



DATE: October 30, 2019

TO: Council Sustainability Committee

FROM: Director of Public Works
Director of Finance

SUBJECT: SB 998: Water Shutoff Protection Act – New Law Governing Discontinuation of Residential Water Service for Delinquent Bills

RECOMMENDATION

That the Committee reviews and comments on this report.

SUMMARY

In September 2018, Governor Brown signed Senate Bill 998, the Water Shutoff Protection Act, into law to provide additional protections for residential water customers before the discontinuation of water service due to nonpayment of water bills. The new law requires all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water service, which includes adequate noticing and repayment options for low-income customers before shutting off water service. The written policy must be posted in multiple languages on the water purveyor's website. This report describes staff's efforts to update the City's existing policies and procedures related to delinquent accounts and discontinuation of water service to comply with SB 998 requirements by February 1, 2020.

BACKGROUND

As declared by Section 106.3 of the Water Code, all Californians have the right to safe, accessible, and affordable water. In recent years, the State has become increasingly concerned with increasing water rates and the need to minimize the number of Californians who lose access to water service due to their inability to pay. On September 28, 2018, Governor Brown signed SB 998, the Water Shutoff Protection Act, into law to provide additional procedural protections for delinquent residential water customers before the discontinuation of water service. The new law applies to residential services, including single-family residences, multifamily residences, and mobile homes.

The Revenue Division of the Finance Department is tasked with the billing and collection of utility accounts in the Utilities Division of the Public Works Department. Revenue Division has existing internal policies and guidelines in the collection of delinquent utility accounts for all types of customers within the legal framework of the Hayward Municipal Code and the

State of California Public Utilities Code. Staff considers and reviews requests for extensions of payment due-date or for other payment arrangements for all accounts. The review includes an examination of past payment history, current medical or financial considerations, or any other pertinent factors in determining both the customer's ability to pay and the severity of harm that would be caused by the disruption of water service. When appropriate, extended payment terms of up to 12 months are regularly offered. Staff works with customers to develop payment arrangements that are fair and equitable and will only move to discontinue residential water service as a last resort. In 2018, out of about 29,000 active residential utility accounts, an estimate of 750 (2.6%) shutoffs occurred due to delinquency. Of those shutoffs, about 80% are restored within the same business day, and 19% are restored within one week. The remaining 1% are usually properties that have been vacated and the water service remains discontinued until a new customer takes residence at the property.

Multi-family properties with a landlord as the customer of record never have the water service discontinued due to non-payment. Per Hayward Municipal Code, unpaid charges are added as an assessment on the property owner's county tax bill. A tenant of a multi-family property will never have their utility service discontinued due to the delinquency of a landlord.

In the case of single-family rental properties, unpaid bill amounts are not added as an assessment to the property's county tax bill. When the property owner of a single-family rental home is a Hayward water customer, the tenant is usually unaware of the delinquency status of the account until the final shutoff notice is delivered directly to the property. In these cases, Staff works with the tenant to contact the property owner to formulate a payment arrangement with the property owner to avoid discontinuation of the water service. In cases where the property owner cannot be contacted, Staff work to formally transfer the water service account to the tenant.

DISCUSSION

SB 998 requires all public water systems with more than 200 connections to have a written policy on discontinuation of residential water service and for that policy to be available in multiple language and posted on the water purveyor's website. Among other things, SB 998 mandates:

- Water systems may not discontinue residential water service due to delinquent payment until payments are delinquent for at least 60 days. After that time, the water system must attempt to provide notice to customers by telephone or in writing, and provide information about appeals, extensions and alternative repayment options.
- Water systems may not discontinue residential water service if all of the following take place:
 - 1) a primary care provider certifies that the discontinuation of water service will pose a serious or potentially fatal threat to a resident,
 - 2) the customer demonstrates inability to pay and
 - 3) the customer is willing to enter into an alternative payment arrangement.

- Water systems must limit certain low-income customers’ reconnection fees to no more than \$50 during regular business hours, and \$150 during non-regular hours.
- Water systems must attempt to provide notice to renters and mobile home residents that their service may be discontinued due to delinquent payments by their landlords, and that the residents have the right to become customers of the water system without paying the past-due amounts on the landlords’ accounts.
- Water systems must annually post on their websites the number of times the system has discontinued service due to inability to pay

Staff has reviewed the City’s existing policies and procedures relating to delinquent accounts and discontinuation of water service. A comparison of the City’s current Policy and SB 998 requirements is provided in Table 1.

Table 1. Comparison of Current Internal City Policy and SB 998 Requirements

Current Internal City Policy	SB 998 Policy Requirement
Written Policy on Discontinuation of Residential Water Service	
Internal use only	<ul style="list-style-type: none"> • Posted on website • Six languages (English, Spanish, Chinese, Tagalog, Korean, Vietnamese), and any other language spoken by 10% of the service area • Policy must contain: <ol style="list-style-type: none"> a) Plan for deferred or reduced payments b) Alternative payment schedule c) Formal mechanism to appeal or contest a bill
New or Expanded Procedural Protections	
Utility service is not discontinued until account is at least 52 days past due	Utility service cannot be discontinued until account is 60 days past due
Final Shut-Off notices: <ol style="list-style-type: none"> a) Written in English only b) Hand-delivered to the service address c) Delivered anytime between 5 -7 days before discontinuation of utility service 	Final Shut-Off notices: <ol style="list-style-type: none"> a) Must be in English, Spanish, Chinese, Tagalog, Korean, and Vietnamese b) Mailed to the customer c) Delivered at least 7 days prior to discontinuation of utility service d) Information included:

Current Internal City Policy	SB 998 Policy Requirement
<p>d) Information included:</p> <ol style="list-style-type: none"> 1. Customer's name 2. Amount of delinquency 3. Payment due-date 4. Payment options 	<ol style="list-style-type: none"> 1. Customer's name 2. Amount of delinquency 3. Payment or arrangement due-date 4. A description on how to appeal for bill review 5. A description of the process to apply for an extension of time to pay 6. A description of procedure to request for a deferred, reduced, or alternative payment schedule
Special Medical or Financial Circumstances	
<p>Staff considers and reviews requests for extensions of payment due-date or for other payment arrangements for all accounts. The review includes an examination of:</p> <ul style="list-style-type: none"> • past payment history • current medical or financial considerations • factors determining customer's ability to pay and the severity of harm that would be caused by the disruption of water service <p>When appropriate, extended payment terms of up to 12 months are regularly offered</p> <p>Multi-family properties with a landlord as the customer of record never have the water service discontinued due to the delinquency of a landlord</p>	<p>Offering payment arrangements and an alternative payment schedule is mandated by SB 998.</p> <p>Water service cannot be discontinued if a customer meets <u>all</u> three conditions:</p> <ol style="list-style-type: none"> 1. Submits certification from a primary care provider that discontinuation of service would be life threatening to the resident; 2. Provides proof of participation in CalWorks, CalFresh, Medi-Cal, SSI, general assistance, or the household income is less than 200% of the poverty level to demonstrate they are financially unable to pay within the normal billing cycle; and 3. Is willing to enter into a payment arrangement and comply with such arrangement for 60 days or more. <p>In all cases, customers are required to pay water charges with extended timeline or other payment arrangement. It should result in repayment of the outstanding balance in no more than 12 months.</p>
Miscellaneous Provisions	
No formal policy for customers to appeal	A formal appeal procedure; Utility service

Current Internal City Policy	SB 998 Policy Requirement
or contest a utility bill	cannot be discontinued while appeal is pending
1% interest rate charged on all accounts	No interest will be charge on residential accounts for customers under 200% Federal Poverty Level
Service restoration charges: <ul style="list-style-type: none"> • \$40 standard fee • \$72 after-hours fee (\$112 total) 	Service restoration charges: <ul style="list-style-type: none"> • Capped at \$50 standard fee • Capped at \$150 after-hours fee (no more than cost recovery)
No reporting requirements	Must report number of service disconnections due to nonpayment annually to both the State Water Resources Control Board and on the City's website

Staff has drafted the attached Policies and Guidelines for Discontinuation of Residential Water Service for Nonpayment (Attachment II) that complies with SB 998 requirements. Based on the Committee's input, staff would proceed with finalizing the document and posting it the City's website prior to February 1, 2020.

ECONOMIC IMPACT

It is expected this law will offer Hayward Water System customers greater flexibility in making payment arrangements and help minimize water shutoffs due to nonpayment of water bills.

FISCAL IMPACT

SB 998 provides for certain extended timelines for collection of unpaid water charges. However, these charges would still be collected and therefore staff expects minimal impacts to the Water Operating Fund. SB 998 also requires water agencies to refund interest charges to low-income customers on an annual basis. Due to system limitations in determining and tracking which customers would be eligible for an interest refund based upon income status, Staff recommends discontinuing the assessment of interest on all delinquent utility accounts. FY 19 interest charges collected were \$22,486. Since the water system is a self-sufficient Enterprise Fund, similar to any other expenses, all costs must be recovered through the rates so that the overall revenues meet the approved budgeted revenues. There will be no impact to General Fund.

STRATEGIC INITIATIVES

This item does not directly relate to one of the Council's Strategic Initiatives.

SUSTAINABILITY FEATURES

Social equity is a key component of social, economic, and environmental sustainability. This agenda item will help ensure that Hayward water customers, including those that are financially vulnerable, continue to have access to safe and affordable water supplies in accordance with State law by minimizing the number of customers who could potentially lose access to water service due to their inability to pay on time.

PUBLIC CONTACT

The public will have an opportunity to comment on the City's draft policy for Discontinuation of Residential Water Service for Nonpayment at the Committee meeting. In compliance with SB 998, the updated written policy would also be posted on the City's website for the public to review.

NEXT STEPS

The requirements mandated by SB 998 must be implemented by February 1, 2020. Based on Committee input, staff would proceed with finalizing a draft of the City's written policy on Discontinuation of Residential Water Service for Nonpayment. Staff anticipates asking Council to consider adoption of the policy in December 2019 in order to meet the February 1, 2020 deadline for posting the written policy on the City's website.

Prepared by: Michael Barnes, Acting Revenue Manager
Elli Lo, Management Analyst

Recommended by: Alex Ameri, Director of Public Works
Dustin Claussen, Director of Finance

Approved by:



Kelly McAdoo, City Manager