

September day 11, 2019

**RESOLUTION NO. 2019-11**

**RESOLUTION ESTABLISHING A POLICY ON THE DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

The following Resolution is hereby offered and read:

**WHEREAS**, on September 28, 2018 the Governor of the State of California approved Senate Bill 998 (SB 998); and

**WHEREAS**, SB 998 pertains to the discontinuation of residential water service for urban and community water systems; and

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

**WHEREAS**, Ordinances 2015-01 and 2006-1 currently establish provisions for discontinuance of water services and payment plans for hardship situations which must be superseded to comply with SB 998; and,

**WHEREAS**, SB 998 requires public water systems with more than 200 connections to have a written policy on discontinuation of residential water service (shutoff) and provide that policy in languages that are spoken by at least 10% of the people residing in the District's service area; and,

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

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

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

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

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

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

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

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

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Board of Directors of the Oceano Community Services District that:

1. The attached policy on the Discontinuance of Residential Water Service is hereby adopted and supersedes conflicting provisions of Ordinances 2015-01 and 2006-1.
2. The effective date of the attached policy is April 1, 2020.
3. The General Manager is directed to develop the required procedures identified in the attach policy no later than December 21, 2019. To post the policy and procedures on the District website no later than December 31, 2019 and to insert a notice summarizing the policy with the District's contact information and website link with the first water bills affected by the policy.

Upon motion of Director Replogle, seconded by Vice President White and on the following roll call vote, to wit:

AYES: Director Replogle, Vice President White, Director Gibson, Director Villa, President Austin  
NOES: None  
ABSENT: None  
ABSTAINING: None

the foregoing Resolution is hereby adopted this 11 day of September, 2019

Jinda M Austin  
President of the Board of Directors

ATTEST:

C. L. L.  
Secretary for the Board of Directors

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

Jeffrey Minnery  
District Counsel

By: [Signature]  
District Legal Counsel

Dated: 9.25.19

**OCEANO COMMUNITY SERVICES DISTRICT  
POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICES**

1. Purpose

This policy has been established to comply with Senate Bill 998, known as the "Water Shutoff Protection Act" and approved by the Governor on September 28, 2018.

2. Effective Date

This policy shall be effective on April 1, 2020.

3. Published Languages

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

4. Requirements Precedent to Discontinuing Water Service

- A The District shall not discontinue residential service for nonpayment until nonpayment by a customer has been delinquent for at least sixty (60) days. No less than seven business days before discontinuation of residential service for nonpayment, the District shall contact the customer named on the account by telephone or written notice.
- B When the District contacts the customer named on the account by telephone pursuant to subparagraph (A), staff shall offer to provide this policy to the customer in writing. District staff shall offer to discuss options to avert discontinuation of 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 District 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, which shall be sixty (60) days from the date that the bill became delinquent, unless extended by the discretion of the General Manager.
- (iv) A description of the process to apply for an extension of time to pay the delinquent charges.
- (v) A description of the procedure to petition for bill review and appeal.
- (vi) A description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent residential service charges.

## 5. Good Faith Noticing Requirements

- A. If the District 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 District shall make a good faith effort to visit the residence and leave, or make other arrangements for placement, in a conspicuous place, a notice of imminent discontinuation of residential service for nonpayment and the District's policy for discontinuation of residential service for nonpayment.
- B. If an adult at the residence appeals the water bill to the District or any other administrative or legal body to which such an appeal may be lawfully taken, the District shall not discontinue residential service while the appeal is pending. Appeal rights are established in District Ordinance 2006-1.

## 6. Prohibition Against Discontinuing Residential Water Service

- A. The District shall not discontinue residential service for nonpayment if all of the following conditions are met:
  - (i) The customer, or a tenant of the customer, submits to the District 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.
  - (ii) The customer demonstrates that he or she is financially unable to pay for residential service within the District's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the District'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 two hundred (200) percent of the federal poverty level.
  - (iii) The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment with respect to all delinquent charges.

- B. If the conditions listed above are all met, the District shall offer the customer one or more of the following options:
- (i) Amortization of the unpaid balance.
  - (ii) Participation in an alternative payment schedule.
  - (iii) A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.
  - (iv) Temporary deferral of payment.
- C. The General Manager is authorized to determine which of the payment options described in paragraph (B) the customer undertakes and may set the parameters of that payment option provided that the repayment of any remaining outstanding balance occurs within 12 months, and further provide that the General Manager may only approve a partial or full reduction of the unpaid balance if that reduction can be funded with property tax revenues that the District Board of Directors has approved and transferred into the Water Fund budget explicitly for the purpose of doing so.
- D. Residential service may be discontinued no sooner than five (5) business days after the District posts a final notice of intent to disconnect service in a prominent and conspicuous location at the property under either of the following circumstances:
- (i) The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for sixty (60) days or more.
  - (ii) While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay his or her current residential service charges for sixty (60) days or more.

## 7. Restoration of Water Service

- A. An urban and community water system that discontinues residential service for nonpayment shall provide the customer with information on how to restore residential service. For a residential customer who demonstrates to the District that the household income is below two hundred (200) percent of the federal poverty line, the District shall do both of the following:
- (i) Set a reconnection of service fee, for reconnection during normal operating hours, in an amount that does not exceed fifty dollars (\$50), or the actual cost of reconnection if it is less. For the reconnection of residential service during nonoperational hours, the District shall set a reconnection of service fee that does not exceed one hundred fifty dollars (\$150), or the actual cost of reconnection during nonoperational hours if it is less. The



maximum amount of fifty (\$50) for reconnection during operational hours and one hundred fifty (\$150) during nonoperational hours shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. The District shall use the average of the Los Angeles area and San Francisco area for determining the increase in the Consumer Price Index.

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

B. An urban and community water system shall deem a residential customer to have a household income below two hundred(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 two hundred (200) percent of the federal poverty level.

#### 8. Services involving Landlord-Tenant Relationships

(i) If the District furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit residential structure, mobile home 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 District 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 ten (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.

(ii) The District shall not make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the District's ordinances, resolutions, rules and regulations. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges on the account to the satisfaction of the District, including requirements which may include, but not be limited to, payment of a deposit of \$120 and completion of a District application for service so that the General Manager, or designee, can evaluate whether the District is satisfied that the residential applicants can meet the terms and conditions of service, or if there is a physical means legally available for the District to selectively terminate service to those residential occupants who have not met the requirements of the District, the District shall make service available to those residential occupants who the District is satisfied can meet the terms and conditions of service.

#### 9. Reporting Requirements

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

#### 10. Limitations of this Policy

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

#### 11. Other Actions to Secure Collection of Delinquent Charges

- A. Pursuant to Government Code Section 61115(3)(C) the District shall impose a penalty to the customer, for the nonpayment of charges, at a rate of ten percent (10%), plus an additional penalty of one percent (1%) per month for the nonpayment of the charges.
- B. Pursuant to Government Code Section 61115(b) the District may collect any delinquent charges and penalties on the tax roll in the same manner as property taxes.
- C. Pursuant to Government Code Section 61115(c), the Board of Directors authorizes the General Manager or designee to execute a certificate declaring, on a form approved by District legal counsel, the amount of the delinquent charges and penalties due and the name and last known address of the person liable for the delinquent charges and penalties, and to record said certificate in the office of the San Luis Obispo County Recorder in accordance with procedures established by the General Manager. Said procedures shall include a provision that recording the certificate can only occur after notifying the customer of the District's intent to record the certificate, that the customer has ten (10) business days to inform the District if the customer intends to appeal the recording of the certificate to the Board of Directors, and if the customer appeals, then the certificate can only be recorded after the Board of Directors considers the appeal and only if the Board of Directors directs that the certificate is recorded.