Third Party Billing Regulation
Seattle Municipal Code (SMC) 7.25

SMC 7.25.010 Short title and purpose.
A. This chapter may be known and be cited as "Third Party Billing Regulation." The general purpose of this chapter is to prevent landlords, either themselves or through a third party billing agent, from billing tenants for master metered or other unmetered utility services without proper notice and disclosure of billing practices to tenants, and to protect tenants from deceptive or fraudulent billing practices, and to these ends the provisions of this chapter shall be liberally construed.
B. Nothing in this chapter shall be construed to prevent a landlord from including a tenant's cost of master metered or other unmetered utility services within the rent set forth in a rental agreement, and the practice of including such cost within a tenant's rent shall not be considered a billing practice or methodology affected by the provisions of this chapter.
C. Nothing in this chapter shall be construed to affect the practices used by Seattle Public Utilities or Seattle City Light to bill and collect residential multi-unit building owners or landlords for master metered or other unmetered utility service.

SMC 7.25.020 Definitions.
As used in this chapter:
A. "Billing entity" means the landlord or third party billing agent, as the case may be, responsible for billing residential multi-unit building tenants for master metered or other unmetered utility service.
B. "Disclosure" means providing tenants with complete and accurate written information in a clear, concise, and understandable manner in all notices required under this chapter and on each bill presented from the billing entity to tenants.
C. "Landlord" means a "landlord" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed, and shall also mean the owner of a mobile home park or boat moorage. At the time of passage of the ordinance codified in this chapter, RLTA defined "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part," and included "any person designated as representative of the landlord."
D. "Master metered utility service" means a utility service supplied to more than one (1) unit in a multi-unit building and measured through a single inclusive metering system.
E. "Methodology" refers to any method, technique, or criterion used to apportion to tenants charges billed to the landlord by the utility for master metered utility service or unmetered utility service, including but not limited to Ratio Utility Billing Systems, installation of submetering, and hot water metering.
F. "Multi-unit building" refers to a residential building or group of buildings (which may include a mobile home park or boat moorage) with 3 or more tenant units with a master metered utility service or unmetered utility service, such as solid waste collection, that is provided to the building or group of buildings as a whole.
G. "Personally identifiable information" means specific information about a tenant, including but not limited to the tenant's social security number, birth date, mother's maiden name, banking data or information, or any other personal or private information.
H. "Ratio Utility Billing System" or "RUBS" refers to any methodology by which the cost of master metered or other unmetered utility service provided to tenants and common areas of a multi-unit building is apportioned to tenants through the use of a formula that estimates the utility usage of each rental unit in the building based on the number of occupants in a unit, number of bedrooms in a unit, square footage of a unit, or any similar criterion.
I. "Rental agreement" means a "rental agreement" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed, and is deemed to include any month-to-month tenancy arrangement, whether written or oral. At the time of the passage of the ordinance codified in this chapter, the RLTA defined "rental agreement" as "all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit."
J. "Service charge" refers to any charge or fee imposed by the billing entity to cover the costs of providing or administering the billing practices, regardless of the label applied to such charge or fee.
K. "Tenant" means a "tenant" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed, and shall also mean a tenant of a mobile home park or boat moorage. At the time of passage of the ordinance codified in this chapter, the RLTA defined "tenant" as "any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement."
L. "Tenants" refers to the practices of a landlord or third party billing agent, as defined herein, that bills residential multi-unit building tenants for the purpose of apportioning master metered or other unmetered utility services provided to the building(s) as a whole, either by directly submetering tenants' usage or by otherwise apportioning such utility services among tenants, and also refers to any practices related thereto, including but not limited to collecting, using or disclosing tenants' personally identifiable information (other than name and address), attempting to collect unpaid amounts from tenants, verifying tenants' credit, and reporting unpaid balances to credit reporting agencies.
M. "Third party billing agent" refers to any entity retained or authorized by a landlord to bill tenants for master metered or other unmetered utility service on behalf of and as the agent of a landlord.
N. "Utilities" or "utility service(s)" means water, sewer, electric, and solid waste services.

SMC 7.25.030 Prohibited billing practices.
A. It is a deceptive and fraudulent business practice for any landlord or third party billing agent to bill tenants separately for utility services except as permitted in this chapter.
B. It is a deceptive and fraudulent business practice for a landlord to engage, retain, or authorize, and a landlord shall be liable for the actions of, a third party billing agent that does not comply with the requirements of this chapter.
C. As of the effective date of this ordinance, no landlord may disclose to a third party billing agent a tenant's personally identifiable information under any circumstances, provided, however, that nothing in this chapter shall prevent a landlord from disclosing a tenant's name and address to a third party billing agent for the purpose of engaging in permitted billing practices.
D. A third party billing agent who prior to the effective date of this ordinance has obtained any tenant's personally identifiable information (other than name and address) shall not use, sell, convey, or otherwise disclose that personally identifiable information to any other person, except as expressly permitted in this chapter, and must destroy all such information upon a tenant's request, when the tenancy terminates and the account is paid, or when the third party billing agency terminates the account or the tenancy.
E. No third party billing agent may inform a credit reporting agency of a claim against a tenant except as expressly permitted in RCW Chapter 19.16, regardless of whether the third party billing agent is licensed by the state pursuant to that chapter.
SMC 7.25.040 Billing requirements.

A. Notwithstanding the prohibition against submetering electric service in SMC 21.49.100(G), a landlord may, itself or through a third party billing agent, bill tenants for master metered or other unmetered utility services, including electric service provided to tenants of multi-unit buildings, provided that the following requirements are met:

1. Notice. Billing practices may be adopted only upon advance written notice to a tenant as part of a new or renewed rental agreement. Tenants must receive such written notice at least 90 days before expiration of their rental agreements, or, in the case of month-to-month tenancies, at least 90 days before any such billing practices may become effective. Notwithstanding the foregoing two sentences, if billing practices are already in place at the time the ordinance codified in this chapter becomes effective, written notice must be given within 30 days of the effective date of the ordinance codified in this chapter.

2. Methodology. The notice required under section A.1 above must include a copy of this chapter and a detailed written disclosure of the methodology used by the billing agent to allocate the charges to each tenant, including the methodology used to allocate utility services for common areas of the building, along with all other terms and conditions of the billing arrangement. If submetering is used, the notice required under section A.1 shall also include descriptions of the location of the submeter and of the access requirements, if any, required by the landlord for the landlord or the submeter installer to read and maintain meter installation, read the meters, make repairs, perform maintenance, or inspections, including removal of the submeter for testing, consistent with the provisions of RCW 58.19.150 of the RLTA. An additional written notice must also be given at least 30 days prior to the due date of the next rental payment in order to implement a change in billing agents, apportionment methodology, fees, or other terms and conditions of the billing arrangement.

3. Posting of Information.
   a. In addition to the written notification required by subsection A.2 above, any landlord employing billing practices shall post in a conspicuous public space in the interior of the building copies of the three most current utility bills for master metered or other unmetered utility services provided to the building as a whole that are included in the bill sent to the tenant, together with a written description of the methodology used to allocate each such utility service and a copy of this chapter.
   b. Where such posting is physically impracticable due to the absence of a suitable conspicuous public space, a landlord may satisfy this posting requirement by hand-delivering or mailing to tenants a copy of the written notification required by subsection A.2, together with a written description of the methodology used to allocate each such utility service and a copy of this chapter. In lieu of posting the three most current utility bills for master metered or other unmetered utility services provided to the building as a whole that are included in the bill sent to the tenant, the landlord must make such utility bills available upon request within 5 business days and must inform tenants in the written notification required by subsection A.2 of the method by which they may request such utility bills.
   c. Landlords shall keep bills for master metered or other unmetered utility services on file in the building for at least two years and shall make such bills available to tenants for inspection and copying upon request. Where it is physically impracticable to keep such bills on file due to the absence of a suitable office or other storage space, a landlord may store the bills in another location and must make such bills available within 5 business days of receiving a request from a tenant.

4. Limitations on Charges. The total of all charges for any utility service included in the bills sent to all units cumulatively shall not exceed the amount of the bill sent by the utility itself for the building as a whole, less any late charges, interest or other penalties owed by the landlord, with the exception of the following, which may be included in each bill covering an independent unit within the multi-unit building:
   a. A service charge of no more than $2 per utility per month, not to exceed a cumulative service charge of $5 per month for all the utilities included in any bill.
   b. Late payment charges of no more than $5 per month plus interest at a rate not to exceed 1% per month, which late payment charge shall not accrue until at least 30 days after the tenant receives the bill.
   c. Insufficient funds check charges for dishonored checks, not to exceed $31 per dishonored check.

5. Licensing of Third Party Billing Agents. Any third party billing agent must be properly registered and licensed to do business in the State of Washington and City of Seattle and must be in compliance with all applicable Washington state and Seattle laws and regulations, and all applicable Washington and Seattle license identification numbers, if any, must be disclosed upon request.

6. Content of Bills. Each billing statement sent to a tenant by a billing entity must disclose all required information in a clear and conspicuous manner and at minimum must:
   a. Include the name, business address & telephone number of the billing entity;
   b. Identify and show the basis for each separate charge, including service charges and late charges, if any, as a line item, and show the total amount of the bill;
   c. If the building units are submetered, include the current and previous meter readings, the current read date, and the amount consumed (or estimated to have been consumed if Seattle Public Utilities or Seattle City Light has provided the landlord with an estimated bill);
   d. Specify the due date, the date upon which the bill becomes overdue, the amount of any late charges or penalties that may apply, and the date upon which such late charges or penalties may be imposed;
   e. Identify any past due dollar amounts;
   f. Identify a mailing address and telephone number for billing inquiries and disputes, identify the entity responsible for resolving billing inquiries and disputes and its business hours and days of availability, and describe the process used to resolve disputes related to bills as set forth in this chapter; and
   g. Include a statement to the effect that "this bill is from (landlord name) and not from Seattle Public Utilities or Seattle City Light."

7. Protection of Personally Identifiable Information.
   a. A third party billing agent who prior to the effective date of this ordinance has obtained a tenant's personally identifiable information shall take such actions as are necessary to protect such personally identifiable information and to prevent its use or disclosure except as expressly permitted in this chapter.
   b. A third party billing agent who prior to the effective date of this ordinance has obtained a tenant's personally identifiable information may disclose such personally identifiable information only to the extent necessary to render its billing services.
   c. To the extent required by federal, state, or local law, a billing entity may disclose personally identifiable information in its possession (i) pursuant to a subpoena or valid court order authorizing such disclosure, or (ii) to a governmental entity.

8. Estimated Billing. If Seattle Public Utilities or Seattle City Light has billed the landlord using an estimate of utility service consumed, the billing agent may estimate the charges to be billed to tenants until billing based on actual consumption resumes. Upon receipt of a corrected bill showing that the estimated bill overstated charges, the landlord must refund the difference to tenants. Upon receipt of a corrected bill showing that the estimated bill understated charges, the landlord may attempt to recover the underpayment from the tenants that actually incurred the charges during the billing period, but shall not attempt to recover an underpayment from a tenant who did not reside in the unit during the billing period in which the charges were incurred.
9. Submetering. Submetering is permitted as a way of allocating master metered utility services to tenants provided the following conditions are met:
   a. The submeters must be read prior to each billing.
   b. A landlord may not enter a unit without, and a tenant may not unreasonably withhold, consent to enter the unit in order to perform submeter installation, reading, repair, maintenance, and inspection, including removal of the submeter for testing, provided, however, that a landlord may enter a unit without a tenant's consent in the case of a submeter leak or emergency related to that unit's submeter.
   c. If a tenant contests the accuracy of the submeter, the tenant shall have the option of demanding an independent test of the meter through the Consumer Affairs Division of the Department of Executive Administration. If the meter reads within a 5% range of accuracy, the tenant requesting the test shall pay the cost of the meter test. If the meter reads outside a 5% range of accuracy, the landlord shall pay for the cost of the meter test and within 30 days refund any overpayments for the past three months based on a recalculation of the past year's billings by correcting for the inaccuracy of the submeter. Submetering thereafter shall only be permitted with a repaired submeter.

B. Nothing in the text set forth below shall be construed to prevent a landlord from addressing billing of master metered or other unmetered utility services in a written addendum to a lease. A lease addendum may be used to give the notice required under subsection A.1 of this subsection, so long as the lease addendum is provided to the tenant with the notice required under that subsection, and so long as all other requirements of this chapter are satisfied.

SMC 7.25.050 Dispute resolution and remedies.
A. A dispute regarding the amount of charges or other terms and conditions contained in a bill shall be resolved as follows:
   1. The tenant and Responsible Entity shall continue to discuss in good faith any remaining disputed amounts and attempt to reach an agreement on the amount due, if any, within 60 days of the Responsible Entity's receipt of notice of a billing dispute. If a tenant is unable to reach a satisfactory resolution of any portion of a disputed charge within the allotted time, the tenant may exercise any of the remedies set forth in Section B below or any other available remedies, provided, however, that if within 120 days of the Responsible Entity's receipt of notice of a billing dispute, the tenant has not either exercised one of the remedies set forth in Section B or paid the remaining disputed amounts, the landlord may exercise any legal or equitable remedies available to it to collect the unpaid amounts, and further that nothing in this subsection shall be construed to deprive a landlord of its right to exercise any legal or equitable remedies available to it against a tenant that has not paid any undisputed charges, has not followed the procedures set forth in this section, or has not exercised good faith in disputing a charge.
   2. If a tenant believes that it has been or will be subject to billing practices that violate any provision set forth in this chapter, the tenant may, at its option, file a complaint against the landlord with the Office of the Hearing Examiner or institute a civil action against the landlord, as follows:
      a. The Office of the Hearing Examiner is hereby vested with the authority to hear and resolve tenant complaints against landlords regarding billing practices in accordance with its rules and procedures then in force governing contested cases. The filing fee for such a case shall be set at $5.00. Upon the finding of a violation of this chapter, the Hearing Examiner shall award actual damages (including but not limited to refund of any overpayment or other fees or charges resulting from such violation, and costs of pursuing the claim) and a penalty of one hundred dollars, and may permit the tenant to terminate the rental agreement by written notice in accordance with RCW 59.18.090. If the Hearing Examiner determines that the landlord engaged in prohibited billing practices in deliberate violation of this chapter, the penalty mentioned in the preceding sentence shall be two hundred dollars, and the Hearing Examiner shall also award attorneys' fees to the tenant. A final order or decision of the Hearing Examiner may be subject to judicial review in the King County Superior Court in accordance with the Hearing Examiner's rules and procedures.
      b. In the alternative, a tenant may institute a civil action against the landlord. Upon a finding that a landlord engaged in billing practices that violate this chapter, the court shall award actual damages (including but not limited to refund of any overpayment or other fees or charges resulting from such violation, and costs of pursuing the claim) and a penalty of one hundred dollars, and may permit the tenant to terminate the rental agreement by written notice in accordance with RCW 59.18.090. If the court determines that the landlord engaged in prohibited billing practices in deliberate violation of this chapter, the penalty mentioned in the preceding sentence shall be two hundred dollars, and the court shall also award attorneys' fees to the tenant.
      c. No late fees or interest charges shall accrue on any disputed portions of a bill while the amount is being resolved by the Hearing Examiner or court, and no collection activity or unlawful detainer action alleging default in the payment of rent related to the disputed portions of a bill may be instituted against a tenant that has filed a complaint with the Hearing Examiner or instituted a civil action in accordance with this chapter while the amount is being resolved by the Hearing Examiner or court. If the Hearing Examiner or court resolves the dispute and finds that a tenant that has not acted in good faith in asserting a billing dispute, the Hearing Examiner or court may order the tenant to pay late fees and/or interest charges on some or all of the disputed portions of the bill.
   3. A landlord shall not pass on, charge, or otherwise allocate to tenants, in any manner whatsoever, any damages, fine or penalty (including attorneys' fees) that the landlord is ordered to pay under this chapter.
   4. The existence of an unresolved or pending billing dispute does not relieve a tenant of its obligation to pay in a timely fashion all undisputed charges, including those undisputed charges that accrue after the dispute resolution procedures of this chapter have been invoked.