

Water Theft Penalty Ordinance and Guarantee Deposits

**Finance/Administration Committee
July 11, 2017**

Background

Continuation of June 27th Fin/Admin Committee Presentation:

- Water Theft Penalty Types
- Ordinance Options
- Guarantee Deposits
- Deposit Modifications

Types of Water Theft

347 occurrences

1. Tampering of meter or service lateral (94%, 326)
2. Diversion of Service
Unauthorized connection (5%, 17)
3. Unauthorized use of hydrant (1%, 4)



District Regulations & Procedures

- Regulations Governing Service
 - Section 7 - Service Through Public Hydrants
 - Section 15 - Discontinuance of Service
 - Section 19 - Use and Resale of Water
 - Section 23 - District Equipment on Customer's Premises
- Schedule of Rates and Charges; Schedule C
- Procedure 112 – Unauthorized Use of Water



Water Theft Penalty Ordinance Options

1. Reduce WT penalty charges for tampering and lateral diversions (\$200/\$400/\$800); keep hydrant theft penalties at (\$1000/\$2000/\$3000)
2. Eliminate tampering as theft; retain lateral diversions and hydrant theft
3. Eliminate Ordinance and retain other charges
4. No change

ORDINANCE NO. 365-15
WATER THEFT PENALTY ORDINANCE

Introduced by Director Coleman ; Seconded by Director Patterson

WHEREAS, California Penal Code section 498 prohibits the theft of utility services, including water; and

WHEREAS, California Penal Code section 624 prohibits every person from willfully damaging, tampering with, or digging up water pipes or waterworks; and

WHEREAS, California Penal Code section 625 prohibits every person who, with intent to defraud or injure, opens or causes to be opened, or draws water from any disconnected utility connection after having been notified that the same has been closed or shut for specific cause, by order of competent authority; and

WHEREAS, any person who violates Penal Code sections 498, 624, or 625 is guilty of a misdemeanor; and

WHEREAS, California Civil Code section 1882 *et seq.* authorizes the East Bay Municipal Utility District (the "District") to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts:

- a. Diverts, or causes to be diverted, utility services by any means whatsoever.
- b. Makes, or causes to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility.
- c. Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.
- d. Tamper with any property owned or used by the utility to provide utility services.
- e. Uses or receives the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility; and

WHEREAS, pursuant to California Civil Code section 1882 *et seq.*, the District may bring a civil action for the unauthorized use of District water; and

WHEREAS, the District's "Regulations Governing Water Service to Customers of the East Bay Municipal Utility District" (the "Regulations"), including Sections 7, 15, 19, and 23, establish

Ordinance Penalty Charges by Option

Table 1. Charges for the First/Second/Third Instances of Different Water Theft Options

Theft Type	No Change to Ordinance	Option A - Reduce Tampering and Diversion	Option B - Eliminate Tampering	Option C - Eliminate Ordinance	¹ Other charges imposed under current rates and charges
Meter Tampering	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 200/ \$ 400/ \$ 800	No Penalty Charge ¹	No Penalty Charge ¹	Trip Chgs \$ 90 Lock 57 Plug <u>394</u> \$ 541
Lateral Diversion	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 200/ \$ 400/ \$ 800	\$ 1,000/ \$ 2,000/ \$ 3,000	No Penalty Charge ¹	Lateral \$6,200
Unauthorized Hydrant Use	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 1,000/ \$ 2,000/ \$ 3,000	No Penalty Charge ¹	Site Visit \$217

Pay History Deposits

Assessed upon unsatisfactory pay history

- Average annual residential accts eligible 5,000 (1.6%)
- Average Dep \$350-\$450 (\$1.75m-\$2.5m)
- ~33% or (\$810k) are deposits associated with nonpayment disconnections
- Estimated 20% applied to final bill
- Estimated 15% applied to written-off accts

Deposit Modifications

- Payment installments
- Deposit deferral
- Apply deposit if susceptible to turn-off



SECTION 9

GUARANTEE DEPOSITS

Customers are required to pay bills promptly for water service charges and applicable sewer service charges included as part of the District's bill in accordance with Section 13 of these Regulations, and to maintain a payment history satisfactory to the District.

Customers shall be required to pay a guarantee deposit if:

1. They fail to maintain a satisfactory payment history, or
2. They fail to meet minimum requirements of prospective payment responsibility as determined by the District.

The following provisions shall also apply if a guarantee deposit is required:

1. Full payment of any due bills, in addition to the deposit, may be required before granting, continuing or reestablishing service;
2. The deposit shall be in an amount approximately two times the estimated monthly or bimonthly billings, but in no case shall be less than \$50.00;
3. No interest will be paid on deposits; and
4. The guarantee deposit will be credited to the customer's account after he or she has established and maintained a satisfactory payment history for a one-year period. If service is discontinued during this period, the deposit, less the final bill, will be refunded. Any overdue bill may be deducted from the guarantee deposit, and service may be discontinued until the deposit is restored to the original amount.

Next Steps

1	Water Theft Penalty Ordinance Modifications	1 st Public Hearing 2 nd Public Hearing - Adoption	TBD – if applicable
2	CAP Modifications – Auto enrollments	Board Long Term Financial Workshop	Fall/Winter 2017
3	Low-Income Shut Offs	Board Long Term Financial Workshop	Fall/Winter 2017
4	State AB401	Participation and feedback	Ongoing