



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Introduce Ordinance No. 120.49 Amending Title VIII, Chapter 1 of the Milpitas Municipal Code Relating to Discontinuance and Restoration of Water Service and Adopt a Resolution Approving a Policy on Discontinuance of Residential Water Service
Category:	Leadership and Support Services
Meeting Date:	12/3/2019
Staff Contact:	Walter Rossman, 408-586-3111
Recommendations:	<ol style="list-style-type: none"> 1) Following the City Attorney reading aloud the title, move to waive the first reading beyond the title, and introduce Ordinance No. 120.49 amending Title VIII, Chapter 1 of the Milpitas Municipal Code Relating to Discontinuance and Restoration of Water Service. 2) Adopt a Resolution approving a policy on Discontinuance of Residential Water Service.

Background:

In September 2018, Governor Brown approved Senate Bill 998 which regulates the discontinuance of residential water service for urban and community water systems.

SB 998 requires an urban and community water system such as the one operated by the City to have a written policy (“Policy”) on discontinuation of water service to certain types of residences for nonpayment, available in prescribed languages. The bill requires the Policy to include certain components, be available on the system’s Internet Website, and be provided to customers in writing, upon request.

In addition to the Policy the bill has certain other requirements as follows:

- prohibits the City from discontinuing residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days;
- requires the City to contact the customer named on the account by phone or in writing and provide the customer with the City’s policy on discontinuance of residential service for nonpayment no less than 7 business days before discontinuation of residential service;
 - if contacted in writing, the notice has to contain certain information such as the customer’s name and address; the amount of the delinquency; the date by which a payment arrangement is necessary to avoid discontinuation of service; a description of the procedure to petition for bill review and appeal; and a description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent charges;
 - if contacted by phone, the City needs to provide the same information and offer to provide the City’s policy on discontinuance of residential water service;
- provides all notices required under the Act in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, in addition to any other language spoken by ten percent or more people within the City;
- provides for an appeal procedure to contest delinquent bills or other reasons for discontinuance of water service;

- prohibits residential service from being discontinued if the customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment with respect to all delinquent charges for residential customers who:
 - demonstrate household income below 200% of the federal poverty line the City will provide the customer with information on how to restore service and waive interest charges on delinquent bills for and limit the amount of a reconnection of service fee imposed on;
 - provide a certification from a primary care provider that the discontinuation of water service would be life threatening or pose a serious threat to the health and safety of a resident of the premises;
- requires that if the City furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit structure, mobile home park, or permanent residential structure in a labor camp, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, that the City make every good faith effort to inform the residential occupants by written notice that service will be terminated and that the residential occupants have the right to become customers, as specified.

The bill requires that the City report the number of annual discontinuations of residential service for inability to pay on its Internet Web site and to the City Council. The bill requires that the City comply with the bill's provisions by February 1, 2020. Therefore, to comply with SB 998, staff recommends certain changes to Municipal Code Title VIII, Chapter 1, Section 6 titled Water Service Charges and the adoption of a resolution approving a policy on discontinuance of residential water service effective February 1, 2020.

Analysis:

In order for the City to be compliant with SB 998 staff recommends that the City Council approve certain amendments to the Milpitas Municipal Code governing the discontinuance of water service and adopt a policy on discontinuance of residential water service.

Water Service Discontinuation Ordinance Amendments

Currently, the discontinuance of water service for residential and non-residential is guided by Municipal Code Title VIII, Chapter 1, Section 6 titled Water Service Charges. Per the current code, a water bill becomes delinquent if not paid within 15 days of issuance of the bill. After 30 days of an account being delinquent for not paying its bill, the City shall discontinue water service. Prior to discontinuing service for delinquent accounts, a final notice shall be issued to delinquent accounts which includes a penalty fee equal to five percent of the amount due and payment within 15 days of the date of the final notice. If payment has not been received by 5:00 p.m. of the due date of the final notice, an additional late fee equal to five percent of the amount then due shall be imposed, and a twenty-four (24) hour warning notice shall be placed on an exterior door of the building where service is provided and for which payments are delinquent. If the City posts a warning notice, an additional service charge of ten dollars (\$10) shall be imposed on the delinquent account.

The table below summarizes the current process as outlined in the Municipal Code and the current practice for discontinuance of water service for residential and non-residential accounts as well as the recommended changes for residential accounts consistent with State law and non-residential accounts. It is important to note that the current practice is aligned to current State law which prescribes that payment on a bill must be delinquent for at least thirty-four days before the water system may terminate service (Gov. Code § 60373(a); Public Utilities Code § 10010.1(a)).

Therefore, staff recommends certain steps in the process for delinquent accounts which are consistent with State law, operationally feasible, and/or based on billing and collection data. SB 998 prescribes that at minimum 60 days after a utility bill is deemed delinquent, the City can shut off the water service. The City issues bills every Monday for eight weekly billing cycles with a payment due date within 21 days after bill issuance. Therefore, on Tuesdays, three weeks after issuance of a bill, a bill is deemed delinquent if not paid and a Notice is issued. With the minimum 60-day period before water service can be discontinued after a bill is deemed delinquent. Given the City's billing cycles, the 60th day falls on Saturdays. Therefore, the soonest staff can shut off the service is on Mondays. However, customers often get paid on Fridays and pay their overdue bills on Mondays. Therefore, staff recommends that water service for residential customers be discontinued on Tuesdays or 63 days after a bill is delinquent.

Currently, the City issues only one reminder notice, one day after a bill is delinquent. It is important to note that in FY 2018-19, the City issued 8,800 reminder notices to residential and non-residential customers, or 8.7% of bills issued (approximately 101,900 bills were issued last fiscal year). Specifically, for approximately 87,500 bills issued to residential customers, approximately 8,200 reminder notices were mailed or 9.4% of bills issued; for approximately 14,400 bills issued to non-residential customers, approximately 600 reminder notices were mailed or 4.3% of bills issued. It is important to note that throughout a year, certain customers receive more than one reminder notice. With the change in State law, the final notice will be issued 56 days after a bill is delinquent. Given that the City issues a reminder notice for every ten bills issued, staff recommends that an initial notice "Reminder Notice" be issued on the first day a bill is delinquent to encourage prompt payment. For both notices a 5% late charge is recommended to be assessed.

The City has approximately 14,600 residential customers and 2,400 non-residential customers (e.g.: commercial, industrial, governmental customers). The non-residential customers only account for approximately 14% of the customer base. Due to the substantially lower customer base and lower rate of delinquent bills, staff recommends adjusting the process for non-residential customers to the new process for residential customers.

	Process per Code	Current Practice	Recommended Process
Bill deemed delinquent	16th day after issuance	21 days from when the bill is mailed	21 days from when the bill is mailed
City issues Reminder Notice (late fee of 5% assessed)	N/A	N/A	1 day after bill is delinquent
Reminder Notice Due Date	N/A	N/A	22 days after bill is delinquent
City issues Final Notice (additional late fee of 5% assessed)	1 day after bill is delinquent	1 day after bill is delinquent	43 days after bill is delinquent
Final Notice Due Date	15 days from date of Final Notice issued	22 days after bill is delinquent	49 days after bill is delinquent
In Person or Telephonic Notice	N/A	N/A	52 days after bill is delinquent
Warning Notice (a service charge of \$10 assessed)	29 days after bill is delinquent	31 days after bill is delinquent	56 days after bill is delinquent
City discontinues water service	More than 30 days after bill is delinquent	35 days after bill is delinquent	63 days after bill is delinquent

The draft ordinance effective February 1, 2020 includes recommended changes aligning certain deadlines to SB 998 for delinquent residential accounts as outlined in the table above; referencing the policy for discontinuance of residential water service for nonpayment stating that to the extent the policy conflicts with any provisions of this chapter, the policy shall control; separating the process for non-residential delinquent accounts; and limits the reconnection fee for certain households as required by SB 998.

Staff recommends keeping the various charges related to delinquent accounts such as warning notice fee and water service restoration fees; however, removing them from the ordinance and approving them annually through the adoption of the Master Fee Schedule. Therefore, by February 1, 2020, staff will bring forward amendments to the FY 2019-20 Adopted Master Fee Schedule to include these charges.

Discontinuance of Residential Water Service Policy

One of the requirements of SB 998 is the adoption of Discontinuance of Residential Water Service Policy (Policy) by the Council. The recommended Policy (attached) , which is recommended to become effective on

February 1, includes additional provisions concerning billing procedures, discontinuance of service, notification procedures, restoration of service, procedures to contest or appeal a water bill, extensions or other alternative payment arrangements, protections available to qualified low-income customers, procedures for tenants to becoming a customer of the city under specified circumstances, and related matters. Additionally, the Policy directs staff to implement a third-party notification service for seniors and dependent adults regarding delinquent bills.

Implementation of Ordinance Amendments and Policy

During the next two months, staff will implement the ordinance amendments and Policy. Specific work effort items include but are not limited to updating information on utility bills, reminder bills, and tags; research and implement automated reminder phone calls; online publication and translation of the Policy; implement a Third-Party Notification Service for Seniors and Dependent Adults; and training of staff. Additionally, in January, staff will bring forward amendments to the FY 2019-20 Master Fee Schedule to include the Warning Notice Fee and Water Service Restoration Fee.

Policy Alternative:

Alternative: Do not align the water service discontinuance process for non-residential accounts to the recommended 63-day period for residential accounts and return to Council with a shorter process to discontinue water service.

Pros: May result in prompter payment of delinquent non-residential accounts.

Cons: Need to establish a separate process.

Reason not recommended: The current process for discontinuance of water service is not consistent with state law and requires revision. Therefore, stretched staff resources would need to work with the billing system vendor to establish two processes within the next two months.

Fiscal Impact:

It is not possible to predict a fiscal impact at this time given the various recommended changes, however staff will monitor future impact and provide updates to Council through the budget process.

Recommendations:

- 1) Following the City Attorney reading aloud the title, move to waive the first reading beyond the title and introduce Ordinance No. 120.49 amending Title VIII, Chapter 1 of the Milpitas Municipal Code relating to Discontinuance and Restoration of Water Service.
- 2) Adopt a Resolution approving a policy on Discontinuance of Residential Water Service.

Attachments:

1. Draft Ordinance No. 120.49
2. Resolution to adopt Policy
3. Policy on Discontinuance of Residential Water Service