

**RESOLUTION NO. VWD 19-010**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT ADOPTING PROCEDURES FOR THE ADMINISTRATION OF DELINQUENT CUSTOMER ACCOUNTS AND WATER SHUTOFF POLICIES**

**WHEREAS**, the Victorville Water District (“District”) is a subsidiary district of the City of Victorville, California (“City”), organized and operating under the County Water District Law (Water Code section 30000 *et seq.*); and

**WHEREAS**, the State of California adopted Senate Bill Number 998 on September 28, 2018 to establish by statute the Water Shutoff Protection Act (California Health and Safety Code section 11690 *et seq.*); and

**WHEREAS**, as an urban water supplier, the District is required to comply with the Water Shutoff Protection Act requirements, including adoption of a written policy for Residential Water Service Shutoff for Nonpayment to be effective on or before February 1, 2020; and

**WHEREAS**, the District recognizes that all Californians have the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes; and

**WHEREAS**, Shutoff of Water Service for nonpayment is considered a last resort of the collection process, to be instituted only after sufficient Customer notification and when all other reasonable alternatives have been exhausted; and

**WHEREAS**, the District wishes to establish policies and procedures for the administration of delinquent Accounts, including policies for the Shutoff of Water Service to its Customers for nonpayment of amounts due.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. FINDINGS.**

The Board finds that the foregoing recitals are true and correct, and together with the definitions set forth therein are hereby incorporated into this Resolution by this reference.

**SECTION 2. GENERAL PROVISIONS.**

- 2.01 Purpose.** The purpose of this Resolution is to provide rules and procedures as policy for the administration of delinquent Customer Accounts.
- 2.02 Scope.** This Resolution and the policies and procedures contained herein shall apply to all District Customers unless the context specifically indicates otherwise.
- 2.03 Conflict in Provisions.** In the event that the provisions of this Resolution conflict with any code, resolution or regulation of the District, the provisions of this Resolution shall govern. In the event any provision of this Resolution conflicts with a preemptive provision of State law or District ordinance, this Resolution shall be interpreted and applied in conformity with State law and District ordinance.

- 2.04 Effective Date.** This Resolution and the provisions and policies which are fixed or established hereby, including the Residential Water Service Shutoff for Nonpayment Policy set forth in **ATTACHMENT A** hereto, shall become effective February 1, 2020.

**SECTION 3. DEFINITIONS.** Unless the context specifically indicates otherwise, the following terms and phrases, when capitalized, shall have the meanings hereinafter designated.

- 3.01 "Account"** shall mean the record of charges, payments, and all other transactions, together with the balance due to or from the District for Water Service.  
(GOV § 54345, HSC § 5471(c), WAT §§ 31100, 31101, 31102, 31135, 31136 and 31137)
- 3.02 "Assignee"** shall mean any contracted non-property Owner including, but not limited to a tenant, commercial tenant, property manager, licensed real estate agent, prospective buyer, or other assignee authorized by the Owner.  
(GOV § 54347)
- 3.03 "Board"** shall mean the Board of Directors of the Victorville Water District.
- 3.04 "Business Days"** shall mean those days where the District office, located at the Victorville City Hall, is scheduled to be open to the public to conduct business.
- 3.05 "Business Hours"** shall mean those hours where the District office is scheduled to be open to the public to conduct business.
- 3.06 "Cost"** shall mean the expense of labor, materials, transportation, supervision, engineering, and all other necessary or overhead expenses of the District, including expenses related to Water Service.
- 3.07 "County"** shall mean the County of San Bernardino, California.
- 3.08 "Customer"** shall mean any Person supplied or entitled to be supplied with Water Service by the District and who shall be the Owner of the property and/or Premises involved, or his/her authorized agent or Assignee, so authorized in writing to the District.
- 3.09 "Deferred Payment Plan"** shall mean a written plan (agreement), authorized by the Review Manager and signed by both the Customer and the Review Manager, wherein all amounts due and payable as shown on the Account must be paid, in full, by the close of business on the date that is one hundred thirty-five (135) days after the Water Service Bill Issuance Date.
- 3.10 "District"** shall mean the Victorville Water District.
- 3.11 "GOV"** shall mean the California Government Code.
- 3.12 "HSC"** shall mean the California Health and Safety Code.
- 3.13 "Nonresidential"** shall mean Water Service to Premises that do not include single-family residences, multifamily residences, mobile homes, or farm worker housing.

- 3.14** “**Owner**” shall mean the Person owning in fee title, or in whose name the legal title to the property appears, by deed duly recorded in the County Recorder’s office. The Owner is ultimately responsible for the balance of Customer Account balances and/or charges for Water Service whether or not the Owner actually lives on the Premises and is the user of such Water Service.  
(HSC § 5471(c), WAT §§ 31100, 31101, 31102, 31135, 31136 and 31137)
- 3.15** “**Person**” shall mean any individual, firm, association, organization, partnership, business, trust, company or corporation, and any municipal, political or governmental corporation, district, body or agency, other than the District or the City of Victorville.
- 3.16** “**Premises**” shall mean any building, structure, or facility improvement designed or intended for occupancy or use, existing on a lot or parcel of real property under one ownership, except where there are well defined boundaries or partitions such as fences, hedges or other restrictions preventing the common use of the property by several tenants, in which case each portion shall be deemed a separate Premises.
- 3.17** “**Residential**” or “**Residential Service**” shall mean Water Service to a Residential Premises that includes single-family residences, multifamily residences, mobile homes, including, but not limited to mobile homes in mobile home parks, or farm worker housing.  
(HSC § 116902(c))
- 3.18** “**Review Manager**” shall mean the Deputy City Manager of the City of Victorville, California, acting as the Chief Financial Officer of the District, or his/her designee.
- 3.19** “**Service Address**” shall mean the Premises or location to which Water Service is provided.
- 3.20** “**Shutoff**” shall mean physical turnoff, discontinuation, termination, or the otherwise ending, of Water Service to the Premises.
- 3.21** “**WAT**” shall mean the California Water Code.
- 3.22** “**Water Service**” shall mean the water and/or recycled water, sewer, storm drain, solid waste (sanitation), household hazardous waste, and any other utility service provided by the District and the City of Victorville which is billed upon the same bill and collected as one item.  
(GOV § 54345, HSC § 5471(c), WAT §§ 31100, 31101, 31102, 31135, 31136 and 31137)
- 3.23** “**Water Service Bill Issuance Date**” shall mean the date shown as the “Billing Date” on the bill for Water Service mailed to each Customer.
- 3.24** “**WIC**” shall mean the California Welfare and Institutions Code.

**SECTION 3.50 INTERPRETATION.**

- 3.5.01** When used in this Resolution, the term “may” indicates any act, service, or performance that is permissive.

**3.5.02** When used in this Resolution, the terms “shall” or “will” indicate any act, service, or performance that is mandatory or otherwise required.

**SECTION 4. DELINQUENT ACCOUNT.**

**4.01 Owner Responsibility.** The Owner of any property or Premises to which water is made available remains ultimately responsible for the payment of Customer Account balances, even when such Customer Account has been assigned to an Assignee. The Owner shall be responsible for all charges owed to the District whether or not the Owner actually lives on the Premises.

(GC § 54347(c))

**4.02 Delinquent Account.** An Account balance that remains unpaid by the close of business on the date that is fifteen (15) days after the Water Service Bill Issuance Date shall be deemed a delinquent Account.

**4.03 Partial Payments.** A partial payment of a delinquent Account balance may be accepted and credited to a Customer's Account, but such partial payment shall not be cause for removing the Account from a delinquent status.

**4.04 Application of Payment.** Where payment or partial payment is made on a Customer's Account, prioritization and sequence of payment on outstanding amounts shall be made on the oldest balance due.

**4.05 Late Charge.** Late charges cover the administrative Cost of collecting delinquent Customer Account balances.

**4.05.01 Application of Late Charge.** If a Customer Account balance remains delinquent by the close of business on the date that is twenty-five (25) days after the Water Service Bill Issuance Date, the District will charge the Customer Account a late fee of five percent (5%) of the total delinquent balance, rounded to the nearest dollar.

(GOV § 54348)

**4.05.02 Agency Exemption.** Government and other agencies may be exempt from the Late Charge as provided by applicable statute.

**4.05.03 Waiver.** At the request of the Customer and upon authorization by the Review Manager, the District may waive the late fee for extenuating circumstances, provided that the Customer has been assessed a late fee for delinquent payment no more than once in the proceeding twelve (12) months.

**4.06 Interest.** The District shall not charge interest on any Account balance.

**4.07 Refusal or Neglect to Pay Debt.** Any amount due is a debt to the District, and any Person failing, neglecting, or refusing to pay this debt may be subject to a civil action to recover any amounts due and/or to obtain any other relief authorized by law, from a court of competent jurisdiction. All unpaid rates, fees, charges and penalties herein provided may be collected by suit.

**4.08 Liens.** Delinquent Account balances constitute a debt to the District and may be placed on the County property tax rolls as a lien against the property. In addition, the District will charge a processing fee in the amount charged by the County for each lien processed.

(WAT §§ 301701(c) and 31701.5)

**4.09 Maintenance of Account Information.** The Customer is responsible for the accurate maintenance of service Account contact information including, but not limited to, the Service Address, the billing address, the Customer mailing address, email address, forwarding address, telephone contact numbers, and other required Account contact information. Written notification of any changes in service or Account contact information must be provided to the District within four (4) Business Days of such change.

## **SECTION 5. RESIDENTIAL WATER SERVICE SHUTOFF FOR NONPAYMENT.**

**5.01 Written Policy.** The Residential Water Service Shutoff for Nonpayment Policy set forth in **ATTACHMENT A** to this Resolution is hereby adopted. Residential Water Service may be Shutoff in accordance with said policy.

(HSC § 116906(a))

**5.02 Unauthorized Actions by Customer.** The provisions of this Section 5 do not apply to the Shutoff of Water Service due to any unauthorized action of a Customer.

(HSC § 116926)

**5.03 Translations.** Translations of the Water Service Shutoff for Nonpayment Policy and all written notices as required by this Section 5 shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The Residential Water Service Shutoff for Nonpayment Policy, including translations, shall also be available on the District's Internet Web site.

(HSC §§ 116906(a), 116906(b), and 116922)

**5.04 Customer Contact.** Not earlier than nineteen (19) days from the Water Service Bill Issuance Date, and no less than seven (7) Business Days before Shutoff of Water Service for nonpayment, the District shall make a reasonable, good faith effort to contact the Residential Customer named on the Account or an adult occupying the Residential Premises to which the Water Service is provided.

HSC § 116908(a)(1)(A))

**5.05 Written Notice of Payment Delinquency and Impending Discontinuation.** The District shall provide to the Customer in the manner prescribed in the following subsections, a written Notice of Payment Delinquency and Impending Discontinuation.

**5.05.01 Notice Address.** If the Customer address (also known as the billing address) is not the same as the Service Address, the notice also shall be sent to the Service Address, addressed to "Occupant."

**5.05.02 Written Notice Information.** The Notice of Payment Delinquency and Impending Discontinuation shall include, in a clear and legible format, all of the following information:

- a. The Customer's name and address.
- b. The amount of the delinquency.
- c. A description of the procedure by which a Deferred Payment Plan or alternative payment schedule may be requested.
- d. A description of the process to apply for a Deferred Payment Plan or alternative payment schedule to pay amounts due.
- e. The date by which a Deferred Payment Plan or alternative payment schedule is required in order to avoid Shutoff of Water Service.
- f. A description of the procedure to petition for bill review and appeal.
- g. The telephone number by which a representative of the District may be contacted to discuss options for averting Shutoff of Residential service for nonpayment.  
(HSC § 116908(a)(1)(B and C))

**5.06 Telephone Notice.** The District will make a reasonable, good faith effort to contact the Residential Customer or an adult occupying the Residential Premises to which the Water Service is provided by calling the telephone number on the Account, as provided by the Customer pursuant to Section 4.09 hereof, and shall offer the following:

- 5.06.01** To provide to the Customer or an adult occupying the Residential Premises the District's written Residential Water Service Shutoff for Nonpayment Policy.
- 5.06.02** To discuss options to avert Shutoff of Residential Water Service for nonpayment, including a Deferred Payment Plan, or other alternative payment schedule, and petition for bill review and appeal.  
(HSC § 116908(a)(1)(B))

**5.07 Notice of Imminent Shutoff of Water Service.** If the written Notice of Payment Delinquency and Impending Discontinuation described in Section 5.05 hereof is returned through the mail as undeliverable and the District is unable to contact by telephone the Residential Customer, or an adult occupying the Residential Premises to which the Water Service is provided, pursuant to Section 5.06 hereof, the District shall make a good faith effort to visit the Service Address and leave, or make other arrangements for placement in a conspicuous place of, a Notice of Imminent Shutoff of Water Service for nonpayment and the District's Residential Water Service Shutoff for Nonpayment Policy.  
(HSC § 116908(a)(2))

- 5.07.01 Shutoff for Failure to Comply.** Residential Water Service may be discontinued no sooner than five (5) Business Days after the District posts a Notice of Imminent Shutoff of Water Service if: (1) the Customer fails to comply with a Deferred Payment Plan or other alternative payment schedule for sixty (60) days or more; or (2) while undertaking a Deferred Payment Plan or other alternative payment schedule, the Customer does not pay his/her current Residential Water Service charges for sixty (60) days or more.  
(HSC § 116910(b)(3))
- 5.07.02 Disputed Bill Review.** If a Residential Customer or adult occupying the Service Address disputes the accuracy of a bill for Water Service, he/she may contest the bill by submitting a written request to the District's Review Manager not later than five (5) Business Days after his/her receipt of the disputed bill or not later than thirteen (13) days after the District's mailing of a Notice of Payment Delinquency and Impending Discontinuation. The request must include information or evidence supporting the position of the Person requesting the disputed bill review. Within ten (10) business days after the District's Review Manager receives the written request, he/she shall provide to the Person requesting the disputed bill review, by mail or personal service, a written decision evidencing his/her determination of the bill dispute.
- 5.07.03 Appeal.** The Person who requested the disputed bill review may appeal the Review Manager's decision to the Board by submitting a written appeal within ten (10) Business Days of the date of service or mailing of the Review Manager's written decision. The appeal shall be submitted to the Victorville City Clerk, acting as the District Secretary. The District Secretary will set the matter to be heard at an upcoming meeting of the Board and mail the appellant a written notice of the time and place of the hearing at least ten (10) days before the meeting at which the matter will be heard. The Board's decision is final; any subsequent review of the same disputed bill to the Board is not subject to appeal. The District shall not Shutoff Residential Service while an appeal is pending.  
(HSC § 116908(b))
- 5.08 Residential Occupants.** Under certain circumstances, the District may transfer an Account to a Residential occupant (actual user of the Water Service). When the Customer of record is not the occupant of the Service Address and the Customer of record fails to pay the past due amount by the "Due Date" as shown on a Notice of Payment Delinquency and Impending Discontinuation or Notice of Imminent Shutoff of Water Service, the residential occupant of the Service Address may become a customer of the District with a separate account if the residential occupant meets the District's terms and conditions of service. A residential occupant may be indicated where the Customer address (billing address) is not the Service Address.

**5.08.01 Notice.** If the District 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 HSC 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 Water Service will be Shutoff at least ten (10) days prior to the Shutoff. The written notice shall further inform the Residential occupants that they have the right to become Customers, to whom services will then be billed, without being required to pay any amount which may be due on the delinquent Account.  
(HSC § 116916(b))

**5.08.02 Terms and Conditions.** The District is not required to make service available to the Residential occupants unless each Residential occupant agrees in writing to the terms and conditions of service and meets the requirements of law and the District'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 District, or if there is a physical means legally available to the District of selectively terminating service to those Residential occupants who have not met the requirements of the District's rules and tariffs, the District shall make service available to those Residential occupants who have met those requirements. The residential occupants will not be required to pay any amount which may be delinquent or owed by the former Customer of record. Application for a customer account by the residential occupant must be completed, signed, and submitted to the District office located at 14343 Civic Drive, Victorville, California prior to the Due Date.  
(HSC § 116916(c))

**5.09 Deferred Payment Plan / Alternative Payment Schedule.**

**5.09.01 When Permitted.** Any Residential Customer meeting all the conditions listed in Section 5.10.01 hereof, shall, upon said Residential Customer's request, be permitted to enter into a Deferred Payment Plan or other alternative payment schedule as provided for herein. A Deferred Payment Plan is the District's preferred option for resolving delinquencies to avoid Shutoff; however, the District has the discretion, when circumstances so warrant and with the advance approval of the Review Manager, to offer any other payment schedule permitted by HSC section 116910 to a Customer who meets the conditions set forth in Section 5.10.01 hereof.



**5.09.02 Conditions Met.** Within seven (7) Business Days of receiving evidence submitted by the Residential Customer which demonstrates that he/she meets all the conditions listed in Section 5.10.01 hereof, the District will: (1) notify the Customer of the terms of the Deferred Payment Plan (or alternative payment schedule if approved by the Review Manager); and (2) request the Customer sign a written agreement consenting to the Deferred Payment Plan or alternative payment schedule. The Customer must sign and submit the written agreement to the District within seven (7) Business Days of the date the District provides said agreement to the Customer.

**5.09.03 Conditions Not Met.** Within seven (7) Business Days of receiving evidence submitted by the Residential Customer which fails to demonstrate that he/she meets all the conditions listed in Section 5.10.01 hereof, the District will: (1) request additional information from the Customer; or (2) notify the Customer that he/she does not meet the conditions for a Deferred Payment Plan or alternative payment schedule.

**5.09.04 Failure to Comply with the Terms of a Deferred Payment Plan or Alternative Payment Schedule.** When a Customer fails to comply with the terms of a Deferred Payment Plan or alternative payment schedule, all past due amounts will be subject to civil action, lien, or any other relief authorized by law pursuant to the provisions of Sections 4.07 and/or 4.08 hereof. The Customer must also restore any required deposit.

**5.10 When Water Service Shall Not be Shutoff.**

**5.10.01 Conditions Met.** The District shall not Shutoff Residential Water Service for nonpayment if all of the following conditions are met prior to the date that is sixty (60) days after the Account becomes delinquent:

- a. **Physician Certification.** 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 WIC 14088(a)(1)(A), that Shutoff of Residential Water Service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the Service Address.  
(HSC § 116910(a)(1))

**b. Customer Financially Unable to Pay.** The Customer, in a writing, submitted to the District, demonstrates or declares that he/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, Medical, Supplementary 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.

(HSC § 116910(a)(2))

**c. Deferred Payment Plan / Alternative Payment Schedule.** The Residential Customer is willing to enter into a Deferred Payment Plan or other alternative payment schedule as provided for herein. Deferred Payment Plans (or other alternative payment schedule when approved by the Review Manager) shall be set forth in writing and signed by the Customer and the Review Manager within the time frame specified in Section 5.09.02 hereof.

(HSC § 116910(a)(2))

**5.10.02 Situations.** The District shall not Shutoff Residential Water Service for nonpayment in any of the following situations:

**a. Not Sixty Days Delinquent.** The Customer Account has not been delinquent for at least sixty (60) days.

(HSC § 116908(a)(1)(A))

**b. Submittals Pending Approval for Agreement for Deferred Payment Plan or Alternative Payment Schedule.** If the Residential Customer has timely submitted to the District the evidence/information required by Section 5.10.01 hereof, and the District's review of the submittals and notification to Customer that the conditions in Section 5.10.01 have or have not been met are pending, Water Service shall not be Shutoff until the District notifies the Customer of its determination. In addition, if the District has provided a written agreement to the Customer to sign consenting to the Deferred Payment Plan or alternative payment schedule, Water Service shall not be Shutoff until the time set forth in Section 5.09.02 hereof for Customer to sign and return same to the District has expired.

(HSC 116908(b))

**c. Pending Disputed Bill Review or Appeal.** While a disputed bill review or appeal is pending.

- d. **Deferred Payment Plan / Alternative Payment Schedule Compliance.** No Shutoff of Water Service shall occur for any Residential Customer complying with any Deferred Payment Plan or alternative payment schedule.
  - e. **Office Closures.** On any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District, located at the Victorville City Hall, are not open to the public.
- 5.11 Other Remedies.** In addition to Shutoff of Residential Water Service, the District may pursue any other remedies available in law or equity for nonpayment of Water Service charges, including, but not limited to:
- 5.11.01 Liens.** Securing delinquent amounts by filing liens on real property.
  - 5.11.02 Claim.** Filing a claim or legal action.
  - 5.11.03 Collections.** Referring the unpaid amount to collections. In the event a legal action is decided in favor of the District, the District will be entitled to the payment of all Costs and expenses, including attorneys' fees.
- 5.12 Restoration of Service.** Residential Customers whose Water Service has been Shutoff may contact the District by telephone or in person regarding restoration of Water Service. Restoration of Water Service will be subject to payment of all delinquent charges on the Customer Account and any Shutoff service charge, reconnection service charge, late charge, and any security deposit required.
- 5.13 Security Deposit.** Upon Shutoff for nonpayment of Residential Water Service, any security deposit shall be surrendered to the District up to the amount owed to the District. The requirement to deposit a security deposit shall be based solely upon the credit worthiness of the applicant as determined by the Review Manager.
- 5.14 Termination of Assignment.** Any Assignee of a Customer Account whose Residential Water Service has been Shutoff for nonpayment shall no longer be deemed eligible for Assignment of any Account. In such event, assignment of the Customer Account will be terminated and the Customer Account shall revert to the Owner.
- 5.15 Wrongful Shutoff.** Any Residential Water Service wrongfully Shutoff shall be restored without charge for restoration of the Water Service.  
(GOV §60373(e))
- 5.16 Shutoff and Reconnection Service Charges.**
- 5.16.01 Shutoff Charge.** A Shutoff charge, not to exceed the District's actual Cost to Shutoff Water Service, shall be charged to the Customer Account when Residential Water Service is Shutoff. Water Service shall not be Shutoff when District offices are not open to the public.

**5.16.02 Reconnection Service Charge.** A service charge for reconnection (or turn on) during normal District Business Hours shall be charged to the Customer Account at the actual Cost incurred by the District to reconnect Residential Water Service. For Residential Customers who have demonstrated to the District that they meet the criteria in Section 5.10.01.b hereof, the reconnection service charge shall not exceed fifty dollars (\$50.00): A reconnection service charge for reconnection made outside of normal District Business Hours shall be charged to the Customer Account at the actual Cost incurred by the District to reconnect Residential Water Service. For Residential Customers who have demonstrated to the District that they meet the criteria in Section 5.10.01.b hereof, such reconnection service charge shall not exceed one hundred fifty dollars (\$150.00).

**5.16.03 Charge Adjustments.** For Residential Customers who have demonstrated to the District that they meet the criteria in Section 5.10.01.b hereof, the reconnection service charges set forth in Section 5.16.02 hereof shall be subject to annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. In no event shall these charges exceed the District's actual Cost to reconnect Water Service.  
(HSC § 116914(a)(1))

**5.17 Report of Annual Disconnections.** The District will report the number of annual Residential Shutoffs of Water Service for inability to pay on the District's Internet Web site and to the State Water Resources Control Board.  
(HSC §116918)

## **SECTION 6. NONRESIDENTIAL WATER SERVICE SHUTOFF FOR NONPAYMENT.**

**6.01 Policy.** This Section 6 shall serve as the Water Service Shutoff for Nonpayment of delinquent amounts for all Customers who are not defined as Residential.

**6.02 Unauthorized Actions by Customer.** The provisions of this Section 6 do not apply to the Shutoff of Water Service due to any unauthorized action of a Customer.

**6.03 Written Past Due Notice.** The District shall provide a Past Due Notice, in writing, to the Customer of the Premises to which the Water Service is provided.

**6.04 Written Past Due Notice Information.** The written notice shall include, in clear and legible format, all of the following information:

**6.04.01** The Customer's name and address.

**6.04.02** The amount of the delinquency.

**6.04.03** The date by which a payment of all amounts due is required in order to avoid Shutoff of Water Service.

**6.05 When Water Service Shall Not be Shutoff.** The District shall not Shutoff Nonresidential Water Service for nonpayment of amounts due in any of the following situations:

- 6.05.01 Not Thirty-five Days Delinquent.** The Customer Account has not been delinquent for at least thirty-five (35) days.
- 6.05.02 Office Closures.** On any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District, located at the Victorville City Hall, are not open to the public.
- 6.06 Other Remedies.** In addition to Shutoff of Water Service, the District may pursue any other remedies available in law or equity for nonpayment of Nonresidential Water Service charges, including, but not limited to:
  - 6.06.01 Liens.** Securing delinquent amounts by filing liens on real property.
  - 6.06.02 Claim.** Filing a claim or legal action.
  - 6.06.03 Collections.** Referring the unpaid amount to collections. In the event a legal action is decided in favor of the District, the District will be entitled to the payment of all Costs and expenses, including attorneys' fees.
- 6.07 Restoration of Service.** Nonresidential Customers whose Water Service has been Shutoff may contact the District by telephone or in person regarding restoration of Water Service. Restoration of Water Service will be subject to payment of all delinquent charges on the Customer Account and any Shutoff service charge, reconnection service charge, late charge, and any security deposit required.
- 6.08 Security Deposit.** Upon Shutoff for nonpayment of Nonresidential Water Service, any security deposit shall be surrendered to the District up to the amount owed to the District. The requirement to deposit a security deposit shall be based solely upon the credit worthiness of the applicant as determined by the Review Manager.
- 6.09 Termination of Assignment.** Any Assignee of a Customer Account whose Nonresidential Water Service has been shut off for nonpayment shall no longer be deemed eligible for Assignment of any Account; assignment of the Customer Account will be terminated, and the Customer Account shall revert to the Owner.
- 6.10 Wrongful Shutoff.** Any Nonresidential Water Service wrongfully Shutoff shall be restored without charge for restoration of the Water Service.
- 6.11 Shutoff and Reconnection Service Charges.**
  - 6.11.01 Shutoff Charge.** A Shutoff charge, not to exceed the District's actual cost to Shutoff Water Service, shall be charged to the Customer Account when Nonresidential Water Service is Shutoff.
  - 6.11.02 Reconnection Service Charge.** A service charge for reconnection (or turn on) during normal District Business Hours shall be charged to the Customer Account at the actual Cost incurred by the District to reconnect Nonresidential Water Service. A reconnection service charge made outside of normal District Business Hours shall be charged to the Customer Account at the District's actual Cost.

**6.12 Disputed Bill Review / Appeal.**

**6.12.01 Disputed Bill Review.** If a Nonresidential Customer disputes the accuracy of a bill for Water Service, he/she may contest the bill by submitting a written request to the District's Review Manager not later than five (5) Business Days after his/her receipt of the disputed bill or not later than thirteen (13) days after the District's mailing of a Notice of Payment Delinquency and Impending Discontinuation. The request must include information or evidence supporting the position of the Person requesting the disputed bill review.

**6.12.02 Appeal.** The Person who requested the disputed bill review may appeal the Review Manager's decision to the Board by submitting a written appeal within ten (10) days of the date of service or mailing of the Review Manager's written decision. The appeal shall be submitted to the Victorville City Clerk, acting as the District Secretary. The District Secretary will set the matter to be heard at an upcoming meeting of the Board and mail the appellant a written notice of the time and place of the hearing at least ten (10) days before the meeting at which the matter will be heard. The Board's decision is final; any subsequent review of the same disputed bill to the Board is not subject to appeal. The District shall not Shutoff Water Service while an appeal is pending.

Resolution No. VWD 19-010

PASSED, APPROVED AND ADOPTED this 17<sup>th</sup> day of DECEMBER 2019.

  
\_\_\_\_\_  
CHAIRMAN OF THE BOARD OF DIRECTORS

ATTEST:

  
\_\_\_\_\_  
BOARD SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LEGAL COUNSEL FOR VICTORVILLE WATER DISTRICT


I, CHARLENE ROBINSON, City Clerk of the City of Victorville and ex-officio Clerk to the Victorville Water District of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. VWD 19-010 and was adopted at a meeting held on the 17<sup>th</sup> day of December 2019, by the following roll call vote, to wit:

AYES: Board Members Garcia, Ramirez, Cox, Gomez and Jones

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

  
\_\_\_\_\_  
CITY CLERK

# **ATTACHMENT A**



**VICTORVILLE WATER DISTRICT (“DISTRICT”)  
RESIDENTIAL WATER SHUTOFF FOR NONPAYMENT POLICY**

**PURPOSE**

This Policy is adopted to comply with the Water Shutoff Protection Act, *Health and Safety Code section 116900 et seq.* (the “Act”), which prohibits shutoff of residential water service to customers until payment has been delinquent for at least sixty (60) days and provides protections and payment alternatives to residential customers and occupants of residential premises. All submittals required by this Policy shall be in writing and sent to the attention of the Review Manager at the District offices located at 14343 Civic Drive, Victorville, CA 92392.

**WHEN WATER SERVICE ACCOUNTS BECOME DELINQUENT**

Water Service<sup>1</sup> accounts with balances that remain unpaid on the date that is fifteen (15) days after the “Billing Date” shown on the customer’s Water Service bill are considered delinquent.

**DEFERRED PAYMENT PLAN / ALTERNATIVE PAYMENT SCHEDULE**

Residential customers may request alternative payment arrangements to avert Water Service shutoff. The District will not shutoff Water Service for nonpayment if all three (3) of the following conditions are met prior to the date that is sixty (60) days after the account becomes delinquent:

- (1) the customer or tenant of the customer submits to the District the certification of a primary care provider as defined in *Welfare and Institutions Code* section 14088(a)(1)(A), that shutoff of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential water service is provided; and
- (2) the customer, in a writing submitted to the District, demonstrates or declares that he/she is financially unable to pay for service within the normal billing cycle (the customer will be deemed financially unable to pay for residential Water 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, Medical, Supplementary 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); and
- (3) the customer is willing to enter into a written Deferred Payment Plan (or any other alternative payment schedule provided for in the Act, when circumstances warrant and as approved by the District’s Review Manager).

When the District receives evidence/information submitted by the residential customer which demonstrates that he/she meets the three (3) conditions set forth above, the District will, within seven (7) business days of receipt:

- (1) notify the customer of the terms of: (a) the Deferred Payment Plan (wherein all amounts due and payable as shown on the account must be paid, in full, by the close of business on the date that is 135 days after the “Billing Date” shown on the bill that is subject to the Deferred Payment Plan); or (b) such other alternative payment schedule provided for in the Act as approved by the District’s Review Manager; and
- (2) request the customer sign a written agreement consenting to the Deferred Payment Plan or alternative payment schedule. Customer must sign and return said written agreement to the District within seven (7) business days of date the District provides it to the customer.

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<sup>1</sup> “Water Service” means the water and/or recycled water, sewer, storm drain, solid waste (sanitation), household hazardous waste, and any other utility service provided by the District or the City of Victorville which is billed upon the same bill and collected as one item.

When the District receives evidence/information submitted by the residential customer which fails to demonstrate that he/she meets the three (3) conditions set forth above, the District will, within seven (7) business days of receipt:

- (1) request additional information from the customer; or
- (2) notify the customer that he/she does not meet the qualifications for a Deferred Payment Plan or alternative payment schedule.

The District shall not shutoff Water Service if a residential customer has timely submitted to the District the evidence/information required to meet the three (3) conditions set forth above and the District's review and notification to the customer that the conditions have or have not been met is pending. In addition, if the District has provided the customer with a written agreement to sign consenting to a Deferred Payment Plan or alternative payment schedule, Water Service shall not be shutoff until the time for the Customer to sign and return the written agreement to the District has expired.

The District may shutoff Water Service if a customer who has agreed to a Deferred Payment Plan or alternative payment schedule fails to: (1) comply with and pay any amount due under the terms of the Deferred Payment Plan or alternative payment schedule for sixty (60) days or more; or (2) keep the account current as charges accrue in each subsequent billing period for sixty (60) days or more.

#### **MECHANISM TO REQUEST DISPUTED BILL REVIEW AND APPEAL**

If a residential customer or adult occupying the premises to which residential Water Service is provided disputes the accuracy of a bill for Water Service, he/she may contest the bill by submitting a written request to the District's Review Manager not later than five (5) business days after his/her receipt of the disputed bill, or not later than thirteen (13) days after the District's mailing of a Notice of Payment Delinquency and Impending Discontinuation. The request must include information or evidence supporting the position of the person requesting the disputed bill review. Within ten (10) business days after the District's Review Manager receives the written request, he/she shall provide to the person requesting the disputed bill review, by mail or personal service, a written decision evidencing his/her determination of the bill dispute.

The person who requested the disputed bill review may appeal the Review Manager's decision to the District Board of Directors ("Board") by submitting a written appeal within ten (10) business days of the date of service or mailing of the Review Manager's written decision. The appeal shall be submitted to the Victorville City Clerk, acting as the District Secretary. The District Secretary will set the matter to be heard at an upcoming meeting of the Board and mail the appellant a written notice of the time and place of the hearing at least ten (10) days before the meeting at which the matter will be heard. The Board's decision is final; any subsequent review of the same disputed bill to the Board is not subject to appeal.

The District will not shutoff residential Water Service while a disputed bill is under review or an appeal is pending.

## **RESIDENTIAL OCCUPANT RIGHTS**

Where the customer of record is not the occupant of the location where the Water Service is provided (the "Service Address") and the customer of record fails to pay the past due amount by the "Due Date" as shown on a Notice of Payment Delinquency and Impending Discontinuation or Notice of Imminent Shutoff of Water Service, the residential occupants of the Service Address may become customers of the District with a separate account if they meet the District's terms and conditions of service.

The District is not required to make service available to residential occupants unless each residential occupant agrees in writing to the terms and conditions of service and meets the requirements of the District'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 District, or if there is a physical means legally available to the District of selectively terminating service to those residential occupants who have not met the requirements of the District's rules and tariffs, the District shall make service available to those residential occupants who have met those requirements. The residential occupants will not be required to pay any amount which may be delinquent or owed by the former customer of record. Application for a customer account by the residential occupants must be completed, signed, and submitted to the District offices prior to the Due Date.

## **TO DISCUSS OPTIONS**

To discuss options for averting shutoff of residential Water Service for nonpayment, the customer may telephone a District representative at 760-955-5001.

## **TO RESTORE WATER SERVICE**

To restore Water Service after shutoff, the customer may contact the District by telephone or in person at the District offices. Except as otherwise set forth in this Policy, restoration of Water Service will be subject to payment of all delinquent charges on the customer account, any shutoff or reconnection service charges, late charges, and any security deposit required by District resolutions or ordinances.

# **ATTACHMENT 2**

**HEALTH AND SAFETY CODE - HSC**

**DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]**

*( Division 104 added by Stats. 1995, Ch. 415, Sec. 6. )*

**PART 12. DRINKING WATER [116270 - 117130]**

*( Part 12 added by Stats. 1995, Ch. 415, Sec. 6. )*

**CHAPTER 6. Discontinuation of Residential Water Service [116900 - 116926]**

*( Chapter 6 added by Stats. 2018, Ch. 891, Sec. 2. )*

**116900.**

This chapter shall be known, and may be cited, as the Water Shutoff Protection Act.  
*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

#### **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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

#### **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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*

**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.

*(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)*



**AGENDA ITEM**

**WRITTEN COMMUNICATIONS**

CITY COUNCIL / BOARD OF DIRECTORS

MEETING OF: DECEMBER 17, 2019

SUBMITTED BY: DOUG MATHEWS  DATE: 12/05/19  
DIRECTOR OF PUBLIC WORKS AND WATER

- ATTACHMENTS:
- 1) RESOLUTION NO. VWD 19-010: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT ADOPTING PROCEDURES FOR THE ADMINISTRATION OF DELINQUENT CUSTOMER ACCOUNTS AND WATER SHUTOFF POLICIES (INCLUDING THE RESIDENTIAL WATER SHUTOFF FOR NONPAYMENT POLICY, ATTACHMENT A THERETO)
  - 2) SENATE BILL NUMBER 998, WATER SHUTOFF PROTECTION ACT, AS CODIFIED IN THE CALIFORNIA HEALTH AND SAFETY CODE SECTION 11690 *et seq.*

SUBJECT: RESOLUTION OF THE BOARD OF DIRECTORS REGARDING THE ADMINISTRATION OF DELINQUENT CUSTOMER ACCOUNTS AND ESTABLISHMENT OF POLICIES FOR THE SHUTOFF OF WATER

RECOMMENDATION:

Staff recommends that the Board of Directors adopt Resolution No. VWD 19-010 to establish procedures for the administration of delinquent customer accounts, and policies for the shutoff of water for nonpayment of past due amounts.

FISCAL IMPACT:

Additional unspecified costs may be incurred for the administration, development, printing, and posting requirements resulting from the adoption of the proposed Resolution.

DISCUSSION:

The State of California adopted Senate Bill No. 998 on September 28, 2018 to establish by statute the Water Shutoff Protection Act (California Health and Safety Code Section 116900 *et seq.*). As an urban water supplier with more than 3,000 service connections,

*Approved  
12/17*

the Victorville Water District ("District") is required to comply with the Water Shutoff Protection Act ("Act"), including adoption of a water shutoff policy for nonpayment for residential users to become effective on or before February 1, 2020.

The District recognizes that: (1) all Californians have the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes; and (2) the shutoff of water service for nonpayment of amounts due is considered a last resort of the collection process, to be instituted only after sufficient customer notification and when all other reasonable alternatives have been exhausted.

The Act applies only to termination (shutoff) of residential water service for nonpayment. It does not apply commercial water users or to termination of water service for other reasons (*i.e.*, unauthorized water use, or violation of the District's rules and regulations). The Act requires the District to have a written policy on discontinuation (shutoff) of residential water service for nonpayment that is available on the District's website, and provided to customers on request. This policy must also be made available in five languages, in addition to English.

The most significant change imposed by the Act is a 60-day waiting period (from the date of delinquency) before the District can shutoff residential water service for nonpayment. Currently, the District discontinues service for past due accounts somewhere between thirty-five (35) and forty-five (45) days after they become delinquent. The Act also requires the District to offer alternative payment arrangements to a customer, such as a temporary deferral of payment or an alternative payment schedule, if all the following conditions are met:

1. The customer submits certification from a primary care provider that discontinuation of water service would be life threatening, or pose a serious threat to the health and safety, for any resident at the property; and
2. The customer demonstrates that he or she is financially unable to pay for water service within the District's normal billing cycle (based on certain criteria within the legislation); and
3. The customer is willing to enter into an alternative payment arrangement consistent with the District's policy.

The Act gives the District the authority to select which payment arrangement is to be used, and to set the parameters of that option. A Deferred Payment Plan, as outlined in the policy, is the District's preferred option for resolving delinquencies to avoid shutoff; however, the District has the discretion to offer any other payment schedule permitted by the Act when circumstances so warrant.

The District is prohibited from discontinuing residential water service for nonpayment if: (1) the customer has met the three conditions listed above, and a payment arrangement has been executed (or is pending); or (2) the customer appeals the water bill. Additionally, the discontinuation of water service for customers with a payment arrangement under these circumstances could not occur sooner than 120 days from the original date of delinquency if the customer fails to abide by the terms of the agreement.

Below is a condensed list of District requirements resulting from the Act:

- Adopt a written Residential Water Shutoff for Nonpayment Policy, and post it on the District's website. The policy must include:
  - Provisions by which certain qualifying customers may request a deferred payment plan or an alternative payment schedule for past due amounts to avoid water shutoff;
  - A formal mechanism for a customer to contest or appeal a bill;
  - A telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment;
- Refrain from shutting off residential water service for nonpayment of amounts past due until payment by a customer has been delinquent for at least 60 days;
- Provide written notices to residential water customers when they become past due, providing specific information and timing requirements to avoid shut off;
- Provide translations of written notices and the Residential Water Shutoff for Nonpayment Policy in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean;
- Make provisions under certain conditions for residential occupants (actual users of water service at residential premises, such as tenants of a property owner) to acquire a water account, avoid shutoff of water, and not be held responsible for past due amounts unpaid by the property owner;
- Report the yearly number of residential shutoffs on the City's website and to the State.

The Act includes various enforcement mechanisms to ensure public water agencies adopt the required policy and comply with its other provisions. These mechanisms include, but are not limited to: (1) the issuance of citations or compliance orders by the State Water Board, penalty assessments not to exceed \$1,000 per day, and the recovery of enforcement and litigation costs; and (2) the filing of a civil lawsuit by the Attorney General to seek a temporary or permanent injunction to restrain any acts or practices that are unlawful under the Act.

Staff has worked diligently to develop the procedures necessary to comply with the provisions of the Act and establish policies and procedures for the administration of delinquent accounts, including policies for the shutoff of water service to its residential customers for nonpayment of amounts past due. These efforts are reflected in proposed Resolution No. VWD 19-010 (attached), and the Residential Water Shutoff for Nonpayment Policy (Attachment A of the proposed Resolution). The attached items are now presented for the review, consideration, and approval of the Board of Directors

Staff remains available for any questions the Board may have.

DM/sb

**FINANCE USE ONLY**

Additional Appropriation:

Yes  \$ \_\_\_\_\_

No

Finance Analyst:

Deputy CM/Treasurer:

KS  
YN

Additional Revenue:

Yes  \$ \_\_\_\_\_

No