

RESOLUTION NO. 20-04

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN
ESTABLISHING A WRITTEN WATER SHUT-OFF POLICY FOR NON-PAYMENT
OF RESIDENTIAL WATER USERS**

WHEREAS, the State legislature has enacted Senate Bill 998 ("SB 998"), the Water Shut-Off Protection Act; and

WHEREAS, SB 998 is intended to help residential water users who lose access to water service due to their inability to pay; and

WHEREAS, SB 998 requires water purveyors such as the City of Kerman to adopt written procedural protections (hereafter "Shut-Off Policy") before residential water service can be discontinued for non-payment; and

WHEREAS, the City is required to comply with SB 998 by February 1, 2020.

NOW, THEREFORE, the City Council of the City of Kerman resolves as follows:

Section 1. Recitals. All the recitals herein contained are true and correct.

Section 2. The City Council establishes the City of Kerman Water Shut-Off Policy for Non-Payment of Residential Water Users which is attached to this resolution as Exhibit A and incorporated by reference.

Section 3. The City Manager and Finance Director are hereby authorized implement the Policy as required by SB 998 and are further authorized to make technical corrections that may be required by SB 998.

Section 4. Effective Date. This resolution shall take effect upon adoption.

The foregoing resolution was approved by the City Council of the City of Kerman at a regular meeting held on 22nd day of January 2020, and passed at said meeting by the following vote:

AYES: Dhaliwal, Sandoval, Herrera, Armstrong

NOES: None

ABSENT: Yep

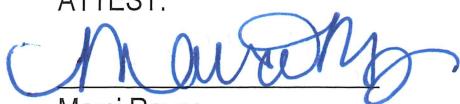
ABSTAIN: None

The foregoing resolution is hereby approved.



Rhonda Armstrong
Mayor

ATTEST:



Marci Reyes
City Clerk

CITY OF KERMAN
WATER SHUT-OFF POLICY FOR NON-PAYMENT
OF RESIDENTIAL WATER SERVICE

This Water Shut-Off Policy for Non-Payment of Residential Water Service shall apply to the City's 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 ordinance, policy, or rule of the City, this Policy shall prevail.

I. Application of Policy; Contact Telephone Number: This policy shall apply only to residential water service for non-payment. This Policy does not apply to other City utilities.

The City's existing policies and procedures shall continue to apply to non-residential water service accounts. The City can be reached at (559) 846-9384 for assistance concerning the payment of water bills and the potential establishment of the alternatives set forth in this Policy to avoid discontinuation of service. It is the customer's responsibility to assure that payments are received at City Hall's Finance Department in a timely manner.

II. Discontinuation of Residential Water Service for Non-Payment:

A. Issuance, Due Date, and Payment of Bills: Bills for water service are sent to each customer at the beginning of each month for water service in the prior month. Payments are due by the last day of the month (the "Due Date") in which payments are mailed. Payment may be made at City Hall's Finance Department located at 850 S. Madera Avenue, Kerman, CA 93630 or on the City's utility payment website at <https://cityofkermanutilities.merchanttransact.com>. Bills will be computed as follows:

1. Meters will be read at regular intervals for the preparation of periodic bills and as required for the preparation of opening bills, closing bills, and special bills.
2. Bills for metered service will show the meter reading for the current and previous meter reading period for which the bill is issued, the number of units, the date of previous and current reading.

B. Delinquent Bills: The following rules apply to customers whose bills remain unpaid for more than sixty (60) days following the Due Date:

1. **Shut-Off Notice for Delinquent Accounts:** If payment for a bill is not made by the Due Date, a notice of overdue/delinquent payment (the "Shut-Off Notice") will be mailed to the water service customer approximately at least seven (7) business days prior to the possible Shut-Off of service date identified in the Shut-Off Notice. If the customer's address is not the address of the property to which the service is provided, the Shut-Off Notice will also be sent to the address of the property served, addressed to "Occupant."

The Shut-Off Notice must contain the following:

- a) Customer's name and 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); and
- e) Description of the procedure to petition for review and appeal of the bill giving rise to the delinquency (see Section IV, below);

The City may alternatively provide notice to the customer of the impending discontinuation of service by telephone. If that notice is provided by telephone, the City shall offer to provide the customer with a copy of this Policy and offer to discuss with the customer the options for 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 not able to contact the customer by written notice (e.g., a mailed notice is returned as undeliverable) or by telephone, 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.
3. Turn-Off Deadline: Payment for water service charges must be received at City Hall's Finance Department not later than 5:00 PM on the date specified in the Shut-Off Notice. Postmarks are not acceptable.
4. Notification of Returned Check: Upon receipt of a returned check rendered as remittance for water service or other water-related charges, the City will consider the account not paid. 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, which due date shall not be sooner than the date specified in the Shut-Off Notice; or if Shut-Off Notice had not been previously provided, no sooner than the sixtieth (60th) 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, debit card or certified funds.
5. Returned Check Tendered as Payment for Water Service Disconnected for Nonpayment:
 - a) If the ACH/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 or after the date on the Shut-Off Notice, whichever date is later. The customer's account may only be reinstated by receipt of outstanding charges in the form of cash, credit card, debit card, 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. In that event, the only form of payment that will be accepted for the one-year period will be cash, credit card, debit card, or certified funds.

C. Conditions Prohibiting Discontinuation: The City shall not discontinue residential water service 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 water system'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; and
3. Alternative Payment Arrangements –The customer is willing to enter into an alternative payment arrangement 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 Finance Director, or his or her designee, shall review that documentation and respond to the customer within three (3) calendar days or to notify the customer that additional information is necessary or to notify customer of the payment option.

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 Shut-Off Notice.

E. Special Rules for Low Income Customers: Customers are deemed to have a household income below 200% of the federal poverty line 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. 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, then any reconnection fees during the City's normal operating hours cannot exceed \$50.00. 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 U.S. Department of Labor Customer Price Index for the West Region.
2. Interest Waiver: The City shall not impose any interest charges on delinquent bills.

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 a good faith effort to inform the residential occupants by written notice when the account is in arrears of the possible Shut-Off of water service at least ten (10) calendar days prior to the Shut-Off if the property is a multi-unit residential structure or mobile home park or seven (7) calendar days prior 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:
 - a. 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.
 - b. 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.
 - c. If prior service for a particular length of time is a condition to establish credit with the City, then residence at the property and proof of prompt payment of rent to the City's satisfaction is a satisfactory equivalent.

- d. 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 alternative payment arrangements to be selected by the City in its discretion. The alternative payment arrangements shall be in accordance with the following:

- A. Repayment Period: The customer shall pay the unpaid balance, with the administrative fee, over a period not to exceed twelve (12) months, as determined by the City's Finance Director or his or her designee.
- B. Administrative Fee: For any approved alternative payment schedule, the customer will be charged an administrative fee, in the amount established by the City by resolution from time to time, representing the cost to the City of initiating and administering the schedule.
- C. Schedule: After consulting with the customer and considering the customer's financial limitations, the City's Finance Director 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 City's established payment date, may provide for payments to be made more frequently than monthly, or may provide that payments be made less frequently than 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.
- D. 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 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 the City posts at the customer's residence a final notice of its intent to discontinue service.

IV. Appeals: The procedure to be used to appeal the amount set forth in any bill for residential water service is as follows:

- A. Initial Appeal: Within ten (10) days of receipt of a bill for water service, the customer has a right to initiate an appeal or review of any bill or charge rendered by the City. Such request must be made in writing and be delivered to City Hall's Finance Department. For so long as the customer's appeal and any resulting investigation is pending, the City cannot discontinue water service to the customer.

B. Shut-Off Notice Appeal: In addition to the appeal rights provided under Subsection A, above, any customer who receives a Shut-Off Notice may request an appeal or review of the bill to which the Shut-Off Notice relates at least five business (5) days after the date of the Shut-Off Notice if the customer alleges the bill is in error with respect to the quantity of water consumption set forth on that bill; provided, however, that no such appeal or review rights shall apply to any bill for which an appeal or request for review under Subsection A, above, has been made. Any appeal or request for review under this Subsection B must be in writing and must include documentation supporting the appeal or the reason for the review. The request for an appeal or review must be delivered to City Hall's Finance Department within that five (5) business day period. For so long as the customer's appeal and any resulting investigation is pending, the City cannot discontinue water service to the customer.

C. Appeal Hearing: Following receipt of a request for an appeal or review under Subsections A or B, above, a hearing date shall be promptly set before the Finance Director, or his or her designee (the "Hearing Officer"). After evaluation of the evidence provided by the customer and the information on file with the City concerning the water charges in question, the Hearing Officer shall issue a decision as to the accuracy of the water charges set forth on the bill and shall provide the appealing customer with a brief written summary of the decision.

1. If water charges are determined to be incorrect, the City will provide a corrected invoice and payment of the revised charges will be due within ten (10) calendar days of the corrected invoice date for revised charges. If the revised charges remain unpaid for more than sixty (60) calendar days after the corrected invoice 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 the Shut-Off Notice in accordance with Section II(B)(2), above and the procedures described above are followed.
2. (a) If the water charges in question are determined to be correct, the water charges are due on the Due Date as defined above or within two (2) business days after the Hearing Officer's decision is rendered whichever is later. At the time the Hearing Officer's decision is rendered, the customer will be advised of the right to further appeal before the City Council. Any such appeal must be filed in writing within seven (7) calendar days after the Hearing Officer's decision is rendered if the appeal or review is an initial appeal under Subdivision A above, or within three (3) calendar days if the appeal or review is a Shut-Off Notice appeal under Subdivision B, above. The appeal hearing will occur at the next regular meeting of the City Council, unless the customer and City agree to a later date.

(b) For an initial appeal under Subdivision A, above, if the customer does not timely appeal to the City's City Council, the water charges in question shall be immediately due and payable on the Due Date. 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 with the Shut-Off Notice in accordance with Section II(B)(2), above, and may proceed in potentially discontinuing service to the customer's property.

(c) For a Shut-Off Notice appeal under Subdivision B, above, if the customer does not timely appeal to the City Council, 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 Shut-Off Notice; or (ii) the expiration of the appeal period.

3. When a hearing before the City Council is requested, such request shall be made in writing and delivered to City Hall's Finance Department. The customer will be required to personally appear before the City Council and present evidence and reasons as to why the water charges on the bill in question are not accurate. The City Council shall evaluate the evidence presented by the customer, as well as the information on file with the City concerning the water charges in question and make a decision as to the accuracy of said charges.
 - a) If the City Council finds the water charges in question are incorrect, the customer will be invoiced for the revised charges. If the revised charges remain unpaid for more than sixty (60) calendar days after the corrected invoice 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 the Shut-Off Notice in accordance with Section II(B)(2), above. Water service will be restored only after outstanding water charges and any and all applicable reconnection charges are paid in full.
 - b) If the water charges in question are determined to be correct, the water charges are due and payable within two (2) business days after the decision of the City Council is rendered.
 - c) Any overcharges will be reflected as a credit on the next regular bill to the customer.
 - d) Water service to any customer shall not be discontinued at any time during which the customer's appeal to the City or its City Council is pending.
 - e) The City Council's decision is final and binding.

V. Restoration of Service: In order to resume or continue service that has been discontinued by the City due to non-payment, the customer must pay a Reconnection Fee established by resolution of the City Council, subject to the limitation set forth in Section II(E)(1), above. The City will endeavor to make such reconnection as soon as practicable 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 applicable Reconnection Fee.

VI. Notice in Other Languages: This policy and notices required under SB 998 shall be made available in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by ten (10) percent or more of the customers in the City's service area.