



MEMORANDUM

TO: CITY COUNCIL

FROM: NICOLE VALENTINE, ACCOUNTING MANAGER

SUBJECT: CONSIDERATION OF INTRODUCTION OF AN ORDINANCE RELATING TO DELINQUENT WATER BILLS AND ADOPTION OF A RESOLUTION ESTABLISHING A POLICY ON THE DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT IN COMPLIANCE WITH THE WATER SHUTOFF PROTECTION ACT (SB 998)

DATE: DECEMBER 10, 2019

SUMMARY OF ACTION:

Introduction of an Ordinance amending the Municipal Code relating to delinquent water bills and adoption of a Resolution establishing a policy on the discontinuation of residential water service for nonpayment, implementing Senate Bill 998.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There will be an impact to personnel resources as it relates to staff time for reviewing eligibility documents submitted by customers and setting up alternative payment arrangements. In addition, there will be a reduction in revenue of approximately \$12,000 per year due to the reduction in the fee for nonpayment of residential water service. There will also be an additional estimated cost of \$1,200 to translate the policy into five (5) languages.

RECOMMENDATION:

It is recommended the City Council: 1) Introduce an Ordinance amending Section 13.04.070 of Chapter 13.04 of Title 13 of the Arroyo Grande Municipal Code related to delinquent water bills; and 2) Adopt a Resolution establishing a policy on the discontinuation of residential water service for nonpayment in compliance with the Water Shutoff Protection Act (California Health and Safety Code Sections 116900, et seq.).

BACKGROUND:

On September 28, 2018, the Governor approved Senate Bill 998 (SB 998). SB 998 requires water suppliers to have a written policy on the discontinuation of residential water service (shutoff) and provide that policy in English, Spanish, Chinese, Tagalog, Vietnamese, Korean, and any other language spoken by 10% or more of the customers in the water supplier's service area. It also states that the City must report annually on its website and to the State Water Resources Control Board the number of service discontinuations for nonpayment. The State Water Resources Control Board must post that information on its website. The City is required to comply with SB 998 by February 1, 2020.

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SB 998 prohibits disconnection for nonpayment by any residential customer who has been delinquent for less than 60 days. It requires the provider give notice in writing or by telephone at least seven business days before disconnection and include an offer to discuss alternative payment methods or deferred payments and information about available appeals and extensions. The notice must include the following:

1. Customer's name and address;
2. Amount of delinquency;
3. Date by which payment or arrangement for payment is required to avoid discontinuation of service;
4. Description of the process to apply for an extension of time to pay the amount owing;
5. Description of the procedure to petition for review and appeal of the bill giving rise to the delinquency; and
6. Description of the procedure by which the customer can request a deferred, amortized, reduced or alternative payment schedule. If the occupant of the property is not the account holder, the provider must also notify the occupant of the impending disconnection.

The legislation prohibits disconnection of customers that meet all of the following parameters:

1. Health Conditions: the customer or tenant of the customer submits certification of a primary care provider that discontinuation of water service would (i) be life threatening, or (ii) pose a serious threat to the health and safety of a resident.
2. Financial Inability: the customer demonstrates he or she is financially unable to pay for water service within the water purveyor's normal billing cycle. The customer is deemed "financially unable to pay" if any member of the customer's household is: (i) a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the customer declares the household's annual income is less than 200% of the federal poverty level.
3. Alternative Payment Arrangements: the customer is willing to enter into an amortization agreement, alternative payment schedule or a plan for deferred or reduced payment, consistent with the City's policy. The following is a list of the Alternative Payment Arrangement options:
 - a. Amortization of the unpaid balance;
 - b. Alternative payment schedule;
 - c. Partial or full reduction of unpaid balance; or
 - d. Temporary deferral of payment

The Director of Administrative Services, or his or her designee, shall, in the exercise of reasonable discretion, select the most appropriate alternative payment arrangement after

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reviewing the information and documentation provided by the customer and taking into consideration the customer's financial situation and the City's payment needs.

ANALYSIS OF ISSUES:

Overview of Current Policy and Procedures:

Some key aspects of the City's current policy are as follows:

- The City has set the water bills to be issued by the 3rd of the month and accounts are deemed delinquent if not paid by the third day of the following month.
- Any water customer who is unable to pay their bill by the due date may request an alternative payment arrangement with the Administrative Services Department by phone or at the counter. No specific reason is required in order to request an alternative payment arrangement and Administrative Services staff does not request a doctor's note or income verification.
- Alternative payment arrangement terms are offered at the discretion of the Administrative Services Department but generally require a partial down payment with the balance due within two months.
- When a customer defaults on their alternative payment arrangement, the water service is terminated immediately and a shut-off fee is assessed.
- The fee to resume service is set at \$90.

Overview of Updated SB 998 Compliant Policy and Procedure:

Several aspects of the current policy and procedure will not change under the new policy and procedure:

- The City will continue to set the water bills to be issued by the 3rd of the month and accounts will be deemed delinquent if not paid by the third day of the following month.
- Any water customer who is unable to pay their bill by the due date may request a payment plan with the Administrative Services Department by phone or at the counter. No specific reason is required in order to request a payment plan and Administrative Services staff will not request a doctor's note or income verification.
- The only requirement to avoid water shut-off is a willingness to enter into an alternative payment arrangement.

Some aspects, however, will change in order to comply with SB 998:

- The City will not shut off water service until the water account is delinquent for 60 days. Likewise, the City will not shut off water service if a customer has entered into an alternative payment arrangement; however, if a customer does not enter into an alternative payment arrangement or has entered into an alternative payment arrangement but is in default for 60 days, the City will proceed with shutoff.

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- A final disconnection notice will be delivered to the premises of delinquent alternative payment customers where service is provided no less than 5 business days prior to shutoff and will be in the form of a door hanger.
- The fee to resume service will be reduced to \$50 during normal business hours and to \$150 after hours.

A second reading and adoption of the Ordinance, as well as, and updated Master Fee Schedule for the Reconnection Fee will be presented at the January 14, 2019 City Council Meeting.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Introduce the Ordinance amending the Municipal Code relating to delinquent water bills, and adopt the Resolution establishing a policy on discontinuation of residential water service for nonpayment;
2. Modify and introduce the Ordinance and adopt the Resolution; or
3. Provide other direction to staff.

ADVANTAGES:

Adoption of the Ordinance will keep the City of Arroyo Grande current and compliant with State law. The adoption of this Ordinance will also provide assistance to low income water customers within the City limits.

DISADVANTAGES:

The City will not be collecting full cost recovery for performing water service shutoffs. Extending payment terms to customers can create a situation where they become up to 4 months past due before service is shut off for non-payment.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

A Notice of Public Hearing was published in The Tribune on Friday, November 29, 2019. The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

ATTACHMENTS:

1. Senate Bill 998

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING SECTION 13.04.070 OF CHAPTER 13.04 OF TITLE 13 OF THE ARROYO GRANDE MUNICIPAL CODE RELATING TO DELINQUENT WATER BILLS

WHEREAS, the City Council of the City of Arroyo Grande (“City”) may, by ordinance, adopt rules and regulations for the operation of the water department and for furnishing water to customers and may, by resolution establish the rates, charges, deposits, and penalties; and

WHEREAS, the Water Shutoff Protection Act, codified at 116900 et seq. of the California Health and Safety Code, requires all urban water suppliers to adopt a written policy on the discontinuation of residential service for nonpayment; and

WHEREAS, the written policy must include a plan for deferred or reduced payments; alternative payment schedules; a formal mechanism for a customer to contest or appeal a bill; and a telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment; and

WHEREAS, the Water Shutoff Protection Act applies only to residential connections; and

WHEREAS, the City intends to adopt a Policy by Resolution on the Discontinuation of Residential Water Service for Nonpayment to comply with the requirements of the Water Shutoff Protection Act; and

WHEREAS, the City Council now wishes to amend Section 13.04.070 of its Municipal Code to differentiate between delinquent residential accounts and nonresidential accounts and to provide for the adoption of the City’s Policy on the Discontinuation of Residential Water Service for Nonpayment by resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 13.04.070 of Chapter 13.04 of Title 13 of the Arroyo Grande Municipal Code is hereby amended in its entirety to read as follows:

13.04.070 - Delinquent bills—Discontinuance of services.

A. All meters shall be read by the water department as provided in Section 13.04.100 of this chapter, and all bills for water or service shall be due and payable at City Hall

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upon presentation. All water bills remaining unpaid for a period of thirty (30) days shall thereupon become past due.

1. Non-Residential Accounts. Where water bills so become past due, notification will be delivered of such status and a late fee levied. All water bills remaining unpaid for a period of forty-one (41) days since issuance shall become delinquent. Where water bills so become delinquent, service may be shut off at any time after a ten (10) day written notice; and such accounts shall be subject to the water turn-off and turn-on charge provided for in this section. The director of Administrative Services or Public Works Director, at his or her discretion, may cause a meter reading to be made at any time; and thereupon the bill for water used since the previous reading shall become immediately due and payable and shall become past due on the thirtieth day following the mailing or presentation of such bill; and such accounts shall be subject to the late-fee charge, water turn-off and turn-on charge provided for in Section 13.04.030 of this chapter.
2. Residential Accounts. Where water bills so become past due, residential accounts will be handled in accordance with the City's Policy on Discontinuation of Residential Water Service for Nonpayment, which shall be adopted by resolution of the City Council, as the same may be amended from time to time.

B. Discontinuance of Service for Violations.

1. Non-Residential Accounts. The water rates, charges, and penalties set forth in this chapter shall be charged against the property upon which such water or service is furnished and against the owner thereof. If for any cause, any of such sums owing become delinquent and unpaid, or if any of the other terms of this chapter or the rules and regulations established as a condition to the use of water are not complied with, the water may be shut off. If there has been no bona fide change in ownership, the water shall not be turned on to the same property until all such charges, delinquencies and penalties have been paid in full, including the additional amount as described in Section 13.04.030 of this chapter for the expense of turning water off and on.
2. Residential Accounts. If any of the terms of this chapter or the rules and regulations established as a condition to the use of water other than non-payment are not complied with, including but not limited to those set forth in Section 13.04.140 – Unlawful Acts, the water may be shut off. Water may only be shut off for non-payment in accordance with the City's Policy on Discontinuation of Residential Water Service for Nonpayment as the same may be amended from time to time.
3. The Administrative Services Director or Public Works Director may, at his or her discretion, shut off the water, for a period not exceeding three months, upon the written request of the owner of any premises upon

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which such water or service is furnished, provided no delinquency exists in the payment of charges and penalties for water service.

SECTION 3. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 4. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

On motion by Council Member _____, seconded by Council Member _____, and by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this ____ day of _____, 2020.

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CAREN RAY RUSSOM, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ESTABLISHING A POLICY ON THE DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT IN COMPLIANCE WITH THE WATER SHUTOFF ACT (CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 116900 ET. SEQ.)

WHEREAS, on September 28, 2018 the Governor of the State of California approved Senate Bill 998 (SB 998) pertaining to the discontinuation of residential water service for urban and community water systems; and

WHEREAS, SB 998 was added to Chapter 6 (commencing with Section 116900) of the California Health and Safety Code; and

WHEREAS, SB 998 requires urban water suppliers to have a written policy on the discontinuation of residential water service (shutoff) and provide that policy in English, the languages listed in Section 1632 of the Civil Code (Spanish, Chinese, Tagalog, Vietnamese, and Korean), and any other language that is spoken by at least 10% of the people residing in the City's service area; and

WHEREAS, SB 998 prohibits discontinuation of water service until a bill has been delinquent for 60 days and provides for a process to work through hardship situations; and

WHEREAS, SB 998 prohibits shutoff for nonpayment if all of the following conditions are met: (1) the customer, or tenant, submits a certification of a primary care provider that discontinuation of residential service will be life threatening or pose a serious threat to the health and safety of a resident, (2) the customer demonstrates that he or she is financially unable to pay within the normal billing cycle, and (3) the customer is willing to enter into an amortization agreement, alternative payment schedule, or plan for deferred or reduced payment for all delinquent charges; and

WHEREAS, SB 998 requires the water supplier to provide information on how to restore residential service and petition for a waiver of reconnection fees; and

WHEREAS, SB 998 requires the water supplier to waive reconnection fees and offer a reduction or waiver of interest on delinquent bills once every 12 months for a residential customer who shows an income below 200% of the federal poverty line; caps reconnection fees at \$50 or less if the reconnection is during normal water system operational hours; caps reconnection fees at \$150 or less if the reconnection is during non-operational hours, with the applicable reconnection fee not to exceed the actual cost of reconnection; and

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WHEREAS, SB 998 requires the water supplier to make every good faith effort to inform a tenant by written notice when the owner's account is in arrears and service is going to be terminated, and requires continued service if the tenant assumes responsibility to the satisfaction of the water supplier; and

WHEREAS, SB 998 authorizes the California State Water Resources Control Board to enforce the requirements and the Attorney General to bring an action for temporary or permanent injunction; and

WHEREAS, SB 998 has other requirements relating to notices, website information, and reporting requirements; and

WHEREAS, it is in the public interest and the right of all Californian's to have safe, accessible and affordable water as declared in Section 106.3 of the California Water Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande as follows:

1. The recitals set forth above are true and correct and incorporated herein.
2. The Policy attached as Exhibit A entitled "Discontinuation of Residential Water Service for Nonpayment," is hereby adopted.
3. The effective date of the Policy is February 1, 2020.

On motion by Council Member _____, seconded by Council Member _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:

The foregoing Resolution was passed and adopted this 10th day of December, 2019.

CAREN RAY RUSSOM, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY

EXHIBIT A

CITY OF ARROYO GRANDE POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE

1. Purpose

This policy has been established to comply with Senate Bill 998, known as the "Water Shutoff Protection Act" and approved by the Governor on September 28, 2018 (California Health and Safety Code Sections 116900, et seq.). This Policy shall be made available on the City of Arroyo Grande website. The City's Water Department can be contacted by phone at (805) 473-5438 to discuss options for averting termination of water service for nonpayment under the terms of this policy.

2. Effective Date

This policy shall be effective on February 1, 2020.

3. Published Languages

This policy and written notices required in this policy shall be available and published in English, the languages listed in Section 1632 of the Civil Code, which include Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any other language spoken by at least 10 percent of the people residing in the City's water service area.

4. Requirements Precedent to Discontinuing Residential Water Service

- A. The City shall not discontinue residential water service for nonpayment until a customer has been delinquent for at least 60 days. No less than seven business days before discontinuation of residential water service for nonpayment, the City shall contact the customer named on the account by telephone or written notice.
- B. When the City contacts the customer named on the account by telephone pursuant to subparagraph (A), staff shall offer to provide this policy in writing to the customer. City staff shall offer to discuss options to avert discontinuation of water service for nonpayment, including, but not limited to, alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal.
- C. When the City contacts the customer named on the account by written notice pursuant to subparagraph (A), the written notice of payment delinquency and impending discontinuation shall be mailed to the customer at their address of record. If the customer's address is not the address of the property to which residential water service is provided, the notice shall also be sent to the address of the property to which residential water service is provided, addressed to "Current Resident." The notice shall include, but is not limited to, all of the following information in a clear and legible format:
 - (i) The customer's name and address.
 - (ii) The amount of the delinquency.
 - (iii) The date by which payment or arrangement for payment is required in order to avoid discontinuation of residential water service, which shall be 60 days from the date that the bill became delinquent unless extended by the discretion of the General Manager.
 - (iv) A description of the process to apply for an extension of time to pay the delinquent charges.

- (v) A description of the procedure to petition for bill review and appeal.
- (vi) A description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent residential water service charges.
- (vii) The City's phone number and a web link to the City's written policy.

5. Good Faith Noticing Requirements

- A. If the City is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned through the mail as undeliverable, the City shall make a good faith effort to visit the residence and leave, or make other arrangements for placement in a conspicuous place of, a notice of imminent discontinuation of residential water service for nonpayment and the City's policy for discontinuation of residential water service for nonpayment.
- B. If the customer seeks review or appeal of their bill, the customer shall contact the City before the payment due date and the City will investigate. If the investigation does not result in a resolution acceptable to the customer, the customer may seek review of the Director of Administrative Services and subsequently may appeal to the City Council. The City will provide written notice of the time and place of the appeal at least seven (7) days before the City Council meeting. The decision of the City Council is final. The City shall not discontinue residential water service while the appeal is pending.

6. Prohibition Against Discontinuing Residential Water Service

- A. The City shall not discontinue residential water service for nonpayment if all of the following conditions are met:
 - (i) The customer, or a tenant of the customer, submits to the City the certification of 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 residential water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential water service is provided.
 - (ii) The customer demonstrates that he or she is financially unable to pay for residential water service within the City's normal billing cycle. The customer shall be deemed financially unable to pay for residential water service within the City's normal billing cycle if any member of the customer's 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 the customer declares that the household's annual income is less than 200 percent of the federal poverty level.
 - (iii) The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment with respect to all delinquent charges.
- B. If the conditions listed above are all met, the City shall offer the customer one or more of the following options:
 - (i) Amortization of the unpaid balance.
 - (ii) Participation in an alternative payment schedule.
 - (iii) A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.
 - (iv) Temporary deferral of payment.

- C. The Director of Administrative Services is authorized to determine which of the payment options described in paragraph 6.B the customer undertakes and may set the parameters of that payment option provided that the repayment of any remaining outstanding balance occurs within 12 months, and further provided that the Director of Administrative Services may only approve a partial or full reduction of the unpaid balance if that reduction can be funded with general fund revenues that the City Council has approved and transferred into the Water Fund budget explicitly for the purpose of doing so.
- D. Residential water service may be discontinued no sooner than 5 business days after the City posts a final notice of intent to disconnect service in a prominent and conspicuous location at the property under either of the following circumstances:
 - (i) The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for 60 days or more.
 - (ii) While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay his or her current residential water service charges for 60 days or more.

7. Restoration of Water Service

- A. If the City discontinues residential water service for nonpayment, it shall provide the customer with information on how to restore residential water service. For a residential customer who demonstrates to the City that the household income is below 200 percent of the federal poverty line, the City shall do both of the following:
 - (i) Set a reconnection of service fee for reconnection during normal operating hours in an amount that does not exceed fifty dollars (\$50), or the actual cost of reconnection if it is less. For the reconnection of residential water service during nonoperational hours, the City shall set a reconnection of service fee that does not exceed one hundred fifty dollars (\$150), or the actual cost of reconnection during nonoperational hours if it is less. The maximum amount of \$50 for reconnection during operational hours and \$150 during nonoperational hours shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. The City shall use the average of the Los Angeles area and San Francisco area for determining the increase in the Consumer Price Index.
 - (ii) Waive interest charges on delinquent bills once every 12 months.
- B. The City shall deem a residential customer to have a household income below 200 percent of the federal poverty line if 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 the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

8. Services involving Landlord-Tenant Relationships

- A. If the City furnishes individually metered residential water service to residential occupants of a detached single-family dwelling, a multiunit residential structure, and mobilehome and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the

City shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears that service will be terminated at least 10 days prior to the termination. The written notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

- B. The City shall not make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the City's ordinances, resolutions, rules and regulations. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the City, including requirements which may include, but not be limited to, payment of a deposit of \$180 and completion of a City application for service so that the Director of Administrative Services, or designee, can evaluate whether the City is satisfied that the residential applicants can meet the terms and conditions of service, or if there is a physical means legally available for the City to selectively terminate service to those residential occupants who have not met the requirements of the City's, the City shall make service available to those residential occupants who the City is satisfied can meet the terms and conditions of service.

9. Reporting Requirements

The City shall annually report the number of discontinuations of residential service for inability to pay on the City's website and to the State Water Resources Control Board.

10. Limitations of this Policy

Nothing in this policy restricts, limits or otherwise impairs the City's ability to terminate service to a customer for reasons other than those explicitly stated in this policy, including, but not limited to, unauthorized actions of the customer.

11. Customers may appeal the amount set forth in any bill for residential water service.

- A. The customer has a right to initiate an appeal of any bill or charge rendered by the City. Such request must be made in writing and be delivered to the City's office. The City will not discontinue water service to the customer during the appeal process.
- B. The appeal hearing shall be set before the Utility Billing Adjustment Committee on the 3rd Thursday of the month. The Utility Billing Adjustment Committee procedures are stated in City Council Resolution 4077 dated April 8, 2008.



Senate Bill No. 998

CHAPTER 891

An act to add Chapter 6 (commencing with Section 116900) to Part 12 of Division 104 of the Health and Safety Code, relating to water.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 998, Dodd. Discontinuation of residential water service: urban and community water systems.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations. Existing law requires certain notice to be given before a water corporation, public utility district, municipal utility district, or a municipally owned or operated public utility furnishing water may terminate residential service for nonpayment of a delinquent account, as prescribed.

This bill would require an urban and community water system, defined as a public water system that supplies water to more than 200 service connections, to have a written policy on discontinuation of water service to certain types of residences for nonpayment available in prescribed languages. The bill would require the policy to include certain components, be available on the system's Internet Web site, and be provided to customers in writing, upon request. The bill would provide for enforcement of these provisions, including making a violation of these provisions punishable by a civil penalty issued by the board in an amount not to exceed \$1,000 for each day in which the violation occurs, and would require the enforcement moneys collected by the board to be deposited in the Safe Drinking Water Account. The bill would prohibit an urban and community water system from discontinuing residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. The bill would require an urban and community water system to contact the customer named on the account and provide the customer with the urban and community water system's policy on discontinuation of residential service for nonpayment no less than 7 business days before discontinuation of residential service, as prescribed.

This bill would prohibit residential service from being discontinued under specified circumstances. The bill would require an urban and community

water system that discontinues residential service to provide the customer with information on how to restore service. The bill would require an urban and community water system to waive interest charges on delinquent bills for, and would limit the amount of a reconnection of service fee imposed on, a residential customer who demonstrates, as prescribed, to the urban and community water system household income below 200% of the federal poverty line. The bill would require an urban and community water system that furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit structure, mobilehome park, or permanent residential structure in a labor camp, and that the owner, manager, or operator of the dwelling, structure, or park is the customer of record, to make every good faith effort to inform the residential occupants by written notice that service will be terminated and that the residential occupants have the right to become customers, as specified. The bill would require an urban and community water system to report the number of annual discontinuations of residential service for inability to pay on its Internet Web site and to the board, and the bill would require the board to post on its Internet Web site the information reported. The bill would require an urban water supplier, as defined, or an urban and community water system regulated by the commission, to comply with the bill's provisions on and after February 1, 2020, and any other urban and community water system to comply with the bill's provisions on and after April 1, 2020. The bill would provide that the provisions of the bill are in addition to the provisions in existing law duplicative of the bill and that where the provisions are inconsistent, the provisions described in the bill apply.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

- (a) All Californians have the right to safe, accessible, and affordable water as declared by Section 106.3 of the Water Code.
- (b) It is the intent of the Legislature to minimize the number of Californians who lose access to water service due to inability to pay.
- (c) Water service discontinuations threaten human health and well-being, and have disproportionate impact on infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with life-threatening medical conditions.
- (d) When there is a delinquent bill, all Californians, regardless of whether they pay a water bill directly, should be treated fairly, and fair treatment includes the ability to contest a bill, seek alternative payment schedules, and demonstrate medical need and severe economic hardship.
- (e) The loss of water service causes tremendous hardship and undue stress, including increased health risks to vulnerable populations.
- (f) It is the intent of the Legislature that this act provide additional procedural protections and expand upon the procedural safeguards contained

in the Public Utilities Code and Government Code as of January 1, 2018, relating to utility service disconnections.

SEC. 2. Chapter 6 (commencing with Section 116900) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 6. DISCONTINUATION OF RESIDENTIAL WATER SERVICE

116900. This chapter shall be known, and may be cited, as the Water Shutoff Protection Act.

116902. For the purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board.

(b) "Public water system" has the same meaning as defined in Section 116275.

(c) "Residential service" means water service to a residential connection that includes single-family residences, multifamily residences, mobilehomes, including, but not limited to, mobilehomes in mobilehome parks, or farmworker housing.

(d) "Urban and community water system" means a public water system that supplies water to more than 200 service connections.

(e) "Urban water supplier" has the same meaning as defined in Section 10617 of the Water Code.

116904. (a) An urban water supplier not regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020.

(b) An urban and community water system regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020. The urban and community water system regulated by the Public Utilities Commission shall file advice letters with the commission to conform with this chapter.

(c) An urban and community water system not described in subdivision (a) or (b) shall comply with this chapter on and after April 1, 2020.

116906. (a) An urban and community water system shall have a written policy on discontinuation of residential service for nonpayment available in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by at least 10 percent of the people residing in its service area. The policy shall include all of the following:

(1) A plan for deferred or reduced payments.

(2) Alternative payment schedules.

(3) A formal mechanism for a customer to contest or appeal a bill.

(4) A telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment.

(b) The policy shall be available on the urban and community water system's Internet Web site, if an Internet Web site exists. If an Internet Web site does not exist, the urban and community water system shall provide the policy to customers in writing, upon request.

(c) (1) The board may enforce the requirements of this section pursuant to Sections 116577, 116650, and 116655. The provisions of Section 116585

and Article 10 (commencing with Section 116700) of Chapter 4 apply to enforcement undertaken for a violation of this section.

(2) All moneys collected pursuant to this subdivision shall be deposited in the Safe Drinking Water Account established pursuant to Section 116590.

116908. (a) (1) (A) An urban and community water system shall not discontinue residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. No less than seven business days before discontinuation of residential service for nonpayment, an urban and community water system shall contact the customer named on the account by telephone or written notice.

(B) When the urban and community water system contacts the customer named on the account by telephone pursuant to subparagraph (A), it shall offer to provide in writing to the customer the urban and community water system's policy on discontinuation of residential service for nonpayment. An urban and community water system shall offer to discuss options to avert discontinuation of residential service for nonpayment, including, but not limited to, alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal.

(C) When the urban and community water system contacts the customer named on the account by written notice pursuant to subparagraph (A), the written notice of payment delinquency and impending discontinuation shall be mailed to the customer of the residence to which the residential service is provided. If the customer's address is not the address of the property to which residential service is provided, the notice also shall be sent to the address of the property to which residential service is provided, addressed to "Occupant." The notice shall include, but is not limited to, all of the following information in a clear and legible format:

- (i) The customer's name and address.
- (ii) The amount of the delinquency.
- (iii) The date by which payment or arrangement for payment is required in order to avoid discontinuation of residential service.
- (iv) A description of the process to apply for an extension of time to pay the delinquent charges.
- (v) A description of the procedure to petition for bill review and appeal.
- (vi) A description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent residential service charges, consistent with the written policies provided pursuant to subdivision (a) of Section 116906.

(2) If the urban and community water system is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned through the mail as undeliverable, the urban and community water system shall make a good faith effort to visit the residence and leave, or make other arrangements for placement in a conspicuous place of, a notice of imminent discontinuation of residential service for nonpayment and the urban and community water system's policy for discontinuation of residential service for nonpayment.

(b) If an adult at the residence appeals the water bill to the urban and community water system or any other administrative or legal body to which such an appeal may be lawfully taken, the urban and community water system shall not discontinue residential service while the appeal is pending.

116910. (a) An urban and community water system shall not discontinue residential service for nonpayment if all of the following conditions are met:

(1) The customer, or a tenant of the customer, submits to the urban and community water system the certification of 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 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) The customer demonstrates that he or she is financially unable to pay for residential service within the urban and community water system's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the urban and community water system's normal billing cycle if any member of the customer's 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 the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

(3) The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with the written policies provided pursuant to subdivision (a) of Section 116906, with respect to all delinquent charges.

(b) (1) If the conditions listed in subdivision (a) are met, the urban and community water system shall offer the customer one or more of the following options:

(A) Amortization of the unpaid balance.

(B) Participation in an alternative payment schedule.

(C) A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.

(D) Temporary deferral of payment.

(2) The urban and community water system may choose which of the payment options described in paragraph (1) the customer undertakes and may set the parameters of that payment option. Ordinarily, the repayment option offered should result in repayment of any remaining outstanding balance within 12 months. An urban and community water system may grant a longer repayment period if it finds the longer period is necessary to avoid undue hardship to the customer based on the circumstances of the individual case.

(3) Residential service may be discontinued no sooner than 5 business days after the urban and community water system posts a final notice of intent to disconnect service in a prominent and conspicuous location at the property under either of the following circumstances:

(A) The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for 60 days or more.

(B) While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay his or her current residential service charges for 60 days or more.

116912. An urban and community water system that discontinues residential service for nonpayment shall provide the customer with information on how to restore residential service.

116914. (a) For a residential customer who demonstrates to an urban and community water system household income below 200 percent of the federal poverty line, the urban and community water system shall do both of the following:

(1) Set a reconnection of service fee for reconnection during normal operating hours at fifty dollars (\$50), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. For the reconnection of residential service during nonoperational hours, an urban and community water system shall set a reconnection of service fee at one hundred fifty dollars (\$150), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021.

(2) Waive interest charges on delinquent bills once every 12 months.

(b) An urban and community water system shall deem a residential customer to have a household income below 200 percent of the federal poverty line if 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 the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

116916. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If an urban and community water system furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp as defined in Section 17008, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the urban and community water system shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears that service will be terminated at least 10 days prior to the termination. The written notice shall further inform the residential occupants that they have the right to become

customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

(c) The urban and community water system is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the urban and community water system's rules and tariffs. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the urban and community water system, or if there is a physical means legally available to the urban and community water system of selectively terminating service to those residential occupants who have not met the requirements of the urban and community water system's rules and tariffs, the urban and community water system shall make service available to those residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the urban and community water system, residence and proof of prompt payment of rent or other credit obligation acceptable to the urban and community water system for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the urban and community water system pursuant to this section whose periodic payments, such as rental payments, include charges for residential water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the urban and community water system for those services during the preceding payment period.

(f) In the case of a detached single-family dwelling, the urban and community water system may do any of the following:

(1) Give notice of termination at least seven days prior to the proposed termination.

(2) In order for the amount due on the delinquent account to be waived, require an occupant who becomes a 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 that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.

116918. An urban and community water system shall report the number of annual discontinuations of residential service for inability to pay on the urban and community water system's Internet Web site, if an Internet Web site exists, and to the board. The board shall post on its Internet Web site the information reported.

116920. (a) The Attorney General, at the request of the board or upon his or her own motion, may bring an action in state court to restrain by temporary or permanent injunction the use of any method, act, or practice declared in this chapter to be unlawful.

(b) For an urban and community water system regulated by the Public Utilities Commission, the commission may bring an action in state court to restrain by temporary or permanent injunction the use by an urban and community water system regulated by the commission of any method, act, or practice declared in this chapter to be unlawful.

116922. All written notices required under this chapter shall be provided in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by 10 percent or more of the customers in the urban and community water system's service area.

116924. Where provisions of existing law are duplicative of this chapter, compliance with one shall be deemed compliance with the other. Where those provisions are inconsistent, the provisions of this chapter shall apply. Nothing in this chapter shall be construed to limit or restrict the procedural safeguards against the disconnection of residential water service existing as of December 31, 2018.

116926. This chapter does not apply to the termination of a service connection by an urban and community water system due to an unauthorized action of a customer.

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