



WHY WE DO WHAT WE DO



Legal background for what the Village does with your sewer, water and electric bills.

Things you may want to know about the ordinances and laws that govern Village actions.

Q Why do delinquent water, sewer and electric bills stay with the property? Shouldn't you go after the renter who used the water, sewer or electric services and not me as the property owner or new renter? How can you place unpaid bills as a lien against my property?

A Updated following *NL Ventures VI Farmington, LLC v City of Livonia*, No. 323144, decided December 22, 2015, approved for publication January 28, 2016.

The 'customer' in municipally owned water, sewer or electric utilities is the 'property' - not the person. The fact is the 'premise' - the property - is the 'customer'. Municipal utility services are governed by Michigan State Laws (statutes). Michigan Compiled Laws (MCL) governs what municipalities can and cannot do with delinquent bills. In particular, MCL 123.161, 123.162, 123.163, 123.164, 124.281 and MCL 141.101 allow municipalities to shut off utilities, charge delinquent bills to the premise (property), and place a lien against the property to collect unpaid utility bills.

Michigan laws were set up this way to assure municipalities, such as the Village of Paw Paw, are able to finance water, sanitary & storm sewer and electric services for their residents. Most municipal services are financed by selling bonds to raise the money to pay for installing or upgrading the utility infrastructure (sanitary lines, treatment plant, water mains, water wells, and electric lines). The borrowed monies becomes a debt the municipality must pay. A municipality's ability to repay its debt is met by the revenue received from selling water, collecting and treating wastewater, processing storm water, or by selling electricity. To make sure the municipality would have enough income (revenue) to pay its debt, the State of Michigan passed laws to indicate the 'premise' (property) was the customer, not the person. This way no one could 'skip out' on paying their bill and deprive the municipality of revenue needed to pay its debt or operate its utility properly. The laws hold the property owner ultimately accountable for payment of any delinquent outstanding bills. It doesn't matter whether the property owner lives in the property or rents the property to others. MCL 141.101 allows delinquent bills to be placed as a lien on the property and collected with usual property tax bills and payments.

MCL 123.161, 123.162, 123.163 and 123.164 indicate a municipality "shall" place a lien against the property in default of paying for municipal services. This is whether or not the municipality's own ordinances specifically addresses liens or not; State law supersedes local ordinances. These sections also indicate that notice of a lien is not necessary as the State law requires such. Local notice is allowed but not required. The Village of Paw Paw ordinances do address the placement of liens. The State Laws governing this were accepted by the Village and put into our Code of Ordinances in Chapter 38. These sections were based on the MCL sections cited above. They are:

- Chapter 38 Section 32 (d) (1) & (2) says water bills become a lien against the premises.
- Chapter 38 Section 81 (j) (1) and (2) says sewer bills become a lien against the premise.
- Chapter 38-141 (12) says delinquent electric bills become a lien against the premise.
- The above also indicate the authority to set rates and shut-off services.

Our Ordinances are on-line at www.pawpaw.net, click on 'Code of Ordinances' on left.