



REPORT TO CITY COUNCIL

Approved by:

A handwritten signature in blue ink that reads 'Arnaldo Rodriguez'. The signature is written in a cursive style and is positioned above a horizontal line.

Arnaldo Rodriguez, City Manager

Council Meeting of: February 19, 2020

Agenda Number: B-8

SUBJECT:

Waive Full Reading and Consider Adoption of an Ordinance of the City of Madera, California amending Title VIII: Finance, Revenue, and Taxation, Chapter 7: Municipal Code, Sections 8-7.09, 8-7.10, and 8-7.14 of the Madera Municipal Code Relating to Discontinuation of Service, Delinquent Accounts, and Noticing Prior to Termination of Water Service.

RECOMMENDATION:

Waive full reading and adopt Ordinance of the City of Madera, California amending Title VIII: Finance, Revenue, and Taxation, Chapter 7: Municipal Code, Sections 8-7.09, 8-7.10, and 8-7.14 of the Madera Municipal Code Relating to Discontinuation of Service, Delinquent Accounts, and Noticing Prior to Termination of Water Service.

SUMMARY:

The State Senate enacted SB 998 (Dodd) titled the Water Shut Off Protection Act. The bill, signed into law September 28, 2018 (Health and Safety Code, Part 12 of Division 104), adds Chapter 6 Discontinuation of Residential Water Service. It is effective February 1, 2020. The law requires all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water services, provide that policy in multiple languages, and prohibit an urban and community water system from discontinuing residential service for nonpayment until delinquent for at least 60 days.

DISCUSSION:

SB 998 provides rules and procedures for urban and community water system to follow before they shut off residential water service. Residential water service includes service to a residential connection to a single-family, multi-family, and mobile homes including those in mobile home parks and farmworker housing.

The City is an urban supplier, so it must comply with SB 998 by February 1, 2020. Per SB 998, the City will need to extend the number days before it shuts off service to at least 60 days. The City will need to make sure its notice to customers includes information required by SB 998.

The City currently has a policy regarding Delinquent Services; however, it must be amended to comply with the strict application of SB 998. Worth noting is that this agenda item addresses changes to residential policy and procedures only. It does not address changes to the commercial policy.

The Delinquent Service Policy for Residential customers has been updated and contains:

- Payment options, including a plan for deferred or reduced payments and alternative payment schedule; and
- A method to avoid discontinuation, including an appeal and a telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment.

The City's policy must be available on the website.

The written notifications that service will be discontinued has been updated to be compliant with SB 998, and includes customer name/address, amount of delinquency, date by which payment or arrangement is required in order to avoid discontinuation of residential service, description of the process to apply for extension of time to pay the delinquent charges, description of the procedure to appeal the bill and description of procedure by which a customer may request an alternative payment schedule.

The City's proposed changes to the ordinance amends City of Madera's Ordinance, Title VIII: Finance, Revenue and Taxation, Chapter 7: Municipal Utilities to be in compliance with SB 998.

FINANCIAL IMPACT:

Failure to implement SB 998 by February 1, 2020 could result in the state water board assessing civil penalties not to exceed \$1,000 per day to each day that a violation continues to occur.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The ordinance amendment will further apply to core vision statements of the Vision Plan of "A Safe, Health Environment" by extending the number of days before termination of water services.

ALTERNATIVES:

Not to comply with (SB) Senate Bill 998 and leave the ordinance and policy as it currently exists.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. 20-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA
AMENDING TITLE VIII: FINANCE, REVENUE, AND TAXATION, CHAPTER 7:
MUNICIPAL UTILITIES, SECTIONS 8-7.09, 8-7.10, AND 8-7.14 OF THE MADERA
MUNICIPAL CODE RELATING TO DISCONTINUATION OF SERVICE, DELINQUENT
ACCOUNTS, AND NOTICING PRIOR TO TERMINATION OF WATER SERVICE**

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 8-7.09 of the Madera Municipal Code is amended to read as follows:

§ 8-7.09 DISCONTINUANCE OF SERVICE FOR NON-PAYMENT.

(A) Residential utility accounts remaining unpaid for at least sixty (60) calendar days after the due date shall be subject to disconnection from water utility services in the manner prescribed in the City Utility Services Policy and consistent with applicable sections of the California Public Utilities Code.

(B) Commercial utility accounts remaining unpaid after the due date shall be subject to disconnection from water utility services in the manner prescribed in the City Utility Services Policy and consistent with applicable sections of the California Public Utilities Code.

(C) Where more than one residence is billed under one multi-unit account, including but not limited to apartment units, mobile home parks, etc., accounts remaining unpaid for at least sixty (60) days after the due date shall be subject to disconnection from water utility services in the manner prescribed in the City Utility Services Policy and consistent with applicable sections of the California Public Utilities Code.

(D) In order to restore service to an account with discontinued service, payment in the form of check will not be accepted. Cash, debit, credit, or money order will be accepted.

SECTION 2. Section 8-7.10 of the Madera Municipal Code is amended to read as follows:

§ 8-7.10 DELINQUENT ACCOUNTS.

(A) In the event that a utility bill is not paid on or before the delinquent date, the following additional charges shall be added to each delinquent billing:

(1) The amount determined by resolution or, in the absence of such resolution, 10% of the delinquent balance of all utility charges.

(2) In addition, the delinquent balance, including additional charges, shall be charged interest at the rate of 1 1/2% per month.

(B) If water service had been discontinued for failure to pay a utility bill as set forth in § 8-7.09 of this chapter, the entire amount of the utility bill including all applicable penalties, interest, and deposit shall be paid before water service is restored, unless an amortization agreement for payment of the delinquent balance consistent with the Public Utilities Code and the City Policy under California Water Shut Off Act (SB 992: Health and Safety Code Sections 116900 to 116926) is arranged with the Finance Director or his or her designee. The City Policy is established by City Council Resolution as "City of Madera Utility Service Policy for Residential and Multi-Family Customers").

(C) A charge as determined by resolution of the Council shall be charged on all returned checks, plus any service charges assessed by the Bank. Accounts shall be subject to the following payment restrictions.

(1) Checks will not be accepted as payment when service has been interrupted because of a returned check.

(2) If account holder has two checks returned to the city from the issuing bank within a six- month period, no checks will be accepted as payment on that account for the six months following the last returned check.

(D) In addition to any other fees or charges provided in this section, any customer requesting a utility service, including but not limited to application for water service, service turn-on, or shut-off, on any Saturday, Sunday, legal holiday, or before the hour of 8:00 a.m. or after the hour of 5:00 p.m. of any day, shall pay an additional charge as determined by resolution of the Council for after hours or weekend or holiday service.

(E) Accounts shall be subject to collection of any delinquent fees and charges in the following manner:

(1) At the time the fees become delinquent and until such time as they are fully paid, the delinquent account balance, including late charges, shall constitute an unrecorded lien against the property and, as such, may be identified during a title search. In addition, commercial businesses' delinquent account balances, including late charges, may be considered an unrecorded lien against the business and/or owner of the business except that all procedures under the City of Madera Utility Service Policy for Residential and Multi-Family Residential Customers shall be followed first.

(2) Once a year, the Council shall cause to be prepared a report of current delinquent fees, including late charges, for that year. The Council shall fix a time, date and place for hearing the report and receiving any objections or protests thereto.

(3) The Council shall cause notice of the hearing to be mailed to the landowners listed on the report not less than 15 calendar days prior to the date set for hearing.

(4) At the hearing, the Council shall hear any objections or protests of landowners liable to be assessed for delinquent fees including late charges and administrative fees. The Council may then make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be affirmed.

(5) The delinquent fees set forth in the report as confirmed shall constitute a lien against the respective parcels of land and are a lien on the property for the amount of such delinquent fees, including interest and late charges. A certified copy of the resolution affirming the assessments shall be filed with the County Recorder and the County Auditor-Controller/Tax Collector for the amounts of the respective assessments against the respective parcels as they appear on the current assessment roll. The lien created attaches upon filing. The assessments shall be collected at the same time and in the same manner as other property taxes and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessments. However, if during the first year for which the charges are prescribed, the property served by the city has been transferred or conveyed to a bona fide purchaser for value, and attached thereon, prior to the date on which the first installment of county taxes would become delinquent, the charge shall not result in a lien against the real property, but shall become transferred to the unsecured roll for collection.

(6) In addition to, or alternatively to, imposing a lien, the city may file an action for the collection of any amounts due and unpaid. In any such action, the delinquent balances may also be processed through a collection agency.

(7) If the account of a commercial customer who is not the property owner remains delinquent for over 90 days, a billing will be rendered to the property owner so as to provide notice of the delinquency and lien on the property, as mandated in subsection (1) of this section, such that payment of the account can occur prior to applying subsections (2), (3), (4), (5), and (6) of this section. The charges for utility service referred to herein shall constitute a lien against the lot or parcel of land against which the charge was imposed if such charge remains delinquent for a period of 90 days. In the event that utility services are provided to property occupied by a non-owner/tenant, and payment for such service had been guaranteed by the property owner, the Director of Finance is authorized and directed to notify such owner of any delinquencies hereunder upon their occurrence.

(8) The city shall have the right to require that commercial property owners guarantee tenant accounts that are delinquent or have a history of delinquency.

(9) The provisions of this section shall be applicable, in addition to the fees and charges arising from service provided under Chapters 5-3, 5-4, and 5-5 of this municipal code.

SECTION 3. Section 8-7.14 of the Madera Municipal Code shall be amended to read as follows:

§ 8-7.14 NOTICING PRIOR TO TERMINATION OF SERVICE.

(A) Delinquent residential accounts and properties without an active account.

(1) Ten calendar days before an account becomes delinquent, a notice is to be forwarded to the account holder by mail, to the service address. The notice will indicate that a penalty will be applied and the water will be shut off if the past due balance is not paid in full by the required payment date as established in the City of Madera Municipal Code. The notice is applicable to those accounts that are at least sixty (60) days past due and are not already under a payment agreement. The notice will include (a) a customer's name and address, (b) amount past due, (c) date by which payment or payment arrangements are required to avoid termination of service, (d) description of the process to apply for payment arrangements, (e) description of the process to dispute or appeal a bill, and (f) City Finance Department's telephone number and a web link to the City Finance Utility Billing Department's written delinquent account policy.

(2) Ten calendar days prior to termination of service, a notice that water services will be discontinued is mailed to the customer. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed to the service address and addressed to "Occupant." If unable to reach customer by telephone or the mailed notice has been returned undeliverable, the City will make every effort to hand deliver or post a notice in a conspicuous place regarding the shut off process. (3) City staff will proceed to shut off procedure if the account holder has made no response to the ten-day or 48-hour notices.

(B) Delinquent commercial accounts and properties without an active account.

(1) Ten calendar days prior to termination of service, a termination notice is to be forwarded to the account holder either by mail or posted in a conspicuous place at the service address. That notice will typically be provided on the customer's utility bill and will relate to the balance from the prior utility bill that has become delinquent. The notice will indicate that a penalty will be applied and the water will be shut off if the past due balance is not paid in full by the required payment date, as established in the City of Madera Municipal Code § 8-7.08(D). The ten-day notice is for those accounts that have not paid their balance from the prior utility bill and are not already under a special payment agreement. If the notice is mailed, the ten-day period will begin five days after the date of mailing the notice. If the notice is physically posted at the service address, the ten-day period will begin on the day of posting.

(2) Seven calendar days prior to termination of service, a 48-hour shut off notice will be forwarded to the customer by mail. The 48-hour period will begin five days after the mailing of the notice. At least 48 hours prior to termination of service city staff will make a reasonable attempt to contact an adult person residing at the premises by phone. In certain instances, this notice may be hand delivered or posted in a conspicuous place to expedite the shut off process once city staff has made a reasonable attempt to contact an adult at the premises by phone.

(3) Proceed to shut off procedure if the commercial account holder has not made an attempt to contact the office or if the account has not been brought to a current status.

(C) Delinquent multifamily accounts and properties without an active account.

(1) Ten calendar days before an account becomes delinquent, a notice is to be forwarded to the account holder by mail to the service address. The notice will indicate that a penalty will be applied and the water will be shut off if the past due balance is not paid in full by the required payment date as established in the City of Madera Municipal Code. The notice is applicable to those accounts that are at least sixty (60) calendar days past due and are not already under a payment agreement. The notice will include (a) a customer's name and address, (b) amount past due, (c) date by which payment or payment arrangements are required to avoid termination of service, (d) description of the process to apply for payment arrangements, (e) description of the process to dispute or appeal a bill, and (f) City Finance Department's telephone number and a web link to the City Finance Utility Billing Department's written delinquent account policy.

(2) Ten calendar days prior to termination of service, a notice that water service will be discontinued is mailed to the customer. If the mailing address and the address of the property to which water is provided are different, a second notice will be mailed to the service address and marked "Occupant." If unable to reach customer by telephone or the mailed notification has been returned undeliverable, the City will make every effort to hand deliver or post a notice in a conspicuous place regarding the shut off process.

(3) The notice will advise tenant/occupant that they have the right to become customers of the City without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at the address(es) served by master meters. Tenants must have the opportunity to transfer the account into their name.

(4) Proceed to the shut off procedure if all monies, including penalty and interest have not been paid within the required time frame.

(D) Breached special payment agreements.

(1) At least 48 hours prior to termination of service, city staff will make a reasonable attempt to contact the account holder by phone. If a phone call is unable to be completed, then a 48-hour notice will be posted at the service address.

(2) Service will be shut off if the account holder has made no response to the 48-hour notice.

SECTION 4. SEVERANCE. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance

SECTION 5. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 6. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.