The City of Albert Lea

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Rental Property Owners & Utility Billing

The City of Albert Lea will begin to transfer utility accounts for rental properties permanently in the property owner's name. We will begin as renters vacate or if an account becomes past due. Eventually, all utility accounts for rental properties will be in the property owner's name. The owner will receive the monthly utility bill and is directly responsible for paying the utility bills for their rental properties. The owner is liable to the City for all bills accrued through the use of utility services on his/her premises, whether personally used by the owner, or a renter, lessee, or other occupant.

Utility Billing FAQs by landlords

Why are City utilities the responsibility of the property owner, when it is the tenant or occupant using the water?

State law recognizes that the primary parties to the water supply transaction are the City, as supplier, and the property benefitted by water service availability.

Minn. Stat. 444.075, s.3(e), authorizes the City to charge the owner and to certify unpaid charges against the property served as a tax. *Minn. Stat. 325E.025, s.2*, distinguishes other types of utility services (such as electrical, gas, propane, and telephone) from water utilities, recognizing that water utilities provide a unique benefit to the property and are essential to human habitation. In fact, the law prohibits owners from renting out any premises without a connection to the water system. Gas, electric, propane, and phone utilities provide a benefit primarily to the end user – accordingly, the landlord is not responsible for their payment and unpaid charges cannot be assessed against the property.

Does the City have the authority to make me responsible for utilities used by the tenant?

Ultimately, if City utility bills remain unpaid, state law allows the City to assess the charges, penalties and interest against the real property served by the utility. This is consistent with the concept that it is the property that receives the benefit of the utility service, not simply the user. *Minn. Stat. 444.075, s. 3(e)* states: The governing body may make charges a charge against the owner, lessee, occupant or all of them and may provide and covenant for certifying unpaid charges to the county auditor with taxes against property served…

Minn. Stat. 116A.22 provides: Charges established for connections to and the use and availability of service from any water or sewer or combined system, if not paid when due, shall, together with any penalties established for nonpayment, become a lien upon the property connected or for which service was made available. Written notice shall be mailed to the owner of any property as to which such charges then due and unpaid, stating the amount of the charges and any penalty thereon and that unless paid the same will be certified…and assessed as a tax…upon the property for collection with and as part of other taxes…

City code Sec 66-11(a) provides: Payment for service and charges provided for municipal utilities shall be the primary responsibility of the owner of the premises served and shall be billed to the owner unless otherwise authorized in writing by the tenant and owner and consented to by the city…

What difficulties has the City encountered in billing the property's tenant?

Almost all of the problems experienced by City utility billing staff with tenant billed accounts revolve around the fact that the City is not a party to the lease and has no knowledge about its specific terms. Some problems include:

- **The City does not have the ability to identify and track the tenant.** The landlord controls the rental relationship, not the City, and can manage the risk inherent in the rental of the property by being selective when choosing a tenant and establishing the lease terms and manner in which rent is collected. Often, the City is not told of a change in tenancy until the new tenant receives the utility bill later.

- **The landlord controls the lease to which the city is not a party.** The landlord can fashion the lease to fit the creditworthiness of the tenant. Landlords have the authority to require a security deposit for the last month's utility charges and to make non-payment of utilities breach of the lease and grounds for eviction. Lease agreements differ in their apportionment of the responsibility for municipal utility payment, particularly at the point where a tenant moves out.

- **Tenant billing involves city staff in disputes over usage.** Tenant occupancies do not coincide with City utility billing periods, hence a great deal of staff time is currently devoted to apportioned billing between outgoing and new tenants. This is an additional service, outside the normal billing cycle for which the City does not charge a fee.

- **Tenant billing complicates the City's ability to assess.** Tenant billing is inconsistent with the City's ultimate collection tool – assessment against the property. It creates an unnecessary legal issue as to proper notice of the delinquency and opportunity to pay prior to the start of the assessment process.

Why are City utility charges like street assessments?

In providing both services, the City must protect the public health, safety and welfare. It does more than provide water to make building habitable, it also must protect the water supply. Like streets, the water system is part of the City's infrastructure that has to be maintained and kept safe. The water bill reflects these other duties too.

Will the City continue to shut off the water for non-payment?

Yes. If you receive a disconnect notice, please call the utility bill office at 507-377-4301.

Where can I have my bill sent?

Any address where you can regularly be reached – such as your home or business address.

Can I still have the bill sent to my property manager?

Yes. An agreement signed by the owner and the property manager must be completed authorizing the utility billing office to send the bill to someone other than the property owner. The owner's name must also appear in the billing address for the property manager.

What, if anything, happens before the City disconnects?

You and the occupant will be sent a written notice 7 days prior to shut off that will state the reason for disconnection, the date of shut off, the amount past due, as well as the amount currently owing on the account, including late fees, service charges and penalties. You and your tenant will have an opportunity to contact City staff prior to the date for shut off.

You, as owner, are responsible for the bill. If tenants pay the delinquent bill to avoid disconnection, that payment may qualify as rent under *Minn. Stat. 504B.215*.