

APPENDIX G

ENFORCEMENT RESOLUTION

**MUNICIPAL AUTHORITY OF THE
TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA**

RESOLUTION 185

THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE ESTABLISHING A POLICY SETTING FORTH PENALTIES, COSTS, FEES AND EXPENSES ASSOCIATED WITH THE ENFORCEMENT OF MATSF RULES AND REGULATIONS

WHEREAS, the Municipal Authority of the Township of South Fayette (hereinafter "Authority"), is incorporated under the Municipalities Authorities Act, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq.; and

WHEREAS, the Authority owns and operates a sanitary sewage collection system ("Sewage System") in certain portions of South Fayette Township, Allegheny County, Pennsylvania; and

WHEREAS, the Authority revised and adopted its current Rules and Regulations dated March, 2014 by Motion at its March 6, 2014 meeting;

WHEREAS, the Authority deems it necessary to adopt a general penalty provision relative to enforcement of its Rules and Regulations;

WHEREAS, in order to memorialize the general penalty provision relative to the enforcement of the Authority's Rules and Regulation and thereby amend its Rules and Regulations dated March 6, 2014; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Authority of the Township of South Fayette as follows:

Section 1. Effective April 9, 2015, the Authority will amend its Rules and Regulations and abide by the following policies relative to enforcement and penalties associated with same:

Section 2. Specifically, Section XIX – TERMINATION FAILURE TO PAY/REMEDIES shall be amended to include the following:

C. PENALTIES

1. PENALTIES - Any person, firm, association or corporation violating any provision of these Rules and Regulations shall, upon conviction, be punished by a fine not to exceed the sum of \$1,000 for each offense, recoverable with costs, including but not limited to any reasonable costs, expenses, fees, and attorney fees as may from time to time be assigned by the Authority. Each day that a violation is continued shall constitute a separate offense. In the case of firms or associations, the penalty may be imposed upon the partners or members thereof, and in the case of corporations upon the officers thereof.

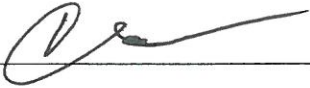
Section 3. The proper officials of the Authority are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Resolution.

Section 4. If any section, subsection, paragraph, sentence or phrase of this Resolution is for any reason held to be invalid by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution, it being the legislative intent of the Municipal Authority of the Township of South Fayette that the same would have been enacted without such section, subsection, paragraph, sentence or phrase. In the event of such holding, the Resolution shall be considered as effective as if enacted without such section, subsection, paragraph, sentence or phrase.


Section 5. All previous Resolutions and Policies that are inconsistent herewith are repealed to the extent inconsistent herewith.

RESOLVED THIS 9th DAY OF APRIL, 2015.

ATTEST:



Secretary
Municipal Authority of the Township of
South Fayette



BY: _____

Chairman
Municipal Authority of the Township of
South Fayette

EXCERPT FROM:
THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE
MINUTES

Regular Meeting March 6, 2014

The meeting was called to order by Joe Duchess, Chairman. Board members present were Charles Rothermel, Ken Chambon and George Lubic. Also present were Joe Lucas, Solicitor; Joe Gianvito, Engineer; Jerry D. Brown, Managing Director and Rebecca M. Sray, Recording Secretary.

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AREA WIDE TESTING

Rules and Regulations updated.

MOTION to accept the revised/updated Rules and Regulations as presented made by Ken Chambon, seconded by Charles Rothermel, all members present voting AYE.

.....”

REFER TO OFFICIAL MINUTES OF MARCH 6, 2014 FOR
THE ORIGINAL PUBLICATION OF THIS MOTION

RESOLUTION NO. 135

A RESOLUTION OF THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE, AN AUTHORITY FORMED UNDER THE MUNICIPAL AUTHORITIES ACT OF 1945, AS AMENDED, 53 P.S. §§ 301-374, ADOPTING RULES AND REGULATIONS AND AUTHORIZING/RATIFYING ALL ACTIONS PERMITTED BY LAW FOR NECESSARY ENFORCEMENT AND COLLECTION PROCEEDINGS.

WHEREAS, the Municipal Authority of the Township of South Fayette (hereinafter "Authority"), is incorporated under the Municipalities Authorities Act, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq.; and

WHEREAS, the Municipal Authority of the Township of South Fayette desires to formally reaffirm and ratify existing Authority Rules and Regulations and by this Resolution adopt additional new Authority Rules and Regulations;

WHEREAS, the Municipal Authority of the Township of South Fayette as part of its process of updating rules and regulations intends to formalize and reduce to writing its enforcement and collection procedures to ensure that any costs and expenses attendant to enforcement and collection are borne by the entities or persons who necessitating such procedures; and

WHEREAS, the Pennsylvania Legislature has further authorized the Municipal Authority of the Township of South Fayette to carry out necessary enforcement and collection procedures associated with ratepayers failure to adhere to Authority Rules and Regulations;

NOW THEREFORE, BE IT RESOLVED, by the Board of the Municipal Authority of the Township of South Fayette, pursuant to the powers vested in them by law as follows:

I. ACTIONS PROVIDED FOR BY LAW

A. AUTHORITY TO TAKE ALL ACTIONS PERMITTED BY LAW

1. The Authority is hereby authorized to take all actions permitted by federal law, state statute, and county or local ordinances as a duly and regularly formed municipal authority under the Municipalities Authorities Act, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq. ; the First Class Township Code and all other existing law governancing the operation of a public municipal authority.

B. ADOPTION OF ALL RELEVANT REGULATIONS AND RULES OF THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF SOUTH FAYETTE, AND SOUTH FAYETTE TOWNSHIP

1. The Authority recognizes that it is a separate legal entity from the Township of South Fayette and that it may have separate legal rights and duties under statutory law separate

from South Fayette Township, the governing body that created it. However, the Authority has agreed to adhere to certain Township Ordinances.

2. Accordingly, the Authority hereby resolves that it will adhere to and follow all relevant regulations formally codified in the Township of South Fayette Code of Ordinances, and those codified for the Municipal Authority of the Township of South Fayette.

C. ADOPTION OF RULES AND REGULATIONS

1. The Authority does hereby adopt the rules and regulations dated July, 2003, as amended, which sets forth the rules and regulations governing the use of the Municipal Authority of the Township of South Fayette Sewage Disposal System, and its operation and maintenance for all currently existing Districts and any such districts contained within the Authority in the future.

II. EXPECTATIONS OF RATEPAYERS AND PROPERTY OWNERS

A. RATEPAYERS All ratepayers shall abide by the rules and regulations of the Authority. All ratepayers shall pay their bills when due. All ratepayers, including but not limited to tenants or owners of the real property serviced hereunder, shall be responsible for payment of all rates, charges, fees/costs and penalties assessed under statutory law, the resolutions of the Authority or the Rules and Regulations of the Authority.

B. PROPERTY OWNERS Notwithstanding the requirement that all ratepayers pay their bills when due, all owners of real property are ultimately responsible for the payment of all Authority rates, charges, fees/costs and penalties assessed under statutory law, the resolutions of the Authority and/or the Rules and Regulations of the Authority. Such charges constitute liens against the real estate and run with the land. In the event, that a tenant defaults or becomes delinquent in payments to the Authority, the Property Owner shall be responsible for the payment of such charges.

III. COLLECTION PROCEEDINGS

A. WHEN CHARGES ARE DUE AND PAYABLE; PENALTY AND INTEREST ADDED TO DELINQUENT ACCOUNTS

1. CHARGES All bills for sanitary sewage collection, transportation and treatment charges imposed under Appendix F of the South Fayette Municipal Authority Rules and Regulations, shall be due and payable upon the date of presentation, and shall be paid not later than the due date appearing on the bill. All sewage charges by the Authority shall be payable on or before the due date on the bill. After such due date, an additional one and one half percent (1.5%) will be applied to any outstanding balance due.

2. DELINQUENCY PROCEEDINGS If such account continues to be delinquent for the period of ninety (90) days, the Authority may institute shut-off procedures or authorize legal counsel to take legal action against such delinquent ratepayer or property owner

for the delinquent account amount authorized under the Municipal Authorities Act. The Authority may authorize the attorney to either enter a lien against the property owner or authorize an action in assumpsit against the ratepayer, in accordance with the procedures set out herein. When a lien is entered, the Authority shall charge interest on such liened delinquent account at a rate of 6% per annum; said rate to run from the date of liening said account. In the event a judgment is entered against a ratepayer pursuant to an assumpsit action, the judgment shall bear the statutory permitted rate of interest until paid. However, at the discretion of the Authority, reasonable alternative arrangements can be made for payment in special circumstances.

C. COLLECTION PROCEEDINGS IN THE ALTERNATIVE TO OR IN CONJUNCTION WITH LIENING.

In an attempt to avoid the expenses of liening, the following procedures may be followed for collection:

3. SHUT OFF PROCEDURES

A. NINETY DAY NOTICE In the event that a bill for sanitary sewage services is unpaid pursuant to this resolution, the Authority may write a demand for payment letter. If the bill is not paid current, and if a payment plan acceptable to the Authority is not reached, then the Authority will take appropriate legal action to terminate service to the ratepayer.

B. **TERMINATION OF WATER SUPPLY** If the owner, occupant, or customer shall fail to pay any rate or charge for sewer installation, maintenance sewage or sewage treatment service imposed by the Authority, the Authority, in accordance with 53 P.S. §2231, may in the alternative, or in conjunction with the procedures set forth herein, require the water utility to shut-off the supply of water to such premise until all overdue charges are paid, but shut-off shall only occur after ten (10) days written notice to the person liable for payment of the charges and the premises have been posted as provided by law. Such premises will be subject to inactive charges. The Authority, in cases where no water utility furnishes service, may terminate service based on the foregoing, by physical means in preventing the use of the building sewer, at the cost of the owner.

(i) **POSTING PROCEDURES** If the ratepayer fails to make payment in accordance with the demand letter, the Authority shall post the property with a ten day notice of intent to shut-off water and sewage supply. In the event that no response to posting of the premises occurs, the Authority shall, within forty-eight hours, send a copy of the same notice by certified mail to the ratepayer and to the landlord, if landlord is a separate legal entity from the ratepayer. The Authority will follow the Pennsylvania statutes regarding special circumstances involving landlords/tenants.

(ii) **WRITTEN REQUEST TO WATER AUTHORITY TO TERMINATE SERVICE** If no response to the notice occurs within ten (10) days, the Authority

may make a written request to the Water Authority to discontinue service.

(iii) **RETURN OF SERVICE REQUIREMENTS** If service is discontinued and if no “special-circumstance” arrangements are made, it will not be restored until all unpaid charges, interest and costs are paid.

4. **COLLECTION BY ACTION OF LAW** If a ratepayer’s account continues to be delinquent for the relevant period, the Authority may, in addition to or as an alternative to following liening procedures hereunder, authorize legal counsel to bring an action in assumpsit against the ratepayer for collection of the delinquent account amount authorized pursuant to statute and local ordinance and resolutions.

3. **LIENING PROCEDURES**

A. **LIEN AGAINST THE PROPERTY RUNS WITH THE LAND**

Notwithstanding the definition of the “owner”, “occupant” and “customer”, and notwithstanding that the customer, occupant, contractor or any applicant entering into an Agreement with the Authority for the use of sewage service was not the owner of the premises served by the Authority, the owner of the premises shall be liable in-personam and in rem for all sewage charges rendered to said premises, and the Authority may at its option, discontinue service as previously set forth, and in addition thereto, may file suit in assumpsit against the owner, tenant and customer, severally or jointly, and may use any other remedy provided by law for the collection of delinquent bills; In addition, the Authority may file a Municipal Claim against said

property within the time limit required by law for such filing, so that the Claim shall be assessed against the said property in the same way as the other taxes are filed and lienied, and may sue out of a Writ of Scire Facia or file a suggestion in the same manner and within the same period of time as provided by law for all municipal taxes and claims. The Authority may use any or all of the remedies so provided by law, and the use of any one remedy may not be exclusive of the Authority's other rights and remedies.

B. LIEN REVIVAL All outstanding liens may be revived from time to time as required by law.

C. SEWAGE CHARGES- LIEN AGAINST PROPERTY All sewage charges herein designated or set forth in the schedule of rates, charges, fees/costs and penalties are made a lien against the property to provide for non-payment for sewage and other related services, such amounts to be lienied and collected against the property in the name of the owner, reputed owner, occupier, mortgagee, or anyone beneficially interested therein as claims are lienied and collected under the Municipal Claims Law of the Commonwealth of Pennsylvania.

4. PARTIAL PAYMENTS In the event that special circumstances exist, which in the Authority's discretion prohibit it from requesting the water authority from turning off water and sewerage service, or in the event that the outstanding indebtedness stems from the cost of a connection fee, tap-in fee or major capital expenditure relating to maintenance or tying into the Authority Sanitary Sewer System, the Authority may enter into Partial Payment Arrangements

with the customer, client, or property owner subject to the approval of the Authority Board.

(a) If the special payment arrangements are not followed to the satisfaction of the Authority, the Authority will follow the terms of the resolution.

(b) The Authority, may from time to time establish uniform standards for the entry into partial payment plans. These regulations are adopted and ratified as if more formally set forth herein.

IV. AUTHORIZATION OF IMPOSITION OF THE COSTS OF COLLECTION AND FEES UPON DELINQUENT RATEPAYERS AS PERMITTED BY LAW

A. SCHEDULE OF FEES The Authority hereby authorizes the imposition of collection costs associated with collections procedures and/or litigation in accordance with the following listed procedures.

1. ATTORNEY FEES The Authority authorizes and shall collect attorneys' fees against the delinquent taxpayer/ratepayer pursuant to the provisions of the Sewage Claims Act, 53 P.S. § 7106 (a)(1) and specifically Act 1 of 1996 for any collection proceedings in which the Authority is required to utilize legal counsel for collection proceedings. Attorneys' fees incurred in the collection of any delinquent account shall be at the regularly negotiated municipal attorney hourly rate paid unto the Authority Solicitors in an amount sufficient to compensate attorneys undertaking collection and representation of a claim on behalf of the Municipal Authority of the

Township of South Fayette.

2. **COLLECTION OF COSTS AND FEES** Costs and filing fees shall also be authorized to be collected against the taxpayer/ratepayer as authorized by Act 1 of 1996 of the Commonwealth of Pennsylvania Legislature. There shall be included in the amounts set forth above the reasonable out-of-pocket expenses of the Authority and/or counsel in connection with each of these services, as itemized in the applicable counsel bills, which shall be deemed to be part of the fees. The amount of costs/fees determined as set forth above shall be added to the Authority's claim in each Account.

3. **COLLECTION PROCEDURES** The following collection procedures are hereby established in accordance with Act No. 1 of 1996:

(a) At least thirty (30) days prior to assessing or imposing attorney fees in connection with the collection of an Account, the Authority shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the taxpayer or other entity liable for the Account (the "Account Debtor").

(b) If within thirty (30) days after mailing the notice in accordance with subsection (a), the certified mail to any Account Debtor is refused or unclaimed or the return receipt is not received, then at least ten (10) days prior to the assessing or imposing such attorney fees, the Authority shall mail or cause to be mailed, by first class mail, a second notice to such

Account Debtor.

(c) All notices required by this Ordinance shall be mailed to the Account Debtor's last known post office address as recorded in the records or other information of the Authority, or such other address as it may be able to obtain from the appropriate County Office.

(d) Each notice as described above shall include the following:

- (i) The type of debt, the date it became due and the amount owed, including penalty and interest;
- (ii) A statement of the Authority's intent to impose or assess attorney fees within thirty (30) days after the mailing of the first notice, or within ten (10) days after the mailing of the second notice;
- (iii) The manner in which the assessment or imposition of attorney fees may be avoided by payment of the Account; and
- (iv) The place of payment of Accounts and the name and telephone number of the Authority official designated as responsible for collection matters.


V. **RELATED ACTION** The proper officials of the Authority are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Ordinance.

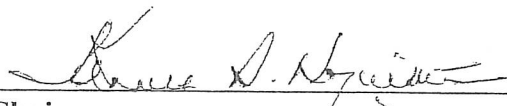
VI. **SAVINGS CLAUSE** If any section, subsection, paragraph, sentence or phrase of this Resolution is for any reason held to be invalid by a Court of competent jurisdiction, such holding shall not effect the validity of the remaining portions of this Resolution, it being the legislative intent of the Municipal Authority of the Township of South Fayette that the same would have been enacted without such section, subsection, paragraph, sentence or phrase. In the event of such holding, the Resolution shall be considered as effective as if enacted without such section, subsection, paragraph, sentence or phrase.

VII. **REPEALER** All previous Resolutions that are inconsistent herewith are repealed to the extent inconsistent herewith.

ATTEST:

THE MUNICIPAL AUTHORITY OF THE
TOWNSHIP OF SOUTH FAYETTE


Secretary

By: 
Chairman