

BORREGO WATER DISTRICT
POLICY STATEMENT

SUBJECT: Discontinuation of Water Service for Nonpayment
NO: 2020-01-01
ADOPTED: January 28, 2020

PURPOSE

On September 28, 2018, the State of California passed Senate Bill 998, the Water Shutoff Protection Act, which changes the requirements and procedures relative to the discontinuation of residential water service for non-payment beginning February 1, 2020.

SB 998 requires the Water District to have a written policy on the discontinuation of residential water service for non-payment. This policy must be available on the District's website and the policy must be available in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by at least 10% of the people residing in the District.

In the event that a water bill becomes delinquent, the District will apply the following Discontinuation of Water Service for Nonpayment Policy (Policy). Discontinuation of water service for nonpayment is considered the final phase of the collection procedure and will be instituted only after sufficient notification, and when all other reasonable alternatives have been exhausted.

Except as specifically stated herein, this Policy applies to all District water service users.

POLICY

All District users pay a monthly bill which will become delinquent on the business day following the due date. All bills for water service are due and payable upon date of presentation and will become past due and delinquent if not paid within 20 days of mailing.

A late fee set from time to time by the Board and published in the Schedule of Rates will be added to the next bill for any account not paid by that time.

Water service may be discontinued if the current water bill or alternative payment arrangement is delinquent for at least 60 days.

The General Manager is authorized to enforce collection of a delinquent bill and to lien the property to protect the interest of the District per Water Code 36726 and 36825 and Admin Code 6.13, C9.

For questions or assistance regarding a water bill, or to discuss options to avoid discontinuation of service, Customer Service staff can be reached at (760) 767-5806.

First Notice – 30 Days After Bill Date

The past due amount and fee is displayed on the next bill under the Bill Summary.

Delinquent Letter Notice of Past Due – 60 Days After Bill Date

After 60 days from the bill date, a Notice of Past Due / termination notice is mailed to the mailing address designated on the account. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed or posted to the service address and addressed to "Occupant."

The District assumes no responsibility for contact information that has not been kept up-to-date by the customer.

Payment must be made by the date stated in the notice to avoid discontinuation

Telephonic Notice – 60 to 70 Days After Bill Date

The District will make a reasonable, good faith effort to contact the customer of record or an adult person living with the customer by telephone at least seven (7) business days before discontinuation of service. If unable to make contact via telephone, the District shall make a good faith effort to visit the residence and leave notice of discontinuation.

Termination of Service – Red Tag – 70 days After Bill Date

If there is no response within 10 days of mailing the Notice of Past Due, the District will post a final notice of intent to discontinue service, "Red Tag" and a copy of this Policy, in a prominent and conspicuous location at the property, or if there is not a structure, sent by registered mail to the billing address and the account will be charged a fee determined by the Board from time to time. The District may discontinue service if payment is not received within 10 calendar days from the posting of the Red Tag.

If service is billed to a tenant, the property owner will be notified if service is discontinued for non-payment.

Tenants /Occupants in an Individually Metered Residence

In the event of a property owner becoming delinquent in paying on a water account occupied by a separate residential tenant occupant on a subject account, the District will provide written notice "Red Tag" to tenant occupants at least 10 days prior to termination.

The District will advise the tenant/occupant that they have the right to become customers, to whom the service will then be billed, without the requirement to pay any amount which may be due on the delinquent account upon verification 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 the occupant is renting the property. In the event of a tenant becoming a customer, all past due amounts including penalties and other charges incurred while the account was under the landlord will remain due and payable by the landlord or record until the entire debt amount has been collected.

Tenants /Occupants in a Multi-Unit Complex Served Through a Master Meter

The District will make a reasonable good faith effort to inform the occupants, by means of written notice, "Red Tag", hung on the door of each residence, when the account is in arrears and subject to discontinuation at least 10 days before the water service is shut off. If providing notice to each unit is impracticable or infeasible, the District will post copies of the notice in each accessible common area and at each point of access to the structure or structures, or will make some other

good faith, reasonable effort to provide written notice to the occupants. The District will advise the tenant/occupant that they have the right to become customers of the District, to whom the service will then be billed, without being required to pay any amount which may be 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 the master meter. If one or more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the District, or if there is physical means, legally available to the District of selectively terminating service to those occupants who have not met the requirements for service, the District will make service available to the occupants who have met those requirements.

To be eligible to become a customer without paying the amount due on the delinquent account, the District will require the occupant who becomes the customer to 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 the occupant is renting the property.

Conditions to Avoid Discontinuation of Service

The District shall not terminate residential service for nonpayment of a water bill if **ALL** of the following conditions are met:

1. **Medical:** The customer, or tenant of the customer, submits to the District the certification of a primary care provider, as defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of residential 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.
2. **Financial:** The customer demonstrates that he or she is financially unable to pay for residential service within the district's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the District if any member of the customer's household is a current recipient of an assistance program (CalWORKs, CalFresh, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children), or the customer declares that the household's annual income is less than 200 percent of the federal poverty level.
3. **Repayment Program:** The customer is willing to enter into a payment arrangement with respect to the past-due charges.

Customers meeting above requirements may provide the District with appropriate documentation to demonstrate specified medical and economic hardship and enter into a payment arrangement. The Customer will be required to demonstrate eligibility for medical and financial hardship on an annual basis.

The District will offer the customer one of the following payment arrangements:

- Amortization of the unpaid balance
- Participation in an alternative payment schedule
- A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers

- Temporary deferral of payment

The District has the right to choose which of the payment arrangements the customer undertakes and may set the parameters of the payment arrangement. If a customer who has been granted a payment arrangement fails, for 60 days or more, to comply with the payment arrangement or to pay current charges for water service while the payment arrangement is in place, the District may discontinue water service. The District will post a final notice of intent to discontinue 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.

Waiver of Late Fee

At the request of the customer, the District will waive the late fee if there are extenuating circumstances and the customer has been assessed a late fee for delinquent payment no more than once in the proceeding twelve months.

Alternative Payment Arrangements

Any customer who is unable to pay for water service within the normal payment period may request an alternative payment arrangement within 13 days after mailing of the Notice of Past Due which will be reviewed by the General Manager of the District who will consider whether the customer shall be permitted to amortize the unpaid balance over a reasonable period of time not to exceed 12 months for the original date of the bill.

The district shall not discontinue water service for non-payment if a customer has requested and entered into an alternative payment arrangement. Payment arrangements that extend into the next billing period are considered an amortization plan, which must be in writing and signed by the customer. A down payment of 20 percent of the customer's outstanding balance will be due at the time of signing. The amortized payments will be combined with, and subject to the due date of, the customer's regular bill. The customer must comply with the terms of the amortization plan and remain current as charges accrue in each subsequent billing period. The customer may not request further amortization of any subsequent unpaid charges while paying delinquent charges pursuant to an amortization plan. District decisions regarding extensions and other alternative payment arrangements are final and are not subject to appeal to the District's Board of Directors.

The District may discontinue water service if a customer who has entered into a payment arrangement either: (1) fails to comply with the payment arrangement for 60 days or more; or (2) fails to pay his or her current residential service charges for 60 days or more. The District will post a final notice of intent to discontinue 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.

Reconnection of Water Service

Customers whose water service has been discontinued may contact the District by telephone or in person regarding restoration of service. If water service has been discontinued due to the failure to pay an overdue bill, a reconnection fee of the amount specified in the Schedule of Rates and Fees will be required in addition to any past-due charges or other penalties. These fees and charges must be paid prior to reconnection.

Reconnection of Water Service for Qualified Low-Income Customers

For a customer who demonstrates to the District their household income is below 200 percent the federal poverty line, the District shall set the reconnection of service fee for reconnection during normal business hours at \$50, but not to exceed the actual cost of reconnection if it is less. For reconnection of service during nonoperational hours, the District fee will be \$150, but not to exceed the actual cost of reconnection if it is less. These reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index.

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 that the household's annual income is less than 200 percent of the federal poverty level.

Habitual Failure to Pay on Time

Any account that is delinquent for two (2) consecutive months or four (4) months within a 12 month period will be required to post a deposit equal to two (2) months average bill for that account but not less than \$100 in order to continue or re-establish service.

Dispute and Appeal of Bills

A customer may dispute the amount of a water bill within five (5) days of receiving the bill by contacting the District by telephone or in writing. A timely dispute will be reviewed by a manager of the District, who shall provide a written determination to the customer. The review will include consideration of whether the customer may receive an alternative payment arrangement as described in this Policy. The District may review untimely disputes, but such disputes are not subject to appeal.

If a customer disagrees with the District's written determination, the customer may request that the Board consider their appeal. The appeal must be filed in writing within 10 days of mailing of the District's determination and must state the basis for the request. It will be set for hearing when staff has had time to prepare a response. The District will mail the customer written notice of the time and place of the Board meeting at least 10 days before the meeting. While the matter is being considered, the customer must keep the bill current to avoid penalties. Any correction of the bill will result in a refund of any over-payment. The decision of the Board is final.

The District will not discontinue residential water service for nonpayment while timely dispute or appeal is pending.

Reporting

The District shall report the number of annual discontinuations of residential service for the inability to pay on the District's website and to the Board.

Discontinuation of Service for Reasons Other Than Nonpayment

The District reserves the right to discontinue water service for violations of District ordinances, rules, or regulations other than nonpayment.

