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City of Rose Creek, County of Mower, State of Minnesota

Revision Addition of Section 4 of Ordinance #75-1987

An ordinance revision of Section 4 of Ordinance #75-1987: REGULATING THE PAYMENT AND COLLECTION OF SERVICE CHARGES FOR CITY WATER AND SEWER SERVICES.

The City Council of Rose Creek, of Mower County, in the state of Minnesota ordains:

Section 4 of the Code of Ordinances #75-1987 is revised to have added.

Section4-01: REGULATING THE PAYMENT AND COLLECTION OF SERVICE CHARGES FOR CITY WATER AND SEWER SERVICES. Water and Sewer Service Applications; Water and Sewer Service Billing. The owner of the property to which service is provided, or the owner's authorized agent, must personally apply for water and sewer service. All accounts shall be carried in the name of the property owner and all bills and notices shall be mailed to the address provided by the owner. The owner shall be liable for all service charges for water and sewer supplied to the property, whether he or she is occupying the property or not, and any unpaid and overdue charges may be assessed as a lien against the property.

The owner of the property or the authorized agent shall be allowed to apply a service charge and or penalties to their tenants.

The owner of the property or the authorized agent can not apply interest to any service charge and or penalties to their tenants.

This ordinance shall be in full force and take effect from and after its passage and approval and publication as provided by law.

Passed by the City Council this 11th day of May, 2015

Ayes - 5

Nays - 0

*Passed by the City of Rose Creek City Council on this date.
Amended on this date.*

CITY OF ROSE CREEK

Kent Ulwelling-MAYOR

105 MAPLE STREET SE – P.O. BOX 236

Michael Nelson – CLERK-TREASURER

ROSE CREEK, MN 55970

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Mayor



Clerk

Summary for Publication:

City of Rose Creek, County of Mower, State of Minnesota

An ordinance amending Section 4 of Ordinance #75-1987: REGULATING THE PAYMENT AND COLLECTION OF SERVICE CHARGES FOR CITY WATER AND SEWER SERVICES.

Referring to **Minnesota Statute:** 504B.215 BILLING; LOSS OF SERVICES Subdivision 1, Subdivision 2, Subdivision 2a, Subdivision 3, Subdivision 4

504B.215 BILLING; LOSS OF SERVICES.

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Subdivision 1. Definitions.

For the purposes of this section, "single-metered residential building" means a multiunit rental building with one or more separate residential living units where the utility service measured through a single meter provides service to an individual unit and to all or parts of common areas or other units.

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Subd. 2. Single-meter utility service payments.

Except as provided in subdivision 3, the landlord of a single-metered residential building shall be the bill payer responsible, and shall be the customer of record contracting with the utility for utility services. The landlord must advise the utility provider that the utility services apply to a single-metered residential building. A failure by the landlord to comply with this subdivision is a violation of sections 504B.161, subdivision 1, clause (1), and 504B.221. This subdivision may not be waived by contract or otherwise. This subdivision does not require a landlord to contract and pay for utility service provided to each residential unit through a separate meter which accurately measures that unit's use only. This subdivision does not prohibit a landlord from apportioning utility service payments among residential units and either including utility costs in a unit's rent or billing for utility charges separate from rent.

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Subd. 2a. Conditions of separate utility billing to tenant in single-meter buildings.

(a) A landlord of a single-metered residential building who bills for utility charges separate from the rent:

- (1) must provide prospective tenants notice of the total utility cost for the building for each month of the most recent calendar year;
- (2) must predetermine and put in writing for all leases an equitable method of apportionment and the frequency of billing by the landlord;
- (3) must include in the lease a provision that, upon a tenant's request, the landlord must provide a copy of the actual utility bill for the building along with each apportioned utility bill. Upon a tenant's request, a landlord must also provide past copies of actual utility bills for any period of the tenancy for which the tenant received an apportioned utility bill. Past copies of utility bills must be provided for the preceding two years or from the time the current landlord acquired the building, whichever is most recent; and
- (4) may, if the landlord and tenant agree, provide tenants with a lease term of one year or more the option to pay those bills under an annualized budget plan providing for level monthly payments based on a good faith estimate of the annual bill.

(b) By September 30 of each year, a landlord of a single-metered residential building who bills for gas and electric utility charges separate from rent must inform tenants in writing of the possible availability of energy assistance from the Low Income Home Energy Assistance Program. The information must contain the toll-free telephone number of the administering agency.

(c) A failure by the landlord to comply with this subdivision is a violation of sections 504B.161, subdivision 1, clause (1), and 504B.221.

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Subd. 2b. De minimis exception.

Any tariff approved by the Public Utilities Commission regarding a violation of subdivision 2 shall include a de minimis exception. The de minimis exception shall provide that electrical service in a common area that does not exceed an aggregate 1,752 kilowatt hours per year, which service is measured through a meter serving an individual residential unit, shall not cause a building to be a "single-metered residential building" as used in this section. The amount of common area usage may be determined by actual measurement or, when such measurement is not possible, it may be determined not likely to exceed 1,752 kilowatt hours per year by a licensed tradesperson or a housing inspector. The landlord shall bear the burden and cost associated with proving an exception.

If a tariff is not adopted, this subdivision shall have no effect.

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Subd. 3. Procedure.

(a) A municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building who issues a final notice proposing to disconnect or discontinue the service to the building because a landlord who has contracted for the service has failed to pay for it or because a landlord is required by law or contract to pay for the service and fails to do so must provide notice to the residents of the impending disconnection by posting the building. The posting must be placed in at least one conspicuous location in or on the building and provide tenants with, at a minimum, the following information:

(1) the date the service will be discontinued;

(2) the telephone number to call at the utility to obtain further information;

(3) a brief description of the rights of tenants under this section to continue or restore service; and

(4) advice to consider seeking assistance from legal aid, a private attorney, or a housing organization in exercising the rights of tenants under Minnesota law to maintain their utility service.

A tenant or group of tenants may pay to have the service continued or reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the landlord of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the landlord has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the landlord within 24 hours after oral notice is given.

(b) In the case of natural gas or electricity, if the landlord has not paid the bill by the time of the tenant's intended payment or if the service remains discontinued, the tenant or tenants may pay the current charges for the most recent billing period and the utility company or municipality must restore the service for at least one billing period. In a residential building with less than five units, one of the tenants may notify the utility company or municipality that the tenant agrees to become the bill payer responsible and customer of record and the utility company or municipality must place the account disconnected or subject to disconnection in the tenant's name and provide service prospectively, provided the tenant satisfies all requirements for establishing service. A tenant becoming the customer of record of a cooperative electric association does not acquire membership rights. Exercise of the right to pay the current charges for the most recent billing period does not preclude exercising the right to become the bill payer responsible and customer of record, provided that if there are multiple tenants in an affected multifamily building, the utility company or municipality is not required to offer the right to become the bill payer responsible and the customer of record to more than one tenant in a 12-month period.

(c) In the case of water, if the landlord has not paid the bill by the time of the tenant's intended payment or if the service remains discontinued, upon request from a tenant, a municipality must provide a copy of each bill the landlord fails to pay. The tenant:

(1) has a continuing right to pay the current charges for the most recent billing period and retain service;

(2) has the period of time provided by the governing ordinance, policy, or practice within which to pay the charges;

(3) is not subject to any deposit requirements; and

(4) is entitled to reasonable notice of any disconnection.

This paragraph does not require a municipality to alter its accounting system or billing records if the tenant exercises the right to pay current charges and retain water service. If there are multiple tenants in an affected property, the municipality is not required to offer the right to pay current charges and retain service to more than one tenant in a 12-month period.

(d) For purposes of this subdivision, "current charges" does not include arrears or late payment fees incurred by the landlord.

(e) In a single-metered residential building, other residential tenants in the building may contribute payments to the utility company or municipality on the account of the tenant who is the customer of record under paragraph (b) or on the landlord's account under paragraph (c).

(f) A landlord who satisfies all requirements for reestablishing service, including paying, or entering into an agreement acceptable to the utility company or municipality to pay, all arrears and other lawful charges incurred by the landlord on the account that was placed in the tenant's name, may reestablish service in the landlord's name.

(g) This section does not restrict or prohibit a municipal utility provider from exercising its authority pursuant to section 444.075, subdivisions 3 and 3e, to make contracts with and impose utility charges against property owners and to certify unpaid charges to the county auditor with taxes against the property served for collection as a tax.

(h) In the case of home heating oil or propane, if the landlord has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

(i) After submitting documentation to the landlord of the tenant's payment to the utility company or municipality, a tenant may deduct the amount of the tenant's payment to the utility company or municipality from the rental payment next paid to the landlord. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the landlord for purposes of section 504B.291.

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Subd. 4. Limitations; waiver prohibited; rights as additional.

The tenant rights under this section:

(1) do not extend to conditions caused by the willful, malicious, or negligent conduct of the tenant or of a person under the tenant's direction or control;

(2) may not be waived or modified; and

(3) are in addition to and do not limit other rights which may be available to the tenant in law or equity, including the right to damages and the right to restoration of possession of the premises under section 504B.291.

History:

1999 c 199 art 1 s 24; 2000 c 268 s 1,2; 2006 c 183 s 1; 2008 c 313 s 1,2; 2010 c 210 s 1; 2010 c 315

s 7