

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2019-1536**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING A
DISCONTINUATION OF RESIDENTIAL WATER SERVICE POLICY
IN ACCORDANCE WITH SB 998**

WHEREAS, the Nipomo Community Services District ("District") is formed under the Community Services District Law (Govt. Code §61100 et seq.) and provides water service within its water service area pursuant to Govt. Code §61100(a) of the Community Services District Law; and

WHEREAS, on September 28, 2018, the Water Shutoff Protection Act, Senate Bill No. 998 was signed into law (Health & Safety Code § 116900, et seq. ("SB 998")); and

WHEREAS, SB 998 requires urban water supplies such as the District to adopt, by February 1, 2020, written policies governing the discontinuance of water service to residential customers for nonpayment; and

WHEREAS, pursuant to existing law in effect prior to the enactment of SB 998, the District's policies governing discontinuance of water service to residential customers were adopted by ordinance and codified within the District Code; and

WHEREAS, in order to comply with and implement the requirements of SB 998, the District Board of Directors intends to adopt a Discontinuation of Residential Water Services Policy and to amend District Code, Chapter 3.03 - Water and Sewer Fees and Charges and Collection Procedures, consistent with all applicable legal requirements; and

WHEREAS, the District's Finance and Audit Committee considered the proposed Discontinuation of Residential Water Services Policy, as well as proposed amendments to District Code, Chapter 3.03 - Water and Sewer Fees and Charges and Collection Procedures, at its November 12, 2019 special meeting and recommended adoption of the policy and District Code amendments.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District, as follows:

1. The facts and findings stated above are true and correct and incorporated herein.
2. The Discontinuation of Residential Water Services Policy, attached hereto as Exhibit "A" and incorporated herein by reference, is hereby adopted.
3. The Discontinuation of Residential Water Services Policy, attached hereto as Exhibit "A," shall become effective upon the effective date of Ordinance No. 2019-130.
4. The General Manager is hereby directed to cause the Discontinuation of Residential Water Services Policy and all notices required under SB 998 to be translated into the languages listed in Civil Code section 1632 consistent with SB 998 and any amendments thereto.
5. The District Board of Directors finds that this action is not subject to and is exempt from the California Environmental Quality Act, Public Resources Code section 21000, et seq., because it constitutes the making of general policy and procedure, it is not a project undertaken or authorized by the District that will have a reasonably

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foreseeable impact on the environment, and it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment. (Pub. Res. Code § 21065; 14 Cal. Code Regs. §§ 15061(b)(3), 15378(b).)

6. This Resolution does not affect prosecutions for violations of any District code or resolution committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution, and does not affect the validity of any amounts owed, posted, filed, or deposited pursuant to the requirements of any prior resolution or ordinance.

7. If any section, subsection, sentence, clause or phrase of this Resolution or the Discontinuation of Residential Water Services Policy attached hereto as Exhibit "A" 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 Resolution and the Discontinuation of Residential Water Services Policy adopted hereby. The District Board of Directors hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Upon motion by Director Armstrong, seconded by Director Woodson, on the following roll call vote, to wit:

AYES: Director Armstrong, Woodson, Blair, Gaddis and Eby
NOES: None
ABSENT: None
ABSTAIN: None

the foregoing resolution is hereby passed and adopted this 11th day of December 2019.



ED EBY
President of the Board

ATTEST:



MARIO E. IGLESIAS
General Manager and Secretary to the Board

APPROVED AS TO FORM:



CRAIG A. STEELE
District Legal Counsel

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 rates, charges, or fees; (5) a description of the procedure to petition for bill review and appeal; and (6) 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.

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.
 - 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 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.