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A S H L A N D

City of Ashland, Wisconsin

601 Main Street West Ashland, WI 54806 www.coawl.org

Treasurer, City of Ashland
601 Main Street West
Ashland WI 54806
Phone 715-682-7056
Fax 715-682-7048

Landlord Information - December 10, 2018

OVERVIEW OF THE UTILITY BILLING AND COLLECTIONS PROCESS

The billing and collection procedures are per the Public Service Commission of Wisconsin approved operating rules for the water utility and the State of Wisconsin PSC code 185.

Monthly billing:

- Utility bills are mailed on or before the 20th of each month with payment due date twenty days later which is approximately around the 10th of the following month.
- Utility bills are for the prior month usage.
- Monthly bills mailed with water service are 2,990. Total monthly billing is around 4,000.

Delinquent Utility Customer Balance:

- A customer account that has an outstanding balance after the monthly payment due date, and is not in an active payment arrangement, is delinquent.
- A late payment charge of one percent, per month, is added to bills not paid within 20 days of the date on the bill and is applied to the total unpaid balance including previous late charge fees.
- **The Utility recommends that landlords contact the office to verify if their tenant payments are being made timely.**

Past Due/Reminder Notices:

- During the cold weather season, from November 1st to April 15th the utility does not disconnect water service and mails out a past due reminder notice during this period of time. (Example A)
- The past due/reminder notice is mailed out a few days after the due date of the monthly bill giving time to receipt payments that may be in the mail.
- Landlords are mailed a copy of this notice for current or prior tenants with a past due balance.

Disconnection Notices:

- From April 16th to October 31st the utility mails disconnection notices and performs disconnection procedures. Water customers who have delinquent account balances are subject to disconnection.
- Disconnection notices are mailed out to all water customers with a delinquent balance a few days after the due date of the monthly bill giving time to receipt payments that may be in the mail. (Example B) Landlords are also mailed the same notice with the tenant's name.
- The disconnection notice includes language for the customer to contact the utility to make a deferred payment arrangement (DPA).
 - *The Utility typically requires 50% of the delinquent balance to be paid immediately, with monthly payments for the balance of the amount delinquent, and the customer must continue to pay current charges by the due date.*

Disconnection Process:

- If the delinquent balance is not paid within 10 days after the disconnect notice is mailed, the customer is subject to disconnection.
- The delinquent water accounts that are selected for the "physical" disconnection list are the oldest outstanding balances that are over \$100, and that can be shut-off at the curb, and if a duplex, the landlord must contact the utility office for special disconnection procedures.
- Historically with the first disconnection cycle in the spring, delinquent balances over \$200 are selected due to the large volume of delinquent water accounts.
- A disconnection notice is physically placed on the door of the water service address (Example C). Actual disconnection of service must be 24 hours after, and no more than 48 hours after the notice is posted or no later than the designated shutoff date. If the monthly bill is mailed to an alternative address, the utility must give a 5 day notification and not the 24 hour notification. The Utility cannot shut off water services on Fridays or after 1pm. Therefore there is a small window of time to perform disconnections.
- Typically the posting of disconnect notices are posted at the water service address on Fridays with a disconnect date for the following Tuesday or Wednesday. This allows time for the water customer to pay the delinquent balance if full or sign a DPA.
- Due to the large volume of delinquent customers, available City staff time, not all delinquent accounts can be disconnected.

WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM (attached):

Delinquent Utility Bills Transferred to the Tax Roll:

The process for placing utility delinquencies on the tax roll as a lien on the property being served is authorized by Wisconsin State Statute 66.0809(3):

- October 15th – The Utility mails written notice of any amounts delinquent that do not have an active DPA as of October 1st to the owner or occupant of the service address. Notification will also be provided to the owner of a rental property.
- November 1st – The Utility applies a 10% penalty which is not optional.
- November 16th – The Utility transfers the unpaid delinquencies, plus the penalty, to the tax roll.

Additional Procedures a Landlord may Request of the Utility:

The Landlord must notify the Utility in writing of the name and address of the property owner and the tenant who is responsible for paying for the utility services. Currently the Utility is voluntarily following these procedures without the written notification. **The Utility recommends that landlords contact the office to notifying them of any changes in utility accounts such as move-ins/outs.**

- Monthly utility bills are mailed to the tenant in the tenant's name.
- The Utility mails a notice to the landlord within 14 days after the utility charges are delinquent.
- "If the landlord notifies the utility that a tenant has vacated the dwelling while utility charges are in arrears, and within 21 days of the tenant vacating the dwelling, the landlord has provided the utility with a forwarding address for the tenant, the utility must continue to send past-due notices to the tenant at the forwarding address until either the charges have been paid or the utility has started the procedure for collecting the charges as a tax lien." If the utility receives the bill back for undeliverable address the landlord is notified.

- The Utility must send the October 15 notice of a tax lien to the tenant and to the owner.
- See memorandum for explanation of "*Lien against Tenant's Assets*"

Other provisions applicable to all rental dwellings per 2013 Wisconsin Act 274.

- Upon request of the owner of rental residential property, a municipal utility is required to disclose whether a new or prospective tenant has outstanding past-due charges for service provided by the utility in that tenant's name at a different address.
- PSC rules require that, before disconnecting service, a public utility must offer a deferred payment agreement to a residential customer who is behind in paying for utility service. [s. PSC 113.0404, Wis. Adm. Code.] Section 66.0809, Stats., specifies that a municipal utility is not required to offer a customer who is a tenant at a rental dwelling a deferred payment agreement.
- See memorandum for "*Standard of Unreasonable or Unjustly Discriminatory*"

CITY OF ASHLAND

PAST DUE / REMINDER NOTICE

WATER & WASTEWATER UTILITY
601 MAIN ST. WEST
ASHLAND, WI 54806
715-682-7056

Your utility account is now past due. Please pay the amount shown by _____ . If left unpaid, we may begin procedures to disconnect your water/sewer service or collect the bill through your property tax roll. We realize that sometimes a bill is misplaced or overlooked, so we are sending you this reminder. If you have already made payment, please accept our thanks.

AMOUNT DUE

\$

SERVICE ADDRESS

ACCOUNT NUMBER

LANDLORD NOTICE

Please help us avoid the Disconnection or Tax Roll process.
Make your payment promptly!

Example A

DISCONNECTION NOTICE

Your utility account is now past due. Your balance of \$ _____ includes current charges for water service and any previous unpaid balance. You have 10 days to pay the arrears, or your service is subject to disconnection. If you fail to pay the service arrears or fail to contact us by _____ to make a reasonable deferred payment arrangement or other suitable arrangement, we will proceed with disconnection action.

To avoid the inconvenience of service interruption and an additional charge of \$50.00 for reconnection during regular business hours or \$80.00 after hours, we urge you to pay the arrears IMMEDIATELY.

SERVICE ADDRESS

ACCOUNT NUMBER

See Reverse Side For Additional Information.

If you have entered into a Deferred Payment Agreement with us and have failed to make the deferred payments you agreed to, your service will be subject to disconnection unless you pay the entire amount due within 10 days. If you have a reason for delaying the payment, call us at 715-682-7056 and explain the situation.

Also, please call the number listed above IMMEDIATELY if:

- You dispute the notice of delinquent account.
- You have a question about your water utility service arrears.
- You are unable to pay the full amount of the bill and are willing to enter into a deferred payment agreement with us.
- There are any circumstances you think should be taken into consideration before service is discontinued.
- Any resident is seriously ill.

Illness Provision: If there is an existing medical emergency in your home and you furnish the water utility with a statement signed by either a licensed Wisconsin physician or a public health official, we will delay the disconnection up to 21 days. The statement must identify the medical emergency and specify the period of time during which disconnection will aggravate the existing emergency.

Deferred Payment Agreements: If you are a residential customer and you are unable to pay the full amount of the water utility service arrears on your bill, you may contact the water utility to discuss the arrangements to pay the arrears over an extended period of time. The time payment agreement will require:

- Payment of a reasonable amount at the time the agreement is made. (50 Percent of the past due amount)
- Payment of the remainder of the outstanding balance in monthly installments over a reasonable length of time.
- Payment of all future water utility service bills in full by the due date.

In any situation where you are unable to resolve billing disputes or disputes about the grounds for proposed disconnection through contacts with our water utility, you may make an appeal to the Public Service Commission (PSC) by calling (800) 225-7729.

Example B

DOOR HANGER

POST DATE September 29,2018

DISCONNECTION DATE: 10/02/2018

PAST DUE BALANCE ###.##

YOUR WATER SERVICE IS SCHEDULE FOR DISCONNECTION AFTER 7:00 AM ON THE DATE SHOWN ABOVE DUE TO NON PAYMENT OF YOUR ACCOUNT. PAYMENT OF THE DELINQUENT BALANCE MUST BE PAID IN FULL THE DAY BEFORE SCHEDULED SHUT OFF TO THE TREASURER'S OFFICE AT 601 MAIN ST. W. TO AVOID SHUT OFF. NO DROP BOX PAYMENTS WILL BE CONSIDERED. YOU MAY BE ABLE TO SET UP A PAYMENT PLAN TO AVOID SHUT OFF. 50 PERCENT OF THE DELINQUENT BALANCE IS REQUIRED, THIS MUST BE DONE AT THE TREASURER'S OFFICE.

FOR RECONNECTION, CALL 715-682-7056.

THE DELINQUENT AMOUNT PLUS A RECONNECTION FEE MUST BE PAID BEFORE YOUR SERVICE WILL BE RECONNECTED. HOOKUP CHARGES ARE \$50.00 DURING REGULAR HOURS AND \$80.00 AFTER 3:30 P.M.

Owner Name
Owner Name
Address
ASHLAND WI 54806

Service Address
Utility account number
Customer Name

SUGGESTIONS TO LANDLORDS TO MINIMIZE THE TRANSFER OF ARREARAGES THE TAX ROLL.

(From the LaCrosse Wisconsin website)

1. **Do credit checks on prospective tenants.** This may give you insight into whether the tenant will be reliable for the rent and/or utility payments. Wisconsin residential rental practices law allows landlords to collect the actual costs, up to \$20, for a credit report on a prospective tenant. The code reference is as follows:

Wis. Admin. Code ATCP 134.05 Earnest Money deposits and credit check fees

(4)(a) Except as provided under par. (b), a landlord may require a prospective tenant to pay the landlord's actual cost, up to \$20, to obtain a consumer credit report on the prospective tenant from a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. The landlord shall notify the prospective tenant of the charge before requesting the consumer credit report, and shall provide the prospective tenant with a copy of the report.

2. **Have a parent co-sign the lease.** If the lease includes payment of utilities in addition to rent and the tenant is a student, consider having the parent co-sign the lease. This will allow you to pursue collection of unpaid utility bills and rent from the parent.

3 **Put the service in your name.** Ask the utility to put the service in your name and increase the tenant's rent to include the cost of the utility service. But remember – the utility is prohibited from disconnecting service in order to aid in evicting a tenant.

4. **Change the lease.** Add language to your rental lease to make tenancy dependent on payment of utility bills. If the tenant fails to pay the bills, you can pursue an eviction against the tenant.

5. **Deduct unpaid utility bills from the tenant's security deposit.** Wisconsin residential rental practices law allows a landlord to withhold unpaid utility bills from a tenant's security deposit. The code reference is as follows:

Wis. Admin. Code ATCP 134.06(3)(a)3. Security Deposit Withholding; Restrictions.

(a) A landlord may withhold from a tenant's security deposit only for the following:

3. Payment which the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Municipal Utilities' Tax Lien Bill Collection Powers and Their Application to Rental Properties

Among other differences, municipal utilities differ from other public utilities in that they may collect unpaid bills for utility service through a tax lien on the property served. This can create special problems for the owners of rental property. In the case where a tenant fails to pay for municipal utility service, the amount due becomes a lien on the property and, thus, the responsibility of the landlord. The statutes include provisions designed to assist landlords to avoid this situation.

MUNICIPAL UTILITY COLLECTION OF UNPAID BILLS VIA TAX LIENS

Municipally owned public utilities are authorized to collect unpaid charges for utility service by placing the charges on the tax rolls, as a lien on the property served. [s. 66.0809 (3), Stats.] By cross-reference, the same power is given to public inland lake protection and rehabilitation districts, town sanitary districts, municipal sewerage systems (other than storm water and surface water sewerage systems), metropolitan sewerage districts, and municipalities that receive sewerage services from the Milwaukee Metropolitan Sewerage District under contract.¹

The most common services to which this lien authority applies are municipal water and sewerage services, including storm water sewerage services. The power also applies to the 82 municipal electric utilities in Wisconsin, provided that two conditions are met: the municipality has enacted an ordinance authorizing the exercise of this power for the collection of unpaid municipal electric bills; and, in 1996, the municipality collected such bills as special charges, under the statutes that existed at that time.² It also applies to any municipal utility that provides natural gas or telecommunications service.

PROCEDURES

In order to have unpaid charges become a tax lien, a municipal utility must follow a procedure that begins with giving notice on October 15 of each year to the owner or occupant of each parcel of land to which service has been furnished and for which payment is in arrears. (This notice will be referred to in this Information Memorandum as "the October 15 notice".) The notice informs the owner or occupant

¹ The specific references are as follows: public inland lake protection and rehabilitation districts, s. 33.22 (3) (a), Stats.; town sanitary districts, s. 60.77 (5) (e), Stats.; municipal sewerage systems, s. 66.0821 (4) (d), Stats.; metropolitan sewerage districts, s. 200.13 (13), Stats.; and municipalities that receive sewerage services from the Milwaukee Metropolitan Sewerage District under contract, s. 200.55 (5) (d) 2., Stats.

² Section 66.60 (16), 1993 Stats., subsequently amended and renumbered s. 66.0627, Stats.

of the amount of arrearage and the ability of the utility to assess penalties and to collect the arrearages and penalties through the property tax system if the arrearages and penalties are not paid by November 15. On November 16, any overdue payments that remain in arrears become a lien upon the property and are collected by the municipality in the same manner as property taxes.

The procedures for a water utility of a first class city (i.e., the Milwaukee Water Works) differ from the procedures for other municipal utilities primarily in that no notice to the owner or occupant of the property is required and the unpaid charges become a lien on November 1, rather than November 15. [s. 62.69 (2) (f), Stats.]

TREATMENT OF MOBILE HOMES

In general, a lien for the collection of unpaid municipal utility bills is placed on the lot or parcel of real estate to which the utility service was furnished. However, if the utility service is delivered and metered directly to a mobile home in a licensed mobile home park, the amount of the unpaid bills and penalties becomes a lien on the mobile home itself, rather than on the underlying real estate. If the mobile home park owner owns both the real estate and the mobile home, there is no practical effect of this distinction. In the common situation in which the resident owns the mobile home unit and rents the lot from the mobile home park owner, however, this results in leaving the responsibility for the unpaid bill with the tenant.

ADDITIONAL PROCEDURES A LANDLORD MAY INVOKE

The use of tax liens on property to collect unpaid municipal utility and sewerage service charges does not distinguish between charges incurred by an owner occupant and those incurred by a tenant. Consequently, bills for utility or sewerage service provided by a municipality and incurred by a tenant can become a lien on the property of the landlord if they remain unpaid at the time that the tenant vacates the rental property and if the landlord is unable to compel the tenant to pay the outstanding utility bill.

A landlord can invoke additional procedures applicable to specific rental residential properties that the landlord identifies. Some provisions are designed to alert a landlord when unpaid bills are accumulating and to avert the problem. Others give landlords tools to identify potential tenants with a history of unpaid utility bills. Once invoked, a municipal utility is prohibited from collecting arrearages for service to the specific properties if it fails to comply with these procedures. The procedures apply explicitly to water and electric utilities and not to other municipal utility services (i.e., natural gas or telecommunications services). The procedures do not apply to town sanitary districts or public inland lake protection and rehabilitation districts that have sewerage connections serving fewer than 700 service addresses.³

INITIATION OF ADDITIONAL PROCEDURES

To initiate the procedures, the owner of a rental dwelling unit notifies the utility, in writing, of the name and address of the owner of the dwelling and of the tenant who is responsible for the payment of charges for utility service. If requested by the utility, the owner also provides the utility with a copy of the rental or lease agreement in which the tenant assumes responsibility for the payment of the utility

³ It is not entirely clear whether these procedures apply to billing for sewerage service. As defined, "utility" does not include a municipality that provides sewerage service (except as a combined municipal water and sewerage utility). The cross-references identified in the first part of this memorandum clearly extend the lien procedure to charges for municipal sewerage service. They could be read to extend the additional procedures for rental residential property to charges for municipal sewerage service, too, but attorneys practicing in this area have expressed conflicting opinions on this question. In practice, most municipal sewerage services observe the procedures.

charges. Because the landlord's notification to the utility is specific to individual utility customers, the municipal utility's obligations that flow from it apply only to those customers.

NOTICE PROCEDURES

Notice Procedures Applicable Through 2014

Under legislation enacted in 1996 (1995 Wisconsin Act 419), which remains in effect through 2014, the utility must follow one of two alternative notice procedures regarding any unpaid charges for utility service to a specified rental dwelling. The choice of the procedure that will be used is left to the utility.

Under the first alternative procedure, the utility must send bills to the tenant, in the tenant's own name (as opposed to sending bills to a street address or to "occupant," as is sometimes done for water service). The utility must provide the landlord with copies of any past due notices provided to the tenant for charges that are more than one billing cycle past due. If a tenant vacates the dwelling while utility charges are in arrears and the landlord provides the utility with a written notice containing the date the tenant vacated the rental dwelling unit and the tenant's forwarding address, the utility must continue to send past due notices to the tenant at the forwarding address until either the charges have been paid or the utility has started the procedure for collecting the charges as a tax lien.

Under the second alternative procedure, the utility is required to notify the landlord whenever charges for utility service provided to the tenant are past due. The notice must be provided within 14 days of the charges becoming past due. Under this alternative, there is no specific requirement that the utility send bills to the tenant in the tenant's own name or that the utility pursue collection of the charges from the tenant after the tenant has vacated the dwelling.

The statutes include specific requirements regarding how notices are provided by municipal utilities and how landlords must notify the utility of the identity of tenants who are responsible for utility bills.

The treatment of the Milwaukee Water Works is substantially the same as other municipal utilities. It differs in requiring a landlord to provide a sworn affidavit to the utility including the date the tenant vacated the premises, the tenant's forwarding address, and a meter reading reflecting the service for which the tenant is responsible. (In other municipalities, the property owner needs only to provide a written notice containing the date the tenant vacated the premises and the tenant's forwarding address.)

Notice Procedures Applicable Beginning January 1, 2015

Legislation enacted in 2014 (2013 Wisconsin Act 274), which takes effect January 1, 2015, replaces the option of two different notice procedures with a single procedure, as follows:

- A municipal utility must send bills for service to a customer who is a tenant in the tenant's own name.
- A municipal utility must provide notice to a landlord of a tenant's arrears within 14 days of the charges becoming past due.
- If the landlord notifies the utility that a tenant has vacated the dwelling while utility charges are in arrears and, within 21 days of the tenant vacating the dwelling, the landlord has provided the utility with a forwarding address for the tenant, the utility must continue to send past-due notices to the tenant at the forwarding address until either the charges have been paid or the utility has started the procedure for collecting the charges as a tax lien.

- A municipal utility must send the October 15 notice of a tax lien to the tenant and to the owner.

The statutes include specific requirements regarding how notices are provided to municipal utilities and how landlords must notify a utility of the identity of tenants who are responsible for utility bills.

Again, the requirements applicable to the Milwaukee Water Works are substantially the same as the requirements applicable to other municipal utilities. Because there is no October 15 notice in the Milwaukee Water Works' procedure, the steps triggered by that notice for other municipal utilities are triggered for the Milwaukee Water Works by certification of a lien on the property served, which occurs on November 1.⁴

LIEN AGAINST THE TENANT'S ASSETS

When a municipal utility provides the October 15 notice to a landlord and tenant, the municipality has a lien on the assets of the tenant in the amount of the arrears. If the landlord pays the amount of the arrears to the municipality, the lien transfers to the landlord. The lienholder (the municipality or the landlord) must file a notice of the lien with the clerk of courts before it may commence an action to enforce the lien and must file a notice of lien satisfaction with the clerk of courts when the lien is satisfied. Also, once filed, a record of the lien will be publicly available on the Consolidated Court Automation Program (CCAP) Internet site.

When a municipal utility provides the October 15 notice to a landlord and tenant, it must also provide a written notice to the tenant explaining the lien that has arisen on the tenant's assets.

This provision takes effect on January 1, 2015.

DISCONNECTION OF ELECTRIC SERVICE

Beginning 14 days after receiving a notice of a tenant's past-due charges for electric service, a landlord may request a municipal utility to disconnect electric service from the rental dwelling unit. Except as provided in rules of the Public Service Commission (PSC), relating to disconnection of service⁵, the municipal utility must then terminate electric service.

This provision also takes effect on January 1, 2015.

PROVISIONS APPLICABLE TO ALL RENTAL DWELLINGS

A number of other provisions of the statute governing municipal utility charges relate to municipal utility service to all rental dwellings and collection of unpaid bills for such service.

⁴ Prior to enactment of 2013 Wisconsin Act 274, the treatment of rental property by the Milwaukee Water Works was governed by a separate statute, s. 62.69 (2) (g). Act 274 repealed that paragraph, with the result that the Milwaukee Water Works is now governed by the same statute as other municipal utilities for this purpose.

⁵ PSC rules prohibit disconnection of electric utility service, for example, during the winter months, during heat emergencies, if disconnection of service will aggravate an existing medical or protective services emergency, if the customer is in compliance with a deferred payment agreement, and while a dispute over the amount of arrears is under investigation by the PSC. Procedural requirements in these rules relate to matters such as ensuring that the customer has adequate notice and opportunity to respond prior to losing service. [See subchs. III and IV of ch. PSC 113, Wis. Adm. Code.]

DISCLOSURE OF OUTSTANDING PAST-DUE CHARGES

Upon request of the owner of rental residential property, a municipal utility is required to disclose whether a new or prospective tenant has outstanding past-due charges for service provided by the utility in that tenant's name at a different address.

DEFERRED PAYMENT AGREEMENTS

PSC rules require that, before disconnecting service, a public utility must offer a deferred payment agreement to a residential customer who is behind in paying for utility service. [s. PSC 113.0404, Wis. Adm. Code.] Section 66.0809, Stats., specifies that a municipal utility is not required to offer a customer who is a tenant at a rental dwelling a deferred payment agreement.

STANDARD OF "UNREASONABLE OR UNJUSTLY DISCRIMINATORY"

A standard requirement of utility service is that a public utility may not adopt or enforce rules or procedures that are unreasonable or unjustly discriminatory. This principle is articulated in s. 196.37, Stats. However, that section includes a statement that it is not unreasonable or unjustly discriminatory for a municipal utility to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based on whether the customer owns or leases the property that is receiving utility service and subject to a lien for unpaid utility bills. In addition, s. 66.0809 includes explicit authority for a municipal utility to adopt such rules and practices.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by David L. Lovell, Principal Analyst, on May 5, 2014.

WISCONSIN LEGISLATIVE COUNCIL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536

Telephone: (608) 266-1304 • Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

<http://www.legis.state.wi.us/lc>