



# MONTARA WATER AND SANITARY DISTRICT AGENDA

For Meeting Of: **November 17, 2022**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager 

**SUBJECT: Review and Possible Action Concerning  
Adoption of Policy Under the Water Shutoff  
Protection Act (SB 998)**

---

On September 28, 2018, the State of California enacted Senate Bill 998 (SB 998), Discontinuation of Residential Water Service for Nonpayment, cited as the Water Shutoff Protection Act. The intent of SB 998 is to minimize the number of Californians who lose access to water service due to inability to pay. SB 998 declares that all Californians have the right to safe, accessible, and affordable water and as such, requires urban water suppliers to have a written policy on the discontinuation of residential water service. The policy shall be posted on the District's website and provided in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any other language spoken by 10% or more of the customers in the District's service area.

The District's Code currently provides that the District may discontinue water service for delinquent accounts over 60 days (Montara Water and Sanitary District Code, Section 1-5.300), which is consistent with SB 998 requirements (as discussed below). However, the District's practice is that it does not ever discontinue water service for delinquent accounts but instead works with the account holder for payment; after 12 months, delinquent payments go onto secured tax roll for payment. Further, the District has never discontinued water service due to non-payment of a bill.

This Policy will supplement the District Code and memorialize District practices already in place to comply with SB 998.

SB 998 prohibits water service disconnection for nonpayment by any residential customer who has been delinquent for less than 60 days. It requires the water supplier to give notice to the customer in writing or by telephone, at least 7 business days before disconnection, offer to discuss alternative payment methods, deferred payments, or an extension of time to pay, and provide information about available appeals.

SB 998 also prohibits water service disconnection due to nonpayment for residential customers or tenants that: (1) submit certification of a primary care provider that discontinuation of residential service will be life threatening or pose



# MONTARA WATER AND SANITARY DISTRICT AGENDA

For Meeting Of: **November 17, 2022**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager

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 alternative payment schedule, or plan for deferred or reduced payment for all delinquent charges. Under the proposed policy, the General Manager will be given the ability to exercise discretion, and select the most appropriate payment arrangement after reviewing the information and documentation provided by the customer, taking into consideration the customer's financial situation and the District's payment needs.

SB 998 additionally requires the reporting the number of annual discontinuations of residential water service on the District's website and providing the report to the California State Water Resources Control Board.

In compliance with SB 998, attached is a resolution and the proposed Policy for Discontinuation of Residential Water Service for Nonpayment.

## RECOMMENDATION:

Adopt RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT ESTABLISHING A POLICY ON THE DISCONTINUANCE OF RESIDENTIAL WATER SERVICE IN COMPLIANCE WITH THE WATER SHUT OFF PROTECTION ACT (CALIFORNIA HEALTH AND SAFETY CODE §116900, ET. SEQ.)

Attachments

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT ESTABLISHING A POLICY ON THE DISCONTINUANCE OF RESIDENTIAL WATER SERVICE IN COMPLIANCE WITH THE WATER SHUT OFF PROTECTION ACT (CALIFORNIA HEALTH AND SAFETY CODE §§116900, ET. SEQ.)**

**WHEREAS**, Montara Water and Sanitary District (“District”) is a Sanitary District duly organized under the Sanitary District Act of 1923 (Health & Safety Code §§ 6400 – 6830) and a public agency formed as a special district and authorized under California law, by a special election of August 11, 1992 and MWSD Resolution 978, to exercise all powers of a county water district in the same manner as county water districts formed under the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code) for the purpose of operating and maintaining wastewater and water facilities; and

**WHEREAS**, the Board of Directors of the District (“District”) may adopt rules and regulations for the operation of the District’s water system and for furnishing water to customers; and

**WHEREAS**, the Water Shutoff Protection Act (“Act”), codified at section 116900 et seq. of the California Health and Safety Code, requires all urban water suppliers to adopt a written policy on the discontinuation of residential water service for nonpayment; and

**WHEREAS**, the Act prohibits discontinuation of water service until a bill has been delinquent for sixty (60) days and provides for a process to work through hardship situations; and

**WHEREAS**, the written policy, *inter alia*, must also include a plan for deferred or reduced payments; alternative payment schedules; a formal mechanism for a customer to contest or appeal a bill; and a telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment; and

**WHEREAS**, the Act applies only to residential connections; and

**WHEREAS**, the District intends to adopt a Policy on the Discontinuance of Residential Water Service for Nonpayment (“Policy”) to comply with the requirements of the Act; and

**WHEREAS**, the Policy is consistent with the District’s Code of Regulations that prohibits discontinuance of water service within sixty (60) days of a delinquent bill; and

**WHEREAS**, it the District’s practice to never discontinue water service for non-payment of a water bill and, indeed, the District has never discontinued water service for non-payment of a water bill; and,

**WHEREAS**, due to inadvertent error, the District failed to adopt the Policy by the statutory deadline of February 1, 2020.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MONTARA WATER AND SANITARY DISTRICT ESTABLISHING A POLICY ON THE DISCONTINUANCE OF RESIDENTIAL WATER SERVICE IN COMPLIANCE WITH THE WATER SHUT OFF PROTECTION ACT (CALIFORNIA HEALTH AND SAFETY CODE §§116900, ET. SEQ.)**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE MONTARA WATER AND SANITARY DISTRICT, A PUBLIC AGENCY IN THE COUNTY OF SAN MATEO, CALIFORNIA, AS FOLLOWS:**

1. The above recitals are true and correct and incorporated herein by this reference.
2. The Policy on Discontinuance of Residential Water Service, attached hereto as Exhibit A and incorporated herein by reference, is hereby adopted;
3. The Manager of the District is hereby authorized and directed to implement the Policy in accordance with this Resolution.
4. This Resolution shall take effect from and after its passage.

\_\_\_\_\_  
President, Montara Water and Sanitary District

COUNTERSIGNED:

\_\_\_\_\_  
Secretary, Montara Water and Sanitary District

\* \* \* \*

I HEREBY CERTIFY that the foregoing Resolution No. \_\_\_\_\_ was duly and regularly adopted and passed by the Board of the Montara Water and Sanitary District, County of San Mateo, California, at a regular meeting thereof held on the 17<sup>th</sup> day of November 2022, by the following vote:

AYES, Directors:

NOES, Directors:

ABSENT, Directors:

\_\_\_\_\_  
Secretary, Montara Water and Sanitary District

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

### **Reference**

Senate Bill No. 998: Discontinuation of Residential Water Service Health and Safety Code Section 116900 *et seq.*

### **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 (California Health and Safety Code Sections 116900, *et seq.*). This Policy shall be made available on the District’s website. The District can be contacted by phone at (650) 728-3545 to discuss options for averting termination of water service for nonpayment under the terms of this policy.

### **2. 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 include Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any other language spoken by at least 10 percent of the people residing in the District’s water service area.

### **3. Requirements Precedent to Discontinuing Residential Water Service**

- A. The District shall not discontinue residential water service for nonpayment until a customer has been delinquent for at least sixty (60) days. No less than seven (7) business days before discontinuation of residential water 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 in writing to the customer. District staff shall offer to discuss options to avert discontinuation of water 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 at their address of record. If the customer’s address is not the

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

address of the property to which residential water service is provided, the notice shall also be sent to the address of the property to which residential water 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 water service, which shall be 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 water service charges.
- (vii) The District's phone number and a web link the District's written policy.

### **4. 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 of, a notice of imminent discontinuation of residential water service for nonpayment and the District's policy for discontinuation of residential water service for nonpayment.

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

B. If the customer seeks review or appeal of their bill, the customer shall contact the District before the payment due date and the District will investigate. If the investigation does not result in a resolution acceptable to the customer, the customer may seek review of the General Manager and subsequently may appeal to the Board. The District will provide written notice of the time and place of the appeal at least seven (7) days before the Board meeting. The decision of the Board is final. The District shall not discontinue residential water service while the appeal is pending.

### **5. Prohibition Against Discontinuing Residential Water Service**

A. The District shall not discontinue residential water 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 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.

(ii) The customer demonstrates that he or she is financially unable to pay for residential water service within the District's normal billing cycle. The customer shall 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, 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.

(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:

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

- (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 6.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 provided 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 water 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 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 water service charges for 60 days or more.

### **6. Restoration of Water Service**

- A. If the District discontinues residential water service for nonpayment, it shall provide the customer with information on how to restore residential water service. For a residential customer who demonstrates to the District that the household income is below 200 percent of the federal poverty line, the District shall do both of the following:



## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

- (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 water 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 \$50 for reconnection during operational hours and \$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 12 months.
- B. The District 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.

### **7. Services Involving Landlord-Tenant Relationships**

- A. If the District furnishes individually metered residential water 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 of the Health and Safety Code, 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 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.

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

B. 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 to 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's, the District shall make service available to those residential occupants who the District is satisfied can meet the terms and conditions of service.

### **8. Reporting Requirements**

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

### **9. 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.

### **10. Other Actions to Secure Collection of Delinquent Charges**

- A. Pursuant to Government Code Section 61115(3)(C), the District may penalize a 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.

## **MONTARA WATER AND SANITARY DISTRICT POLICY ON DISCONTINUANCE OF RESIDENTIAL WATER SERVICE**

- 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 Mateo 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 do so, that the customer has ten business days to inform the District of any intent to appeal the recording of the certificate to the Board of Directors, and if the customer appeals, only after the Board of Directors considers the appeal and directs that the certificate be recorded.

### **11. Effective Date**

This policy shall be retroactively effective on February 1, 2020.