

Estero Municipal Improvement District Collection and Discontinuation of Residential Water Service Policy

BACKGROUND:

Title 8 of the Estero Municipal Improvement District (“EMID” or “District”) Code governs the provision of water and sewer service to customers of the District. Chapter 8.44 of the Code details the administrative billing procedures for water service and potential discontinuation of service for non-payment of bills.

Effective February 1, 2020 and pursuant to the Water Shutoff Protection Act (Senate Bill 998, 2018), the California Health and Safety Code requires that the District enact a policy that governs the discontinuation of residential water service for non-payment and include in that policy certain provisions related to appeals and exemptions. This policy shall govern the District’s collection procedures related to residential water service billings in conformance with Chapter 8.44 of the EMID Code and ensure compliance with the California Health and Safety Code.

APPLICABILITY:

This policy governs the procedures associated with collections for delinquent residential water service accounts and discontinuation of residential water service for non-payment. This policy does not apply to collections or discontinuation of service to non-residential customers and does not apply to discontinuation of residential water service due to unauthorized actions by the customer.

PROCEDURES:

Delinquent Accounts:

Bills for residential water service are payable upon presentation. Pursuant to EMID Code 8.44.060, each bill shall contain substantially the following statement:

*Subject to penalties and discontinuance of service if not paid on, or before,
thirty days after date of mailing.*

Delinquent accounts are those that carry an unpaid balance (and which have not made payment arrangements or established an alternative payment schedule) by the close of business 30 days after mailing of the bill. The following applies to delinquent accounts:

1. Small balance accounts: Any unpaid account balance of \$20 or less may be carried over, and added to, the next billing period without being assessed a late fee or incurring further collection action.
2. Late fee penalties: Unpaid balances from individual bills on the close of business on the thirtieth (30th) day after the bill was mailed shall be assessed

a basic late fee penalty of ten percent (10%) of the balance of the unpaid bill. An additional penalty of one-half of one percent (0.5%) shall accrue each calendar month that the balance remains unpaid, in addition to basic late fee penalty for any new unpaid bills. When a customer makes a payment that covers part, but not all of the unpaid balance, the payment shall be first applied to the overdue balance and any excess funds shall be applied to the current month's bill.

Notwithstanding the foregoing, if any resident of the household served 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 if the household's annual income is less than 200 percent of the federal poverty level, the District shall waive late fee penalties incurred on a single bill once every twelve (12) months.

3. Liens: Pursuant to EMID Code 8.44.020, in addition to the assessment of late fee penalties, in the discretion of its Manager, EMID may file a lien in the amount of the unpaid balance against the real property serviced by the account, and such lien shall continue until the charges and penalties are fully paid.
4. Requests to defer payments/alternative payment arrangements: Customers who are unable to pay for water service within a normal payment period may request a deferral of payment or an alternative payment arrangement to avoid late fee penalties and/or disruptions of service. Unless the customer has been granted a deferred payment, or an alternative payment arrangement within the prior twelve (12) calendar months, the Customer is eligible to request in writing, and the District shall grant, either of the following:
 - a. Deferral of payment on up to two (2) consecutive regular bills for up to two (2) months. Upon determination by the District that the customer is eligible to defer payment(s), the District shall send the customer a notice that the request has been granted, which notice shall include the month or two consecutive months of payments which shall be deferred and the date on or before which the deferred payment shall be made. The deadline for payment of the deferred payment shall be the deadline for payment on first regular bill that is sent to the customer following the deferral period. The customer may not request to defer a payment on a bill which has already been assessed a late fee penalty. Should the customer fail to make the deferred payment timely, the deferred amount shall be assessed the basic late fee penalty and shall be subject to additional late fee penalties pursuant to Paragraph 2 of this Policy.
 - b. An alternative payment schedule that amortizes the customer's unpaid balance over a period defined by the customer, but not to exceed twelve (12) months from when all or a portion of the unpaid balance became overdue.

The customer must amortize the full unpaid balance under the alternative payment schedule, and the amortized payments must be combined with, and shall be subject to the due dates of, the customer's regular bills. Upon determination by the District that the customer is eligible to request the alternative payment schedule, the District shall send the customer notice that the request has been granted and indicate the amortization period and the amortized payment amounts on the notice. During the amortization period, the unpaid balance will not accrue additional late fee penalties. Regular charges for service will accrue and must be paid timely during the amortization period, and failure to pay regular charges timely will result in the forfeiture of the alternative payment schedule and the full unpaid balance will become immediately due and subject to additional late fee penalties and potential disconnection of service.

Customers wishing to discuss either of these payment options to avoid penalties and/or discontinuation of service may call the District during normal business hours at (650) 286-3260.

5. Disconnection from Service for Non-Payment: The District will not discontinue water service for non-payment until payment has been delinquent for sixty (60) days. The District shall adhere to the following procedure for disconnection for non-payment:
 - a. First Notice to Customer-Occupied Dwellings: No less than seven (7) business days prior to the disconnection of service, the District shall send written notice to a customer whose billing address is the same as the address serviced under the account. The notice will include the following:
 - i. Customer's name and address
 - ii. Amount that is past due
 - iii. Date by which payment or alternative payment arrangements must be made to avoid discontinuation of service
 - iv. Description of the process to apply for alternative payment arrangements
 - v. Description of the process to dispute or appeal a bill
 - vi. District phone number and statement about where the customer can access this policy

If a notice is returned through the mail as undeliverable, the District will make a reasonable, good faith effort to visit the residence and leave a copy of the notice in a conspicuous place where it is likely to be seen by the occupant.

An occupant of a residence receiving notice under this Paragraph 5a may demonstrate that the delinquent account customer is the landlord, manager, or agent of the dwelling by providing a copy of the lease or rental agreement, rent receipts, a government document showing the occupant is renting the

property, information disclosed pursuant to Section 1962 of the California Civil Code, or by other means to the satisfaction of the District. If the occupant makes such a showing, and he or she becomes a customer of the District for prospective water service, the occupant shall not be required to pay the delinquent account balance and shall not be subject to penalties or disconnection of service for the delinquent balance. The District may seek to recover the delinquent balance from the delinquent customer of record by any legal means available.

- b. First Notice to Non-Owner Tenants and Multi-Unit Dwellings: If the customer's address and the property address are different, copies of the notice described in Paragraph 5a, above, will be sent no less than ten (10) business days prior to the disconnection of service to both the customer and to the property addressed to "Occupant." If the customer is a multi-unit complex served through a master meter, the District shall make a reasonable, good faith effort to send copies of the notice to the customer and to each unit or dwelling addressed to "Occupant" no less than ten (10) business day prior to the disconnection of service.

In addition to the list of items to be contained in the notice under Paragraph 5a, a notice sent under this Paragraph shall also inform the residential occupants that they have the right to become customers of the District, who will then be billed prospectively for water service, but will not be required to pay the unpaid balance due on the existing account. The District shall not disconnect water service to the residential occupants if any of the following applies:

- i. The occupant of every unit/dwelling served by the existing customer's account agree to and do become customers of the District;
 - ii. One or more occupants of the units/dwellings served by the existing account demonstrate the ability to assume responsibility for subsequent charges to the account to the satisfaction of the District; or
 - ii. There is a reasonable physical means by which the District can legally selectively cut-off service to individual units/dwellings, in which case the District shall provide service to those units/dwellings that agree to become customers and adhere to the District's requirements to initiate and maintain service.
- c. Good Faith Final Notice: Two (2) business days before the scheduled disconnection of water service, the District shall make a reasonable, good faith effort to contact the customer by telephone at the number associated with the account. If the customer does not answer and a voice message option is available, the District representative making the call shall leave a message that includes the date of the scheduled disconnection and a telephone number at which the customer may call the District to discuss payment options.

- d. **Payment Deadline:** All delinquent water service charges and associated fees must be received by the District by 5:00 P.M. on the day specified in the written disconnection notice to avoid disconnection.
- e. **Disconnection:** The day following the Payment Deadline, the District will disconnect water service by turning off, and in some cases locking, the meter serving the property associated with the delinquent account. On the day of the discontinuation of service, the District shall leave in a conspicuous place at the property and mail to the customer's address for billing information about how to restore service.
- f. **Re-establishment of Service:** To resume service that has been disconnected for non-payment, the customer must pay a re-establishment fee in addition to the unpaid balance. The District will endeavor to reconnect service as soon as practicable, but no later than the end of the business day following the day that full payment of the unpaid balance and re-establishment fee is made by the customer. Service which the customer requests to be restored after 5:00 P.M. Monday through Friday or anytime on weekends or holidays will require the customer to pay for the estimated cost of staff time associated with the off-hours work prior to the re-establishment.

For any household that includes a resident who 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 if the household's annual income is less than 200 percent of the federal poverty level, the re-establishment fee shall not exceed fifty dollars (\$50.00) and off-hours re-establishment costs payable by the customer shall not exceed one-hundred-fifty dollars (\$150.00).

- 6. **Exceptions to Disconnection from Service:** The District shall not discontinue residential water service for non-payment if:
 - a. The customer or customer's tenant residing at the subject property submits to the District a certification by a primary care provider, as defined in California Welfare and Institutions Code Section 14088(b)(1)(A), which indicates that discontinuation of residential service would be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises. Upon presentation of the certificate, notwithstanding the normal eligibility requirements for an alternative payment schedule, the District shall offer the customer, in writing, an alternative payment schedule pursuant to Paragraph 4b of this policy. If the customer declines or does not respond to this offer within seven (7) business days, the District may proceed with or continue a previously initiated disconnection procedure.

- b. The customer demonstrates that he or she is financially unable to pay for residential service within the normal billing cycle. The customer shall be deemed financially unable to pay if any resident 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 if the household's annual income is less than 200 percent of the federal poverty level. Upon such demonstration, notwithstanding the normal eligibility requirements for an alternative payment schedule, the District shall offer the customer, in writing, an alternative payment schedule pursuant to Paragraph 4b of this policy. If the customer declines or does not respond to this offer within seven (7) business days, the District may proceed with or continue a previously initiated disconnection procedure.
 - c. The District has granted the customer a deferral of payment or alternative payment schedule and the customer is current on the payments required under that deferral or alternative payment plan.
7. Returned Checks: In the event the customer tenders a check that is returned as non-payable for any reason, the District shall notify the customer of the returned check in writing as soon as practicable. If the customer does not make proper payment by the regular payment deadline(s), the existing balance on the account shall accrue penalties and subject the account to discontinuation of service as if no attempt at payment is made.

In the event a customer tenders a non-payable check as payment to restore disconnected service, the District may immediately disconnect service without prior notice. The customer shall be required to pay in cash, by credit card, or by cashier's check or money order to restore the service disconnection and any subsequent disconnections that occur within the next twelve (12) months.

8. Default on Deferred Payments/Alternative Payment Schedules: Failure to make timely payments required under a deferred payment plan or an alternative payment schedule, or regular service charge incurred while a customer is on a deferred payment plan or alternative payment schedule, shall constitute a default of the deferral plan or alternative payment schedule. If the customer remains in default for sixty (60) days or more, the District shall post notice of the default and the date upon which service shall be disconnected in a conspicuous place at the property. The date of the disconnection of service shall be no less than five (5) business days of the date of posting. Notwithstanding the regular disconnection procedure, the District shall not be required to provide any additional notice to the customer who is in default under this section prior to the disconnection.

Billing Disputes and Appeals:

If a customer or adult at the residence served by the account disputes the accuracy of a bill, he or she may submit an appeal to the City/District Manager no more than ten (10) days after payment on the bill is due. The written appeal must indicate the cause for and include all information relevant to the appeal. The City/District Manager shall review the written appeal and provide the applicant a written determination with description any changes made to the appealed bill.

The District shall not discontinue water service while there is an appeal pending under this Section or pending before any administrative or legal body to which a lawful appeal may be made.

Notices:

All notices required under this policy shall be provided in English and all languages listed in Section 1632 of the California Civil Code.

Unauthorized Service:

Water service that is turned on by any person other than District personnel or without District authorization may be subject to fines and/or additional charges and fees. Any damage that occurs as a result of the unauthorized service or tampering with a water meter is the responsibility of the customer.

Annual Reports:

The District shall annually report to the State Water Resources Control Board the number of discontinuations of residential water service the District performed between February 1 and January 31 the prior year. This report shall also be posted on the District's webpage.

Publication of this Policy:

This Policy shall be available to the public in English and all languages listed in Section 1632 of the California Civil Code. The policy shall be made available in writing upon request and on the City of Foster City's website dedicated to water service information and forms.

Administrative Procedures: Collection and Discontinuation of Water Service, effective February 1, 2020