financially unable to pay for residential water service within the normal billing cycle. Facts demonstrating that the customer is financially unable to pay for residential service during the normal billing cycle include the following: a 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 his or her household's annual income is less than 200 percent of the federal poverty level. If one or more of these circumstances is demonstrated, then the customer is considered a "Low-Income Customer"; and
 - iii. The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment for all delinquent charges in accordance with this Policy.
9. Special Considerations for Low-Income Customers. For a Low-Income Customer that qualifies for the Need-Based Exemption, the City will offer one or more of the following options for repayment of the delinquent rate, charge, or fee: (1) amortize the unpaid balance; (2) participate in an alternative payment schedule; (3) partially or fully reduce the unpaid balance financed from the General Fund; or (4) temporarily defer payment. The terms of the payment option will be in accordance with Sections 6 and 7 of this Policy and are expected to result in repayment within twelve (12) months, unless additional time is required to avoid undue hardship. If the customer breaches the agreed upon plan or does not pay his or her current residential services charges for sixty (60) days or more, then service may be discontinued no sooner than five (5) business days after the City posts a final notice of intent to discontinue service in a prominent and conspicuous location at the customer's property.

10. Landlord-Tenant Relationships (Individually Metered Units). The provisions of this Section apply where individually metered service is provided to each dwelling unit for residential occupants of a detached single-family dwelling, a multiunit residential structure, mobile home park, or permanent residential structure in a labor camp as defined in California Health & Safety Code Section 17008, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record.
- a. At least ten (10) days prior to discontinuing service, the City will make a good faith effort to inform the residential occupants in writing that the dwelling unit's account is delinquent and that service will be terminated.
 - b. The written notice will inform the occupants that they may become a customer of record and accept bills for the unit's water service. The occupants will not be held responsible for delinquent amounts owed by the existing customer of record.
 - c. Notwithstanding the foregoing, if the dwelling unit is a detached single-family dwelling unit, then the City will (1) give notice to the occupant of service discontinuation at least seven (7) days prior to the proposed discontinuation; and (2) require the occupant to verify that the delinquent account customer was the landlord, manager, or agent of the dwelling unit. Verification may include a lease or rental agreement, rent receipts, or other government document.
11. Landlord-Tenant Relationships (Master Metered Units). The provisions of this Section apply where water is provided through a master meter to residential occupants in a multiunit residential structure, mobile home park, or permanent residential structure in a labor camp as defined in California Health & Safety Code Section 17008, and the owner, manager, or operator of the structure or park is the customer of record.
- a. At least fifteen (15) days prior to discontinuing service, the City will make a good faith effort to inform the residential occupants by written notice that their dwelling units' account is delinquent and that service will be terminated on the date specified in the notice.
 - b. The notice will be posted on the door of each dwelling unit at the structure or park. If it is not reasonable or practicable to post the notice on the door of each dwelling unit, the City will post two copies of the notice in each accessible common area and at each point of access to the structure or park.
 - c. The notice will inform the residential occupants that they have the right to become City water customers, to whom service will then be billed, without being held responsible for delinquent amounts owed by the existing customer of record. The notice will also specify, in plain language the following: (1) what the residential occupants are required to do in order to prevent the termination of, or to reestablish, service; (2) the estimated monthly cost of service; (3) the title, address, and telephone number of a representative of the City who can assist the residential occupants in continuing service; and (4) the address and telephone number of a qualified legal services project recommended by the local county bar association.
 - d. The City may decline to make service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to and meets the requirements of the City's terms and conditions of service and other provisions of law. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume

responsibility for subsequent charges to the account to the City's satisfaction, or if there is a physical and legal means of selectively terminating service to those residential occupants who have not met the City's requirements or for whom the representative of the residential occupants is not responsible, the City will make service available to the residential occupants who have met those requirements or on whose behalf those requirements have been met.

- e. When required, residence and proof of prompt payment of rent or other credit obligation is an acceptable means of establishing credit with the City.
- f. In addition to the limitations set forth in Section 8, water service will not be discontinued for nonpayment under the following situations: (1) for an indebtedness owned by the existing customer of record to another public agency; (2) if the delinquent account relates to another property owned, managed, or operated by the existing customer of record; or (3) if a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

12. Third-Party Notification. The City maintains a third-party notification service for customers who are 65 years of age or older, or who are dependent adults as defined in Section 15610 of the Welfare and Institutions Code. The City will attempt to notify a person designated by the customer when the customer's account is past due and subject to termination. The notification will include information on what is required to prevent termination of service.

13. Restoring Service. The City will promptly provide information regarding the procedures for restoring service to customers once their service is discontinued, including the payment of applicable reconnection service fees. For Low-Income Customers, the reconnection service fee will not exceed the City's actual cost to reconnect water service, up to a maximum of \$50 for reconnection during normal business hours and \$150 during nonoperational hours. The fee may be annually adjusted for changes in the Consumer Price Index beginning January 1, 2021.