

TO: FINANCE AND AUDIT COMMITTEE

REVIEWED: MARIO IGLESIAS  
GENERAL MANAGER



FROM: LISA BOGNUDA  
FINANCE DIRECTOR



DATE: NOVEMBER 9, 2019

**AGENDA ITEM**  
**2**  
**NOVEMBER 12, 2019**

**CONSIDER AMENDMENTS TO DISTRICT CODE CHAPTER 3.03 –  
WATER AND SEWER FEES AND CHARGES AND COLLECTION  
PROCEDURES, AND CONSIDER DISCONTINUANCE OF  
RESIDENTIAL WATER SERVICE POLICY**

**ITEM**

Consider amendments to District Code Chapter 3.03-Water and Sewer Service Fees and Charges and Collection Procedures, and Consider Discontinuance of Residential Water Service Policy

**BACKGROUND**

Senate Bill 998 (SB 998) was approved by the Governor on September 28, 2018, and requires community water systems with more than 200 service connections, which includes the Nipomo Community Services District (District) to comply with the bill's provisions on and after February 1, 2020. SB 998 is only applicable to residential water service and does not apply to all other types of District water service customers (i.e. commercial, landscape, agriculture and construction water accounts).

The bill requires the District to have a written policy on discontinuation of residential water service for nonpayment that meets certain requirements. The bill also requires that the policy be translated and made available in a number of prescribed languages. SB 998 also prohibits residential service from being discontinued under specified circumstances.

District Ordinances currently comply with all government codes applicable to community services districts and water suppliers with respect to discontinuance of residential water service. However, SB 998 will supersede some but not all of the District's current policies.

District Staff has prepared proposed amendments to Chapter 3.03 of the District Code (attached) and a written policy on discontinuance of residential water service for your review and consideration. The most significant change to the District policies involves the length of time the District must provide a residential customer to pay before discontinuance. Currently, from the date the District mails a bill, assesses a penalty, provides a 48 hour notice, and discontinues service is approximately 40 days. With SB 998, this process will be approximately 85 days.

Because the District uses an unified billing process, including both water and sewer charges on one bill, the entire bill will be subject to the new timelines and other procedural changes required by SB 998. This will mean that delinquent sewer charges will also be subject to the 60-day waiting period for residential customers who also receive water service from the District.

In order to comply with SB 998:

- The written discontinuance policy must be provided in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any other language spoken by 10% or more of the customers.
- The discontinuance policy must be available on the District's web site in all required languages.
- The District shall report the number of annual discontinuations of residential service for inability to pay on the District's web site and to the State Water Resources Control Board.

Based on the past three years of customer data, approximately 88% of all District customers pay in a timely manner and approximately 12% do not pay within the prescribed time and are assessed a penalty. Of the 12% who are assessed a penalty, less than 1% of those customers are subject to discontinuance for nonpayment.

### **RECOMMENDATION**

It is recommended that the Committee review the proposed ordinance amending District Code Chapter 3.03 and the proposed Discontinuance of Residential Water Service Policy and provide direction to Staff.

### **ATTACHMENT**

- A. SB 998
- B. Outline of SB 998 Requirements
- C. Draft Ordinance Amending District Code Chapter 3.03
- D. Redline of Proposed Amendments to District Code Chapter 3.03
- E. Draft Discontinuance of Residential Water Service Policy
- F. Visual Depiction of Changes to Discontinuance Timeline

NOVEMBER 12, 2019

ITEM 2

ATTACHMENT A



**SB-998 Discontinuation of residential water service: urban and community water systems.** (2017-2018)

SHARE THIS:



Date Published: 09/28/2018 09:00 PM

**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

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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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

## 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.

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(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.

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(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.

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**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.

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**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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ITEM 2

ATTACHMENT B

# Discontinuation of Water Service Under SB 998

# Compliance Deadlines

- Urban water supplier (3,000 or more connections) not regulated by Public Utilities Commission: February 1, 2020
- Water systems regulated by Public Utilities Commission: February 1, 2020
- Non-urban water supplier (Fewer than 3,000 connections) not regulated by Public Utilities Commission: April 1, 2020



# Discontinuation of Service Policy

- Must adopt a written discontinuation of service policy by applicable deadline
- Policy must contain the following information:
  - Plan for deferred/reduce payments;
  - Alternate payment schedules;
  - Mechanism to contest/appeal bill; and
  - Contact number to discuss options for averting service discontinuation
- Translated into Spanish, Chinese, Tagalog, Vietnamese, Korean, and any language spoken by at least 10 percent of service area
- Place on district website

# New Requirements for Discontinuing Service

- Payment must be delinquent at least 60 days
- By phone or in writing, contact customer at least 7 business days before discontinuing service
  - **Phone:** Offer copy of policy and options to avert discontinuation
  - **Writing:** Notice sent to customer and occupant, if different, and contain:
    - Customer's name and address;
    - Delinquent amount;
    - Date when payment is required;
    - Process to apply for extension of time to pay;
    - Procedure to petition for bill review/appeal; and
    - Procedure to request deferred, reduced, alternate payment schedule, or amortization
- Unable to make contact? Visit residence and post notice of imminent discontinuation and leave copy of discontinuation policy

## Limitations on Discontinuation of Service

- Service may not be discontinued under the following circumstances:
  - During any appeal; OR
  - Customer or tenant's doctor certifies that discontinuation of service is life threatening or poses serious threat to health and safety of resident;
  - Customer financially unable to pay under normal billing cycle (i.e., low-income benefit recipient or household income less than 200 percent of poverty level); AND
  - Customer willing to enter into alternative payment arrangement

## Alternative Arrangements

- Options that must be offered to low-income customers with doctor certifications:
  - Amortize unpaid balance;
  - Alternative payment schedule;
  - Partial/full reduction of unpaid balance financed without additional charges to other ratepayers; or
  - Temporarily defer payment
- District may set payment parameters, provided they ordinarily result in full payment within 12 months



## Breach of Alternative Arrangement

- Breach of agreement upon payment plan for 60 days or more; or
- While undertaking plan, failure to pay current charges for 60 days or more
- Then district may discontinue service no sooner than 5 days after posting notice of intent to disconnect service

## Restoring Discontinued Service

- Provide customer information on restoring service
- Customers with household incomes below 200 percent of poverty line or receive low-income benefits/assistance, then district must do the following:
  - Limit reconnection service fee to district's actual cost, up to \$50 during normal hours and \$150 during off-hours
  - Waive interest charges on delinquent bills once every 12 months

## Landlord/Tenant Situations

- Special rules where landlord is customer and district furnishes water to tenants by individual meter
  - Notify tenants 10 days before discontinuing service that (1) account in arrears; (2) service will be discontinued; (3) tenant may become customer
  - If tenant becomes customer, may not charge tenant delinquent amounts
  - May require tenants to agree to terms and conditions
  - Proof of prompt rent payments or other obligation sufficient for establishing credit

# Special Noticing Requirements

- All notices under SB 998 must be translated into the following languages:
  - Spanish
  - Chinese
  - Tagalog
  - Vietnamese
  - Korean
  - any language spoken by at least 10 percent of service area

## Reporting Requirements

- Report on website and to State Water Board number of annual discontinuations of residential service for inability to pay
- State Water Board will also post information on its website

# Penalties

- Failure to adopt discontinuation of service policy:
  - State Water Resources Control Board enforcement actions
  - Penalties of \$1,000 per day
  - Enforcement costs
  - Potential litigation costs
- Attorney General may enjoin violations of SB 998

NOVEMBER 12, 2019

ITEM 2

ATTACHMENT C

**ORDINANCE NO. 2019-XXXX**

**AN ORDINANCE OF BOARD OF THE DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING NIPOMO COMMUNITY SERVICES DISTRICT  
CODE CHAPTER 3.03**

The Board of Directors of the Nipomo Community Services District ordains as follows:

SECTION 1. Chapter 3.03 of the Nipomo Community Services District Code, referenced herein as "District Code," shall be amended and replaced in its entirety to read as shown in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. Any sections, portions of sections, or subsections of the District Code not specifically amended and replaced herein shall remain in full force and effect.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

SECTION 4. The Board of Directors of the District finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15378(b)(2) and 15378(b)(4) because it constitutes general policy and procedure making and government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The Board of Directors further finds that the adoption of this Ordinance is not a project as defined in CEQA Guidelines Section 15378 because it can be seen with certainty that it will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

SECTION 5. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15<sup>th</sup>) day after passage this Ordinance shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

INTRODUCED at its regular meeting of the Board of Directors held on \_\_\_\_\_, 2019, and PASSED and ADOPTED by the Board of Directors of the Nipomo Community Services District at its regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following roll call vote, to wit:

AYES:

NOES:



ORDINANCE NO. 2019-XXXX

AN ORDINANCE OF BOARD OF THE DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING NIPOMO COMMUNITY SERVICES DISTRICT  
CODE CHAPTER 3.03

ABSENT:

CONFLICTS:

\_\_\_\_\_  
ED EBY  
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MARIO IGLESIAS  
General Manager and  
Secretary to the Board

\_\_\_\_\_  
WHITNEY G. McDONALD  
District Legal Counsel

ORDINANCE NO. 2019-XXXX

AN ORDINANCE OF BOARD OF THE DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING NIPOMO COMMUNITY SERVICES DISTRICT  
CODE CHAPTER 3.03

Exhibit A

**Chapter 3.03 – WATER AND SEWER FEES AND CHARGES AND COLLECTION PROCEDURES**

**3.03.010 – Purpose and scope.**

This chapter is enacted pursuant to Sections 61060, 61115, and 60371 through 60375.5, of the Government Code and sets forth the rates, charges, rules, regulations and procedures governing the use of the district's sewer and water facilities.

**3.03.020 – Application for service.**

- A. Applications for service shall be made by the property owner or a bona fide nonresident property manager (authorized agent), in writing on a form provided by the district. All applications shall include a nonrefundable account set up fee and payment of outstanding accrued fees and charges, if applicable, pursuant to District Code Section 3.03.040. The account set up fee shall be established by resolution.
- B. Applications for service are non-transferable and upon change of ownership, as defined in subsection C, below, the new owner, as a condition to district service, shall apply for district services prior to close of escrow and/or recording a deed acknowledging a transfer of ownership.
- C. "Change of ownership" means a transfer of a present interest in real property. Every transfer of property shall qualify as a "change of ownership", except transfer of title from one spouse to another, whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other means. "Change of ownership" affected other than by a contract of sale shall be deemed to occur at the time of actual transfer of title.

**3.03.030 – District billing procedure.**

- A. Except as otherwise provided herein and in subsection B of this section, water meters are to be read and statements for water and sewer services are to be mailed once every two months. Notwithstanding the foregoing, statements for nonresidential water and sewer service may be mailed monthly.
- B. The general manager, at his/her discretion, may cause a meter reading to be made at any time and thereafter bill the customer for water and sewer used since the previous reading.
- C. Meters will be read, as nearly as possible, on the same day of the month as determined by the district.
- D. Meter Read Surcharge. Customers shall have the water meter accessible at all times to district personnel. Meters shall be free of items including, but not limited to, parked vehicles, debris, guard animals, overgrown landscaping, fences, and locked gates. At no charge, the district will notify the owner, in writing, of an initial accessibility issue. A fee will be assessed for each subsequent unsuccessful attempt to access the meter. The fee

ORDINANCE NO. 2019-XXXX

AN ORDINANCE OF BOARD OF THE DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING NIPOMO COMMUNITY SERVICES DISTRICT  
CODE CHAPTER 3.03

will be placed on the next regularly scheduled utility billing. In addition, the district will estimate water usage for billing purposes. The meter read surcharge fee shall be established by resolution.

- E. Where both water and sewer service are being provided at a given service address, both water and sewer service charges shall appear on one bill. The district will not bill water and sewer service charges separately for service addresses receiving both services.
- F. Billing statement. All billing statements shall be mailed to the person designated in the application.
- G. Duplicate billing statement. The person designated in the application may request in writing on a form provided by the district to have a duplicate bill and late notice mailed to the service address, provided a mail receptacle is available. The duplicate billing fee shall be established by resolution.
- H. In the event of a transfer of ownership of property receiving water and/or sewer service, all fees and charges accrued up to the date of close of escrow and/or the date of recording of a deed acknowledging the transfer of ownership will become due and payable immediately and a closing bill will be provided to the customer of record. If the district is not notified of the pending transfer of ownership by either the buyer or seller, the district will prepare the closing bill upon notification of the transfer of ownership and all accrued charges up to that date will be included in the closing bill to the customer of record.

**3.03.040 – Responsibility of property owner.**

The owner of the property which is furnished services is the customer and shall be responsible for the payment of all rates, charges, and fees, including penalties, thereon regarding such furnished services, except as otherwise provided in this Chapter or as required by state law. Unpaid obligations shall run with the land and shall lead to delinquency and termination of service for the residential unit or other real property involved without regard to any changes of residency or occupancy by persons different than the persons shown on district records as obligated to pay said bill, except as otherwise required by the district's Discontinuation of Residential Water Service Policy.

**3.03.050 – Delinquency and Penalty.**

- A. Delinquency. Utility bills are due and payable upon presentation. Accounts not collected in full by 4:30 p.m. on the due date stated in the bill, which shall be not earlier than 19 days from the date of mailing the district's bill for services, are delinquent. Postmarks are not accepted.
- B. Penalty. Delinquent accounts shall incur a penalty on the total current charges owing. A notice that includes the penalties assessed and the final due date prior to discontinuance of service will be generated and mailed to the billing address. The penalty shall be established by resolution.
- C. Small Balance Accounts. Any balance on a bill totaling \$40.00 or less may be carried over and added to the next billing period without being assessed a penalty. Any such

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small balances not paid during the next billing period will be subject to all otherwise applicable penalties, fees, and discontinuation of service procedures.

**3.03.060 – Discontinuance of service.**

- A. Water and sewer service may be discontinued for any one of the following reasons:
1. Delinquency in the payment of any water and/or sewer service rate or charge;
  2. The unauthorized taking of water or the taking of water in excess of the amount paid for;
  3. Failure of the customer to maintain their facilities in a suitable condition to prevent waste of water;
  4. Failure of the customer to pay district connection fees for water and/or sewer service;
  5. The existence of any unprotected cross connections on the customer's premises or the lack of adequate backflow protection at the service connection;
  6. To protect the district against fraud or abuse;
  7. Any violation by the customer of any rules, regulations, or fees of the district governing water and/or sewer service.
- B. Non-Payment Fee. Commencing at 4:30 p.m. on the due date stated in the notice described in District Code section 3.03.050.B, a non-payment/reconnection fee will be charged to the account regardless of whether the meter has been physically turned off. The non-payment/reconnection fee shall be established by resolution.
- C. Services discontinued pursuant to this section shall not be restored until all fees and charges are paid in full. The district will restore service as soon as is practicable, but at a minimum, will restore service no later than the end of the next regular business day following receipt of payment in full. Restoration of service that has been discontinued for non-payment will not be made after-hours or during non-regular business hours.

**3.03.070 – Discontinuance of residential service for nonpayment.**

Prior to any proposed discontinuance of residential water and/or sewer service for nonpayment of a delinquent account respecting such service, the district shall comply with the district's Discontinuation of Residential Water Service Policy, including but not limited to compliance with all notice requirements contained therein and/or as required by applicable state law. The district's Discontinuation of Residential Water Service Policy shall be adopted by resolution.

**3.03.090 – Discontinuance of nonresidential services for nonpayment.**

- A. At least ten days before discontinuing nonresidential water and/or sewer service, the district shall provide a written notice to the customer. The notice shall specify the reason for the proposed discontinuance and inform the customer of the opportunity to discuss the reason for the proposed discontinuance with the district general manager, or his/her designee consistent with the district's code. The name and phone number of the district

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general manager, or his or her designee, shall be included in any such notice of proposed discontinuance given to a nonresidential customer. Forty-eight (48) hours before a nonresidential customer's service will be discontinued for nonpayment, the district will generate and post a shut-off notice (door hanger) in conspicuous location at the service address. A fee will be added to every account for which a shut-off notice (door hanger) is generated. The fee will be added to the account and will be payable upon the presentation of the next regularly scheduled bill. This fee is in addition to any past due balance and penalty. The shut-off notice (door hanger) fee shall be established by resolution.

- B. A nonresidential customer may request to amortize or make alternative payment arrangements for the balance of an unpaid bill for water and/or sewer service by filing a written request with the district at least two business days prior to the discontinuance date stated in the notice required by subsection A of this section. Any amortization or alternative payment arrangement shall provide for payment of all charges, fees, and penalties owed on the account within twelve months. The district will only permit one amortization every eighteen months.

**3.03.100 – Discontinuance of service on weekends, holidays or after hours.**

- A. District services will not be discontinued to any customer or user because of any delinquency in payment on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.
- B. Water on/off after hours fee. Any customer who requests a meter to be turned on or off for any reason, other than for non-payment, on any Saturday, Sunday, legal holiday, or at any time during which the business office of the district is not open to the public shall be assessed a fee for each request. The fee(s) shall be placed on the next regularly scheduled utility bill. The turn on/off after hours fee shall be established by resolution.

**3.03.110 – Investigation and resolution of disputes.**

- A. The general manager, or his or her designee, is authorized to investigate complaints and disputes pertaining to any matters for which the water or sewer service may be discontinued, and to rectify errors and settle controversies pertaining to such disputes.
- B. Any complaint or request for investigation by a nonresidential customer related to a disputed bill, charge, fee, or penalty for water and/or sewer service must be made in writing, which must identify the disputed bill, charge, fee or penalty, and state the reason for the complaint or request, and must be filed with the district within five days of receiving the disputed bill. The general manager, or his or her designee, shall review and investigate the complaint and issue a final decision to the customer. Complaints and requests for investigation by residential customers related to disputed bills, charges, fees, or penalties are governed by the district's Discontinuation of Residential Water Service Policy.

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**3.03.120 – Leak adjustments.**

- A. Leak adjustments for district water customers. A written request for relief may be made by a water service customer receiving a high bill for water service. The written request must be received by the district no later than 4:30 p.m. on the due date of the bill in question. The general manager or his or her designee shall investigate such complaint in the following manner:
1. The district manager or his or her designee shall first determine whether or not the increase in water consumption is related to a leak occurring on the customer's side of the water service connection and that the leak has been remedied.
  2. The district manager or his or her designee shall review the customer's water bills for the same time period in the previous five years to determine whether or not there is a significant differential in terms of water use that was evidenced by a leak. Where there is a significant difference as determined by the general manager or his or her designee, water usage for the billing period shall be billed as follows:
    - i. The average normal usage will be billed at the rates in place at the time of the high bill.
    - ii. All excess usage (over and above the average normal usage) will be billed at a rate equivalent to the otherwise applicable water rates minus the portion of the rate associated with supplement water, as established by resolution.
    - iii. Leak adjustments will only be processed if the adjustment is greater than one hundred dollars.
- B. For water service customers who have not established a five-year history of water usage, the general manager shall determine equivalent water services using similar billings with a five-year history to make the appropriate findings as set forth in subsections A(2)(i) and (ii) above. The customer shall then be charged according to Section A(2)(ii) above.
- C. The relief provided by this section is available, upon written request, for a District water service customer once during a three year period. A water service customer may not apply for relief under this ordinance if relief had been sought and granted any time during the previous three years.
- D. If a leak adjustment is approved, the customer must sign an acknowledgement of the leak adjustment prior to the adjustment being made to the customer's account. Within fifteen days of the original due date of the water bill, the customer is responsible for completing the leak adjustment process and paying the adjusted bill. If the customer fails to execute the leak adjustment acknowledgement and pay the adjusted bill prior to the above-referenced due date, no leak adjustment will be granted and the customer will be responsible for the paying the full, original water bill plus all additional fees and charges assessed through the date of payment.
- E. Leak adjustments will not be considered for previous billing cycles and adjustments will not be made retroactively.

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- F. Leak adjustments are for a specific billing cycle and cannot be spread over two billing cycles.
- G. The general manager or his or her designee may consider whether the customer shall be permitted to amortize the amount equal to the excess usage over a reasonable period of time, not to exceed twelve months.

**3.03.130 – Public nuisance, abatement.**

During any period of non-connection or disconnection of water and/or sewer service, habitation of premises by human beings shall constitute a public nuisance, whereupon the district may cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. The district may request the county health officer to commence proceedings to be brought for the abatement of the occupancy of the premises by human beings. In such event, and as a condition of reconnection, there shall be paid to the district a reasonable attorney's fee and costs of suit arising in said action.

**3.03.140 – Partial payment spread.**

In the case of partial payment by a customer, the payment will be applied to the account in the following order:

- A. Penalties and restoration charges;
- B. Late charge;
- C. Sewer charge;
- D. Water charge.

**3.03.150 – Returned checks.**

A fee will be charged against any account whose check or electronic payment is returned by the bank for any reason. Following receipt of a returned check or returned electronic payment, all amounts owed must be paid in cash, money order, or credit card. Returned checks or returned electronic payments are treated as nonpayment and any otherwise applicable penalties and/or discontinuance procedures shall apply as if no payment had been made to the account. If the account is otherwise subject to discontinuance pursuant to the requirements of this Chapter, upon receipt of a returned check or returned electronic payment, the district will post a twenty-four (24) hour notice of imminent discontinuance at a conspicuous location at the property pursuant to this section. The twenty-four (24) hour notice will state the total amount due in order to avoid discontinuance of service and the requirements for reconnection. The returned check/returned electronic payment fee shall be established by resolution.

**3.03.160 – Meter malfunction.**

- A. Meter Calibration Deposit. A customer who questions the accuracy of a meter serving the premises may request in writing a test of meter registration. A deposit equal to the water meter calibration check charge and any calibration charges shall be required in

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advance when a test is requested. The water meter calibration charge fee shall be established by resolution.

- B. If a meter is found to over-register more than five percent, the district shall return the charge for the test and the customer shall be entitled to a refund based on adjustment made by the district manager. Such adjustment shall be calculated by taking the difference between the normal use and the incorrect reading. In no case shall refunds cover more than two consecutive months prior to the discovery of meter malfunction.
- C. When a meter is found to under-register by more than five percent, the charge for water will be based, at the option of the district, either on previous consumption for the same period in the preceding year during which the meter is known to have registered correctly, or on the consumption as registered by a "substitute meter."

**3.03.170 – Tampering.**

- A. No person, other than an authorized district employee, shall at any time or in any manner, operate, or cause to be operated, any valve in or connected to a water main or sewer main, service connection or fire hydrant, or tamper or otherwise interfere with any water meter, meter valve, backflow prevention device, detector check valve, or other part of the district's water or sewer system.
- B. Tampering fee. In addition to other district fees and charges, a tampering fee will be charged to the customer in all situations where a person has tampered with district services or privately restores water service without district permission. Such fee shall be added to the account for the property affected by the illegal tampering. The tampering fee shall be established by resolution.
- C. Repair Authorization fee. If a person's actions result in damage to the district's water or sewer systems, the cost of repair and/or replacement will be charged to the customer. The repair authorization fee shall be established by resolution.
- D. Staff shall prepare and keep complete and accurate records concerning tampering with district's service systems. The manager shall review such records and shall decide whether or not to seek a criminal complaint through the sheriff's office. If there is more than one such tampering violation for the same property within any five-year period, the board shall hold a public hearing to consider permanent disconnection of water service to the property, or such other remedies as the board deems appropriate.

**3.03.180 – District rates and charges.**

- A. Water rate shall be charged as follows:
  - 1. Minimum Charges. A minimum bi-monthly charge shall be paid by each customer for each bi-monthly billing period during which a service connection exists even if the meter is locked. Such charge for any billing period in which a service connection has existed for less than the whole of a billing period shall be prorated. Minimum bi-monthly charges vary with the size of the meter. The minimum bi-monthly charge for service shall be established by resolution.



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2. Water Rates. The metered rate for water sold, supplied, distributed, or transported to customers shall be established by resolution.

B. Sewer rates shall be charged as follows:

1. Sewer charges shall commence on the date the water meter is set.
2. District sewer charges shall be established by resolution.

**3.03.190 – Collection of delinquent charges on the tax roll or by recorded certificate and lien.**

- A. The board of directors adopts the procedures for the collection of rates, charges, fees, and penalties for nonpayment of delinquent bills established in Government Code Section 61115 or any successor statute.
- B. The general manager or his/her designee is authorized to record a certificate and lien for the amount of charges, fees, and penalties owed, and the name and address of the persons liable therefor, sixty days after the payment becomes delinquent, pursuant to Government Code Section 61115 or any successor statute.
- C. Remedies for collection and enforcement for nonpayment of delinquent rates, charges, fees, and penalties are cumulative and may be pursued alternatively or consecutively by the district.

**3.03.200 – Judicial relief and attorney's fees.**

In the event that any customer fails to timely pay a billing statement, the customer shall be deemed to be in default and in such case, the district may declare the balance or remaining balances due and payable. In the event that the district is required to bring action to collect any sum in default, the customer shall pay any attorney's fees, court costs, or other costs incurred by the district to bring such action.

**3.03.210 – Means of enforcement.**

The district declares that the foregoing procedures are established as a means of enforcement of the terms and conditions of its ordinances, rules, and regulations, and not as a penalty.

**3.03.220 – Cumulative remedies.**

All remedies set forth herein for the collection and enforcement of charges, rates, fees, and penalties are cumulative and may be pursued alternatively or consecutively.

NOVEMBER 12, 2019

ITEM 2

ATTACHMENT D

## Chapter 3.03 – WATER AND SEWER FEES AND CHARGES AND COLLECTION PROCEDURES

### 3.03.010 – Purpose and scope.

This chapter is enacted pursuant to Sections ~~61600, 61621.5~~ 61060, 61115, and 60371 through 60375.5, of the Government Code and sets forth the rates, charges, rules, regulations and procedures governing the use of the district's sewer and water facilities.

### 3.03.020 – Application for service.

- A. ~~Account set up fee.~~ Applications for service shall be made by the property owner or a bona fide nonresident property manager (authorized agent), in writing on a form provided by the district. All applications shall include a nonrefundable account set up fee and payment of outstanding accrued fees and charges, if applicable, pursuant to District Code Section 3.03.040. The account set up fee shall be established by resolution.
- B. Applications for service are non-transferable and upon change of ownership, as defined in subsection C, below, the new owner, as a condition to district service, shall apply for district services prior to close of escrow and/or recording a deed acknowledging a transfer of ownership.
- C. ~~C.~~ "Change of ownership" means a transfer of a present interest in real property. Every transfer of property shall qualify as a "change of ownership", except transfer of title from one spouse to another, whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other means. "Change of ownership" affected other than by a contract of sale shall be deemed to occur at the time of actual transfer of title.

~~D. The general manager or his/her designee is authorized to record notice on all parcels of real property located within the district of the requirements of this section.~~

### 3.03.030 – District billing procedure.

- A. Except as otherwise provided herein and in subsection B of this section, water meters are to be read and statements for water and sewer services are to be mailed once every two months. Notwithstanding the foregoing, statements for nonresidential water and sewer service may be mailed monthly.
- B. The general manager, at his/her discretion, may cause a meter reading to be made at any time; and thereafter bill the customer for water and sewer used since the previous reading.
- C. Meters will be read, as nearly as possible, on the same day of the month as determined by the district.
- D. ~~4.~~ Meter Read Surcharge. Customers shall have the water meter accessible at all times to district personnel. Meters shall be free of items including, but not limited to, parked vehicles, debris, guard animals, overgrown landscaping, fences, and locked gates. At no charge, the district will notify the owner, in writing, of an initial accessibility issue. A fee will be assessed for each subsequent unsuccessful attempt to access the meter. The fee will be placed on the next regularly scheduled utility billing. In addition, the district will estimate water usage for billing purposes. The meter read surcharge fee shall be established by resolution.

- E. ~~D.~~—Where both water and sewer service are being provided at a given service address, both water and sewer service charges shall appear on one bill. The district will not bill water and sewer service charges separately for service addresses receiving both services.
- F. ~~E.~~—Billing statement. All billing statements shall be mailed to the person designated in the application.
- G. Duplicate billing statement. The person designated in the application may request in writing on a form provided by the district to have a duplicate bill and late notice mailed to the service address, provided a mail receptacle is available. The duplicate billing fee shall be established by resolution.

~~F.—All fees and charges become due and payable prior to the finaling of the account.~~

H. In the event of a transfer of ownership of property receiving water and/or sewer service, all fees and charges accrued up to the date of close of escrow and/or the date of recording of a deed acknowledging the transfer of ownership will become due and payable immediately and a closing bill will be provided to the customer of record. If the district is not notified of the pending transfer of ownership by either the buyer or seller, the district will prepare the closing bill upon notification of the transfer of ownership and all accrued charges up to that date will be included in the closing bill to the customer of record.

### **3.03.040 – Responsibility of property owner.**

The owner of the property which is furnished services is the customer and shall be responsible for the payment of all rates, charges, and fees, including penalties, thereon regarding such furnished services, except as otherwise provided in this Chapter or as required by state law. Unpaid obligations shall run with the land, and shall lead to delinquency and termination of service for the residential unit or other real property involved without regard to any changes of residency or occupancy by persons different than the persons shown on district records as obligated to pay said bill, except as otherwise required by the district's Discontinuation of Residential Water Service Policy.

### **3.03.050 –~~Late fee~~ Delinquency and Penalty.**

A. Delinquency. Utility bills are due and payable upon presentation. Accounts not collected in full by 4:30 p.m. on the ~~twenty-fifth day after presentation of due date stated in the bill,~~ which shall be not earlier than 19 days from the date of mailing the district's bill for services, are delinquent. Postmarks are not accepted.

A.B. Penalty. Delinquent accounts shall incur a penalty on the total current charges owing. A ~~late~~ notice that includes the penalties assessed and the final due date prior to discontinuance of service will be generated and mailed to the billing address. The ~~late fee~~ penalty shall be established by resolution.

C. Small Balance Accounts. Any balance on a bill totaling \$40.00 or less may be carried over and added to the next billing period without being assessed a penalty. Any such small balances not paid during the next billing period will be subject to all otherwise applicable penalties, fees, and discontinuation of service procedures.

### **3.03.060 – Discontinuance of service.**

- A. Water and sewer service may be discontinued for any one of the following reasons:

1. Delinquency in the payment of any water and/or sewer service rate or charge ~~except that residential service shall not be discontinued for nonpayment in any of the following situations:-;~~
    - ~~a. During the pendency of any investigation by the district of a customer dispute or complaint;~~
    - ~~b. When a customer has been granted an extension of the period for payment of a bill respecting water and/or sewer service;~~
    - ~~c. On the certification of a licensed physician or surgeon that to do so will be life-threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the district and requests permission to amortize, over a period not to exceed twelve months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal payment period;~~
  2. The unauthorized taking of water or the taking of water in excess of the amount paid for;
  3. Failure of the customer to maintain ~~his~~their facilities in a suitable condition to prevent waste of water;
  4. Failure of the customer to pay district connection fees for water and/or sewer service;
  5. The existence of any unprotected cross connections on the customer's premises or the lack of adequate backflow protection at the service connection;
  6. To protect the district against fraud or abuse;
  7. Any violation by the customer of any rules, regulations, or fees of the district governing water and/or sewer service.
- B. Non-Payment Fee. Commencing at 4:30 p.m. on the due date stated in the ~~late~~ notice described in District Code section 3.03.050.B, a non-payment/reconnection fee will be charged to the account. ~~Further, a work order may be generated to discontinue service for failure to make payment pursuant to subsection A regardless of this section, whether the meter has been physically turned off.~~ The non-payment/reconnection fee shall be established by resolution.
- ~~C. Permanent discontinuance. Ten days after the district initiates a work order to discontinue service pursuant to subsection B of this section, the service shall be considered permanently discontinued and the account will be terminated. The meter will be removed and the location will be assessed a meter remove/re-install fee. The meter will not be re-installed until all fees and charges have been paid in full, including a meter re-installation charge. The fees shall be established by resolution.~~
- C. ~~D.~~ Services discontinued pursuant to this section shall not be restored until all fees and charges are paid in full. The district will restore service as soon as is practicable, but at a minimum, will restore service no later than the end of the next regular business day following receipt of payment in full. Restoration of service that has been discontinued for non-payment will not be made after-hours or during non-regular business hours.

**3.03.070 – ~~Notice of discontinuance~~ Discontinuance of residential service for nonpayment.**

~~A. — At least ten days before~~Prior to any proposed discontinuance of residential water and/or sewer service for nonpayment of a delinquent account respecting such service, the district shall ~~mail a~~ comply with the district's Discontinuation of Residential Water Service Policy, including but not limited to compliance with all notice, ~~postage prepaid, to the customer to whom the service is billed of the proposed discontinuance. Such notice requirements contained therein and/or as required by applicable state law. The district's Discontinuation of Residential Water Service Policy~~ shall be ~~given not earlier than twenty-five days from the date of mailing the district's bill for such service and the ten-day period shall not commence until five days after the mailing of the notice. In addition to the ten-day notice provided for in the preceding sentence, the district shall make a reasonable attempt to contact any adult person residing at the premises of the customer by telephone or personal contact at least forty-eight hours prior to any discontinuance of service, except that, whenever telephone or personal contact cannot be accomplished, the district shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of disconnection of service, at least forty-eight hours prior to disconnection.~~

~~1. — Shut Off Notice (Door Hanger). A fee will be added to every account for which a forty-eight hour shut-off notice (door hanger) is generated. The fee will be added to the account and payable upon the presentation of the next regularly scheduled bill. This fee is in addition to the past due balance and late fee. The shut-off notice fee shall be established~~adopted by resolution.

~~B. — Every notice of discontinuance of service required by this section shall include all of the following information:~~

- ~~1. — The name and address of the customer whose account is delinquent;~~
- ~~2. — The amount of the delinquency;~~
- ~~3. — The date by which payment or arrangements for payment is required in order to avoid discontinuance;~~
- ~~4. — The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, unless the district's bill for service contains a description of that procedure;~~
- ~~5. — The procedure by which the customer may request amortization of the unpaid charges;~~
- ~~6. — The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state or federal sources, if applicable;~~
- ~~7. — The telephone number and name of a representative of the district who can provide additional information or institute arrangements for payment.~~

**3.03.080 – Notice of discontinuance of service to multiunit residential structures.**

~~Whenever the district furnishes water through a master meter, or furnishes individually metered service in a multiunit residential structured, mobilehome park, or farm labor camp, the district will give the following notices prior to discontinuing service:~~

- ~~A. — Notify the owner of the property pursuant to Section 3.03.070 (A); and~~
- ~~B. — Make every good faith effort to inform the actual users of the service, when the account is in arrears by means of a notice that service will be terminated in ten days. Said notice will comply with Government Code Section 60371.~~

**3.03.090 – Discontinuance of nonresidential services for nonpayment.**

- A. At least ten days before discontinuing nonresidential water and/or sewer service, the district shall provide a written notice to the customer. The notice shall specify the reason for the proposed discontinuance and inform the customer of the opportunity to discuss the reason for the proposed discontinuance with the district general manager, or his/her designee. ~~The district general manager or his/her designee is empowered to review disputes and rectify errors and settle controversies pertaining to such proposed discontinuance of service.~~ consistent with the district's code. The name and phone number of the district general manager, or his or her designee, shall be included in any such notice of proposed discontinuance given to a nonresidential customer. Forty-eight (48) hours before a nonresidential customer's service will be discontinued for nonpayment, the district will generate and post a shut-off notice (door hanger) in conspicuous location at the service address. A fee will be added to every account for which a shut-off notice (door hanger) is generated. The fee will be added to the account and will be payable upon the presentation of the next regularly scheduled bill. This fee is in addition to any past due balance and penalty. The shut-off notice (door hanger) fee shall be established by resolution.
  
- B. A nonresidential customer may request to amortize or make alternative payment arrangements for the balance of an unpaid bill for water and/or sewer service by filing a written request with the district at least two business days prior to the discontinuance date stated in the notice required by subsection A of this section. Any amortization or alternative payment arrangement shall provide for payment of all charges, fees, and penalties owed on the account within twelve months. The district will only permit one amortization every eighteen months.

**3.03.100 – Discontinuance of service on weekends, holidays or after hours.**

- A. District services will not be discontinued to any customer or user because of any delinquency in payment on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.
  
- B. Water on/off after hours fee. Any customer who requests a meter to be turned on or off for any reason, other than for non-payment, on any Saturday, Sunday, legal holiday, or at any time during which the business office of the district is not open to the public shall be assessed a fee for each request. The fee(s) shall be placed on the next regularly scheduled utility bill. The turn on/off after hours fee shall be established by resolution.

**3.03.110 – Investigation and ~~amortization~~ resolution of ~~delinquent bill for water and/or sewer service.~~ disputes.**

- A. The general manager, or his or her designee, is authorized to investigate complaints and disputes pertaining to any matters for which the water or sewer service may be discontinued; and to rectify errors and settle controversies pertaining to such disputes.
  
- B. ~~Every~~ Any complaint or request for investigation by a nonresidential customer ~~that is related to a disputed bill, charge, fee, or penalty for water and/or sewer service must be made in writing, which must identify the disputed bill, charge, fee or penalty, and state the reason for the complaint or request, and must be filed with the district~~ within five days of receiving the disputed bill for water and/or sewer service, and any request by a customer that is made within thirteen days, other than mailing of such notice required by Section

~~3.03.070 for an extension of the payment period of such bill asserted to be beyond the means of the customer to pay in full during the normal period of payment, shall be reviewed by the. The general manager, or his or her designee. The, shall review shall include consideration of whether and investigate the complaint and issue a final decision to the customer shall be permitted. Complaints and requests for investigation by residential customers related to amortize disputed bills, charges, fees, or penalties are governed by the unpaid balance of the amount over a reasonable period of time not to exceed twelve months. The District will only permit one amortization every eighteen months.~~district's Discontinuation of Residential Water Service Policy.

~~3.03.120— Investigation and possible relief for water customers.~~

~~A.—Relief~~

3.03.120 – Leak adjustments.

Leak adjustments for district water customers.

- A. ~~1.~~ 1.—A written request for relief may be made by a water service customer receiving a high bill for water service. The written request must be received by the district no later than 4:30 p.m. on the due date of the bill in question. The general manager or his or her designee shall investigate such complaint in the following manner:
1. ~~i.~~ i.—The district manager or his or her designee shall first determine whether or not the increase in water consumption is related to a leak occurring on the customer's side of the water service connection and that the leak has been remedied.
  2. ~~ii.~~ ii.—The district manager or his or her designee shall review the customer's water bills for the same time period in the previous five years to determine whether or not there is a significant differential in terms of water use that was evidenced by a leak. Where there is a significant difference as determined by the general manager or his or her designee, water usage for the billing period shall be billed as follows:
    - i. ~~(1)~~ (1)—The average normal usage will be billed at the rates in place at the time of the high bill.
    - ii. ~~(2)~~ (2)—All excess usage (over and above the average normal usage) will be billed at a rate equivalent to the otherwise applicable water rates minus the portion of the rate associated with supplement water, as established by resolution.
    - iii. ~~(3)~~ (3)—Leak adjustments will only be processed if the adjustment is greater than one hundred dollars.
- B. ~~iii.~~ iii.—For water service customers who have not established a five-year history of water usage, the general manager shall determine equivalent water services using similar billings with a five-year history to make the appropriate findings as set forth in subsections ~~(A(2)(i) and (ii) above.~~ (A(2)(i) and (ii) above. The customer shall then be charged according to Section A(~~12~~)(ii) above.
- C. ~~2.~~ 2.—The relief provided by ~~these sections~~this section is available, upon written request, for a District water service customer once during a three year period. A water service



customer may not apply for relief under this ordinance if relief had been sought and granted any time during the previous three years.

- D. ~~3.~~—If a leak adjustment is approved, the customer must sign an acknowledgement of the leak adjustment prior to the adjustment being made to the customer's account. Within fifteen days of the original due date of the water bill, the customer is responsible for completing the leak adjustment process and paying the adjusted bill. If the customer fails to execute the leak adjustment acknowledgement and pay the adjusted bill prior to the above-referenced due date, no leak adjustment will be granted and the customer will be responsible for the paying the full, original water bill plus all additional fees and charges assessed through the date of payment.
- E. ~~4.~~—Leak adjustments will not be considered for previous billing cycles and adjustments will not be made retroactively.
- F. ~~5.~~—Leak adjustments are for a specific billing cycle and cannot be spread over two billing cycles.
- G. ~~6.~~—The general manager or his or her designee may consider whether the customer shall be permitted to amortize the amount equal to the excess usage over a reasonable period of time, not to exceed twelve months.

### **3.03.130 – Public nuisance, abatement.**

During any period of ~~nonconnection~~non-connection or disconnection of water and/or sewer service, habitation of premises by human beings shall constitute a public nuisance, whereupon the district may cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. The district may request the county health officer to commence proceedings to be brought for the abatement of the occupancy of the premises by human beings. In such event, and as a condition of reconnection, there shall be paid to the district a reasonable attorney's fee and costs of suit arising in said action.

### **3.03.140 – Partial payment spread.**

In the case of partial payment by a customer, the payment will be applied to the account in the following order:

- A. Penalties and restoration charges;
- B. Late charge;
- C. Sewer charge;
- D. Water charge.

### **3.03.150 – Returned ~~check fee~~checks.**

A fee will be charged against any account whose check ~~is returned by the bank for any reason. Returned checks are processed as delinquent payments for purposes of applying Section 3.03.050, 3.03.060 or 3.03.070 et seq. of the district code. The returned check~~or electronic payment is returned by the bank for any reason. Following receipt of a returned check or returned electronic payment, all amounts owed must be paid in cash, money order, or credit card. Returned checks or returned electronic payments are treated as nonpayment and any otherwise applicable penalties and/or discontinuance procedures shall apply as if no payment had been made to the

account. If the account is otherwise subject to discontinuance pursuant to the requirements of this Chapter, upon receipt of a returned check or returned electronic payment, the district will post a twenty-four (24) hour notice of imminent discontinuance at a conspicuous location at the property pursuant to this section. The twenty-four (24) hour notice will state the total amount due in order to avoid discontinuance of service and the requirements for reconnection. The returned check/returned electronic payment fee shall be established by resolution.

### **3.03.160 – Meter malfunction.**

- A. Meter Calibration Deposit. A customer who questions the accuracy of a meter serving the premises may request in writing a test of meter registration. A deposit equal to the water meter calibration check charge and any calibration charges shall be required in advance when a test is requested. The water meter calibration charge fee shall be established by resolution.
- B. If a meter is found to ~~overregister~~over-register more than five percent, the district shall return the charge for the test and the customer shall be entitled to a refund based on adjustment made by the district manager. Such adjustment shall be calculated by taking the difference between the normal use and the incorrect reading. In no case shall refunds cover more than two consecutive months prior to the discovery of meter malfunction.
- C. When a meter is found to ~~underregister~~under-register by more than five percent, the charge for water will be based, at the option of the district, either on previous consumption for the same period in the preceding year during which the meter is known to have registered correctly, or on the consumption as registered by a "substitute meter."

### **3.03.170 – Tampering.**

- A. No person, other than an authorized district employee, shall at any time or in any manner, operate, or cause to be operated, any valve in or connected to a water main or sewer main, service connection or fire hydrant, or tamper or otherwise interfere with any water meter, meter valve, backflow prevention device, detector check valve, or other part of the district's water or sewer system.
- B. Tampering fee. In addition to other district fees and charges, a tampering fee will be charged to the customer in all situations where a person has tampered with district services or privately restores water service without district permission. Such fee shall be added to the account for the property affected by the illegal tampering. The tampering fee shall be established by resolution.
- C. Repair Authorization fee. If a person's actions result in damage to the district's water or sewer systems, the cost of repair and/or replacement will be charged to the customer. The repair authorization fee shall be established by resolution.
- D. Staff shall prepare and keep complete and accurate records concerning tampering with district's service systems. The manager shall review such records and shall decide whether or not to seek a criminal complaint through the sheriff's office. If there is more than one such tampering violation for the same property within any five-year period, the board shall hold a public hearing to consider permanent disconnection of water service to the property, or such other remedies as the board deems appropriate.

**3.03.180 – District rates and charges.**

A. Water rate shall be charged as follows:

1. Minimum Charges. A minimum bi-monthly charge shall be paid by each customer for each bi-monthly billing period during which a service connection exists even if the meter is locked. Such charge for any billing period in which a service connection has existed for less than the whole of a billing period shall be prorated. Minimum bi-monthly charges vary with the size of the meter. The minimum bi-monthly charge for service shall be established by resolution.
2. Water Rates. The metered rate for water sold, supplied, distributed, or transported to customers shall be established by resolution.

B. Sewer rates shall be charged as follows:

1. ~~Monthly sewer~~Sewer charges shall commence on the date the water meter is set.
2. District sewer charges shall be established by resolution.

**3.03.190 – Collection of delinquent charges on the tax roll or by recorded certificate and lien.**

- A. The board of directors adopts the procedures for the collection of rates, charges, fees, and penalties for nonpayment of delinquent bills established in Government Code Section 61115 or any successor statute.
- B. The general manager or his/her designee is authorized to record a certificate and lien for the amount of charges, fees, and penalties owed, and the name and address of the persons liable therefor, sixty days after the payment becomes delinquent, pursuant to Government Code Section 61115 or any successor statute.
- C. Remedies for collection and enforcement for nonpayment of delinquent rates, charges, fees, and penalties are cumulative and may be pursued alternatively or consecutively by the district.

**3.03.200 – Judicial relief and attorney's fees.**

In the event that any customer fails to timely pay a billing statement, the customer shall be deemed to be in default and in such case, the district may declare the balance or remaining balances due and payable. In the event that the district is required to bring action to collect any sum in default, the customer shall pay any attorney's fees, court costs, or other costs incurred by the district to bring such action.

**3.03.210 – Means of enforcement.**

The district declares that the foregoing procedures are established as a means of enforcement of the terms and conditions of its ordinances, rules, and regulations, and not as a penalty.

**3.03.220 – Cumulative remedies.**

All remedies set forth herein for the collection and enforcement of charges, rates, fees, and penalties are cumulative and may be pursued alternatively or consecutively.

NOVEMBER 12, 2019

ITEM 2

ATTACHMENT E

Nipomo Community Services District

Discontinuation of Residential Water Service Policy

Prior to discontinuing the water service of any residential customer on account of nonpayment of duly-owed water rates, charges, fees, or penalties, the Nipomo Community Services District (“District”) will comply with the procedures and requirements of this Policy. This Policy is only applicable to the discontinuance of residential customer accounts based on nonpayment and does not preclude the District from discontinuing service for other unauthorized customer actions.

1. Contact Information. A residential customer may call the following phone number during normal business hours to discuss options to avert a service discontinuation: (805) 929-1133.
2. Account Delinquency. As provided in the District Code, a water/sewer bill is due and payable upon presentation to the customer. Account balances not collected in full by 4:30 p.m. on the due date stated in the bill are delinquent and subject to an applicable penalty, as stated in the District Code. The due date stated in the bill will not be earlier than 19 days from the date that the bill is mailed.
3. Delinquency Period Causing Discontinuation. Residential water service may be discontinued for nonpayment if a required customer payment has been delinquent for at least sixty (60) days.

Water service will not be discontinued on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District are not open to the public.

4. Procedure for Discontinuing Service for Nonpayment.
  - a. At least seven (7) business days before discontinuing the customer’s service for nonpayment, the District will contact the customer in writing to warn of the impending service discontinuation, make available and explain the terms of this Policy, discuss options to avoid the service discontinuation, and provide other information required by law.
  - b. The written notice described in Section 4(a) above will contain the following: (1) the customer’s name and address; (2) the delinquent amount; (3) the date by which payment or arrangement for payment is required in order to avoid service discontinuation; (4) a description of the process to apply for an extension of time to pay the delinquent e rates, charges, or fees; (5) and 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 this Policy.
  - c. If the written notice described in Section 4(a) is returned as undeliverable, the District will post at a conspicuous location at the premises a notice of discontinuation of service at least 48 hours prior to discontinuation.

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5. Bill Review and Appeal. Any customer in receipt of a notice of impending service discontinuation may appeal the delinquent rates, charges, fees, or penalties giving rise to the discontinuation notice, unless an appeal of the same rates, charges, or fees has previously been received and resolved. The customer shall file the appeal within five (5) business days of receiving the notice of delinquency by delivering a written notice of appeal that explains the basis for the appeal, including an explanation of any alleged errors in the District's billing practices, the date of the appealed bill, and the amount of the bill that is being appealed. The appeal will be reviewed, heard, and resolved in accordance with the following procedure:
  - a. The District General Manager ("Review Manager") will review the appeal form and all materials submitted in support of the appeal and will issue a decision regarding the appeal within ten (10) business days from the date of receipt of the appeal.
  - b. The Review Manager may grant the appeal and adjust or rescind the delinquent rate, charge, or fee under the following circumstances:
    - i. The rate, charge, fee, or penalty was erroneously calculated and therefore imposed in error;
    - ii. The customer qualifies for an adjustment pursuant to District Code section 3.03.120; or
    - iii. The customer qualifies for an adjustment pursuant to District Code section 3.03.160.
  - c. The Review Manager will mail the decision to the appellant.
  - d. The customer may appeal an adverse determination by the Review Manager to the District Board of Directors by filing an appeal within ten (10) business days of the date of the decision by the Review Manager.
6. Deferred or Reduced Payments and Alternative Payment Schedules. The District may allow customers to defer, reduce, or enter into an amortization or alternative payment schedule for delinquent rates, charges, fees, or penalties, in accordance with the terms of this Section.
  - a. Reductions in delinquent rates, charges, fees, or penalties may be granted only in accordance with District Code sections 3.03.120 or 3.03.160, or for the reasons stated in in Section 5(b) of this Policy.
  - b. Late fees and penalties may be waived in accordance with the District's Policy Governing the Exercise of the General Manager's Authority to Waive Fees Assessed on Customer Utility Accounts as a Result of a Delinquent Utility Bill, adopted by District Board of Directors Resolution No. 2019-1505.

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- c. Delinquent rates, charges, or fees may be deferred or amortized using an alternative payment schedule that complies with the following:
  - i. Requests for deferral, amortization, or alternative payment schedules must be made in writing and received by the District no less than two business days prior to the discontinuation date stated in the notice required by Section 4 of this Policy.
  - ii. Any payment plan will result in repayment of the delinquent amount within twelve (12) months.
  - iii. If the customer breaches the agreed-upon plan or does not pay their current residential services charges for sixty (60) days or more, then service may be discontinued no sooner than five (5) business days after the District posts a final notice of intent to discontinue service in a prominent and conspicuous location at the customer's property.
  - iv. No more than one amortization, deferral, or alternative payment schedule is allowed every eighteen months, unless the customer otherwise meets the requirements of Section 7(d) of this policy.

7. Prohibitions on Discontinuation. Water service will not be discontinued for nonpayment under any of the following situations:

- a. During any appeal of the District's decision to discontinue service.
- b. During the pendency of an investigation by the District of a customer dispute or complaint.
- c. During any period where the customer is in compliance with a duly authorized alternative payment schedule or a plan for deferred or reduced payment in accordance with Section 6 of this Policy.
- d. In situations where the customer satisfies all of the following three conditions, as declared in a form provided by the District (the "Need-Based Exemption"):
  - i. The customer, or the customer's tenant, submits a certification of a primary care provider that discontinuation of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises serviced by the delinquent account;
  - ii. The customer demonstrates that he or she is financially unable to pay for residential water service within the normal billing cycle by declaring in writing that one of the following circumstances applies: a 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

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declares that his or her household's annual income is less than 200 percent of the federal poverty level. If one or more of these circumstances is demonstrated, then the customer is considered a "Low-Income Customer"; and

- iii. The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment for all delinquent charges in accordance with Section 6 of this Policy.

8. Special Considerations for Low-Income Customers. For a Low-Income Customer that qualifies for the Need-Based Exemption, the District will offer one or more of the following options for repayment of the delinquent rate, charge, or fee: (1) amortize the unpaid balance; (2) participate in an alternative payment schedule; or (3) temporarily defer payment. The terms of the payment option will be in accordance with Section 6 of this Policy and is expected to result in repayment within twelve (12) months, unless additional time is required and granted by the District Review Manager in order to avoid undue hardship. If the customer breaches the agreed-upon plan or does not pay his or her current residential services charges for sixty (60) days or more, then service may be discontinued no sooner than five (5) business days after the District posts a final notice of intent to discontinue service in a prominent and conspicuous location at the customer's property.
9. Landlord-Tenant Relationships. The provisions of this Section apply where the District furnishes service through a master meter, or 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 California Health & Safety Code Section 17008, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record. In addition to providing notice to the property owner consistent with Section 4 of this Policy, the District will implement the following measures:
  - a. At least ten (10) days prior to discontinuing service, the District will make a good faith effort to inform the residential occupants in writing that the dwelling unit's account is delinquent and that service will be terminated.
  - b. The written notice will inform the occupants that they may become a customer of record and accept bills for the unit's water service and that the occupants will not be held responsible for delinquent amounts owed by the existing customer of record. The written notice shall be in English and in the languages listed in Civil Code section 1632.
  - c. The District 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 applicable law and the District's rules. 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 District's General Manager, or if there is a physical means legally available to the District



of selectively terminating service to those residential occupants who have not met the requirements of the District's rules, the District shall make service available to those residential occupants who have met those requirements.

- d. Notwithstanding the foregoing, if the dwelling unit is a detached single-family dwelling unit, then the District will: (1) give notice to the occupant of service discontinuation at least seven (7) days prior to the proposed discontinuation; and (2) require the occupant to verify that the delinquent account customer was the landlord, manager, or agent of the dwelling unit. Verification may include a lease or rental agreement, rent receipts, or other government document.

10. Restoring Service. The District will promptly provide information regarding the procedures for restoring service to customers once their service is discontinued, including the payment of applicable reconnection service fees (i.e. Non-Payment Fee identified in the District's Schedule of Miscellaneous Fees). For Low-Income Customers, the reconnection service fee will not exceed the District's actual cost to reconnect water service, up to a maximum of \$50 for reconnection during normal business. The fee may be annually adjusted for changes in the Consumer Price Index beginning January 1, 2021, if provided for in the Districts Miscellaneous Fee Schedule adopted by Resolution of the Board of Directors.

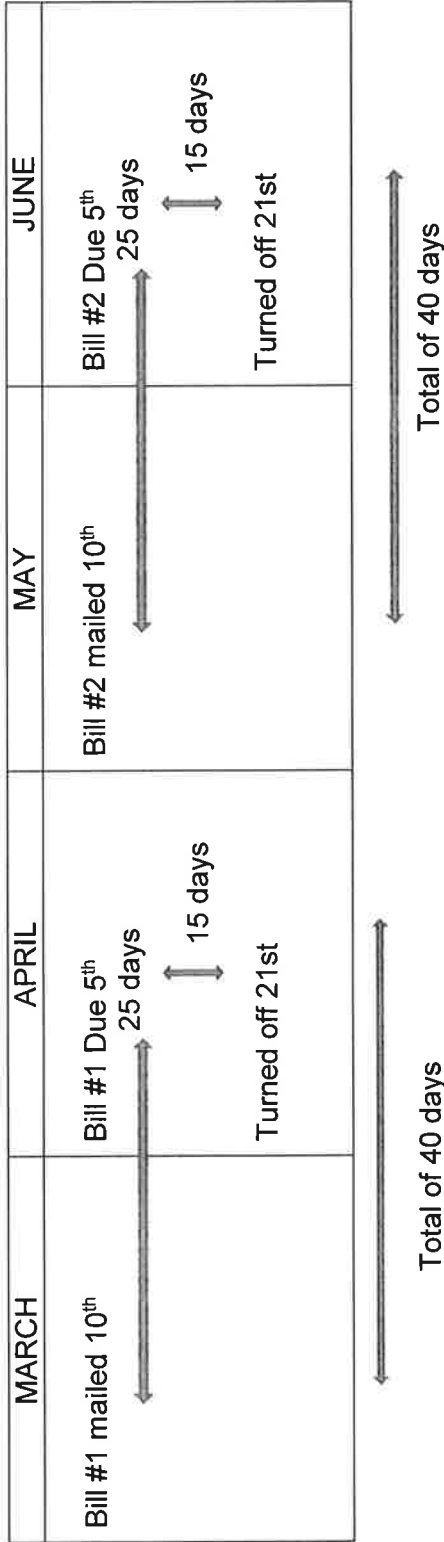
11. Reporting. The District will report the number of annual discontinuations of residential service for nonpayment on the District's website and to the State Water Resources Control Board.

NOVEMBER 12, 2019

ITEM 2

ATTACHMENT F

CURRENT BILLING PROCESS



SB998

