

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

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### 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