

GUIDE TO UTILITY & SERVICE CHARGES

From our practical experience –
for your everyday life



MieterHilfe

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Für die
Stadt Wien



Guide to utility & service charges

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Good advice for tenants

Protecting tenants is an issue very close to my heart. This also includes the transparent and fair calculation of utility and service charges. The annual statement of those amounts paid in advance either demonstrates that you are in credit or debit, the latter of which results in back billing. This has a direct impact on your wallet.

Repair costs, insurance premiums, or public taxes: utility and service charges constitute a substantial part of your rent. In addition to their net rent, tenants pay a flat fee for utility and service charges. The individual items are

listed in the annual utility and service charges statement (“Betriebskostenabrechnung”).

These statements are often difficult for people to check: only experts are usually able to review their accuracy. The MieterHilfe team has therefore developed this guide to give you an overview of how utility and service charges may be invoiced in a legally compliant manner and when you should apply for a review. In cases of uncertainties, the experts at MieterHilfe are happy to provide free, thorough, and professional support.



A handwritten signature in black ink, appearing to read 'Kathrin Gaál'.

Kathrin Gaál
City Councillor for Housing, Housing Construction,
Urban Renewal, and Women's Issues

Advice is our top priority

MieterHilfe, a service introduced by the City Councillor for Housing and Housing Construction, Kathrin Gaál, provides **immediate assistance with any kind of housing issue**. Tenants of subsidised flats as well as of municipal and private apartments receive quick, easy, and free support. The team provides advice on the following legal issues:

- housing and tenancy law (utility and service charges statements, total rent, tenancy agreements, passing on a flat, and property management)
- non-profit housing law (subsidised flats)
- residential property law

Individual advice, dedication to service, and customer centricity are some of the MieterHilfe team's strengths. This free and professional housing support is very popular among Vienna's citizens. The experts at MieterHilfe are in contact with clients around 50,000 times each year. During these consultations, they answer a wide range of questions on housing.

All those looking for advice can get around-the-clock information at www.mieterhilfe.at, thanks to service tools, a tenancy law glossary, and case studies. At the click of your mouse, you can check many of your utility and service



charges or your rent from the comfort of your home.

GOOD TO KNOW:

MieterHilfe's utility and service charges calculator enables you to check individual items at the click of your mouse. Calculations are based on average reference values. By entering the values of the utility and service charges that are listed on your statement, you can find out whether they are comparatively low, average, or high.

Utility and service charges

What are utility and service charges (“Betriebskosten”)?¹

Utility and service charges (“Betriebskosten”) as stipulated in para 21 of the Landlord and Tenant Act (Mietrechtsgesetz, MRG) constitute those costs that arise regularly from the operation of a residential building. They also include the management fee (“Verwaltungshonorar”), property tax (“Grundsteuer”) and expenses for waste removal. It is key for tenants to be well-informed on this topic, as it is them who bear these costs.

Scope of application of para 21 MRG

- **Buildings that were constructed before 1 July 1953** (full

scope of application of the Landlord and Tenant Act (MRG)).

- **Buildings owned by a non-profit construction association** that were constructed by the latter in their own name (co-operative flat / “Genossenschaftswohnung”, scope of application of the Non-Profit Housing Act (Wohnungsgemeinnützigkeitsgesetz (WGG)).
- **Subsidised new buildings (“geförderter Neubau”)**: buildings that were constructed after 30 June 1953 using housing promotion subsidies are fully subject to the Landlord and Tenant Act. It therefore also applies to municipal housing built at a later date.

GOOD TO KNOW:

In these cases, the list of expenses for the operation of a building is exhaustive and clearly stipulates which expenses may be passed on proportionally to the building’s tenants as utility and service charges. Anything not listed in this catalogue must be paid by the landlord/landlady.

¹The German term „Betriebskosten” comprises costs for certain utilities as well as other service charges. Utilities, as used in the English language, usually refer to electricity, heating, water, sewage, waste removal, telephone, and Internet connection, among others. In Austria you usually only conclude a contract with suppliers for some of them. Costs for water, sewage, and waste removal, for example, are paid by your landlord/landlady, and passed on to you with the rest of the service charges as part of your „Betriebskostenabrechnung”.





GOOD TO KNOW:

In all of these cases, a contractual agreement stipulates which items count as utility and service charges, and who has to pay for them. You are well-advised to review your tenancy agreement in detail (ideally before signing), checking in particular for additional costs and utility and service charges of any kind!

Important: for tenancies that are not protected by the Landlord and Tenant Act, the agreement can also include passing on repair reserves or maintenance costs to the tenants. This might result in an unpredictable, sharp increase in the agreed rent.

NOT within para 21 MRG's scope of application

- **detached houses and two-family houses** with a maximum of two rented properties
- **privately financed new buildings:** the building was constructed without subsidies after 1953
- **new buildings, residential property:** the flat is in a building that was constructed after 8 May 1945 (without any subsidies!)
- **loft conversion / upward extension:** building permit for an upward extension or conversion issued after 31 December 2001, or tenancy starting after this date with the agreement that a rental property will be constructed in this space
- **extension:** building permit issued after 30 September 2006
- **holiday flat**
- **company-owned flat**
- **charitable organisation:** if a charity acts as landlord and offers assisted living with or without social pedagogues



What can be invoiced as utility and service charges?

The **catalogue of utility and service charges** (“Betriebskostenkatalog”) includes the following items that may be invoiced to the tenants in the utility and service charges statement:

- water/sewage
 - water-tightness testing
 - expenses for calibration, reading, and invoicing of cold-water consumption if there is a relevant agreement
 - sewer cleaning
 - waste removal
 - removal of bulky waste
 - pest control
 - fees for chimney sweeping
 - electricity for lighting the staircase and communal areas
 - insurance premiums for fire, liability, and damage caused by tap water
- insurance premiums for glass breakage and storm damage if more than half of the tenants agreed to these costs being passed on
 - management fees
 - cleaning of the building, including snow clearing
 - caretaker and facility manager
 - public fees
 - operating expenses (electricity, service, lawn mowing, etc.) for communal areas such as a playground, swimming pool, sauna, laundry facilities, and common rooms. For communal facilities such as the lift, it depends solely on the objective opportunity of use, not whether it is actually used.

What is my share of the costs? Breakdown of utility and service charges

Your share is determined by the **breakdown of utility and service charges** (“Betriebskostenschlüssel”). The breakdown is indicated in percent (%) and calculated as a proportion of the usable floor space (“Nutzfläche”, i.e., size) of your flat or business premises in relation to the building’s entire usable floor space.

The building’s entire usable floor space (“Gesamtnutzfläche”) comprises all rental properties that have been rented out or could be rented out and those used by the landlord/landlady. Utility and service charges for flats or business premises that are vacant but could be rented out are paid by the landlord/landlady.

Alternative types of breakdown include:

- **A written agreement** between the building’s landlord/landlady and **all tenants** can determine that individual or all items are differently allocated.
- **For flats that are subject to the Non-Profit Housing Act (WGG)**, a breakdown can be calculated as a proportion of the value of the usable floor space (“Nutzwert”). The latter is a combination of the flat’s size and supplements or deductions (balcony, layout of the flat, floor on which it is situated, etc.).
- **Calculation according to use:** breakdown according to use needs the written agreement of at least two thirds of the tenants; use needs to be measurable; the costs of calculating consumption must be economically reasonable.



GOOD TO KNOW:

This formula enables you to calculate your share according to the breakdown of utility and service charges:

$$\frac{\text{your flat's usable floor space (m}^2\text{)}}{\text{the building's entire usable floor space (m}^2\text{)}} \times 100 = \text{Ihr Anteil in \%}$$

Example: Your rented flat is 53 m² in size. The building’s entire usable floor space is 1,250 m². Your share is therefore 4.2%.
(Calculation: 53 / 1,250 x 100 = 4.2%)

Please note: the building’s entire usable floor space is usually indicated on your utility and service charges statement. If this is not the case, your landlord/landlady must provide this figure upon request.

The usable floor space refers to your flat’s entire floor space. Open balconies, terraces, and cellar compartments are not included, so-called loggias (rooms that are only open to the outdoors on one side), on the contrary, do count towards this space.

How do I settle utility and service charges?

Generally, tenants are charged the same flat fee ("Pauschale") every month. Once a year, they receive a bill in which these amounts are offset against the

actual sum of the utility and service charges. As an alternative, each month could be billed individually, according to the invoices due. For practical reasons, however, this is rarely the case.

GOOD TO KNOW:

The utility and service charges statement ("Betriebskostenabrechnung") for a calendar year needs to be invoiced by 30 June of the following year. It needs to be displayed in a suitable place in the building and contain a clear list of all utility and service charges that were due in the previous year. Many tenants also receive this statement by post; this is even obligatory for tenants of co-operative flats. Furthermore, the tenants must be presented with an opportunity to inspect the respective receipts. Usually, it is only possible to do so by arranging an appointment with your property management company. Tenants can also request copies of receipts; they have to bear the corresponding expenses themselves, though.

The property management company can amend or add items to the statement before the end of the year (of invoicing). Later receivables cannot be passed on to the tenants.

How much can the monthly flat fee be?

The monthly flat fee may not be determined arbitrarily. It is calculated based upon the actual expenses for utility and service charges in the previous year, with the maximum permissible supplement being 10%.

As an example: the 2018 utility and service charges statement totals EUR 25,000. If your share of utility and service charges amounts to 5%, you can be charged a monthly flat fee of at least EUR 104 in 2019 (calculation: $25,000 / 12 \times 0.05 = 104$).

As the landlord/landlady is legally permitted to increase the charges by 10%, they could raise it to EUR 114 per month.

After the end of the year, the utility and service charges that were actually incurred in 2019 can be offset against your monthly advance payments. This can result in either a subsequent back payment or credit from 2019.

What about the back payment or credit resulting from the statement?

Credit ("Guthaben") or back payments ("Nachzahlungen") resulting from the statement must be settled by the rent due date after next. This means that the person who is the current tenant two months after the date the utility and service charges statement is issued can claim the credit or must settle the back payment, irrespective of whether they were the tenant in the year that the utility and service charges were incurred.

As an example: the 2018 utility and service charges statement is prepared on 25 May 2019. If the statement shows that a back payment needs to be made, this must be performed by 5 July (rent due date after next).

It has to be paid by the person who is the flat's head tenant in July 2019, irrespective of whether this person lived in the flat in the year before. Similarly, this person would benefit from being in credit.



The following “mistakes” are frequently observed in utility and service charges statements:

- **Repair work**, as minor as it may be; e.g., for chimney repairs, lift maintenance, or similar.
- **Expenses for the removal of waste** can only be passed on under very clearly identified conditions. Examples: abandoned items in the building's common areas, notice of the removal and call on tenants to remove these items themselves.
- **Credit** must be paid to the tenants by the due date (see page 15). It is not permissible to transfer credit to the following year's utility and service charges statement.
- **Water**: if there is a business in the building with a small usable floor space, but high water consumption, an application can be made to the arbitration

board for compensation.

- **Management fee**: it can be a good idea to check this item thoroughly, as it often includes additional expenses like postal charges, bank fees, etc.
- **Insurance for storm damage and glass breakage**: these expenses can only be passed on to the tenants if the majority of tenants have agreed.

What can I do if I do not receive a statement, or if it is incorrect?

In older buildings (“Altbau”), i.e., those within the MRG's scope of application, you can submit a request for production of the statement, or contestation of individual items within three years of the statement's due date, to the City of Vienna's arbitration board. For the request to have a chance of success, it needs to be well-founded. You need to indicate (and

prove in the further course of proceedings) that the amount charged for utility and service charges is not legally permissible.

Where the WGG applies, the tenant needs to raise an objection, stating their reasons, within six months of the invoice date. Otherwise, the statement is considered to have been accepted.

Reasons for objections to the utility and service charges statement:

- Items have been invoiced that are not listed in the Landlord and Tenant Act's catalogue of utility and service charges.
- Individual items have obviously been set too high; the amount charged seems too high.

Where can a request for review be submitted and which costs can be incurred?

If your municipality has an arbitration board for legal housing matters (as is the case in Vienna), you need to submit your request to them. Otherwise, you need to submit your claim to the competent district court ("Bezirksgericht"). Such a request can be made by any individual tenant. All tenants must be informed about an ongoing proceeding by means of publication in the building. If the arbitration board does not make a decision within three months of submission of the request or if you do not want to accept its decision, you can subsequently submit your claim to the district court.

GOOD TO KNOW:

Submitting a request to the City of Vienna's arbitration board does not incur any costs. Before making a hasty request for review of the utility and service charges, or to avoid such a request being too vague, you are well-advised to turn to MieterHilfe for free advice.

You are only a mouse click away from exercising your rights: find more information on MieterHilfe, the utility and service charges calculator, and further services at www.mieterhilfe.at



Contact details

MieterHilfe – exercise your rights as a tenant

1030 Vienna, Guglgasse 7-9

Telephone consultation and in-person advice:

Monday to Friday: 9 am to 5 pm

Telephone number: 0043 1/4000-8000

E-Mail: office@mieterhilfe.at

www.mieterhilfe.at



Wohnservice Wien

1030 Vienna, Guglgasse 7-9, 2nd floor

Telephone number: 0043 1 24503

E-Mail: office@wohnservice-wien.at

www.wohnservice-wien.at

www.wohnen.wien.at

Wohnbauförderung und Schlichtungsstelle für wohnrechtliche Angelegenheiten (MA 50)

1190 Vienna, Muthgasse 62

Telephone consultation: Monday to Friday: 7:30 am to 3:30 pm

In-person advice: Monday, Wednesday, and Thursday 8 am to 1 pm;

on Thursdays also from 3:30 to 5:30 pm

Telephone number: 0043 1 4000-74498

www.wien.gv.at/wohnen/schlichtungsstelle

Wohnberatung Wien

1030 Vienna, Guglgasse 7-9/at the corner with Paragonstraße

Appointments and information:

Monday to Thursday: 8 am to 4 pm; Friday: 8 am to 2 pm

Find the current opening hours at www.wohnberatung-wien.at

Telephone number: 0043 1 24 111

E-Mail: wohnberatung@wohnberatung-wien.at

www.wohnberatung-wien.at

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