

1.1 INTRODUCTION

This section is intended to provide Holyoke Water Works' customers with the conditions associated with termination of water service and measures that customers can take to avoid termination of water service due to non-payment of bills or other reasons described in this section.

The Board of Water Commissioners reserves the right at all times to shut off water without notice, for repairs, extensions, alterations, or other necessary work associated with the water system. Nobody shall be entitled to damages, nor to have any portion of their payment refunded, due to the loss of water service and/or discoloration of water.

The Board of Water Commissioners and/or their authorized representative may enter the premises of any water customer, at any reasonable time to examine the pipes, meter and fixtures, the quantity of water used, and the manner of its use. Where the right to so examine is denied, the water will be shut off from said premises and not turned on again until such examination is allowed.

1.2 NONPAYMENT OF BILLS

1.2.1 Conditions to be Met Prior to Termination

Except as otherwise provided in these Regulations, the Commission may terminate water service for nonpayment only if:

- (a) **Unpaid bill** - The amount shown as due on a bill remains unpaid for more than 75 days from the billing date of the initial bill for such amount, or such longer period as may be permitted by Section 9.2.1;
- (b) **"Late Payment Notice"** - The Commission has forwarded a "Late Payment Notice" to the delinquent account, 45 days after the billing date of the initial bill, notifying that water service may be terminated if payment is not made within 75 days from the billing date of the initial bill.
- (c) **"Final Payment Notice - Demand Notice"** - The Commission has forwarded a "Final Payment Notice - Demand Notice" to the delinquent account, 75 days after the billing date of the initial bill but not less than 15 days prior to the date for termination. The notice has been postpaid by certified or registered mail, first class to:
 - (1) the customer at its address as shown on the records of the Commission,
 - (2) the owner of the premises at its address as shown on the records of the assessors of the City of Holyoke, and
 - (3) the owner of the premises, addressed to the premises, in addition to the premises being posted, demanding such payment of charges

within 15 days of the date upon which such notice and demand was mailed and posted, upon penalty of having the water service to such premises terminated.

- (d) **Bill unpaid on termination date** - The bill or charges remain unpaid on the termination date as indicated on the Final Payment Notice - Demand Notice; and
- (e) **Final check** - The credit manager checks at the close of business on the last business day before the date on which water service is scheduled to be terminated that:
 - (1) no one has made a payment on the account sufficient to justify halting termination,
 - (2) the Commission has not received a notice that an appeal has been filed in the courts,
 - (3) the account is otherwise not subject to termination.

1.2.2 Content of Notices

In addition to the information required by Section 9.2.1 of these Regulations, the special request for payment and the final payment notice - demand notice shall contain the information required under Section 9.3 of these Regulations with respect to termination of service to customers during serious illness.

1.2.3 Notice of Termination to Occupied Building

When service to a building is terminated for any reason, the Commission shall notify the Holyoke Board of Health and shall exercise its best efforts to post a notice in a common area of the building stating the reason for the termination and the conditions under which water service will be resumed. The notice shall also include a telephone number of the Commission which a customer or residential tenant may call for an explanation of the situation and the customer's rights.

1.2.4 Termination for Illegal Taking; Emergencies

Nothing in this Section shall be construed to prevent termination for the illegal taking of water or reasons of safety, health, cooperation with civil authorities or any other reason for which the power to terminate service is specifically granted by the Special Acts, Legislative Acts or by the General Laws.

1.2.5 Time When Termination May be Effected

Termination of water service for failure to pay a delinquent account may be effected only between the hours of 7:30 a.m. and 3:30 p.m., Monday through Thursday, provided that

such day is not a holiday as defined under Section 7 of Chapter 4, of the General Laws, or the day before such a holiday.

1.2.6 Residential Tenants Paying Projected Bills

Where a residential tenant has made arrangements with the Commission to pay projected bills under Section 9.4.5 of these Regulations, the procedure for termination specified in that section shall govern.

1.3 SERIOUS ILLNESS

1.3.1 Serious Illness Certificate

- (a) **Exclusion** - The credit manager of the Commission shall not terminate or refuse to restore service to any residential building while any occupant thereof is seriously ill, as certified to the Commission by a registered physician or local board of health, and that customer or occupant subsequently certifies in accordance with subsection (d) of this section that he or she cannot afford to pay a past due bill or to pay for repairs because of financial hardship.
- (b) **Initial certification of serious illness** - A certification of serious illness shall be sufficient if initially made by telephone. Upon receiving telephone notification, the credit manager shall inform the certifying physician or local board of health that a written certificate setting forth the medical information required in this section must be forwarded to the credit manager within seven days. All certifications, whether by telephone or in writing, must provide the name and address of the seriously ill person, the nature of the illness, and the office address and telephone number of the certifying physician or local board of health. Upon the Commission's receipt of a written certificate of serious illness, it shall notify the customer or occupant in writing of the conditions under which he or she may renew the certificate and of the requirement of a certificate of financial hardship.
- (c) **Renewal of certificate of illness** - In cases where service is continued or restored pursuant to a serious illness certificate, the customer shall renew the medical certificate monthly (every 30 days), with the first renewal due one month after the initial certification. However, if the illness is certified to be chronic, the Commission may direct that the renewal of the certificate be made quarterly (every 90 days). In either case, each application for renewal must be accompanied by the Certification of Financial Hardship required under Section 9.3.1(d) of these Regulations. Each renewal certificate shall be directed to the credit manager of the Commission.

As a condition for the renewal of a certification of serious illness, the Commission may require that the customer be examined by a physician

designated by it. In that event, the Commission shall bear the expense of the examination.

- (d) **Stay of termination because of illness, certification of financial hardship** - The Commission shall stay termination of service to a residential building in which an occupant is seriously ill for a period of 30 days on the basis of a certification made under paragraph (b) of this section. Thereafter, any occupant or customer seeking relief under this section must also certify by letter that a financial hardship exists. This certificate must demonstrate that the customer or residential tenant is unable to pay the charges due the Commission. The certificate shall list all steps taken to secure assistance from public or private agencies. Certifications of financial hardship shall be renewed quarterly.

At its discretion, the Commission may require additional documentation of the existence of a financial hardship. When it deems necessary, the Commission may conduct an independent investigation of the financial situation of a person applying for relief under this section and may require that person to authorize the Commission to examine his or her financial records. Failure to comply with a request by the Commission for access to such records shall be grounds for the denial of an application for relief or for the denial of a renewal of a certification.

1.3.2 Serious Illness Notice

Any notice of termination issued pursuant to Section 9 of these Regulations shall include, or be accompanied by a written notice of the requirements of Section 9.3.1 in the form set forth in Section 9.3.4, or in such other form as shall be approved by the Commission.

1.3.3 Shut-Off

Upon entering any building containing one or more dwelling units to shut off the service thereto, the Commission's employee responsible for termination of service, prior to such termination, shall make his or her best effort to tell the residential tenant(s) of each dwelling unit that service is to be terminated. At the same time, he or she shall present the residential tenant(s) with a serious illness notice. If any residential tenant asserts that there is a serious illness in any dwelling unit, the employee shall not shut off the service for 24 hours in order to allow the person to obtain certification of the illness in accordance with Section 9.3.1. When service is terminated to a building pursuant to this section at a time when any residential tenant is not present, or when entry is not allowed by an occupant, the employee shall make his or her best effort to leave a serious illness notice at or under the door of the said residential tenant's unit.

1.3.4 Serious Illness Notice Forms

- (a) **Notice prior to termination** - The following notice (also included in Appendix D) shall accompany or appear on all termination notices:

NOTICE

YOU HAVE A RIGHT TO WATER SERVICE DURING SERIOUS ILLNESS

If you or anyone presently and normally living in your home is seriously ill, the Holyoke Water Works will not terminate your service.

YOU MUST CONTACT YOUR PHYSICIAN OR BOARD OF HEALTH

Have a physician or the Board of Health telephone the Credit Manager immediately at 536-0442. Within seven days of the phone call, your physician or Board of Health must certify in writing, to the Commission, that serious illness exists.

The certificate must be renewed monthly, or quarterly if the illness has been certified to be chronic. Also, each renewal must be accompanied by a certificate of financial hardship. Your failure to renew such certification of serious illness as set forth above may result in your water being shut off.

You may seek assistance by calling the Holyoke Water Works at the above mentioned number or by writing:

Holyoke Water Works
Board of Water Commissioners
20 Commercial Street
Holyoke, MA 01040
Attn: Credit Manager

- (b) **Notice at termination** - When required by Section 9.3.3, an employee of the Commission will make his or her best effort to give a notice, or leave at or under the door of, the customer or residential tenant immediately prior to termination of service in accordance with Section 9.3.4.

1.4 ACCOUNTS AFFECTING TENANTS

1.4.1 Termination of Service

Service to residential buildings shall not be terminated for non-payment except in accordance with this Section.

1.4.2 Identification of Residential Units

Before termination of service to a residential building due to a landlord customer's nonpayment of charges, the Commission shall use its best efforts to determine the addresses, including apartment numbers, of the residential units that may be affected by termination of service.

1.4.3 Pre-termination Notice to Landlord Customers

In the case of a landlord customer, the special request for payment required to be sent to a customer under Section 9.2.3 of these Regulations prior to termination of service to a residential building shall set forth the date after which the Commission will notify residential tenants of the proposed termination. This form is included in Appendix E.

1.4.4 Notice to Residential Tenants

- (a) **Notice; when and to whom** - The Commission shall give written notice of the proposed termination for non-payment to each residential unit identified pursuant to the procedures established under Section 9.4.1. Such notice shall be contained with the final shut off notice and demand for payment required under Section 9.2.5. The Final Water Shut-off Notice is presented in Appendix F. In no event shall such notice be served upon the residential units less than 15 days prior to the termination of service to the landlord customer on account of non-payment.
- (b) **Content of notice** - The notice shall be sent via certified mail or otherwise delivered to the address of each affected residential unit identified pursuant to Section 9.5.1, and shall contain the following information:
 - 1. The date of the notice;
 - 2. The date on or after which water service will be terminated;
 - 3. The circumstances under which water service to the affected tenant may be continued, specifically referring to the conditions set out in Section 9.4.5;
 - 4. The account under which water service will be terminated;
 - 5. The amount of delinquent bills or charges that remain overdue;
 - 6. The Holyoke Water Works' telephone number which a residential tenant or occupant may call for an explanation of his or her rights.

An employee of the Commission shall also make his or her best effort to post a notice containing the information listed in paragraphs 5.4.4(b) in a common area of the building where it is reasonably likely to be seen by the affected residential tenants and occupants.

1.4.5 Rights of Residential Tenant to Continue Service

- (a) **Payment of bill** - At any time before or after service is terminated on account of non-payment by the landlord customer, a residential tenant may apply to the Credit Manager to have service continued or resumed. The Commission shall not terminate service, or shall resume service previously

terminated, if it receives from a residential tenant proof that he or she is a residential tenant in the affected building and cash or certified or bank check sufficient to cover both the delinquent bill or charges and the water shut-off/turn-on fee.

- (b) **Tenant representative** - Where more than one residential tenant of a residential building is involved, the tenants shall designate one of their number as their representative to receive communications from and to arrange payment(s) to the Holyoke Water Works. Such a designation shall not be construed to make the tenant representative personally liable for any amount due to the Holyoke Water Works on a bill.
- (c) **Termination** - If a residential tenant fails to pay a bill (as required under subsection (a) of this section), the Commission may terminate service upon 15 days written notice in accordance with the provisions of Section 9.4.1.

As used in this Section, the term "residential tenant" shall include groups of tenants.

1.5 ELDERLY PERSONS

1.5.1 Termination Notice

Service may be terminated to a building in which all residents are 65 years of age or older only after the Commission grants written approval of such termination upon request from the Credit Manager. Concurrently with consideration of such termination by the Commission, the Credit Manager shall give written notice to the Department of Elder Affairs (or such agency designated by the Department of Elder Affairs for such purposes); and to the residents of such building. Such written notice shall state that a request to terminate has been made to the Commission and in accordance with these Regulations.

The notice required by this section shall contain language in accordance with Section 9.5.3 and be in such form as shall be approved by the Commission prior to its use.

1.5.2 Investigation Prior to Termination

The Commission shall not approve an application for termination of service to a building in which all of the occupants are 65 years of age or older unless the following facts have been established:

- (a) The occupants of the building and the Department of Elder Affairs (or any agency designated by the Department of Elder Affairs for such purposes) have received proper notification of termination pursuant to these Regulations;
- (b) The Credit Manager has in good faith attempted to secure payment by reasonable means other than termination; and

- (c) The Credit Manager has not refused to accept any monthly installment payment agreement that is just and equitable.

The scope of the investigation need not be limited to the facts cited above, but may include any matters relating to a billing dispute brought to the attention of the Commission.

1.5.3 Special Information Notice

All second requests for payment, notices of termination of service and other written communications by the Commission to a residential customer or a landlord customer regarding bills for service shall contain on their face or include the following notice:

If all residents in your house or building are 65 years of age or older, your service will not be terminated for failure to pay a past due bill without the formal approval of the Holyoke Water Works' Board of Water Commissioners. If you cannot pay your bill in full, you may be able to work out a payment plan with the Credit Manager of the Commission. If you have any questions or want further information, call the Credit Manager at 536-0442.

1.5.4 Termination

Upon entering any building containing one or more dwelling units to terminate the service to any customer therein and before shutting off service, the employee of the Commission responsible for termination of service will make his or her best efforts to give, or leave under the door of, each customer or residential tenant, a copy of the notice described in Section 9.5.3. If the employee is told that all of the occupants of the building are 65 years of age or older, service will not be terminated unless or until termination has been approved by the Commission.

1.6 REASONS OTHER THAN NON-PAYMENT OF BILL

1.6.1 Conditions/Notice Periods Prior to Termination

This section applies to cases in which the Commission has discovered the existence of any of the following conditions:

- (1) **Streamlined pipe** - Customer plumbing which does not permit proper installation of a water meter, whether due to insufficient access, inadequate connecting area or pipes, or otherwise.
- (2) **Bad plumbing** - Customer plumbing which lacks a functioning shut-off valve, or which in the judgment of the Commission, has deteriorated to the extent that the installation or repair of a water meter could damage such plumbing.

- (3) **Illegal tap** - Any unmetered connection of customer plumbing extending from the municipal water system that is not used for fire protection purposes only.
- (4) **Refusal of access** - Any refusal by a customer, owner, or tenant to permit access by the Commission to customer plumbing for the purposes of inspecting a meter connection or for the purpose of reading, inspecting or installing a meter or other Commission equipment related thereto (including any refusal to provide clear access to such connection, meter or other equipment).
- (5) **Customer service pipe emergency** - Any leak or malfunction in customer service piping which in the opinion of the Commission requires for reasons of public safety an interruption of service to one or more customers or that which is the owner's responsibility to repair.

Nothing in this Section shall be construed to limit or infringe upon the right of the Commission to:

- (1) Make, without notice, such temporary interruptions in water service as it deems necessary on a routine or emergency basis for restoration, repair or replacement of the water works system as defined in the Special Acts, or
- (2) Pursue its remedies for the unauthorized use or diversion of water or for damage to the Commission's property under other regulations promulgated by the Commission, the Special Acts or other applicable laws.

The following notice periods shall apply to termination under this chapter:

Reason for Termination	Notice to Cure Condition	Final Notice and Demand
(1) Streamlined Pipe	30 days	48 hours
(2) Bad Plumbing	30 days	48 hours
(3) Illegal Tap	15 days	48 hours
(4) Refusal	15 days	48 hours
(5) Customer Service Pipe Emergency	Such reasonable period as in the judgment of the Commission	None

In the event that a customer pursues his or her rights to appeal the measures required by the Commission, the notice and termination periods prescribed in this section shall control.

1.6.2 Inspection, Notification and Termination

- (a) **Initial inspection** - Upon receipt of notification that one of the conditions set forth in Section 9.6.1 exists on a customer's premises, the Commission shall inspect the premises and verify the existence of the conditions.
- (b) **Notice to cure condition** - When the Commission determines after an inspection that a condition specified in Section 9.6.1 exists or either is denied access or is unable, after reasonable efforts, to secure access to the premises for the purpose of verifying the condition, the Commission shall forthwith:
 - (1) post on the premises,
 - (2) mail to the customer at its address as shown on the records of the Commission,
 - (3) deliver, when possible, to each unit of a residential building that the Commission has determined may be affected by the proposed termination, and
 - (4) mail on the same day by certified or registered mail, first class, to the owner of the premises, if other than the customer, at its address as shown on the records of the assessor of the City of Holyoke, a notice to cure condition as described in Section 9.6.4 (a) stating that service will be terminated if the condition is not corrected within the period of time indicated.

In the case of residential buildings, tenants receiving a notice to cure condition will be identified in accordance with Section 9.4.1 of these Regulations.

- (c) **Final notice and demand** - After the expiration of the period specified in the Notice to Cure Condition, a Commission employee will return to the premises in order to determine whether the condition has been corrected. If the condition has not been corrected or if the Commission employee is unable to obtain access to the premises, the Commission shall forthwith:
 - (1) post on the premises, and
 - (2) deliver, when possible, to each unit of a residential building that the Commission has determined may be affected by the proposed termination, a final notice and demand. The final notice and demand shall state that if the condition is not corrected within twenty-four hours of the date on which it was posted or delivered, the Commission will terminate water service to the premises.
- (d) **Termination** - Upon the expiration of the twenty-four hour period specified in subsection (c) of this Section, a Commission employee will return to the

premises to determine whether the condition has been corrected. If the condition has not been corrected or if the employee is unable to obtain access to the premises, service will be terminated.

- (e) **Customer service pipe emergency notice** - Notwithstanding any other provisions of these regulations, in the event of a customer service pipe emergency, the Commission will be required to give only such notice prior to termination as it deems practicable in the particular circumstances. After termination because of a customer service pipe emergency, the Commission employee will make every effort possible to notify those customers affected by the termination of water service and unaware of it being an emergency situation.
- (f) **Post-termination notice** - In the event that the notices called for in subsections (b) and (c) of this Section cannot be given prior to termination, the Commission will, as soon as practicable following termination, notify the persons described in subsection (b) of this Section. This notice will contain all applicable information required to be included in a notice given pursuant to subsection (b) and will be transmitted as specified in that subsection.

1.6.3 Accounts Affecting Tenants

Service to any landlord customer will not be terminated for any reason set forth in Section 9.6.1 except in accordance with this Section.

- (a) **Pre-termination notice to landlord customers** - Every notice mailed to a landlord customer pursuant to Section 9.6.2 (b) shall state that the Commission is simultaneously notifying tenants of the proposed termination.
- (b) **Notice to tenants** - As required by Section 9.6.2 (b) the Commission shall deliver, when possible, written notice of the proposed termination to each unit of a residential building that the Commission has determined may be affected by such termination. In addition to the information required under Section 9.6.4, the notice shall contain:
 - (1) A statement of the circumstances under which service to the affected tenant may be continued, specifically referring to the rights set forth in Section 9.6.6 (c); and
 - (2) A telephone number of the Commission that a tenant may call for an explanation of its rights.

A Commission employee shall also post this information in a place on the premises where the affected tenants or occupants are reasonably likely to see it.

- (c) **Rights of tenants to continue service** - At any time before or after service is terminated for any reason set forth in Section 9.6.1, tenants may apply to the

Commission to have service continued or resumed. The Commission may postpone termination or resume service previously terminated if it receives from the tenant assurance satisfactory to the Commission that the condition will be corrected.

1.6.4 Information to be Contained in Notices

- (a) **Notice to cure condition** - Every notice posted, mailed or delivered pursuant to Section 9.6.2 (b) (other than a notice of termination by reason of customer service pipe emergency) shall be in writing and shall contain:
 - (1) A description of the condition for which service is to be terminated;
 - (2) The date and approximate time at which an employee of the Commission will return to determine whether the condition has been corrected;
 - (3) The proposed date of termination;
 - (4) The information with respect to termination of service to customers during serious illness and to elderly persons required under Section 9.6.6 and 9.6.7, respectively;

- (b) **Final notice and demand** - Every notice posted or delivered pursuant to Section 9.6.2 (c) (other than notice of termination by reason of customer service pipe emergency) shall be in writing and shall contain:
 - (1) A description of the condition for which service is to be terminated and the proposed date of termination;
 - (2) A final demand stating that if the condition is not corrected within forty-eight hours of receipt of the notice, the Commission will terminate water service to the premises;
 - (3) The information with respect to terminations of service to elderly persons and to customers during serious illness required under Sections 9.6.6 and 9.6.7, respectively;

- (c) **Notice of right to review; pre-termination notices** - Every notice posted or delivered pursuant to Section 9.6.2 (b) and (c) shall contain, or be accompanied by, the following notice:

RIGHT TO REVIEW

If you need more time to correct a condition referred to in this notice, contact immediately the Commission's Superintendent at 536-0442.

If for any reason you believe this notice is in error, you have a right to have it investigated by the Department. Contact immediately the Commission's Superintendent at the above mentioned number.

If you do not seek more time to correct the condition or if you do not seek an investigation of the notice before the proposed date of termination stated on the face of this notice, your service will be terminated.

If you seek a review of the notice, you will receive a written resolution from the Superintendent as to his findings.

- (d) **Customer service pipe emergency and post-termination notices** - Every customer service pipe emergency notice or post-termination notice posted, mailed or delivered pursuant to Section 9.6.2 (e) shall be in writing and shall contain:
 - (1) A description of the condition for which service has been terminated;
 - (2) The date of termination;
 - (3) The information with respect to termination of service to customers during serious illness and to elderly persons required under Section 9.6.6 and 9.6.7, respectively.

- (e) **Notice after termination of service to a residential building** - Every notice posted or mailed shall contain:
 - (1) A description of the condition for which service has been terminated;
 - (2) The date of such termination;
 - (3) The information with respect to termination of service to customers during serious illness and to elderly persons required under Section 9.6.6 and 9.6.7, respectively;
 - (4) A statement of the circumstances under which service may be resumed and, in the case of termination of service to a residential building, a statement of tenant rights as set forth in Section 9.6.7.
 - (5) The telephone number at the Commission which a customer, owner or tenant may call for an explanation of the situation and of his or her rights.

1.6.5 Stays, Investigations, and Appeals

The procedures described in this Section shall apply when a customer who received a notice under Section 9.6.2 of these Regulations requires more time to cure a condition or disputes

the validity of an allegation contained in it. These procedures shall also apply to any dispute arising out of a termination of service under this Section.

- (a) **Pre-termination investigation.** A customer, who receives a notice to cure condition or a final notice and demand, may need more time to cure the condition or may dispute the allegations of the notice. Such a customer may stay termination by requesting an investigation by the Superintendent. However, termination will not be stayed in cases involving a customer service pipe emergency or a condition that the Superintendent determines immediately threatens public safety.
 - (1) **Resolution** - The Superintendent shall investigate the notice and, upon completion of his investigation, mail his or her resolution of the matter to the customer.
 - (2) **New termination date; notices** - If the Superintendent determines that termination is required, the resolution shall include a new termination date which shall not be less than five days following receipt.

1.6.6 Serious Illness

Except in the event of a customer service pipe emergency, residents of an occupied building who are suffering from a serious illness may stall termination of service under this Section.

- (a) **Notice to Commission** - In order to stay termination, an occupant must notify the Commission of his or her condition before the time stated on the notice as the proposed termination date. The notification shall consist of a telephone call to the Superintendent. Within five days of notifying the Commission of his or her condition, the occupant must supply the Commission with a serious illness certificate as described in Section 9.3.1 (b) of these Regulations. Failure to supply the serious illness certificate will result in immediate termination of service.
- (b) **Duration of stay** - The purpose of the stay of termination permitted by this Section is to allow the customer sufficient time to arrange to have the condition cured without termination of service. When, in the judgment of the Superintendent, sufficient time has passed to correct the condition or the condition poses a threat to public safety, he or she may reinstitute the termination by repeating the procedures required by Section 9.6.2 of these Regulations.
- (c) **Notices by Commission** - All notices rendered by the Commission under Section 9.6.2 shall contain a notice of the right to continue service in the event of an occupant's serious illness.

1.6.7 Elderly Persons

In taking any action under Section 9.6 (other than a termination by reason of a customer service pipe emergency), the Commission shall comply with the notice and other applicable requirements of Section 9.5, except that all actions required to be taken by the Credit Manager shall be taken by the Superintendent.

1.6.8 Resumption of Service

At any time following termination, upon receiving satisfactory proof that a condition that required termination has been cured, the Superintendent shall order service restored to the account.