

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter I. WATER UTILITY SUBMETERING AND ALLOCATION.

§24.281. Charges and Calculations.

- (a) **Prohibited charges.** Charges billed to tenants for submetered or allocated utility service may only include bills for water or wastewater from the retail public utility and must not include any fees billed to the owner by the retail public utility for any deposit, disconnect, reconnect, late payment, or other similar fees.
- (b) **Dwelling unit base charge.** If the retail public utility's rate structure includes a dwelling unit base charge, the owner shall bill each dwelling unit for the base charge applicable to that unit. The owner may not bill tenants for any dwelling unit base charges applicable to unoccupied dwelling units.
- (c) **Customer service charge.** If the retail public utility's rate structure includes a customer service charge, the owner shall bill each dwelling unit the amount of the customer service charge divided by the total number of dwelling units, including vacant units, that can receive service through the master meter serving the tenants.
- (d) **Calculations for submetered utility service.** The tenant's submetered charges must include the dwelling unit base charge and customer service charge, if applicable, and the gallonage charge and must be calculated each month as follows:
 - (1) water utility service: the retail public utility's total monthly charges for water service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility to obtain an average water cost per gallon, liter, or cubic foot, multiplied by the tenant's monthly consumption or the volumetric rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;
 - (2) wastewater utility service: the retail public utility's total monthly charges for wastewater service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility, multiplied by the tenant's monthly consumption or the volumetric wastewater rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;
 - (3) service charge for manufactured home rental community or the owner or manager of apartment house: a manufactured home rental community or apartment house may charge a service charge in an amount not to exceed 9% of the tenant's charge for submetered water and wastewater service, except when:
 - (A) the resident resides in a unit of an apartment house that has received an allocation of low income housing tax credits under Texas Government Code, Chapter 2306, Subchapter DD; or
 - (B) the apartment resident receives tenant-based voucher assistance under United States Housing Act of 1937 Section 8, (42 United States Code, §1437f); and
 - (4) final bill on move-out for submetered service: if a tenant moves out during a billing period, the owner may calculate a final bill for the tenant before the owner receives the bill for that period from the retail public utility. If the owner is billing using the average water or wastewater cost per gallon, liter, or cubic foot as described in paragraph (1) of this subsection, the owner may calculate the tenant's bill by calculating the tenant's average volumetric rate for the last three months and multiplying that average volumetric rate by the tenant's consumption for the billing period.

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(e) Calculations for allocated utility service.

- (1) Before an owner may allocate the retail public utility's master meter bill for water and sewer service to the tenants, the owner shall first deduct:
 - (A) dwelling unit base charges or customer service charge, if applicable; and
 - (B) common area usage such as installed landscape irrigation systems, pools, and laundry rooms, if any, as follows:
 - (i) if all common areas are separately metered or submetered, deduct the actual common area usage;
 - (ii) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is an installed landscape irrigation system, deduct at least 25% of the retail public utility's master meter bill;
 - (iii) if all water used for an installed landscape irrigation system is metered or submetered and there are other common areas such as pools or laundry rooms that are not metered or submetered, deduct at least 5% of the retail public utility's master meter bill; or
 - (iv) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is no installed landscape irrigation system, deduct at least 5% of the retail public utility's master meter bill.
- (2) To calculate a tenant's bill:
 - (A) for an apartment house, the owner shall multiply the amount established in paragraph (1) of this subsection by:
 - (i) the number of occupants in the tenant's dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered; or
 - (ii) the number of occupants in the tenant's dwelling unit using a ratio occupancy formula divided by the total number of occupants in all dwelling units at the beginning of the retail public utility's billing period using the same ratio occupancy formula to determine the total. The ratio occupancy formula will reflect what the owner believes more accurately represents the water use in units that are occupied by multiple tenants. The ratio occupancy formula that is used must assign a fractional portion per tenant of no less than that on the following scale:
 - (I) dwelling unit with one occupant = 1;
 - (II) dwelling unit with two occupants = 1.6;
 - (III) dwelling unit with three occupants = 2.2; or
 - (IV) dwelling unit with more than three occupants = 2.2 + 0.4 per each additional occupant over three; or
 - (iii) the average number of occupants per bedroom, which shall be determined by the following occupancy formula. The formula must calculate the average number of occupants in all dwelling units based on the number of bedrooms in the dwelling unit according to the scale below, notwithstanding the actual number of occupants in each of the dwelling unit's bedrooms or all dwelling units:
 - (I) dwelling unit with an efficiency = 1;
 - (II) dwelling unit with one bedroom = 1.6;
 - (III) dwelling unit with two bedrooms = 2.8;
 - (IV) dwelling unit with three bedrooms = 4 + 1.2 for each additional bedroom; or

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- (iv) a factor using a combination of square footage and occupancy in which no more than 50% is based on square footage. The square footage portion must be based on the total square footage living area of the dwelling unit as a percentage of the total square footage living area of all dwelling units of the apartment house; or
 - (v) the individually submetered hot or cold water usage of the tenant's dwelling unit divided by all submetered hot or cold water usage in all dwelling units;
 - (B) a condominium manager shall multiply the amount established in paragraph (1) of this subsection by any of the factors under subparagraph (A) of this paragraph or may follow the methods outlined in the condominium contract;
 - (C) for a manufactured home rental community, the owner shall multiply the amount established in paragraph (1) of this subsection by:
 - (i) any of the factors developed under subparagraph (A) of this paragraph; or
 - (ii) the area of the individual rental space divided by the total area of all rental spaces; and
 - (D) for a multiple use facility, the owner shall multiply the amount established in paragraph (1) of this subsection by:
 - (i) any of the factors developed under subparagraph (A) of this paragraph; or
 - (ii) the square footage of the rental space divided by the total square footage of all rental spaces.
- (3) If a tenant moves in or out during a billing period, the owner may calculate a bill for the tenant. If the tenant moves in during a billing period, the owner shall prorate the bill by calculating a bill as if the tenant were there for the whole month and then charging the tenant for only the number of days the tenant lived in the unit divided by the number of days in the month multiplied by the calculated bill. If a tenant moves out during a billing period before the owner receives the bill for that period from the retail public utility, the owner may calculate a final bill. The owner may calculate the tenant's bill by calculating the tenant's average bill for the last three months and multiplying that average bill by the number of days the tenant was in the unit divided by the number of days in that month.
- (f) **Conversion to approved allocation method.** An owner using an allocation formula other than those approved in subsection (e) of this section shall immediately provide notice as required under §24.279(c) of this title (relating to Rental Agreement) and either:
 - (1) adopt one of the methods in subsection (e) of this section; or
 - (2) install submeters and begin billing on a submetered basis; or
 - (3) discontinue billing for utility services.