

**SUBJECT:** Approval of Ordinance 08-37.34 for the change in delinquent water and sewer charges to be added to the tax roll when account is three months (previously six months) delinquent. **First Reading**

**SUBMITTING DEPARTMENT:** Finance *HW*

**CITY MANAGER APPROVAL:** *AW*

Attached is memorandum which describes the current and proposed changes to the administration of delinquent water and sewer accounts. The proposed ordinance change would reduce the time period from six months to three months for placing unpaid water and sewer bills on the property tax bill. The intention is to reduce/eliminate most water service shut-offs, which are disruptive to the customer and add field and administrative work. The change will improve the timing of collections, and the new procedures will provide greater efficiency in the use of staff time.

**RECOMMENDED ACTION:** Approval of Ordinance 08-37.34 for the change in delinquent water and sewer charges to be added to the tax roll when account is three months (previously six months) delinquent. **First Reading**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

**Smith-Roy, Kathy**

**Subject:** FW: Delinquent w & s accounts

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**From:** Kolb, Kristin [mailto:kkolb@secrestwardle.com]  
**Sent:** Monday, March 10, 2008 11:52 AM  
**To:** Smith-Roy, Kathy; Glenn, Tina  
**Cc:** Tom Schultz  
**Subject:** FW: Delinquent w & s accounts

Kathy and Tina-

Tom asked me to take a look at this (per Clay). From my research, I can see no problem with changing the time to put the lien on the tax bills from 6 months to 3 months.

There is a statutory provision (MCL 123.162, PA 178 of 1939) which provides that a lien for water or sewer charges is effective immediately upon distribution of the water or provision of sewer system service. There is no minimum time for when the lien for unpaid charges can go on the tax bills. (Note: There is a maximum period of 3 years within which to enforce the lien.) The next section (MCL 123.163) provides that the lien may be enforced by the manner prescribed in the City's charter, in the manner provided for the collection of tax liens, or by an ordinance adopted by the City. The Home Rule City Act also authorizes the City to enact provisions in its Charter for the collection of delinquent sewer charges in the same manner as other City taxes. Again, there is no minimum time frame for moving forward with enforcement of the lien.

The Novi City Charter provides in Section 13.4(a) that the City may adopt an ordinance in this regard, providing that the City has a lien (effective immediately) for all public utility rates and charges, and may be enforced in the manner provided in the ordinance. There is no minimum time for enforcement of the lien. Accordingly, the City has adopted Chapter 34, Article II, Section 34-21.

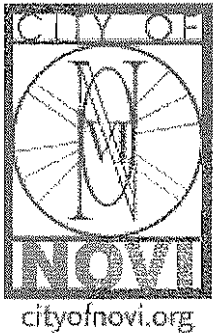
Based on the above enabling authority, it appears that there is no limitation on when enforcement of a lien for unpaid water/sewer charges may occur. In fact, all of the above-cited provision provide that the lien is effective "immediately." Therefore, we can see no legal reason why the proposed ordinance amendment should not move forward.

If you need anything further on this, or if you would like a more formal response, please feel free to contact me.

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03/11/2008

# MEMORANDUM



**TO:** Kathy Smith-Roy  
**FROM:** Tina Glenn  
**SUBJECT:** Procedure for *delinquent water & sewer account balances*  
W & S Ordinance Change (Section 34-21 (a))  
**DATE:** March 3, 2008

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The Water & Sewer Fund is an enterprise fund and as such is to be a self-sustaining not-for-profit entity based on user fees. Any accounts receivables that are written-off become a cost to the customers of the system.

Section 34-21 of the Novi Code affords two remedies for nonpayment of water & sewer usage charges, which states, in part:

- a. The charges for services are a lien on premises served. Any such charges delinquent for six (6) months can be placed on the next tax roll as a charge against such premises and shall be collected, and the lien thereon enforced.
- b. The City has the right to shut off and discontinue the supply of water to any premises for the nonpayment of water charges when due.

Our current procedure for delinquent accounts is based primarily on remedy (b) with past due notices issued thirty (30) days after the billing due date and shut-off notices (aka "red tags") issued two (2) weeks after past due notices. If payment or payment arrangements have not been made within twenty-four (24) hours of receiving a shut off notice, the water service is shut-off until payment is received.

Recently, the number of red tags issued has been increasing, from an average of 40-50 in 2004 and 2005 to over 80 red tags per month (for the month of February 2008 notices 114 red tags were delivered). It is a time consuming task to issue red tags. The City staff obtains a list of all delinquent accounts (off the BS&A system), then red tags are handwritten from this list and provided to the Water & Sewer field staff for delivery. The field staff spends approximately 4-5 hours per month to deliver the red tags, which does not include the time to shut-off the service for those that do not make payments. In addition, there is an increase in calls received by the Treasury Department from customers making payment arrangements to avoid discontinuance of their water service and an increase in the number of payments being taken at the counter. The City currently does not have a formal policy or administrative procedure for making payment arrangements and therefore, there is no consistency in the payment arrangements being made and there is not adequate staff to follow-up on these arrangements. If the proposed recommendation is not adopted, we will establish specific policies and procedures for payment arrangements.

A survey conducted by the Water & Sewer Department shows that many communities do not discontinue water service for non-payment but instead handle the delinquent amounts by placing them on the tax roll. The following are the results of our survey:

Community	Shut-off service for non-payment?	Place delinquent amount on taxes?	# of months delinquent before placing on tax bill
Troy	No	Yes	6
Wixom	No	Yes	3
Southfield	No	Yes	6
Livonia	No	Yes	9
Oakland County	Yes	Yes	6

Procedure recommendation:

- Utilize remedy provided by Ordinance 34-21(a) and place delinquent charges on the property owner's tax bill rather than issuing shut-off notices (this would better utilize staff's time and, with the BS&A software, delinquencies are easily transferred from utility billing to the tax bill). Shut-off notices can still be utilized upon certain dollar thresholds, and staff will develop a policy and procedure for these limits.
- Additionally, amend the ordinance to allow for delinquencies 3-months past due rather than 6-months past due to be placed on the tax bill which would allow for collection of a larger portion of the delinquency balance (see table below). Although the current Ordinance allows for placing charges six (6) months delinquent on the tax bill, by the time the charges placed on the tax bill are due, they could actually be nine to twelve months delinquent. For example an account that was delinquent in February would not be able to be placed on the summer tax bill, and would be put on the winter tax bill, which potentially would not be paid until February of the following year. Amending the Ordinance would allow a more timely collection of delinquent charges.

Utility A/R Balance as of 2/28/07				
Total Balance	Current Balance	Delinquent Balance	3-months over due	6-months over due
\$ 888,474	\$ 591,953	\$ 296,520	\$ 87,877	\$ 36,587
% of A/R balance		33.374%	9.89%	4.12%
% of delinquent balance			29.64%	12.34%

While there are many advantages to handling delinquent charges by placing them on the tax bill, there is the possibility that utility customers would choose to have their utility charges placed on their tax bill and therefore not pay their water/sewer bills (one Community in our study indicated that they have a few of those customers). Despite this possibility, it seems that the advantages outnumber this potential disadvantage and the Ordinance would still be in place to discontinue services if needed. Water and Sewer staff time would be saved by eliminating the red-tag system. The City's current BS&A software provides a function that allows us to select accounts to be added to the tax bill. We are utilizing this function in other areas that are covered by City ordinances (for example Police false-alarms billing). The City's exposure to write-off of accounts receivable will be reduced. The City receives 100% of all tax billings (including items like Water & Sewer delinquent charges, Police alarms, etc.) as a result of the contract with Oakland County. The City receives 100% of uncollected billings, except for personal property taxes shortly after settlement with the County each year.

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08-37.34

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AS AMENDED, CHAPTER 34, "UTILITIES," ARTICLE II, "WATER SUPPLY SYSTEM," DIVISIONS 1, ARTICLE III, "SEWAGE DISPOSAL SYSTEM," DIVISIONS 2 and 3, IN ORDER TO CHANGE THE DELINQUENCY PERIOD FOR NONPAYMENT TO BE INCLUDED ON THE TAX ROLLS FROM SIX MONTHS TO THREE MONTHS.

THE CITY OF NOVI ORDAINS AS FOLLOWS TO AMEND THE CITY OF NOVI CODE OF ORDINANCES:

PART I That Chapter 34, Utilities, Article II, Divisions 1, of the City of Novi Code of Ordinances is hereby amended to read as follows:

ARTICLE II. WATER SUPPLY SYSTEM.

DIVISION 1. GENERALLY

\* \* \*

Sec. 34-20 [Unchanged.]

Sec. 34-21. Delinquent charges constitute lien; authority of city to discontinue water for nonpayment of charges.

(a) *Lien.* The charges for water services are a lien on premises served and are hereby recognized to constitute such lien. Whenever any such charge against any such premises shall be delinquent for ~~six (6)~~ three (3) months, the city employee in charge of the collection thereof shall certify bi-annually, on May 1 and November 1 of each year, to the Treasurer or Assistant Treasurer of the city the fact of such delinquency, whereupon such charge shall be by him/her entered upon the next tax roll as a charge against such premises and shall be collected, and the lien therefor enforced, in the same manner as general city taxes against such premises are collected and the lien thereon enforced. When a tenant is responsible for such services as is provided by Section 21 of Act No. 94 of the Public Acts of Michigan of 1933, (MCL 141.21), as amended, no service shall be

rendered such premises until a cash deposit as set by resolution of the council shall have been paid as security for payment of assessed charges and services.

(b) [Unchanged.]

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**PART II.** That Chapter 34, Utilities, Article III, Divisions 2 and 3, of the City of Novi Code of Ordinances is hereby amended to read as follows:

**ARTICLE III. SEWAGE DISPOSAL SYSTEM**

DIVISION 1. [UNCHANGED]

DIVISION 2. [UNCHANGED]

\* \* \*

DIVISION 3.

Subdivision 1. In General.

Sec. 34-141-146 [Unchanged.]

\* \* \*

Sec. 34-147. Enforcement.

(a) *Lien.* The charges and rates for sewer services provided for in this subdivision which are under the provisions of Section 21 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.121, MSA 5.2751) as amended, are made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien. Whenever any such charge against any piece of property shall be delinquent for ~~six (6)~~ three (3) months, the city official in charge of the collection thereof shall certify bi-annually on May 1 and November 1 of each year to the Treasurer or Assistant Treasurer of the city the fact of such delinquency, whereupon such charge shall be by him/her entered upon the next tax roll as a charge against such premises and shall be collected and the lien therefor enforced in the same manner as general city taxes against such premises are collected, and the lien thereof enforced; provided however, where notice is given that a tenant is responsible for such charges and services as provided by Section 21 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.121, MSA 5.2751), as amended, no further service shall be rendered such premises until a cash deposit as set by resolution of the council shall have been made as security for payment of such charges and services.

**PART III.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

**PART IV.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART V.**

**Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART VI.**

**Effective Date: Publication.** The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE 17<sup>th</sup> DAY OF March, 2008.

\_\_\_\_\_  
DAVID LANDRY, MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

Ayes:  
Nays:  
Abstentions:  
Absent:

**CERTIFICATION OF ADOPTION**

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the Novi City Council, held on the 17<sup>th</sup> day of March, 2008.

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

Adopted:  
Published:  
Effective: