ORDINANCE NO. 2019-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING SECTION 27.36 AND SECTION 27.40 OF CHAPTER 27 OF THE GILROY CITY CODE RELATING TO THE DISCONTINUATION OF WATER SERVICE FOR NONPAYMENT

WHEREAS, pursuant to California Constitution article XI, section 7, and the City Charter, section 600, the City Council has the authority to enact and enforce within its limits ordinances and regulations not in conflict with general laws, which promote the public health, safety, and general welfare of its residents; and

WHEREAS, the City seeks to maintain compliance with regulations imposed by the State of California relating to the termination of water utility services adopted via Senate Bill 998 (2017-2018 Session), amending provisions of the California Health and Safety Code Sections 116900 through 116926, entitled the Water Shutoff Protection Act; and

WHEREAS, the provisions of the Water Shutoff Protection Act require changes to procedures regarding the termination of water supply for non-payment that will become inconsistent with the procedures outlined in the Gilroy City Code; and

WHEREAS, amending the City Code to maintain compliance will provide additional service protections for delinquent account holders and prevent occurrences where current procedures would generate a fine or penalty as outlined in the Water Shutoff Protection Act; and

WHEREAS, the City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA," Public Resources Code sections 21000 et seq.), because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, and it does not have the potential to result in a physical change to the environment, directly or indirectly (Title 14, Chapter 3 of the California Code of Regulations "CEQA Guidelines," sections 15060(c)(2) and (3)).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

Section 27.36 of Chapter 27 of the Gilroy City Code entitled "Nonpayment of Water Bills; Notice to Consumer" is hereby amended to read as follows:
27.36 Nonpayment of water bills; notice to consumer.
Charges for water service and use become delinquent if not paid on or before the last day of the month billed. For residential service, including single family residences, multifamily residences, mobilehomes, mobilehome parks and farmworker housing, if a bill for services becomes delinquent, the director of finance shall send the user a written notice advising the consumer of the date water service shall be discontinued and a copy of the City’s policy for discontinuing water service for nonpayment, pursuant to the requirements of the Water Shutoff Protection Act. For all other service types, if a bill for services becomes delinquent, the director of finance shall send the user a written notice that if the bill is not paid within ten (10) days, the water service shall be discontinued.

SECTION II

Section 27.40 of Chapter 27 of the Gilroy City Code entitled “Service charges to be a lien against property; owner to be primarily liable” is hereby amended to read as follows:

27.40 Service charges to be a lien against property; owner to be primarily liable.
The owner of any premises served by water after October 1, 1988, shall be primarily responsible for the payment of all water bills arising out of the use of such water at such premises, or by any lessee or tenant occupying or using the same. Such charges shall constitute a perpetual and continuing lien on such property until such water bill shall have been paid in full. No water will be furnished to any property or premises while such water bill and/or any charge remains unpaid, excepting those properties or premises serving customers, whether owner-occupied or tenants, which meet the requirements of Health and Safety Code Section 116910(a).

SECTION III

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Gilroy hereby declares that it would have passed and adopted this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION IV

Pursuant to section 608 of the Charter of the City of Gilroy, this Ordinance shall be in full force and effect thirty (30) days from and after the date it is adopted.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GILROY
this 18th day of November, 2019 by the following vote:

AYES: COUNCILMEMBERS: BLANKLEY, BRACCO, LEROE-MUÑOZ, MARQUES, TUCKER and VELASCO
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: TOVAR

ORDINANCE NO. 2019-12
I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Ordinance No. 2019-12 is an original ordinance, or true and correct copy of a City ordinance, duly adopted by the Council of the City of Gilroy at a special meeting of said Council held on the 18th day of November, 2019, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 20th day of November, 2019.

Shawna Freels, MMC
City Clerk of the City of Gilroy

(Seal)