

ORDINANCE NO. 23

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE CABAZON WATER DISTRICT AMENDING
ARTICLES 10 AND 111 OF THE DISTRICT'S RULES AND
REGULATIONS GOVERNING WATER SERVICE**

WHEREAS, the Cabazon Water District ("District") owns and operates a public water system that supplies water to residential, commercial, and industrial customers throughout the District's service area; and

WHEREAS, on August 17, 2004, the District adopted its existing Rules and Regulations Governing Water Service pursuant to Ordinance No. 22; and

WHEREAS, in 2018, the California Legislature adopted Senate Bill 998 ("SB 998") which adopted new and expanded protections regarding discontinuation of water service for nonpayment and related matters; and

WHEREAS, the District's Board of Directors desires to amend Article 10 (Discontinuance and Restoration of Service) and Article 11 (Meter Reading, Billing, and Collection) of the Rules and Regulations Governing Water Service to ensure consistency with the requirements of SB 998 and other laws.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF
THE CABAZON WATER DISTRICT AS FOLLOWS:**

SECTION 1. Amendments to Articles 10 and 11. Articles 10 and 11 of the District's Rules and Regulations Governing Water Service are hereby amended to read as set forth in Exhibit "A," attached hereto and incorporated herein. The Board Secretary is hereby authorized to revise the text and table of contents of the District's Rules and Regulations Governing Water Service to include Articles 10 and 11 as amended by this Ordinance. Except as expressly amended by this Ordinance, all provisions of the Rules and Regulations Governing Water Service shall remain in full force and effect.

SECTION 2. CEQA. The District's adoption of this Ordinance does not constitute a "project" for purposes of the California Environmental Quality Act ("CEQA") because it does not have a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and also constitutes continuing administrative activities relating to water service. (State CEQA Guidelines, § 15378(a), (b)(2).) Further, even if the adoption of this Ordinance were to constitute a project for purposes of CEQA, it is exempt pursuant to State CEQA Guidelines section 15061(b)(3), on grounds it can be seen with certainty that the adoption of this Ordinance will not result in causing a significant effect on the environment.

SECTION 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Board of Directors hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. Effective Date. This Ordinance shall become effective on February 1, 2020. The amended text of Articles 10 and 11 of the Rules and Regulations Governing Water Service shall apply to water bills issued after that date.

PASSED, APPROVED and ADOPTED this 21st day of January, 2020.

By: Robert Lynk
Robert Lynk, President
Cabazon Water District
Board of Directors

ATTEST:

Elizabeth C. Lemus
Secretary, Board of Directors
Cabazon Water District

[Attach Exhibit "A" – Amended Articles 10 and 11]

CERTIFICATION

I, E. Lemus, Secretary of the Board of Directors of the Cabazon Water District, hereby certify that the foregoing is a full, true and correct copy of the Ordinance adopted by the Board of Directors and said District at the regular meeting of said Board held on the 21st day of January, 2020, by the following vote:

AYES: SANDERSON, MORRIS, WARGO, ISRAEL, LYNK

NOES: —

ABSENT: —

ABSTAIN: —

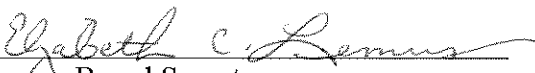

Board Secretary

EXHIBIT "A"

ARTICLE 10 DISCONTINUANCE AND RESTORATION OF SERVICE

10.1 DISCONTINUANCE OF SERVICE

10.1.1 District Initiated

When discontinuing service, the District will comply with Chapter 9.6, Division 1, Title 6 of the California Government Code (Gov. Code, § 60370 et seq.) and with Chapter 6, Part 12, Division 104 of the California Health & Safety Code (Health & Safety Code, § 116900 et seq.).

10.1.2 Service to Multiunit Residential Structures, Parks, and Camps; Other Tenant-Occupied Properties

a) Whenever the District furnishes residential water through a master meter, or furnishes individually metered service to a detached single-family dwelling, multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the District as the Customer of record of the service, District shall make a good faith effort to inform the actual users of the services, when the account is in arrears, by means of a notice, that service will be terminated in 10 days. The notice shall further inform the actual users that, notwithstanding Section 4.2.1, they have the right to become Customers of the District without being required to pay the amount due on the delinquent account. (Gov. Code, § 60371(a); Health & Safety Code, § 116916(b).) As provided in Section 4.2.2 and 4.2.3, the property owner shall remain ultimately responsible for delinquent water and other service charges incurred at the property, and such charges may become a lien on the property.

The District is not required to make service available to the actual users unless each actual user agrees to the terms and conditions of service, and meet the requirements of the District's rules and tariffs. However, if one or more actual users are willing and able to assume responsibility for the entire 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 actual users who have not met the requirements of the District's rules and tariffs, the District shall make service available to the actual users who have met those requirements. (Gov. Code, § 60371(b).)

If prior service for a period of time is a condition for establishing credit with the District, proof of residence and prompt payment of rent for that period of time is a satisfactory equivalent. (Gov. Code, § 60371(e).)

Any actual user who becomes a Customer of the District pursuant to this section whose periodic payments, such as rental payments, include charges for residential water where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the District for those services during the preceding payment period. (Gov. Code, § 60371(d).)

10.1.3 Notice and Termination for Nonpayment of Delinquent Account

- a) District will not terminate residential service for nonpayment of a delinquent account unless the District first gives notice of the delinquency and impending termination as provided in Sections 10.1.2 and 10.1.4. (Gov. Code, §§ 60372(a), 60373(a)–(b).)
- b) District shall not terminate residential service for nonpayment in any of the following situations:
 - (1) During the pendency of an investigation by the District of a Customer dispute or complaint.
 - (2) During the pendency of an appeal to the District's Board of Directors.
 - (3) When a Customer has been granted an extension or other payment arrangement by the District. (Gov. Code, § 60372(b); Health & Safety Code, § 116908(b).)
- c) District will not terminate residential water service for nonpayment if the following three (3) conditions are met:
 - (1) The Customer, or a tenant of the Customer, submits to the District the certification of a licensed primary care provider that termination of water service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises;
 - (2) The Customer declares under penalty of perjury that his or her household's annual income is less than 200 percent of the federal poverty level, or provides documentation that a 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; and
 - (3) The Customer is willing to enter into an alternative payment arrangement, including an extension or amortization of the unpaid charges.

For Customers who meet the above conditions, the District will offer the customer a payment arrangement. The District will choose the payment arrangement offered and set the terms and conditions of the arrangement. If a Customer who receives a payment arrangement under this section fails to comply with the arrangement or pay his or her current charges for water service for sixty (60) days or more, the District may terminate water service. The District will post a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the District. (Health & Safety Code, § 116910.)

d) If a residential Customer is unable to pay a bill during the normal payment period, the Customer may request an extension, amortization, or other payment arrangement. If the Customer submits his or her request within 13 days after mailing of a written notice under Section 10.1.4(a), the request will be reviewed by a manager of the District. The District has discretion to determine whether a payment arrangement will be granted and to set the terms and conditions of the payment arrangement. District decisions regarding extensions and other payment arrangements are final and are not subject to appeal to the District's Board of Directors. If a Customer fails to comply with a payment arrangement, the District may discontinue water service by posting a final notice of intent to disconnect service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the District. (Gov. Code, § 60372(c); Health & Safety Code, § 116906(a).)

e) Any residential Customer who has initiated a complaint or requested an investigation within five (5) days of receiving the disputed bill shall be given an opportunity for review of the complaint or request by a manager of the District. The review shall include consideration of whether the Customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any Customer complying with an amortization agreement, if the Customer also keeps the account current as charges accrue in each subsequent billing period. (Gov. Code, § 60372(c).)

f) Any Customer whose complaint or request for an investigation pursuant to paragraph (e) has resulted in an adverse determination by the District may appeal the determination to the Board of Directors by filing a written notice of appeal with the District Secretary within ten (10) business days of the District's mailing of its determination. Upon receiving the notice of appeal, the District Secretary will set the matter to be heard at an upcoming Board meeting and mail the customer written notice of the time and place of the hearing at least ten (10) days before the meeting. The decision of the Board shall be final. (Gov. Code, § 60372(d).)

10.1.4 Termination for Nonpayment

a) The District will not terminate residential service on account of nonpayment of a delinquent account until a payment by a customer has been delinquent for at least 60 days. Prior to termination, the District shall first give notice of the delinquency and impending termination at least 15 days prior to the proposed termination by means of a notice mailed, postage prepaid, to the Customer to whom the service is billed. If the Customer's mailing address is not the same as the service address, a copy of the notice shall also be sent to the service address and addressed to "Occupant." (Gov. Code, § 60373(a); Health & Safety Code, § 116908(a)(1)(A), (C).)

b) The District shall make a reasonable, good faith effort to contact an adult person residing at the premises of the Customer by telephone or in person at least seven (7) days prior to any termination of service. The District will offer to provide a written copy of Articles 10 and 11 of this Code and to discuss options to avert discontinuation of water service for nonpayment, including the possibility of an extension or other payment arrangement. Whenever telephone or personal contact cannot be accomplished, District shall leave, in a conspicuous location at the premises, a notice of termination of service and a copy of Articles 10 and 11, at least 48 hours prior to termination. (Gov. Code, § 60373(b); Health & Safety Code, § 116908(a)(1)(B), (a)(2).)

c) Every notice of termination of service pursuant to paragraph (a) shall include all of the following information:

- (1) The name and address of the Customer whose account is delinquent.
- (2) The amount of the delinquency.
- (3) The date by which payment or arrangements for payment is required in order to avoid termination.
- (4) The procedure by which the Customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, the notice pursuant to paragraph (a) is not required to contain that information.
- (5) The procedure by which the Customer may request an extension, amortization, or other arrangement for payment of the unpaid charges.
- (6) The procedure for the Customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the District who can provide additional information or institute arrangements for payment.

Every notice of termination of service pursuant to paragraph (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7). All written notices shall be in a clear and legible format. (Gov. Code, § 60373(c).)

e) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of service. (Gov. Code, § 60373(e).)

10.1.5 Cessation of Services When Business Offices Not Open

The District shall not, by reason of delinquency in payment for water services, cause cessation of the services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District are not open to the public. (Gov. Code, § 60374.)

10.1.6 At Customer's Request

A Customer may have service discontinued by notifying the District at least 48 hours in advance of the desired date of discontinuance. Service will only be discontinued on the District's normal working days and during normal working hours, unless otherwise approved by the District in advance.

10.2 RESTORATION OF SERVICE

10.2.1 General Provisions

A Customer whose service has been discontinued may have it restored by making application and paying all past-due amounts and applicable restoration of service charges.

10.2.2 Unauthorized Restoration

It shall be a violation of these Regulations for any person to make a reconnection to the water system once service to the premises has been discontinued, or to otherwise connect to the system without prior authorization.

10.3 PROGRAMS FOR LOW-INCOME CUSTOMERS

10.3 Reconnection Fee Limits and Waiver of Interest

For residential customers who demonstrate to the District a household income below 200 percent of the federal poverty line, the District will:

a) Limit any reconnection fees during normal operating hours to fifty dollars (\$50), and during non-operational hours to one hundred fifty dollars (\$150). The limits will only apply if the District's reconnection fees actually exceed these amounts. These limits are subject to an annual adjustment for changes in the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI-U) beginning January 1, 2021. (Health & Safety Code, § 116914(a)(1).)

b) Waive interest charges on delinquent bills once every 12 months. The District will apply the waiver to any interest charges that are unpaid at the time of the customer's request. (Health & Safety Code, § 116914(a)(2).)

The District will deem a residential customer to have a household income below 200 percent of the federal poverty line if: (a) 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 (b) the customer declares under penalty of perjury that the household's annual income is less than 200 percent of the federal poverty level. (Health & Safety Code, § 116914(b).)

ARTICLE 11 METER READING, BILLING, AND COLLECTION

11.1 METER READING AND BILLING

11.1.1 Rendering of Bills

Bills for water service shall be based upon monthly meter readings and monthly billings.

11.1.2 Proration of Bills

The charges applicable to opening periods, closing bills, and bills rendered for periods corresponding to less than one month will be computed as follows:

The amount of the minimum charge and the quantity allowed therefor, in each of the several quantity rate blocks, will be prorated on the basis of the ratio of the number of days in the period to the number of days in an average billing period. The measured quantity of usage will be applied to such prorated amounts and quantities.

11.1.3 Payment of Bills

During each month, the District shall mail a statement covering charges for all water received by the Customer during the preceding month, which charges are

due and payable upon receipt. If it is necessary for the District to visit the premises to collect payment for the second and each subsequent time, a collection fee to be determined by the Manager will be added to the amount owing. Any check submitted for payment of water service which is not honored and has been returned by the bank shall be subject to a return check fee. Such checks not replaced by the Customer with cash, including a returned check fee as determined by the District, shall result in discontinuance of water service.

11.1.4 Delinquent Accounts

The bill for water service is delinquent if not paid by the due date stated on the bill. When delinquency occurs for residential water service, the District will notify the customer and tenants/occupants (if applicable) in accordance with Article 10. When delinquency occurs for non-residential water service, a notice will be included with the subsequent bill. If payment of the delinquent amount has not been received 15 days after the subsequent bill has been issued, the service address, if different from the billing address, will be tagged 48 hours in advance of scheduled shutoff to give the occupant opportunity to pay the outstanding account. If the occupant does not pay the outstanding account or make arrangements for payment by the date of scheduled shutoff, then service may be discontinued without further notice.

Service shall not be restored to the premises until all charges which are delinquent, including fees, if any, have been paid in full. An owner whose deposit has been discontinued for nonpayment of bills or whose deposit shall have been applied in whole or in part of the payment of any bills, will be required to reestablish credit by a cash deposit. A Customer who has a delinquency on any premises may not receive new water service on another premises until all delinquencies, including fees, are paid in full. Additionally, when a service has been turned off for nonpayment, all charges may be transferred to another account held in the sole name of the same owner. This account will become delinquent if payment is not made within 15 days from the date of delinquency transfer, and will be subject to shutoff without further notice. The District may file liens against the property to enforce collection of delinquent accounts.

11.2 METER TEST AT CUSTOMER'S REQUEST

11.2.1 General Provisions

A Customer may request the District to test the meter serving the premises. The District will require the Customer to deposit an amount for such test in accordance with Article 9.7. Based on the results of the meter test and in accordance with Article 8, the deposit will be returned if the meter is found to register more than three percent fast. A written report of the test will be available to the Customer.

11.3 ADJUSTMENT OF BILLS FOR METER ERROR

11.3.1 General Provisions

When a water meter is found to be out of order, the charge for water will be based, at the option of the District, on one of the following:

- A. The average monthly consumption for the three preceding months during which the meter is known to have registered correctly; or
- B. An estimate of consumption based either upon the Customer's prior use during the same season of the year or upon a reasonable comparison with the use of other Customers receiving the same class of service during the same period and under similar circumstances and conditions; or
- C. The consumption as registered by a substitute meter; or
- D. In accordance with Article 11.3.03.

11.3.2 Meter Reading Inaccessibility

When a meter is covered or otherwise inaccessible so that it cannot be read, an average bill will be rendered and accumulated errors, if any, will be adjusted when the meter is first thereafter read.

11.3.3 Adjustment Based Upon Meter Test

All adjustments for meter reading, billing and collection will be made in accordance with Article 8.

11.4 COLLECTION BY SUIT

11.4.1 Suit

All unpaid rates and charges and penalties herein provided may be collected by suit or by any other method available under law.

11.4.2 Costs

Defendant shall pay costs of suit including attorney's fees in any judgment rendered in favor of the District.