

OTAY WATER DISTRICT  
**BOARD OF DIRECTORS POLICY**

Subject	Policy Number	Date Adopted	Date Revised
DISCONTINUATION OF WATER SERVICE FOR DELINQUENT ACCOUNTS	54	1/1/2020	

I. PURPOSE

This Discontinuation of Water Service for Delinquent Accounts Policy (Policy) has been established to adhere to the laws regarding discontinuation of water service for residential customers due to non-payment of their water bill as required by Government Code § 60370 et seq. and Health & Safety Code § 116900 et seq. (California Senate Bill No. 998).

II. BACKGROUND

California Senate Bill No. 998 requires an urban or community water system, that supplies water to more than 200 service connections, to have a written policy that provides for discontinuation of residential water service for nonpayment. In the event that a water bill becomes delinquent, the District will apply this Policy for the collection of delinquent accounts, including notifications, fee assignments, and discontinuation of service. The District can be contacted by phone at (619)670-2222 to discuss options for avoiding discontinuation of water service for nonpayment under the terms of this policy.

III. POLICY

ISSUANCE, DUE DATE, AND FINAL PAYMENT DATE OF STATEMENT OF CHARGES FOR SERVICE

- A. Issuance of Statements. Statements for water service or other charges will be mailed or presented as soon as practicable after the water meter has been read and the applicable charges have been determined.
- B. Due Date. Each statement issued by the District for such charges shall be due and payable on the date of mailing or other presentation to the customer.
- C. Final Payment Date. All charges in each statement must be paid on or before the final payment date shown on the statement, which shall be at least 20 calendar days following the date of mailing or presentation of the statement.
- D. Payment of Charges.
  - 1. Place of Payment. Payments shall not be credited to a customer's account until cash, check, credit card, draft, electronic funds transfer, money order, or any other

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acceptable form of payment that will be honored by a bank, has been received by the District at the District business office during regular office hours. Deposit of payment in the mail or at a location other than the District business office shall not be credited to a customer's account until it is received at the business office.

2. Returned Check Charges. A returned payment charge (see Appendix A, 34.01 D.2. for charge) shall be added to a customer's account in each instance where payment has been made to the District with a check, draft, credit card, or any other acceptable form of payment that has not been honored upon presentment to the bank upon which it is drawn.

DELINQUENT ACCOUNTS

- A. For Non-Payment of Charges. If full payment of a statement for a water service account is not received at the District business office on or before the final payment date, the account shall become delinquent on the day following the final payment date.
- B. Late Payment Charge. A late payment charge (see Appendix A, policy 54 for charge) shall be added to a delinquent account as of the date the account becomes delinquent, and such charge(s) shall become an inseparable part of the amount due as of that time. A late payment charge shall not be added to any account that has no outstanding delinquencies.
- C. Notice of Delinquency. A Delinquency Notice shall be mailed to each customer whose account is delinquent. The Delinquency Notice shall notify the customer that service will be turned off and discontinued unless payment is made. The Delinquency Notice shall indicate the amount due, including late payment charges, and that the total amount must be paid within thirty (30) calendar days from the date of mailing or presentation of the Delinquency Notice to the customer, or service will be discontinued.
- D. Record of Delinquent Accounts. The District maintains records of delinquent accounts. Each year one delinquency shall be removed from the record of each account that has one or more delinquencies.
- E. Partial Payment on Delinquent Account. A partial payment on a delinquent account may be accepted and credited to a customer's account. However, the partial payment shall not cause removal of the account from a delinquent status and

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furthermore, the partial payment shall not preclude the meter from being turned off for delinquency.

F. Financial Arrangements for Delinquent Accounts.

1. Continuation of Service. The General Manager, Chief Financial Officer, or any person delegated by the General Manager, may authorize continuation of service for a delinquent account if financial arrangements, satisfactory to the District, have been established.

2. Requirement of Deposit Due to Repeated Delinquencies. If payments on a customer account have become delinquent five or more times, or if a meter has been turned off three or more times for non-payment of charges, the General Manager, Chief Financial Officer, or any person delegated by the General Manager, shall be authorized to require the customer to make a deposit with the District in cash, or any other form satisfactory to the General Manager. The deposit amount shall be established at the discretion of the General Manager and the Chief Financial Officer but shall not exceed two times the highest monthly bill during the twelve (12) months preceding the date of demand for a deposit.

a. Handling of Deposit. A deposit for a delinquent account shall not earn interest and shall only be applied to reduce or satisfy amounts due the District in the event of termination of service. A deposit does not constitute payment for service bills and the customer shall be required to comply with bill payment requirements to continue receiving service.

b. Refund of Deposit. A deposit required under this Section shall be refunded to the customer as provided in Section 25.04.A.

G. Liens against Property for Delinquent Charges

Upon written notice to the property owner, a lien against the property may be secured for unpaid bills. One or both of the following lien procedures may apply:

1. Judgement Lien. In case any charges for water or other services remain unpaid, the amount of the unpaid charges may in the discretion of the District be secured at any time by filing for recording in the office of the county recorder, a certificate specifying the amount of such charges and the

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name and address of the person liable therefor. The lien acquired thereby shall attach to all property within the County that is owned or thereafter acquired by the person with the delinquent account. Such lien shall have the force, priority, and effect of a judgment lien, and shall continue for 10 years from the filing date, unless released or discharged sooner. The lien may be extended, within 10 years from the filing of the certificate or within 10 years from the date of the last extension of the lien, by filing a new certificate in the office of the county recorder. A lien processing fee will be applied to any account against which a lien is filed (see Appendix A, policy 54 for charge).

2. Tax Lien. Any unpaid charges or fees that are at least 60 days past due on July 1, may become part of the annual taxes levied upon the property upon which service is provided. In addition, if the charges remain unpaid by July 1, the outstanding charges, plus a delinquent tax roll fee (see Appendix A, policy 54 for the charge) will be added to the "secure tax roll" of the County of San Diego for collection.

These lien procedures shall be in addition to any termination of service procedures.

H. Termination and Reinstatement of Water Service for Delinquent Accounts

1. Termination of Service. If payment is not made in accordance with a Delinquency Notice, and the account remains unpaid for at least 60 days, residential service may be discontinued. The water meter or meters for said delinquent account may be turned off and locked.

- a. The District shall contact the customer(s) named on the account by telephone or written notice no less than seven (7) business days before discontinuation of termination service.
- b. The District shall make a reasonable, good faith effort to contact an adult person residing at the premises identified on the account by telephone or in person, at least 48 hours prior to any termination of service. A delinquency tag fee will be charged (see Appendix A, policy 54 for charge) to the bill for a contact made in person.

2. Procedures for Occupants or Tenants to Become Customers of the District

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- a. Scope. This section only applies when a 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.
  - b. Where an owner or manager is listed by the District as the customer of record of the service, the District shall, in good faith, make every effort to inform the actual users of the services when the account is in arrears by means of a Notice of Termination of Service that service will be terminated in ten days.
  - c. 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, the District will make service available to the occupants who have met those requirements.
  - d. Verification of Tenancy. In order for the amount due on the delinquent account to be waived, an occupant who becomes a customer will 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, 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.
3. Residential water service shall not be terminated for non-payment in any of the following situations:
- a. During an investigation by the District of a customer dispute or complaint. Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill or who has, within 13

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days of the mailing of the notice that the customer's service will be terminated for non-payment, or made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for a review by the General Manager, Chief Financial Officer, or any person designated by the General Manager. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be affected for any customer who complies with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

Any customer, whose complaint or request for an investigation has resulted in an adverse determination by the District, may appeal the determination to the Board.

- b. When a customer has been granted an extension of the period for payment of a bill.
- c. In addition, the District will not terminate water service if all the following conditions are met:

- 1. The customer, or a tenant of the customer, submits certification from a primary care provider, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of water service would be life threatening or pose a serious threat to the health and safety of a resident of the premises; and

- a. The customer is financially unable to pay within a normal billing cycle. This can be shown by either:

Demonstrating that someone in the household is a recipient of one of the following programs:

- CalWorks
- CalFresh

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- General assistance
- Medi-Cal
- Supplemental Security Income/State Supplementary Payment Program
- California Special Supplemental Nutrition Program for Women, Infants, and Children
- Or declaring under penalty of perjury that household income is less than 200% of the federal poverty level; and

b. The customer is willing to enter into an alternative payment arrangement, including an extension, amortization, or alternative payment schedule with respect to the delinquent charges.

c. For customers who meet conditions a. and b. above, the District will offer one of the following options, to be selected by the District in its discretion: (i) an extension for payment, (ii) amortization of the outstanding balance or (iii) an alternative payment schedule.

d. Termination of service.

1. If the customer fails to comply with an amortization agreement, alternative payment schedule, payment extension for 60 days or more, or if the customer does not pay his or her current residential service charges for at least 60 days, residential service may be discontinued no sooner than five (5) business days after the District posts a final notice of intent to disconnect services in a prominent and conspicuous location at the property. A delinquency tag fee will be charged (see Appendix A, policy 54 for charge) to the bill for a contact made in person.

2. Termination of service shall not occur on any Friday, Saturday, Sunday, legal holiday, or

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at any time during which the business offices of the District are not open to the public.

4. Reinstatement of Service. Reinstatement of service will occur during normal business hours of Monday through Friday 8:00am and 5:00pm. Water service terminated for delinquency may not be reinstated until all amounts due and payable, including late payment charges and lock charges, have been paid at the District business office, or unless credit arrangements satisfactory to the District have been made. Accounts that have payments received at the District office after 4:30pm may not have service restored until the next business day.

5. Meter Lock Charge. A lock charge will be assessed to any account that has been terminated for non-payment. The charge to terminate service is set forth in Appendix A, 34.02 C.

References

- A. California Water Code div. 1, ch. 1, § 106.3
- B. California Health & Safety Code, div. 104, part 2, ch. 6, § 116900 et seq. (SB 998 [2018])
- C. California Government Code, tit. 6, div. 1, § 60370 et seq.
- D. California Civil Code div. 3, part 2, title 2, § 1632