

ORDINANCE NO. 21-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
KIRKWOOD MEADOWS PUBLIC UTILITY DISTRICT
CONCERNING PROPANE AND ELECTRIC METER PROTECTION
AND POINT OF SERVICE DELIVERY**

BE IT ENACTED by the Board of Directors of the Kirkwood Meadows Public Utility District as follows:

Section 1. Purpose and Authority. The purposes of this ordinance are to modify District policies and practices regarding District propane and electric delivery and service in an effort to protect the health and safety and provide improved services. This ordinance is adopted pursuant to Public Utility Code sections 16072 and 16461, California Code of Regulations title 24, part 9, sections 6101.1 & 6103.1, and other applicable law.

Section 2. Findings. This ordinance is adopted with reference to the following background findings:

(a) The District provides propane and electric service to buildings and structures in the District. The propane and electric services are provided through propane and electric meters and related service connection appurtenances that are usually located close to the customer's building or structure.

(b) The District is located in the Sierra Nevada mountains, and the area typically receives substantial snowfall during the winter months. Snow and ice buildup on or around a propane or electric meter or piping can lead to dangerous leaks, breaks, or equipment failures, including a risk of an explosion or fire. Therefore, it is important to protect the meters and related equipment from damage, including keeping them clear of snow and ice, in order to protect the public health and safety and prevent property damage.

(c) The heavy snow and ice loads in Kirkwood present a significant challenge to safely delivering propane and electric service. In 2016-2019, the Kirkwood area experienced propane leaks due to damaged piping or meters, propane-related explosions resulting in destroyed or damaged houses, and damaged or destroyed electric meters due to snow and ice shedding from the roof above and snow and ice creep. In light of these adverse experiences, the District retained an engineering firm to evaluate the propane and electric meter and service delivery practices and risks. The engineer concluded that there are risks that (i) a propane meter or piping can be damaged by snow buildup, snow collapsing or falling, or snow creep or lateral pressure from the side, which could result in a propane leak and cause a fire, and (ii) an electric meter or service panel could be sheared off and damaged due to falling ice or snow, which could result in a short circuit and cause a fire. The engineer recommends that propane meters be protected from the snow by a structure and that electric meters and panels be protected by an awning or structure. (See Bailey Civil Engineering letter/report dated October 23, 2020 (on file with the District Secretary).)

(d) In California, propane service lines and meters must comply with the National Fire Protection Association (NFPA) 58 standards (Liquefied Petroleum Gas Code). (24 California Code of Regulations part 9, sections 6101.1 & 6103.1.) NFPA 58 section 6.16 provides that,

“In areas where the ground snow load is equal to or exceeds 175 [pounds per square foot] psf (855 kg/m²), piping, regulators, meters, and other equipment installed in the piping system shall be protected from forces of accumulated snow.” The ground snow load in Kirkwood is 300 psf, well in excess of the 175 psf limit in NFPA 58 section 6.16. (See Alpine County Building Permit Information Guide, pp. 16-17 (available at <https://alpinecountyca.gov/DocumentCenter/View/32>). Consequently, state law requires that propane meters, piping, regulators, and related equipment must be protected from the forces of accumulated snow.

(e) In light of the heavy snow load in Kirkwood and in furtherance of the Bailey Civil Engineering letter/report recommendations and the state law requirements, the District adopts this ordinance to (i) require appropriate protection of propane and electric meters and related equipment, (ii) provide for the periodic inspection of meters to evaluate compliance with the protection requirement, and (iii) impose methods to compel compliance and consequences for the failure to comply.

(f) Currently, the District owns, operates, maintains and repairs the propane and electric service pipes, lines and facilities up to the customer premises property line and the meters, and the customer is responsible for operation, maintenance and repair beyond the property line (excepting meters). The District has reevaluated the appropriateness of this point of delivery and service arrangement for single family, residential parcels and has determined that it would be more appropriate and provide for better and safer customer service for the District to own, operate, maintain and repair the propane and electric service pipes for single family, residential parcels, lines and facilities up to and including the meter, and for the customer to be responsible beyond the meter. Due to the complicated nature of service to non-single family residential parcels, incomplete records, and complication of multiple owners and parcels, the District believes it is still appropriate that the District continue to own, operate, maintain and repair the propane and electric service pipes, lines and facilities only up to the customer premises property line and the meters for multi-family and commercial parcels. The Board adopts this ordinance to implement these changes.

Section 3. Meter Protection.

(a) Every propane meter, regulator, and gas piping installed at or attached to any building or structure in the District shall be protected from physical damage by an appropriate snow and ice protection enclosure approved by the District. The General Manager is authorized and directed to adopt standard District specifications and drawing specifying a standard propane meter protection enclosure design to protect the meter and related equipment from damage due to ground snow load and related conditions. The specifications and drawing approved by the General Manager is referred to as the “District Standard.” The owner of each building or structure receiving District propane service shall install and maintain a meter protection enclosure in accordance with the requirements of this ordinance, the District Standard, California Building Standards Code, and other applicable laws and codes.

(b) Every electric service meter and panel installed at or attached to any building or structure subject to potential snow or ice roof shed in the District shall be protected from physical damage by an appropriate snow protection awning approved by the District. The General Manager is authorized and directed to adopt standard District specifications and drawing specifying a standard electric meter protection awning design appropriate to

protect the meters and related equipment from damage due to ground snow load and related conditions. The specifications and drawing approved by the General Manager is referred to as the “District Standard.” The owner of each building or structure receiving District electric service shall install and maintain a meter protection awning in accordance with the requirements of this ordinance, the District Standard, California Building Standards Code, and other applicable laws and codes.

(c) As a modification to a meter protection enclosure or awning in accordance with the District Standard, a property owner may propose minor, aesthetic, or non-structural variations to the District Standard. Any such alternate plan proposal must be submitted to the District for review and consideration. The District will approve the alternate plan if the General Manager or his or her designee determines that that proposal will (i) adequately protect the meter and related equipment from the potential ground snow load, ice, and related conditions, (ii) provide a level of protection that meets or exceeds the District Standard, and (iii) otherwise comply with the California Building Standards Code and other applicable laws and codes. If the General Manager approves an alternate plan, the property owner shall install and maintain the meter protection structure in accordance with the approved alternate plan, California Building Standards Code, and other applicable laws and codes.

(d) As an alternative to a meter protection enclosure or awning in accordance with the District Standard, a property owner may propose an alternate design based on a plan prepared and stamped by a California-licensed professional architect or engineer. Any such alternate plan proposal must be submitted to the District for review and consideration. The District will approve the alternate plan if the General Manager or his or her designee determines that that proposal will (i) adequately protect the meter and related equipment from the potential ground snow load, ice, and related conditions, (ii) provide a level of protection that meets or exceeds the District Standard, and (iii) otherwise comply with the California Building Standards Code and other applicable laws and codes. If the General Manager approves an alternate plan, the property owner shall install and maintain the meter protection structure in accordance with the approved alternate plan, California Building Standards Code, and other applicable laws and codes.

Section 4. District Inspection.

(a) The District Operations Department shall periodically inspect each propane and electric meter and installation in the District to evaluate compliance with the meter protection requirements of section 3 and the risks associated with the meter installation. Following each inspection, the District shall determine the relative level of compliance and risk and shall categorize the meter installation according to one of the following tiers based on the inspection results:

(1) Tier 1 - Built to Standard. Meter installations where the District has determined that the meter and related equipment are adequately protected by a structurally sound enclosure, awning, or other structure that meets or exceeds the requirements of section 3.

(2) Tier 2 - Low Risk. Meter installations where the District has determined that the meter installation is not fully protected by a structurally sound enclosure or structure that meets the requirements of section 3 and there is a low risk of damage from snow or ice.

(3) Tier 3 - Medium Risk. Meter installations where the District has determined that the meter installation is not fully protected by a structurally sound enclosure or structure that meets the requirements of section 3 and there is a medium risk of damage from snow or ice, including any installation where there is some evidence of damage caused by snow or ice.

(4) Tier 4 - High Risk. Meter installations where the District has determined that the meter installation is not fully protected by a structurally sound enclosure or structure that meets the requirements of section 3 and the meter installation is susceptible to imminent danger from snow or ice. Tier 4 also includes any meter that was in Tier 3 (Medium Risk) and that is owned by a property owner that has not adequately addressed prior District requests to upgrade the meter protection.

(b) Following the inspection and tier determination, the District shall inform the property owner in writing about the inspection result, tier determination, and, for Tiers 2-4, the property owner's obligations under section 5. The District also will inform the property owner if its meter moves from Tier 3 to Tier 4 due to the property owner's failure to adequately address prior District requests to upgrade the meter protection.

Section 5. Tier 2-4 Meter Obligations and Consequences.

(a) For any meter in the Tier 2 (Low Risk) category, and after the District has notified the property owner about the Tier 2 rating pursuant to section 4(b), the property owner shall:

(1) Within 18 months following the date of the notification provided under section 4(b), install a meter protection enclosure or structure that complies with the requirements of section 3; or,

(2) Do and comply with the following:

(A) Within 5 months following the date of the notification provided under section 4(b), approve and sign an unsafe meter indemnity agreement (in a form acceptable to the District General Manager) in which the property owner (i) acknowledges and assumes the risk of the unsafe, noncompliant meter installation, (ii) commits to monitor and remove snow from around the meter and off of any protective enclosure or structure after each snow accumulation, and (iii) agrees to release the District from any loss or damage arising from the meter installation and to indemnify and defend the District from any related claim or liability.

(B) For a propane meter, within 18 months following the date of the notification provided under section 4(b), install an accessible and dedicated curb stop valve (aka shutoff valve) on the propane connection pipe in the driveway (if a residence) or in another accessible paved area from which snow is regularly removed. This does not apply if the District determines that there is an existing and satisfactory accessible curb stop valve on the connection.

(b) For any meter in the Tier 3 (Medium Risk) category, and after the District has notified the property owner about the Tier 3 rating pursuant to section 4(b), the property owner shall:

(1) Within 5 months following the date of the notification provided under section 4(b), install a meter protection enclosure or structure that complies with the requirements of section 3; or,

(2) Do and comply with the following:

(A) Within 5 months following the date of the notification provided under section 4(b), approve and sign an unsafe meter indemnity agreement (in a form acceptable to the District General Manager) in which the property owner (i) acknowledges and assumes the risk of the unsafe, noncompliant meter installation, (ii) commits to monitor and remove snow from around the meter and off of any protective enclosure or structure after each snow accumulation, and (iii) agrees to release the District from any loss or damage arising from the meter installation and to indemnify and defend the District from any related claim or liability.

(B) For a propane meter, within 18 months following the date of the notification provided under section 4(b), install an accessible and dedicated curb stop valve (aka shutoff valve) on the propane connection pipe in the driveway (if a residence) or in another accessible paved area from which snow is regularly removed. This does not apply if the District determines that there is an existing and satisfactory accessible curb stop valve on the connection.

(C) Install a meter protection enclosure or structure that complies with the requirements of section 3 within 12 months following the date of the unsafe meter indemnity agreement or such other extended date as approved by the District General Manager in writing based on good cause shown by the property owner.

(c) For any meter in the Tier 4 (High Risk) category, and after the District has notified the property owner about the Tier 4 rating pursuant to section 4(b), the property owner shall:

(1) Within 5 months following the date of the notification provided under section 4(b), install a meter protection enclosure or structure that complies with the requirements of section 3; or,

(2) Do and comply with the following:

(A) Within 5 months following the date of the notification provided under section 4(b), approve and sign an unsafe meter indemnity agreement (in a form acceptable to the District General Manager) in which the property owner (i) acknowledges and assumes the risk of the unsafe, noncompliant meter installation, (ii) commits to monitor and remove snow from around the meter and off of any protective enclosure or structure after each snow accumulation, and (iii) agrees to release the District from any loss or damage arising from the meter installation and to indemnify and defend the District from any related claim or liability.

(B) For a propane meter, within 18 months following the date of the notification provided under section 4(b), install an accessible and dedicated curb stop valve (aka shutoff valve) on the propane connection pipe in the driveway (if a residence) or in another accessible paved area from which snow is regularly removed. This does not apply if the District determines that there is an existing and satisfactory accessible curb stop valve on the connection.

(C) Install a meter protection enclosure or structure that complies with the requirements of section 3 within 7 months following the date of the unsafe meter indemnity agreement or such other extended date as approved by the District General Manager in writing based on good cause shown by the property owner.

(d) If a property owner violates or fails to comply with any provision of this ordinance (including failure to comply with any unsafe meter indemnity agreement), the District may disconnect propane or electric service to property owner's premises. Because propane and electricity are used to heat structures, the District will disconnect the water service in conjunction with any propane or electric service disconnection in order to limit the risk of damage due to freezing pipes, unless an alternative form of heat is available. At least 15 days before the date of any proposed utility service disconnection under this provision, the District shall (1) mail written notice of termination by regular U.S. Mail, postage pre-paid, to the property owner and (if different) customer, and (2) post the notice of termination on the front or main door of the premises. The District will not restore services to the premises until the property owner has come into full compliance with this ordinance and paid to the District the reconnection charge and any applicable delinquent fees, charges, interest, or other costs.

Section 6. Change of Delivery Point.

(a) The paragraph labeled "Electric and Propane Facilities" in District Policy Statement 620, section G is amended to read as follows:

"Electric and Propane Facilities

1. Single Family Residential Parcels. For electric and propane service to single family residential parcels, the District shall own and be responsible for the operation, maintenance, repair, and replacement of the lines, pipes, facilities, equipment, fittings, valves, meters, and regulators up to and including the meter. The customer shall own and be responsible for the operation, maintenance, repair, and replacement of the electric and propane lines, pipes, facilities, equipment, fittings, valves, equipment, fixtures, and appliances beyond the meter. The District does not accept or assume any locating, ownership, operation, maintenance, repair, or replacement responsibility beyond the meter of the retail service customer.

2. Multi-Family and Commercial Parcels. For electric and propane service to multi-family residential, commercial, and other non-single family residential parcels, the District shall own and be responsible for the operation, maintenance, repair, and replacement of the lines, pipes, facilities, equipment, fittings, valves, meters, and regulators up to the property line and the meter. The customer shall own and be responsible for the operation, maintenance, repair, and replacement of the electric and propane lines, pipes, facilities, equipment, fittings, valves, equipment, fixtures, from the property line to the meter and appliances beyond the meter. The District does not accept or assume any locating, ownership, operation, maintenance, repair, or replacement responsibility beyond the property line of the retail service customer (with the exception of the meter if located beyond the property line)."

(b) District employees, agents, and authorized contractors shall have the right of reasonable access to and ingress and egress to and from the customer's premises at reasonable hours (or at any time during an emergency) for purposes of reading, surveying, inspecting, testing, checking, installing, repairing, maintaining, improving, or replacing the propane or electric system connection, meter, and other facilities, equipment, fittings, valves, and regulators, turning utility service on and off, and for any other purpose reasonably connected with the furnishing of propane and electric service to the premises. By applying for or receiving propane or electric service from the District, each applicant, customer, and

property owner irrevocably licenses the District and its authorized employees, contractors, and agents to enter upon the property receiving the service for these purposes. If any applicant, customer, or property owner refuses entry by or hinders or prevents access by the District or its authorized employee, contractor, or agent, then the District may discontinue propane, electric, and water service to the premises until entry and access are allowed.

Section 7. Supersedes Earlier Ordinances. This ordinance supersedes any prior inconsistent District ordinance, resolution, policy, or regulation.

Section 8. Effective Date. This ordinance shall take effect 30 days after its passage.

Section 9. Posting. Within 23 days from the date of passage of this ordinance, the District Clerk shall post a copy of the ordinance in three public places in the District.