

COLLECTIONS AGENT GENERAL PROVISIONS

The use of a Collections Agent is approved by Tennessee Code for certain actions taken to collect funds due the municipality. The Franklin Municipal Code (3-208) has additional provisions governing the use of an Agent for outstanding court fees/fines. We have no such requirements in our Code for other sources of indebtedness.

The City currently uses a Collections Agent for outstanding utility bills and payments returned for insufficient funds (NOTE –NSF checks and we cannot submit NSF checks for court payments because we don't have a contract). An overview of the actions taken to pursue outstanding obligations is shown below and will vary by category and whether payment occurs prior to or after delivery.

- **NSF Checks** - Those presenting checks or who pay utilities by bank draft where the instrument is not honored have phone calls made and/or letters written. The payee must honor the instrument and is transferred to collections if payment is not honored.
- **Utilities** – Services are provided prior to issuance of bills each month. Bills are issued for City provided services in all but the Milcrofton water district. Late notices are issued, penalties are applied in accordance with Municipal Code (applied to water and stormwater @10%). Nonpayment may result in disconnection of water service after two months (dependent on water district where service is provided). Prior to transferring to the Collections Agent, a final delinquent letter is issued giving 30 days to pay.
- **Tipping Fees** - Solid Waste tipping fees not paid result in notices to the business, discontinuance of use of our facility and involvement of the City Attorney.
- **Taxes (property)** – Tax bills are issued October 1st of each year and the taxpayers have 5 months to pay without penalty & interest. Penalty and interest is applied as specified in T.C.A. 67-5-2010. A final delinquent notice is sent out the first of April (30 days after payment is due the end of February). A final delinquent notice is issued prior to transfer to the Clerk & Master if not paid. They have 17 months to pay from the time the initial bill is issued before being sent to the Clerk & Master. We work with the County to use the same attorney for pursuing both real and personal taxes. Actions to pursue outstanding property taxes are covered in T.C.A. 67-5 et seq.
- **Taxes (business)** – Taxpayers now report/file with the State. Generally, the State pursues larger balances but they have not been particularly aggressive in pursuing smaller filers – even one with a physical presence. Therefore, we have issued citations to City Court for nonpayment or failure to obtain a license as a violation of Title 5 of our Municipal Code.
- **Taxes (other)** – Various methods are taken depending on the nature of the tax for those paid locally (some are paid to the State and are not pursued locally). Other taxes include hotel/motel and alcohol and are paid locally. These are pursued using the City Attorney.
- **Permits/license** – Generally, payment is made in advance for permits and licenses so there is no delinquent amount. However, sometimes a permit is not obtained or a check is returned NSF. We will take action to stop work, including issuing a citation to City Court, and/or pursue with the City Attorney until the permit is obtained. NSF checks result in termination of work and requires the check to be honored.
- **Court Fees/Fines** – Generally, should a citation not be satisfied, we issue a Failure to Appear (FTA) order if the violator does not appear or if not paid, we issue a Failure to Satisfy. These are mailed to the violator's address per the citation/driving record. Should the citation not be satisfied, then the State will be notified to suspend the driver's license (for certain offenses) or we may pursue with the City Attorney. Parking citations result in letters from the Clerk and are elevated should large balances occur.

General provisions governing the pursuit of delinquent and outstanding obligations and the use of an agent are governed by the following.

AUTHORIZATION to COLLECT (Generally)

We are allowed to collect for taxes/services, make special assessments for local improvements, license/regulate businesses, "Enforce any ordinance, rule or regulation by fines, forfeitures and penalties...", "...enforce by fines, forfeitures and penalties, and by other actions...", and "...enforce the payment of fines and costs..." in T.C.A. 6-2-201.

COLLECTION and PAYMENT OF TAXES

We are charged by TCA to collect "...all taxes, fines, and forfeitures due..." and certain penalties apply if we do not (T.C.A. 6-55-101). We make filings with the State and remit monies monthly for certain

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portions of court fees/fines and for sales taxes collected/due on certain sales and for certain portions of business taxes collected locally. We are required to provide financial reports and statements on monies received/used.

NSF CHECKS

The amount that can be charged for NSF checks is specified in T.C.A. 47-29-102. We are currently charging \$20. We are given certain authority to collect in T.C.A. 47-29-101 including recovering “reasonable” fees for attorney’s fees, interest and service charges. These are pursued using a collections agent except for checks presented to the court as certain restrictions apply for use of a collections agent for court fees/fines.

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In accordance with T.C.A. 40-24-105 we are allowed to use a collections agent to pursue outstanding court fees/fines. However, certain limitations apply including: notices to alleged violators, minimum time (60 days after due), award of a contract in writing, establishing a maximum fee of 40% of monies collected and whether the agency may institute an action to collect in a judicial proceeding. Actions taken to pursue outstanding property tax obligations are enumerated in Title 66. We follow the same efforts as the county as specified above. There is no such specific authorization known at this time for utility bills or other fees.

The agent who pursues our outstanding utility bills charges us to perform collection actions. The fee results in five letters before additional actions can be taken thru legal actions. Those letters start friendly enough but escalate with each letter. If not satisfied, then additional actions can be taken and requires city action to continue. Funds collected are remitted to the City less 50% for additional fees.

CONTRACT

Both Tennessee Code and Franklin Municipal Code provide that a contract be awarded for court fees/fines collections. There are no specific requirements for annual award. No such requirement is known for collections of other fees.

STATUTE OF LIMITATIONS

Generally, we are allowed ten (10) years to collect as specified in T.C.A. 28-3-110. Property tax collection is ten (10) years and is established in 67-5-1806.

PAYMENT APPLICATION RULES

For payments made for less than the full amount due, payment application rules are used in accordance with Federal and State law and local business rules developed for each category above. For example – court fees are applied in accordance with T.C.A. 40-24-105 which states that “...credited toward...taxes...costs...and fines...” while utility payments are applied similarly using local business rules first to taxes, then prior period outstanding balance and then by service with water being applied last.

WRITEOFF

Outstanding utility bills deemed to be uncollectable are written off (reduces revenues) prior to sending to a collections agent.

THRESHOLD

For those sent to a collections agent, we have established a business rule that none will be sent unless the amount is at least \$25 as the cost to process, including staff time and the collector’s fee, is estimated to be about \$25. Our current collector charges a fee of about \$12.50 to process these.

DISTRESS WARRANT

We are allowed to issue warrants in T.C.A. 6-55-301 to collect “...privilege taxes...a license... sell goods...or exercise a privilege without first obtaining a license such clerk, recorder, or collecting officer shall issue...levy, in case of a privilege tax, double the highest tax imposed...” This is currently not used by the City. However, we do transfer collection responsibility for outstanding property taxes to the Clerk &

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Master to pursue along with county taxes. The Clerk & Master uses the Delinquent Tax Attorney to pursue as allowed by T.C.A. 67-5-20 which may include lien, possession and sale of the property.

NOTICE

Notices may vary based on category above but generally follow a continuously escalating process. We provide notice prior to enacting legal actions including transferring an account to a Collections Agent or using our City Attorney to pursue. This is done currently by the delinquent actions taken for the various accounts. Specific notice requirements are in place for parking fees/fines in T.C.A. 6-54-513. Although specific wording and actions may vary, we generally follow a process where notice wording is less friendly as the notices escalate. Notices are sent to the owner, customer/tenant, or violator at the "best available address". That address for traffic violations is the address on State driver records and may not be the current address since not all drivers notify the Dept of Safety when they move (we are to send to the address shown on driver records).

We are allowed to disconnect water and terminate service but must follow certain notice provisions of T.C.A. 65-32-104 but the notice does not have to be in writing and may be "...good faith effort..." That notice is not required "...at any residence where service has been discontinued within the previous four (4) years"

PARKING CITATIONS

We are required to provide notice for parking tickets before forwarding to a Collections Agent as specified in T.C.A. 6-54-513. That provides that "A municipality shall have no authority to forward to a collection agency unpaid parking tickets for collection without notifying the owner of record of the motor vehicle for which the parking ticket was issued. The notification shall be sent by postal mail to the owner of record of such motor vehicle that such action will occur unless the owner pays the unpaid tickets within thirty (30) days from the date the letter is mailed to the owner. The municipality shall also include in the notification a statement that, if the ticket is forwarded to a collection agency for collection, the agency may notify the credit bureau or credit agency of such fact, which could affect the owner's credit rating."