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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director   
Legislative Policy Division (LPD) Staff

DATE: February 6, 2020

RE: Water Shut Offs Draft Resolution and Ordinance

On January 29, 2020, Council president Pro Tem Sheffield directed the Legislative Policy Division (LPD) to draft: 1) a resolution calling on Governor Whitmer to prohibit mass water shut offs in order to prevent a public health emergency, and 2) an ordinance prohibiting residential water shut offs against Detroit residents who are unable to pay the full water rates due to poverty.

The requested draft resolution and ordinance are attached.

If Council has any other questions or concerns regarding this subject, LPD will be happy to provide further research and analysis upon request.

**RESOLUTION STRONGLY URGING GOVERNOR WHITMER TO BAN  
RESIDENTIAL WATER SHUT OFFS AGAINST LOW-INCOME RESIDENTS  
TO PREVENT A PUBLIC HEALTH EMERGENCY**

**By Council President Pro Tem Mary Sheffield**

WHEREAS, The issue of mass water shut offs against low-income Detroit residents has been publicly debated, in the face of repeated calls for a water affordability program in the form of an income-based rate structure, for over 15 years; and

WHEREAS, The Detroit City Council's resolution passed in May 2015 called for such a water affordability program to end unjust, unhealthy and ill-advised violations of the human rights of people who are unable to pay the full rates for safe drinking water because of their economic condition, a demand City Council has been making since 2005. However, neither the Detroit Water and Sewerage Department (DWSD) nor the Great Lakes Water Authority (GLWA) has taken adequate, affirmative measures to end such residential shut offs that are the result of financial hardship; and

WHEREAS, Terminating water service to thousands of Detroit residents poses an imminent danger to public health, requiring immediate action to end the shut offs; and

WHEREAS, Potential and actual serious health effects of these water shut offs may include epidemics of water-borne diseases, infant malnutrition because of inability to prepare baby formula, inability of diabetics to prepare meals essential to maintaining health, chronic urinary tract infections, upper respiratory infections, eczema and other skin conditions and other diseases, including but not limited to flus and viruses that can best be avoided by frequent hand washing; and

WHEREAS, Over the past fifteen years while water officials in the Detroit area have continually failed to make meaningful progress toward creating a viable water affordability model for Detroit and other customers in the GLWA service area, the cities of Philadelphia and Baltimore have passed water affordability ordinances mandating income-based rate structures for low-income residential customers, and Chicago is now rapidly moving in that direction. The State of Michigan and the City of Detroit must take comparable steps to protect public health and the human rights of residential water customers whose income makes it impossible for them to consistently pay the full rates for water and sewerage services by prohibiting the mass shut offs of water services to such residents who fail to pay the full water rates because of their inability to pay; and

WHEREAS, A formal order by the Governor of the State of Michigan and the Director of the Department of Health and Human Services, pursuant to MCL 333.2251, prohibiting residential water shut offs against people who are unable to pay the full water rates because of poverty, is reasonably calculated to give impetus to longstanding demands by Detroit residents and the Detroit City Council, among others, that DWSD and GLWA develop policies for dealing with the problems of providing water to low-income people that are more protective of public health and human rights; and

NOW, THEREFORE, BE IT RESOLVED THAT The Detroit City Council strongly urges Michigan Governor Gretchen Whitmer to declare a public health emergency due to mass water shut offs against low income people in the City of Detroit, and pursuant to the authority granted to the State Department of Health and Human Services, that the Governor and the Director of said Department issue an order prohibiting water shut offs against low income people who are unable to pay water rates in full.

S U M M A R Y

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2 AN ORDINANCE to amend Chapter \_\_ of the Detroit City Code, \_\_\_\_\_, by adding  
3 Article \_\_\_, titled *Prohibition of Residential Water Shut Offs*, which consists of Section \_\_ - \_\_ - \_\_,  
4 to require Detroit Water and Sewerage Department (DWSD) to develop and implement an  
5 adequate income-based water affordability program that effectively prevents the violation of the  
6 human right to water and sanitation established by United Nations Resolution 64/92 of July 28,  
7 2010, and to prohibit residential water shut offs by Detroit Water and Sewerage Department  
8 (DWSD) acting either directly or indirectly through another agency, contractor or Authority,  
9 unless and until DWSD develops and implements such a water affordability program, that prevents  
10 shutting off water to residents who cannot afford to pay the full billed rates.

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37 **BY COUNCIL PRESIDENT PRO TEM MARY SHEFFIELD:**

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39 **AN ORDINANCE** to amend Chapter \_\_ of the Detroit City Code, \_\_\_\_\_, by adding

40 Article \_\_, titled Prohibition of Residential Water Shut Offs, which consists of Section \_\_ - \_\_ - \_\_,

41 to require Detroit Water and Sewerage Department (DWSD) to develop and implement an

42 adequate income-based water affordability program that effectively prevents the violation of the

43 human right to water and sanitation established by United Nations Resolution 64/92 of July 28,

44 2010, and to prohibit residential water shut offs by Detroit Water and Sewerage Department

45 (DWSD) acting either directly or indirectly through another agency, contractor or Authority,

46 unless and until DWSD develops and implements such a water affordability program, that prevents

47 shutting off water to residents who cannot afford to pay the full billed rates.

48 **Section \_\_ - \_\_ - \_\_. Prohibition of Water Shut Offs.**

49 **Section 1.** (A). The Detroit Water and Sewerage Department (DWSD) shall develop and

50 implement an adequate income-based water affordability program that effectively prevents the

51 violation of the human right to water and sanitation established by United Nations Resolution

52 64/92 of July 28, 2010, by not shutting off water to residents who cannot afford to pay the full

53 billed rates.

54 (B). The Detroit Water and Sewerage Department (DWSD), acting either directly or indirectly

55 through another agency, contractor or Authority, shall not shut off water service to a residential

56 customer who due to inability to pay because of the customer's economic condition advises the

57 department of his or her eligibility for an adequate income-based water affordability program to

58 be developed and implemented by DWSD, that effectively prevents the violation of the human

59 right to water and sanitation established by United Nations Resolution 64/92 of July 28, 2010, by  
60 not shutting off water to residents who cannot afford to pay the full billed rates.

61 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health, safety,  
62 and welfare of the People of the City of Detroit.

63 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

64 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City Council  
65 Members serving, it shall be given immediate effect and become effective upon publication in  
66 accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed  
67 by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective  
68 on the thirtieth (30) day after enactment, or on the first business day thereafter, in accordance with  
69 Section 4-118 of the 2012 Detroit City Charter.

70 **Approved as to form:**

71 \_\_\_\_\_

72 **Corporation Counsel**