

OLIVIA CITY ORDINANCE 2014-02

An Ordinance providing for the certification of delinquent utility accounts for collection with property taxes.

WHEREAS, the City of Olivia (hereafter, the City), provides utility services to the citizens and businesses of Olivia and some other nearby customers; and

WHEREAS, the City desires to provide these services at the most economic rates possible; and

WHEREAS, it is important to keep the municipal utility departments as a self-supporting as possible; and

WHEREAS, the City is aware of a number of customers who receive, but do not pay for the services in a timely manner, if at all; and

WHEREAS, the City recognizes that failure to collect those fees directly impacts the cost of providing the utility services and results in higher rates for other customers; and

WHEREAS, Minnesota Statutes section 412.321 gives the City the authority to own and operate electric utility service; and

WHEREAS, Minnesota Statutes sections 366.012 and 415.01 give municipalities the authority to certify unpaid service charges to the County Auditor to be collected with property taxes levied against the property; and

WHEREAS, Minnesota Statutes section 412.221 gives the City the authority to make such contracts as may be deemed necessary or desirable to make effective any power possessed by the Council; and

WHEREAS, the Public Utilities Commission has reviewed this Ordinance and recommends its approval by the City;

NOW, THEREFORE, THE CITY COUNCIL OF OLIVIA ORDAINS:

§ 50.05 CERTIFICATION OF DELINQUENT UTILITY ACCOUNTS

(A) Definitions and meanings.

- (1) "Severely delinquent account" means any utility account that has received two consecutive months service without full payment to the City for the service.

- (2) "Rental Property" means any building or parcel of real property, either residential or non-residential, or both, the principal occupant(s) of which is a person or persons other than the owners of said property or parcel as reflected in the records of the Renville County Recorder. Rental Property shall include property occupied by single or multiple manufactured homes and property containing manufactured home parks.
- (3) "Utility Service" shall include any and all electric service, water service, sewer service, storm sewer service, gas service, related reserve accounts, and similar items provided by the City to its customers.

(B) Accounts.

(1) New Accounts.

All new accounts (contracts) for utility service shall be between the City, and the respective property owners. The utility customer must be the property owner regardless of who occupies the property or who receives the bill for utility service.

(2) Existing Accounts.

(a) For all existing accounts, the property owner must be the utility customer regardless of who occupies the property or who receives the bill, as between a property owner and a tenant, notwithstanding any agreement to the contrary between an owner and a tenant of Rental Property, except as provided in Section (B)(2)(b). The property owner is responsible for all utility account charges to the property, and the City will ensure that all utility accounts are in the property owner's name.

(b) If an owner of Rental Property provides the City with a copy of the written Lease, then as to that property, this Ordinance will not be effective until one year after adoption, and the City will not place the account into the owner's name until one year after the adoption of this Ordinance. In that case, the Tenant(s) shall remain liable for the utility charges incurred prior to the City changing the account into the owner's name.

(3) Account Billing.

(a) The City will send the bill for utility services to the property owner unless the property is Rental Property, and the owner agrees to have the City send a copy of the bill to the Tenant, and the owner provides a written authorization for the City to send bills for that property to the Tenant.

(b) A property owner may assign, and a tenant may agree to assume the duty to pay for utility services, however the property owner shall remain ultimately responsible to the City for all utility account charges notwithstanding any agreement between the owner and Tenant.

(C) Certification.

(1) The City hereby establishes a procedure to certify severely delinquent utility accounts to the County Auditor for collection with the subsequent year's property taxes due against the parcel for which said past due billing is owed.

(2) Procedure.

(a) After August 1st of each year the City shall prepare a list of severely delinquent accounts.

(b) Prior to August 8th of each year, the City Council shall select a date and time for a public hearing at which the Council will hear disputes on severely delinquent utility account. The date of the public hearing shall be during the month of September.

(c) Prior to August 10th of each year, the City shall send a letter to the severely delinquent account property owner advising the owner of the following:

- (i) That the account is severely delinquent;
- (ii) That the owner must make full payment on the severely delinquent account, and that the payment must be made in cash, or cash equivalent;
- (iii) That if the balance is not paid in full by September 30th of that year, then the amount due on that date, (which will include any accrued late fees, interest, and/or a certification fee) will be certified to the County Auditor for collection with the following year's property taxes; and
- (iv) That the owner has the right to dispute the account only at the public hearing on the date and time specified in the Resolution.

(d) The Council shall hold a public hearing on the date selected to hear account disputes. Any property owner who has a utility account that is severely delinquent, and disputes the delinquent amount shall be entitled to be heard by the City on the matter in dispute before the delinquent amount is certified. The Council may accept relevant evidence during the

hearing, and shall make and announce their decision prior to the deadline for certification.

(5) After October 1st the City shall provide to the owners of delinquent accounts written notice of a hearing to be conducted on or before October 31st, at which hearing the City Council may adopt a Resolution certifying said unpaid accounts, including any accrued late fees, interest, and/or a certification fee, to the County Auditor for collection with the following year's property taxes.

(D) Effective Date.

(1) Publication. This Ordinance shall take effect upon its summary publication in the local newspaper. Said publication shall read as follows:

City Ordinance 2014-02 adds provisions ordaining that all utility accounts are contracts that shall be between the City and the individual property owners, and allows the City to certify severely delinquent municipal utility charges to the County Auditor for collection with the following year's property taxes. A full copy of the Ordinance is available for inspection at Olivia City Hall.

(E) Amendments to prior Resolutions and Code.

- (1) City Code sections 50.04 (C) and (D), and Resolutions 2004-53, 2001-53, and 98-08 are hereby *Repealed*.
- (2) This Ordinance shall be incorporated into Olivia City Code as Section 50.05.

ADOPTED by the Olivia City Council this 19th day of May, 2014. Said motion was made by Bernard Johnson and seconded by Stacie Haney.

/s/ Dan Coughlin, City Administrator