

RESOLUTION 2019.18

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST VALLEY WATER DISTRICT
ESTABLISHING A POLICY FOR THE DISCONTINUATION
OF RESIDENTIAL WATER SERVICE**

WHEREAS, East Valley Water District (“District”) is a county water district organized and operating pursuant to California Water Code section 30000 et seq.;

WHEREAS, on or about September 28, 2018 the governor of the state of California approved Senate Bill 998 (SB 998) adding chapter 6, commencing with section 116900 of the Health & Safety Code establishing rules governing the discontinuation of residential water service; and

WHEREAS, SB 998 requires urban and community water systems such as the District to adopt a policy setting forth the rules governing the discontinuation of residential water service which policy is to be effective on and after February 1, 2020; and

WHEREAS, District has created a policy which complies with SB 998, which is attached hereto as Exhibit “A”.

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the East Valley Water District that the policy governing disconnection of residential water service attached to this Resolution as Exhibit “A” is hereby approved and shall become the official policy of the District.

This Resolution shall take effect as of the 1st day of February 2020.

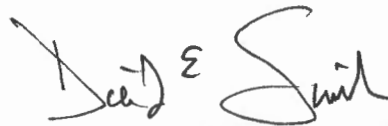
ADOPTED this 11th day of December 2019.

Ayes: Directors: Carrillo, Coats, Goodrich, Morales, Smith

Noes: None

Absent: None

Abstain: None

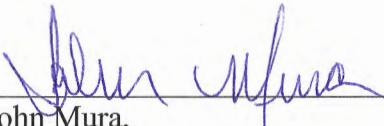


David E. Smith,
Board President

December 11, 2019

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution 2019.18 adopted by the Board of Directors of East Valley Water District at its Regular Meeting held December 11, 2019.

ATTEST:



John Mura,
Secretary, Board of Directors

EXHIBIT A

POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE



**Adopted by the Board of Directors on
December 11, 2019**

Effective February 1, 2020

1. **Application of Policy.** This Policy on Discontinuation of Residential Water Service (this "Policy") shall apply to all District accounts for residential water service, but shall not apply to any accounts for non-residential service. To the extent this Policy conflicts with any other rules, regulations, or policies of the District, this Policy shall control.
2. **Contact Information.** For questions or assistance regarding a water bill, the District's Customer Service staff can be reached at (909) 889-9501. Customers may also visit the District's Customer Service desk in person Monday through Thursday, from 8:00 a.m. to 5:00 p.m., on Fridays from 7:30 a.m. to 4:30 p.m., and the 2nd and 4th Tuesday from 9:00 a.m. to 5: p.m. The District is closed on holidays.
3. **Billing Procedures.** Water service charges are payable to the District once every month, or at such other frequency as determined by the Board of Directors from time to time. All bills for water service are due and payable twenty (20) days after mailing [or e-mailing] by the District. Any bills not paid within such period are considered delinquent.
4. **Discontinuation of Water Service for Nonpayment.** If a bill is delinquent for at least sixty (60) days, the District may discontinue water service to the service address.
 - 4.1 Written Notice to Customer. The District will provide a mailed notice (Past Due Reminder) to the customer of record at least twenty-five (25) days before discontinuation of water service. The notice will contain:
 - (a) the name and address of the customer;
 - (b) the amount of the delinquency;
 - (c) the date by which payment or payment arrangements must be made to avoid discontinuation of service;
 - (d) the procedure by which the customer may initiate a complaint or request an investigation or appeal concerning service or charges;
 - (e) a description of the procedure by which the customer may request an alternative payment arrangement, which may include an extension, amortization, alternative payment schedule, or payment reduction;
 - (f) the procedure for the customer to obtain information on financial assistance, if applicable; and
 - (g) the telephone number where the customer may request a payment arrangement or receive additional information from the District.
 - 4.2 Written Notice to Occupants or Tenants.
 - (a) The District will also send a notice to the occupants living at the service address at least twenty-five (25) days before discontinuation of water service under the following circumstances:
 - (i) the District furnishes individually metered service to a single-family dwelling, multi-unit residential structure, or mobile home park, and the owner, manager, or operator is the customer of record; or

- (ii) the customer of record's mailing address is not the same as the service address. The notice will be addressed to "Occupant," will contain the information required in Section 4.1 above, and will inform the residential occupants that they have the right to become customers of the District without being required to pay the amount due on the delinquent account. Terms and conditions for occupants to become customers of the District are provided in Section 8 below.
- (b) If the District furnishes water to residences through a master meter, the District will make a good faith effort, at least ten (10) days prior to termination, to notify the residential occupants that the account is in arrears and the service will be terminated on a date specified in the notice. The District will provide notice by either:
 - (i) mailing the notice to each residential unit;
 - (ii) posting the notice on the door of each residential unit,
 - (iii) if providing notice to each unit is impracticable or infeasible, posting two (2) copies of the notice in each accessible common area and at each point of access to the structure or structures; or
 - (iv) making some other good faith, reasonable effort to provide written notice to the occupants. The notice will be addressed to "Occupant," will contain the information required in Section 4.1 above, and will inform the residential occupants that they have the right to become customers of the District without being required to pay the amount due on the delinquent account. Terms and conditions for occupants to become customers of the District are provided in Section 8 below.

4.3 In-Person or Telephonic Notice. The District will also make a reasonable, good faith effort to contact the customer of record or an adult person living at the premises of the customer in person or by telephone:

- (a) At least fifteen (15) days before discontinuation of service. The District will notify the customer of record by telephonic notice, that service is subject to disconnection and will offer to provide in writing, a copy of this Policy and discuss options to avert discontinuation of water service for nonpayment, including the possibility of an extension or other payment arrangement.
- (b) At least ten (10) days before discontinuation of service, the District will notify the residential occupants in writing (Final Notice) that the account is in arrears and the service will be terminated on a date specified in the notice.

4.4 Posting of Notice at Service Address. If the District is unable to make contact with the customer or an adult person living at the service address in person or by telephone, the District will make a good faith effort to leave a notice of imminent discontinuation of residential service and a copy of this Policy in a conspicuous place at the service address. The notice and copy of this Policy will be left at the residence at least forty-eight (48) hours before discontinuation of service. The notice shall include:

- (a) the name and address of the customer;
- (b) the amount of the delinquency;
- (c) the date by which payment be made to avoid discontinuation of service;
- (d) the telephone number where the customer/occupant may request a copy of this policy or receive additional information from the District.

4.5 Circumstances Under Which Service Will Not Be Discontinued. The District will not discontinue residential water service for nonpayment under the following circumstances:

- (a) During an investigation by the District of a customer dispute or complaint under Section 5.1 below;
- (b) During the pendency of an appeal to the Board of Directors under Section 5.3 below; or
- (c) During the period of time in which a customer's payment is subject to a District-approved extension, amortization, alternative payment schedule, or reduction under Section 6 below, and the customer remains in compliance with the approved payment arrangement.

4.6 Special Medical and Financial Circumstances Under Which Services Will Not Be Discontinued.

- (a) The District will not discontinue water service if all of the following conditions are met:
 - (i) Any listed customer of record, submits to the District the certification of a licensed primary care provider that discontinuation of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided;
 - (ii) The customer demonstrates that he or she is financially unable to pay for residential service within the District's normal billing cycle. The customer 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
 - (2) the customer declares under penalty of perjury that the household's annual income is less than 200 percent of the federal poverty level; and
 - (iii) The customer is willing to enter into an alternative payment arrangement, including an extension, amortization, or payment reduction with respect to the delinquent charges.

- (b) For any customers who meet all of the above conditions, the District shall offer the customer one of the following options, to be selected by the District in its discretion:
 - (i) an extension of the payment period;
 - (ii) amortization of the unpaid balance; or
 - (iii) a reduced payment.

The District's General Manager will select the most appropriate payment arrangement, taking into consideration the information and documentation provided by the customer, as well as the District's payment needs.

- (c) The customer is responsible for demonstrating that the conditions in subsection (a) have been met. Upon receipt of documentation from the customer, the District will review the documentation within seven (7) days and:
 - (i) notify the customer of the alternative payment arrangement selected by the District and request the customer's signed assent to participate in that alternative arrangement;
 - (ii) request additional information from the customer; or
 - (iii) notify the customer that he or she does not meet the conditions in subsection (a).
- (d) The District will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service if:
 - (i) The customer fails to comply with an amortization agreement, or a deferral or reduction in payment plan for delinquent charges for sixty (60) days or more.
 - (ii) While undertaking an amortization agreement, or a deferral or reduction in payment plan for delinquent charges, the customer of record does not pay his or her current residential service charges for sixty (60) days or more.

The final notice will not entitle the customer to any investigation or review by the District.

4.7 Time of Discontinuation of Service. The District will not discontinue water service due to nonpayment on a Saturday, Sunday, legal holiday, or at any time during which the District's office is not open to the public.

4.8 Restoration of Service. Customers whose water service has been discontinued may contact the District by telephone or in person regarding restoration of service. Restoration shall be subject to payment of:

- (a) any past-due amounts, including applicable interest or penalties;

- (b) any reconnection fees, subject to the limitations in Section 7.1, if applicable; and
- (c) a security deposit, if required by the District.

5. Procedures to Contest or Appeal a Bill.

- 5.1 Time to Initiate Complaint or Request an Investigation. A customer may initiate a complaint or request an investigation regarding the amount of a bill within five (5) days of receiving a disputed bill. For purposes of this Section 5.1 only, a bill shall be deemed received by a customer five (5) days after mailing [and immediately upon emailing].
- 5.2 Review by District. A timely complaint or request for investigation shall be reviewed by the Chief Financial Officer of the District, who shall provide a written determination to the customer. The review will include consideration of whether the customer may receive an extension, amortization, alternative payment schedule, or payment reduction under Section 6. The District may, in its discretion, review untimely complaints or requests for investigation; however, such complaints or requests are not subject to appeal.
- 5.3 Appeal to Board of Directors. Any customer whose timely complaint or request for an investigation pursuant to this Section 5 has resulted in an adverse determination by the District may appeal the determination to the Board of Directors by filing a written notice of appeal with the District Clerk within ten (10) business days of the District's mailing of its determination. Upon receiving the notice of appeal, the District Clerk will set the matter to be heard at an upcoming Board meeting 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 Board shall be final.

6. Extensions and Other Alternative Payment Arrangements.

- 6.1 Time to Request an Extension or Other Alternative Payment Arrangement. If a customer is unable to pay a bill during the normal payment period, the customer may request an extension or other alternative payment arrangement described in this Section 6. If a customer submits his or her request within thirteen (13) days after mailing of a written notice, mentioned in section 4.1, of discontinuation of service by the District, the request will be reviewed by a manager of the District. District decisions regarding extensions and other alternative payment arrangements are final and are not subject to appeal to the District's Board of Directors.
- 6.2 Extension. If approved by the District, a customer's payment of his or her unpaid balance may be temporarily extended for a period not to exceed fifty (50) days after the balance was originally due. The customer shall pay the full unpaid balance by the date set by the District and must remain current on all water service charges accruing during any subsequent billing periods. Not to exceed three (3) extensions per calendar year.
- 6.3 Amortization. If approved by the District, a customer's payment of his or her unpaid balance may be amortized over a period not to exceed twelve (12)

months, as determined by the District's Chief Financial Officer in his or her discretion. If amortization is approved, the unpaid balance will be divided by the number of months in the amortization period, and that amount will be added to the customer's monthly bills for water service until fully paid. During the amortization period, the customer must remain current on all water service charges accruing during any subsequent billing periods. The amortization schedule and amounts due will be set forth in writing and provided to the customer. Limited to one (1) arrangement every twelve (12) months.

6.4 Payment Reduction. If approved by the District, a customer may receive a reduction of the unpaid balance owed for an amount not to exceed the total of delinquent charges outstanding. The amount of any such reduction shall not be funded from charges or fees paid by other customers. The District's Chief Financial Officer shall determine, in his or her discretion, whether to grant a reduced payment, and the amount of such reduction, based on:

- (a) the availability of District funds to fund the reduction at a given time;
- (b) the customer's demonstrated financial need; and
- (c) the customer's prior payment history or prior payment reductions. The amount of the reduced payment and the due date for the reduced payment will be set forth in writing and provided to the customer.

6.5 Failure to Comply. If a customer has been granted a payment arrangement under this Section 6 and fails to:

- (a) pay the unpaid charges by the extension date;
- (b) pay an amount due under an amortization schedule; or
- (c) pay a reduced payment amount by its due date, then the District may terminate water service.

The District will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the District.

7. Programs for the Benefit of Low-Income Customers.

7.1 Reconnection Fee Limits and Waiver of Interest. For residential customers who demonstrate to the District a household income below 200 percent of the federal poverty line, the District will:

- (a) Limit any reconnection fees during normal operating hours to fifty dollars (\$50), and during non-operational hours to one hundred fifty dollars (\$150). The limits will only apply if the District's reconnection fees actually exceed these amounts. These limits are subject to an annual adjustment for changes in the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI-U) beginning January 1, 2021.

(b) Waive penalty charges on delinquent bills once every 12 months. The District will apply the waiver to any penalty charges that are unpaid at the time of the customer's request.

7.2 Qualifications. The District will deem a residential customer to have a household income below 200 percent 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 200 percent of the federal poverty level.

8. Procedures for Occupants or Tenants to Become Customers of Record on District Utility Accounts.

8.1 Applicability. This Section 8 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.

8.2 Agreement to District Terms and Conditions of Service. The District will make service available to the actual residential occupants if each occupant agrees to the terms and conditions of service and meets the requirements of the District's rules and regulations. Notwithstanding, if one or more of the occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the District, or if there is a physical means, legally available to the District, of selectively discontinuing service to those occupants who have not met the requirements of the District's rules and regulations, the District shall designate as additional customer of record, and make service available to, the occupants who have met those requirements.

8.3 Verification of Tenancy. To be eligible to become an additional customer of record, without paying the amount due on the delinquent account, the occupant shall verify 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 signed by the landlord, manager, or agent, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code, at the discretion of the District.

8.4 Methods of Establishing Credit. If prior service for a period of time is a condition for establishing credit with the District for deposit waiver, residence and proof of prompt payment of rent or other credit obligation acceptable to the District for that period of time is a satisfactory equivalent.

8.5 Deductions from Rental Payment. Pursuant to Government Code Section 60371(d), any occupant who becomes a customer of the District pursuant to this Section 8 and whose periodic payments, such as rental payments, include charges for residential water service, where those charges are not separately

stated, may deduct from the periodic payment each payment period all reasonable charges paid to the District for those services during the preceding payment period.

9. **Annual Reporting Requirement.** The District shall report the number of annual discontinuations of residential service for inability to pay on the District's Internet website, and to the State Water Resources Control Board.
10. **Language for Certain Written Notices.** All written notices under Section 4 and Section 6.6 of this Policy shall be provided in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by ten percent (10%) or more people within the District's service area.
11. **Other Remedies.** In addition to discontinuation of water service, the District 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. In the event a legal action is decided in favor of the District, the District shall be entitled to the payment of all costs and expenses, including attorneys' fees and accumulated interest.
12. **Discontinuation of Water Service for Other Customer Violations.** The District reserves the right to discontinue water service for any violations of District ordinances, rules, or regulations other than nonpayment.
13. **Fees and Charges Incurred.** Except as otherwise expressly stated in this Policy, any fees and charges incurred by a customer under any other rules, regulations, or policies of the District, including, but not limited to, delinquent charges, shall be due and payable as set forth therein.
14. **Decisions by District Staff.** Any decision which may be taken by the District's General Manager/CEO or Chief Financial Officer under this Policy may be taken by his or her designee.