

City of Hesperia
STAFF REPORT



DATE: January 7, 2020

TO: Mayor and City Council Members
Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Casey Brooksher, Director of Finance
Anne Duke, Deputy Finance Director
Marc Morales, Customer Service Supervisor

SUBJECT: Amendments to Title 14 of Hesperia Municipal Code – Discontinuation of Residential Water Service

RECOMMENDED ACTION

It is recommended: 1) the City Council introduce and place on first reading Ordinance No. 2020-02 amending Title 14 of the Hesperia Municipal Code to incorporate the provisions set forth in the Water Shutoff Protection Act - Senate Bill 998 and 2) the Council/Board adopt Joint Resolution No. 2020-02 and Hesperia Water District Resolution No. 2020-01, adopting a written policy on the Discontinuation of Residential Water Service for Nonpayment in compliance with Senate Bill 998.

BACKGROUND

Senate Bill 998 (SB 998), known as the Water Shutoff Protection Act (Attachment 1) was approved by Governor Jerry Brown on September 28, 2018 and requires every urban and community water system with more than 200 water service connections to have a written policy on the discontinuation of residential water services in place by February 1, 2020. The written policy on discontinuation of water service shall comply with the following mandates:

- Residential water service shall not be discontinued for nonpayment until the account has been delinquent for at least sixty (60) days.
- No less than seven (7) business days before discontinuation of residential service for nonpayment, the consumer named on the account shall be contacted by telephone or written notice.
- If unable to make contact with the consumer named on the account, a good faith effort is to be made to visit the residence and place a notice of imminent discontinuation of residential service for nonpayment, as well as a written copy of the District's Policy for the Discontinuation of Residential Service for Nonpayment (Policy).
- The written Policy shall be made available in English, Spanish, Chinese, Tagalog, Vietnamese, Korean and any other language spoken by 10% of the service area and shall also be made available on the District's website.
- The Policy shall contain:
 - A plan for deferred or reduced payments for those who qualify.
 - Alternative payment schedules for those who qualify.
 - A formal mechanism for a consumer to contest or appeal a bill.

- A telephone number for a consumer to contact and discuss options for averting discontinuation of water service for nonpayment.
- For the consumer to avoid discontinuation of residential water service, all the following conditions must be met:
 - The consumer shall submit a certification from 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 at the premises.
 - The consumer shall demonstrate a financial inability to pay based upon the receipt of public assistance by a member of the consumer's household or provide a declaration that the household's annual income is less than 200 percent of the federal poverty level.
 - The consumer is willing to enter into an alternative payment schedule, consistent with the Policy.
- If a consumer fails to comply with an alternative payment schedule for sixty (60) days or more, or does not pay his or her current bill for 60 days or more, service can be discontinued five (5) days after posting a notice of intent to discontinue service at property.
- A limitation on reconnection fees for low income consumers whose household is less than 200 percent of the federal poverty level to no more than \$50 during regular business hours and \$150 for after business hours and the waiver of interest charges on delinquent bills once every twelve months.
- A good faith effort at least ten (10) days prior to disconnection (or seven (7) days prior to disconnection if it is a detached single-family dwelling) to inform residential tenants, including mobile home parks and multi-family residents, that their water service is subject to disconnection for nonpayment by their landlord, and that the tenants have the ability to become consumers of the District should the customer meet the District's requirements.
- The requirement to post on the District's website, on an annual basis, the number of residential water service accounts that were disconnected for nonpayment.

ISSUES/ANALYSIS

The provisions outlined in SB 998 require changes to the District's current practices, as well as an amendment to Title 14 of the Hesperia Municipal Code.

Overview of the District's Current Practice for the Discontinuation of Water Service

The District's current billing process is on a bi-monthly basis where water bills are due and payable upon presentation and are considered past due twenty (20) days after the billing date. A past due notice is mailed to the consumer named on the account a minimum of ten days (10) prior to potential disconnection, noting a final due date in order to avoid disconnection of water service and the account is assessed a 1% late fee on the balance due. Within the 10 day period, an additional attempt is made to contact the customer named on the account by automated phone call and email two business days prior to disconnection, indicating the date payment must be received in order to avoid discontinuation of water service.

If the District is unable to contact the consumer by the automated phone call or email, the District will place a door hanger in a conspicuous place at the residence indicating the date to avoid discontinuation of water service. If payment has not been received by the District by the disconnection date, the water service account is considered delinquent and will be discontinued.

In all, the District's current process is to attempt contact multiple times over a minimum of thirty (30) days in order to avoid the disconnection of water service. On the day of disconnection, a delinquent/reconnect fee of \$36 is assessed for regular operating hours of the District's Field Staff

hours (Monday-Thursday 7:30 am to 4:00 pm, Friday 7:30 am to 3:00 pm) and \$109 for after business hours (Monday-Thursday after 4:00 pm, Friday after 3:00 pm). While these hours are different from City Hall hours (Monday-Thursday 7:30 am to 5:30 pm, Friday 7:30 am to 4:30 pm), the field staff are responsible for reconnecting service to the customers.

Currently, the consumer can make arrangements with the District, in the form of a payment extension, which must be made prior to the disconnection date. The due dates for the payment extensions range from fifty two (52) to fifty nine (59) days from the original bill date. Once a payment extension has been made, the District does not attempt any additional contact regarding the payment extension due date and leaves the responsibility with the consumer to meet the agreed-upon payment extension date. If the payment extension has not been paid by the date indicated, the water service account is considered delinquent and will be disconnected the following business day. The same delinquent/reconnect fees for regular and after business hours apply for payment extensions.

Overview of Changes Based Upon SB 998 Compliant Procedure

Under the SB 998 requirements, the water bills will continue to be due and payable upon presentation and will be past due 20 days after the billing date. As defined in the City-wide Fee Schedule, the 1% late fee will continue to be assessed on the balance due when the past due notice is issued and the delinquent/reconnection fee for regular business hours and after business hours will remain at \$36 and \$109. The changes in the billing process to comply with the SB 998 requirements will be:

- District will refrain from discontinuing residential water service for nonpayment until accounts are at least sixty (60) days delinquent from the bill date. For example, the bill date is considered Day 1. Since bills are due and payable upon presentment, disconnection will not occur until at least Day 61.
- District will contact the consumer named on the account no less than seven (7) business days prior to disconnection via automated phone call with a message that offers to provide the consumer with a copy of the written Policy containing information on discontinuation of residential water service, options for alternative payment arrangements, and procedures to contest or appeal the consumer's bill. If the phone message is undeliverable, District will visit the service address and place the written Policy in a conspicuous place no less than seven (7) days prior to disconnection.
- Because SB 998 prohibits the disconnection of residential water service for a minimum of sixty (60) days, there is an automatic built-in payment extension. Therefore, there will no longer be a need for the District to offer payment extensions.
- In compliance with SB 998, District will not discontinue residential water service if all of the following three conditions are met:
 - The consumer submits a certification from a primary care provider that discontinuation of water service will pose a threat to the health and safety of a resident at the premises.
 - The consumer demonstrates a financial inability to pay based on receipt of public assistance or a signed declaration that the household's annual income is less than 200 percent of the federal poverty level.
 - The consumer is willing to enter into an alternative payment schedule consistent with the Policy, which allows the District to work with the consumer to develop a payment plan for up to a twelve (12) month period. If default occurs on the payment arrangement or if the consumer does not pay their current residential services charges for sixty (60) days or more, water service is subject to

disconnection upon posting a notice of intent to disconnect in a prominent and conspicuous location at the service address, no sooner than five (5) business days prior to disconnection..

- An annual report must be submitted to the State Water Resource Control Board indicating the number of discontinuations of residential service for inability to pay. This report shall also be posted on the City/District's website.

In order to implement the provisions of SB 998, an amendment is needed to Title 14 of the Hesperia Municipal Code via Ordinance No. 2020-02 (Attachments 2, 3, and 4). Joint Resolution No. 2020-02/HWD 2020-01 has been included for the adoption of the draft policy, as required by SB 998 (Attachments 5 and 6). These documents have been reviewed by the City Attorney's Office to ensure compliance with the provisions of SB 998.

Non-residential and Sewer Accounts

Although SB 998 references only residential water service accounts, for efficiency in District operations and in order to minimize the potential for error, it is recommended that the District also refrain from discontinuing water service to non-residential accounts (including business, public buildings, industrial, and irrigation) and sewer accounts for nonpayment until accounts are at least sixty (60) days delinquent from the bill date. However, the medical/financial/payment arrangement provisions shall not apply to non-residential accounts.

FISCAL IMPACT

Though there are projected impacts to the District related to the administration of SB 998, the associated costs cannot be estimated at this time. While District cash flow will be delayed temporarily, due to extending the water service discontinuation date from 30 to a minimum of 60 days, staff does not anticipate a reduction in overall revenue. However, additional expenses will be incurred relating to the one-time cost to translate the written Policy and door hanger notifications, as well as the increased cost for printing the this information, which will be supplied upon request and will accompany door hanger notifications in circumstances when the telephone notification is not successful. Also, there will be increased field staff time to provide the required notification to the service address and an increase in administrative costs for staff to administer the alternative payment arrangement plans for those accounts that qualify. It is unknown at this time how many accounts will qualify and will proceed with alternative payment arrangements.

The District's existing fees to reconnect water service are in compliance with the SB 998 allowed parameters for low income consumers. Therefore, fee changes are not required at this time.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS

1. SB 998 Full Text
2. Ordinance 2020-02
3. Amended Title 14 of the Hesperia Municipal Code – Clean Version
4. Amended Title 14 of the Hesperia Municipal Code – Track Changes Version
5. Joint Resolution No. 2020-02/HWD 2020-01
6. Exhibit A - Written Policy ORG 49 for Discontinuation of Residential Water Service for Non-Payment Pursuant to SB 998

Senate Bill No. 998

CHAPTER 891

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

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) All Californians have the right to safe, accessible, and affordable water as declared by Section 106.3 of the Water Code.

(b) It is the intent of the Legislature to minimize the number of Californians who lose access to water service due to inability to pay.

(c) Water service discontinuations threaten human health and well-being, and have disproportionate impact on infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with life-threatening medical conditions.

(d) When there is a delinquent bill, all Californians, regardless of whether they pay a water bill directly, should be treated fairly, and fair treatment includes the ability to contest a bill, seek alternative payment schedules, and demonstrate medical need and severe economic hardship.

(e) The loss of water service causes tremendous hardship and undue stress, including increased health risks to vulnerable populations.

(f) It is the intent of the Legislature that this act provide additional procedural protections and expand upon the procedural safeguards contained

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

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

CHAPTER 6. DISCONTINUATION OF RESIDENTIAL WATER SERVICE

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

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

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

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

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

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

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

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

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

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

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

(1) A plan for deferred or reduced payments.

(2) Alternative payment schedules.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The customer, or a tenant of the customer, submits to the urban and community water system the certification of a primary care provider, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of residential service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided.

(2) The customer demonstrates that he or she is financially unable to pay for residential service within the urban and community water system's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the urban and community water system's normal billing cycle if any member of the customer's household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

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

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

- (A) Amortization of the unpaid balance.
- (B) Participation in an alternative payment schedule.
- (C) A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.
- (D) Temporary deferral of payment.

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

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

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

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

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

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

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

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

(b) An urban and community water system shall deem a residential customer to have a household income below 200 percent of the federal poverty line if any member of the household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

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

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

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

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

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

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

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

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

(2) In order for the amount due on the delinquent account to be waived, require an occupant who becomes a customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.

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

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

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

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

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

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

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING TITLE 14, CHAPTER 14.02, SECTION 14.02.080 OF THE HESPERIA MUNICIPAL CODE, INCORPORATING THE PROVISIONS SET FORTH IN THE WATER SHUTOFF PROTECTION ACT (SENATE BILL 998)

WHEREAS, in 1990, the Hesperia Water District ("District") was established as a subsidiary district of the City of Hesperia ("City"); and

WHEREAS, the District is charged with the control of the water system of the City for the purpose of obtaining, conserving and disposing of water for public and private uses; and

WHEREAS, Title 14, Chapter 14.02, of the Hesperia Municipal Code regulates the City's water and wastewater systems, and all things necessary or incidental to such systems, including but not limited to, the authority to set fees for service, billing procedures, and disconnection steps for non-payment; and

WHEREAS, on September 28, 2018, Senate Bill 998 was approved by the California State Governor, requiring water systems that supply water to more than 200 service connections to have a written policy on discontinuation of water service for nonpayment; and

WHEREAS, among its requirements, Senate Bill 998 requires the City:

- To maintain a written policy with (1) a plan for deferred or reduced payments; (2) alternative payment schedules for customers; (3) a formal mechanism for a customer to contest or appeal a bill; and (4) a telephone number for a customer to discuss options for averting the discontinuation of residential water services;
- Not to discontinue water services until customers have been delinquent for at least 60 days;
- To provide a written notice to the customers of their delinquent payment and impending discontinuation containing specific information;
- Do not discontinue water services for customers who meet certain medical and financial conditions;
- To limit the reconnection fee imposed on low income customers;
- Waive interest for low income customers once every twelve months;
- Report the number of annual disconnections of water services on its website; and
- Provide all written notices in English, Chinese, Spanish, Tagalog, Vietnamese, Korean, and any other language spoken by at least 10% of the people residing in the service area; and

WHEREAS, the City is subject to the requirements of Senate Bill 998 and must comply with its requirements by February 1, 2020; and

WHEREAS, Section 14.02.080 of the Hesperia Municipal Code does not satisfy all of the Senate Bill 998 requirements; and

WHEREAS, the City desires to comply with all of the requirements of Senate Bill 998; and

WHEREAS, the City would like to consolidate the requirements of Senate Bill 998 in a single document through the adoption of a policy and amend Section 14.02.080 to reference such policy.

NOW, THEREFORE, BE IT RESOLVED THAT THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

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

Section 2. Section 14.02.080(F) of the Hesperia Municipal Code is amended and shall now read as follows:

“Payment. Water and sewer service bills shall be due and payable in accordance with the policy adopted by city council resolution.”

Section 3. Section 14.02.080(G)(2) of the Hesperia Municipal Code is amended and shall now read as follows:

“Termination of Service Due to Non-Payment. Service shall be terminated for non-payment of bills in accordance with the policy established and adopted by resolution of the city council. Any amount due shall be deemed a debt to the district until paid in full.”

Section 4. Section 14.02.080(H) of the Hesperia Municipal Code is amended and shall now read as follows:

“Delinquencies. Accounts not paid on or before the due date on the bill will be subject to such fees as identified in the City’s adopted fee schedule.

1. Disconnected for non-payment. A meter disconnected for non-payment of bills shall not be reconnected; unlocked or turned on until all unpaid bills, applicable fees, and deposits have been paid to the district.”

Section 5. Section 14.02.080(O)(2) of the Hesperia Municipal Code is amended and shall now read as follows:

“Delinquency Defined. Water/sewer bills shall be deemed delinquent on the date the bill is issued. Delinquent charges for water/sewer services are imposed on those accounts which remain unpaid after twenty (20) days from the bill date.”

Section 6. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 7. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

ADOPTED AND APPROVED by the City Council of the City of Hesperia, California, at a regular meeting held on this 7th day of January, 2020.

Larry Bird, Mayor

ATTEST:

Melinda Sayre, City Clerk

APPROVED AS TO FORM

Eric Dunn, City Attorney

ATTACHMENT 3

14.02.080 - Billing and collection procedures.

- A. Billing Period. The billing period shall be at the option of the district.
- B. Meter Reading. Meters shall be read as nearly as possible on the same date of each corresponding month by one of the following methods:
 - 1. Actual - Consumption of water based upon a meter read.
 - 2. Estimated - Consumption may be estimated when the meter is found to be non-registering, damaged, inaccessible, stolen, or when an actual read is unavailable. Such estimates shall be made from previous consumption for a comparable period or by such other method as may be determined by the district, said decision of the district is to be final.
- C. Opening and Closing Bills. Opening and closing bills for less than the normal billing period shall be prorated as to minimum charges.
- D. Deposits.
 - 1. New Customer. If an applicant does not have a previous minimum one year record of having at all times paid his water/sewer bills or other fees when due to the district, during a period ending within the preceding eighteen (18) months of the date of application for service, then the district shall require said applicant to make a deposit as a condition of rendering water service. Such deposit shall be as determined by policy or other action established by the district.
 - 2. Return of Deposit. A guarantee deposit with the water district made by an applicant whose account has not been in arrears or any violations at any time during twelve (12) consecutive months, after which said deposit shall be applied as an offset without interest or upon termination of service.
 - 3. Use of Deposit. Subsequent to termination of service, the amount remaining unpaid for water/sewer service or any applicable fees may be retained by the district as an offset from the deposit.
 - 4. Disconnected for Non-Payment. District policy requires a guarantee deposit if a customer has been disconnected for non-payment and does not have a guarantee deposit at the time of disconnection. In addition, a customer with a deposit that is insufficient to cover the amount of a delinquent bill shall be charged an additional deposit sufficient to cover the difference for security. These required deposits shall be paid in full, along with all other necessary fees, before the service shall be reconnected. Said guarantee deposit will be not less than the minimum deposit as established by the district.
- E. Billing Charges.
 - 1. Service Charge. There shall be a fixed service charge for water service connections, construction meters, and private fire protection service to cover the district's expense to monitor and maintain the use of said meter. This charge shall be subject to change by action of the board as deemed necessary.

2. Sewer Charge. There shall be a fixed sewer charge for all service connections to the sewer system to cover the district's expense. This charge shall be subject to change by action of the board as deemed necessary.
 3. Consumption Charge. There shall be a charge for actual or estimated water usage; this charge is subject to change by action of the board as deemed necessary.
 4. Other fees. Other fees may be applicable as set forth in the fee schedule.
- F. Payment.
- Water and sewer service bills shall be due and payable in accordance with the policy adopted by city council resolution.
- G. Termination of Service.
1. Customer Request. Customers desiring to terminate service should notify the district at least two business days prior to vacating the premises. Unless termination of service is requested, the customer shall be liable for charges whether or not any water is used.
 2. Termination of Service Due to Non-Payment. Service shall be terminated for non-payment of bills in accordance with the policy established and adopted by resolution of the city council. Any amount due shall be deemed a debt to the district until paid in full.
- H. Delinquencies. Accounts not paid on or before the due date on the bill will be subject to such fees as identified in the City's adopted fee schedule.
1. Disconnected for non-payment. A meter disconnected for non-payment of bills shall not be reconnected, unlocked or turned on until all unpaid bills, applicable fees, and deposits have been paid to the district.
- I. Responsibility. Failure to receive a bill, phone call, door tag, or any other attempt of contact by the district does not relieve a customer of liability. Any amount due shall be deemed a debt to the district, and any person, firm or corporation failing, neglecting or refusing to pay said indebtedness shall be liable to an action in the name of the district in any court of competent jurisdiction for the amount thereof.
- J. Water Used without Application. A person using water from a service connection without having made prior application to the district for water/sewer service shall be held liable for the service charges, consumption charges, and all other fees for water delivered from the date of the last recorded meter reading, and if the meter is found inoperative, the district will estimate the quantity consumed. Until proper application for water service is made and any accumulated bills for service are paid, the service shall be disconnected by the district without notice.
- K. Non-Compliance. The district may, unless otherwise provided, disconnect water/sewer service to a customer for non-compliance with this chapter or any other resolution, ordinance, or regulation related to water/sewer service if the customer fails to comply with them within ten days from written notice from the district informing of the intention to disconnect service. If such non-compliance affects emergency matters of health and safety, and conditions warrant, the district may disconnect water/sewer service immediately, with or without prior notice.

- L. Service Refused or Disconnected. Service may be refused or disconnected without prior notice for the following reasons:
1. Where apparatus or appliances are in use which might endanger or disturb the service to other customers;
 2. Where there exists a cross connection in violation of state or federal laws;
 3. For non-compliance with this chapter or any other resolution, ordinance or regulation relating to the water/sewer service;
 4. To protect the district against fraud or abuse.
- M. Turn On/Turn Off. No charge shall be made for a turn-on or turn-off of water/sewer service at the meter, either for emergency purposes, or at the request of the current customer. The district shall, upon request day or night, without charge, shut off the supply of water for emergency purposes at the curb stop. If a customer makes multiple requests to turn-on water when having previously been attempted but water was found to be flowing, the district shall require payment of all costs reasonably borne.
- N. Liability/Inspection of Premises. The district does not assume liability for inspecting any apparatus on the premises of the customer. However, the district does reserve the right of inspection if there is reason to believe that unsafe apparatus is being used.
- O. Delinquencies; Collection from Customer and Property Owner. The customer and property owner shall be jointly and severally liable for all charges that may be imposed under this chapter, including but not limited to charges for tampering as described in Section 14.02.060, and all charges for water service, sewer service and water usage as described in Sections 14.02.070 and 080, including any delinquent charges.
1. Authority and Effect. The district may secure the payment of delinquent charges for water services by establishing a lien against all property located within the state of California which is owned by the person who is liable for the payment of such charges.
 2. Delinquency Defined. Water/sewer bills shall be deemed delinquent on the date the bill is issued. Delinquent charges for water/sewer services are imposed on those accounts which remain unpaid after twenty (20) days from the bill date.
 3. Notice to Lienee. Prior to establishing any lien pursuant to this section, the general manager shall notify the person who is liable for the payment of the delinquent charges that the delinquency exists and that the district may establish a lien against all real property in San Bernardino County and/or in any other county in the state of California, which such person currently owns or which such person might afterwards acquire during the effective period of the lien. Such notice shall be in writing and shall be served upon the prospective lienee by deposit in the United States Mail.
 4. Procedure. In all cases where charges for water services remain unpaid for ten days or more after the notice specified in subsection 3 of this section has been deposited in the mail, the general manager, or such other person who may be directed to do so by the board, shall prepare a certificate of charges due for presentation to the board and shall inform the board, before the recordation of a lien pursuant to subsection 5 of this section, of the lien based upon said certificate of charges due, stating the amount thereof, the name and address of the licensee, and the location of the real property

associated with the delinquency and shall obtain the approval of the board to so record. Thereafter the general manager shall file for record the certificate of charges due in the office of the county recorder of the county of San Bernardino and in the office of the county recorder of any other county in the state of California in which there is reason to believe that there is real property owned by the person who is liable for the payment of the delinquent charges.

5. Contents of Certificate. Each certificate filed pursuant to subsection 4 of this section shall be executed under penalty of perjury and shall certify the amount of unpaid charges including any penalty, the name and address of the person who is liable therefor and the fact that the district is entitled to payment thereof.
6. Release of Lien. Liens recorded pursuant to subsection 4 of this section shall be released upon full satisfaction thereof.
7. Collection on Tax Roll. In addition to establishing a lien pursuant to subsections 1 through 6 of this section, delinquent and unpaid charges for services may be collected on the tax roll pursuant to the procedures set forth herein, or any other applicable procedures under state law. A statement of those delinquent and unpaid charges for water and other services that remain delinquent and unpaid for sixty (60) days or more on July 1st, or on such other date as determined by the district, shall be furnished to the county in accordance with applicable county requirements. The amount of any such delinquent and unpaid charges shall be added to and become a part of the annual taxes next levied upon the property upon which the water or other services for which the charges are unpaid was used and upon the property subject to the charges for any other district services, and shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such charges, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection.

ATTACHMENT 4

14.02.080 - Billing and collection procedures.

- A. Billing Period. The billing period shall be at the option of the district.
- B. Meter Reading. Meters shall be read as nearly as possible on the same date of each corresponding month by one of the following methods:
 - 1. Actual - Consumption of water based upon a meter read.
 - 2. Estimated - Consumption may be estimated when the meter is found to be non-registering, damaged, inaccessible, stolen, or when an actual read is unavailable. Such estimates shall be made from previous consumption for a comparable period or by such other method as may be determined by the district, said decision of the district is to be final.
- C. Opening and Closing Bills. Opening and closing bills for less than the normal billing period shall be prorated as to minimum charges.
- D. Deposits.
 - 1. New Customer. If an applicant does not have a previous minimum one year record of having at all times paid his water/sewer bills or other fees when due to the district, during a period ending within the preceding eighteen (18) months of the date of application for service, then the district shall require said applicant to make a deposit as a condition of rendering water service. Such deposit shall be as determined by policy or other action established by the district.
 - 2. Return of Deposit. A guarantee deposit with the water district made by an applicant whose account has not been in arrears or any violations at any time during twelve (12) consecutive months, after which said deposit shall be applied as an offset without interest or upon termination of service.
 - 3. Use of Deposit. Subsequent to termination of service, the amount remaining unpaid for water/sewer service or any applicable fees may be retained by the district as an offset from the deposit.
 - 4. Disconnected for Non-Payment. District policy requires a guarantee deposit if a customer has been disconnected for non-payment and does not have a guarantee deposit at the time of disconnection. In addition, a customer with a deposit that is insufficient to cover the amount of a delinquent bill shall be charged an additional deposit sufficient to cover the difference for security. These required deposits shall be paid in full, along with all other necessary fees, before the service shall be reconnected. Said guarantee deposit will be not less than the minimum deposit as established by the district.
- E. Billing Charges.
 - 1. Service Charge. There shall be a fixed service charge for water service connections, construction meters, and private fire protection service to cover the district's expense to monitor and maintain the use of said meter. This charge shall be subject to change by action of the board as deemed necessary.

2. Sewer Charge. There shall be a fixed sewer charge for all service connections to the sewer system to cover the district's expense. This charge shall be subject to change by action of the board as deemed necessary.
 3. Consumption Charge. There shall be a charge for actual or estimated water usage; this charge is subject to change by action of the board as deemed necessary.
 4. Other fees. Other fees may be applicable as set forth in the fee schedule.
- F. **Payment.** ~~Water/sewer service bills shall be due and payable upon presentation as stipulated on the water bill itself and shall be delinquent fourteen (14) days after the date of billing. A past due notice will be mailed out to customers a minimum of ten days prior to disconnection, stating the last date to pay the balance in full without incurring fees and/or disconnection of water service. Before service is disconnected, an additional attempt to contact the customer shall be made forty-eight (48) hours or two business days prior to the disconnection date, whichever is greater, by making an automated phone call, text message, email, or other current form of communication. If a valid contact number or address is not available, notice shall be given by placing a tag or other written document on the door handle, gate, or other conspicuous place on or about the property receiving the water/sewer service, said notice shall request contact with the district by date and time indicated, or service will thereupon be disconnected. Unless a prior arrangement for payment is made, service shall be disconnected if payment in full is not received after at minimum twenty-four day period.~~
- Water and sewer service bills shall be due and payable in accordance with the policy adopted by city council resolution.
- G. **Termination of Service.**
1. Customer Request. Customers desiring to terminate service should notify the district at least two business days prior to vacating the premises. Unless termination of service is requested, the customer shall be liable for charges whether or not any water is used.
 2. Termination of Service Due to Non-Payment. Service ~~may shall~~ be terminated for non-payment of bills in accordance with Section 14.02.08(F)- the policy established and adopted by resolution of the city council. Any amount due shall be deemed a debt to the district until paid in full.
- H. **Delinquencies.** Accounts not paid on or before the due date on the bill which they become delinquent will be subject to a fixed fee and a service charge of one percent per month on the unpaid balancesuch fees as identified in the City's adopted fee schedule.
1. Disconnected for non-payment. A meter disconnected for non-payment of bills shall not be reconnected, unlocked or turned on until all unpaid bills, applicable fees, and deposits have been paid to the district.
- I. **Responsibility.** Failure to receive a bill, phone call, door tag, or any other attempt of contact by the district does not relieve a customer of liability. Any amount due shall be deemed a debt to the district, and any person, firm or corporation failing, neglecting or refusing to pay said indebtedness shall be liable to an action in the name of the district in any court of competent jurisdiction for the amount thereof.

- J. **Water Used without Application.** A person using water from a service connection without having made prior application to the district for water/sewer service shall be held liable for the service charges, consumption charges, and all other fees for water delivered from the date of the last recorded meter reading, and if the meter is found inoperative, the district will estimate the quantity consumed. Until proper application for water service is made and any accumulated bills for service are paid, the service shall be disconnected by the district without notice.
- K. **Non-Compliance.** The district may, unless otherwise provided, disconnect water/sewer service to a customer for non-compliance with this chapter or any other resolution, ordinance, or regulation related to water/sewer service if the customer fails to comply with them within ten days from written notice from the district informing of the intention to disconnect service. If such non-compliance affects emergency matters of health and safety, and conditions warrant, the district may disconnect water/sewer service immediately, with or without prior notice.
- L. **Service Refused or Disconnected.** Service may be refused or disconnected without prior notice for the following reasons:
1. Where apparatus or appliances are in use which might endanger or disturb the service to other customers;
 2. Where there exists a cross connection in violation of state or federal laws;
 3. For non-compliance with this chapter or any other resolution, ordinance or regulation relating to the water/sewer service;
 4. To protect the district against fraud or abuse.
- M. **Turn On/Turn Off.** No charge shall be made for a turn-on or turn-off of water/sewer service at the meter, either for emergency purposes, or at the request of the current customer. The district shall, upon request day or night, without charge, shut off the supply of water for emergency purposes at the curb stop. If a customer makes multiple requests to turn-on water when having previously been attempted but water was found to be flowing, the district shall require payment of all costs reasonably borne.
- N. **Liability/Inspection of Premises.** The district does not assume liability for inspecting any apparatus on the premises of the customer. However, the district does reserve the right of inspection if there is reason to believe that unsafe apparatus is being used.
- O. **Delinquencies; Collection from Customer and Property Owner.** The customer and property owner shall be jointly and severally liable for all charges that may be imposed under this chapter, including but not limited to charges for tampering as described in Section 14.02.060, and all charges for water service, sewer service and water usage as described in Sections 14.02.070 and 080, including any delinquent charges.
1. **Authority and Effect.** The district may secure the payment of delinquent charges for water services by establishing a lien against all property located within the state of California which is owned by the person who is liable for the payment of such charges.
 2. **Delinquency Defined.** Water/sewer bills shall be deemed delinquent on the date the bill is issued. Delinquent charges for water/sewer services are imposed on those accounts which remain unpaid ~~for after~~ twenty-four (24) (20) days ~~after from~~ the bill ~~billing~~ date.

3. Notice to Liencee. Prior to establishing any lien pursuant to this section, the general manager shall notify the person who is liable for the payment of the delinquent charges that the delinquency exists and that the district may establish a lien against all real property in San Bernardino County and/or in any other county in the state of California, which such person currently owns or which such person might afterwards acquire during the effective period of the lien. Such notice shall be in writing and shall be served upon the prospective liencee by deposit in the United States Mail.
4. Procedure. In all cases where charges for water services remain unpaid for ten days or more after the notice specified in subsection 3 of this section has been deposited in the mail, the general manager, or such other person who may be directed to do so by the board, shall prepare a certificate of charges due for presentation to the board and shall inform the board, before the recordation of a lien pursuant to subsection 5 of this section, of the lien based upon said certificate of charges due, stating the amount thereof, the name and address of the licensee, and the location of the real property associated with the delinquency and shall obtain the approval of the board to so record. Thereafter the general manager shall file for record the certificate of charges due in the office of the county recorder of the county of San Bernardino and in the office of the county recorder of any other county in the state of California in which there is reason to believe that there is real property owned by the person who is liable for the payment of the delinquent charges.
5. Contents of Certificate. Each certificate filed pursuant to subsection 4 of this section shall be executed under penalty of perjury and shall certify the amount of unpaid charges including any penalty, the name and address of the person who is liable therefor and the fact that the district is entitled to payment thereof.
6. Release of Lien. Liens recorded pursuant to subsection 4 of this section shall be released upon full satisfaction thereof.
7. Collection on Tax Roll. In addition to establishing a lien pursuant to subsections 1 through 6 of this section, delinquent and unpaid charges for services may be collected on the tax roll pursuant to the procedures set forth herein, or any other applicable procedures under state law. A statement of those delinquent and unpaid charges for water and other services that remain delinquent and unpaid for sixty (60) days or more on July 1st, or on such other date as determined by the district, shall be furnished to the county in accordance with applicable county requirements. The amount of any such delinquent and unpaid charges shall be added to and become a part of the annual taxes next levied upon the property upon which the water or other services for which the charges are unpaid was used and upon the property subject to the charges for any other district services, and shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such charges, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and

the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection.

**JOINT RESOLUTION NO. 2020-02
RESOLUTION NO. HWD 2020-01**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA,
CALIFORNIA, AND THE BOARD OF DIRECTORS OF THE HESPERIA
WATER DISTRICT, ADOPTING THE POLICY ON THE DISCONTINUATION OF
RESIDENTIAL WATER SERVICE FOR NON-PAYMENT PURSUANT TO
SENATE BILL 998 (DOCUMENT NO. ORG 49)**

WHEREAS, in 1990, the Hesperia Water District ("District") was established as a subsidiary district of the City of Hesperia ("City"); and

WHEREAS, on September 28, 2018, Senate Bill 998 was approved by the California State Governor, requiring water systems that supply water to more than 200 service connections to have a written policy on the discontinuation of water service for nonpayment; and

WHEREAS, the City/District provides water to more than 200 services connections and is therefore subject to Senate Bill 998; and

WHEREAS, among its requirements, Senate Bill 998 requires the City/District to maintain a policy with the following information: (1) a plan for deferred or reduced payments for customers; (2) alternative payment schedules for customers; (3) a formal mechanism for a customer to contest or appeal a bill; and (4) a telephone number for a customer to contact the District to discuss options for averting the discontinuation of residential water services; and

WHEREAS, the City/District does not have a written policy satisfying Senate Bill 998 requirements; and

WHEREAS, the City and the District desire to comply with Senate Bill 998.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA AND THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT AS FOLLOWS:

Section 1. All of the recitals in this Resolution, as set forth above, are true and correct and are incorporated herein by this reference.

Section 2. The City Council and Hesperia Water District Board of Directors hereby approve and adopt the "Policy on the Discontinuation of Residential Water Service for Non-Payment Pursuant to SB 998" (Document No. ORG 49), set forth in Exhibit "A" attached hereto and incorporated by this reference.

Section 3. The City Clerk/Board Secretary shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 7th day of January 2020.

Larry Bird, Mayor

ATTEST:

Melinda Sayre, City Clerk

City of Hesperia

Document No.	ORG 49
Page No.	1 of 9
Revision No.	0
Effective Date	02/01/2020
Enabling/Authorizing Documents	Joint Resolution No. 2020-02 & HWD 2020-01

**Administrative Policies
and Procedures Manual****Policy: Policy on the Discontinuation of Residential Water Service for Non-Payment Pursuant to SB 998****1.0 Purpose**

This Policy is intended to comply with Senate Bill 998 – Discontinuation of Residential Water Service, codified in the California Health and Safety Code 116900 *et. seq.*, effective on February 1, 2020, and shall govern Hesperia Water District's ("District") administrative actions for the collection of accounts affecting residential consumers and other non-residential consumer accounts, unless otherwise specified below, including notifications, fee assignments and discontinuation of service.

This Policy is available to the public on the District's website at www.cityofhesperia.us. The District can also be contacted by phone at 760-947-1840 for assistance concerning the payment of water bills and to discuss options for averting discontinuation of water service for nonpayment under the terms of this policy.

2.0 Procedures

A. Rendering and Payment of Bills – Bills for water service will be rendered to each consumer on a bi-monthly basis unless otherwise provided for in the District's rate schedules. Bills for service are due and payable upon presentation and become overdue and subject to discontinuation of service if not paid within sixty (60) days from the date of the bill. Payment may be made at the District's offices or to any representative of the District authorized to make collections. However, it is the consumer's responsibility to assure that payments are received in full by the due date at the District's office. Partial payments are not authorized unless prior approval has been received from the District. Bills will be computed as follows:

1. Meters will be read at regular intervals for the preparation of periodic bills and as required for the preparation of opening bills, closing bills, and special bills.
2. Bills for metered service will show the meter reading for the current and previous meter reading period for which the bill is rendered, the number of units, and billing date.
3. A twenty (20) day grace period starting from the date of the bill will be afforded to the consumer. Payments received after 20 days from the date on bill are subject

to a late charge, as specified in the District's fees and charges, which shall be assessed and added to the outstanding balance on the consumer's account.

4. District's billings shall be paid in legal tender of the United States of America. Notwithstanding the foregoing, the District shall have the right to refuse any payment of such billings in coin.

B. Overdue Bills ("Past Due") – The following rules apply to consumers whose bills remain unpaid for more than sixty (60) days following the bill date:

1. Past Due Notice – If payment for a bill rendered is not received on or before the twenty-first (21st) day following the bill date, a past due notice (the "Past Due Notice") will be mailed to the water service account holder.
2. Notice of Discontinuation of Residential Service for Nonpayment – If payment for a bill rendered is not received on or before the forty-ninth (49th) day following the bill date, the consumer shall be provided notice of impending discontinuation of service via telephone to the contact number on file at least seven (7) business days prior to the possible discontinuation of service date identified in the Past Due Notice. Such telephonic message shall contain the District's offer to provide the consumer with a copy of this Policy and also offer to discuss with the consumer the options for alternative payments, as described in Section 2.1 below, and the procedures for review and appeal of the consumer's bill, as described in Section 2.2 below. For purposes of this Policy, the term "business days" shall refer to any days on which the District's office is open for business.
3. Unable to Contact Customer – If the District's attempt to contact the consumer via telephone message is unsuccessful (undeliverable), the District will visit the residence and leave, or make other arrangements to place in a conspicuous location, a copy of this Policy addressed to "Occupant" and a notice of imminent discontinuation of service for non-payment.
4. Turn-Off Deadline – Payment for water service and other applicable charges must be received in the District offices no later than 4:30 p.m. on the date specified in the Past Due Notice. Postmarks are not acceptable.
5. Restoration of Service - Water service will only be restored upon full payment of all outstanding charges, penalties, deposits, and any and all reconnection charges, such payment shall be in the form of cash or other certified funds.
6. Notification of Returned Check – Upon receipt of a returned payment (returned check/credit card chargeback) rendered as remittance for water service or other charges, the District will consider the account not paid. The District will attempt to notify the consumer by telephone and leave a notice of termination of water service at the premises if unable to make contact with the consumer by telephone. Water service will be disconnected if the amount of the returned check and returned check charge are not paid by the due date specified on the notice, which due date shall not be sooner than the date specified in the Past Due Notice; or if a Past Due Notice had not been previously provided, no sooner than the sixtieth (60th) day after the invoice for which payment by the returned check had been made. To redeem a returned check and to pay a returned check charge, all amounts owing must be paid by cash or certified funds.

7. Returned Check Tendered as Payment for Water Service Disconnected for Non-payment

- (a) If the check tendered and accepted as payment which resulted in restoring service to an account that had been disconnected for non-payment is returned as non-negotiable, the District may disconnect said water service with at least one (1) calendar days' notice. The consumer's account may only be reinstated by receipt of outstanding charges in the form of cash or certified funds. Once the consumer's account has been reinstated, the account will be flagged indicating the fact that a non-negotiable form of payment was issued by the consumer.
- (b) If a second non-negotiable payment is received, the District will no longer accept that form(s) of payment from the consumer for a period of one (1) year. During this time, the District may require the consumer to pay cash or certified funds.

C. Conditions Prohibiting Discontinuation of Residential Water Service – The District shall not discontinue residential water services if all of the following conditions are met:

- 1. Health Conditions – The consumer or tenant of the consumer submits certification of a "Primary Care Provider," as defined in Welfare and Institutions Code Section 14088(b)(1)(A), that discontinuation of water service would (i) be life threatening, or (ii) pose a serious threat to the health and safety of a person residing at the property;
- 2. Financial Inability – The consumer demonstrates he or she is financially unable to pay for water service within the water system's normal billing cycle. The consumer is deemed "financially unable to pay" if any member of the consumer's household is: (i) a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the consumer declares the household's annual income is less than 200% of the federal poverty level; and
- 3. Alternative Payment Arrangements – The consumer is willing to enter into an amortization agreement, alternative payment schedule or a plan for deferred or reduced payment, consistent with the provisions of Section 2.1 below.

D. Process for Determination of Conditions Prohibiting Discontinuation of Residential Water Service – The burden of proving compliance with the conditions described in Subdivision (C), above, is on the consumer. In order to allow the District sufficient time to process any request for assistance by a consumer, the consumer is encouraged to provide the District with the necessary documentation demonstrating the medical issues under Subdivision (C)(1), financial inability under Subdivision (C)(2), and willingness to enter into any alternative payment arrangement under Subdivision (C)(3) as far in advance of any proposed date for discontinuation of service as possible. Upon receipt of such documentation, the City Manager, or his or her designee, shall review that documentation and respond to the consumer within seven (7) calendar days to either request additional information, including information relating to the feasibility of the available alternative arrangements, or to notify the

consumer of the alternative payment arrangement, and terms thereof, under Section 2.1 below, in which the District will allow the consumer to participate. If the District has requested additional information, the consumer shall provide that requested information within seven (7) calendar days of the District's request. Within seven (7) calendar days of its receipt of that additional information, the District shall either notify the consumer that the consumer does not meet the conditions under Subdivision (C) above, or notify the consumer in writing of the alternative payment arrangement, and terms thereof, under Section 2.1 below, in which the District will allow the consumer to participate. Consumers who fail to meet the conditions described in Subdivision (C) above, must pay the delinquent amount, including any penalties and other charges, owing to the District within the latter to occur of: (i) two (2) business days after the date of notification from the District of the City Manager's determination the consumer failed to meet those conditions; or (ii) the date of the impending service discontinuation, as specified in the Past Due Notice.

- E. Special Rules for Low Income Residential Consumers – Residential consumers are deemed to have a household income below 200% of the federal poverty line if: (i) any member of the consumer's household is a current recipient of the following benefits: CalWORKS, CalFresh, general assistance, Medi-Cal, SSI/State Supplementary Payment Program or California Special Supplemental Nutrition Program for Women, Infants and Children; or (ii) the consumer declares the household's annual income is less than 200% of the federal poverty level. If a consumer demonstrates either of those circumstances, then the following apply:
1. Reconnection Fees – If service has been discontinued and is to be reconnected, then any reconnection fees during the normal operating hours of the District's Field Staff cannot exceed \$50, and reconnection fees during non-operating hours of the District's Field Staff cannot exceed \$150. Those fees cannot exceed the actual cost of reconnection if that cost is less than the statutory caps. Those caps may be adjusted annually for changes in the Consumer Price Index (CPI) –for the Riverside - San Bernardino - Ontario area beginning January 1, 2021. Normal operating hours of the District's Field Staff are Monday through Thursday from 6:30 am to 4:00 pm and on Friday from 6:30 am to 3:00 pm.
 2. Interest Waiver – The District shall waive interest charges on delinquent bills once every 12 months.
- F. Landlord-Tenant – The below procedures apply to individually metered detached single-family dwellings, multi-unit residential structures, and mobile home parks where the property owner or manager is the customer of record and is responsible for payment of the water bill.
1. Required Notice
 - (a) At least ten (10) calendar days prior if the property is a multi-unit residential structure or mobile home park, or seven (7) calendar days prior if the property is a detached single-family dwelling, to the possible discontinuation of water service, the District shall make a good faith effort to inform the tenants/occupants at the property by written notice that the water service will be discontinued.

- (b) The written notice must also inform the tenants/occupants that they have the right to become customers to whom the service will be billed (see Subdivision 2 below), without having to pay any of the then delinquent amounts.

2. Tenants/Occupants Becoming Customers

- (a) The District is not required to make service available to the tenants/occupants unless each tenant/occupant agrees to the terms and conditions for service and meets the District's requirements and rules.
- (b) However, if (i) one or more of the tenants/occupants assumes responsibility for subsequent charges to the account to the District's satisfaction, or (ii) there is a physical means to selectively discontinue service to those tenants/occupants who have not met the District's requirements, then the District may make service available only to those tenants/occupants who have met the requirements.
- (c) If prior service for a particular length of time is a condition to establish credit with the District, then residence at the property and proof of prompt payment of rent for that length of time, to the District's satisfaction, is a satisfactory equivalent.

2.1 Alternative Payment Arrangements for Residential Consumers – Section 2.1 shall apply only to residential consumer accounts. For any residential consumer who meets the three conditions under Section 2.0(C) above, in accordance with the process set forth in Section 2.0(D) above, the District shall offer the consumer one of the following alternative payment arrangements, to be selected by the District in its sole discretion: (i) amortization of the unpaid balance under Subdivision (A) below; (ii) alternative payment schedule under Subdivision (B) below; (iii) partial or full reduction of unpaid balance under Subdivision (C) below; or (iv) temporary deferral of payment under Subdivision (D) below. The City Manager, or his or her designee, shall, in the exercise of reasonable discretion, select the most appropriate alternative payment arrangement after reviewing the information and documentation provided by the consumer and taking into consideration the consumer's financial situation and District's payment needs.

A. Amortization – If the City Manager, or his or her designee, selects the amortization plan for the consumer, the consumer must enter into a written amortization plan with the District in accordance with the following terms:

1. Term – The consumer shall pay the unpaid balance, with the administrative fee and interest as specified in Subdivision (2) below, over a period not to exceed twelve (12) months, as determined by the City Manager or his or her designee; provided, however, that the City Manager or his or her designee, in their reasonable discretion, may apply an amortization term of longer than twelve (12) months to avoid undue hardship on the consumer. The unpaid balance, together with the applicable administrative fee and any interest to be applied, shall be divided by the number of months in the amortization period and that amount shall be added each month to the consumer's ongoing monthly bills for water service.
2. Administrative Fee; Interest – For any approved amortization plan, the consumer will be charged an administrative fee, in the amount established by the District

from time to time, representing the cost to the District of initiating and administering the plan. At the discretion of the City Manager or his or her designee, interest at an annual rate not to exceed eight percent (8%) shall be applied to any amount to be amortized under this Subsection A.

3. Compliance with Plan – The consumer must comply with the amortization plan and remain current as charges accrue in each subsequent billing period. The consumer may not request further amortization of any subsequent unpaid charges while paying delinquent charges pursuant to an amortization plan. Where the consumer fails to comply with the terms of the amortization plan for sixty (60) calendar days or more, or fails to pay the consumer's current service charges for sixty (60) calendar days or more, the District may discontinue water service to the consumer's property at least five (5) business days after the District posts at the consumer's residence a final notice of its intent to discontinue service.
- B. Alternative Payment Schedule – If the City Manager, or his or her designee, selects an alternative payment schedule for the consumer, the consumer must enter into a written alternative payment schedule with the District in accordance with the following terms:
 1. Repayment Period – The consumer shall pay the unpaid balance, with the administration fee and interest as specified in Subdivision (2) below, over a period not to exceed twelve (12) months, as determined by the City Manager or his or her designee; provided, however, that the City Manager or his or her designee, in their reasonable discretion, may extend the repayment period for longer than twelve (12) months to avoid undue hardship on the consumer.
 2. Administrative Fee; Interest – For any approved alternative payment schedule, the consumer will be charged an administrative fee, in the amount established by the District from time to time, by resolution or ordinance of the City Council, representing the cost to the District of initiating and administering the schedule. At the discretion of the City Manager or his or her designee, interest at an annual rate not to exceed eight percent (8%) shall be applied to any amounts to be amortized under this Subsection B.
 3. Schedule – The City Manager or his or her designee shall develop an alternative payment schedule. The alternative schedule may provide for periodic lump sum payments that do not coincide with the District's established payment date, may provide for payments to be made more frequently than monthly, or may provide that payments be made less frequently than monthly, provided that in all cases, subject to Subdivision (1) above, the unpaid balance and administrative fee shall be paid in full over a period not to exceed twelve (12) months of establishment of the payment schedule. The agreed upon schedule shall be set forth in writing and be provided to the consumer.
 4. Compliance with Plan – The consumer must comply with the agreed upon payment schedule and remain current as charges accrue in each subsequent billing period. The consumer may not request a longer payment schedule for any subsequent unpaid charges while paying delinquent charges pursuant to a previously agreed upon schedule. Where the consumer fails to comply with the terms of the agreed upon schedule for sixty (60) calendar days or more, or fails to pay the consumer's current service charges for sixty (60) calendar days or more,

the District may discontinue water service to the consumer's property at least five (5) business days after the District posts at the consumer's residence a final notice of its intent to discontinue service.

- C. Reduction of Unpaid Balance – If the District has selected this alternative, the consumer shall receive a reduction of the unpaid balance owed by the consumer, not to exceed thirty percent (30%) of that balance without approval of and action by the Water District Board; provided that any such reduction shall be funded from a source that does not result in additional charges being imposed on other District customers. The proportion of any reduction shall be determined by the consumer's financial need, the District's financial condition and needs, and the availability of funds to offset the reduction of the consumer's unpaid balance.
1. Repayment Period – The consumer shall pay the reduced balance by the due date determined by the City Manager or his or her designee, which date (the "Reduced Payment Date") shall be at least fifteen (15) calendar days after the effective date of the reduction of the unpaid balance.
 2. Compliance with Reduced Payment Date – The consumer must pay the reduced balance on or before the Reduced Payment Date, and must remain current in paying in full any charges that accrue in each subsequent billing period. If the consumer fails to pay the reduced payment amount within sixty (60) calendar days after the Reduced Payment Date, or fails to pay the consumer's current service charges for sixty (60) calendar days or more, the District may discontinue water service to the consumer's property at least five (5) business days after the District posts at the consumer's residence a final notice of its intent to discontinue service.
- D. Temporary Deferral of Payment – If the District has selected this alternative, the consumer shall have payment of the unpaid balance temporarily deferred for a period of up to six (6) months after the payment is due. The District shall determine, in its discretion, how long of a deferral shall be provided to the consumer.
1. Repayment Period – The consumer shall pay the unpaid balance by the deferral date (the "Deferred Payment Date") determined by the City Manager or his or her designee. The Deferral Payment Date shall be within twelve (12) months from the date the unpaid balance became delinquent; provided, however, that the City Manager or his or her designee, in their reasonable discretion, may establish a Deferred Payment Date beyond that twelve (12) month period to avoid undue hardship on the consumer.
 2. Compliance with Reduced Payment Date – The consumer must pay the reduced balance on or before the Deferred Payment Date, and must remain current in paying in full any charges that accrue in each subsequent billing period. If the consumer fails to pay the unpaid payment amount within sixty (60) calendar days after the Deferred Payment Date, or fails to pay the consumer's current service charges for sixty (60) calendar days or more, the District may discontinue water service to the consumer's property at least five (5) business days after the District posts at the consumer's residence a final notice of its intent to discontinue service.

2.2 Appeals – The procedure to be used to appeal the amount set forth in any bill for residential water service is as follows:

- A. Consumer Dispute of Charges to District – In cases where a consumer asserts that a water service bill has been calculated in error, the consumer may dispute such water service charge(s) and request a review of the bill rendered by the District as follows:
1. Consumer Dispute of Bill/Past Due Notice – Within twenty-one (21) days of the original bill date for water service, the consumer may dispute charge(s) rendered by the District and request a review of such charge(s) for accuracy. The Dispute of Charges must be made in writing, must include documentation supporting the appeal and the reason for the appeal, and be delivered to the District's office. For so long as the consumer's dispute and any resulting investigation is pending, the District shall not discontinue water service to the consumer.
 2. Within fourteen (14) calendar days of receiving a consumer dispute, a review will be conducted by the District.
 - (a) If water charges are determined to be incorrect, the District will provide a corrected bill and payment of the revised charges will be due within ten (10) calendar days of the bill for revised charges. If the revised charges remain unpaid for more than sixty (60) calendar days after the corrected bill is provided, water service will be disconnected after expiration of that sixty (60) calendar day period; provided that the District shall provide the consumer with the Past Due Notice in accordance with Section 2.0 (B) above.
 - (b) If the water charges in question are determined to be correct, the bill is due and payable within two (2) business days after the District's notification. Water service to the referenced property is subject to disconnection if the charges remain unpaid the latter of: (i) two (2) business days after the District's notification that the billed charges are valid, or (ii) sixty (60) calendar days from the original bill date; provided that the District shall provide the consumer with the Past Due Notice in accordance with Section 2.0 (B) above.
 - (c) Any consumer whose dispute has resulted in an adverse determination by the District may appeal the determination within seven (7) calendar days from the District's notification to the Appeals Officer. Such appeal shall be in writing and must include documentation supporting the appeal.
- B. Appeal to Appeals Officer– Following receipt of a request for an appeal under Subsection A above, an evaluation shall be conducted by the Director of Finance, or his or her designee (the "Appeals Officer"). The Appeals Officer shall evaluate the evidence presented by the consumer, as well as the information on file with the District concerning the water charges in question, and render a decision as to the accuracy of said charges.
1. If the water charge(s) are determined to be incorrect by the Appeals Officer, the District will provide a corrected bill and payment of the revised charges will be due within ten (10) calendar days of the bill for revised charges. If the revised charges remain unpaid for more than sixty (60) calendar days after the corrected bill is provided, water service will be disconnected after expiration of that sixty (60)

calendar day period; provided that the District shall provide the consumer with the Overdue Notice in accordance with Section 2.0(B) above.

2. If the water charges in question are determined to be correct by the Appeals Officer, the bill is due and payable within two (2) business days after the Appeals Officer's decision is rendered. Water service to the referenced property is subject to disconnection if the charges remain unpaid the latter of: (i) two (2) business days after the Appeals Officer's decision is rendered to the consumer, or (ii) sixty (60) calendar days from the original bill date; provided that the District shall provide the consumer with the Past Due Notice in accordance with Section 2.0(B) above.
3. Any overcharges will be reflected as a credit on the next regular bill to the consumer, or refunded directly to the consumer, at the sole discretion of the District.
4. Water service to any consumer shall not be discontinued at any time during which the consumer's appeal to the Appeals Officer is pending.
5. The Appeals Officer's decision shall be final and binding.

2.3 Restoration of Service – For water service that has been discontinued by the District due to non-payment, water service will only be restored upon full payment of all outstanding charges, penalties, deposits, and any and all applicable reconnection charges. The referenced payment shall be in the form of cash or other certified funds. The District will endeavor to make such reconnection as soon as practicable as a convenience to the consumer. The District shall make the reconnection no later than the end of the next regular working day following the consumer's request and receipt of referenced fees/charges.

Reviewed and Recommended for Approval by:

Casey Brooksher
Director of Finance

Approved by:

Nils Bentsen
General Manager

