

# City of Gilroy

## Discontinuation of Residential Water Service for Nonpayment Policy

Policy Originally Adopted Date	November 18, 2019
Policy Originally Effective Date	February 1, 2020
Latest Policy Review Date	
Latest Policy Amendment Date	

### **Purpose/Background**

This policy enumerates the City of Gilroy's ("City") administrative actions for the collection of delinquent accounts, including notifications, fee assignments and discontinuation of service. This policy will be made available to the public on the City's website, and available upon request in writing translated into all required languages by law. The City can be contacted by phone at (408) 846-0420 to discuss options for averting discontinuation of water service for nonpayment under the terms of this policy.

The City is considered by SB 998 to be an urban or community water system that supplies water to more than 200 service connections.

### **Policy**

#### **Delinquent Account**

Delinquent accounts are hereafter identified as any account that remains unpaid (and without having made payment arrangements or established an alternative payment schedule) by close of the last business day of the month which a water bill is issued. The following rules apply to the collection of delinquent accounts:

#### **Notice Languages**

All written notices required under this policy, and copies of this policy, shall be provided in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by 10 percent or more of the customers in the urban and community water system's service area. As of the most recent update to this policy, the required languages include:

1. English;
2. Spanish;
3. Chinese (Mandarin specifically, also called Standard Chinese, official language of mainland China);
4. Tagalog;
5. Vietnamese; and,
6. Korean

#### **Late Fee**

If payment for a bill is not received by close of business on the last business day of the month the bill is issued, the account is deemed delinquent and a late fee will be assessed. The due date and late fee will be displayed prominently on the bill. The City assumes no responsibility for address, telephone or email contact information that has not been kept up-to-date by the customer.

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### Written Disconnection Notice

The City shall not discontinue water service for non-payment until payment by the customer has been delinquent for at least sixty (60) days pursuant to state law. The City will make a reasonable, good faith effort to contact the customer in writing at least seven (7) business days before discontinuation of water service for non-payment. The written disconnection notice will be mailed to the mailing address designated on the account. 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". The written disconnection notice will include:

- Customer's name and address
- Amount that is past due
- Date by which payment or payment arrangements are required to avoid discontinuation of residential service
- Description of the process to apply for an amortization plan of delinquent charges; temporary deferral of payments, and/or an alternative payment arrangement
- Description of the process to dispute or appeal a bill
- City phone number and instructions on how the customer may obtain a copy of the City's written policy

#### A) *Notice to Residential Tenants/Occupants in an Individually Metered Residence*

The City will make a reasonable, good faith effort to inform the occupants, by means of written notice, when the water service account is in arrears and subject to disconnection at least ten (10) days before water service is shut off. The written notice will advise the 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 that address. In order for the amount due on the delinquent account to not be assessed on the new account for the services assumed by the tenants, the tenant/occupant must provide verification of tenancy in the form of a rental agreement or proof of rent payments. The delinquent amount remaining on the existing account will be assessed through a lien on the subject property pursuant to Gilroy City Code Section 27.40.

#### B) *Notice to Tenants/Occupants in a Multi-Unit Complex Served through a Master Meter*

The City will make a reasonable, good faith effort to inform the occupants, by means of written notice hung on the door of each residence, when the water service account is in arrears and subject to disconnection at least ten (10) days before water service is shut off. The written notice will advise the 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

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address(es) served by the master meter. If one or more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the City, or if there is a physical means, legally available to the City, of selectively terminating service to those occupants who have not met the requirements for service, the City will make service available to the occupants who have met those requirements.

If the written disconnection notice is returned through the mail as undeliverable, the City will make a reasonable, good faith effort to visit the residence and leave a notice of discontinuance for non-payment as well as a copy of this written policy translated into all required languages.

### Disconnection Deadline

All delinquent water service charges and associated fees must be received by the City by 5:00 p.m. on the day specified in the written disconnection notice.

### Alternative Payment Arrangements

The City shall offer alternative payment arrangements for any customer who is unable to pay for water service within the normal payment period and requests an alternative payment arrangement to avoid late fees or disruption of service. The City will consider all circumstances surrounding the request and make a determination as to whether the payment arrangement is warranted. The alternative payment arrangement options include:

1. **Amortization of the unpaid balance**  
Payment arrangements that extend into the next billing period are considered an amortization plan, which must be in writing and signed by the customer. An amortization plan will amortize the unpaid balance over a period defined by the customer, not to exceed twelve (12) months from the original date of the bill. The amortized payments will be combined with, and subject to the due date of, the customer's regular bill. The customer must comply with the terms of the amortization plan and remain current as charges accrue in each subsequent billing period. The customer may not request further amortization of any subsequent unpaid charges while paying delinquent charges pursuant to an amortization plan. Failure to comply with the terms of an amortization plan will result in the issuance of a written disconnection notice. The disconnection notice resulting from failure to meet the terms of an amortization plan will be in the form of either a door hanger or other physical document posted to the premises no less than five (5) business days in advance of discontinuance of service.
  
2. **Temporary deferral of payment**  
A customer may request deferral of a payment, up to ninety (90) days from the original due date. Should the customer not be able to make subsequent current bill payments, the deferred amount shall be due and payable immediately, and

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the disconnection notice resulting from failure to meet the terms of the deferral plan will be in the form of either a door hanger or other physical document posted to the premises no less than five (5) business days in advance of discontinuance of service.

3. Reduction of late penalties

At the request of the customer, the City may waive the late fee if there are extenuating circumstances and the customer has not been assessed a late fee for delinquent payment in the preceding six (6) months.

4. Alternative payment schedule

Should a customer be on fixed income, seasonal employment with seasonal compensation, or other extreme variability in household income that is consistent on an annual basis and documented, the customer may request an alternative payment schedule with alternative billing dates and periods consistent with the flow of their personal income. The alternative schedule must still completely pay all amounts owed by June 30 of each year. Failure to meet this requirement will disqualify the customer from future alternative payment schedule options. Should the customer not be able to make subsequent current bill payments while on an alternative payment schedule, the owed amount shall be due and payable immediately, and the disconnection notice resulting from failure to meet the terms of the deferral plan will be in the form of either a door hanger or other physical document posted to the premises no less than five (5) business days in advance of discontinuance of service. Failure to meet the payment terms and conditions of an alternative payment schedule shall make the account holder(s) ineligible for future alternative payment schedules.

### Disconnection of Water Service for Nonpayment

The City will disconnect water service by turning off, and in some cases locking off, the meter. Before service is disconnected, the customer will be notified by a written disconnection notice at least seven (7) business days prior to termination. The customer will be charged a fee to re-establish service in the billing system regardless of whether the meter has physically been turned off. The meter will be locked in the off position if payment is not received within seven (7) days of initial termination.

### Delinquent Accounts of Residential Customers Financially Unable to Pay for Service with Medical Requirements to Access Water

Per the conditions identified in Health and Safety Code Section 116910(a), if a customer satisfies all of the conditions in the above referenced section, their water service cannot be shut off for nonpayment. The conditions require:

- The customer or tenant of the customer submits to the City certification from a primary care provider, as defined by the Section 14088 of the Welfare and Institutions Code, that discontinuation of residential service will be life threatening

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to, or pose a serious threat to the health and safety of a resident of the premises where residential service is provided.

- The customer demonstrates he or she is financially unable to pay for residential service within the City's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the City's 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 200 percent of the federal poverty level.
- The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with this policy, subject to Section 116906(a) of the Health and Safety Code.

However, any delinquent bills under this requirement are not waived. Instead, any delinquent charges for services shall be applied as a lien to the property as authorized in the Gilroy City Code, Section 27.40. This helps to ensure that other utility rate payers are not subsidizing the production of water for customers that are not paying their charges but cannot have their service discontinued under State law.

### Re-establishment of Service During Business Hours

In order to resume or continue service that has been disconnected for non-payment, the customer must pay a re-establishment fee as adopted by resolution of the City Council of amounts as determined by the Water Shutoff Protection Act. The City will endeavor to reconnect service as soon as practicable but, at a minimum, will restore service before the end of the next regular working day following payment of any past due amount and delinquent fees attributable to the termination of service. Water service that is turned on by any person other than City personnel or without City authorization may be subject to fines or additional charges or fees. Any damages that occur as a result of unauthorized restoration of service are the responsibility of the customer.

### Re-establishment of Service After Business Hours

Service restored after 4:00 pm Monday through Friday, weekends, or holidays will be charged an after-hours re-establishment fee as adopted by resolution of the City Council of amounts as determined by the Water Shutoff Protection Act. Service will not be restored after regular business hours unless the customer has been informed of the after-hours re-establishment fee and has signed an agreement acknowledging the fee and agreeing to contact the City's billing department no later than noon the following business day to pay the subject fee. The after-hours reestablishment fee is in addition to the late fee for a past due account. City staff responding to service calls are not permitted to collect payment but will instruct the customer to contact the billing department before noon the following business day.

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Sometimes water service is discontinued because the service is a new account and the City has not received a request to establish service. If service is being restored after regular business hours because the customer has yet to establish service, the customer must agree to contact the billing department to establish service the next business day and the after-hours reestablishment will be waived. If service is discontinued for any reason not identified above, the service should be restored as quickly as possible and the customer advised to contact the billing department to resolve the issue.

### Notification of Disposition of Returned Check

Upon receipt of a returned check taken as payment of water service or other charges, the City will consider the account not paid. The City will make a reasonable, good faith effort to notify the customer by phone or email of the returned check. If they payment was for an account that is already delinquent, then the date of discontinuance of service will remain unchanged. If the payment was made within forty eight (48) hours of discontinuance, a minimum of a forty eight (48) hour notice of termination of service due to a returned check will be generated, ensuring at least forty eight (48) hours before the service is discontinued. The means of notification will be based upon the notification preference (text, phone, or email) selected by the customer. Customers who have not selected a means of notification will be notified by phone. If the City is unable to make contact by text, phone, or email, a good faith effort will be made to visit the residence and leave a notice of termination of service.

Water service will be disconnected if the amount of the returned check and the returned check charge are not paid on or before the date specified in the notice of termination. All amounts paid to redeem a returned check and to pay the returned check charge must be in cash, credit card or certified funds.

### Returned Checks for Previously Disconnected Service

In the event a customer tenders a non-negotiable check as payment to restore water service previously disconnected for non-payment and the City restores service, the City may promptly disconnect service without providing further notice. No forty eight (48) hour notice of termination will be given in the case of a non-negotiable check tendered for payment of water charges that were subject to discontinuance.

Any customer issuing a non-negotiable check as payment to restore service turned off for nonpayment will be required to pay cash, credit card or certified funds to restore future service disconnections for a period of twelve (12) months from the date of the returned payment.

### Disputed Bills

If a customer disputes the water bill and exercises their right to appeal, the City will not disconnect water service for non-payment while the appeal is pending. Appeals shall be heard by the Finance Director, or his/her designee. Once a determination on the appeal

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is made, should the customer dispute the determination, the customer may subsequently request to appeal to the City Council.

### References

1. Senate Bill No. 998: Discontinuation of Residential Water Service (Health and Safety Code Section 116900 through 116926)
2. California Civil Code Section 1632 (regarding language translation requirements)

