

RESOLUTION 2012-33

A RESOLUTION ADOPTING DEBT COLLECTIONS TRANSFER POLICY AND PROCEDURES FOR THE CITY OF FRANKLIN, TENNESSEE

WHEREAS, the City of Franklin sometimes has outstanding delinquent accounts with City Court, utility service bills, or other user fees, assessments, permits and licenses; and

WHEREAS, the City of Franklin has decided to enter into a contract with a collections vendor for the collection of these delinquent accounts, as provided by state law and the Franklin Municipal Code; and

WHEREAS, the Board of Mayor and Aldermen desires to adopt Debt Collections Transfer Policy and Procedures in order to provide staff with guidance for how these delinquent accounts will be handled and a timeline by which the accounts will be transferred to the collections vendor; and

WHEREAS, the Board of Mayor and Aldermen believes it is in the best interest of the City of Franklin to adopt this Policy.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

Section 1. The Board of Mayor and Alderman hereby adopt the Debt Collections Transfer Policy and Procedures, attached as Exhibit A.

Section 2. Changes or revisions to the Debt Collections Transfer Policy and Procedures hereby adopted may be made by the City Administrator.

Section 3. The Debt Collections Transfer Policy and Procedures shall be effective upon the passage of this Resolution

Adopted this 10th day of July, 2012.

ATTEST:

BY: Eric S. Stuckey
ERIC S. STUCKEY
CITY ADMINISTRATOR/RECORDER

CITY OF FRANKLIN, TENNESSEE

BY: DR. KEN MOORE
DR. KEN MOORE
MAYOR

APPROVED AS TO FORM BY:

Kristen L. Corn
Kristen L. Corn, Staff Attorney



HISTORIC
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June 4, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator *ES*
Russ Truell, Assistant City Administrator
Steve Sims, Assistant City Recorder & Court Clerk
Clay Mathews, Interim Assistant City Recorder

SUBJECT: Bad Debt Collections Policy

Purpose:

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with a recommended policy for pursuing those who have an outstanding indebtedness to the City, particularly with respect to the use of a Collections Agent.

Background:

This policy outlines the provisions for pursuing outstanding indebtedness by the City for those owing monies to the City. The Board of Mayor and Aldermen (BOMA) has approved the use of a Collections Agent to pursue certain indebtedness, primarily for outstanding utility bills and court fees/fines/costs, including monies owed the State of Tennessee.

This is brought on by the need to meet Tennessee Code requirements and to ensure that the monies invested by the City to pursue delinquent accounts do not outweigh the cost to pursue.

Financial Impact:

It is expected to generate additional monies, primarily due to obtaining restitution from those owing money today and to act as a deterrent to those who may choose not to pay in the future.

The Collections Agent used by the City will be compensated for collections on a commission basis out of revenues obtained from the obligor. Therefore, no additional monies will need to be spent by the City to obtain restitution.

Alternatives:

The City should have a policy for pursuing outstanding obligations to guide staff and to ensure citizens of the City that we are acting as good stewards of their funds. The proposed policy balances the cost to pursue by setting a certain dollar minimum threshold.

Recommendation:

It is recommended that the BOMA approve this policy and provide guidance to staff to proceed with diligently pursuing those who owe money to the City.



BAD DEBTS

TRANSFER TO A COLLECTIONS AGENT

The City of Franklin issues bills and collects monies for taxes, utility services, fees for services, permits, licenses and court obligations. All citizens and customers owing money to the City are expected to pay their obligations in a timely manner. Should those monies not be received in a timely manner then the City will take actions as prescribed by the Tennessee Code Annotated (T.C.A.), Franklin Municipal Code, business policies and business practices. Some obligations may be transferred to an agent contracted to collect outstanding obligations on behalf of the City. This document defines when a Collections Agent will be used, what obligations are transferred to the Agent to pursue, the fees that are to be applied by the Agent to compensate them for their efforts and general actions taken by the City prior to transferring the account to the Agent.

Use of a Collections Agent – The City is allowed by state law to use a Collections Agent to pursue certain obligations. Notices must be provided to the obligor of this in writing and the obligor must have sufficient time to respond (30 days). These notices are covered in contracts for service for utility bills, court documents and in letter notices issued by the City prior to transferring to the Collections Agent. Court collections must meet other requirements by T.C.A. including awarding a competitively bid contract and a fee not to exceed 40% of the amount owed the City.

Obligations transferred – Only certain items will be transferred and include, but are not limited to, the following. Minimum dollar thresholds apply as specified and maximum time limits are in effect in accordance with the T.C.A., the Franklin Municipal Code, policies and practices of the City.

1. **Payment Instruments Presented but not Honored (NSF checks)** – Payments made to the City where the payment is not honored by the presenter's financial institution are subject to be being transferred to the Collections Agent. If an NSF instrument is presented, the City will treat as a payment not received which can result in discontinuance of water service, stop work, the State of Tennessee being notified to suspend the driver's license, pursuing as a delinquent tax payment and other actions including forwarding to a Collections Agent. Upon notice that the instrument is not honored, the City will attempt to contact the obligor (phone, letter or other method) and follow actions as applicable for the specific item as if payment were not made. The obligor will be given 15 days to satisfy. Should satisfaction not occur, then a letter will be issued giving 30 days to satisfy or the account will be transferred to collections.
2. **Routine bills for utility service** – Bills are issued for routine service and payment is due monthly. These bills apply to both Residential and Nonresidential (Commercial) customers who owe money for services provided by the City. These include:
 - a. Water
 - b. Water – Irrigation service
 - c. Water – Reclaimed service
 - d. Sewer
 - e. Metered Sewer (city service delivered in other water districts)



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- f. Solid Waste
 - g. Solid Waste Tipping Fees
 - h. Stormwater
 - i. Penalties and Late Fees
 - j. Sales Tax
 - k. Round-Up Fee
 - l. Trash container rental
 - m. Tests & Inspections (e.g. backflow or fire protection devices)
 - n. Connection and other application fees
 - o. Meter Fines and fees for violations
 - p. Mallory Valley Utility District cut-off fee
 - q. Others TBD
3. **Utility Service billed for others** – This includes sanitary sewer service billed for Berry's Chapel Utility District and billed as a line item on the City water bill as part of a consolidated utility service bill presented by the City.
4. **User Fees** – The City provides certain services and provides fees for those services. These fees are typically paid prior to receipt of the service (e.g. compost or property rental fees). However, should the instrument be considered NSF or service is provided and the fee is not paid the City may transfer these to the Collections Agent.
5. **Development Fees** – Fees are paid by developers for the privilege of building in Franklin. Should these fees not be paid as required, then additional action may be taken including submitting to the Collections Agent. However, since these are currently due prior to initiating action in the City, most will be handled by work stoppages and allowing the obligor to satisfy so that work can continue. Most of these appear as NSF instruments.
6. **Court fees, fines and costs** – The City will transfer outstanding obligations to the Court as follows.
- a. Total balance is at least \$50.00.
 - b. The obligation is not older than six years.
 - c. The State has been notified (if applicable) and the obligor meets the time to respond to the State for reinstatement of the license (has 30 days after we notify the State to suspend the driver's license to satisfy the State).
 - d. This includes traffic violations, city ordinance violations (including property maintenance) and parking violations.

Obligations not transferred to the Collections Agent

1. **Small Balances** – Obligations that have small balances are not pursued by transferring to the Collections Agent. Small balances are:
- a. Utility bills – balances less than \$35 are not forwarded the Collections Agent. However, the obligor will have to have any prior outstanding balance satisfied prior to obtaining service with the City.



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- b. Court – Balances of less than \$50 will not be forwarded to the Collections Agent. However, should the obligor appear in Court these will be included on the docket to be satisfied along with any other obligation.
2. **Assessments** – currently this includes only sewer assessments. These are pursued thru the City's Law Department.
3. **Delinquent taxes** – the actions that can be taken, including the application of penalties and interest, are defined by T.C.A. Generally the City pursues delinquent tax obligations using the City's Law Department. Delinquent property taxes are transferred to the County Clerk and Master annually. These are pursued by the County's Delinquent Tax Attorney. Delinquent business taxes are generally pursued by the State Dept. of Revenue. Smaller business tax obligations may be pursued locally and this is done in conjunction with BNS as a Codes Violation.
4. **Promises/Extensions** – We do not send those obligors who have payment terms that are being met to the Collections Agent. This includes any effort to allow the obligor to extend the due date and includes time to pay or short term extensions. These agreements should always be in writing and have hierarchal approvals.