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# On the Edge of Abundance: Water Affordability and Equity in Buffalo

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## Executive Summary

The human right to water is indisputable. Despite this, water affordability has been a growing issue nationwide for decades. The COVID-19 pandemic has further exacerbated it. Buffalo has not been immune to affordability challenges.

### A National Issue with Local Implications

The United States Environmental Protection Agency considers water and wastewater affordable if it costs less than 4.5% of annual income. However, water costs have become unaffordable for millions of Americans due to:

- 1. Decreased federal funding for water and infrastructure:** although the EPA has added regulations to ensure access to safe drinking water, federal funding for water infrastructure dropped significantly from 1977 to 2014. These regulations meant municipalities had to allocate money from other sources to keep up with infrastructure changes needed to comply with more stringent regulations and address aging infrastructure. Federal legislation responding to the COVID-19 pandemic provides funding for infrastructure needs through the 2021 Bipartisan Infrastructure Deal and the American Rescue Plan.
- 2. Rising costs of water and living, but limited rise in incomes:** across the U.S., water bills have increased 50% on average over the past ten years. But without a similar rise in income, this causes lower-income households to pay a far higher proportion of their income on water and sewer bills. This results in additional and undue financial strain on low-income households. It also adds extra stress as those in water debt are far more likely to experience a water shutoff.
- 3. Flaws in current affordability measurements:** current measures only consider the median income of a service area. There is a limited relationship between median income and poverty, resulting in low-income residents paying more than what is affordable on water bills.

**4. No national regulation of water costs:** the United States is the only country in the world with an advanced economy with no regulatory body to track water rates and assess system performance. And unlike energy (HEAP) and communications (Lifeline), no federal programs help Americans afford water bills.

### Water Privatization

Nationwide, there are examples of municipalities using private companies to manage water and wastewater systems and distribution. While the intentions are to increase efficiency and reduce cost, the opposite often occurs. For-profit companies do not offer as much public accountability, usually charge higher rates than publicly owned and operated systems, and typically cost the same if not more than publicly operated systems.

Water privatization surged in the 1990s, but by 2012, only about 6% of municipalities used private companies to manage their water and sewer systems. Researchers have documented a trend toward remunicipalization of water systems for several reasons:

- 1. Saving costs:** a survey of the 500 largest water systems in the United States found private companies charged \$185 more per year on average than public water providers for the same amount of water. A survey of 18 municipalities that switched from private back to public operation revealed costs reduced by 21% on average.
- 2. Service improvements:** private companies are more likely to be unresponsive to community concerns and even neglect maintenance.
- 3. Better management of resources:** private involvement can make it more difficult for various municipal departments to communicate and share resources.

## History of Water in Buffalo

Like most American cities, Buffalo's early water providers were private companies. In 1868, the City of Buffalo purchased the two major private water providers. The City incorporated water in the Department of Public Works in 1893.

Facing financial hardship in the 1990s, the City of Buffalo explored ways to save costs and improve the City's financial situation. The City created the Buffalo Water Board during this time. In 1997, after notable discourse, the Board contracted the first private company to manage Buffalo's water distribution. Veolia North America has managed Buffalo Water since 2010. The City quietly renewed its contract with Veolia in 2020 for another ten years.

The Buffalo Water Board, within the Department of Public Works, consists of four members appointed by the Mayor.

## Buffalo Water: Policies, Practices, and Costs

The Buffalo Water Board Regulations outline policies enforceable by the Board under state law:

- Buffalo Water can discontinue service for eight reasons, including non-payment of bills
- Buffalo Water is required to send three invoices within 61 days of the original bill, after which they can terminate water service after an additional 15 days
- Unpaid balances are subject to interest at the same rate as unpaid city taxes
- Additional fees such as disconnection and reconnection fees can be charged as listed in the Regulations
- Water debt can be added to a lien on a property and can result in foreclosure
- As of December 2024, customers with \$250 or more in water debt can enter payment plans to repay their water debt. However, these customers are responsible for their repayment plan costs and all current water bills.

## The Cost of Water in Buffalo, NY

Since October 2006, water costs have increased five times in Buffalo, most recently in October 2024. Most consumer water is billed quarterly - once every three months. A household of four using an average amount of water can expect to pay about \$755 in water per year. This yearly expenditure does not include sewer costs, which are also included on the water bill and are determined by water usage.

## Water Shutoffs in Buffalo

Our analysis reviewed one year of shutoff data from January to December 2019. This was the last full calendar year during which shutoffs for non-payment were permitted, as New York State passed a moratorium on utility shutoffs during the COVID-19 State of Emergency.

### In 2019 there were:

- **8,490** attempted water shutoffs, **62%** in occupied properties
  - **2,932** attempts resulted in a successful shutoff
  - **2,166** properties were “found off” when Department of Public Works staff attempted the shutoff
  - **2,047** were unable to be turned off
  - **1,345** were labeled as “N/A”

Our analysis focused on **occupied properties which experienced a shutoff**, amounting to 2,518 shutoffs.

- The median balance for these shutoffs is **\$1,069**
  - **47%** of these properties had their service disconnected for owing **less than \$1,000**
- **377** of these properties experienced multiple shutoffs within the calendar year
  - **Over 25%** of accounts with multiple shutoffs owed less at the time of the subsequent shutoff
- Almost all of these properties (95%) are residential only

## The Geography of Water Shutoffs

Buffalo has one of the highest urban poverty rates in the country. It is also among the top ten most segregated cities in the United States. Because of Buffalo's persisting segregation, the geographic distribution of shutoffs is related to income and race.

The median shutoff rate is **18.3 per 1,000** occupied households:

- The zip code with the highest rate is 14208, at **44.3 shutoffs per 1,000** households
- Six of the eight zip codes above the City's median are located east of Main Street

## Addressing Water Debt and Affordability in Buffalo and Beyond

The City of Buffalo has implemented several policies and programs to address this issue:

- The **Pathways to Affordable Water** encompasses several programs, including:
  - **Residential Affordable Water Program:** bill credits for low-income residents ranging from \$106-\$144 per year
  - **Low-income Senior Discount:** sliding scale discount for seniors on fixed incomes
- Through December 2021, Buffalo Water established the **Water Amnesty Program**, which allowed customers to enter 12-month repayment plans and waived interest, penalties, and other extra costs for participants
- Creation of “**Get Water Wise**,” a website designed to streamline applying for water-related assistance
- Commitment of American Rescue Plan (ARP) funding, including:
  - \$26 million for a **Smart Sewer and Water Infrastructure Buildout**
  - \$13 million for a **Water Debt Forgiveness** program to eliminate water debt for most consumer accounts

It was recently revealed that the funding initially allocated for the Water Debt Forgiveness program was quietly reallocated to capital infrastructure projects. ARP funding will no longer be used to support water debt forgiveness.

Other state programs have supported residents with their water bills.

Despite these positive steps, there is still the issue of long-term affordability. Cities like Philadelphia and Baltimore cap water costs as a percentage of household income. Others, like Chicago, have offered up to 50% discounts on water bills for customers who enter repayment plans. Buffalo's next steps must consider what's working in other municipalities but also be unique to the needs of our community and include community voices.

Therefore, we offer ten recommendations for consideration, with full descriptions on [page 46](#) of the report.

1. **Make water data transparent**
2. **Forgive water debt**
3. **Establish an Advocacy Office for water-related issues**
4. **Make billing clear and fair**
5. **Create income-based water rates**
6. **End residential water shutoffs**
7. **Provide meaningful notice of water rights established under local, state, and federal laws**
8. **Eliminate foreclosure for water-only debt**
9. **Extend existing protections offered by the Home Energy Fair Practices (HEFPA) regarding deferred payment agreements**
10. **Restore Local Control of Buffalo Water**

As we move past the pandemic's peak and develop a new sense of “normalcy,” we cannot forget inequities brought into public focus due to COVID-19. While the City of Buffalo budgeted a water debt relief plan after COVID, they have not implemented it. We urge Buffalo to take additional steps toward more comprehensive water equity and justice, including implementing its debt forgiveness plan, data transparency, bill transparency, and a billing structure that establishes long-term and sustainable access to affordable water for all residents.

## Glossary

### GENERAL

**Income Quintiles:** method to divide income of a geographic area into five groups, all with the same population. The median income of the entire population is in the center of the third quintile, with the lower quintiles representing lower-income residents and the higher quintiles representing higher-income residents.

**Service area:** geographic area a utility covers. For example, Buffalo Water’s service area includes all residents within the City of Buffalo.

**Freedom of Information Law (FOIL):** New York State law giving members of the public the ability to request information and records from state or local government agencies.

**Food & Water Watch:** national nonprofit fighting for safe food, clean water, and a livable climate.

**American Community Survey (ACS):** survey administered by the United States Census Bureau to help understand community changes, particularly by providing detailed housing and population data. The ACS releases yearly estimates available to view at [www.data.census.gov](http://www.data.census.gov). The datasets include 1-year estimates and 5-year estimates.

**Shutoff for nonpayment:** water service termination due to overdue balances on water bills.

**Property lien:** a legal claim against a property because of debt, allowing for entities (companies, municipalities, people) to take ownership of the property if the debt is not resolved.

**Deferred payments:** a financing agreement between a customer and entity (i.e. Buffalo Water) allowing for the repayment of debt over a fixed period on fixed terms.

**Due process:** protection by the Fifth Amendment of the United States Constitution, stating no one shall be “deprived of life, liberty, or property without due process of law.” Due process means all laws and legal proceedings must be executed fairly.

**Remunicipalization:** the process by which municipalities regain control of originally publicly owned/operated services. In this context, remunicipalization refers to municipalities regaining control/ownership of their water assets and systems.

### STATE/NATIONAL

**Environmental Protection Agency:** the United States federal government agency established in 1970. The agency is responsible for environmental assessment, education, research, and environmental standards. The EPA enforces federal, state, and local environmental laws.

**American Rescue Plan:** 2021 federal act in response to COVID-19, which, among other things, distributed money to states and municipalities for specific uses. Eligible uses for funding must fit into four categories, including “responding to public health and negative economic impacts of the pandemic” and “making necessary investments in water, sewer, and broadband infrastructure.”

**Home Energy Fair Practices Act (HEFPA) (1981):** New York State law, passed in 1981, offering residential energy customers protections regarding service, billing and payment, and complaint processes.

**Clean Water Act (CWA):** a federal act passed in 1972 in response to growing environmental concerns. The CWA governs pollution control and water quality in the United States’ water sources.

**Safe Drinking Water Act (SDWA):** a federal act passed in 1974 and amended in 1986 and 1996, which provides standards for drinking water quality and monitors enforcement of these standards by water authorities across the country.

**Home Energy Assistance Program (HEAP):** federal grant program assisting eligible households pay for energy costs.

**Lifeline:** federal grant program assisting eligible households pay for phone and internet service.

**Executive Order 12893 – Principles for Federal Infrastructure Investments:** executive order issued by President Bill Clinton promoting private management of public serv The order calls for the minimization of legal barriers to private sector participation in the delivery of infrastructure services.

**Buffalo East Homeowners Assistance Fund (BEHAF):** state fund thorough which residents of Buffalo’s East Side are eligible to receive up to \$50,000 to help with housing-related bills, including water/ sewer bills.

## LOCAL

**Water and Sewer Debt Forgiveness Program (City of Buffalo):** City of Buffalo initiative to use \$13 million of American Rescue Plan funding to address water affordability concerns. The City states the program will reduce the debt burden for around 33,000 residents and automatically apply to customer bills. This program was officially canceled in December 2024, following a contentious dispute over the misuse of funds and the City’s subsequent request the Common Council retroactively approve their reallocation.

**Smart Sewer and Water Infrastructure Buildout:** City of Buffalo initiative to use \$26 million (reduced from the originally budgeted \$40 million) of American Rescue Plan funding to improve water and sewer systems with a particular focus on neighborhoods disproportionately impacted by COVID-19.

**Buffalo Water:** a public benefit corporation within New York State to provide water service to its customers. Buffalo Water services all residents of the City of Buffalo.

**Buffalo Water Board:** the entity that oversees Buffalo Water, comprised of members appointed by the Mayor of Buffalo.

**Buffalo Municipal Water Finance Authority:** a public benefit corporation created under New York State law (Public Authorities – Public Utility Authorities). The Water Board is established under the Buffalo Municipal Water Finance Authority. It allows the City of Buffalo, through a Common Council resolution, to enter an agreement with the Authority and the Water Board to transfer the deed or lease of the water system to the Water Board.

**Buffalo Sewer Authority:** protects public health and water quality by treating wastewater.

**Department of Public Works, Parks, & Streets (DPW):** City of Buffalo department is responsible for city streets, public facilities, infrastructure, waterways, parks, and more. DPW employees participate in some Buffalo Water infrastructure-related tasks and are accountable for executing water shutoffs. The Mayor of Buffalo appoints DPW leadership.

**Veolia North America:** North American branch of international company Veolia, a private entity that provides water, waste management, and energy services. Veolia has managed Buffalo Water since 2010.

**Schedule of Rates and Fees:** a legal document that outlines water costs for Buffalo Water customers

**Water Amnesty Program:** temporary program active during the COVID-19 pandemic State of Emergency (July 2020-December 2021) allowing Buffalo Water customers to enter 12-month repayment plans with interest and penalties waived.

**Pathways to Affordable Water:** series of water affordability programs offered by the City of Buffalo. Pathways to Affordable Water includes the Residential Affordable Water Program, offering low-income residents discounts on water bills, between \$60 and \$90 annually.

## I. Introduction

The United Nations considers water a fundamental human right.<sup>1</sup> It is required for almost all foundational needs for survival, from hydration to cooking to cleaning. Yet, access to clean, affordable water is too often a luxury. Although the United States is considered a country with a developed economy, water affordability is still a significant issue.<sup>2</sup> Americans across the country have difficulty paying their water bills, forcing them to make tough decisions regarding which services, utilities, or other needs they pay each month. This results in mounting water bills and service termination for far too many people, sometimes for extended periods.

Many residents of Buffalo, New York face this critical situation. While annual water bills in Buffalo are lower than in cities like Cleveland and Detroit, which can average over \$1000 per year, shutoffs are a common but rarely discussed concern.<sup>3</sup> And, given Buffalo's concentrated poverty and intense segregation, the geography of shutoffs suggests shutoffs disproportionately affect residents of color.<sup>4</sup>

### COVID-19 and Water Access

At the onset of COVID-19 in March 2020, New York State declared a State of Emergency and subsequently issued a moratorium on utility shutoffs. The moratorium prevented utility companies, including water authorities, from shutting off water for any reason. The need for this moratorium and the demand that providers reconnect any previously disconnected water service at no immediate cost confirmed that existing affordability programs had not fully addressed utility access issues.

On June 25, 2021, the State of Emergency in New York State expired, putting in motion the end of the executive order moratorium protections. Per state law enacted in June 2021, those whose economic circumstances changed due to COVID could get an additional 180 days against shutoffs. These shutoff protections were active through December 31, 2021. Through June 2022, customers had additional protections under state law. The New York State Home Energy Fair Practices Act (HEFPA) extended deferred payment requirements to water, allowing residents to enter deferred payment agreements for as low as \$10 a month. Although state law required utility companies to inform customers of this, the volume of utility companies and inconsistent communication methods make enforcement of this type of state law challenging.

Locally, on July 2, 2021, Buffalo Mayor Byron Brown, Buffalo Water Board Chairperson Oluwole McFoy, and some members of the Buffalo Common Council announced the allocation of \$13 million of Buffalo's American Rescue Plan dollars to water debt relief.<sup>5</sup> Additionally, Mayor Brown said Buffalo Water will no longer perform water shutoffs for nonpayment



directly due to the pandemic, furthering the notion that water is a human right. Mayor Brown also said that Buffalo Water will hire a third-party consulting group to work directly with residents to assist them with making timely water payments.

Official documentation about this program gave conflicting messaging about how it would work. The City of Buffalo’s Recovery Plan for State and Local Fiscal Recovery Funds (August 2021) outlining American Rescue Plan (ARP) funding documents the “Water and Sewer Debt Forgiveness Program.” This program was designed to distribute \$13 million ARP dollars to water debt forgiveness, with no application necessary to benefit from these funds.<sup>6</sup>

Yet, resolutions passed in July 2021 by the Buffalo Water Board and the Buffalo Sewer Authority implied there will be qualification standards and an application process for eligible residents under this program.<sup>7</sup> In December 2024, it was revealed Buffalo Water worked with the City of Buffalo Department of Administration, Finance, Policy, and Urban Affairs, reallocated \$11 million of the \$13 million originally intended for water debt forgiveness to water distribution capital projects in April 2024.<sup>8</sup> Notably, there has been no explanation of what happened to the remaining \$2 million of the originally budgeted funds. This reallocation circumvented the established process requiring Common Council approval for amendments to ARP funding.<sup>9</sup> The Common Council ultimately voted in favor of reallocating these funds in December 2024, effectively canceling the Water Debt Forgiveness program.<sup>10</sup>

Buffalo Water has contracted with Promise Network, Inc., a private software company specializing in programs assisting with the repayment of government debt and distribution of available relief funding.<sup>11</sup> PromisePay has been implemented to assist Buffalo Water customers enter payment plans, but no documentation about the contract is available on Buffalo Water’s website at the time of this publication.

Besides Mayor Brown’s original press conference announcement in July 2021, no further publicly released documentation confirms the elimination of water shutoffs. There has been no Executive Order, Buffalo Water policy, or local law to make this official. The resuming threat of water shutoffs puts Buffalo residents in a precarious situation as the state’s utility shutoff moratorium ended on December 21, 2021. Buffalo Water once again has the full legal authority to perform shutoffs. The City of Buffalo’s protections for low-income water customers are unclear and fragmented. We implore the City to produce a clear, consolidated document explaining its current and upcoming policies on water shutoffs and affordability programs for low-income customers.

The data are clear that action must be taken to protect all residents – especially the most vulnerable both post-pandemic and beyond. The data

that inspired this report originated from work done by Stephen Halpern, a retired University at Buffalo professor and former attorney at the Western New York Law Center. In 2016, Steve noticed several of his clients had trouble paying their water bills. Not only were a few clients living without water, but many had accumulated thousands of dollars in water debt, which they were struggling to repay, and faced the disturbing threat of water shutoffs. Steve worked with these clients to get their water turned back on and informed them of their right to go on payment plans to begin to repay their water debt. He then realized this was part of a much larger issue and submitted Freedom of Information Law (FOIL) requests for additional data from the Buffalo Water Board to understand the extent of shutoffs and water debt in Buffalo.

Water equity has been voted twice onto the PPG Community Agenda, our broad partnership's annual selection of top policy priorities. In 2020, the agenda item focused on equitable financing for water bills for low-income individuals.<sup>12</sup> In 2022, the agenda item expanded its scope, centering on improving water equity by eliminating shutoffs and implementing American Rescue Plan funding.<sup>13</sup>

The report examines the national issue of water affordability, including the history of water distribution in the United States and why it has become increasingly unaffordable over the past several decades. It will review the history of water privatization and public versus private water distribution, including Buffalo's decision to contract a private management company in the late 1990s. It analyzes shutoff data from 2019, looking at the geographic distribution of shutoffs. Finally, it examines the Buffalo Water Board's actions and provides policy recommendations based on research by leading organizations and the successes of other cities. The report underscores the importance of implementing laws and policies to protect Buffalo residents from rising water costs and address existing water debt.

### *Special Acknowledgements*

*We would like to thank the volunteers and professionals who provided critical assistance for the project.*

*Steve Halpern recognized water issues during his time at the Law Center and worked tirelessly to dive deeper into the scope of the issue and solutions. He connected with groups and firms across the state, submitted requests for data, and enlisted dozens of law students and colleagues in this work. He brought this issue to PPG and pitched it onto the Community Agenda multiple times. Without him, none of this would be possible.*

*Margot Treadwell, Nicole Golias, and Maddy Thompson assisted with countless pages of data entry. Nicole Golias contributed heavily to the report drafting process. Elizabeth Stanton, Olivia Hawkes, and Brandon Myerina also assisted with data entry.*

*Local advocates, particularly those at the Western New York Law Center, the Center for Elder Law and Justice, the Western New York Legal Aid Bureau, Neighborhood Legal Services, and PUSH Buffalo,*

*have helped Buffalo residents with water bill concerns for years. They recognized the extent of the issue and continue to advocate for reforms to improve water equity in our region.*

*The New York Water Justice Coalition members are essential activists for this issue statewide. They advocate assiduously for statewide legislation change, are experts on water issues throughout the state, and have provided essential information to support the writing of this report.*

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## II. Water Affordability

Over the past several decades, water affordability has become a national issue. Average residential monthly water bills have increased nearly 50% over the last decade alone, substantially faster than income growth.<sup>14</sup> A review of changes in water and sewer bills between 2010 and 2018 in 12 diverse cities found costs increased, on average, by 80%.<sup>15</sup> Across the country, water rates are unaffordable for around 12% of households.<sup>16</sup> It is much higher in many low-income neighborhoods in large cities – over 40% of households.<sup>17</sup> Roger Colton, a nationally recognized expert on utility affordability, says, “The data shows we’ve got an affordability problem in an overwhelming number of cities nationwide that did not exist a decade ago, or even two or three years ago in some cities.”<sup>18</sup>

More alarmingly, experts expect water costs to triple or even quadruple over the next few decades. This rise in cost may be even higher if private distributors become more involved.<sup>19</sup> (We highlight more information on the history and effects of water privatization in the next section.) Water affordability benchmarks vary slightly around the world. The United States Environmental Protection Agency (EPA) defines affordability as households spending no more than 2% of their income on water and no more than 4.5% on water and wastewater services.<sup>20</sup> These benchmarks have been in place since 1997 and are in the process of being updated.<sup>21</sup>

However, researchers and advocates have criticized the EPA for focusing too heavily on the median income of a full service area when establishing affordability standards and determining what is and is not affordable. Instead, organizations like the American Water Works Association recommend using quintiles with a specific focus on first-quintile household incomes and costs of living to assess whether water is affordable.<sup>22</sup>

The effects of the pandemic have only exacerbated this issue. Data obtained via Freedom of Information Law (FOIL) Requests in 2021 to several sizable public water utility companies across New York State reveal significant increases in arrears between fall 2019 and fall 2021. For accounts serviced by the Erie County Water Authority in New York, total arrears increased over 50%, from just over \$5.1 million in 2019 to nearly \$8 million in 2021.<sup>24</sup> Accounts serviced by the Monroe County Water Authority saw a 910% increase between 2019 and 2021, from just under \$35,500 to nearly \$360,000.<sup>25</sup>

In recent written testimony, the Ohio Environmental Council stated by the end of 2022, “more than a third of all households across the nation will not be able to pay their water bills.”<sup>26</sup>

Several themes help to explain the rapid rise in water and sewer costs:

A review of changes in water and sewer bills between 2010 and 2018 in twelve diverse cities found **costs increased, on average, 80%.**

**A quintile** is a method for dividing a population into five equal groups based on a specific variable, such as income. Each group contains 20% of the population. For income, the first quintile represents those with the lowest values, while the fifth quintile includes those with the highest. The median income falls within the third quintile, right in the middle of the distribution.<sup>23</sup>

## 1. DECREASED FEDERAL FUNDING FOR WATER AND INFRASTRUCTURE

Many major cities, particularly those with older, pre-World War II infrastructure - such as Buffalo, Pittsburgh, Cleveland, and Detroit - need significant and costly infrastructure improvements. These include pipe replacements, plant upgrades, and addressing system failures.<sup>27</sup> Further, environmental threats, health threats, and the severe impact of climate change on water infrastructure and distribution have added unforeseen costs to water distribution and management.<sup>28</sup>

Municipalities had been left essentially on their own to raise funds needed for improvements and maintenance.<sup>29</sup> Federal funding for water infrastructure dropped from 63% of overall water project spending in 1977 to just 9% in 2014.<sup>30</sup> On top of this, federal regulations issued by the EPA through the Clean Water Act and Safe Drinking Water Act mean local agencies must spend more money to comply with these regulations. Investing this money is not simply recommended; federal law requires it.

The EPA states that \$35 billion would need to be invested annually for two decades to reach the level of improvements necessary to comply with the regulations, totaling over \$1 trillion. Additional studies suggest changes to water systems needed to mitigate the effects of climate change will amount to an additional \$36 billion nationally by 2050.<sup>31</sup> These mitigation costs will cause higher water and sewer costs for consumers; outsourcing to private companies, borrowing money from other city departments, or taking out loans were the only options available to meet these needs.

Several pieces of federal legislation created in response to COVID-19 may impact water infrastructure. The 2021 Bipartisan Infrastructure Deal provides significant investment in water infrastructure to eliminate lead pipes and improve access to safe drinking water nationwide.<sup>32</sup> The bill allocates \$55 billion for lead pipe replacement, chemical cleanup, and expansion of safe drinking water in tribal communities. It also invests an additional \$8 billion in water infrastructure in the western parts of the United States, which are more likely to experience droughts.<sup>33</sup>

The American Rescue Plan will also provide \$350 billion in state and local funding. One of the intentions of this funding is to “address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic.”<sup>34</sup> Guidance issued by the United States Treasury affirms recipients can use funds for “necessary investments in water, sewer, or broadband infrastructure.”<sup>35</sup> They also state recipients can spend funds on “projects that assist systems most in need on a per household basis and benefit the most vulnerable populations with safe drinking water that is critical to their health...”<sup>36</sup>

Federal funding for water infrastructure **dropped from 63%** of overall water project spending in 1977 **to just 9%** in 2014.

Many local governments are choosing to spend some of their funding on water and sewage infrastructure needs. For example, Erie County, where Buffalo is located, will use over \$31 million of its funding to improve its sewer districts.<sup>37</sup> In July 2021, Buffalo announced it would use at least \$13 million of its funding to relieve existing water debt and \$40 million (which the City has since reduced to \$26 million, see [pages 46-47](#)) to fund a Smart Sewer and Water Infrastructure Buildout. The City considers this a significant investment in the “efficiency, quality, and service” of Buffalo’s sewer and water infrastructure.<sup>38</sup> However, the City of Buffalo has since canceled the water debt forgiveness program, inappropriately reallocating the ARP funds initially designated for it.<sup>39</sup>

## 2. RISING COSTS OF WATER AND COSTS OF LIVING, BUT A LIMITED RISE IN INCOMES

Across the United States, water bills have increased 50% on average over the past decade, far more quickly than the national median income.<sup>40</sup> Higher bills result in lower-income households paying a far higher proportion of their income on water and sewer bills. Most agencies conventionally calculate water affordability as a percentage of income. For example, the EPA considers combined water and sewer expenses “affordable” if they amount to less than 4.5% of the median household income of a specific area.<sup>41</sup> At times, different municipalities set different affordability thresholds.

Unaffordable water increases financial stress for already low-income households, resulting in unpaid water bills as residents are forced to prioritize where to spend their limited income. As we have seen in Buffalo, this causes water debt, looming fear of water shutoff, and, ultimately, the termination of water service either temporarily or for extended periods. Residents may then be required to pay additional fees to get their water turned back on, take on extra monthly payments to begin repaying debt, or even take out loans sometimes from predatory lenders – to get water service reconnected.<sup>42</sup>

While accumulating water debt and shutoffs are national issues, they are especially pronounced in the Great Lakes region. Although the Great Lakes provide 90% of the United States’ fresh water supply, cities with direct access to them – Detroit, Cleveland, Milwaukee, Chicago, Duluth, and Buffalo have faced immense challenges from quickly rising water costs.

In Chicago, average water costs for a four-person household tripled from 2007 to 2018. Rates in Cleveland doubled to over \$1300 a year. And, in Detroit, average annual costs amount to nearly \$1200. This increase is three times more than what residents of Phoenix, a sprawled-out desert city, might expect to pay.<sup>43</sup>

As a result, the six Great Lakes cities issued over 350,000 shutoff notices between 2007 and 2018. And between 2010 and 2018, Detroit residents

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received nearly 150,000 of these notices. The United Nations declared Detroit’s water crisis a human rights violation in 2014.<sup>44</sup> An analysis by APM Reports indicates in all six cities, “shutoffs were concentrated in poor communities and communities of color.”<sup>45</sup>

### 3. FLAWS IN CURRENT MEASUREMENTS OF AFFORDABILITY

Current water affordability measures mark 4.5% of the median household income of a service area as a threshold - total water and sewer costs under this limit are considered affordable. Some experts in water affordability believe a rigid and strict guideline for affordability is flawed.

First, it identifies what “affordable” means based on a service area’s median income instead of exclusively examining low-income households. There is a close correlation between median household income and poverty levels, leading to water costs becoming unaffordable for low-income residents in every service area.<sup>46</sup> And it does not account for rising costs of other expenses, such as housing, healthcare, and other utilities like electricity and heat.<sup>47</sup> Regarding water costs, individuals with low incomes have a limited safety net as no federal programs guarantee access to water.<sup>48</sup>

In Buffalo, the median household income (MHI), according to the 2019 American Community Survey, is \$37,354.<sup>49</sup> Yet, in the zip code with the highest rate of water shutoffs (14208), the median household income is \$29,292. In the zip code with one of the lowest rates of water shutoffs (14222), the median household income is \$58,957. Water and sewer rates in these two zip codes are the same, highlighting the flaw in using the median income of an entire municipality to address affordability concerns for low-income residents.

Some cities have created programs to address affordability, such as providing repayment plans and small discounts on bills for low-income households. While these policies help slightly, they often do not begin to reach the bigger issue of long-term affordability.

### 4. NO NATIONAL REGULATION OF WATER COSTS

The United States is the only country with an advanced economy and no regulatory body to track water rates and assess system performance.<sup>50</sup> Federal programs such as the Home Energy Assistance Program (HEAP) and Lifeline help Americans afford energy and communications bills. But, there is no widespread federal program to address water affordability.

Overall, water is becoming increasingly unaffordable, particularly for low-income communities. Water affordability is an environmental justice issue as water debt and shutoff risk affect low-income communities and disproportionately impact communities of color.

When it comes to water costs, individuals with low incomes have a limited safety net as there are **no federal programs to guarantee access to water.**

### III. Water Privatization

Water systems in the United States were historically private in most places.<sup>51</sup> During the Industrial Revolution, public health concerns mounted. Maintaining safe water supplies was a major concern. Municipalities, companies, and residents would often dispose of waste in water sources, contributing to the spread of disease.<sup>52</sup> Additionally, an uptick in destructive fires in large cities meant having reliable water networks to extinguish these fires was necessary.<sup>53</sup> As cities grew exponentially, public water supplies in the United States grew from 136 in 1866 to over 3,000 in 1900.<sup>54</sup> Major cities like New York, Philadelphia, Boston, and Chicago began publicly controlling their water systems to enhance water quality and provide services to low-income residents often overlooked by private companies.<sup>55</sup>

However, nearly a century later – in the 1990s – there was a surge in water system privatization for various reasons.

First, standards put in place by the Environmental Protection Agency with the Safe Drinking Water Act of 1974 and its additions in 1986 and 1996 increased regulations on drinking water supplies. More regulations meant water agencies charged customers more so they could implement the new standards.<sup>56</sup> Many water distributors raised their rates in the 1970s and 80s to pay for the initial changes in 1974, making it challenging for them to increase rates again in the 1990s to pay for water service improvements.

Second, many cities faced significant fiscal challenges in the 1980s and 1990s. Cities saw contracting services to private companies as a cost-saving mechanism.

Third, new laws at the state and federal levels made it easier for private companies to become involved in water distribution. In the 1980s, neoliberal policies encouraging free-market economies with little regulation extended into the social sector. Government officials believed expanding private involvement in public matters could mean greater competition, better services, and lower costs.<sup>57</sup>

An executive order issued by President Bill Clinton in 1994 promoted public-private partnerships in infrastructure management.<sup>58</sup> Changes in federal tax law allowed up to 20-year-long private contracts with no impact on the tax-free status of the existing agencies.<sup>59</sup>

Finally, private companies identified United States water operation and ownership as profitable.<sup>60</sup>

As cities began growing exponentially, the number of public water supplies in the United States grew from 136 in 1866 to over 3,000 in 1900.

There are several ways for private companies to be involved in water management. They are:

**1. Sale of assets and services:** all infrastructure and equipment sold to the private company.

**2. Sale of rights to water:** the private company has complete control over the water system, making all water use and distribution decisions, despite not owning the infrastructure.

**3. Sale of service:** the public authority still owns the water system assets, but the private company manages water distribution.

Even with an increase in water privatization in the 1990s, a national survey conducted in 2012 found only about 6% of municipalities use private companies to manage their water and sewer systems.<sup>61</sup> There is a growing trend toward remunicipalization – a process by which local governments regain complete control and ownership of their water and sewer systems.<sup>62</sup>

There are several concerns around water privatization shared by water-based justice organizations, including Food & Water Watch, a national organization focused on food and water accountability. They reflect on several reasons why privatizing water and sewer systems can harm communities.<sup>63</sup> Generally, for-profit, private companies:

- Do not offer as much public accountability, public input, and transparency
- May restrict water access and the human right to water
- Often charge higher rates for services compared to publicly owned and operated systems
- Provide worse service than public systems
- Cost the same, or sometimes more, than public operation
- Can lead to job loss<sup>64</sup>

Additionally, water management and distribution companies quickly become monopolies. Many major water companies have turned into conglomerates, having a large global footprint of ownership and operational control of water and wastewater systems. The largest companies operating in the United States include Suez, Veolia, and American Water Works. Together, they earn over \$28 billion annually from their global water-related enterprises.<sup>65</sup>

There are several concerns around water privatization shared by water-based justice organizations, including **Food & Water Watch**, a national organization focused on food and water accountability.



The impacts of privatization have led governments to explore remunicipalization for several reasons. These include:

### 1. SAVING COSTS

Local governments initially contracted with private firms to save money. However, as time passed, governments realized privatization often does not save money for the municipality and sometimes costs more. Several national and international studies have shown costs are usually not reduced by implementing private ownership or public-private partnerships.<sup>66</sup> In fact, according to a Food and Water Watch survey encompassing the 500 largest water systems in the United States, private companies charged, on average, \$185 more per year than public water providers for the same amount of water.<sup>67</sup> Water prices are higher for consumers in states with laws favoring private investors.<sup>68</sup> And, following privatization, water costs tend to increase rapidly, at a rate three times higher than inflation.<sup>69</sup> In a survey of 18 municipalities, switching from private back to public operation reduced costs by 21% on average.<sup>70</sup>

### 2. SERVICE IMPROVEMENTS

Advocates of privatization claim companies manage service more effectively since expertise in operation and competition for contracts should promote quality. Yet, the opposite often occurs. Poor quality service is one main reason local governments decide to re-implement public control of water systems. Private companies are more likely to be unresponsive to community concerns and even neglect maintenance.<sup>71</sup>

### 3. BETTER MANAGEMENT OF RESOURCES

With a corporate entity involved in water and sewer management, it can be more challenging for various municipal departments to communicate and share resources. Cities with publicly operated water can communicate more easily with other city departments to avoid unnecessary work, such as coordinating water pipe replacements and street maintenance. Private companies seem to have little desire to coordinate with local governments for these initiatives.<sup>72</sup>

In the United States, between 2000 and 2015, 58 local governments remunicipalized their water systems, accounting for nearly 6 million people.<sup>73</sup> Local governments can regain control of their water systems by allowing contracts to expire or terminating them early to remunicipalize. In the cases above, nearly 64% ended their contracts early, sometimes paying fees to the private company to dissolve the relationship.<sup>74</sup> These municipalities discovered that although they were required to pay large lump sums to end their contract at times, it would be more beneficial for the municipality – and its residents – in the long term.<sup>75</sup>

...according to a Food and Water Watch survey encompassing the 500 largest water systems in the United States, **private companies charged, on average, \$185 more per year than public water providers** for the same amount of water.

## IV. History of Water in Buffalo

Buffalo, New York aligns with the context of national water operations and affordability. Like most American cities, Buffalo's early water providers were private companies<sup>76</sup>. In 1868, the City of Buffalo purchased both major water providers. The purchase came after decades-long dissatisfaction from the Buffalo Common Council and mayors around rising costs and failure to maintain the water system.<sup>77</sup> Buffalo operated water as an independent department until 1893 when it was incorporated into the Department of Public Works (DPW). It remained under the DPW for the following century.<sup>78</sup>

In the 1980s and 1990s, Buffalo was suffering from financial hardship. Over 12 years, during the administrations of Mayors James Griffin and Anthony Masiello, Buffalo took steps to privatize its water system.<sup>79</sup>

First, the City created the Buffalo Municipal Water Finance Authority and the Buffalo Water Board to regulate water provision. The Finance Authority has the power to issue bonds. It can require the Board to set rates and fees to meet the water system's operation, financing, and maintenance needs. The Water Board then determines the rates, collects fees and rents, and makes other service changes to pay the costs associated with the system. The Acquisition Agreement allowed the Buffalo Municipal Water Finance Authority to complete the system's purchase from the City of Buffalo.<sup>80</sup>

There was much public discourse around using a private company to manage Buffalo's water. Some supported a merger with the Erie County Water Authority, which already serviced about half the Erie County population.<sup>81</sup> Others were promoters of privatization and emphasized that the City would save money while customers would pay lower rates.<sup>82</sup> Proponents stressed the City would not sell the water system infrastructure and would only contract out management responsibilities. Union representatives opposed privatization initiatives, fearing the city would terminate union contracts.

In the late 1990s, the Common Council, in partnership with Mayor Masiello, discussed options to allow the Buffalo Water Board to hire a private company to manage the routine operations of the water system. In August 1997, officials modified the Operation Agreement, allowing the Board to contract independent providers to fulfill operational duties.<sup>83</sup> One month later, in September 1997, the Board hired a private British-American joint venture, American Anglian Environmental Technology, to manage Buffalo Water.<sup>84</sup> With this contract, the city adopted a sale of service - the private company would manage the Buffalo water system. Still, the City of Buffalo would retain ownership of its assets. The contract required American Anglian Environmental Technology to retain unionized employees.<sup>85</sup>

**Buffalo, New York** aligns with the context of national water operations and affordability.

Water costs for Buffalo residents did decrease in the short term. The initial success of the venture resulted in the U.S. Conference of Mayors giving Buffalo an Outstanding Achievement Award for modeling a public-private partnership.<sup>86</sup>

In 1999, American Anglian split in a buyout deal, with American Water taking control of the company.<sup>87</sup> In 2003, Buffalo Water signed another 5-year contract with American Water.

In the years following privatization, Buffalo Water customers began to see annual rate increases, some as high as 10%. Water debt and decreasing affordability were becoming concerns.<sup>88</sup> On top of this, mandatory meter installations meant homeowners had to pay other extra costs. These mandates forced some residents, including low-income seniors, to pay over \$1000 toward pipe replacements.<sup>89</sup> In some cases, unexpected water-related debt resulted in home foreclosure.<sup>90</sup>

When Mayor Byron Brown took office in 2006, he initially brought a renewed focus on water affordability. As a Common Council Member, many of Brown's residents were overloaded by water debt and repair requirements. In the late 1990s, he allocated \$25,000 of block grant funding to serve as an emergency water fund for residents in need. Early in his first mayoral term, he focused on preventing rising rates, ensuring affordability for low-income seniors, and addressing water debt among high-use commercial properties.<sup>91</sup>

Resident complaints about water management and affordability mounted. By 2007, Legal Aid Bureau staff began seeing an alarming trend of residents at risk of foreclosure due to accumulating water debt they could not afford to pay back. Astounding interest rates on overdue payments meant water debt became increasingly challenging to repay once late fees and other charges amounted. Additionally, residents continued to get charged for water even after their service was terminated.<sup>92</sup>

These challenges and complaints with Buffalo Water influenced the Common Council to consider alternatives to American Water's management. In 2008, they extended the American Water contract for two years to allow the city more time before deciding who would manage the water system. The Buffalo Common Council, spearheaded by Council Member Mickey Kearns, attached a Water Ratepayers Bill of Rights to the updated contract to improve transparency and protect customers.<sup>93</sup> Due to billing inaccuracies, the City of Buffalo paused foreclosures on properties with water-only debt throughout 2008.<sup>94</sup>

After bidding, Buffalo Water entered a 10-year operations and maintenance agreement with Veolia Water North America in 2010. Part of the agreement involved continuing to employ over 100 city employees for Buffalo-Water-related jobs. Veolia would directly employ a handful of managers. The Common Council's vote for this measure was all but

By 2007, Legal Aid Bureau staff began seeing an alarming trend of residents **at risk of foreclosure due to accumulating water debt** they could not afford to pay back.

unanimous. One Council Member, Richard Fontana, voted against it, advocating for Buffalo to reassume water system management.<sup>95</sup>

The management agreement stipulated Veolia’s responsibility to manage, operate, maintain, repair and improve the water system of the City of Buffalo. They are required to adhere to all treatment and quality standards, minimize service interruptions, and oversee customer billing and metering. It also included a version of the Water Ratepayers Bill of Rights.<sup>96</sup> Before the 2020 state requirement to allow water customers to enter interest-free repayment plans, this Bill of Rights is one of the only documents mentioning the option to enter payment plans. The document states, “In certain circumstances on a case-by-case basis, the Buffalo Water Board may approve a ratepayer’s request to establish a payment plan to keep their account current.”<sup>97</sup>

Veolia views its relationship with Buffalo Water as “a partnership...to continue the rich tradition of ensuring safe and quality water to the City’s residents and businesses.”<sup>98</sup> Since Veolia’s contract began, water rates have increased five times, as highlighted on [page 26](#). In 2020, Buffalo Water quietly renewed its contract with Veolia for another ten years. The renewal will cost Buffalo over \$7.8 million per year.<sup>99</sup> The contract renewal was only mentioned in Buffalo Water Board’s May 2020 meeting minutes, where the Water Board approved a resolution to authorize the new management agreement.<sup>100</sup>

The Buffalo Water Board oversees Buffalo Water. It remains under the umbrella of the Department of Public Works (DPW), which oversees the water system’s infrastructure. Peter Merlo serves as the DPW’s Principal Engineer for water.

The Board consists of four members appointed by the mayor: Oluwole McFoy (Chairperson), William Sunderlin (Vice Chairperson), Gerald E. Kelly, and Denine Jackson.<sup>101</sup> Sunderlin and Kelly have served on the Water Board for over a decade. McFoy served for over a decade; he will step down in January 2025 to take a job in Houston, Texas.<sup>102</sup>

The Water Board has monthly meetings open to the public. Strategic partners, such as representatives from contracted firms and Veolia, regularly attend and present at Water Board meetings. For the 2024 calendar year, meetings are at 9 A.M., typically on the second Wednesday of the month, unless otherwise noted, at the Lt. Colonel Ward Pumping Station or via videoconference.<sup>103</sup> The Water Board releases the meeting minutes on its website.<sup>104</sup>

In 2020, Buffalo Water quietly renewed its contract with Veolia for another ten years. **The renewal will cost Buffalo over \$7.8 million per year.**

### What is Veolia?

Veolia is one of the world’s largest water management and distribution corporations. With hundreds of subsidiaries in dozens of countries, Veolia distributes water to nearly 100 million people worldwide.<sup>105</sup> Veolia describes its mission as “to resource the world” by “improving [their clients’] energy efficiency, better managing their water and wastewater, and recovering resources from their wastes.”<sup>106</sup>

Veolia has been involved in several lawsuits. In one case, Veolia allegedly failed to maintain the wastewater treatment plant in Plymouth, Massachusetts. As a result, thousands of gallons of polluted wastewater were released into the harbor,

and 10 million gallons of raw sewage were dumped around town. This resulted in sewer repairs amounting to nearly \$50 million. Veolia entered a settlement with Plymouth in 2019 for \$22.8 million.<sup>107</sup>

In 2016, the Pittsburgh Water and Sewer Authority sued Veolia for mismanaged operations related to its lead crisis. They asked for \$12.5 million – the amount the city still owed Veolia.<sup>108</sup> After arbitration, neither the Pittsburgh Water and Sewer Authority nor Veolia admitted to any wrongdoing, and the lawsuit was eventually dropped.

Veolia was also involved in one of the most infamous cases of water lead exposure in United States history. In

2016, Michigan Attorney General Bill Schuette filed a lawsuit accusing Veolia of “professional negligence, public nuisance, unjust enrichment, and fraud” regarding the Flint water crisis.<sup>109</sup> The lawsuit argues Veolia could have prevented the lead crisis by advising city officials more adequately about lead in water. In 2019, a Michigan lawsuit revealed Veolia was aware of residents’ increased risk of lead poisoning over six months before publicly announcing the problem in 2015.<sup>110</sup> Senior employees of Veolia debated via email whether they should inform city officials and recommend pipe replacements. The lawsuit is still active.



Veolia Logo. Image source: Reuters, September 2020

## V. Buffalo Water: Policies, Practices, and Costs

The Buffalo Water Board Regulations outline all the codes, rules, and regulations the Board is entitled to enforce under state law.<sup>111</sup> The Regulations contain answers to these critical questions:

*What rights does the Water Board have to discontinue water service?*

The Water Board can discontinue water service for eight defined reasons. Some have to do with misuse of water or damage to water infrastructure. The Regulations also state Buffalo Water can disconnect service for nonpayment of bills.<sup>112</sup> The Regulations go on to permit disconnection and reconnection fees charged to the user, regardless of the circumstances of the water shutoff.<sup>113</sup> For example, customers who request water service termination or reconnection are charged the same fees as those who have their water turned off for nonpayment.

According to the Buffalo Water Board, they send an initial invoice for the billing period; the bill is due 30 days after the bill date on the invoice. A second notice is sent 31 days after the original invoice. And 61 days after the original bill, a third invoice is sent. After this, customers must make a payment within 15 days to avoid service disconnection.<sup>114</sup>

*What must happen before water service is disconnected?*

The Regulations stipulate except in emergencies, “reasonable advance notice” must be given by the Commissioner to the property owner or user before water service is disconnected. The Regulations clearly state the Water Board must give written notice at least 15 days in advance to the appropriate person (property owner, affected user, building superintendent, or water bill recipient).<sup>115</sup>

The property owner or user has ten business days to respond in writing. They may be able to meet with the Commissioner or a billing representative to discuss a mutually beneficial resolution. The matter gets referred to the Water Board if they cannot reach a solution.<sup>116</sup>

*What if there is a billing discrepancy?*

If there is a billing issue, customers must deliver a “written protest” to the Commissioner within 30 days of the invoice’s mailing date. Suppose a customer provides documentation of billing discrepancies on a bill they already paid. In that case, they have 90 days from the original payment to submit a claim to the Commissioner. Customers who dispute charges beyond 90 days are liable for billed charges and any payments already made.<sup>117</sup>

The **Buffalo Water Board Regulations** outline all the codes, rules, and regulations the Board is entitled to enforce under state law.

*What happens when a water bill isn't paid on time?*

The Schedule of Rates and Fees outlines additional charges customers may be subject to for various reasons, including disconnection and reconnection fees.<sup>118</sup>

Interest is added to the bill once a bill remains unpaid after the due date. The interest rate on water bills is the same rate for unpaid city taxes: 4.5%. This interest level applies and is added to amounts overdue from the first to the thirtieth day after the due date. After this, a 1.5% interest rate applies and is added to all unpaid charges for each successive month.<sup>119</sup>

Water customers are also liable for additional fees for collection on delinquent accounts, including attorney fees. The Regulations state, “all persons with delinquent accounts may be liable and may pay an additional charge of 21% of the amount of each such delinquent account, together with interest...” for any bill on a metered account that remains unpaid for more than 120 days from the due date.<sup>120</sup>

*What happens to water debt after an extended period?*

Every year in December, the Regulations specify that the Water Board must send a list of delinquent accounts – the persons or property owners who are in arrears for sixty days or more after their last payment – to the City of Buffalo Assessment & Taxation Department. The arrearage then gets added to the annual tax rolls under “delinquent water charges.”<sup>121</sup>

The Regulations and the City of Buffalo Charter affirm the City can add water debt to the lien on a property. The Charter states, “any and all charges for unpaid water bills shall be a lien on the premises serviced until paid... [and]... can be enforced by foreclosure proceedings...”<sup>122</sup> The City can enforce foreclosure one year after the creation of the lien. Therefore, water debt can cause property foreclosure in extreme cases.<sup>123</sup>

## The Cost of Water in Buffalo, NY

Like many other cities, the cost of water has risen several times in Buffalo over the past fifteen years; a new rate increase was approved in October 2024, substantially increasing the cost of water for Buffalo residents. This section breaks down a sample water bill, goes over sewer rent and water cost calculations, and explains changes in water costs since 2006.

### BILLING

In Buffalo, most households receive quarterly water bills – one every three months. And most accounts are metered, meaning customers pay for the water they use, measured in cubic feet.<sup>124</sup> Each water bill includes a flat rate, paid regardless of use, and a charge for water usage.

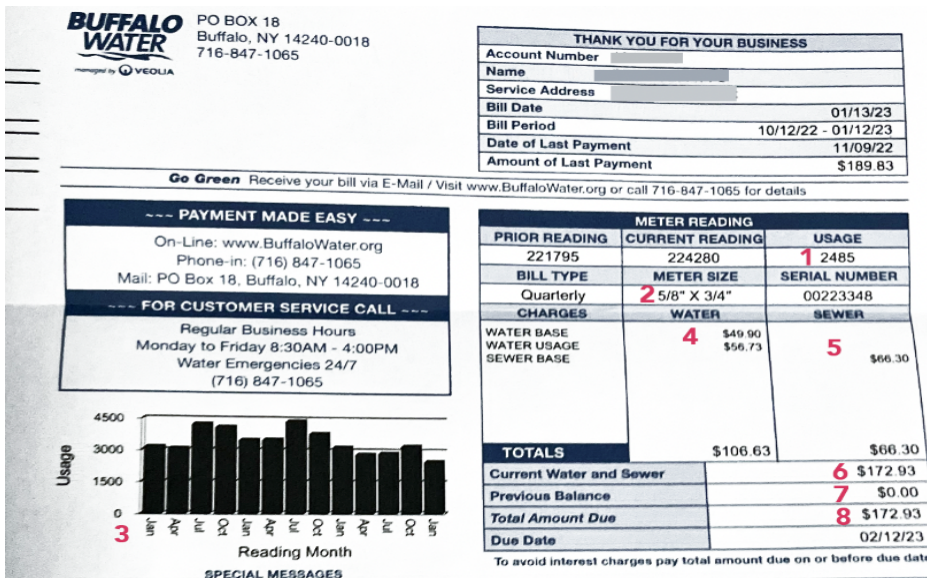
The Charter states, “any and all charges for unpaid water bills shall be a lien on the premises serviced until paid... [and]... **can be enforced by foreclosure proceedings...**”

Water bills distributed to customers provide essential information. The example below shows:

1. Water usage measured in cubic feet
2. Meter size (used to calculate rate fees)
3. Water usage over time
4. Billing information such as water base (a flat rate) and water usage (calculated based on the amount of water used in cubic feet)
5. Sewage charges

Additionally listed are:

6. “Current Water and Sewer” charge
7. Previous balances
8. Total amount due, including both “Current Water and Sewer” and “Previous Balance” amounts





### SEWAGE RENTAL COSTS

In Buffalo, water costs and sewer rents are combined into a single bill. Water and sewer/wastewater costs are often combined when assessing water affordability.

The Final Schedule of Sewer Rents and Other Charges outlines sewer costs in the City of Buffalo. The costs are referred to as “rents” as the consumer uses city-owned infrastructure versus paying for a quantity of a commodity (i.e., water rates).

Sewer rents are calculated based on the volume of water used, determined by the meter, as a measurement of strain on the sewer system. Minimally, sewer renters will owe \$48.30 a quarter if the meter is read quarterly or \$16.10 a month if the meter is read monthly. These costs cover properties using up to 4,000 cubic feet – or just under 30,000 gallons - of water per quarter.<sup>127</sup>

If the average monthly water use per person is 3,000 gallons, households over three may pay more for sewer rents. For example, based on this calculation, a household of 4 may use 12,000 gallons of water a month or 36,000 gallons a quarter. For any water used over 30,000 gallons a quarter, users will pay \$11.09 per 1,000 cubic feet (about 7500 gallons) of water used.<sup>128</sup>

In addition, yearly property taxes include a yearly sewer rent.<sup>129</sup> The last completed annual property value assessment determines this charge. While this reflects an added cost, it is not included in our assessment as it does not dictate the balance of a water bill.

The table below shows how much households of various sizes might pay on their water bill in Buffalo. We outline water costs alone in the first two rows, sewer rents in the second two rows, and combined water and sewage in the last two.

People per Household	One	Two	Four	Six
Est. Quarterly Water Bill	\$91.50	\$123.98	\$156.47	\$253.93
Est. Yearly Water Costs	\$365.99	\$495.93	\$755.83	\$1015.72
Est. Quarterly Sewer Rent	\$48.30	\$48.30	\$57.32	\$84.09
Est. Yearly Sewer Rent	\$193.20	\$193.20	\$229.28	\$336.36
Est. Quarterly Combined	\$139.80	\$172.28	\$213.79	\$338.02
Est. Yearly Combined	\$559.19	\$689.13	\$985.11	\$1352.08

In Buffalo, water costs and sewer rents are combined into a single bill. An additional annual charge for sewer is applied to a property’s annual tax bill. Water and sewer/wastewater costs are often combined when assessing overall **water affordability.**

**HOW HAVE WATER COSTS CHANGED?**

Since October 2006, water costs have increased five times in Buffalo, most recently in October 2024.<sup>130</sup> The table below demonstrates what these changes looked like for a household of four with average monthly water consumption—the months and years in the table highlight when the changes occurred.

New rebates began with the January 2019 rate adjustment. Households defined as “low income” or “very low income” qualify for discounts on their bill.<sup>131</sup> We list these rebates in the chart for reference. Qualifications for low-income and very-low-income are available in a table on [page 42](#). The first chart below shows rate changes from October 2006 to January 2019.

The October 2024 rate changes increase water costs ranging from \$16 per quarter for very low income customers to about \$30 per quarter for customers who do not qualify for rebates. Additionally, the usage charge calculation has been modified: increased charges now begin after 30,000 cubic feet of water usage, versus the prior 60,000 cubic feet. There are also higher credits for low and very low income water customers. Details can be found in the second table.

Since October 2006, water costs have increased five times in Buffalo.

	Usage Charge (\$/1000 cu. ft. for first 60,000 cu. ft.)	Flat Rate Charge	Quarterly Cost for Household of Four
October 2006	\$18.99	\$23.82	\$115.21
July 2010	\$20.22	\$30.92	\$128.23
July 2011	\$21.54	\$32.93	\$136.59
July 2012	\$22.83	\$34.90	\$144.77
January 2019	\$22.83	\$49.90	\$159.77
<i>Low Income</i>		\$49.90 (-\$15)	\$144.77
<i>Very Low Income</i>		\$49.90 (-\$22.5)	\$137.27

	Usage Charge (\$/1000 cu. ft. for first 30,000 cu. ft.)	Flat Rate Charge	Quarterly Cost for Household of Four
October 2024	\$27	\$59.01	\$188.96
<i>Low Income</i>		\$59.01 (-\$26.5)	\$162.46
<i>Very Low Income</i>		\$59.01 (-\$36)	\$152.96

Buffalo Water Board Chairperson McFoy shared the increase will address a revenue shortfall from the 2023-2024 fiscal year and help cover costs for planned infrastructure improvements, including \$72 million in investments slated for 2025. The Environmental Protection Agency's new Lead and Copper Rule mandates the replacement of lead service lines across the country within the next decade. The investments will support this work.<sup>132</sup> Currently, Buffalo only has a fraction of the funding they need to replace all lead service lines. While the Bipartisan Infrastructure Bill allocated some funds to New York State to distribute to cities to complete this work, it does not seem as though Buffalo received any of these funds.<sup>133</sup> In an October 2024 Buffalo Common Council Meeting, Chairperson McFoy suggested additional rate increases are being considered for 2025.<sup>134</sup>

In April 2023, the Buffalo Sewer Authority approved a 64% increase in annual taxpayer burden from \$12.05 million to \$19.8 million.<sup>135</sup> This means the yearly sewer rent charged to all real properties in the City of Buffalo will total \$19.8 million, potentially increasing a property owner's sewer rent based on their property's assessed value. Usage charges remained the same with added affordability programs:

**Residential Affordable Sewer Program:** \$60/year for low-income and \$90/year for very-low income ratepayers, with the same parameters as the Residential Affordable Water Program

**Senior Citizen Affordable Sewer Program:** \$106/year for those, by virtue of age, who are eligible for the real estate property tax exemption in Section 467 of the New York State Real Property Tax Law.

Property owners in the City of Buffalo are typically responsible for sewer rents and water bills. Tenants generally do not receive water or sewer bills directly.

## VI. Water Shutoffs in Buffalo

When customers cannot pay their water bills, Buffalo Water can threaten and complete water shutoffs for nonpayment. Even with some measures put in place to protect water ratepayers and provide options for repayment of water debt, there had been many shutoffs in Buffalo every year leading up to the COVID-19 pandemic.

To understand the scope of the shutoff issue in Buffalo, we analyzed one year of shutoff data from January to December 2019. The New York State moratorium on utility shutoffs began in March 2020. It concluded in December 2021, making 2019 the last full calendar year during which Buffalo Water completed shutoffs for nonpayment pre-pandemic.

Through Freedom of Information Law (FOIL) requests submitted by the Western New York Law Center, the Buffalo Water Board provided “Turn Off for Nonpayment” worksheets. These worksheets include thousands of scanned PDFs with important information, including:

- Address marked for shutoff
- Balance on account when marked for shutoff

These are all properties where shutoffs are attempted for nonpayment only, as opposed to structural or safety issues or requests.

Veolia distributes these worksheets to Department of Public Works (DPW) employees – direct City of Buffalo employees—who attempt the shutoffs. On the worksheet, the employees fill out additional critical information, including:

- The date of the attempt
- The occupancy status of the property (occupied, vacant, or unable to determine)
- The result of the attempt (turned off, found off, unable to be turned off, or not applicable)
- Additional notes if the shutoff was unable to be performed

An example of a “Turn Off for Nonpayment” worksheet can be found in Appendix A. Appendix B explains how we analyzed these worksheets.

Unless otherwise specified, the numbers below represent shutoff instances. At times, the same addresses or properties will experience attempted and even completed water shutoffs multiple times in one calendar year. While we removed accidental duplicates (for example, addresses with the same account/balance added to the same sheet twice), we included duplicate addresses separated by varying balances and differences in time.

In 2019, there were 8,490 attempted water shutoffs. A majority of these – over 62% - were at occupied properties.

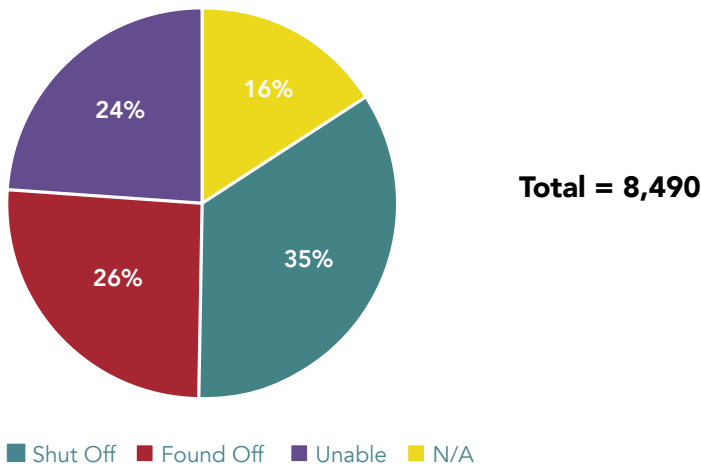
**In 2019, there were 8,490 attempted water shutoffs. A majority of these – over 62% - were at occupied properties.**

Ultimately, 2,932 of these attempts resulted in a successful shutoff (35%). An additional 2,166 were found off (26%), meaning the water service was already disconnected when the DPW employee attempted to perform a shutoff.

2,047 were unable to be turned off (24%).

The remaining 1,345 (16%) were labeled “N/A.”

2019 - CITY OF BUFFALO WATER SHUTOFF ATTEMPT RESULTS



“N/A” often indicates the shutoff was put on hold or canceled. While water service was supposed to be shut off, something postponed the shutoff—at least temporarily. This is another indicator many water customers are making last-minute and urgent appeals to keep their water service on, sometimes by making small payments or agreeing to enter repayment plans. Of the occupied properties that the DPW employees could not turn off, 873 were either put on hold (376) or canceled (497) between being added to the shutoff list and the attempted shutoff.

The median balance for these accounts was \$576.

Sometimes, physical barriers to the main water line valve - or curb stop - result in unsuccessful shutoffs. For example, of those cases marked as “unable to be turned off,” about 20% (397) had an object obstructing the box’s location, such as a parked car or tree. In an additional 18% (366), boxes had shifted underground or could not be located. Despite anecdotal arguments that residents stuff boxes with materials to avoid physical shutoffs, only 4.3% of water turnoff attempts were unsuccessful because of something stuffed in the box.

This is another indicator many water **customers are making last-minute and urgent appeals to keep their water service on**, sometimes by making small payments or agreeing to enter repayment plans.

For the rest of our analysis, we focused on instances where occupied properties experienced a shutoff. These totaled 2,518 shutoffs.

In these instances, balances owed ranged from \$185 to \$42,837 at the time of shutoff - 11% of shutoffs with account balances less than \$500. Nearly half (47%) of shutoffs occurred for balances under \$1,000.

Average Occupied Shutoff Balance: **\$2009**

Median Occupied Shutoff Balance: **\$1069**

RANGES OF BALANCES OWED:

	Shutoffs	Percentage of Total
<\$500	273	11%
\$501-1000	911	36%
\$1001-1500	421	17%
\$1501-2000	228	9%
\$2001-2500	144	6%
\$2500-3000	91	4%
\$3001+	450	18%

The breakdown by month is available in Appendix B.

As mentioned above, at times, water was successfully shut off multiple times at the same property:

- 304 experienced shutoffs twice
- 64 experienced shutoffs three times
- 9 experienced shutoffs four times

This still leaves 2,056 shutoffs at unique locations.

Moreover, this figure represents shutoffs in just one calendar year. While many households manage to have their water service restored after a shutoff, it's not uncommon for subsequent shutoffs to occur within the same year. In 2019, approximately 18% of occupied properties experienced at least two shutoffs. In these cases, the median duration between shutoffs was 92 days, roughly equivalent to the interval between quarterly water bills.

Disturbingly, in 101 instances, repeat shutoffs occurred even when customers owed less on their water bills than they did at time of the prior shutoff. For these customers, the median balance was \$182 lower than the previous shutoff, indicating that even those making progress in paying off their water debt may still face shutoffs.

In the remaining 361 cases, shutoffs at the same property happened when the customer owed more on the bill than during the previous occurrence, with a median difference of \$320.

While many households can get their water turned back on, **future shutoffs within the same year are not uncommon.**

## PROPERTY TYPE

To better understand the types of properties experiencing water shutoffs, we compared the list of occupied addresses that experienced shutoffs to the 2019 City of Buffalo Property Roll. We used the property roll to determine whether the property is owner or tenant-occupied based on the owner's primary mailing address.

We broke down types of properties into three categories:

- **Residential:** strictly residential use, including apartment buildings
- **Commercial:** strictly commercial use, such as businesses or warehouses
- **Mixed-use:** building services dual purpose, i.e., residential on the upper floors and businesses on the ground floor

The shutoff rates in owner versus tenant-occupied properties were about even – 51% were owner-occupied, and 49% were tenant-occupied.

Median balances at the time of shutoff, while slightly higher for tenant-occupied properties, were also similar: \$1030 for owner-occupied and \$1096 for tenant-occupied.

The overwhelming number of occupied properties that experienced a shutoff – nearly 95% - are residential (2374). Only 2% are commercial (48), and 3.7% are mixed (92). Additional details about median balances owed for these properties and the balances of tenant versus owner-occupied properties can be found in Appendix B.

These data suggest residential ratepayers are the most impacted by water shutoffs compared to commercial or mixed-use ratepayers.

Median balances owed are well over \$1,000 in all categories. Those who enter repayment plans are responsible for potential repayment plan charges and must remain current on their account. Because of this, once residents fall into water debt, it is often quite difficult for lower-income residents to pay back what they owe, especially if they amount penalties and interest.

These data suggest **residential ratepayers are the most impacted** by water shutoffs compared to commercial or mixed-use ratepayers.

## The Geography of Water Shutoffs

Buffalo has one of the highest urban poverty rates in the country.<sup>136</sup> It is also one of the most segregated cities in the United States.<sup>137</sup> In Erie County, 20% of the population identifies as Black alone, yet 37% of the City of Buffalo population identifies as Black only.<sup>138</sup> And, of those City of Buffalo residents who identify as Black alone, 72% live east of Main Street, in neighborhoods generally regarded as part of Buffalo's East Side.<sup>139</sup>

Racist policies and practices in the mid-20th century established and reinforced neighborhood segregation. Redlining, prevailing composition rules for federally funded housing, blockbusting, urban renewal, highway construction, disinvestment, and inequitable lending by financial institutions are just a few examples of racist policies that established and perpetuated residential segregation. Although legislation like the Community Reinvestment Act of 1977 has sought to address some of these practices, more subtle but equally detrimental versions persist to this day.<sup>140</sup>

Segregation continues to impact neighborhoods of color adversely. Law enforcement is more intense and invasive in racially segregated urban communities. People of color are the primary public transportation users, yet public transit does not reach nearly 60% of the area's jobs. Increased pollution, older housing stock, and more brownfields lead to adverse health outcomes that disproportionately affect people of color. Neighborhoods with concentrated poverty are also more likely to be predominantly occupied by residents of color. Poverty tends to be higher in neighborhoods of color.

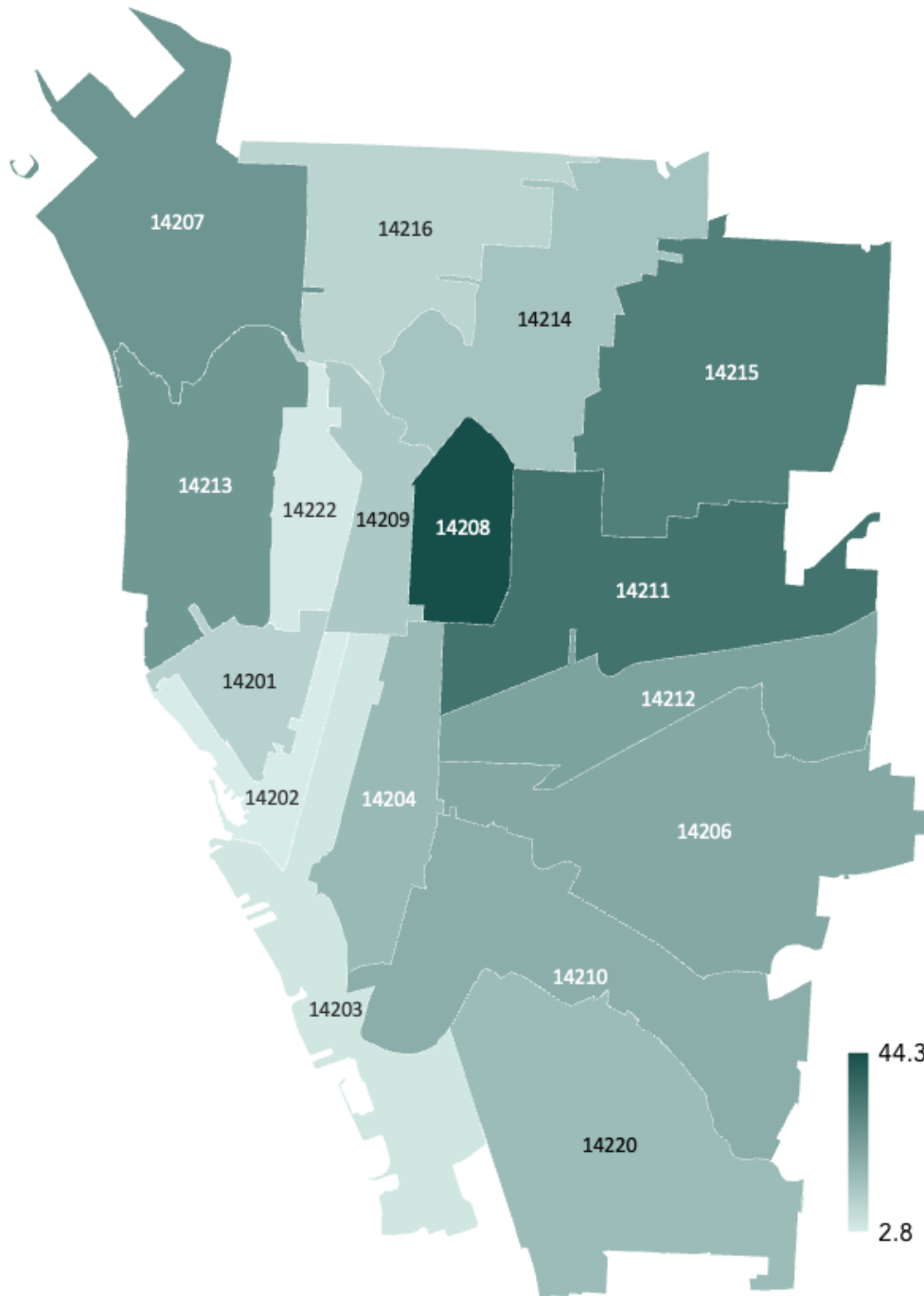
Because of Buffalo's persisting segregation, we wanted to provide an overview of the geographic distribution of water shutoffs. To do this, we focused on occupied residential and mixed-use properties that experienced a shutoff. This amounted to 2,463 properties. We mapped these addresses by zip code and calculated the rate of water shutoffs, defined as the number of shutoffs per thousand occupied households determined by 2019 American Community Survey data.<sup>141</sup>

The median rate of shutoffs for the entire City of Buffalo in 2019 was 18.3 per 1,000 occupied households.

Because of Buffalo's persisting segregation, we wanted to provide an **overview of the geographic distribution of water shutoffs.**



## Rate of Shutoffs per 1,000 Households by Zip Code



Zip Code		Rate/1,000 occupied households
14201	54	9.7
14202	5	2.8
14203	5	4.5
14204	67	16.2
14206	185	20.7
14207	240	25.7
14208	185	44.3
14209	46	12
14210	116	19.1
14211	329	34.9
14212	102	22.1
14213	227	24.8
14214	108	13.6
14215	530	31.7
14216	94	9.1
14220	147	15.4
14222	23	3.5

The highlighted rows in the table indicate the eight zip codes that fall above that median. The zip code with the highest rate is 14208 (44.3 shutoffs per 1,000 households), nearly 2.5 times the city’s median shutoff rate. Six of the eight zip codes are east of Main Street. The other two zip codes are on Buffalo’s West Side.

Racism and historically discriminatory policies have directly contributed to poverty, leading to economic disparities, restricted access to opportunities, and systemic barriers that disproportionately affect communities of color, especially Black and brown communities.<sup>142</sup>

The following table contains demographic data from the 2019 American Community Survey 5-year datasets:

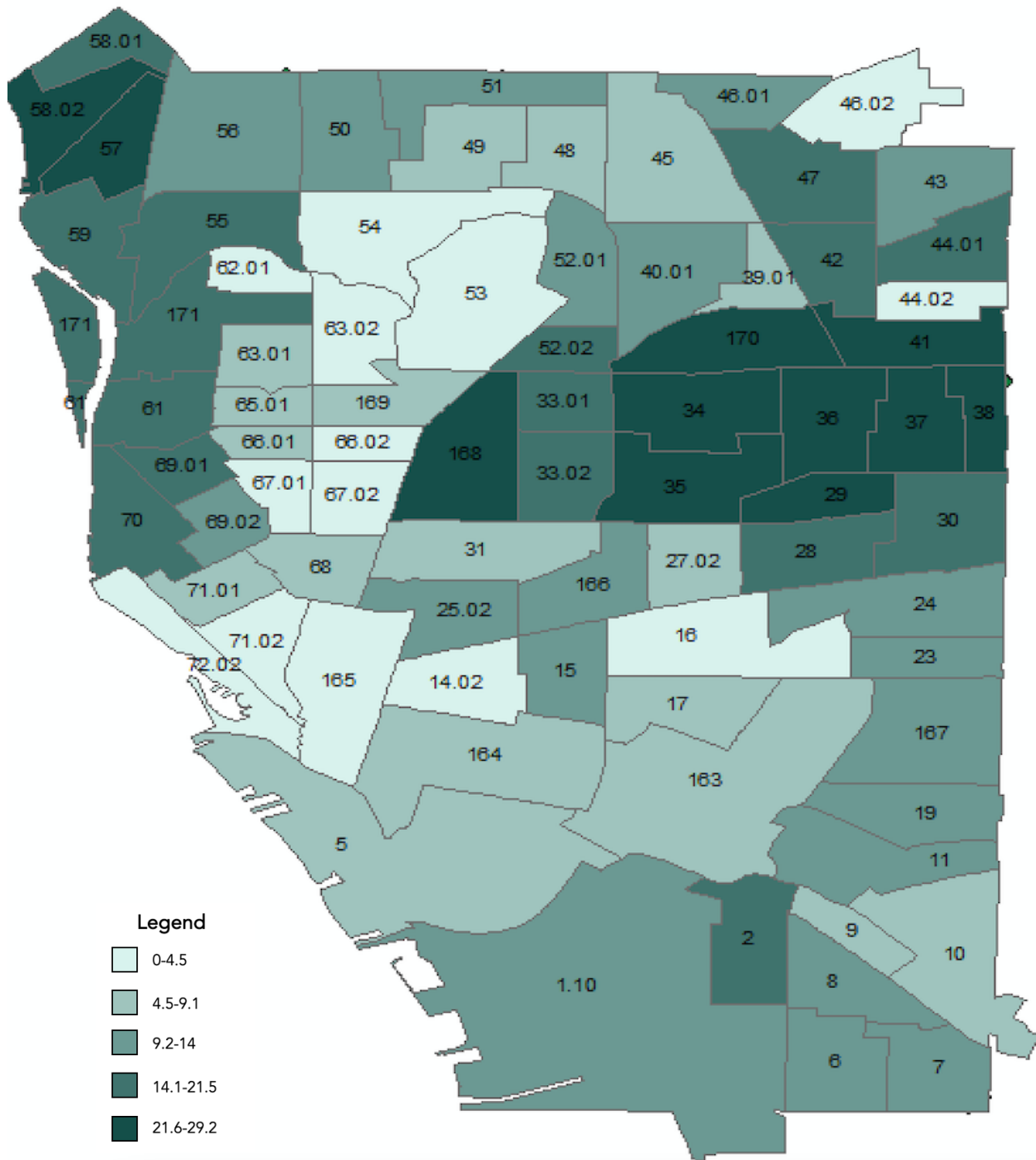
Race	% of Overall Population	% Below the Poverty Level	% of Racial Group within the Poverty Population
White (not including Latinx/Hispanic)	43%	19%	27%
Black	37%	35%	43%
Latinx/Hispanic	12%	42%	17%

Maps that display the distribution of Buffalo’s Black population, its population of color, and its population below the poverty level are available in Appendix C.

The map on the following page shows the rate of shutoffs per 1,000 occupied households by Census Tract. The Census Tracts are labeled on the map.

**Racism and historically discriminatory policies have directly contributed to poverty, leading to economic disparities, restricted access to opportunities, and systemic barriers that disproportionately affect communities.**

## Rate of Shutoffs per 1,000 Households by Census Tract



## EXTREME OUTCOME: WATER DEBT FORECLOSURES

Water debt can be turned into a lien on a property as outlined in the Buffalo City Charter and the Buffalo Water Board Regulations.<sup>143</sup> Using liens this way is common in cities across the United States, and case law supports its legality.<sup>144</sup>

Housing justice advocates have long criticized this practice, arguing that water is not just a utility but a human right. Using liens can be predatory; when a city forecloses on homes, the city can often profit from selling these homes via an auction.

Further, many cities negotiate bulk sales of liens to private companies. Again, these liens include debt from unpaid water bills. Private companies will pay a lump sum to acquire liens. They are then responsible for collecting the value of these liens from the property owners. The private company becomes the property owner if the property gets foreclosed on. For example, in Erie County in 2007, Xpand, a bulk lien purchaser, paid over 100% of the total lien value of a group of properties because they were expecting to recover the base value of the liens, along with an 18% penalty rate.<sup>145</sup>

This issue is also prevalent in Chicago, Cleveland, New York City, and Baltimore.<sup>146</sup> Property owners facing foreclosure may not be aware of their rights and may find it challenging to navigate the complex debt collection procedures.<sup>147</sup> These cities often resort to one-size-fits-all solutions such as attempting to enroll debtors into City-run repayment plans without considering individual circumstances or reviewing claims.<sup>148</sup>

Once property owners fall into debt, they frequently encounter steep penalties, fees, and costs, including covering attorney fees for the City.<sup>149</sup> Additionally, when a municipality initiates a foreclosure process on a home, the property owner is held responsible for foreclosure fees. These added expenses can sometimes surpass the original debt itself.

Property owners took proper steps to disconnect water service in a vacant property in other cases, but water charges continued. Years later, property owners were alarmed to see mounting charges for water service and late fees, penalties, and interest on the “unpaid bills.” This can result in foreclosure.<sup>150</sup>

Some properties have been foreclosed on because of disputed water bills. This can happen when electronic metering systems incorrectly read water usage, and the discrepancies go unresolved, sometimes after years of documented appeals.<sup>151</sup> In 2007, numerous inaccuracies in water bills distributed by the then-contracted company American Water Services raised the alarm among City of Buffalo officials. While they paused foreclosing on water-only properties in 2008, they resumed in 2009. They later adopted more leniency when negotiating payment plans for

Using liens can be predatory; when a city forecloses on homes, the city can often profit from selling these homes via an auction.

Property owners facing foreclosure may **not be aware of their rights** and may find it **challenging to navigate the complex debt collection procedures.**

foreclosed properties with water-only debt.<sup>152</sup> According to a response to a FOIL request submitted by PPG to the City of Buffalo Department of Assessment and Taxation received in October 2023, “the last in Rem auction on which water arrears were included as a foreclosable item as in Rem 43, conducted in 2009.”

Advocates are working to reduce the impact of this issue. Legislatures have often proposed temporary moratoriums on foreclosures for water debt. In Ohio, the proposed state senate bill 193, first introduced in 2021, includes a permanent ban on placing a lien on a property for unpaid water charges.<sup>153</sup>

### Mike's Story

Water disconnections impacted Buffalo residents daily before the COVID-19 moratorium on utility shutoffs. Far too often, socioeconomic circumstances force Buffalo residents to choose which necessary expenses they can afford to pay. Mike's story is just one of thousands of everyday people experiencing this issue. Mike initially shared his story publicly during advocacy efforts to ban water shutoffs during the COVID-19 State of Emergency.

Mike and other advocates were ultimately successful in getting the ban passed.

Mike lived without water for almost a year and a half. For most people, this seems unfathomable. But it was Mike's reality. Nearly 70 years old and a Vietnam War veteran, Mike suffered a stroke in 2018 and could not work for six months. He also has COPD and diabetes. Mike used his limited income to cover his mortgage and car insurance.

His car was essential to get to the V.A. hospital, across town from where he lives, for treatment. Mike would buy gallons of water, which he would then use for cooking and bathing. To flush his toilet, Mike would collect rainwater from the roof.

Mike was able to get his water turned back on as part of the statewide utility shutoff moratorium. However, without protections against shutoffs, residents like Mike may be put in the same difficult position again, choosing between

## VII. Addressing Water Debt and Affordability in Buffalo and Beyond

In March 2020, a COVID-19 State of Emergency began in New York, and stay-at-home orders and social distancing recommendations confined people to their homes. Concern for residents without water grew, as consistent access to water was crucial for staying safe and healthy.

As soon as stay-at-home orders went into effect, a group of nonprofits in Buffalo made a collaborative appeal to Buffalo Water and the City of Buffalo to pause shutoffs and proactively turn on water that had been previously disconnected free of charge. Over sixty organizations signed on, yet it took considerable effort to get Buffalo Water to answer the plea. An executive order signed by Governor Andrew Cuomo pausing shutoffs soon followed.<sup>154</sup>

Many residents with disconnected water services could only have them restored due to COVID-19-related policies and protections. Buffalo Water customers could call to have their water service reinstated at no cost.

As of March 2021, there were over 19,600 accounts with substantial water debt balances. However, by April 1, 2021, only about 1,000 accounts had enrolled in payment plans. Five hundred were initiated as "COVID Payment Plans" in response to the pandemic.<sup>155</sup> (Additional information about these plans is on [page 42](#)). As of June 2021, Buffalo Water was

Three cities in particular—Chicago, Philadelphia, and Baltimore—have taken a **more progressive approach to enacting long-term water affordability.**

owed over \$26.7 million in water debt, comprising both commercial and residential accounts, based on data obtained through a FOIL request.

In July 2021, Buffalo Mayor Byron Brown announced the allocation of nearly \$13 million in American Rescue Plan funding to eliminate all water debt in Buffalo, enabling Buffalo Water customers to start with a clean slate. Mayor Brown also announced the cessation of water shutoffs for nonpayment. The City planned to enlist a third-party consulting agency to work directly with customers to manage their water needs.<sup>156</sup> Additionally, the City's draft American Rescue Plan spending proposal initially allocated \$40 million (recently reduced to \$26 million) for a Smart Sewer and Water Infrastructure Buildout, an investment in Buffalo's sewer and water infrastructure.<sup>157</sup>

While these announcements initially represented promising steps toward water equity and justice, the subsequent misuse and reallocation of funds intended for water debt forgiveness have undermined these commitments. This reversal highlights the need for stronger accountability and oversight in implementing policies aimed at ensuring long-term water affordability.

The City has also not taken sufficient steps to ensure long-term affordability, such as implementing equitable water pricing plans for low-income households.

We aim to highlight other cities' initiatives to address water affordability and equity. We will also assess Buffalo's existing water affordability programs and offer recommendations for enhancing water equity in the future.

## What are other cities doing?

Cities across the country are taking varied approaches to water affordability. Three cities in particular—Chicago, Philadelphia, and Baltimore—have taken a more progressive approach to enacting long-term water affordability. These cities developed these policies pre-COVID and had rolling implementation before and after the onset of the pandemic.

### PHILADELPHIA: TIERED ASSISTANCE WATER BILL PROGRAM (TAP) (2017)

Philadelphia was the first city in the nation to establish tiered water costs based on income. Before 2015, Philadelphia attempted to address water affordability by administering grants and fixed bill amounts for 12-month periods. Yet, almost half of all applications were denied. If customers used more water than the set amount, the difference in cost was added to their water debt, increasing participant water debt by an average of 25% from 2009 to 2012.<sup>158</sup>

In 2015, Philadelphia passed legislation to create the Water Tiered Assistance Program. The program, launched in 2017, assists residents who fall at or below 150% of the Federal Poverty Level.<sup>159</sup> It offers qualifying

In July 2021, Buffalo Mayor Byron Brown announced nearly **\$13 million in American Rescue Plan funding will be used to absolve all water debt in Buffalo** and allow Buffalo Water customers to start on a clean slate.

Other cities, like Buffalo, offer lower-income residents subsidies, where **qualifying low-income residents may get a flat discount** on their quarterly bills.

residents a consistent monthly bill based on income, decreasing their water bills and establishing a consistent bill month-to-month.<sup>160</sup>

Residents must apply to participate in this program and not be in water-related debt to enroll.

### **CHICAGO: UTILITY BILLING RELIEF PROGRAM (2020)**

For over a decade, Chicago witnessed a rapid increase in water rates. From 2008 to 2018, water costs in Chicago nearly doubled. A comprehensive report on water equity in Northeastern Illinois highlighted a significant water burden among residents throughout the region. The report issued a call to action to address these inequities.<sup>161</sup>

On March 1, 2020, the City of Chicago introduced the Utility Billing Relief Program. This initiative enables qualifying low-income Chicago residents to pay a reduced rate, specifically a 50% reduction, on their water bills. Participants in this program are exempt from late fees, and their water service will not be disconnected. Moreover, suppose residents successfully maintain payments for one year with no past-due balance. In that case, Chicago will forgive all their existing water debt.<sup>162</sup>

To join the program, residents must actively sign up; there is no automatic enrollment. Additionally, recent adjustments to income eligibility include a 30-day income limit for program participation.<sup>163</sup>

### **BALTIMORE: WATER ACCOUNTABILITY AND EQUITY ACT (JULY 2021)**

After years of advocacy, the Water Accountability and Equity Act was passed in November 2019 and signed into law in January 2020. This program assists residents at or below 200% of the Federal Poverty Level.

The Act limits water costs based on household income relative to the federal poverty level. For example, households at or below 50% of the poverty level pay no more than 1% of their income on water, while those between 100% and 200% pay no more than 3%.<sup>164</sup>

This program extends support to tenants as well. In Baltimore, tenants are often responsible for water payments through allocated metering systems. Homeowners receive the credit directly on their bill, while tenants are reimbursed by check.<sup>165</sup>

Additionally, the Act established the Office of Water-Customer Advocacy, which aims to fairly address billing disputes and connect water customers with relevant social services.<sup>166</sup>

The program went into effect July 1, 2021, following a one-year delay due to the COVID-19 pandemic.

### **OTHER PROGRAMS**



Other cities, like Buffalo, offer lower-income residents subsidies, where qualifying low-income residents may get a flat discount on their quarterly bills.

Cities like Louisville, Kentucky, have implemented programs in the wake of COVID-19 to help relieve residents of their water debt. After noticing accounts in arrears increased by nearly 10,000 – from an average of 2,000 pre-COVID – Louisville developed a program called Drops of Kindness. In this program, residents in need work directly with Louisville Water to create a payment plan that works for their needs. Additionally, as customers pay off their water arrears, the Louisville Water Foundation will match those payments to help them pay off their debt more quickly.<sup>167</sup>

## What about Buffalo?

In 2019, the U.S. Water Alliance included Buffalo in its Water Equity Task Force, a conglomerate of teams representing cities nationwide. The Task Force aims to advance the understanding of “challenges, opportunities, and promising interventions to promote equitable water management.”<sup>168</sup>

The Water Equity Task Force’s report on Buffalo highlights challenges, promising practices, and priority actions for water affordability, quality, infrastructure, workforce development, and waterfronts. The Task Force concludes that “both drinking water and sewer rates are unaffordable to some segments of the population, especially those on fixed incomes, like the elderly or low-income individuals.”<sup>169</sup> Rising rents and other expenses and utilities contribute to this unaffordability.<sup>170</sup> Rising rents and other expenses and utilities contribute to this unaffordability. The Task Force published the report in 2019, before recent surges in rent and other expenses. It acknowledges housing cost burdens more heavily impact people of color. Therefore, people of color are also more affected by water and sewer cost burdens.

To our knowledge, the City of Buffalo has not yet implemented many of the Task Force’s recommendations.

Most recently, Buffalo has implemented Pathways to Affordable Water (PAW), a series of programs designed to assist residents having trouble affording their water bills. PAW includes several programs, the most notable of which are:

### RESIDENTIAL AFFORDABLE WATER PROGRAM

- Qualifying residents – based on income - can save between \$82 and \$112 on their water bill per year
- Low-income qualifying residents must apply for these bill credits
- Must apply annually
- Households considered automatically eligible if the household contains a member who receives public assistance benefits like HEAP, SSI, or SNAP
- Income qualifiers:<sup>171</sup>

Household Size	Low Income	Very Low Income
1	\$41,850	\$26,150
2	\$47,800	\$29,900
4	\$59,750	\$37,350
6	\$69,350	\$43,350

Most recently, Buffalo has implemented Pathways to Affordable Water (PAW), a series of programs **designed to assist residents having trouble affording their water bills.**

### LOW-INCOME SENIOR DISCOUNT

- Available for low-income seniors over 65 years of age earning less than \$37,399 per year
- Sliding scale discount between 5% and 50%
- Must apply annually

Other available programs include:

- Extended repayment periods
- Interest charge suspension
- Monthly billing option
- Leak abatement program

During 2020 and 2021, Buffalo Water also established the Water Amnesty Program, which was active through December 21, 2021:

- Temporary program created in response to COVID-19 pandemic
- Waived interest and penalties, meter fees, and charges for burst meters
- Homeowner must sign up for a 12-month repayment plan for past-due balances
- Advanced reading technology meter installed
- Automatic monthly billing required

Although this program has expired, Buffalo Water offers circumstantial deferred payment agreements.

### NEW YORK STATE LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM (LIHWAP)

This new program, which began in October 2022, provides money to eligible low-income households in New York State to assist with water and sewer arrears. The program offers a maximum of \$2,500 per water or sewer customer or up to \$5,000 if water and sewer services are combined. Applicants apply through New York State's Office of Temporary and Disability Assistance.<sup>172</sup> While the program provided more than \$3.6 million to help over 2,700 Buffalo Water customers with their water and sewer bills, applications closed in September 2023.<sup>173</sup>

### NEW YORK STATE BUFFALO EAST HOMEOWNER ASSISTANCE FUND (BEHAF)

In August 2022, New York State Governor Kathy Hochul introduced a homeowner assistance fund specifically for residents in East Side zip codes. The fund is available to owners of one- to four-family homes who occupy these properties as their primary residence. Eligible applicants can receive up to \$50,000 to cover housing-related expenses, including mortgage payments, taxes, water and sewer fees, and garbage taxes. Notably, there are no income limitations for this program.<sup>174</sup> Through March 2024,

Veolia has received over \$4.6 million from this fund, assisting over 2,200 customers.<sup>175</sup>

Beyond these state and local programs, Buffalo has taken additional steps to address the water affordability crisis, intending to implement some significant and progressive plans soon. In a July 2021 press conference, Mayor Byron Brown stated over 30,000 water accounts in Buffalo were in arrears, including residential and commercial accounts.<sup>176</sup> This value is consistent with our findings and documents sent via FOIL requests. The press conference announced two notable changes:

- 1) The City of Buffalo will no longer shut off water for nonpayment and
- 2) The City of Buffalo will use \$13 million in American Rescue Plan funding to eliminate water debt for qualified customers, including “low-income families and customers who fell behind on bills due to a COVID-19 illness.”<sup>177</sup> Qualifying accounts must have been two quarters or more past due or over \$300 in arrears. However, the City of Buffalo has not followed through with its original commitments.

#### **WATER DEBT FORGIVENESS PROGRAM: WHAT DO WE KNOW SO FAR?**

Initially, Buffalo’s American Rescue Plan (ARP) documentation released in August 2021 outlined a \$13 million allocation for a Water Debt Forgiveness Program, stating “this will reduce the debt burden of approximately 33,000 low-income residents, a disproportionately high number of whom are residents of color.”<sup>178</sup> It also stated residents would not have to apply for this program. Despite these promises, the City did little to publicize or provide clarity about the program.

In October 2024, Buffalo Water Board Chair McFoy assured the Buffalo Common Council the program was active, residents had applied for assistance, and funds were spent as intended. However, he made conflicting statements, first claiming arrears had decreased for residents, then stating arrears had increased.<sup>179</sup> Recent revelations contradict McFoy’s claims. As of December 2024, none of the \$13 million allocated for water debt forgiveness appears to have been spent toward such, according to Freedom of Information Law (FOIL) requests. Instead, \$11 million of the original allocation was quietly redirected to capital improvement projects for water infrastructure -an action taken without seeking required approval from the Common Council.<sup>180</sup>

City officials led by Acting Mayor Chris Scanlon retroactively requested - and received - the Common Council’s endorsement to approve the movement and spending of funds that had already been redirected and potentially spent. Further concerns remain, as the total reallocated amount (\$11 million) does not match the original budgeted amount (\$13 million).

In a July 2021 press conference, Mayor Byron Brown stated **over 30,000 water accounts in Buffalo were in arrears, including residential and commercial accounts.**

Until December 2024, Buffalo’s American Rescue Plan funding documentation **included water debt forgiveness.**

While the Water Debt Forgiveness program was still planned, a Request for Proposals (RFP) was put out in late 2021, looking for a private contractor to manage the debt forgiveness program. Currently, Buffalo Water contracts with GHD Consulting Services, Inc., a third-party company with a global footprint focusing on solving environmental challenges, including water.<sup>181</sup> Buffalo’s representative from GHD shared they interviewed two respondents to the RFP, and the Water Board authorized them to move into the “final scope of services negotiations with Promise Network, Inc.”<sup>182</sup> They are currently overseeing applications for low-income water bill rebates, interest-free payment plans, and other one time grants and credits.<sup>183</sup>

### WHAT IS PROMISE NETWORK, INC.?

Promise Network, Inc. is a company specializing in flexible payment solutions for government debts through its PromisePay app and website platform. It defines its services across three areas:

#### 1. Utilities

“... increases revenue for utilities by helping their customers tackle existing debt and avoid service interruptions” through flexible payment plans, relief distribution, and a relief portal that integrates seamlessly with existing online platforms.

#### 2. Criminal Justice

“... works within the criminal justice system...” and provides products that increase “rates of compliance” and reduce costs of collection and service for government agencies.

#### 3. Transportation

“... helps cities increase payments on uncollected parking citations and toll debt” through flexible payment plans and an online relief portal.

Promise is also contracted with the Louisville Water Company to assist residents facing water bill arrears. A report by the U.S. Water Alliance reveals that 93% of payment plan customers successfully maintain their bill payments in Louisville, a significant increase from the 20% rate before partnering with Promise. Furthermore, Promise distributed \$4 million in water debt relief to Louisville Water customers within a few months. Promise engaged in direct outreach to inform debt-ridden customers about the debt relief opportunity and facilitated a straightforward income self-certification application process.<sup>184</sup>

In Buffalo, Promise Network began its collaboration in February 2022.<sup>185</sup> As of December 2024, checking eligibility and applying for water assistance via Get Water Wise has been redirected to PromisePay’s Buffalo Water landing page.<sup>186</sup> Users can access their account balance

and determine eligibility for existing assistance programs by entering their account details. According to the Buffalo Water F.A.Q., eligible Buffalo Water customers with a past-due balance of \$250 or more can avail themselves of 0% interest payment plans managed by PromisePay.<sup>187</sup> Buffalo Water’s website does not share details about their contract with PromisePay.

Throughout 2023-2024 fiscal year, Veolia stated the Promise Pay program has helped Buffalo Water customers pay off almost \$800,000 in debt.<sup>188</sup>

### ADDRESSING INCONSISTENCIES

There were concerns throughout the planning and implementation of ARP funds for debt forgiveness as well as the elimination of water shutoffs.

First, resolutions passed in July 2021 by the Buffalo Water Board and Buffalo Sewer Authority state water shutoffs can resume since the statewide shutoff moratorium lapsed in December 2021.<sup>189</sup> This implies a lack of a clear plan to eliminate water shutoffs, despite explicit statements from city officials, including Mayor Brown, assuring Buffalo residents that they would no longer face water shutoffs for nonpayment.<sup>190</sup>

Moreover, both resolutions outline eligibility criteria that directly contradict the information presented in the Recovery Plan. While the resolutions consistently state that qualifying residents must be either two quarters or \$300 in arrears, they must also meet eligibility requirements under the American Rescue Plan’s Rental Assistance Program and the Homeowner Assistance Fund. The resolutions additionally mention that customers “may be required to submit supporting documentation to demonstrate eligibility.”<sup>191</sup>

In contrast, the Recovery Plan did not specify any eligibility requirements, clearly stating that residents would not be required to apply for the program.

### ARP FUNDING CONCERNS - 2023-2024

In July 2023, PPG and partners submitted a complaint to the Department of the Treasury Inspector General seeking an investigation into the allocation of American Rescue Plan (ARP) funds by the City of Buffalo. This action stems from evidence suggesting that the City of Buffalo mismanaged the Request for Proposals (RFP) process for ARP funds, thus violating the federal procurement rules it must adhere to.<sup>192</sup>

PPG and partners filed the complaint partially in response to the Brown Administration’s request to redirect nearly \$52 million in budgeted funds from community initiatives, such as Community Food Security, the Public Health Equity Initiative, the Neal Dobbins Restorative Justice and Public Safety Fund, and the Smart Sewer Infrastructure Buildout, toward

**There are inconsistencies** between the press conference announcements, what appears in the Recovery Plan and subsequent supporting documents, and the resolutions passed in July 2021 by the Buffalo Water Board and the Buffalo Sewer Authority.

“revenue replacement” for the city budget.<sup>193</sup>

The City of Buffalo’s ARP budget initially allocated \$40 million for the Smart Sewer Infrastructure Buildout. However, in July 2023, the Buffalo Common Council approved reallocations for revenue replacement, cutting \$14 million from the project and leaving it with \$26 million. The City of Buffalo has yet to provide further details on how these budget cuts will impact the Smart Sewer Infrastructure Buildout project’s goals or implementation.

These funding concerns also cast doubt on whether other projects initially outlined in the City’s original ARP budget will be upheld. The budget still includes \$13 million for water debt forgiveness, but no public implementation plan exists more than three years after the budget proposal.

In October 2024, Water Board Chairperson McFoy informed the Buffalo Common Council that \$11 million in ARP funds for water and sewer arrears had been fully spent and were made available to Buffalo Water customers through an application process.<sup>194</sup> No application process or expenditure records appear on Buffalo Water’s website or in meeting minutes. Notably, the Q3 2024 ARP Project and Expenditure Report, released in November 2024, lists the water debt forgiveness allocation at \$11.46, a reduction of nearly \$2 million compared to the original budget amount.

Despite this apparent decrease, there is no record of an amendment to the city’s ARP budget reflecting this change, nor has the city clarified how these funds were used. Moreover, the Project and Expenditure Report lists the water debt forgiveness project as “not started,” further contradicting Chairperson McFoy’s statement that all allocated funds had already been spent. The report cites delays due to the duplicative state utility assistance funds which have become available in recent years.<sup>195</sup>

PPG submitted a FOIL request seeking additional information on ARP spending, including for water arrears forgiveness. The response showed \$0 had been spent on the water debt forgiveness program.

Subsequent developments revealed the Water Debt Forgiveness Program was canceled altogether. Contrary to McFoy’s statements, no ARP funds were actually spent on water debt relief. Instead, \$11 million of the originally allocated \$13 million was quietly redirected to water capital improvement projects without the Common Council’s required approval, leaving \$2 million unaccounted for. The only documentation made available about this shift in funding was an email sent from former

These funding concerns **raise questions about whether other projects** initially outlined in the City’s original ARP budget **will be upheld.**

Commissioner of Finance Delano Dowell to Water Board Chair McFoy in April 2024.<sup>196</sup> This was released only after Chair McFoy was questioned about whether the funds were already moved.

These revaluations have raised significant concerns about transparency and accountability. The Buffalo Common Council and Acting Mayor Chris Scanlon expressed concern when made aware of this “misuse” of funds.<sup>197</sup> On a special session vote on December 23, 2024, the Council voted 6-3 affirmative to codify the reallocation of the \$11M, effectively ending ARP funding for water debt forgiveness.<sup>198</sup>

These revaluations have **raised significant concerns** about **transparency and accountability**.



## VIII. Recommendations

The information included in this report outlines the national issue of water affordability. Water has become increasingly unaffordable, water debt is increasing, and existing programs do not do enough to address this issue at its root. Stories from across the country demonstrate the predatory nature of water debt and affiliated fees. These costs negatively impact low-income residents who face increased debt, water shutoffs, and even foreclosures.

Although Buffalo Water has taken many steps to improve this situation in Buffalo, it can do much more. If implemented, these recommended policies can ease the burden of water debt, reduce—if not eliminate—the threat of water shutoff, and achieve long-term, sustainable water affordability for all residents of Buffalo.

We intend these recommendations to serve as a starting point for action on rethinking water affordability in Buffalo. Implementing any of these recommendations must involve extensive opportunities for input and involvement from Buffalo residents, especially those most impacted by unaffordable water costs.

### 1. Make Water Data Transparent

Data collected for this report has made clear the need for more accessible and transparent availability of utility data. It is impossible to understand the scope of utility-related issues without readily available – and easy-to-interpret – data. Developing comprehensive policies addressing concerns unique to each affected geography is essential. Currently, most municipalities (a) do not collect data in a way that makes it easy to share, and (b) are not easily able to provide data when asked. Statewide legislation can change this.

In 2022, the New York State Assembly and Senate passed A.7554/S.5451B, requiring the Department of Public Service to generate two reports on the effect of COVID-19 on certain utilities – including water and wastewater - and the affordability of services.<sup>199</sup>

This bill requires essential data reporting, including:

- Number of customers in arrears, how long they've owed money, and how much they owe
- Number of customers who have applied for and who have received assistance
- Number of customers who became eligible for service disconnection due to nonpayment but who have not had their service disconnected
- Number of liens on real property due to nonpayment of utilities
- Number of disconnection notices due to nonpayment

In November 2022, Gov. Hochul vetoed the bill, not because of the bill's

Water has become increasingly unaffordable, water debt is increasing, and existing programs do not do enough to address this issue at its root.

We urge the City of Buffalo to lead the state by establishing a **data transparency portal** on which regularly updated information can be available for public access.

content but due to implementation costs.<sup>200</sup> This caused an outcry among environmental advocates and government officials alike.<sup>201</sup> The bill was reintroduced in the 2023-2024 legislative session as S1293/A4573, where it passed the Senate in May 2023 and was sent to Assembly where it died in January 2024.<sup>202</sup>

Statewide advocates agree data transparency and availability are pivotal in crafting effective solutions. We urge state legislators to continue to advocate for consistent utilities reporting, including water, as our neighbors in New Jersey have already established.<sup>203</sup>

Additionally, any city committing itself to water affordability should have a plan to share data on program effectiveness efficiently. We urge the City of Buffalo to lead the state by establishing a data transparency portal on which regularly updated information can be available for public access.

## 2. Forgive Water Debt

Forgiving water debt is perhaps the costliest yet most impactful way to promote water affordability. Unresolved debt represents the largest barrier for water customers to regain financial stability and consistently pay for water and sewer services. Water agencies spend significant time and money attempting to collect from past-due accounts, yet many residents simply cannot make consistent payments; if they do, they often fall behind once new bills accumulate on top of existing debt. While addressing ongoing water affordability is crucial, tackling existing water debt is also essential to achieving water justice and equity.

Municipalities can use state, federal, and local funding to contribute toward debt forgiveness. Buffalo planned to commit \$13 million in American Rescue Plan funds to a comprehensive debt forgiveness program; however, these funds were misused and improperly reallocated to water capital improvement projects. The Common Council ultimately approved this amended use to avoid having to return funds to the federal government.

We urge the Common Council and the current City administration to thoroughly investigate how the \$11 million were spent and to clarify where the missing \$2 million went. We also urge the City to reflect on the ongoing need for water debt forgiveness and explore methods to waive water debt, particularly for ratepayers with the highest levels of need.

## 3. Establish an Advocacy Office for Water-Related Issues

Many clients who contacted the Western New York Law Center and other local legal advocacy organizations were unaware of their rights and confused by the complexities of their water bills, including interest and penalty charges.

The City of Buffalo should establish an independent Advocacy Office to address resident water concerns. This office should operate separately from the Water Board, with oversight from the Common Council. Members of the Advocacy Office should proactively work with residents to connect them with affordability programs, establish payment plans, review and explain bill charges, and offer guidance in potential shutoff situations.

Given the limited time for customers to dispute charges under the current policy, the Advocacy Office should maintain direct communication with the Water Board and the Department of Public Works Commissioner when customers approach them with billing concerns. This setup would provide the Advocacy Office adequate time to thoroughly investigate and address billing issues and disputes.

#### 4. Make Billing Clear and Fair

Once interest and penalty charges pile up on water bills, it is challenging to interpret these bills. Currently, Buffalo water bills and ledgers are unclear. Line items on ledgers document “fees,” “interest,” and “penalties,” but do not note the origin of these charges. For this report, we tried to detangle several bills for water customers in debt. After working with Buffalo Water billing and even professional accountants, we conclude the charges can be nearly impossible to assess and explain.<sup>204</sup>

Any charges added to a water bill—including interest, penalties, and fees—should be clearly labeled on any water bills or charge ledgers. Buffalo Water should then send these bills and ledgers to water customers. Customers must be able to easily understand where all charges come from and what they’re responsible for paying. Any interest charges listed should also provide the applicable rates and timeframes over which the interest has accumulated.

These changes are particularly important for customers at risk of a shutoff. Existing water bills do not meet these criteria.

#### 5. Create Income-Based Water Rates

Ensuring ongoing water affordability is a critical component of achieving long-term water equity. Currently, low-income residents qualify for rebates on their water bills. Still, experts suggest that income caps would be a more effective means of establishing permanent affordability for water.

Traditionally, water affordability is calculated as a percentage of household income. As discussed on [page 14](#), relying on the median income of a service area can be ineffective, as it may not consider outliers. For instance, in Buffalo, the median income of zip code 14222 dramatically differs from that of 14208. Yet, water costs for residents in these areas remain the same, except for flat-rate rebates that some residents may qualify for. A more equitable approach could break down incomes into quintiles (see [page 11](#)), capping water prices at reasonable percentages for lower-income residents.

Customers must be able to easily understand where all charges come from and **what they’re responsible for paying.**

Other cities have successfully implemented income brackets to determine water costs. For example, Baltimore’s Water Accountability and Equity Act ensures that households with annual incomes below the poverty line pay no more than 1% of their income for water.

Once the City of Buffalo reveals more details about its water debt forgiveness program, it should develop a plan to ensure future water and sewer costs remain affordable for all residents, particularly those with low incomes. This could involve bringing in an independent, nationally recognized consultant to conduct a water affordability study, emphasizing soliciting extensive and accessible community input.

Often, utility providers raise rates to fund infrastructure improvements, which is also the case in Buffalo due to its aging infrastructure. While the City initially allocated \$40 million from its American Rescue Plan funding for the Smart Sewer and Infrastructure Buildout project, a decision by the Brown Administration redirected \$14 million of this allocation, leaving \$26 million for the project, as detailed on [page 47](#). The Buffalo Water Board must assess how this change in funding will impact ongoing infrastructure improvement costs and needs. This presents an opportunity for the City to identify ways to alleviate the financial burden of water and sewage costs for low-income residents.<sup>205</sup>

## 6. End Residential Water Shutoffs

Low-income residents should not have to fear a water shutoff constantly. We commend Mayor Brown for stating that water shutoffs will end in Buffalo.<sup>206</sup> While this statement is hopeful, it is only possible to enforce with law or policy establishing it. We urge Buffalo Water to confirm this policy change.

If Buffalo Water is not ending shutoffs, it should have clear guidelines about the circumstances in which shutoffs will happen. A year of shutoff data shows no decisive factors determining when Buffalo Water will terminate water service. While the Buffalo Water Regulations outline why they can terminate water service, the reality of shutoffs is complicated. The shutoff data show balances owed at the time of shutoff vary widely, making the process seem much more arbitrary than existing documentation would suggest.

There should be procedural safeguards to protect people at risk of water shutoff. Those protections should include a notice of the proposed shutoff at least 30 days in advance and a detailed statement enumerating and explaining all monies allegedly owed. This statement should also explain and itemize any penalties, fees, or other charges imposed.

Before shutoff, consumers should be entitled to a hearing where they can present documentation or other evidence explaining why Buffalo Water should not shut their water off. Ideally, customers should have the right to

The City should consider this investment as an opportunity to **identify ways water and sewage cost burdens can be eased for residents, particularly low-income residents.**

appeal the decision in the initial hearing.

## 7. Provide Meaningful Notice of Water Rights Established Under Local, State, and Federal Laws

Buffalo Water is legally obligated to inform customers of their rights under the law. Buffalo Water must establish more explicit methods of communication with its customers when local, state, or federal laws change or customers' rights are modified. These include rights to payment plans, access to affordability programs established by Buffalo Water, rights offered under state law, criteria for a potential water shutoff if applicable, and protections customers have if they are at risk of a water shutoff.

We encourage Buffalo Water to use multiple forms of communication to share water rights with customers, including direct mail, email, phone, and website communication. We also urge Buffalo Water to communicate more proactively with its customers.

## 8. Eliminate Foreclosure for Water-Only Debt

Buffalo Water customers can enter payment plans to repay their water debt. However, debt can add up quickly when penalties, interest, and other fees are involved. In extreme cases, the City can place liens on a property, which can then be foreclosed on and put up for auction.

Other municipalities and states have taken steps to reduce and eliminate the risk of foreclosure solely due to water debt. Although Buffalo has not foreclosed on properties solely for water debt in 15 years, this policy is not yet codified. The City of Buffalo should enact legislation to formally eliminate foreclosures on properties with water-only debt. By doing so, Buffalo can set a precedent and serve as a model for future New York State laws.

The City of Buffalo should stop foreclosures on properties with water-only debt. **Buffalo should lead the way in eliminating this practice and can be a model for future New York State law.**

## 9. Extend Existing Protections Offered by the Home Energy Fair Practices Act (HEFPA) Regarding Deferred Payment Agreements

The New York State Public Service Commission established clear customer rights regarding gas, electric, and steam service. Section 11.10 provides these customers the permanent right to deferred payment agreements.<sup>207</sup>

Primary elements of the code include:

- Utility companies must make “reasonable efforts” to communicate these rights with eligible customers to offer deferred payment agreements and terms that customers can negotiate based on their financial situation. It defines a deferred payment agreement as a “written agreement for the payment of outstanding charges over a specific period, by both the utility and the customer or applicant.”
- Payment agreements must provide installments as low as \$10 per month with no down payment necessary.

As a result of COVID-19, New York State temporarily extended the residential consumer right to deferred payment agreements to water customers through June 2022. We urge New York State to permanently extend the rights outlined in HEFPA to other utilities, including water and sewer.

## 10. Restore Local Control of Buffalo Water

Remunicipalization - taking back local control over the water and sewer systems - has many benefits not just to ratepayers but also to the municipality. While Veolia has experience managing water systems worldwide, many of Veolia’s actions, in combination with its monopolistic structure, are a reason for concern.

In 2020, the City of Buffalo quietly renewed Veolia’s contract with Buffalo Water for another ten years, costing \$7.8 million per year. This occurred without opportunity for debate, discussion, or public input, which were not documented in Buffalo Water Board meeting minutes.

We implore Buffalo Water to hire a third-party consulting agency to conduct and publicly release a study examining the efficiency and effectiveness of Veolia as the steward of our water system. This will assist in having an informed conversation about the pros and cons of Veolia’s current management.

## IX. Conclusion

The human right to water is undeniable. Yet, water affordability has become an increasingly pressing issue nationwide, further exacerbated by the COVID-19 pandemic. Buffalo, like many other cities, has faced its share of affordability challenges.

In 2019 alone, more than 2,500 occupied properties served by Buffalo Water experienced water shutoffs due to nonpayment, affecting 10,000 or more residents without water throughout the year. Mapping these shutoffs shows they are disproportionately concentrated in low-income communities, particularly communities of color. This transforms water equity into an economic justice concern and a crucial racial justice issue.

As we move beyond the pandemic's peak and into a "new normal," we must not forget the glaring inequities brought to the forefront by COVID-19. We commend the City of Buffalo for its commitment to a water debt relief plan. If the City implements this program equitably, it has the potential to serve as a national model for achieving water equity.

Furthermore, we call upon Buffalo to take additional measures toward comprehensive water equity and justice. These measures should include increased data transparency, enhanced bill transparency, and the development of a billing structure that ensures long-term and sustainable access to affordable water for all residents.

We commend the City of Buffalo for announcing a water debt relief plan. If the City implements this program fairly, it will be a **nationwide model for water equity.**

Appendix A

4/2/2019

Date 4/2/2019

*M. P. / hand of West*

TURN OFF'S FOR NONPAYMENT

*258*

Street	ServiceLocation	WorkOrder#	Balance	JobDescription	DATE	T.OFF-F.OFF-UN	Service Box Loc / Remarks	Cycle
ALTRURIA								
		459533	1,197.02	SERVICE, TURN OFF NONPAYMENT	4/3	C326 M121	1' 6" C 2' 4" W OF W *	1950
Acct #:	10129300	Dist: 10						
					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
AMBER								
		459547	922.48	SERVICE, TURN OFF NONPAYMENT	4/3	M121 C326	2' 5" C 11' 2" E OF E *	1950
Acct #:	10135000	Dist: 10						
					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
AMBER								
		459534	829.36	SERVICE, TURN OFF NONPAYMENT	4/3	C326 M121	6' 1" C 2' 10" E OF W *	1950
Acct #:	10135900	Dist: 10						
					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
AMBER								
		459536	575.88	SERVICE, TURN OFF NONPAYMENT	4/3	M121 C326	4.02 ft fr curb 2.00 feet W of W *	1950
Acct #:	10143200	Dist: 10						
					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
AMBER								
		459535	522.45	SERVICE, TURN OFF NONPAYMENT	4/3	M121 C326	6' C 6' 2" E/W * CS under Box	1950
Acct #:	10136100	Dist: 10						
					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

COLGATE

\*Exact addresses redacted to protect privacy.



## Appendix B: Detailed Water Shutoff Data

### HOW DID WE PERFORM THIS ANALYSIS?

The data we received to perform this analysis were obtained through a series of Freedom of Information Law (FOIL) requests submitted by the Western New York Law Center to the Buffalo Water Board in 2019 and 2020. The data were given in flattened, scanned PDFs. The PDFs were organized by month and labeled with a date. Documents were provided for each date shutoffs were performed by Department of Public Works employees. An example of a “Turn Off for Nonpayment” worksheet is available in Appendix A.

The PDFs were then manually inputted into Excel documents two times, compared for discrepancies, and then checked once again; these are the data that were used when completing the analysis. Any address with multiple entries in the same time frame with the same shutoff balance owed was considered a Buffalo Water entry error and was removed from the analysis dataset. Addresses that were shut off multiple times for different balances owed and that were separated by a month or longer were included in the overall analysis dataset and coded as a “multiple shutoff” property.

The addresses were compared to the 2019 City of Buffalo property roll to determine the type of property as well as occupation status (tenant/owner-occupied). The addresses were also geocoded to allow for shutoff rates to be calculated by zip code and census tract, as well as to perform geospatial analysis on the shutoff locations. For all geographic analyses, we only included properties that were not fully commercial, as poverty status and race of commercial property owners and tenants may not accurately be reflected in census data.

### OCCUPIED RESIDENTIAL WATER SHUTOFFS BY MONTH

The table below shows water shutoffs in residential occupied properties by month. It shows the median balance owed at the time of shutoff, rounded to the nearest dollar. It also shows the number of residential occupied properties at which water was found off at the time of an attempted shutoff.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Shutoffs (n)	144	195	211	256	287	192	180	321	129	220	249	137
Median Balance (\$)	895	1,202	1,179	839	1,291	1,066	823	1,249	892	846	1,268	1,209
Found Off (n)	41	54	71	40	74	52	44	118	40	36	61	17

The charts below break down median balances owed for shutoff broken down into two categories: occupation status (owner occupied or tenant occupied) and type of property (residential, commercial, or mixed).

Of 2,518 properties, four were unable to be identified, leaving 2,514 properties able to be assessed.

- 50.8% (1,278) were owner-occupied (median: \$1,032)
  - The remaining were tenant-occupied (median: \$1,096)

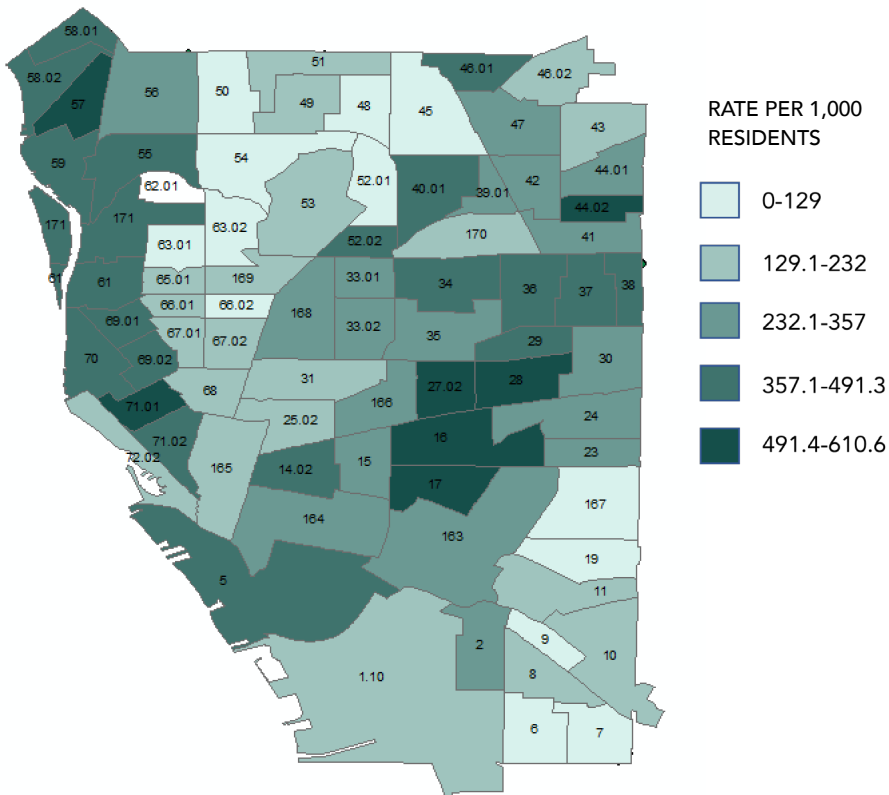
Of the 2514 properties:

- 94.4% (2,374) were residential (median: \$1,060)
  - 52.1% (1,237) were owner-occupied (median: \$1,019)
  - 47.9% (1,173) tenant-occupied (median: \$1,091)
- 1.9% were commercial (median: \$1,217)
  - 64.6% (31) were tenant-occupied (median: \$1,288)
  - 35.4% (17) were owner-occupied (median: \$1,129)
- 3.7% were mixed use (median: \$1,160)
  - 73.9% (68) were tenant-occupied (\$1,058)
  - 26.1% (24) were owner-occupied (\$2,906)

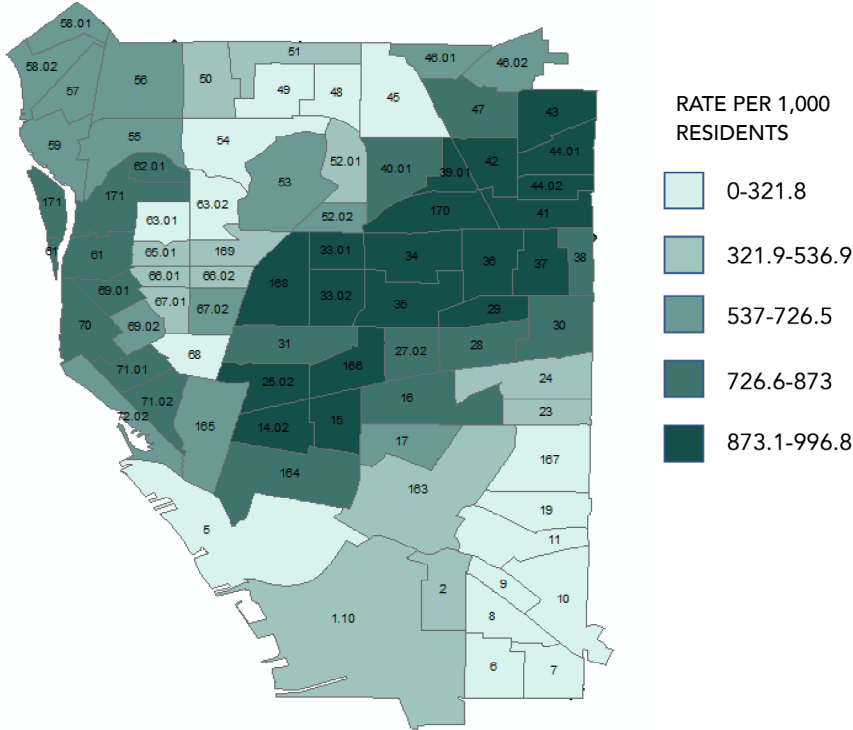
## Appendix C

The maps below demonstrate rates of (1) the population below the poverty level, (2) the population of color, and (3) the Black population broken down by census tract. The rates were calculated per 1,000 people living in each census tract. Data were retrieved from 5-year 2019 American Community Survey datasets.

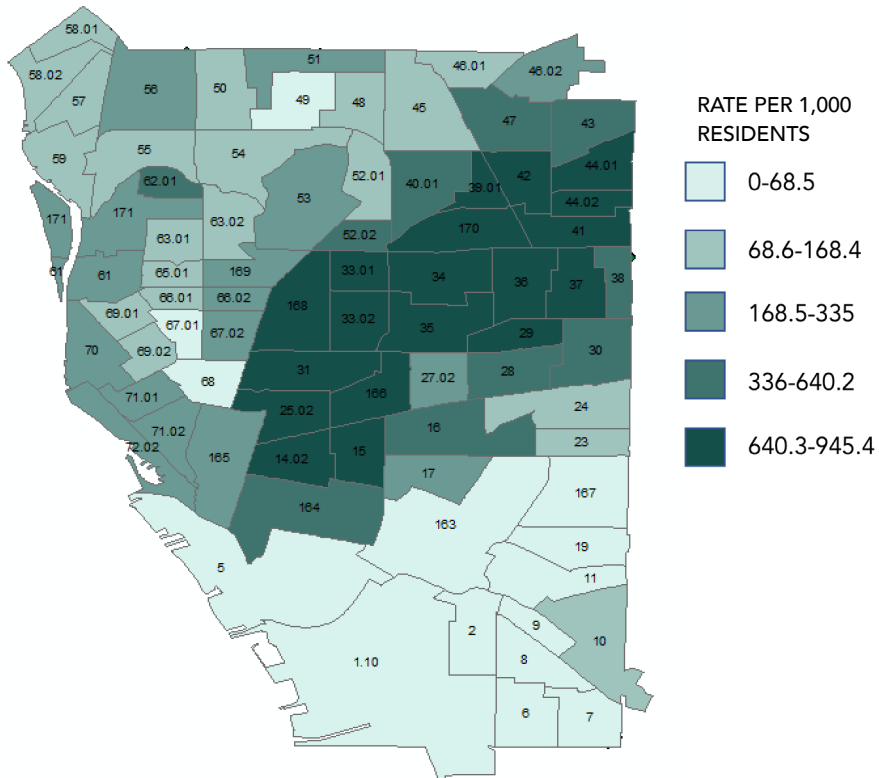
### POPULATION LIVING IN POVERTY



TOTAL POPULATION OF COLOR



BLACK POPULATION



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