

JACKSON TOWNSHIP WATER AUTHORITY

RESOLUTION NO. 01-2023-01

A RESOLUTION

**OF THE BOARD OF THE JACKSON TOWNSHIP WATER AUTHORITY
WITH RESPECT TO SHUTTING OFF WATER FOR NONPAYMENT
AND DIRECTING OTHER NECESSARY AND PROPER ACTION.**

WHEREAS, the Authority provides services to persons and entities located in Jackson Township, Cambria County, Pennsylvania;

WHEREAS, during the implementation and operation of the water system, it has become apparent that certain customers have become delinquent in the payment for water service or also receive sewer service and are delinquent in the payment for sewer service;

WHEREAS, the Authority desires to adopt a policy, consistent with the statutes of the Commonwealth of Pennsylvania, to give appropriate legal notice that water service will be shut off and to undertake the shutting off of water service in situations where customers are delinquent in the payment for the services of water and/or sewer for at least 60 days or for which the delinquent balance is \$200.00 or more, whichever occurs first, or as directed by any municipality whose sewer service area includes the Authority's water service area.

The following process shall apply concerning shutting off water service to customers in the Authority's water service area who are delinquent in the payment for water and/or sewer service for at least 60 days or for which the delinquent balance is \$200.00 or more, whichever occurs first, or as directed by any municipality whose sewer service area includes the Authority's water service area:

I. Shutoff and Reinstatement Fee; and payment in full

A FIFTY DOLLAR (\$50.00) fee shall be added to all delinquent bills for which the water is shutoff due to such delinquency. A FIFTY DOLLAR (\$50.00) reinstatement fee will be charged at the time the water is turned back on. The aforementioned fees along with the entire unpaid balance of the account (*delinquency and any current charges that have since been added*) must be paid in full prior to the water being turned back on with the exception that the Authority shall not shut off or deny water service to a lessee for failure of a previous lessee to pay water service and/or sewer service.

II. Definitions

Owner-Occupied Property: real property occupied by its owner, whether for residential or commercial purposes, and to whom the property owner is billed for water and/or sewer services regardless of the location to where the bill is mailed.

Commercially-Leased, Non-Residential Property: real property leased to a tenant or tenants that is not used for residential purposes, whether or not the tenant or tenants is/are billed for water and/or sewer services.

Single Tenant Residential Property: real property leased to a single tenant that is used for residential purposes, whether or not the tenant is billed for water and/or sewer services; this definition also includes real property with multiple dwelling units and tenants provided the Authority has the ability to discontinue water service for a single dwelling unit without affecting the service of any remaining dwelling units.

Multiple Tenant Residential Property: real property leased to more than one tenant that is used for residential purposes and for which the property owner or property manager is billed for water and/or sewer services or the tenants are responsible for payment for water and/or sewer services, and the water service cannot be discontinued without affecting any other dwelling units and tenants.

Tenant: shall be defined as any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water, pursuant to a rental arrangement for such dwelling unit, mobile home or plot of ground within a mobile home park, but who is not the ratepayer of the company which supplied such gas, electricity, steam or water. 68 P.S. § 399.2.

Landlord Ratepayer: one or more individuals or an organization listed on the Authority's records as the party responsible for payment of water and/or service provided to one or more residential units of a residential building or mobile home park of which building or mobile home park such party is not the sole occupant. 68 P.S. § 399.2.

Mobile home: a transportable, single-family dwelling unit intended for permanent occupancy and constructed as a single unit, or as two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation. 68 P.S. § 399.2.

Mobile home park: any site, lot, field or tract of land, privately or publicly owned or operated, upon which three or more mobile homes, occupied for dwelling or sleeping purposes, are or are intended to be located. 68 P.S. § 399.2.

Residential building: a building containing one or more dwelling units occupied by one or more tenants, but excluding nursing homes, hotels and motels. 68 P.S. § 399.2.

Dwelling Unit(s): a place of residence, which may be a house, duplex, apartment, mobile or other structure or structures used as residences.

III. The following shall apply to Owner-Occupied Property, Commercially-Leased, Non-Residential Property and Single Tenant Residential Property:

A. Mail notice (utilizing U.S. Postal Service's certificate of mailing) of intent to shutoff water due to delinquency to the property owner AND tenant, if the tenant has given notice to the Authority that it should be billed for services.

B. Post notice at the main entrance to the premises of the property to which the delinquent service(s) is/are provided.

C. The notice shall include the following:

- (i) itemized total of all water and/or sewer delinquencies, including any interest, penalties or costs (also itemized);
- (ii) the date of the notice and the date which water will be shut off if the aforementioned sum is not paid in full;
- (iii) explanation that if the water is shut off, a \$50.00 fee will be assessed and that in order to turn the water back on, a reinstatement fee of \$50.00 must be paid along with the entire unpaid balance of the bill, including the \$50.00 shut off fee;
- (iv) contact information for the Authority; and
- (v) "If you believe that you have a just defense as to all or part of the delinquency, you may request, in writing, for a hearing in which you will be permitted to present evidence regarding your defense. The hearing will be scheduled as soon as possible by the Authority during normal business hours, non-holidays, Mondays through Fridays, and you or your representative must attend, or you will be considered to have waived your request for a hearing. Inability to pay for any reason (i.e., loss of job, health issues) is not a just defense."

D. The notice related to Single Tenant Residential Property shall be mailed and posted at least thirty (30) calendar days before the date of shut off in accordance with the Utility Service Tenants Rights Act (68 P.S. § 399.1), as set forth hereinafter.

The notice related to Owner-Occupied Property, Commercially-Leased, and Non-Residential Property shall be mailed and posted at least ten (10) calendar days before the date of shut off.

IV. The following shall apply to Multiple Tenant Residential Property:

A. Landlord Ratepayer Notice: At least 37 days prior to shutting off water service, the Authority shall give notice to the Landlord Ratepayer and the Cambria County office of the Pennsylvania Department of Health at the following (or any new) address:

Cambria County
184 Donald Lane, Suite 1
Johnstown, PA 15904

B. Tenant Notice: Unless the Landlord Ratepayer files a petition with the Court of Common Pleas of Cambria County disputing the right of the Authority to discontinue service within 7 days of notice provided in Section IV.A. above, the Authority shall give notice to all of the tenants at least 30 days before the discontinuance of service.

C. Landlord Ratepayer's duty to identify tenants: Upon receiving a lawful request for the names and addresses of the affected tenants, it shall be the duty of the Landlord Ratepayer to provide the Authority with the names and addresses of every affected tenant of any dwelling unit for which the Authority is proposing to discontinue service unless within 7 days of receipt of the notice in Section IV. A above, the Landlord Ratepayer pays the amount due the Authority.

Such information shall be provided by the Landlord Ratepayer: (1) within 7 days of receipt of the notice pursuant to Section IV. A above; or (2) within 3 days of any adjudication by a court having jurisdiction that the Landlord Ratepayer must provide the requested information if the Landlord Ratepayer files a petition with the court within 7 days of receipt of the notice pursuant to Section IV. A. above disputing the right of the Authority to discontinue service.

The Authority solicitor is authorized to pursue any appropriate legal remedy necessary to obtain from the Landlord Ratepayer the names and addresses of all affected tenants of a dwelling unit for which the Authority is proposing discontinuance of service to such Landlord Ratepayer.

D. Landlord Ratepayer Voluntary Termination of Service: Before the Authority will discontinue the water service at the voluntary request of a Landlord Ratepayer:

- (i) the Landlord Ratepayer shall state in writing, with signature notarized and containing a statement that the person signing understands that false statements are punished criminally, that all affected dwelling units are either unoccupied or the tenants affected by the proposed discontinuance have consented in writing to the proposed discontinuance;
- (ii) all of the tenants affected by the proposed discontinuance must inform the Authority orally or in writing of their consent to the discontinuance; and
- (iii) the Landlord Ratepayer shall provide the Authority the names and addresses of the affected tenants pursuant to Section IV. C. above and the Authority shall provide notice to Cambria County office of the Pennsylvania Department of Health as set forth in Section IV. A. above and to the tenants as set forth in Section IV. B above.

*Tenants shall have all of the rights provided for in Sections IV. I.

E. Form of Landlord Ratepayer Notice: The notice required to be given to a Landlord Ratepayer shall contain the following information:

- (i) the amount owed the Authority for each affected account;
- (ii) the date on or after which service will be discontinued;
- (iii) the date on or after which the Authority will notify tenants of the proposed discontinuance of service and of their rights under Sections IV. I.;
- (iv) the obligation of the Landlord Ratepayer hereunder to provide the Authority with the names and addresses of every affected tenant or to pay the amount due the Authority including a statement:
 - (a) that such list must be provided or payment or arrangement must be made within seven (7) days of receipt of the notice; and

(b) "Failure to provide the Authority with the names and addresses of affected tenants as provided for herein shall result in the Landlord Ratepayer forfeiting and paying to the Commonwealth a civil penalty of not more than \$500 for each day of the Landlord Ratepayer's failure to respond, and additionally, the court may award the Authority reasonable attorneys' fees for any action against the Landlord Ratepayer that is necessary to obtain the names and addresses of affected tenants; and

(v) the right of the Landlord Ratepayer to stay the notification of tenants by filing a petition with the court disputing the right of the Authority to discontinue service.

F. Service of Landlord Ratepayer Notice: The notice required to be given to a Landlord Ratepayer shall be delivered to the Landlord Ratepayer by personal service upon the Landlord Ratepayer or his agent, and if, after unsuccessful attempts at personal service on two separate days, by sending the notice by first class mail and conspicuously posting at the Landlord Ratepayer's principal place of business or the business address which the Landlord Ratepayer provided the Authority as the address for receiving communications.

G. Form of Tenant Notice: The notice required to be given to a tenant or tenants shall contain the following information:

- (i) the date on which the notice is rendered;
- (ii) the date on or after which service will be discontinued;
- (iii) the circumstances under which service to the affected tenant may be continued, specifically referring to the conditions set out in Section IV. I.;
- (iv) the bill for the 30-day period preceding the notice to the tenant or tenants;
- (v) the statutory rights of a tenant to deduct the amount of any direct payment to the Authority from any rent payments then or thereafter due; to be protected against any retaliation by the Landlord Ratepayer for exercising such statutory right; to recover money damages from the Landlord Ratepayer for any such retaliation;

- (vi) that tenants may make payment to the Authority on account of nonpayment by the Landlord Ratepayer only by check or money order drawn by the tenant to the order of the Authority; and
- (vii) a telephone number at the Authority which a tenant may call for an explanation of his rights.

H. Service of Tenant Notice: The notice required to be given to a tenant or tenants shall be by first class mail AND by posting a copy of the notice in the common areas of the building where it is reasonably likely to be seen by affected tenants.

I. Rights of Tenants:

(i) Payment: At any time before or after service within the Authority's corporate limits is discontinued by the Authority on account of nonpayment by the Landlord Ratepayer, the affected tenants may apply to the Authority to have service continued or resumed. The Authority shall not discontinue such service or shall promptly resume service previously discontinued if it receives from the tenants an amount equal to the bill of the Landlord Ratepayer for the 30-day period preceding the notice to the tenants. Thereafter, the Authority shall notify each tenant of the total amount of the bill for the second and each succeeding period of 30 days or less and if the tenants fail to make payment of any such bill within 30 days of the delivery of the notice to the tenants, the utility may commence discontinuance procedures. However, no such discontinuance may occur until 30 days after each tenant has received written notice of the proposed discontinuance as prescribed below as Subsequent Tenant Notice. Upon receiving any such payment, the Authority shall notify the Landlord Ratepayer who is liable for the service of the amount or amounts paid by any tenant and the amount or amounts credited to the Landlord Ratepayer's bill for each tenant pursuant to the provisions of this section. In the event that the tenants fail to satisfy the requirements of this section to maintain or restore service and service to the affected dwelling units is discontinued, the Authority shall refund to each tenant the amount paid by such tenant toward the bill which the tenants failed to pay, upon the request of the tenant or after holding the tenant's payment during 60 consecutive days of discontinued service, whichever occurs first.

(ii) Change of Service: Any tenant who has been notified of a proposed discontinuance of service under this section shall have the right to agree to subscribe for future service individually if this can be accomplished without a major revision of distribution facilities or additional right-of-way acquisitions.

(iii) Subsequent Tenant Notice: Subsequent notices required to be given to a tenant pursuant to this shall be mailed to the address of each affected tenant and shall contain the following information:

- (a) the date on or after which service will be discontinued;
- (b) the amount due, which shall include the arrearage on any earlier bill due from tenants;
- (c) a telephone number at the utility which a tenant may call for an explanation of his rights; and
- (d) the right of a tenant to file a petition with the court to enforce any legal right that the tenant may have.

(iv) Right to withhold rent: Any tenant who has made a payment to the Authority on account of nonpayment by the Landlord Ratepayer may subsequently recover the amount paid to the Authority either by deducting said amount from any rent or payment on account of taxes or operating expenses then or thereafter due from such tenant to the person to whom he would otherwise pay the rent or by obtaining reimbursement from the Landlord Ratepayer. This right is provided by "Utility Service Tenants Rights Act."

(v) Landlord Ratepayer retaliation prohibited: It shall be unlawful for any Landlord Ratepayer or agent or employee thereof to threaten or take reprisals against a tenant because the tenant exercised rights hereunder. Any Landlord Ratepayer, or agent or employee thereof who threatens or takes such reprisals against any tenant shall be liable for damages which shall be two months' rent or the actual damages sustained by the tenant, whichever is greater, and the costs of suit and reasonable attorney's fees. The receipt of any notice of termination of tenancy, an increase in rent or of any substantial alteration in the terms of tenancy within six months after the tenant has acted pursuant to the rights provided herein to avoid discontinuance of service, shall create a rebuttable presumption that such notice is a reprisal against the tenant for exercising the tenant's rights. However, the presumption shall not arise if the notice of termination of tenancy is for nonpayment of rent not withheld under as permitted by law or lawfully withheld under any other right that the tenant may have under law.

(vi) Tenant Rights hereunder may not be waived: Any waiver of a tenant's rights hereunder shall be void and unenforceable pursuant to the "Utility Service Tenants Rights Act."

V. Nothing in this Resolution shall prohibit the Authority from placing a lien upon the property and proceeding pursuant to the Municipal Lien Act.

VI. This Resolution shall become effective immediately, and any delinquencies existing prior hereto are subject to the provisions of this Resolution.

VII. Proper officers of this Authority are authorized and directed to execute all documents and to do all other acts that may be necessary and proper to carry out this Resolution and the undertakings of this Authority.

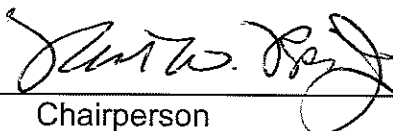
VIII. In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Resolution, it being the intent of this Authority that such remainder of this Resolution shall be and shall remain in full force and effect.

IX. It is declared that the adoption of this Resolution and the execution, acknowledgment and delivery of the documents are necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of the Municipality.

X. All other resolutions or parts of resolutions inconsistent herewith expressly are repealed.

DULY ADOPTED this 24th day of January, 2023, by the Board of the Jackson Township Water and Sewer Authority, in lawful session duly assembled.

JACKSON TOWNSHIP WATER AUTHORITY

By: 
Chairperson

ATTEST:


Secretary

CERTIFICATE

I, the undersigned, (Assistant) Secretary of Jackson Township Water Authority (the "Authority"), certify that: the foregoing is a true and correct copy of a Resolution of the Board of the Authority (the "Board"), which Resolution duly was adopted by affirmative vote of the majority of all members of said Board at a meeting duly held according to law on the 24th day of January, 2023; said Resolution duly has been recorded in the minutes of such meeting; and said Resolution remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of the Authority met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. Ch. 7, as amended, by advertising the time and place of said meeting, by posting prominently a notice of said meeting, and by providing a reasonable opportunity for public comment at such meeting, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and the official seal of the Authority, this 24th day of January, 2023.



Secretary

(SEAL)