



CITY COUNCIL WORK SESSION AGENDA
Monday, October 16, 2023 - 4:00 PM
City Council Chambers, 169 SW Coast Highway, Newport, Oregon

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. DISCUSSION ITEMS

2.A City Manager's Report

[City Manager's Report](#)

2.B Safe Routes to School Discussion with Nora Stoelting Safe Routes to School Planner with Alta Planning + Design

[SRTS Memo - Final.pdf](#)

2.C Report on Draft Code Revisions and Policies for Utility Billing

[Staff Report - Water Sewer Admin policies.pdf](#)

[ORS 91.255 .pdf](#)

[Draft Customer Service Request Form.pdf](#)

[Draft Property Owner Payment Arrangements Consent Form.pdf](#)

[draft utility billing application rev2.pdf](#)

[draft biz utility billing application rev2.pdf](#)

[Draft Address Change Request Form.pdf](#)

[Draft Approval to Transfer Service Form 09-2023 Water Sewer.pdf](#)

[draft utility billing code rev 2.pdf](#)

2.D Report on Municipal Liens

[Staff Report - Municipal Liens 10-2023.pdf](#)

[ORS 91.255 .pdf](#)

[ORS 223.594.pdf](#)

[ORS 757.069.pdf](#)

3. ADJOURNMENT



Spencer R. Nebel
City Manager
CITY OF NEWPORT
169 S.W. Coast Hwy.
Newport, OR 97365
s.nebel@newportoregon.gov

DATE: October 16, 2023

TO: City Council

FROM: Spencer Nebel, City Manager

RE: Work Session for Monday, October 16, 2023 at 4 PM

The City Council will hold a work session on Monday, October 16 at 4 PM to cover a number of issues. In addition, an Urban Renewal Agency meeting has been scheduled for 5:15 with the regular City Council meeting at 6 PM. .

Schedule for Meetings for Monday, October 16, 2023

- 1.) City Council Work Session at 4 PM
 - 4 PM Discussion on Safe Routes to School Program. (20 minutes)
 - 4:20 PM Report on draft code revisions and policies for the City's utility billing system. (40 minutes)
 - 5 PM Report on municipal liens. (15 minutes)
- 2.) 5:15 PM Urban Renewal Agency meeting. (10 minutes)
- 3.) 6 PM- Regular City Council meeting.

Presentation by Nora Stoelting, SRTS Specialist, from ODOT (20 minutes)

Nora Stoelting will present an update on the Safe Routes to School Program that is available for cities and schools throughout the State of Oregon. The Bicycle and Pedestrian Committee has indicated that the City Council may wish to apply for SRTS grants in the next two-year funding cycle.

Report on Revisions to Water and Sewer Utility Policies and Ordinance (40 minutes)

Over the years, the City's water sewer utility billing practices have developed with different personnel carrying out various processes that constitute the way which the City has been handling accounts. Prior to Finance Director, Mike Murzynsky's, resignation from the City, efforts have been initiated to do a comprehensive review of these practices. Following Mike's resignation, work on this review was halted. Assistant City Manager, Erik Glover, and Accounting Technician, Rebecca Morrow, have taken the lead in reviewing these practices, current Oregon ordinances, a review of the preliminary changes that have been

drafted to the Civil Code when Mike Murzynsky were working on this task to address areas of concern with our existing practices. Attached is a report from Assistant City Manager, Erik Glover, summarizing a number of the changes that are being discussed regarding bringing our practices and code up to a clear and enforceable standard. We would like to get some direct input from City Council and these proposed changes prior to moving forward with the public hearings and recommended ordinance changes that would be necessary to implement these efforts.

Please note there are some components that can be accomplished under current code while other issues may require an ordinance to modify code provisions. We will discuss this process and request direction from Council on how best to proceed with these reforms.

Report on Municipal Liens

The Budget Committee has recommended that the City review its practices on utilization of municipal liens. Assistant City Manager/City Recorder Erik Glover, has provided a report on the use of municipal liens. During the tenure of City Attorney, Steve Rich, Steve and Finance Director Murzynsky had determined that the City's utility leaning process was not enforceable. During Finance Director Murzynsky's tenure, the City ceased trying to place liens on properties for utility billing issues. It is certainly appropriate to review this practice to determine how the City wants to proceed in the future. Erik has done research on the ORS provisions regarding placing utility liens on property that is provided for Council review. Following this discussion, we can proceed with next steps in changing our lien practices, if directed by Council.

Following the work session, a brief Urban Renewal meeting will be held followed by the regular City Council meeting at 6 PM.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Spencer R. Nebel".

Spencer R. Nebel
City Manager

MEMO



Community
Development
Department

To Spencer Nebel
From BPAC Staff Liaison Beth Young
Subject Nora Stoelting, Safe Routes to Schools Presentation
Date 10/11/23

The Bicycle and Pedestrian Advisory Committee is interested in ODOT's Safe Routes to Schools program and has indicated they may be asking the City Council to apply for SRTS grant(s) in the next 2-year funding cycle, which begins in early 2024. I have invited SRTS Regional Lead Nora Stoelting to give the Council an overview of ways this multi-faceted program can be leveraged to expand transportation options within the community, improve the safety and functionality of the existing transportation system, and educate children on how to safely walk or bike to school.

From the ODOT SRTS ebsite:

" 'Safe Routes to School' refers to efforts that improve, educate, or encourage children safely walking (by foot or mobility device) or biking to school. The Oregon Department of Transportation has two main types of Safe Routes to School programs: Construction and Education, and technical assistance [for each]. Construction programs focus on making sure safe walking and biking routes exist through investments in crossings, sidewalks and bike lanes, flashing beacons, and the like. Education programs focus on education and outreach to assure awareness and safe use of walking and biking routes. "

In the last funding cycle the City of Newport applied for and received a competitive SRTS construction grant for \$1.3 million, part of a larger, nearly \$2 million, street improvement project along NE Harney Street, immediately to the north of the Hwy 20/Moore/Harney intersection.

Nora Stoelting is a Safe Routes to School Planner with Alta Planning + Design and the lead for our local SRTS regional "Hub" (ODOT has three SRTS hubs). As Regional Hub Lead, Nora helps support the work of all the SRTS Coordinators in our hub. In this presentation she will be outlining the various ways SRTS, and a SRTS Coordinator, can help a community as well as information about grant opportunities.



**STAFF REPORT
CITY COUNCIL AGENDA ITEM**

Meeting Date: October 16, 2023

Title: Report on Draft Code Revisions and Policies for Utility Billing

Prepared by: Erik Glover, Assistant City Manager/City Recorder

Recommended Motion: None, informational only.

Background Information:

At the May 01, 2023 work session Council heard reports regarding proposed changes to the municipal code regarding water, sewer, and stormwater utilities and the establishment of a written administrative policy regarding the same. Staff performed analysis on a variety of municipal utilities around the state of Oregon, including Toledo, Independence, Stayton, Jefferson, Wilsonville, Seal Rock Water District, and Lincoln City amongst others.

Over the years with the changeover of personnel in Finance, there have been many practices that have been in place for the utility billing system that do not necessarily match up with our Newport Municipal Code provisions. Accounting Technician, Rebecca Morrow, has identified several specific concerns and has asked for guidance in addressing those issues. Rebecca has also been working with Erik Glover on modifications to the Code and modifications to specific policy, on how to handle specific utility billing issues.

In December 2022, staff reinitiated efforts to revise the billing, collections and administration code for utility services. Our current code provisions have separate billing provisions for water, wastewater and storm water, even though they are all collected in the same method. This has certainly created some administrative confusion in the past. We are proposing the addition of Section 5.05 which would be a section entitled Billings, Collections and Administration of Utility Services that would consolidate all the billing processes in one section for water, wastewater and stormwater. Erik Glover and Rebecca Morrow have been reviewing this section to address a number of issues. Staff has continued multiple internal meetings to discuss, research best practices and provide a solution which appears to address the concerns of all concerned stakeholders.

Some of the key concerns are having a uniform method of dealing with late fees and interest on accounts, having a reasonable deposit policy, and incorporating provisions as to how leak adjustments are to be handled. The code provisions will need further review prior to scheduling them for a public hearing and Council consideration of approving these revised code provisions.

Of more immediate concern, is an administration policy change that administration is planning to make regarding landlord-tenant utility accounts.

One issue that the Finance Department has not been doing, however, is having the owner of the property sign a form indicating that they wish to have the account in their tenant's name, and in return, will guarantee payment of the account if the tenant does not pay. Staff has developed new water and sewer utility forms to alleviate this concern. Most landlords have been very responsible about covering any outstanding balances left by tenants on their properties. The municipal code is quite clear about the landlord being responsible for debts, but practice wise our forms have not had an owner recognition/acceptance of that fact. We have had property owners raise this issue that they did not agree in writing to be responsible for this bill. We are proposing to require all landlords to sign the attached form when a new tenant account holder desires to create an account. Under the proposed changes, service would follow the property owner, unless they provide a consent to transfer form which would allow service in tenant or management company's name, with a guarantee the property owner will pay any delinquent charges, if that account holder fails to pay the charges. If the property owner will not sign the form, and does not pay the bill under their own name/account, we will not provide water, or sewer service to the property.

Another issue which has occasionally arose, is customers calling in, or making a request to have an account change such as address, account holder, etc. the City making that change, and then at a later point saying they did not authorize the changes. Staff has developed forms which accomplish this purpose in writing.

Another issue which has occasionally developed is the fact that Newport has one Utility Billing Specialist (Rebecca Morrow), when she is on vacation, any changes to accounts, or establishing new accounts, or processing of delinquent/lien notices still needs to be done. This gets done by another staff in the finance department, who may not necessarily be familiar with municipal code sections pertaining to utilities, or department practices. It is expected that these forms will make it easier for all staff to follow along with the process, in the event the utility billing specialist is away.

Another issue which has occasionally arose is that a tenant account holder is on the monthly delinquent/shutoff list after being approximately six-week delinquent from the bill date. They approach the City and then ask to make a payment plan, and provide a small payment to continue services/avoid the shutoff. The tenant then ends up leaving the property, or gets evicted and then leaves the further increased delinquent balance open. Some landlords have expressed concern with this practice, as the delinquent bill is larger than it would have been, had the City continued the shutoff process. With respect to current process, and for the August 2023 utility for example, the bill was sent out the last day of August, and was due 9-15-2023. If it was not paid by 10-3-2023, the City sent out delinquent notices on 10-4-2023 in the morning. If the customer's account is not fully paid, by 10-17-2023 the water got shut off on 10-18-2023.

Leak adjustments are another item of concern. Occasionally staff will receive an office visit, or phone call with a demand to credit a customer's account immediately for a leak.

Staff then clarifies the process of providing evidence that a leak has occurred (invoices, receipts etc). Staff will have a written form and application process, which clearly displays the rules.

One oddity in current Newport practice, is the fact that deposits are obtained from property owners, and by tenants on a property. The deposit is then held in perpetuity, until close. Under the proposed code, deposits can be refunded upon request to a property owner, or tenant, provided there are 12 months of on time payments/no delinquencies.

Another desired goal of the proposed code changes is correcting interest/delinquent penalties. At present an account pays a \$20.00 fee for non-payment/delinquent notice, and a \$44.00 reconnect fee if account is shutoff. In the case of an average residential user with say a \$100.00 monthly bill, and a commercial account with an average \$2,500 monthly bill the fee impact is vastly different. Under the proposed code, Staff is proposing to shift to a fixed fee for delinquent notice, plus a percent of bill, in this case \$20 and 2% of late balance. This helps to address the inequity in the current system, and help to ensure that all account holders are paying bills timely.

Overall the suite of forms is designed to make it easier for residents to engage with utility services at the City, and secondarily to provide for a more clear-cut administration of the utility services. These forms and processes are also designed to provide for easier administration when taking staff changes, vacancies or turnover, into account. With respect to placing liens in particular, a very methodical process must be followed, these forms help accomplish that.

One key consideration of designing these forms was the aspect of them being form fillable. The current application form is written, and in addition residents have to make a visit to City Hall to pay via cash or check. The long-term goal is that residents can file/create these forms automated/fully online, and also pay online using a credit/debit card.

It is expected that the relevant sections of the municipal code pertaining to water, wastewater and stormwater utilities NMC 5.10, 5.15, 5.20 will also have to be updated as a future point given the overlap with this proposed administrative section discussed tonight. The following is subject to attorney review, and possible modification.

Summary of New Forms Developed:

Draft Customer Service Request Form (Written/Trackable Process to Make Account Changes)

Draft Property Owner Consent to Payment Arrangements Form (Form under which the City is given permission to extend payment arrangements to a tenant account holder, by the property owner)

Draft Residential Application for Utility Service (Revision of a previous existing form, it provides for documents to be required by admin staff, clarifies account holder responsibility, establishes a simple office tracking box at the bottom for admin staff)

Draft Business Application for Utility Service (Largely the same as Residential application)

Draft Address Change Form (New form for account holders to clarify address changes on accounts in writing, to ensure accuracy in delivery of instructions).

Draft Approval to Transfer Service Form (New form under which a property owner provides for shifting the utility bill and creates the ability for City to open account in tenant/management companies name).

Draft Leak Adjustment Form

Fiscal Notes: None

Alternatives: None recommended

Attachments:

Forms as Detailed Above

Draft code Section 5.05

ORS 91.255

ORS 91.255

Transfer of claim

- prohibition
- limitations
- [Text](#)
- [Annotations](#)

(1)

As used in this section, “municipal utility” means any city, county or district that provides or delivers electricity, natural gas, domestic water, sewer service or garbage or refuse service. A “municipal utility” does not include a people’s utility district.

(2)

A utility company shall not transfer a claim against a tenant to the owner of the real property without the written consent of the owner.

(3)

A municipal utility shall not transfer a claim against a tenant to the owner of the real property unless the municipal utility provided notice of the delinquent status to the tenant and mailed a copy of the notice of delinquency by first class mail to the last address of the owner or owner’s agent that is on file with the utility, within 30 days from the time the payment is due on the account.

(4)

A municipal utility shall not deny or shut off its service to any subsequent tenant based on any lien for an unpaid claim for services furnished to a previous tenant who has vacated the premises unless the utility notified the owner or the owner’s agent of any delinquency by mailing a copy of the notice of delinquency by first class mail to the last address of the owner or owner’s agent that is on file with the utility, at the time the notice was sent to the previous tenant.

(5)

A municipal utility may not provide service to a tenant if the tenant has a previous unpaid bill with the municipal utility unless that municipal utility and tenant agree to a plan for repayment of unpaid utility bills.

(6)

A municipal utility shall have the same policy regarding the disconnection of services for nonpayment of an outstanding amount for a single family residence occupied by a tenant and for a single family residence occupied by the owner.

(7)

A municipal utility shall provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the municipal utility shall provide the information verbally. If a municipal utility discloses information under this subsection, the municipal utility shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(8)

Subsections (5) and (6) of this section apply only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

(9)

Subsection (7) of this section applies only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

(10)

Nothing in this section creates, expands or abridges any authority of a municipal utility to transfer a claim, based upon any contract, ordinance or lien.

(11)

Nothing in this section shall abridge any procedural due process protections such as notice and hearing that a tenant or subsequent tenant is entitled to under a contract, utility policy, rule, statute or the state and federal Constitutions, prior to the denial or shutoff of service. [1987 c.611 §1; 1993 c.786 §1]



CITY OF NEWPORT
Customer Account Service Request Form

Property Owner

Tenant or Management Company

Today's Date: _____

Customer Number: _____

Applicant Information:

Service Address: _____

REQUEST:

1. Please close my Water Utility Account as of (date): _____
2. Add name to the account: _____
3. Remove name on account: _____
4. Other: _____

Forwarding address for final billing:

Mailing Address: _____

City State Zip

Phone: _____

Email: _____

Printed Name: _____

Customer Signature: _____ Date: _____

Printed Name" _____

Customer Signature: _____ Date _____

If Tenant or Management Company please list the name, address, and phone number of Landlord/Property Owner

Name _____ Email _____

Email _____

Phone _____

OFFICE USE ONLY:

Date received: _____ Request Made by Authorized Account User (verify) _____

Applied to Account: _____ Employee Initials: _____ Picture ID Verified: _____



CITY OF NEWPORT
Property Owner Consent to Payment Arrangements Form

Account/Customer Name: _____

Today's Date: _____

Information:

Service Address: _____

Map/Tax Lot: _____

Payment Arrangement Start Date _____

Delinquent Balance Subject to Payment Arrangements _____

The Finance Director is authorized to enter into payment agreements with delinquent customers. Such agreements shall not exceed the term of three (3) months. If the customer fails to comply with the terms of the agreement, then the water may be shut off without additional notice, and not turned on again until the outstanding charges are paid in full. Late fees and interest will continue to accrue even when there is a payment agreement in place. However, no Delinquent or Shut Off fees will be incurred and water will not be shut off if the terms of the payment agreement are met. Tenant(s) must obtain a written consent from the owner(s) registered on title to the property for which a Payment Arrangement is sought for the Payment Arrangement. The consent must be in the form provided by the City. The written consent may be obtained from the owner directly by the Tenant(s), or, at the request of the Tenant(s), may be obtained by City on the Tenant's behalf. No Payment Arrangement will be established without the written consent of the owner.

I certify that I am the owner, or authorized agent of the property for which service is being requested. I authorize the City to create a payment arrangement for tenant account holder, to continue utility service at the property. I guarantee that if I/the tenant/renter/account holder fail to make payments in accordance with the payment arrangement, and the rules, regulations and ordinances of the City of Newport, service will be discontinued I will pay such arrearages and be liable for those charges, including any penalties, fees, fines and interest accrued. I further agree that City may lien my property, identified above, in the amount of any unpaid delinquent utility bills. In consideration for the services provided, we agree/consent to the City transferring any claim for delinquencies against our tenants to me/us and I/we agree to assume responsibility for any such delinquent utility bills. I/we agree to comply with the Newport Municipal Codes that govern the use of those facilities. I/we understand the City can refuse to connect service to a new account at the service address until any outstanding bills for the service address have been paid. I/We understand that any outstanding utility bills can be attached as a lien against the property.

Phone: _____ Date _____

Email: _____

Printed Name: _____

Customer Signature: _____

Printed Name _____ Date: _____

Customer Signature: _____

OFFICE USE ONLY:

Date received: _____ Date Change Made in System: _____

Employee Name: _____ Owner (verify): _____

**CITY OF NEWPORT-Residential
Application for Utility Service**



Deposits - A refundable deposit will be collected upon the start of new service for a property owner, or a renter/tenant account. The deposit is fully refundable, after 12 months of account history with no late fees, or disconnect notices.

Map/Taxlot of Service Address: _____

Connection Date: _____

Location Address: _____

Applicant Information:

Last Name: _____ First Name: _____

Mailing Address (If different from above): _____

Previous Account Yes No _____

City _____ State _____ Zip _____

Date of Birth: _____ E-mail address: _____

Home Phone: _____ Employer: _____ Work Phone: _____

Number of People in Household _____ Drivers License or State ID # _____

Co-Applicant Information (If applicable):

Last Name: _____ First Name: _____

Date of Birth: _____ E-mail address: _____

Home Phone: _____ Employer: _____ Drivers License or State ID # _____

Property Information:

Are you the property owner? ☐ Yes ☐ No If no, provide property owner name: _____

Please provide a signed lease or rental agreement or the warranty deed (title documents) if the property owner with the completed application.

Documents Attached:

Signed Rental/Lease Agreement(Tenant)

Warranty Deed/Title Documents (Owner)

Accounts are due and payable upon billing each month. If the account is not paid by the 15th, a lien notice will be sent to the property owner. Payment information regarding your account may be provided to the owner of a property. Past due amounts constitute a lien on real property for which the service was provided. When a delinquent notice is processed, the account will be charged \$5.00 plus 2% of any past due amount. Service will be discontinued if the account is not paid in full. A service fee of \$50.00 is required when a work order is prepared instructing personnel to shut off a service for non-payment of account, not necessarily when the water is physically turned off. These fees are subject to change by action of the Newport City Council. I hereby promise to pay all bills for such service when due and abide by all ordinances regulating the use of City utilities and any other rules and regulations which may be adopted by the City Council concerning said service.

I certify that all information provided on this application is true to the best of my knowledge, and being fully aware of the penalties described in ORS 153.990 regarding false certifications state that the above is truthful and in good faith. *I/We agree to comply with the Newport Municipal Codes that govern the use of those facilities*

Applicant's Signature: _____

Date: _____

Co-Applicant's Signature: _____

Date: _____

OFFICE USE ONLY:

DEPOSIT AMOUNT: _____

DATE PAID: _____

Picture ID Verified: _____

SERVICE FEE: _____

DATE PAID: _____

Deposit Waived

(Specify Criteria)

Employee Name: _____

**CITY OF NEWPORT-Business
Application for Utility Service**



Deposits - A refundable deposit will be collected upon the start of new service for a property owner, or a renter/tenant account. The deposit is fully refundable, after 12 months of account history with no late fees, or disconnect notices.

Account Payable Contact and Phone:

Map/Taxlot of Service Address

Connection Date: _____

Location Address: _____

Applicant Information:

Business Name: _____ Business Contact: _____

Mailing Address (If different from above): _____

Previous Account Yes No

City State Zip

Contact # for Leaks: _____ E-mail address: _____

Phone: _____ Employer: _____ Work Phone: _____

Type of Business _____ Business/Tax ID _____

Co-Applicant Information (If applicable):

Last Name: _____ First Name: _____

Date of Birth: _____ E-mail address: _____

Home Phone: _____ Employer: _____ Drivers License or State ID # _____

Property Information:

Are you the property owner? ☐ Yes ☐ No If no, provide property owner name: _____

Business Owner Name/Contact (if different from above)

Name: _____

Email: _____

Mailing Address: _____

Phone: _____

Accounts are due and payable upon billing each month. If the account is not paid by the 15th, a lien notice will be sent to the property owner. Payment information regarding your account may be provided to the owner of a property. Past due amounts constitute a lien on real property for which the service was provided. When a delinquent notice is processed, the account will be charged \$5.00 plus 2% of any past due amount. Service will be discontinued if the account is not paid in full. A service fee of \$50.00 is required when a work order is prepared instructing personnel to shut off a service for non-payment of account, not necessarily when the water is physically turned off. These fees are subject to change by action of the Newport City Council. I hereby promise to pay all bills for such service when due and abide by all ordinances regulating the use of City utilities and any other rules and regulations which may be adopted by the City Council concerning said service.

I/we certify that all information provided on this application is true to the best of my knowledge, and being fully aware of the penalties described in ORS 153.990 regarding false certifications state that the above is truthful and in good faith. **I/We agree to comply with the Newport Municipal Codes that govern the use of those facilities**

Applicant's Signature: _____ Date: _____

Co-Applicant's Signature: _____ Date: _____

OFFICE USE ONLY:

DEPOSIT AMOUNT: _____ DATE PAID: _____ Picture ID Verified: _____

SERVICE FEE: _____ DATE PAID: _____

Deposit Waived

(Specify Criteria)

Employee Name: _____



CITY OF NEWPORT
Change of Address Request Form

Account/Customer Name: _____

Today's Date: _____

Information:

Service Address: _____

(Max of 6
account/service
addresses per
Form)

REQUEST: 1. Please change the mailing address for these accounts as of (date): _____

Mailing Address:

City

State

Zip

Phone: _____

Email: _____

Printed Name: _____

Customer Signature: _____ Date: _____

Printed Name"

Customer Signature: _____ Date

OFFICE USE ONLY:

Date received: _____ Date Change Made in System: _____

Employee Name: _____ Authorized Account Holder (verify): _____



City of Newport
Utility Billing/Finance Department
169 SW Coast Highway Newport, OR, 97365
P: 541-574-0611 | www.newportoregon.gov

Application for Utility Service
Permission to Bill/Start Tenant Service Account

The undersigned hereby applies for Sewer, Stormwater and Water Services and any other fees placed on utility bills, and agrees to the following terms and conditions:

1. The applicant acknowledges that this is a rental property and renters/tenants/property management company has permission to apply for water/sewer service with the City.
2. A copy of Management Agreement that includes owner signature as per county records and site address for start service request, if a management firm is used.
3. Property owners must attach the warranty deed (title documents) showing ownership.
4. This consent will remain in effect until the City is notified by the owner or designee, in writing and acknowledged by the City in writing.

Documents Submitted
Management Agreement

Warranty Deed(Title Documents)

Map/Taxlot

SERVICE ADDRESS: _____ **DATE :** _____

PROPERTY OWNER: _____

MAILING ADDRESS: _____

CELL PH: _____ WORK PH: _____ EMAIL: _____

I agree that the following Property Management company has my permission to handle business pertaining to the utility billing with the City of Newport regarding the property, and that Property Management will receive notices in lieu of the owner. This consent will remain in effect until the City is notified by the owner, in writing and acknowledged by the City in writing.

MANAGEMENT COMPANY NAME: _____

MAILING ADDRESS: _____

CONTACT PERSON: _____ PHONE: _____

EMAIL: _____

I certify that I am the owner, or authorized agent of the property for which service is being requested. I authorize the City to start service in current or future tenants name. I guarantee that if I/the tenant/renter/account holder fail to make payments in accordance with the rules, regulations and ordinances of the City of Newport, I will pay such arrearages and be liable for those charges, including any penalties, fees, fines and interest accrued. I further agree that City may lien my property, identified above, in the amount of any unpaid delinquent utility bills. In consideration for the services provided, we agree/consent to the City transferring any claim for delinquencies against our tenants to me/us and I/we agree to assume responsibility for any such delinquent utility bills. I/we agree to comply with the Newport Municipal Codes that govern the use of those facilities. I/we understand the City can refuse to connect service to a new account at the service address until any outstanding bills for the service address have been paid.I/We understand that any outstanding utility bills can be attached as a lien against the property.

(Signature of Property Owner)

Date

(Signature of Management Company (if applicable)

Date

Chapter 5.00 BILLING, COLLECTIONS & ADMINISTRATION OF UTILITY SERVICES.

5.05 DEFINITIONS

The following definitions apply in this chapter.

A. Applicant. A person, corporation, association, or agency applying for water service.

B. City: As used in Title V, City is defined as the City of Newport Oregon.

B. City Service Line. The water line between a main and a water meter.

C. Customer. A person receiving water service from the city. Upon approval of an applicant's application, the applicant becomes a customer.

D. Fire Protection Service. Provision of water to premises for automatic fire protection.

Flat Rate Water and Sewer Fees: These base rate fees are charged for every water account with a meter installed regardless of whether water is used, the account is off for non-payment, the water is off as a courtesy to the customer, there is no one residing at the service location, or the location is scheduled for demolition. These fees are used to pay for maintenance and purchase of infrastructure, operation, and other expenditures necessary for the function of Utility Billing and the Public Works department.

E. Mains. Water distribution pipelines owned by the city used to serve the general public.

F. Meters: All meters remain the property of the City.

G. Meter Installation Fees - Meter installation fees are charged for meter installation only and are not to be considered as payment for purchase of the water meter being installed. All meters remain the property of the City.

H. Municipal Utility: The City of Newport is a municipal utility per ORS 91.255 (1). A "municipal utility" does not include a people's utility district. A municipal utility is not subject to Public Utility Commission ("PUC") regulations and is also not a Utility Company, which company would fall under the regulations of the PUC. As the City is not a Utility Company, it is not subject to ORS 91.255 (2) which applies only to Utility Companies.

I. Premises. Buildings or other property operated as a separate unit from other property.

J. Private Service Line. The water line between the water meter and the premises. For unmetered lines for fire protection service, the private service line is the line between the connection with the main and the fire suppression sprinkler. (Chapter 5.10.010(G.) amended by Ordinance No. 1975, adopted on March 2, 2009, and effective on April 1, 2009.)

H. Service Connection. The pipe, valves, and other facilities by means of which the water utility conducts water from its distribution mains to and through the meter, but does not include the private service line.

5.05.010 Combined Utility Billing

Water Services Charges, Sanitary Sewer Charges, Stormwater Charges and Infra-Structure Charges, as authorized by the City Council and Imposed on users of the Utility Systems, or any combination of such charges, shall be billed in conformance with the provisions of this chapter. For purposes of this chapter, utilities shall include water service, sanitary sewer service, and stormwater service provided by the city. The amounts received will be credited first towards charges as follows:

- (1) Infrastructure Fees
- (2) Stormwater Fees
- (3) Sanitary Sewer Service
- (4) Water Service

With the last portion of any payments credited for late fees, delinquent fees, interest, and utility shut-off fees.

5.05.020 Use of Funds Collected

All proceeds from charges for water, sanitary sewer, stormwater fees and infra-structure fees shall be allocated to each of the specific charges stated in Section 5.05.010 and, within these uses, shall be used only for operations, maintenance, capital outlay and administration of each of the utility systems.

5.05.030 Application for Service

Application for utility service shall be made in writing by the owner of the premise to be served, or the owner's agent, on forms furnished by the city, giving the location of the premise to be served, the date the applicant desires service to begin, purpose for which service is to be used, the address for mailing the bills and such other information as the city may require. Rules and regulations established by the city for utility services shall be part of the service contract between the city and the applicant. All such rules and regulations are subject to change by the Council at any time. Filing of an application for use of city utilities shall be considered as consent by the applicant to be bound thereby. If an application is not properly completed and filed with the City and all deposits and fees paid within five (5) days of a new service account being established, the account may be terminated, and the water disconnected to the premises.

The City may not provide service to a tenant if the tenant has a previous unpaid utility bill unless the City and tenant agree to a plan for repayment of unpaid utility bills, in accordance with ORS 91.255 (5).

5.05.040 Deposits

Upon application for utility service, a deposit is required, in addition to any applicable fees.

"New Account" shall generally mean "Any customer desiring to submit application for water and/or sewer service at property served by such (or about to be) as in new construction."

A deposit is required in all circumstances unless:

Customer has existing account that is in good standing with the utility and can be transferred to new account seamlessly, and/or

Applicant requesting *"New Account"* has multiple current existing accounts in good standing;

Account deposit(s) will be refunded and/or waived upon request according to the following guideline:

Upon customer request, the deposit can be refunded and/or waived if verified by the City that the customer/applicant(s) most recent, previous account was within six (6) months of application AND reflects at least twelve (12) consecutive months of

on-time payment history with no late notices or disconnections;

All deposits approved for refund will only be applied to the account without interest.

5.05.050 Billing & Collection

A. Meter Reading.

Meters will be read at regular intervals for the preparation of monthly bills and as required for the preparation of opening and closing of accounts, and special bills. The city reserves the right to estimate meter readings in cases where actual meter readings are not available, and to adjust consumptions when actual readings are attained.

B. Due Date.

Utility bills are due and payable on receipt, and are delinquent if not paid within 15 days after the billing date.

C. Late Fees & Interest on Unpaid Balance.

Any amounts still unpaid the business day after the due date shall incur a late fee of \$5, or 1.5% per month for balances greater than \$50, applied to the unpaid portion of the customer's bill. Furthermore, an interest rate of 1 ½% will be applied to the unpaid balance of the bill when billing has been delinquent for 30 days, and will be applied every subsequent 30 days that the customer's account is not paid in full.

D. Past Due/Shutoff Notice

Any account with a balance that remains unpaid for 15 days after issuance of the bill will be charged a \$20 Delinquent Notice fee, plus 2% of open balance and will have mailed

to the last known billing address of the account holder and of any landlord or property owner as applicable, Said notice shall specify that the account must be paid in full within seven (7) calendar days, or utility service will be shut off without further notice.

E. **Utility Shut Off.**

If the bill remains unpaid through the date listed on the notice of shut-off, service shall be shutoff for non-payment on the next business day without notice, and a Reconnect Fee will be charged in an amount set annually by Council resolution.

F. **Payment Agreements.**

The Finance Director is authorized to enter into payment agreements with delinquent customers. Such agreements shall not exceed the term of one month (30 calendar days). If the customer fails to comply with the terms of the agreement, then the water may be shut off without additional notice, and not turned on again until the outstanding charges are paid in full. Late fees and interest will continue to accrue even when there is a payment agreement in place. However, no Delinquent or Shut Off fees will be incurred and water will not be shut off if the terms of the payment agreement are met.

G. **Restoration of Services.**

The service shall be restored after a shut off for non-payment, only after payment of all charges, fees and penalties are paid in full. If the customer is a renter who subsequently moves out, the bill must be paid by the owner of the property before water service can be reconnected, or a new account for water service at that location can be established (in accordance with ORS 91.255 (4)). For service that was shut off for non-payment, water service will only be reconnected during normal business hours.

H. **Denial of Service for Unpaid Past Due Balances of Prior Customers At Service Address:**

Services obtained at service address shall be a lien against the premises served from and after the date of billing (as allowed by ORS 91.255), and entry on the ledger or other records of the city pertaining to the utility system; and such records shall remain accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. City may deny service to an account, due to previous unpaid balance at the service address, and service may be restored only after full payment of all charges on the unpaid balance at the service address account are made, as per ORS 91.255.

I. **Other Charges.**

The Finance Director may include any obligation relating to the utility services as a charge on the utility bill.

J. **Billing for a Fractional Month.**

The flat or base rate portion of any fractional month will be pro-rated.

K. Contested Bills and Appeals Process

Any person who has received a denial of an application for service, or by termination of water service, or who disputes the amount of a billing may appeal as follows:

1) Within five (5) calendar days of a receipt of a disputed billing, or five (5) days of notice of an adverse action on an application, or five (5) days' notice of termination, a person aggrieved may appeal formally to the Finance Department. If the utility billing clerk is satisfied on the basis of discussion that the action of the city was in error, the billing clerk shall notify the Finance Director, who will adjust the account accordingly, and place a memorandum in the account file explaining the adjustment. If the billing clerk does not believe the department was in error, the aggrieved person may proceed with a formal appeal.

B. Formal Appeal

2) Within five (5) calendar days of completion of Step 1, an aggrieved person, not satisfied with the decision of the informal appeal may appeal to the City Manager in writing. The appeal shall be filed upon a form provided by the Finance Department. The appellant shall indicate upon the form whether a hearing is desired,

C. Conduct of Appeal Hearings.

3) Within ten (10) days of filing of an appeal, the City Manager shall set a time and place for the hearing. Appeal hearings conducted shall be informal by nature. Any grounds or issues not raised with the billing clerk in Step 1 shall be considered to have been waived. The City Manager may examine the records of the Finance Department, question department personnel, and seek advice of legal counsel before rendering a decision. Such actions need not be taken in the presence of the applicant. Following the hearing, any investigation conducted under subsection C of this section, the City Manager shall issue a written decision. The decision shall be final upon that date, and the letter with the decision is deposited in the mail to the appellant at the appellant's address as shown upon the records of the Finance Department.

1. The finance director or designee shall have the authority to waive utility charges up to \$500. Such waiver may be made based upon a written request from the customer and for good cause. Good cause may include, but is not limited to, correction of user or account information, failure of the city to send a bill, demonstrated failure of a user to receive a bill, correction of measurement of either fixture units or equivalent service units and adjustments to the time in which requester became the user. Waivers may include returned check charges, disconnection charges or utility charges.

2. The city manager or designee shall have the authority to waive utility charges up to \$2,500. Such waiver must be made based upon a written request from the customer and for good cause as defined in subsection A of this section. The city manager shall receive a written report of findings from staff and then weigh the evidence presented by the customer and the staff before making any such waiver.

M. Storm Water Fee.

In the event that a property is required to pay storm water fees that is not provided water service, the owner or person responsible for the property will be billed directly for the storm water fees.

N. New Account Fee

A nonrefundable new account service charge and a deposit are required to establish a new account. The service charge is required on all accounts regardless if the water is on or off or if the account has been previously in the customer's name.

O. **Unsanitary Premises**

Once an account has their water service shut-off, all past due and current billings must be paid for service to be turned back on. Once water service has been shut off for one week or more, Utility Billing will notify the City Building Official to begin a notice to vacate the property

5.05.060. Billings of Separate Meters not Combined.

Each meter will be billed separately, and readings of two or more meters will not be combined unless specifically provided for in the rate schedule, or unless the city's operating convenience requires the use of more than one meter, or a battery of meters. The minimum monthly charge for such combined meters will be based on the diameter of the total combined discharge area of the meters.

5.05.070. Billing Tenants.

A property owner, or the owner's agent, may authorize that city utility charges be billed directly to a tenant on the application for service. In such cases, a tenant shall complete and co-sign the application form with the property owner. Owners are to notify the city within twenty-four (24) hours of any changes in customer billing. Water service will remain active between tenants unless otherwise instructed by the owner. Owners will be responsible for all utility charges per ORS 91.255, including charges incurred by all tenants, for periods of vacancies between tenants, and for any time periods for which the city was not notified of a change in occupancy.

5.05.080. Owner Responsibility for Utility Charges.

Responsibility for payment of city utility charges shall be that of the person who owns the property. The responsibility for payment to the city does not pass to the tenant or other occupants, notwithstanding the fact that tenants, or other occupants, may be required by the property owner to pay the charges. The city shall provide information to the owner regarding the status of a tenants account on request in accordance with ORS 91.255 (7), and shall send Delinquent Notices to the last known address of the landlord as well as the last known address of any tenant when the customer account is in the tenant's name. If any tenant does not pay their bill, the bill will then be transferred to the owner of the property in accordance with ORS 91.255 (3).

5.05.100. Final Bills.

A customer shall notify the City in advance of the date service is to be discontinued and transferred into a new customer's name. The customer shall pay all utility charges until the date of such discontinuance. If notice is not given, the customer will be required to pay for service until the date the City has learned the customer has vacated the premises. Final bills will be calculated, any customer deposits applied, and then mailed to the last known address of the customer. Final bills are due and payable upon receipt. If a new forwarding address for a tenant or a previous owner is unknown, the final bill must be immediately paid in full by the current owner of the property before a new water service account can be established. Final bills of tenants which remain unpaid twenty (20) days after the final billing date, shall be submitted to the owner for payment. The city may disconnect water service to the premises, notwithstanding if an account has been established with a subsequent tenant, if the final bill of a previous tenant remains unpaid through thirty (30) days after the final billing date.

5.05.110. Collection Costs.

In the event of any suit or proceeding to collect delinquent utility charges, the property owner shall pay all collection costs, including attorney fees at trial and at an appeal, as part of the delinquent amount. In the event, that the account is assigned to a private collection agency, a fee shall be added to the account before being assigned to cover the cost of collection.

5.05.120. Discontinuance of Water Service.

Water service to all properties is continuous and base rate fees cannot be ceased unless the meter to that property is removed. At that time, the water and sewer flat rate and usage billed will cease, but stormwater rates will continue to be billed. A customer may request that water service be transferred from their name if they are no longer the renter or owner of the property by notifying the city in writing, by phone or in person. The customer remains responsible for all water service provided until the date the city initiates service to a new customer. The customer remains responsible for storm water fees and infrastructure fees during the time the water bills have been discontinued. (Meters are the property of the City and, if the meter has been removed but the customer wants to again have a meter installed, the customer must pay for new meter installation at the current rate, including any additional installation fees quoted by Public Works department. No credit will be given for any meters removed since the meters are the property of the City.

5.05.130. Liens on Property for Unpaid Utility Charges.

The City of Newport is a municipal utility and, for transfers of claim on property when utility bills aren't paid, the City falls under ORS 91.255 (1) definition of a municipal utility. The City is not a utility company and, therefore, does not fall under the definition of such a company defined in ORS 91.255 (2). City utility charges shall be a lien against the premises served from and after the date of billing (as allowed by ORS 91.255), and

entry on the ledger or other records of the city pertaining to the utility system; and such records shall remain accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. When a bill or utility service remains unpaid sixty (60) days after it has been rendered, the city may give constructive notice pursuant to ORS 93.643 of the lien hereby created and the lien may be foreclosed in the manner provided by ORS 223.610, or in any other manner provided by law or city ordinance. The city may refuse water service to any property upon which a lien has been attached until the amount owing on the lien has been paid to the city.

5.05.140. Meter Testing.

A. Testing 1.5 Inch and Larger Meters

1. For 1.5 inch and larger meters, the city shall test meters in service at the request of a customer, provided that the customer pays a deposit to cover the reasonable amount of the test. The customer will be notified not less than five days in advance of the time and place of the test. The customer representative shall have the right to be present in person or through a representative when the test is made. If the test reveals that the meter was inaccurate by more than 2%, the entire amount of the deposit will be refunded. If the test reveals that the meter was accurate, the city shall refund the difference between the deposit and the cost if the deposit exceeded the cost, or require payment of the difference if the cost exceeded the amount of the deposit.

A written report giving the results of the test shall be available to the customer within 10 days after completion of the test.

2. If a 1.5-inch or larger meter is found to be registering more than 2 per cent fast under conditions of normal operation, the city will refund to the customer an amount calculated to reflect any overcharges for the previous three months.

B. Testing Meters Smaller Than 1.5 Inches. At the request of a customer, the city will field test a meter smaller than 1.5 inches. If the city determines that the meter is inaccurate, the city will replace the meter at the city's expense. If the city determines that the meter is accurate but the customer wishes a new meter, the city will install a new meter on payment by the customer of the cost of the meter. Installation. All meters remain the property of the City.

C. Non-functional Meters. The city may bill the customer for water consumed while any meter was not registering. The bill will be at the minimum monthly meter rate, or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

5.05.150. Leak Adjustments.

The following policy is in regards to adjusting utility accounts when account holder experiences an "excess in water usage" due to water supply break, failure, and/or leak on the customer (private) side of the water meter beyond their control.

- A utility bill MAY be adjusted, AFTER proof (i.e plumbers invoice, parts receipts, plumbing permit, etc.) has been provided to the City that the supply line has been repaired or corrected, according to the following:
 - o The charge for water billing will be based upon the average consumption for the billing periods of the previous 12 months beginning with the month just prior to when the problem occurred, PLUS½ of the water consumption measured in excess of the above referenced average for the billing period the problem occurred.
 - o If the charge for sewer billing is based upon the volume of water metered, any/all adjustments will be based upon the 12 month average consumption described above unless billing was not affect by this "excess water usage" i.e. during Winter Averaging.
 - o Customer must request a leak adjustment within six (6) months of the occurrence. Requests for adjustments beyond six (6) months will not be considered.
 - o If approved, the adjustment to the bill will be for no more than the last two billing periods.
 - o No leak adjustment is allowed for a leaking toilet or for negligent failure to repair a leak.
- One adjustment per utility account will be allowed per calendar year (rolling 12 month year from last occurrence)

5.05.160. Unauthorized Restoration of Service.

It is illegal to tamper with a water meter. If utility service to a delinquent account has been turned off, and if the owner's, occupant, or other unauthorized person turns the meter back on or otherwise tampers with the meter, a tamper fee shall be added to the account. Such fees shall not prevent, nor replace regular charges for the services used, nor preclude judicial remedies or criminal or civil sanctions. Furthermore, the water service will be turned back off and service will not be restored until the customer's account, including any tamper fee billed, is paid in full.

5.05.170. Rates, Fees, Deposits, and Charges Established

All rates, fees, deposits and charges required by this chapter shall be established by resolution of the City Council on an annual basis as part of the annual budget process. Fees shall include water rates, sanitary sewer rates, storm water rates, infrastructure fees, and deposits, delinquent fees, turn-off and/or turn-on fees, bad check fees, application fees, connection fees, inspection fees, fees for improper connection, fees for misuse of the system, and disconnect fees, industrial or commercial sewer surcharges, or the discharge of sewage of unusual strength or character, and other fees as City Council deems appropriate for the operation of the utility systems.

5.05.180. Notices.

A. Notices to customers. Notices required to be given by the city to a customer will be given in writing and may be mailed to the last known billing address of record, hung on the front door of the property, or personally delivered to the customer. The city is not

responsible for lost, stolen or non-deliverable mail. Any defect in a notice of delinquency or other violation of these provisions shall not prevent enforcement of these provisions.

B. Notice from Customers.

Notice from customers to the city shall be given by the customer or their authorized representative **in writing to** the city Finance Director.

5.05.190 Violations/Penalty.

A. A violation of any provision in this chapter is a civil infraction subject to a civil penalty of up to \$500. Each day of violation continues shall be considered a separate violation,

B. Violations that constitute a health hazard are nuisances and may be abated as nuisance or by any other legal means of eliminating the hazard.

5.05.200 Severability Clause

The provisions of this chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall be in full force and effect and be valid as if the invalid portion thereof had not been incorporated herein. It is hereby declared to be the City Council's intent that this chapter would have been adopted had such an unconstitutional provision not been included herein.



**STAFF REPORT
CITY COUNCIL AGENDA ITEM**

Meeting Date: October 16, 2023

Title: Report on Municipal Liens

Prepared by: Erik Glover, Assistant City Manager/City Recorder

Recommended Motion: None, informational only.

Background Information:

The City of Newport provides many services to properties within the City's limits. While some services do not have a direct fee, others do. The direct fee services can include but are not limited to, water, sewer, stormwater, assessments for benefiting properties, abatements, code violations, and connection to one of the City's systems. When direct fees apply, the City prepares and mails a billing. When these bills are not paid they are considered liens and entered into the City's lien docket record, given that Newport does not maintain an electronic City lien docket, the City would use Lincoln County Clerks Office.

A lien is an interest in real property. The Oregon Revised Statutes (ORS) 93.643 requires that constructive notice of liens be made by recording the liens with the Lincoln County Clerk's office or by providing access by an online electronic medium.

The Newport City Council has been discussing municipal liens since at least the February 24, 2014 goal setting process with an item of focus being "Develop a comprehensive process to place liens on property where delinquent bills are due". Following that time, City Attorney Steve Rich and previous Finance Director Mike Murzynsky determined that there were concerns with the placement of water and sewer liens and the practice was suspended. Council has requested that this practice be reviewed.

Changes in ORS 93.643 and ORS 223.230 require the City to record certain liens in the County Clerk's office or provide access by an on-line electronic medium. Many cities have elected to record this information online at [NetAssets](#). Netassets/Conduit is a fee-based service that most subscribers such as title companies, escrow agents, financial institutions, and real estate professionals utilize in performing searches as part of real estate transactions. For cities who offer Netasset/Conduit Lien searches, they typically charge a fee per property search which is set yearly by the City Council via fee schedule, and paid by the requestor. The City of Newport does not subscribe to Netassets, and would record its liens in the Lincoln County Clerks Office.

NMC 8.10 details the process for Nuisance Abatement, which can end with a lien process. This process is different than the process to file liens for unpaid utility bills.

Utility Bills being Water/Sewer/Stormwater/Infrastructure fee bills are considered liens against properties served.

ORS 91.255 Transfer of Claim municipal utility charges (attached, but summarized as)

A municipal utility shall not transfer a claim against a tenant to the owner of the real property unless the municipal utility provided notice of the delinquent status to the tenant and mailed a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the utility, within 30 days from the time the payment is due on the account.

(4)

A municipal utility shall not deny or shut off its service to any subsequent tenant based on any lien for an unpaid claim for services furnished to a previous tenant who has vacated the premises unless the utility notified the owner or the owner's agent of any delinquency by mailing a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the utility, at the time the notice was sent to the previous tenant.

(5)

A municipal utility may not provide service to a tenant if the tenant has a previous unpaid bill with the municipal utility unless that municipal utility and tenant agree to a plan for repayment of unpaid utility bills.

(6)

A municipal utility shall have the same policy regarding the disconnection of services for nonpayment of an outstanding amount for a single family residence occupied by a tenant and for a single family residence occupied by the owner.

(7)

A municipal utility shall provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the municipal utility shall provide the information verbally. If a municipal utility discloses information under this subsection, the municipal utility shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(8)

Subsections (5) and (6) of this section apply only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

(9)

Subsection (7) of this section applies only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

The City has to provide notice of the delinquent status to the landlord/property owner within 30 days from the time the payment is due on the account to be able to lien. Another agenda item during the October 16, 2023 Work Session will discuss specifically the utility related changes/additions to ensure that the process is clear and transparent for the public, and that staff is following proper process to ensure liens can be recorded.

ORS 91.255 is quite clear, but out of an abundance of caution, administration is proposing that the City would only accept landlord/property owner service applications, subject to council discussion and legal review. The City will allow notice from the landlord/property owner that they wish for their tenant to start an account, and plainly advise landlords/property owners that they are ultimately responsible for any unpaid debts by their tenant, which may include a lien being filed, and/or service denial at the service address in question until the delinquent claims for services are paid.

A draft/proposed flowchart has been prepared for Finance Department staff, which should clarify the shutoff/delinquency notice process and ensure that proper process is being followed to ensure that the City can lien or deny service in accordance with ORS 91.255.

ORS 757.069 provides that the City should sent a delinquent notice to the property owner of record in the property tax records. It is expected that submitting the notice at the 60 day/initial shutoff notice to tenant should satisfy this ORS.

The following is subject to attorney review, and possible modification.

Fiscal Notes: None

Alternatives: None recommended

Attachments:

ORS 91.255

Transfer of claim

- prohibition
- limitations
- [Text](#)
- [Annotations](#)

(1)

As used in this section, “municipal utility” means any city, county or district that provides or delivers electricity, natural gas, domestic water, sewer service or garbage or refuse service. A “municipal utility” does not include a people’s utility district.

(2)

A utility company shall not transfer a claim against a tenant to the owner of the real property without the written consent of the owner.

(3)

A municipal utility shall not transfer a claim against a tenant to the owner of the real property unless the municipal utility provided notice of the delinquent status to the tenant and mailed a copy of the notice of delinquency by first class mail to the last address of the owner or owner’s agent that is on file with the utility, within 30 days from the time the payment is due on the account.

(4)

A municipal utility shall not deny or shut off its service to any subsequent tenant based on any lien for an unpaid claim for services furnished to a previous tenant who has vacated the premises unless the utility notified the owner or the owner’s agent of any delinquency by mailing a copy of the notice of delinquency by first class mail to the last address of the owner or owner’s agent that is on file with the utility, at the time the notice was sent to the previous tenant.

(5)

A municipal utility may not provide service to a tenant if the tenant has a previous unpaid bill with the municipal utility unless that municipal utility and tenant agree to a plan for repayment of unpaid utility bills.

(6)

A municipal utility shall have the same policy regarding the disconnection of services for nonpayment of an outstanding amount for a single family residence occupied by a tenant and for a single family residence occupied by the owner.

(7)

A municipal utility shall provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the municipal utility shall provide the information verbally. If a municipal utility discloses information under this subsection, the municipal utility shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

(8)

Subsections (5) and (6) of this section apply only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

(9)

Subsection (7) of this section applies only if a municipal utility intends to file a lien for unpaid utility services or intends to deny service to a subsequent tenant based on a claim for unpaid services to a previous tenant.

(10)

Nothing in this section creates, expands or abridges any authority of a municipal utility to transfer a claim, based upon any contract, ordinance or lien.

(11)

Nothing in this section shall abridge any procedural due process protections such as notice and hearing that a tenant or subsequent tenant is entitled to under a contract, utility policy, rule, statute or the state and federal Constitutions, prior to the denial or shutoff of service. [1987 c.611 §1; 1993 c.786 §1]

ORS 223.594

Lien for water service to certain real property through single water meter

- owner as water user
- foreclosure
- [Text](#)
- [Annotations](#)

(1)

When water service is provided to a multifamily building with five or more units with a single water meter, the owner of the real property shall be considered the user of the water. If payment for such water is not made when due and the water service has not been shut off or will not be shut off, the municipal utility may place a lien on the premises to which water service was provided for the amount due for such service.

(2)

When requested by the property owner and authorized by the municipal utility, a single water meter may serve several parcels of real property owned by the same owner. The owner of those parcels of real property shall be considered the user of the water. If payment for such water is not made when due and the water has not been shut off or will not be shut off, the municipal utility providing such service may place a lien on the real property to which water service was provided for the amount due for such service.

(3)

At any time after 60 days from the time the lien is entered in the lien docket of the local government, in addition to any method provided by law, ordinance or the charter of any local government, the lien may be foreclosed in the manner provided under [ORS 223.510 \(Authority to sell property for delinquent liens and assessments\)](#) to [223.595 \(Validation of prior foreclosure proceedings\)](#). [1993 c.786 §4; 2003 c.802 §45]

ORS 757.069

Notice of delinquency on water bill

- [Text](#)
- [Annotations](#)

(1)

If a customer of a water utility fails to pay a water bill for more than 120 days after the bill becomes due, the water utility shall mail notice of the delinquency to the persons who are listed as the owners of the property in the real property tax records for the county only if the utility asserts that the property owners are responsible for the bill. The notice must be mailed to the addresses of the owners as reflected in the real property tax records.

(2)

The provisions of this section apply to water utilities operated by public utilities, municipalities, cooperatives and unincorporated associations. [2005 c.168 §2; 2007 c.211 §1]