

Town of Yountville
Ordinance Number 19-487

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE AMENDING
TITLE 13 OF THE YOUNTVILLE MUNICIPAL CODE REGARDING THE WATER SYSTEM**

Now, therefore, the Town Council of the Town of Yountville does ordain as follows:

SECTION 1. CODE AMENDMENT: Section 13.40.010 of Chapter 13.40 of Title 13 of the Yountville Municipal Code is hereby amended to read as follows:

13.40.010 Rendering of bills – payment.

A. Rendering of Bills.

1. The Town shall bill for water service monthly.
2. The Town shall read meters, where installed, at regular intervals for the preparation of regular bills and as required for the preparation of opening bills, closing bills, and special bills. It is not always possible to read meters regularly on the same day for each period. If a monthly billing period contains less than 27 days or more than 33 days, the Town shall make a pro rata correction in the bill.
3. Where the total period of water service is less than one month, the minimum bill is the monthly minimum charge.
4. The Town shall include any administratively imposed fine or penalty for violations related to water use on the bill for water services.

B. Payment of Bills. Each periodic bill is due and payable on presentation. Payment may be made at the Town's office or to an authorized collector. Where service is **discontinued**, the closing bill is due and payable upon presentation and collection will be made at the time of presentation. A bill is considered delinquent 20 days after presentation.

C. Residential Accounts at Rental Properties.

1. The Town shall not seek to recover any fees, charges or penalties for the furnishing to or for a residential tenant's use from any subsequent tenant or the property owner due to nonpayment of charges by a previous tenant, except for property owners of master-metered apartment buildings. For the purposes of this subsection, a previous tenant shall include any adult person who lived at the residence during the period that the charges or penalties accrued.
2. Every residential property within the Town made available for rent shall have an active account for water service at all times, unless the Town discontinues water service to that property for any reason permitted by law. The account required by this subsection shall be in the property owner's name, and the Town shall hold the property owner responsible for any charges thereto, except during any period for

which a tenant has agreed to take over the account and has successfully applied to the Town to do so.

3. If the owner of a property governed by subsection (C)(2) wishes to initiate the discontinuance of water service to that property, he or she must apply for that discontinuance in writing to the Finance Director at Yountville Town Hall, 6550 Yount Street, Yountville, California 94599. This application must include, at a minimum, the property owner's mailing address and evidence that the discontinuance of water service to the property will not create a nuisance, including, but not limited to, a fire hazard. The Finance Director will issue a written decision to the property owner within 10 days of the request for review by depositing the written decision in the United States mail, postage prepaid, to the address noted in the property owner's application. If the property owner is not satisfied with the written decision of the Finance Director, the property owner may appeal the decision to the Town Manager or designee within 10 days of the serving or mailing of such written decision. The appeal shall be made in writing addressed to the Town Manager at Yountville Town Hall, 6550 Yount Street, Yountville, California 94599. If such appeal is timely made, the Town Manager or designee shall cause the matter to be set for hearing within 30 days of receipt of the written appeal. The Town Manager or designee shall give at least 10 days' written notice to the property owner of the time and place for the hearing by personal service or by depositing the notice in the United States mail, postage prepaid, to the last known address of the property owner. The Town Manager or designee shall consider at the hearing all evidence produced. Within 30 days of the conclusion of the hearing, the Town Manager or designee shall provide written notice of his or her findings and decision to the property owner by personal service or by depositing the written notice in the United States mail, postage prepaid, to the last known address of the property owner. The decision of the Town Manager or designee on appeal shall be final.
- D. **Deposits.** The Town may require a new applicant to deposit a sum of money with the Town prior to establishing an account, in an amount not to exceed twice the estimated average periodic bill or three times the estimated average monthly bill.
- E. **Disputed Bills.** If a customer claims a bill is incorrect, the customer may request in writing a review of the bill by the Finance Director within 15 days of receipt of the bill. The Finance Director shall issue a written decision to the customer within 10 days of the request for review by serving it personally or depositing the written decision in the United States mail, postage prepaid, to the last known address of the customer. If the customer is not satisfied with the written decision of the Finance Director, the customer may appeal the decision to the Town Manager or designee within 10 days of the serving or mailing of such written decision. The appeal shall be made in writing addressed to the Town Manager at Yountville Town Hall, 6550 Yount Street, Yountville, California 94599. If such appeal is timely made, the Town Manager or designee shall cause the matter to be set for hearing within 30 days of receipt of the written appeal. The Town Manager or designee shall give at least 10 days' written notice to the customer of the time and place for the hearing by personal service or by depositing the notice in the United States mail, postage prepaid, to the last known address of the customer. The Town Manager or designee shall consider at the hearing all evidence produced. Within 30 days of the conclusion of the hearing, the Town Manager or designee shall provide

written notice of his or her findings and decision to the customer by personal service or by depositing the written notice in the United States mail, postage prepaid, to the last known address of the customer. The decision of the Town Manager or designee on appeal shall be final. (Ord. 35, 1967; Ord. 46, 1968; Ord. 318-01; Ord. 17-468 §§ 2, 4—6)

SECTION 2. CODE ADDITION: Section 13.40.020 of Chapter 13.40 of Title 13 of the Yountville Municipal Code is hereby amended to read as follows:

13.40.020 Disconnection for nonpayment.

No person shall fail or refuse to pay the charges for water services provided for in this code. If any such person shall fail or refuse to pay these lawful charges, including both delinquent and current charges, the water service to the premises, regardless of tenancy, shall be shut off. Water shutoff shall occur consistent with the Disconnection for Nonpayment Policy adopted by Resolution of this Town Council. Water service shall only be disconnected for non-payment if a customer has been delinquent for at least 60 days.

A. **Notice of Disconnection for Nonpayment.** The owner shall be mailed a final notice at least 15 days before discontinuation of water service informing him or her that the shutoff will be enforced if payment is not made within the time specified by the notice. If the notice is returned as undelivered, the final notice shall be posted on the property in question. Written notice shall include:

1. The customer's name and address;
2. The amount of the delinquency;
3. The payment deadline to avoid termination of services;
4. The process to apply for a payment extension;
5. The process to petition for bill review and appeal;
6. The process to request an amortization plan; and
7. The telephone number of a representative of the public utility who can provide additional information or institute arrangements for payment.

B. **Notice to Tenants.** If there is a landlord-tenant relationship between residential occupants and the owner, manager, or operator of the property, the Town shall also make a reasonable, good faith effort to inform the occupants, by means of written notice, when the water service account is in arrears and subject to disconnection.

- a. If tenants reside in a multi-unit complex served through a master meter, written notice shall be hung on the door of each residence. The written notice will advise the tenants/occupants that they have the right to become customers of the Town without being required to pay the amount due on the delinquent account, as long

as they are willing to assume financial responsibility for subsequent charges for water service at the address(es) served by the master meter. If one or more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the Town, or if there is a physical means, legally available to the Town, of selectively terminating service to those occupants who have not met the requirements for service, the Town will make service available to the occupants who have met those requirements. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.

- b. If tenants reside in an individually metered residence, the written notice shall advise the tenants/occupants that they have the right to become customers of the Town without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at that address. In order for the amount due on the delinquent account to be waived, the tenant/occupant must provide verification of tenancy in the form of a rental agreement or proof of rent payments. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.

C. Specified Properties not Subject to Disconnection. Notwithstanding subdivision E of this section, properties that meet all of the following requirements are not subject to disconnection:

1. The customer, or tenant of the customer, submits to the Town a primary care provider certification, as defined in Welfare and Institutions Code section 14088(A)(1)(b), such as that discontinuation of service would be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where the service is provided.
2. The customer demonstrates that he or she is financially unable to pay for service within the Town's normal billing cycle. A customer may be deemed financially unable to pay if:
 - a. 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
 - b. 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 consistent with the Town's written policies, with respect to all delinquent charges.

D. Options for Specified Properties. Prior to discontinuation of water services for delinquent payment, properties that meet the requirements of subdivision C of this section shall be offered the option to amortize the unpaid balance consistent with the Town Disconnection for Nonpayment Policy.

- E. **Disconnection for Specified Properties.** Properties on an amortization agreement may have water service discontinued if, after the Town posted a notice that meets the requirements of subdivision A of this section on the property at least five business days before discontinuation, the customer:
1. Fails to comply with an amortization agreement for delinquent charges for 60 days or more; or
 2. Does not pay current service charges for 60 days while on an amortization agreement for delinquent charges.
- F. **Disconnection While Awaiting Appeal.** The Town shall not discontinue water services while an appeal of a water bill from that residence is pending.
- G. **Post-Termination Procedures.** The Town shall provide any disconnected customer with information on how to restore service.

SECTION 3. CODE ADDITION: Section 13.40.030 of Chapter 13.40 of Title 13 of the Yountville Municipal Code is hereby amended to read as follows:

13.40.030 Penalties for late payment charges

- A. **Late Charge.** Customers shall pay the charges for water service on, or prior to, the due date for payment set forth in the billing statement. If the bill is not paid on, or prior to, the due date, there shall be a late charge of 10% of the delinquent amount.
- B. **Interest.** Interest in the amount of one percent per month or fraction thereof shall be paid on the amount delinquent from the date on which the bill remittance first became delinquent until paid.

The Town shall waive interest charges on delinquent bills once every 12 months for any customer who demonstrates they are financially unable to pay in accordance with this code section 13.40.020(B)(2).

- C. **Reconnection Fee.** Whenever any premises have been disconnected from the water system for any violation of this division, such premises shall not be reconnected to the water system until all delinquent charges, penalties and interest have been paid, together with a reconnection fee as may be set by resolution of the Town Council.

For customers who demonstrate they are financially unable to pay in accordance with this code section 13.40.020(B)(2), the reconnection fee shall be set at the actual cost of reconnection. Such reconnection fee shall not exceed \$50 during normal operating hours, or \$150 during nonoperational hours.

- D. **Lien.** In addition and as an alternative to any other remedy for enforcement and collection, all delinquent water service charges, including late charges and interest, for nonresidential properties shall become a lien upon the nonresidential real property upon which water is furnished prior to all other liens, encumbrances or exemptions, other than state and county taxes, and shall have the force and effect of a tax lien. The lien shall

continue until it is paid together with the penalties and interest set forth in this section. The lien shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection and enforcement of municipal taxes apply to this lien.

SECTION 4. CEQA: The Town Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the Town Council, and hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. This Ordinance will not result in a significant foreseeable environmental impact.

SECTION 5. Severability: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 6. Effective Date: This Ordinance shall take effect 30 days after final adoption.

SECTION 7. Certification: The Town Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Within 15 days from the date of passage of this ordinance, the Town Clerk shall post a copy of the ordinance in accordance with California Government Code in at least three public places in the Town.

INTRODUCED by the Town Council at a regular meeting held on the 17th day of September, 2019.

PASSED AND ADOPTED by the Town Council at a regular meeting held on the 1st day of October, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John F. Dunbar, Mayor

ATTEST:

Michelle Dahme
Town Clerk

Gary Bell
Town Attorney