

RESOLUTION NO. 73258

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ESTABLISHING RULES AND REGULATIONS FOR OPERATION OF THE MUNICIPAL WATER SYSTEM AND ESTABLISHING RATES FOR WATER SERVICE, AND REPEALING RESOLUTION NO. 65821**

**WHEREAS**, on May 2, 2006, Council approved a series of actions related to implementation of the Consolidated Utility Billing System (C-UBS), including new dates and late charges for Municipal Water system bills; and

**WHEREAS**, the C-UBS is designed to enhance the City's effort to implement standardized and streamlined utility billing, collection and account management processes for Recycle Plus and Municipal Water System customers; and

**WHEREAS**, the current rules and regulations applicable to water service provided by the Municipal Water System were adopted in 1995 by San José City Council Resolution No. 65821, and need to be revised in order to implement C-UBS for Municipal Water System customers;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

**SECTION 1.** The following rules and regulations are hereby adopted with respect to water service provided by the San José Municipal water System:

## **RULES AND REGULATIONS**

### **PART 1. SERVICE AREAS**

**Section 1** **Applicability.** These rules and regulations and rate schedule shall be applicable to water service provided by the Municipal Water System through service connections to premises within the service areas of the Municipal Water System as said service areas are defined in Part 2 of Chapter 15.08 of the San José Municipal Code.

### **PART 2. DEFINITIONS**

**Section 2.1** **Definitions.** Unless the context otherwise requires, the definitions contained in Part 1 of Chapter 15.08 of Title 15 of the San José Municipal Code, commencing with Section 15.08.010, and the following words and phrases having the following meanings, shall govern the construction of this resolution:

**Section 2.2** **Rules.** Means the provisions of this resolution and any amendments thereto, and the provisions of Chapter 15.08 of the San José Municipal Code and any amendments thereto.

**Section 2.3** **Domestic Service.** Means provision of water for household purposes, including water used on the premises for sprinkling lawns, gardens and shrubbery; washing vehicles; and other similar and customary purposes pertaining to single or multiple family dwellings.

### **PART 3. APPLICATION FOR SERVICE**

**Section 3.1** **Application for Service.** Each applicant for water service may be required to sign, on a form provided by the City, an application which sets forth:

- a. Date and place of application;
- b. Location and description of premises to be served;

- c. Date applicant will be ready for service;
- d. Whether the premises have been heretofore supplied with water by the City;
- e. Purpose for which service is to be used;
- f. Address to which bills are to be mailed or delivered;
- g. Whether applicant is owner or tenant of, or agent for the premises; and
- h. Such other information as the City may reasonably require.

The application is merely a request for service and does not bind the applicant to take service for a period of time longer than that upon which the flat rate charge, minimum charge, or readiness-to-service charge of the applicable rate schedule is based; neither does it bind the City to serve.

Section 3.2 Individual Liability for Joint Services. Two or more parties who join in one application for service shall be jointly and severally liable for payment of bills and shall be billed by means of single periodic bills.

Section 3.3 Service to Multiple Units on Same Premises. The applicant(s) for service to separate buildings or living or business quarters on the same or adjoining premises which are served through a single service connection shall be jointly and severally liable for all charges for such service.

Section 3.4 Change in Customer's Equipment or Operations. A customer making any material change in the size, character or extent of the equipment or operations for which the service connection is utilized shall immediately give the City written notice of the extent and nature of the change.

#### **PART 4. ESTABLISHMENT OF CREDIT**

Section 4 Establishment of Credit.

A. An applicant who previously has been a customer of the Municipal Water System and during the last 12 months of that prior service has had service discontinued

for nonpayment of bills will be required to pay any unpaid balance due the City for the prior service before establishing new service.

B. A customer whose service has been discontinued for nonpayment of bills will be required to pay any unpaid balance due the City for the premises for which service is to be restored.

## **PART 5. NOTICE**

### **Section 5.1 Notice to Customer.**

A. Notice to customer will normally be in writing and will be delivered or mailed to the customer's last known address.

B. In emergencies or when circumstances warrant, the City, where feasible, will endeavor to promptly notify the customer affected and may make notification orally, either in person or by telephone. Written confirmation of the notice shall be made as soon thereafter as practical.

C. Notice of any substantial change in service, such as pending discontinuation or sustained outage of service shall also be given to all tenants of a customer who may be affected by the change in service.

**Section 5.2 Notice from Customers.** A customer may make notification regarding water service in person or by letter to the Deputy Director, Environmental Services Department, Municipal Water System, Tuers Road, San José, California 95121, or, or in person or by telephone to the City's Customer Contact Center, 200 E. Santa Clara Street, San José, California 95113, (408)535-3500.

## **PART 6. RENDERING AND PAYMENT OF BILLS**

**Section 6.1 Rendering of Bills.** Bills for service will be rendered each customer on a monthly or bimonthly basis, unless otherwise provided in the rate schedules.

A. Metered Service.

- (1) Meters will be read at regular intervals for the preparation of periodic bills and as required for the preparation of opening bills, closing bills and special bills.
- (2) The opening and closing bills for readiness to serve charge will be prorated for the service.
- (3) It may not always be practicable to read meters at intervals which will result in billing periods of equal number of days.
  - (a) Should a monthly billing period contain less than 27 days or more than 35 days, a prorated correction in the readiness to serve charge in the amount of the bill will be made.
  - (b) Should a bimonthly billing period contain less than 55 or more than 65 days, a prorated correction in the readiness to serve charge in the amount of the bill will be made.
  - (c) For billing periods other than monthly or bimonthly, adjustments will be made to the readiness to serve charge proportionate to that for a monthly billing period.
- (4) Bills for metered service will show the beginning and ending meter read for the period for which the bill is rendered, the number and kinds of units used, and date of the current meter reading.
- (5) Each meter on a customer's premises will be considered separately and the readings of two or more meters will not be combined except where combination of meter readings is specifically provided for in the applicable rate schedule, or where operating convenience of the Municipal Water System or necessity may require the use of more than one meter or a battery of meters. In the latter case, the monthly minimum or readiness-to-serve charge will be prorated from the monthly minimum or readiness-to-serve charges of the applicable rate schedule upon the basis of a meter size equivalent in diameter to the total combined discharge areas of such meters.
- (6) Bills may be rendered based on estimated meter read where it is not practicable to read the meter, e.g. where the meter is inaccessible. In

the case of a billing based on an estimated meter read, the billing will be corrected to reflect the actual meter read in the next billing cycle during which an actual meter read is available.

B. Flat Rate Service.

- (1) Bills for flat rate service are payable in advance.
- (2) The opening bill for flat rate service will be the established monthly charge for the service.
- (3) For billing periods other than monthly, the charge for flat rate service will be computed by multiplying the monthly charge by the number of months in the billing period.

Section 6.2 Payment of Bills. Bills for service are due and payable upon presentation; payments shall be made to the City of San José. Collection of closing bills may be made at the time of presentation.

Section 6.3 Bill for Service. On each bill for service will be printed substantially the following language:

“This bill is due and payable upon presentation. If full payment is not received within 25 days (residential bills)/45 days (all other bills) after the billing date, the customer will be assessed a late charge in the amount of \$5.00 or 5% of the bill, whichever is greater. If not paid within 25 days (residential bills)/45 days (all other bills) from date of billing, service may be discontinued. A late fee and a reconnection charge will be required to re-establish service. Should the amount of this bill be questioned, customer may deposit with the City of San José the amount of the bill to avoid discontinuance of service, attaching the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Director of Finance will review the basis of the billed amount and disburse the deposit in accordance with his/her findings.”

Section 6.4 Collection of Receipts. The Finance Department shall collect all receipts

**PART 7. DISPUTED BILLS**

Section 7.1 Correctness of Bill. Should the amount of the bill for service be questioned, an explanation should be promptly requested from the Director of Finance.

Section 7.2 Notice of Deposit to Avoid Discontinuance. If the bill is not paid within 25 days (residential bills)/45 days (all other bills) from date of billing, the customer will be notified in writing substantially as follows:

A. To avoid discontinuance of service, in lieu of paying the bill in question, the customer may deposit with the City of San José, the amount of the bill plus the late charge applicable thereto.

B. The remittance for this purpose shall be made payable to the "City of San José" and shall be accompanied with the bill in question and a statement setting forth the basis for the dispute of the amount of the bill.

C. Upon receipt of the deposit, the bill and the customer's statement of the dispute, the Director of Finance will review the basis for the billed amount and disburse the deposit in accordance with his/her findings.

D. Service will not be discontinued for which any such deposit has been made pending the outcome of the review by the Director of Finance.

E. If additional bills become due which the customer wishes to dispute before the completion of such review by the Director of Finance, the customer shall likewise deposit with the City of San José the additional amounts claimed to be due for such additional bills.

Section 7.3 Failure to Make Deposit. Failure of the customer to deposit the amount of any bill in question within five (5) days after the date upon which the notice herein is given by the Director of Environmental Services will warrant discontinuance of service without further notice.

**PART 8. DISCONTINUANCE AND RESTORATION OF SERVICE**

**Section 8.1 Customer's Request for Discontinuance of Service.**

A. A customer may have service discontinued by giving not less than one (1) regular City working day advance notice thereof to the Director of Environmental Services/Municipal Water Division. Charges for service may be required to be paid up to the requested date of discontinuance or such later date as will provide not less than the required regular City working day advance notice.

B. When such notice is not given, the customer will be required to pay for service as long as the service is in their name.

**Section 8.2 Discontinuance of Service by the City.**

A. **For Nonpayment of Bills.** A customer's service may be discontinued for nonpayment of a bill for service furnished if the bill is not paid within 25 days (residential bills)/45 days (all other bills) from date of billing, provided the Director of Finance has given the customer at least five (5) days prior written notice of such intention. Prior written notice will be considered to have been given when the bill for service presented contains substantially the language set forth in Section 7.3 of Part 7.

B. **For Noncompliance with Rules.** The City may discontinue service to any customer for violation of Rules after it has given the customer at least five days written notice of such intention. Where safety of water supply is endangered, services may be discontinued immediately without notice.

C. **For Waste Water.** Where negligent or wasteful use of water exists on a customer's premises, seriously affecting the general service, the City may discontinue the service if such practices are not remedied within five days after the City has given the customer written notice to such effect.

In order to protect itself against serious and unnecessary waste or misuse of water, the City may meter any flat rate service and apply the regularly established meter rates where the customer continues to misuse or waste water beyond five days after the utility has given the customer written notice to remedy such practices.

D. For Unsafe Apparatus or Where Service is Detrimental or Damaging to the Municipal Water System or Its Customers. If an unsafe or hazardous condition is found to exist on the customer's premises, or if the use of water thereon by apparatus, appliances, equipment or otherwise is found to be detrimental to damaging to the Municipal Water System or its customers, the service may be discontinued without notice. The City will notify the customer immediately of the reasons for the discontinuance of services and the corrective action to be taken by the customer before service can be restored.

E. For Fraudulent Use of Service. When the City has discovered that a customer has obtained service by fraudulent means, or has diverted the water service for unauthorized use, the service to that customer may be discontinued without notice. The City will not restore service to such customer until that customer has complied with all established rules and reasonable requirements and the City has been reimbursed for the full amount of the service rendered and the actual cost incurred by reason of the fraudulent use.

F. Repair Charges for Customer's Unauthorized Use of Discontinued Service. In the instance when the Municipal Water System has discontinued service, and a customer then obtains or unsuccessfully attempts to obtain service, which results in damage to City water equipment, the Director of Environmental Services shall issue an invoice to said customer or property owner, itemizing the labor and equipment costs of repair.

The City will not restore service to such customer until said customer has complied with all established rules and reasonable requirements and the City has been reimbursed for the full invoiced amount for repair charges.

### Section 8.3 Restoration of Service.

A. Reconnection Charge. Where service has been discontinued for violation of these rules or for nonpayment of bills, the customer will be charged for reconnection of service as specified in Part 2 "Charges for Turn-on Service".

B. Reconnection During Regular Working Hours. The City will endeavor to make reconnections during regular working hours on the day of the request if conditions

permit, otherwise reconnections will be made on the regular working day following the day the request is made.

C. Reconnections at Other Than Regular Working Hours. When a customer has requested that the reconnection be made at other than regular working hours, the City will reasonably endeavor to so make the reconnection if practicable under the circumstances, but will be under no obligation to do so.

Section 8.4 Refusal to Serve.

A. Conditions for Refusal. The Environmental Services Department may refuse to serve an applicant for service under the following conditions:

- (1) If the applicant fails to comply with any of the rules as established by the City of San José.
- (2) If the intended use of the service is of such a nature that it will be detrimental or injurious to existing customers.
- (3) If, in the judgment of the Environmental Services Department, the applicant's installation for utilizing the service is unsafe or hazardous or of such nature that satisfactory service cannot be rendered.
- (4) Where service has been discontinued for fraudulent use, the Department of Environmental Services will not serve an applicant until the Department has determined that all conditions of fraudulent use or practice have been corrected.

**PART 9. INFORMATION AVAILABLE TO PUBLIC**

Section 9.1 General Information. There will be maintained for public inspection at the office of the Director of Environmental Services, City of San José, pertinent information regarding the service rendered, including the following:

A. Characteristics of Water. A description in writing of the kind of water to be furnished, whether filtered or unfiltered and whether treated or untreated, and the extent thereof.

B. Rates and Rules. A copy of this resolution; a copy of Chapter 15.08 of Title 15 of the San José Municipal Code; and service area maps and applications applicable to the territory served, as such documents now exist or as they may be amended.

C. Reading Meters. Information about method of reading meters.

D. Bill Analysis. A statement of the most recent past readings of the meter or meters serving a customer's own premises for a period of two (2) years.

Section 9.2 New or Revised Rates. Should new or revised rates be adopted, the city will notify all customers affected of the establishment and adoption of the rates.

## **PART 10. CUSTOMERS FACILITIES**

### **Section 10 Cross Connections.**

A. No physical connections between the potable water supply system of the Municipal Water System and that of any other water supply will be permitted except in compliance with the regulations of the State Department of Public Health contained in Title 17 of the California Administrative Code under "Regulations Relating to Cross-Connections".

B. Protective Devices Required. The installation of approved backflow protection devices of required type will be required under any of the following conditions:

- (1) Where a fresh water supply which has not been approved by the State Department of Health Services is already available from a well, spring, reservoir or other source. (If the customer agrees to abandon this other supply and agrees to move all pumps and piping necessary for the utilization of this supply, the installation of backflow protective devices will not be required.)
- (2) Where salt water, or water otherwise polluted, is available for industrial or fire protection purposes at the same premises.

- (3) Where the premises are or may be engaged in industrial processes using or producing process waters or liquid industrial wastes, or where the premises are or may be engaged in handling sewage or any other dangerous substance.
- (4) Where fresh water hydrants outlets are or may be installed on piers or docks.
- (5) Where the circumstances are such that there is special danger of backflow of sewage or other contaminated liquids through plumbing fixtures or water-using or treating equipment, or storage tanks and reservoirs.

C. Type and Expense of Protective Devices. Any backflow protective device utilized shall be of the type and design specified and approved for the circumstances by the Director of Environmental Services and the State Department of Public Health, and such device shall be installed by and at the expense of the customer, in a manner approved by the Director of Environmental Services and the public health agency having jurisdiction when so required, and in a location which is readily available for periodic inspection.

D. Periodic Inspection of Protective Devices. Whenever backflow protective devices are installed, the customer shall have and pay for competent inspections made thereof at least twice a year, or more often in those instances where successive inspections indicate repeated failure thereof. These devices shall be repaired, overhauled or replaced at the expense of the customer whenever they are found to be defective. Records of such tests, repairs, and overhaul shall be kept for ten years and made available to the City and its authorized representatives and the public health agency having jurisdiction.

E. Refusal to Serve or Discontinuance of Service for Failure to Install Protective Devices. The City may refuse or discontinue service until there has been installed on the customer's piping approved devices of the required type to protect against backflow of water from the customer's premises into the Municipal Water System.

**PART 11. MEASUREMENT OF SERVICE**

**Section 11.1 Method of Measuring Service.**

A. **Metering.** All water sold by the City will be upon the basis of metered volume sales, except water used only for public and private fire protection service and where meter reading is impracticable, accordance with the Rules and Regulations established by this Resolution.

B. **Registration of Meters.** All meters used for metered sales shall have registration devices indicating the volume of water in cubic feet. Where a constant or multiplier is necessary to convert the meter reading to cubic feet, the constant will be indicated on the meter or on the meter reading sheet.

**Section 11.2 Accuracy Requirements of Water Meters.** All meters used for measuring quantities of water delivered to customers will be in good mechanical condition, will be adequate in size and design for the type of service which each measure, and will be accurate to within generally accepted standards.

**PART 12. METER TESTS AND ADJUSTMENT OF BILLS FOR METER ERROR**

**Section 12.1 Tests at Customer Request.**

A. **Compliance by Environmental Services Department.** The Environmental Services Department will, within a reasonable time after request by a customer, proceed to test the meter serving the customer's premises. Such test of meters will consist of an acceptable method of verifying the accuracy of the meter.

B. **Charge for Test.** No charge will be made for the test of a meter made at the request of a customer, except where a customer requests a test within six months after installation of the meter or more often than one a calendar year, in which case the customer shall be required to pay to City a fee as follows:

<u>Size of Meter</u>	<u>Amount</u>
One inch or smaller	\$20.00

Larger than one inch                      \$30.00

C.     Test Procedure. Every meter tested at the request of a customer will be tested in the condition as found in the customer's service prior to any alteration or adjustment in order to determine the average meter error. The average meter error will be considered to be the algebraic average of the errors of the three highest test flows.

D.     Return of Meter Test Fee. Any payment made under subdivision B above will be returned to the customer if the average meter error is found to be more than 2% fast. The customer will be notified not less than five days in advance of the time and place of the test.

E.     Report of Test to Customer. A report showing the results of the test will be furnished to the customer within 15 days after the completion of the test.

#### Section 12.2 Adjustment of Bills for Meter Error.

A.     Fast Meters. When, upon testing, a meter is found to be registering more than 2 % fast, the City will refund to the customer the amount of the overcharge based on corrected meter readings for the period the meter was in use, but not to exceed a period of six (6) months.

B.     Slow Meters. When, upon testing, a meter is found to be registering more than 2.5% slow, the City may bill the customer for the amount of the undercharge based upon corrected meter readings for the period the meter was in service, but not to exceed a period of three (3) months.

C.     Nonregistering Meters. The City may bill the customer for water consumed while the meter was nonregistering, but not to exceed a period of three (3) months, at the minimum monthly meter rate, or upon an estimate of the consumption based upon the customer's prior use during the same season of the prior year if conditions were unchanged, or upon an estimate based upon a reasonable comparison with the use of other customers during the same period receiving the same class of service under similar circumstances and conditions.

D.     General. When it is found that the error in a meter is due to a cause, the date of which can be fixed, the overcharge or the undercharge will be computed back to

but not beyond such date, irrespective of the "not to exceed period of" set forth in paragraphs A, B and C above.

**PART 13. RESALE OF WATER**

**Section 13 Resale of Water.** Except by special written agreement with the City, no customer shall resell any of the water received from the City nor shall such water be delivered to premises other than those specified in such customer's application for service.

**SECTION 2.** This Resolution shall be effective on July 1, 2006.

ADOPTED this 20<sup>th</sup> day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CORTESE, LeZOTTE, NGUYEN,  
PYLE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CHIRCO

DISQUALIFIED: NONE

\_\_\_\_\_  
RON GONZALES  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk