

City of Tustin

POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NON-PAYMENT

Administered by the City Manager
Effective Date: February 1, 2020

POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NON-PAYMENT

Notwithstanding any other policy or rule, this Policy on Discontinuation of Residential Water Service for Non-Payment (hereinafter, this "Policy") shall apply to the discontinuation of residential water service for non-payment under the provisions set forth herein. In the event of any conflict between this Policy and any other policy or rule, this Policy shall prevail.

- I. **Application of Policy; Contact Telephone Number:** This Policy shall apply only to residential water service accounts. All existing policies and procedures shall continue to apply to commercial and industrial water service accounts. Further assistance concerning the payment of water bills and the potential establishment of the alternatives set forth in this Policy to avoid discontinuation of service can be obtained by calling water billing staff at 714-573-3075.

- II. **Discontinuation of Residential Water Service for Non-Payment:**
 - A. **Rendering and Payment of Bills:** Bills for water service will be rendered to each customer on a bi-monthly basis. Bills for service are due and payable upon presentation and become overdue and subject to discontinuation of service if not paid within sixty (60) calendar days from the date of the bill. Payment may be made at City of Tustin, 300 Centennial Way, Tustin, CA 92780 or online at www.tustinca.org. It is the customer's responsibility to ensure that payments are received at the specified location in a timely manner. Partial payments are not authorized unless prior approval has been received. Bills will be computed as follows:
 1. Meters will be read at regular intervals for the preparation of bi-monthly bills and as required for the preparation of opening and closing accounts.
 2. Bills will show the meter reading for the current and previous meter reading period for which the bill is rendered, the number of billing units, date, and days of service for the current meter reading.
 3. Billings shall be paid in legal tender of the United States of America. Notwithstanding the foregoing, the City of Tustin shall have the right to refuse any payment of such billings in coin.

 - B. **Overdue Bills:** The following rules apply to customers whose bills remain unpaid for more than sixty (60) calendar days following the invoice date:
 1. **Overdue Notice:** If payment for a bill rendered is not made within twenty (20) calendar days of the invoice date, a written notice of payment delinquency and impending discontinuation (the "Overdue Notice") will be mailed to the water service customer. The Overdue Notice will be mailed at least seven (7) business days prior to the possible discontinuation of service date identified in the Overdue Notice. For purposes of this Policy, the term "business days" shall

refer to any days on which City offices are open for business. If the customer's mailing address is not the address of the property to which the service is provided, the Overdue Notice will also be sent to the address of the property served, addressed to "Occupant." The Overdue Notice must contain the following:

- a) Customer's name and service address;
- b) Amount of delinquency;
- c) Date by which payment or arrangement for payment must be made in order to avoid discontinuation of service;
- d) Description of the process to apply for an extension of time to pay the amount owing (see Section III, below);
- e) Description of the procedure to petition for review and appeal of the bill giving rise to the delinquency (see Section IV, below); and
- f) Description of the procedure by which the customer can request a temporary deferral of payment or alternative payment schedule (see Section III, below).

The City of Tustin may alternatively, or in addition to the Overdue Notice, notify the customer by telephone of the payment delinquency and impending discontinuation of service at least five (5) calendar days before discontinuation of service. If that notice is provided by telephone, the City shall offer to provide the customer with a copy of this Policy and also offer to discuss with the customer the options for temporary deferral of payment or alternative payments, as described in Section III, below, and the procedures for review and appeal of the customer's bill, as described in Section IV, below.

2. Unable to Contact Customer: If the City is unable to contact the customer or an adult occupying the residence by telephone, and the Overdue Notice is returned through the mail as undeliverable, the City will make a good faith effort to visit the residence and leave, or make other arrangements to place in a conspicuous location, a notice of imminent discontinuation of service for non-payment, and a copy of this Policy ("Door Tag").
3. Late Charge and Door Tag Fees: A Late Charge, as specified in the City's schedule of fees and charges, shall be assessed and added to the outstanding balance on the customer's account if the amount owing on that account is not paid before the Overdue Notice and/or Door Tag is generated.
4. Turn-Off Deadline: Payment for water service charges must be received in the City's office no later than 4:30 p.m. on the date specified in the notices. Postmarks are not acceptable.

5. Notification of Returned Check: Upon receipt of a returned check rendered as remittance for water service or other charges, the City will consider the account not paid. The City will attempt to notify the customer in person and leave a notice of termination of water service at the premises. Water service will be disconnected if the amount of the returned check and returned check charge are not paid by the due date specified on the notice. The due date shall not be sooner than the date specified in the Overdue Notice or Door Tag; or if an Overdue Notice has not been previously provided, no sooner than the sixtieth (60th) calendar day after the invoice for which payment by the returned check had been made. To redeem a returned check and to pay a returned check charge, all amounts owing must be paid by cash, credit card, or certified funds.

6. Returned Check Tendered as Payment for Water Service Disconnected for Nonpayment:
 - a) If the check tendered and accepted as payment which resulted in restoring service to an account that had been disconnected for nonpayment is returned as non-negotiable, the City may disconnect said water service upon at least three (3) calendar days' written notice. The customer's account may be reinstated only after the outstanding charges are paid in the form of cash, credit, or certified funds. Once the customer's account has been reinstated, the account will be flagged for a one-year period indicating the fact that a non-negotiable check was issued by the customer.

 - b) If at any time during the one-year period described above, the customer's account is again disconnected for nonpayment, the City may require the customer to pay cash, credit card, or certified funds to have that water service restored.

7. Courtesy Adjustments:
 - a) At the request of the customer, the City will offer a courtesy adjustment of Overdue Notice, Door Tag, or turn off fees. This adjustment is not to exceed one (1) credit in any twelve (12) month rolling period.

 - b) At the request of the customer, the City will offer a courtesy adjustment of a 10% reduction in the water portion of the bi-monthly billing for customers who experience a high bill due to a water leak on their property. The leak must have been witnessed by the City and the customer must provide proof of the repair. A credit adjustment will be applied after an investigation has been completed verifying the repair of the leak. This adjustment is not to exceed one (1) credit in any twelve (12) month rolling period.

- C. Conditions Prohibiting Discontinuation: The City of Tustin shall not discontinue residential water service for nonpayment if all of the following conditions are met:
1. Health Conditions – The customer or tenant of the customer submits certification of a primary care provider that discontinuation of water service would (i) be life threatening, or (ii) pose a serious threat to the health and safety of a person residing at the property;
 2. Financial Inability – The customer demonstrates he or she is financially unable to pay for water service within the City’s normal billing cycle. The customer is deemed “financially unable to pay” if any member of the customer’s household is: (i) a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the customer declares the household’s annual income is less than 200% of the Federal poverty level (see this link for the Federal poverty levels applicable in California: <https://www.healthforcalifornia.com/covered-california/income-limits>); and
 3. Alternative Payment Arrangements – The customer is willing to enter into an alternative payment schedule or a plan for deferred payment, consistent with the provisions of Section III, below.
- D. Process for Determination of Conditions Prohibiting Discontinuation of Service: The burden of proving compliance with the conditions described in Subdivision (C), above, is on the customer. In order to allow the City sufficient time to process any request for assistance by a customer, the customer is encouraged to provide the City with the necessary documentation demonstrating the medical issues under Subdivision (C)(1), financial inability under Subdivision (C)(2) and willingness to enter into any alternative payment arrangement under Subdivision (C)(3) as far in advance of any proposed date for discontinuation of service as possible. Upon receipt of such documentation, the City’s Director of Finance, or his or her designee, shall review that documentation and respond to the customer within seven (7) calendar days to either request additional information, including information relating to the feasibility of the available alternative arrangements, or to notify the customer of the alternative payment arrangement, and terms thereof, under Section III, below, in which the City will allow the customer to participate. If the City has requested additional information, the customer shall provide that requested information within five (5) calendar days of receipt of the City’s request. Within five (5) calendar days of its receipt of that additional information, the City shall either notify the customer in writing that the customer does not meet the conditions under Subdivision (C), above, or

notify the customer in writing of the alternative payment arrangement, and terms thereof, under Section III, below, in which the City will allow the customer to participate. Customers who fail to meet the conditions described in Subdivision (C), above, must pay the delinquent amount, including any penalties and other charges, owing to the City within the latter to occur of: (i) two (2) business days after the date of notification from the City of the City's determination the customer failed to meet those conditions; or (ii) the date of the impending service discontinuation, as specified in the Overdue Notice.

- E. Special Rules for Low Income Customers: Customers are deemed to have a low household income if: (i) any member of the customer's household is a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the customer declares the household's annual income is less than 200% of the Federal poverty level (see this link for the Federal poverty levels applicable in California: <https://www.healthforcalifornia.com/covered-california/income-limits>). If a customer demonstrates either of those circumstances, then the following apply:
1. Reconnection Fees: If service has been discontinued and is to be reconnected, any reconnection fees during the City's normal operating hours cannot exceed \$50, and reconnection fees during non-operational hours cannot exceed \$150. Those fees cannot exceed the actual cost of reconnection if that cost is less than the statutory caps. Those caps may be adjusted annually for changes in the Customer Price Index for the Los Angeles-Long Beach-Anaheim metropolitan area beginning January 1, 2021.
 2. Penalty Waiver: The City shall waive all penalties/fees on delinquent bills once every twelve (12) months.
- F. Landlord-Tenant Scenario: The below procedures apply to individually metered detached single-family dwellings, multi-unit residential structures, and mobile home parks where the property owner or manager is the customer of record and is responsible for payment of the water bill.

1. Required Notice:

- a. The City will make every good faith effort to send a mailed notice to the tenants/occupants living at the water service address at least ten (10) calendar days prior to the discontinuation of water service if the property is a multi-unit residential structure or mobile home park, or seven (7) calendar days prior to the discontinuation of water service if the property is a detached single-family dwelling.
- b. The written notice must also inform the tenants/occupants that they have the right to become customers to whom the service will be billed (see Subdivision 2, below), without having to pay any of the then delinquent amounts.

2. Tenants/Occupants Becoming Customers:

The City is not required to make service available to the tenants/occupants unless each tenant/occupant agrees to the terms and conditions for service and meets the City's requirements and rules.

- a. However, if (i) one or more of the tenants/occupants assumes responsibility for subsequent charges to the account to the City's satisfaction, or (ii) there is a physical means to selectively discontinue service to those tenants/occupants who have not met the City's requirements, then the City may make service available only to those tenants/occupants who have met the requirements.
- b. If prior service for a period of time is a condition for establishing credit with the City and waiving deposit requirements, then residence at the property and proof of prompt payment of rent for that length of time, to the City's satisfaction, is a satisfactory equivalent.
- c. If a tenant/occupant becomes a customer of the City and the tenant's/occupant's rent payments include charges for residential water service where those charges are not separately stated, the tenant/occupant may deduct from future rent payments all reasonable charges paid to the City during the prior payment period.

III. Alternative Payment Arrangements: For any customer who meets the three conditions under Section II(C), above, in accordance with the process set forth in Section II(D), above, the City shall offer the customer one of the following alternative payment arrangements, to be selected by the City at its discretion: (i) alternative payment schedule under Subdivision (A), below; or (ii) temporary deferral of payment under Subdivision (B), below. Any customer who DOES NOT

meet the three conditions under Section II(C) may be granted a temporary extension of payment due date under Subdivision (C) below. The Director of Finance, or his or her designee, shall, in the exercise of reasonable discretion, select the most appropriate alternative payment arrangement after reviewing the information and documentation provided by the customer and taking into consideration the customer's financial situation and City's payment needs.

A. **Alternative Payment Schedule**: Any customer who is unable to pay for water service within the normal payment period and meets the three conditions under Section II(C), above, as the City shall confirm, may, if the City has selected this alternative, enter into an alternative payment schedule for the unpaid balance in accordance with the following:

1. **Repayment Period**: The customer shall pay the unpaid balance, with the administrative fee and interest as specified in Subdivision (2), below, over a period not to exceed twelve (12) months, as determined by the Director of Finance or his or her designee; provided, however, that the Director of Finance or his or her designee, in their reasonable discretion, may extend the repayment period for longer than twelve (12) months to avoid undue hardship on the customer.
2. **Administrative Fee**: For any approved alternative payment schedule, the customer will be charged an administrative fee, in the amount established by the City from time to time, representing the actual cost of initiating and administering the schedule.
3. **Schedule**: After consulting with the customer and considering the customer's financial limitations, the Director of Finance or his or her designee shall develop an alternative payment schedule to be agreed upon with the customer. That alternative schedule may provide for periodic lump sum payments that do not coincide with the established payment date, may provide for payments to be made more frequently than monthly, or may provide that payments be made monthly, provided that in all cases, subject to Subdivision (1), above, the unpaid balance and administrative fee shall be paid in full within twelve (12) months of establishment of the payment schedule. The agreed upon schedule shall be set forth in writing and be provided to the customer. The agreement will be signed by the customer of record in person at City of Tustin, 300 Centennial Way, Tustin, CA 92780.
4. **Compliance with Plan**: The customer must comply with the agreed upon payment schedule and remain current as charges accrue in each subsequent billing period. The customer may not request a longer payment schedule for any subsequent unpaid charges while paying delinquent charges pursuant to a previously agreed upon schedule. Where the customer fails to comply with the terms of the agreed upon schedule for sixty (60) calendar days or more, or fails

to pay the customer's current billing charges for sixty (60) calendar days or more, the City may discontinue water service to the customer's property at least five (5) business days after posting at the customer's residence a final notice of its intent to discontinue service.

B. **Temporary Deferral of Payment:** Any customer who is unable to pay for water service within the normal payment period and meets the three conditions under Section II(C), above, as the City shall confirm, may, if the City has selected this alternative, have payment of the unpaid balance temporarily deferred for a period of up to six (6) months after the payment is due. The City shall determine, in its discretion, how long of a deferral shall be provided to the customer.

1. **Repayment Period:** The customer shall pay the unpaid balance by the deferral date (the "Deferred Payment Date") determined by the Director of Finance or his or her designee. The Deferral Payment Date shall be within six (6) months from the date the unpaid balance became delinquent; provided, however, that the Director of Finance or his or her designee, in their reasonable discretion, may establish a Deferred Payment Date beyond that six (6) month period to avoid undue hardship on the customer.

2. **Administrative Fee:** For any temporary deferral of payment schedule, the customer will be charged an administrative fee, in the amount established by the City from time to time, representing the actual cost of initiating and administering the schedule.

3. **Compliance with Reduced Payment Date:** The customer must pay the balance due on or before the Deferred Payment Date, and must remain current in paying in full any charges that accrue in each subsequent billing period. If the customer fails to pay the unpaid payment amount within sixty (60) calendar days after the Deferred Payment Date, or fails to pay the customer's current billing charges for sixty (60) calendar days or more, the City may discontinue water service to the customer's property at least five (5) business days after posting at the customer's residence a final notice of its intent to discontinue service.

C. **Temporary Extension of Due Date:** Any customer who is unable to pay for water service within the normal payment period and does NOT meet the three conditions under Section II(C), above, may, if the City has selected this alternative, be offered an extension of the original due date for the unpaid balance in accordance with the following:

1. **Frequency:** A customer shall be limited to one (1) temporary extension of due date in any twelve (12) month rolling period.

2. Repayment Period: The customer shall pay the unpaid balance, with the administrative fee within the agreed upon period determined by the Director of Finance or his or her designee.
3. Administrative Fee: For any temporary extension of due date, the customer will be charged an administrative fee, in the amount established by the City from time to time, representing the actual cost of initiating and administering the extension.
4. Overdue/Door Tag Fees: The customer is responsible for paying all overdue and door tag fees during the agreed upon extension payment schedule.
5. Schedule: After consulting with the customer and considering the customer's financial limitations, the Director of Finance or his or her designee shall develop an extension payment schedule to be agreed upon with the customer. The agreed upon extension shall be set forth in writing and be provided to the customer. The agreement will be signed by the customer of record in person at City of Tustin, 300 Centennial Way, Tustin, CA 92780.
6. Compliance with Plan: The customer must comply with the agreed upon payment schedule and remain current as charges accrue in each subsequent billing period. The customer may not request a longer payment extension period. Where the customer fails to comply with the terms of the agreed upon extension or fails to pay the customer's current service charges for sixty (60) calendar days or more, the City may discontinue water service to the customer's property at least five (5) business days after posting at the customer's residence a final notice of its intent to discontinue service.

IV. Review and Appeals: The procedure to contest and appeal the amount set forth in any bill for residential water service is set forth below. A customer shall be limited to three (3) unsuccessful appeals in any twelve (12) month rolling period and if that limit has been reached, the City is not required to consider any subsequent appeals commenced by or on behalf of that customer.

- A. Review of Contested Bill or Charge: Within ten (10) business days of receipt of a bill for water service, the customer may request a review of any bill or charge if the customer alleges the bill is in error with respect to the quantity of water consumption and/or the calculation of charges set forth on that bill. Such request must be made in writing and be delivered to the Finance Director at 300 Centennial Way, Tustin, CA 92780. Any request for review under this Subsection A must include supporting documentation illustrating the reason for the request and any alleged error. For so long as the City's consideration of the customer's request for a review and any resulting investigation is pending, the City will not discontinue water service to the customer.

- B. Review of Overdue Notice: Any customer who receives an Overdue Notice may request a review of the bill to which the Overdue Notice relates no less than five (5) business days after the date of the Overdue Notice if the customer alleges the bill is in error with respect to the quantity of water consumption and/or the calculation of charges set forth on that bill; provided, however, that no such review rights shall apply to any bill for which a request for review under Subsection A, above, has been made. Any request for review under this Subsection B must be in writing delivered to the Finance Director at 300 Centennial Way, Tustin, CA 92780 and must include supporting documentation illustrating the reason for the request and any alleged error. For so long as the City's consideration of the customer's request for review and any resulting investigation is pending, the City will not discontinue water service to the customer.
- C. Review by Finance Director: A timely request for review under Subsections A or B above shall be reviewed by the Finance Director, or his or her designee, who shall provide a written determination to the customer as to the validity of the bill under review.
1. If water charges are determined to be incorrect, the City will provide a letter describing the corrections, and payment of the revised charges will be due within ten (10) calendar days of the date of this letter for the revised charges. If the revised charges remain unpaid for more than sixty (60) calendar days after the corrected notice is provided, water service will be disconnected on the next regular working day after expiration of that sixty (60) calendar day period; provided that the City shall provide the customer with a disconnection notice five (5) calendar days before the scheduled disconnection of service. Water service will be restored only upon full payment of all outstanding water charges, fees, and any and all applicable reconnection and or deposit charges.
 2. If the water charges in question are determined to be correct, the water charges are due and payable within three (3) business days after the Finance Director's decision is rendered. At the time the Finance Director's decision is rendered, the customer will be advised of the right to appeal to the City Manager, or his or her designee. Any such appeal must be in writing and delivered to the City Manager at 300 Centennial Way, Tustin, CA 92780 within seven (7) calendar days after the Finance Director's decision is rendered if the appeal is from a request for review under Subdivision A above (Contested Bill or Charge), or within three (3) calendar days if the appeal is from a request for review under Subdivision B, above (Overdue Notice). Upon receiving notice of the appeal, the City Manager will set the matter to be heard and mail the customer written notice of the time and place of the hearing at least ten (10) calendar days before the hearing.
 - a. For a request for review under Subdivision A, above (Contested Bill or Charge), if the customer does not timely appeal to the City Manager, the water charges in question shall be immediately due

and payable. In the event the charges are not paid in full within sixty (60) calendar days after the original billing date, then the City shall provide the customer with an Overdue Notice in accordance with Section II(B)(1), above, and may proceed in potentially discontinuing service to the customer's property.

- b. For a request for review under Subdivision B, above (Overdue Notice), if the customer does not timely appeal to the City Manager, then water service to the subject property may be discontinued on written or telephonic notice to the customer to be given at least twenty-four (24) hours after the latter to occur of: (i) expiration of the original sixty (60) calendar day notice period set forth in the Overdue Notice; or (ii) the expiration of the appeal period.
 - c. Any overcharges will be reflected as a credit on the next regular bill to the customer.
3. Water service to any customer shall not be discontinued at any time during which the customer's appeal to the City Manager is pending.
 4. The decision of the City Manager is final and binding.

V. **Restoration of Service:** In order to resume or continue service that has been discontinued due to non-payment, the customer must pay a security deposit per the City's existing Deposit Policy and a Reconnection Fee established by the City, subject to the limitation set forth in Section II(E)(1), above. The City will endeavor to make such reconnection as soon as practical as a convenience to the customer. The City shall make the reconnection no later than the end of the next regular working day following the customer's request and payment of any outstanding charges, deposits, and applicable Reconnection Fee.



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