



CITY OF KIRKLAND
Department of Finance & Administration
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www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Michael Olson, Deputy Director

Date: August 10, 2010

Subject: Utility Service Collection Rule Changes

RECOMMENDATION:

Approve the recommendation that, to achieve compliance with Engrossed Senate Bill (ESB) 6261, the City extend the water shut-off date an additional seven days from current practice and amend the Kirkland Municipal Code as follows (new text underlined):

KMC 15.20.020 Due date-Delinquency-Penalty

...If the delinquent charges and penalties are still unpaid at the close of business on the fortieth day following the billing date, the services shall be discontinued and the water supply shall be turned off at the meter. The water service shall not be restored until all past due charges, penalties and fees shall have been paid...

BACKGROUND DISCUSSION:

ESB 6261 was signed into law on March 19, 2010 and took effect June 10, 2010. An AWC memo containing a summary of the changes follows this memo as Attachment A.

Kirkland is in compliance with all of the provisions under the current KMC and collection practices except the new requirement to provide seven days written notice to tenants prior to disconnecting water service to the property. Currently, shut-off tags are hung two days prior to shut-off.

Those properties where the original utility bill and the late notice are mailed to an owner who does not live at the service address (and the City has not been informed that a tenant occupies the property) are only receiving a two day notice of water shut-off under current practice.

The most efficient solution to be in compliance with the new law is to extend the shut-off date an additional seven days and shut off water for non-payment a week later on the following Wednesday. The current and proposed practice for utility collection is attached to this memo as Attachment B.

Moving the water shut-off one week later may result in an additional utility bill being added to the account as utility accounts are billed every 60 days. The KMC currently requires that all charges be paid if an account is shut off for non-payment. We are proposing to change the KMC to require that only past due charges, penalties and fees are required to be paid if an account is shut off for non-payment.

The Finance Subcommittee reviewed the recommendation at their July 27, 2010 and recommends approval by the City Council.

J u n e 2 0 1 0



New Utility Service Collections Rules

Background

On March 19, 2010, Governor Gregoire signed into law **ESB 6261**, which addresses utility services collections against residential rental properties. Some provisions apply only to city electric utilities; others apply to all utilities. The law took effect on June 10, 2010, with one exception noted below. In general, the law amends RCW 35.21.217 by placing new requirements on landlords and city utilities while providing tenants with a new recourse against landlords who agree to pay utility bills but do not.

New requirements for power, light, and water utilities

In certain circumstances, a city utility is now required to make a good faith and reasonable effort to provide written notice to a residential service address at least seven days prior to disconnecting power, light, or water service. This applies when:

- A multiple residential rental unit receives service through a single utility account;
- The billing address for a residential rental property is not the same as the service address; or
- The city has been notified a tenant resides at the service address.

In case of non-payment by the owner and if requested by the affected tenant, the city must provide service to the affected tenant on the same terms as other residential customers in the city without requiring the tenant to pay delinquent amounts from the owner or previous renter, unless otherwise allowed by law and only when the city offers a reasonable payment plan.

Some utilities are interpreting this to mean that a local ordinance could allow a city to require a tenant to make reasonable payments toward an owner's delinquent bill in order to continue service, but only if that current tenant used the service for which the owner is delinquent. A new tenant may not be required to pay delinquent bills from a prior tenant's usage.

Allowing a tenant to continue service following an owner's delinquency does not impact the city's right to collect delinquent charges from the owner or previous tenant.

New requirements for electric utilities

If a property owner notifies the city in writing that the property served is a residential rental property, asks to be notified of a tenant's delinquency, and provides an accurate mailing address, the city must notify the owner at the same time and in the same manner as the tenant is notified or by mail. After August 1, 2010, if the city fails to notify the owner of a tenant's delinquency after being requested to do so, the city is prohibited from collecting any unpaid charges for electric light or power services from the owner and loses its statutory lien rights under RCW 35.21.290.

New requirements for rental property owners

If an electric utility account is in a residential tenant's name, the owner must notify the city within 14 days of a tenant's move out and termination of the lease. If the owner fails to do so, the city is not limited to collecting only four months of a tenant's delinquent charges from the owner, provided that the city has complied with the notice requirements discussed above.

New protections for tenants

If a tenant requests service following an owner's delinquency, that tenant is allowed to deduct reasonable utility charges paid by the tenant from the rent. The landlord cannot retaliate against the tenant for any deductions.

continued

What you need to do to protect your ability to collect delinquent utility bills

1. Be sure to notify owners when a tenant becomes delinquent at the same time and in the same manner you notify the tenant or by mail. This is particularly important for electric utilities. Consider notifying tenants as soon as the owner becomes delinquent, especially if the owner's delinquency notice indicates a possible service disconnection.
2. Before terminating utility service to a residential rental property where the account is not in the tenant's name, you must make a reasonable attempt to notify the tenants in writing at least seven days prior to the termination. Consider notifying tenants by mail, by leaving door hangers, or by posting notice at the premises.
3. If an owner is delinquent and the affected tenants request continued service, offer the tenants the opportunity to obtain service on the same terms and conditions as other residential utility customers. The tenants cannot be required to pay delinquent balances billed to the owner or a previous tenant unless otherwise provided by law. If the law permits payment of these balances, offer the tenants a reasonable payment plan.
4. Do not allow a residential rental property to become more than four months delinquent in electric utility bills or you may jeopardize your ability to collect the delinquent bills.



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Olympia, WA 98501
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Utility Billing Collections

Current Process

Kirkland Municipal Code (KMC) 15.20.020

- Requires payment by 30th day after billing date
- States water shall be turned off 40 days after billing date if not paid.

Action	Notification to Customer	Day of Week	Days Since Billing
Utility Bill	<u>Due upon Receipt</u> for services & consumption the previous two months	Wednesday	
Late Notice	Applied after 30 days (10%)	Tuesday	34 days
Shut-off Tag	Explained on Late Notice – account must be paid 6 days before shut-off to avoid shut-off tag (\$20)	Monday	47 days
Shut-off for non payment	To avoid shut-off account must be paid by 5PM day before shut-off date (\$40)	Wednesday	49 days

Proposed Process

Kirkland Municipal Code (KMC) 15.20.020

- Requires payment by 30th day after billing date
- States water shall be turned off 40 days after billing date if not paid.

Action	Notification to Customer	Day of Week	Days Since Billing
Utility Bill	<u>Due upon Receipt</u> for services & consumption the previous two months	Wednesday	
Late Notice	Applied after 30 days (10%)	Tuesday	34 days
Shut-off Tag	Explained on Late Notice – account must be paid by specified date to avoid shut-off tag (\$20)	Monday	47 days
Shut-off for non payment	To avoid shut-off account must be paid by 5PM day before shut-off date (\$40)	Wednesday	56 days

ORDINANCE 4255

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO UTILITY SERVICES DUE DATE AND AMENDING KMC SECTION 15.20.020.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 15.20.020 is hereby amended to read as follows:

15.20.020 Due date—Delinquency—Penalty.

All charges for utility services furnished by the city shall be due and payable to the city on the date shown on the face of the bill. Charges for services remaining unpaid at the close of business on the thirtieth day following the billing date shall be considered delinquent and automatically subject to an additional charge, as a penalty, of ten percent of the delinquent amount. Payments will first be applied to the oldest delinquent charges. Remaining funds will be credited first against current charges from the garbage utility, then against current charges related to the sewer system, and then applied to current charges from the water utility. If the delinquent charges and penalties are still unpaid at the close of business on the fortieth day following the billing date, the services shall be discontinued and the water supply shall be turned off at the meter. The water service shall not be restored until all past due charges, penalties and fees ~~shall~~ have been paid. The finance director is authorized, but not obligated, to waive all or a portion of the penalties provided herein in the event the director determines the late payment was the result of excusable neglect or extreme hardship.

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney