

RESOLUTION NO. 2019-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH ESTABLISHING CITY POLICY ON TERMINATION OF RESIDENTIAL WATER SERVICE

WHEREAS, Chapter 14.12 of the Huntington Beach Municipal Code ("HBMC") establishes the authority for setting and collecting rates and charges for residential water service; and

HBMC Section 14.12.120 provides that all Municipal Services Bills for water services are due upon presentation, and are delinquent thirty (30) days following presentation of the Bill or after the due date on the Statement, whichever is earlier. Further, HBMC Section 14.120.10(A) provides that the City charge all delinquent accounts a late fee as set by City Council Resolution. Section 14.12.120(B) adds that delinquent municipal service accounts shall be shut off until all outstanding Municipal Service Bills, fees, utility taxes and penalties have been paid; and

Public Utilities Code Sections 10001 through 10016, together with the Water Shutoff Protection Act at Health & Safety Code Sections 116900 through 116926, establish minimum procedures for municipal water providers to follow before terminating residential water service for failure to timely pay for water service. In particular, Health & Safety Code Sections 11906 and 116908 require that the City adopt and post on the City web site a written policy on termination of residential water service for nonpayment. The policy may authorize the use of payment plans to permit continuation of water service until the delinquent amount is repaid within one year;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

Section 1. The City Council of the City of Huntington Beach adopts the following policy on the termination of residential water service.

CITY OF HUNTINGTON BEACH POLICY ON TERMINATION OF RESIDENTIAL WATER SERVICE

1. Application of Policy. This Policy on Termination of Residential Water Service (this "Policy") shall apply to all City residential Municipal Service Accounts for water service, but shall not apply to any accounts for non-residential water service. To the extent this Policy conflicts with any other rules, regulations, or policies of the City, this Policy shall control, except in the case of a conflict with a City Ordinance, the Ordinance shall control.

2. Contact Information. For questions or assistance regarding a customer's Municipal Services Bill, the City's Customer Service staff can be reached at (714) 536-5919 Monday through Friday, from 8:30 am to 4:00 pm except on City holidays. Customers may also visit the City's Customer Service desk at City Hall, 2000 Main Street, Huntington Beach, CA, Monday through Friday, from 8:00 am to 5:00 pm, except on City holidays.

3. Deposit for Establishment and Reestablishment of Municipal Service.

A. Deposits for municipal services are established by the City Master Fee and Charges Resolution.

B. The City does not require that a customer establish credit worthiness to open a new residential municipal services account. In order to establish a new residential municipal service account, the customer shall pay the required deposit pursuant to the City's Master Fee and Charges Schedule.

C. The City will waive Deposits at time of the account opening for single-family resident accounts, with a letter of credit from their previous gas, water or electric company. The letter of credit must demonstrate the customer had service for the past twelve (12) consecutive months with no more than one (1) late payment. Deposits are refunded for established single-family resident accounts after one (1) year of service with no more than one (1) late payment.

4. Billing Procedures. Water service is incorporated into the Municipal Service Bill. The Municipal Service Bill incorporates fees and charges for water, refuse, sewer, irrigation and fire service. Municipal Service Bills are issued approximately every thirty (30) days. All Municipal Service Bills are due and payable twenty-eight (28) days after the date on the Bill. Any Municipal Service Bill not paid in full within thirty (30) days of the date on the Bill is delinquent.

5. Termination of Water Service for Nonpayment. If a Municipal Services Bill is delinquent for at least sixty (60) days, the City may terminate water service to the service address, provided that water service shall not be terminated in the circumstances set forth in Section 10.

6. Termination of Water Service – Step 1: Written Notice to Customer of Record; Past Due Notice. Immediately following thirty (30) days after the date on any delinquent Municipal Service Bill, the City will provide a mailed notice to the Customer of Record containing the following information:

- A. The name and address of the customer.
- B. The past due amount of the Municipal Service Bill.
- C. The date by which payment shall be made to avoid additional fees.
- D. The telephone number where the customer may receive additional information from the City.

7. Termination of Water Service - Step 2: Posted Notice of Termination of Water Service.

A. At least fifteen (15) days before termination of water service, the City will post a "Notice of Imminent Termination of Residential Service" and a copy of this Policy in a conspicuous place at the service address. The Notice will include:

- 1. The name and address of the customer.
- 2. The past due amount of the Municipal Bill.
- 3. The date at least fifteen (15) days after the posting by which payment must be made to avoid termination of water service.

4. The description of the process to apply for an Amortization Agreement.
5. The opportunity for residential occupants who are tenants of a landlord to assume responsibility for paying the Municipal Service Bill without paying the delinquent amount pursuant to Section 16 of the City Water Policy.
6. The telephone number where the customer may request a Amortization Agreement or receive additional information from the City.
7. The City's Customer Service staff can be reached at (714) 536-5919 from 8:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, to assist the occupants to continuing water service.

B. Where the City furnishes water through a master meter in a multi-unit residential structure, or a mobile home park, and the owner, manager, or operator is the customer of record, the City will make a good faith effort to inform the occupants that the account is in arrears and water service will be terminated on the date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each unit, the City will post two (2) copies of the notice in each accessible common area

8. Circumstances Under Which Residential Water Service Will Not Be Terminated. The City will not discontinue residential water service for nonpayment of a Municipal Services Bill during the following circumstances:

- A. A pending appeal of a disputed Municipal Services Bill or a City investigation of a Municipal Services Bill under Section 13 below;
- B. When the customer is in compliance with a City approved debt Amortization Agreement under Section 14; or
- C. When the resident(s) have assumed responsibility for paying Municipal Services Bill from their landlord pursuant to Section 16.

9. Circumstances Under Which Service Through a Master Meter Will Not Be Terminated. If the City furnishes water through a master meter in a multi-unit residential structure or mobile home park, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the City will not discontinue residential water service for non-payment if a City or County public health or building officer certifies that termination of water services would result in a significant threat to the health or safety of the residential occupants or the public.

10. Special Medical and Financial Circumstances Under Which Services Will Not Be Discontinued. The City will not discontinue water service if all of the following conditions are met:

- A. The customer, or a tenant of the customer, submits a Special Circumstances Application to the City.
- B. As part of the Application, the applicant provides a certification of the applicant's licensed primary care provider that termination of water service will be life threatening to, or pose a serious threat to the health and safety of the applicant.

- C. The applicant demonstrates that he or she is financially unable to pay for residential service within the City's normal Billing cycle. The applicant is deemed financially unable to pay during the normal Billing cycle if:
 - 1) 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 (ii) the applicant declares under penalty of perjury that the household's annual income is less than two hundred (200) percent of the federal poverty level; and
 - 2) The applicant is willing to enter into an Amortization Agreement pursuant to Section 14.
- D. For any applicant who meets all of the above conditions, the City shall offer the applicant the option of amortizing the unpaid balance pursuant to an Amortization Agreement.
- E. The applicant is responsible for demonstrating that the conditions in Subsections B and C have been met. Upon receipt of documentation from the applicant, the City will review the documentation within seven (7) days and: (i) notify the applicant of the of the availability of an Amortization Agreement and request him or her to sign it; (ii) request additional information from the applicant; or (iii) notify the applicant that he or she does not meet the conditions in subsection A.
- F. The City may discontinue water service if the person who signed the Amortization Agreement under this Section fails to stay current on the agreement. In such a case, the City will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least seven (7) days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the City.

11. Time of Termination of Service. The City will not discontinue water service due to nonpayment on a Saturday, Sunday, legal holiday, or at any time during which the City Hall is not open to the public.

12. Restoration of Service. Customers whose water service has been discontinued may contact the City by telephone or in person regarding restoration of service. Pursuant to HBMC Section 14.12.120(B), restoration shall be subject to full payment of all outstanding Municipal Service Bills, including fees and charges, utility taxes, late fees and penalties. When the supply of water has been shut off for nonpayment or a violation of City Ordinance, Resolution or this Policy, service shall not be resumed until a shut off fee, as set by City Resolution, and all delinquent municipal service balances have been paid.

13. Procedures to Contest or Appeal a Municipal Services Bill.

A. Time to Initiate Complaint or Request an Investigation. A customer may initiate a complaint or request an investigation regarding the amount of a Municipal Services Bill within five (5) days of receiving a Municipal Services Bill.

B. Review by the City. The City shall review, and issue the customer a written determination of a timely complaint, request for investigation, or amortization schedule. The

City may, in its discretion, review untimely complaints, requests for investigation or amortization schedules; however, such reviews are not subject to appeal.

C. Appeal of Complaints and Requests for Investigation Only. Any customer whose timely complaint or request for an investigation pursuant to this Section has resulted in an adverse determination may appeal the determination to the Chief Financial Officer by filing a written notice of appeal with the Chief Financial Officer within five (5) days of receiving the adverse determination. Upon receiving the notice of appeal, the Finance Department will set the matter to be heard before the Chief Financial Officer and mail the customer written notice of the time and place of the hearing at least ten (10) days before the meeting. The decision of the Chief Financial Officer shall be final.

D. For purposes of this Section only, the five (5) days to appeal a Municipal Services Bill begins five (5) days after the City mailed the bill, and the five (5) days to appeal to the Chief Financial Officer an adverse administrative decision begins five (5) days after the mailing of the adverse decision. However, in all cases, the five days begins immediately upon e-mailing of the bill or adverse decision.

14. Delinquent Bill Amortization Agreements.

A. A customer unable to pay in full his or her past due Municipal Service Bill may request an "Amortization Agreement." An "Amortization Agreement" is an agreement allowing a customer to continue to receive water service while he or she pays off over time a delinquent balance on his or her Municipal Service account.

B. A customer may request an Amortization Agreement any time after receiving a Past Due Notice that the customer has failed to pay his or her Municipal Bill within twenty eight (28) days of receipt of the Bill. A customer may not request an Amortization Agreement any later than five (5) days after a Notice of Termination of Water Service was posted on the service address.

C. A customer may request an Amortization Agreement either by telephone or in person at the contact phone number or address at Section 2.

D. A City employee shall determine if a customer's payment of his or her unpaid balance may be temporarily extended for a period not to exceed six (6) months. The Chief Finance Officer of the City, or his or her designee may approve a longer amortization period. The Amortization Agreement will be set forth in writing and signed by the customer. The Agreement shall provide that the customer shall remain current on all subsequent Municipal Services Bills while paying off the unpaid balance. The monthly amortization payments shall be added to the customer's monthly Municipal Service Bill until fully paid.

E. The City employee's decision to set the terms of an Amortization Agreement, or refuse to enter into an Amortization Agreement is not subject to appeal.

F. If a customer breaches the Amortization Agreement, the City may terminate water service by posting the same Notice of Termination of Water Service described at Section 7, except that the Notice shall be posted at least seven (7) days before termination of water service. This Notice will not entitle the customer to any investigation or review by the City.

15. Specific Programs for Low-Income Customers.

A. For residential customers who demonstrate to the City a household income below two hundred percent (200%) of the Federal Poverty Line, the City shall limit any reconnection fee as set forth in the City Master Fee Schedule.

B. The City will deem residential customers to have a household income below two hundred percent (200%) of the Federal Poverty Line if: (a) any member of the 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 (b) the customer declares under penalty of perjury that the household's annual income is less than two hundred percent (200%) of the federal poverty level for the County of Orange.

16. Procedures for Occupants or Tenants to Become Customers of the City.

A. This Section 16 shall apply only when the property owner, landlord, manager, or operator of a residential service address is listed as the customer of record and has been issued a notice of intent to discontinue water service due to nonpayment.

B. The City will make service available to the actual residential occupants of the service address if each occupant agrees to the terms and conditions of service and meets the requirements of the City's rules and regulations, or where the units are connected to a single meter and one of the occupants assumes the responsibility for the subsequent charges to all of the units.

C. To be eligible to become a customer without paying the amount due on the delinquent account, the occupant shall verify to the City's satisfaction 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.

D. The occupant(s) assuming responsibility for the unit(s) shall pay a deposit for the unit(s) pursuant to Section 3.

17. Language for Certain Written Notices. All written notices under Sections 6 and 7 shall be provided in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by ten percent (10%) or more people within the City.

18. Other Remedies. In addition to termination 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.

19. Termination of Water Service for Other Customer Violations. The City reserves the right to discontinue water service for any violations of City ordinances, rules, or regulations other than nonpayment.

20. Decisions by City Staff. Any decision which may be taken by the City's Chief Finance Officer under this Policy may be taken by his or her designee.

Section 2. If any action, subsection, sentence, clause or phrase of this Resolution shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Resolution, the, or other attachments thereto or fees levied by this Resolution.

Section 3. Consistent with California Health & Safety to Code Section 116904, this Resolution shall take effect February 1, 2020.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2019.

Mayor

REVIEWED AND APPROVED:

City Manager

INITIATED AND APPROVED:



Chief Financial Officer

APPROVED AS TO FORM:



City Attorney 