

AGENDA

UTILITIES SERVICE BOARD MEETING

Utilities Service Center Boardroom
City of Bloomington Utilities
600 E Miller Dr
Bloomington, IN 47401

Megan Parmenter, President
Seth Debro, Vice President
Jeff Ehman
Amanda Burnham
Jim Sherman
Kirk White
Molly Stewart
David Hittle, ex officio
Matt Flaherty, ex officio

This meeting may be attended electronically via Zoom by using the following link:

<https://bloomington.zoom.us/j/83670035561?pwd=a2xn9BXwwvYeUACLNwnPddce02TmKS.1>

Meeting ID: 836 7003 5561

Passcode: 181714

Monday, October 7th, 2024

4:00 p.m. Administrative Subcommittee

- Stewart, Chair
 - Parmenter
 - Burnham
 - (alternate) Debro
- I. Call to order
 - II. Proposed Update to Rules & Regulations Section 4. Billing and Payment
Standards - Chris Wheeler
 - III. Proposed Update to Rules & Regulations Section 7. Termination of Service - Chris Wheeler
 - IV. Proposed Update to Rules & Regulations Section 24. Comprehensive Plan - Chris Wheeler
 - V. Petitions and communications*
 - VI. Adjournment

* Public comment will be limited to 5 minutes per person

MEMORANDUM

TO: Utilities Service Board
FROM: Chris Wheeler, City Legal
RE: Request Approval of Update to Section 4 of Rules and Regulations
Date: October 2, 2024

CBU and City Legal recommend an update to Section 4 of the City of Bloomington Utilities Department's Rules, Regulations and Standards of Service regarding summer wastewater rates, assertion of liens on properties of delinquent accounts, and landlord responsibilities for tenant delinquent accounts.

The following edits are proposed:

- Section 4.8 – Summer Wastewater Rates: Extend the summer wastewater rate to include May. Move the months of estimation to March and April instead of April and May.
- Section 4.9 – Collection and Foreclosure of Lien: Amend to state that liens will only be imposed where permitted by law. This will allow CBU to continue to impose liens for delinquent sewer bills, but not for delinquent water bills.
- Section 4.10 – Rental Properties: This section should be amended to reflect updates at the state level that now prohibit a municipal water utility from requiring a landlord to be responsible for a tenant's delinquent water bill.

Indiana Code § 8-1.5-3-8 does not permit a municipal water utility to require landlords to be responsible for a tenant's delinquent water bill. A landlord may still co-sign if they would like to, but cannot be compelled to do so. If a water bill goes unpaid, CBU cannot turn to the landlord for payment and cannot assert a lien against the landlord's real estate. This statute does not impact a municipal sewer utilities right to still require payment of a delinquent sewer bill from a landlord, even if the landlord did not cause the delinquency. And CBU can still assert a lien against the landlord's real estate for those unpaid sewer bills.

4.8 Summer Wastewater Rates. Residential wastewater rates for the months of May, June, July, and August, ~~and September~~ shall be based on the average month's billing for March and April ~~and May~~. All other Customer classes will pay according to actual water usage.

4.9 Collection and Foreclosure of Lien. In addition to the methods of collection of such rates or charges, including the penalty thereon, when ~~the a~~ bill becomes delinquent as provided above, the Utility shall, where permitted by law, have the right to file a lien for non-payment. The Utility shall recover all charges, together with a reasonable attorney's fee, pursuant to the provisions of the Indiana Code.

4.9.1 Notice of Lien. When an account is in arrears, and has been disconnected, the owner, as listed in the Assessor's Plat Book in the Auditor's Office, will be sent a certified letter of notice prior to filing a lien. If the property owner does not pay the outstanding balance, a lien will be filed on the property.

4.9.2 No lien will be filed when the amount to be recovered is considerably less than the amount spent to file the lien.

4.9.3 All liens will be filed at the convenience of the Utility.

4.10 ~~Landlord-Tenant Relationship. Rental Properties.~~ The Utility shall not involve itself in ~~the any~~ landlord-tenant relationship. ~~For water delinquencies, when the landlord has signed or co-signed as a Customer on the contract for service and/or the landlord's name is on the Utility account, the Utility, where permitted by law, The Utility shall have the right to foreclose the file a lien for non-payment, as above described, against the rental property regardless of whether the delinquency in payment was created by the tenant or owner. the landlord created the delinquency. For wastewater and stormwater delinquencies, the Utility, where permitted by law, shall have the right to file a lien for non-payment against the rental property regardless of whether the landlord has created the delinquency.~~

4.8 Summer Wastewater Rates. Residential wastewater rates for the months of May, June, July, and August, shall be based on the average month's billing for March and April. All other Customer classes will pay according to actual water usage.

4.9 Collection and Foreclosure of Lien. In addition to the methods of collection of such rates or charges, including the penalty thereon, when a bill becomes delinquent as provided above, the Utility shall, where permitted by law, have the right to file a lien for non-payment. The Utility shall recover all charges, together with a reasonable attorney's fee, pursuant to the provisions of the Indiana Code.

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4.9.2 No lien will be filed when the amount to be recovered is considerably less than the amount spent to file the lien.

4.9.3 All liens will be filed at the convenience of the Utility.

4.10 Rental Properties. The Utility shall not involve itself in any landlord-tenant relationship. For water delinquencies, when the landlord has signed or co-signed as a Customer on the contract for service and/or the landlord's name is on the Utility account, the Utility, where permitted by law, shall have the right to file a lien for non-payment, against the rental property regardless of whether the landlord created the delinquency. For wastewater and stormwater delinquencies, the Utility, where permitted by law, shall have the right to file a lien for non-payment against the rental property regardless of whether the landlord has created the delinquency.

MEMORANDUM

TO: Utilities Service Board
FROM: Chris Wheeler, City Legal
RE: Request Approval of Update to Section 7 of Rules and Regulations
Date: October 2, 2024

CBU and City Legal recommend an update to Section 7 of the City of Bloomington Utilities Department's Rules, Regulations and Standards of Service regarding the methods available for notice when CBU intends to terminate a customer's service.

Currently the rules and regulations provide that written notice may only be issued by mailing said notice to the address shown in CBU records, or by personal deliver to the customer or a responsible member of the household. It does not provide for any electronic means of notification. And, once service is terminated, the notice must be left in a conspicuous place at the residence. CBU has traditionally used a hang tag. In recent years there have been moments when leaving a hangtag has resulted in customers abusing the CBU employee.

In an effort to make notifications more efficient and to prevent volatile situations for CBU employees, CBU and City Legal recommend adding electronic means of notification as an acceptable method of providing notice to customers both when service is going to be terminated and when service has been terminated.

7.7 Notice Required Prior To Utility Termination of Service. Except as otherwise provided herein, service to any residential Customer shall not be terminated for a violation of any rule or regulation of the Utility, or for the non-payment of a bill, except after written notice to such Customer ~~by either~~ under one or more of the following methods:

7.7.1 Mailing the notice to such residential Customer at the address shown on the records of the Utility, or

7.7.2 Personal delivery of the notice to the residential Customer or a responsible member of his said household at the address shown on the records of the Utility; ~~or~~

7.7.3 Via the preferred electronic communication indicated on the Customer's account.

7.7.48 Date of Termination. No termination of service notice for non-payment may be rendered prior to the date on which the account becomes delinquent.

7.7.59 Notice Requirements. The notice must be in language that is clear, concise, and easily understood and shall state:

7.7.59.1 The date of the proposed termination of service;

7.7.59.2 The reason for the proposed termination of service;

7.7.59.3 The telephone number of the Customer Service office at which the Customer may call during regular business hours in order to question the proposed termination of service or seek information concerning Customer rights.

7.810 Procedure for Involuntary Termination of Service.

7.810.1 The Utility employee designated to terminate the service shall have sufficient information to inform the Customer or other responsible person of the reason for the termination of service, including amount of any delinquent bill of the Customer.

7.810.2 The employee shall not accept payment from the Customer or other responsible person in order to prevent the service from being terminated.

7.810.3 When the employee has terminated the service, ~~he/she the employee shall leave at a conspicuous place on the premises, a notice stating that service has been terminated and stating the address and telephone number of the Utility so the Customer may arrange to have service reconnected.~~ notify the Customer that service has been terminated, stating the address and telephone number of the Utility so that the Customer may arrange to have service reconnected. Notice under this section shall be made either by leaving notice in a conspicuous place at the premises or via the preferred electronic communication indicated on the Customer's account.

7.7 Notice Required Prior To Utility Termination of Service. Except as otherwise provided herein, service to any residential Customer shall not be terminated for a violation of any rule or regulation of the Utility, or for the non-payment of a bill, except after written notice to such Customer under one or more of the following methods:

7.7.1 Mailing the notice to such residential Customer at the address shown on the records of the Utility, or

7.7.2 Personal delivery of the notice to the residential Customer or a responsible member of said household at the address shown on the records of the Utility; or

7.7.3 Via the preferred electronic communication indicated on the Customer's account.

7.8 Date of Termination. No termination of service notice for non-payment may be rendered prior to the date on which the account becomes delinquent.

7.9 Notice Requirements. The notice must be in language that is clear, concise, and easily understood and shall state:

7.9.1 The date of the proposed termination of service;

7.9.2 The reason for the proposed termination of service;

7.9.3 The telephone number of the Customer Service office at which the Customer may call during regular business hours in order to question the proposed termination of service or seek information concerning Customer rights.

7.10 Procedure for Involuntary Termination of Service.

7.10.1 The Utility employee designated to terminate the service shall have sufficient information to inform the Customer or other responsible person of the reason for the termination of service, including amount of any delinquent bill of the Customer.

7.10.2 The employee shall not accept payment from the Customer or other responsible person in order to prevent the service from being terminated.

7.10.3 When the employee has terminated the service, the employee shall notify the Customer that service has been terminated, stating the address and telephone number of the Utility so that the Customer may arrange to have service reconnected. Notice under this section shall be made either by leaving notice in a conspicuous place at the premises or via the preferred electronic communication indicated on the Customer's account.

MEMORANDUM

TO: Utilities Service Board
FROM: Chris Wheeler, City Legal
RE: Request Approval of Update to Section 24 of Rules and Regulations
Date: October 3, 2024

CBU and City Legal recommend an update to Section 24 of the City of Bloomington Utilities Department's Rules, Regulations and Standards of Service regarding waivers and director discretion for extensions/connections to properties located outside of the City's municipal boundaries.

Currently the rules and regulations provide for an exception to the bright line rule that extensions/connections of sanitary sewer service may not be made to properties outside of the City's municipal boundaries without submittal of a valid petition for voluntary annexation. That exception was to be exercised only in rare circumstances after giving consideration to a set of factors and only in situations where a valid waiver of right to remonstrate was signed by the property owner.

Given the current uncertainties surrounding validity of waivers and the recent legislative acts that have done harm to the waiver system, the Mayor has elected to halt all sewer extension/connection to properties outside of City municipal boundaries. The current administrative policy requires properties to first annex into the city before sewer extensions/connections may occur.

This update removes the discretionary language which included the reference to waivers and the factors to be considered when exercising such discretion.

With removal of discretion there is no need for an appeal process in front of the USB. So it is recommended that the appeal section also be removed.

SECTION 24 COMPREHENSIVE PLAN

- 24.1. Comprehensive Plan. In developing a Sewer Service Area Map (“SSAM”) and in its decisions to extend sanitary sewer service, accept wastewater, or allow connection to an interceptor from proposed development, the Utility considered and will continue to consider the City of Bloomington Comprehensive Plan and the Monroe County Comprehensive Plan, as applicable and as provided in this Rule, as well as input from City and County governmental officials and non-governmental organizations and individuals.
- 24.2 Service Area. The SSAM will designate the area in which the Utility will allow sewer connections. The Utilities Service Board hereby authorizes the Director of the Utility to make the decision as to whether a request for extension of sanitary sewer service shall be granted in areas located outside of the City’s municipal boundaries. The Director may grant a request for extension of sanitary sewer service to a parcel or parcels located outside of the City’s municipal boundaries if the owner or owners of the parcel(s) have submitted a valid petition for voluntary annexation that complies with the requirements of Indiana Code § 36-4-3-5.1, after considering the plans and input in 24.1 above.

If the owner or owners of the parcel(s) have not submitted a valid petition for voluntary annexation that complies with the requirements of Indiana Code § 36-4-3-5.1, then sanitary sewer service shall not be extended. ~~However, in rare circumstances the Director may grant a request for extension of sanitary sewer service to a parcel or parcels located outside City’s municipal boundaries in exchange for a signed waiver of right to remonstrate after giving consideration to the following factors:~~

- ~~a.— Capacity to accept additional flow into the Utility owned sanitary sewer infrastructure;~~
- ~~b.— Whether the planned use of the parcel(s) is industrial/commercial, and not residential;~~
- ~~e.— Whether the owner of the parcel(s) is a governmental agency, and the proposed use is not residential;~~
- ~~d.— Whether the request will require any further extension of Utility owned sanitary sewer infrastructure;~~
- ~~e.— In the case of residential uses, the proposed density of the residential use; and~~
- ~~f.— Any other impacts the extension may reasonably have on the City’s growth and development.~~

- 24.3 Additional Information. Utility staff will determine what additional information is required from the applicant and advise as to what information is necessary to process the request. Any connection or extension must be in compliance with all applicable federal, state, and local rules and regulations.
- 24.4 Time for Processing Requests. The Director and Utility Staff shall complete processing of all requests for sanitary sewer service within 30 days of receipt of all necessary materials. In the event changes are made in the proposal for sanitary sewer service received by the Utility Staff, the 30 day period will run from the date that information regarding those changes is received. ~~Applicants for sewer extensions may appeal the application of~~

~~standards and specifications, rules and regulations, and service denial to the Utilities Service Board.~~

24.5 ~~Procedure for Appeal. The denial of a request for sewer extension may be appealed to the Board by filing a written appeal with the CBU Director's Office within ten (10) working days of receipt of denial of the request. The appeal will be heard at the next regularly scheduled Board meeting for which it can be added to the agenda.~~

24.65 Applicant's Obligation for Costs. Under no circumstances shall the Utility's approval of a request for permission to extend sanitary sewer service obligate it to construct or pay for the construction of any sanitary sewer extension or connection to the City's sanitary sewer collection system. All such costs and any upgrades to the Utility collection systems that are required to accommodate the impact of the new connection shall be calculated and allocated in accordance with the Indiana Utility Regulatory Commission sewer extension rules found at 170 IAC 8.5-4.

SECTION 24 COMPREHENSIVE PLAN

- 24.1. Comprehensive Plan. In developing a Sewer Service Area Map (“SSAM”) and in its decisions to extend sanitary sewer service, accept wastewater, or allow connection to an interceptor from proposed development, the Utility considered and will continue to consider the City of Bloomington Comprehensive Plan and the Monroe County Comprehensive Plan, as applicable and as provided in this Rule, as well as input from City and County governmental officials and non-governmental organizations and individuals.
- 24.2. Service Area. The SSAM will designate the area in which the Utility will allow sewer connections. The Utilities Service Board hereby authorizes the Director of the Utility to make the decision as to whether a request for extension of sanitary sewer service shall be granted in areas located outside of the City’s municipal boundaries. The Director may grant a request for extension of sanitary sewer service to a parcel or parcels located outside of the City’s municipal boundaries if the owner or owners of the parcel(s) have submitted a valid petition for voluntary annexation that complies with the requirements of Indiana Code § 36-4-3-5.1, after considering the plans and input in 24.1 above.
- If the owner or owners of the parcel(s) have not submitted a valid petition for voluntary annexation that complies with the requirements of Indiana Code § 36-4-3-5.1, then sanitary sewer service shall not be extended.
- 24.3. Additional Information. Utility staff will determine what additional information is required from the applicant and advise as to what information is necessary to process the request. Any connection or extension must be in compliance with all applicable federal, state, and local rules and regulations.
- 24.4. Time for Processing Requests. The Director and Utility Staff shall complete processing of all requests for sanitary sewer service within 30 days of receipt of all necessary materials. In the event changes are made in the proposal for sanitary sewer service received by the Utility Staff, the 30 day period will run from the date that information regarding those changes is received.
- 24.5. Applicant’s Obligation for Costs. Under no circumstances shall the Utility’s approval of a request for permission to extend sanitary sewer service obligate it to construct or pay for the construction of any sanitary sewer extension or connection to the City’s sanitary sewer collection system. All such costs and any upgrades to the Utility collection systems that are required to accommodate the impact of the new connection shall be calculated and allocated in accordance with the Indiana Utility Regulatory Commission sewer extension rules found at 170 IAC 8.5-4.