

AN ORDINANCE ADOPTING A REVISED WRITE-OFF AND COLLECTION POLICY FOR THE CITY OF ST. JOSEPH, MISSOURI TO REPLACE THE POLICY ADOPTED BY RESOLUTION NUMBER 42220.

WHEREAS, on March 17, 2014, the City Council adopted Resolution number 40186, adopting a Write Off and Collection Policy that formalized various departmental collection practices; and

WHEREAS, on November 21, 2016, the City Council adopted Resolution number 42220, repealing Resolution number 40186 and adopting an updated Write-Off and Collection Policy that incorporated updated collection practices and procedures; and

WHEREAS, the Administrative Services Department recently conducted further review of the current Write-Off and Collection Policy and recommended further modifications to the collection practices and procedures in order to maintain collection rates while improving the level of customer service provided by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI, AS FOLLOWS:

SECTION 1. That, upon adoption of this Special Ordinance, Resolution Number 42220 adopting a revised Write Off and Collection Policy shall become ineffective.

SECTION 2. That the revised Write Off and Collection Policy attached hereto and incorporated herein by reference, be, and hereby is, adopted.

SECTION 3. That this ordinance shall be in full force and effect from and after date of passage.

Authenticated Copy
of Reso., G.O., S.O. 9367
By PAULA HEYDE, City Clerk
[Signature] Deputy
Date 2-28-18

Approved as to form:

[Signature]
City Attorney

Passed February 26, 20 18

Attest: [Signature]
(SEAL) City Clerk

[Signature]
Mayor Pro Tempore

CITY CLERK

Date: January 31, 2018
Type of Bill: Special Ordinance

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EXPLANATION TO COUNCIL BILL

ORIGINATING DEPARTMENTS: Administrative Services

PURPOSE: To adopt a revised Write Off and Collection Policy for the City of St. Joseph, Missouri.

REMARKS: A Write Off and Collection Policy formalizing various departmental collection practices was last revised on November 21, 2016 to expand on the payment plans and more clearly define past due charges. Various City departments recently conducted a review of those collections practices to identify potential improvements that would enable the City to balance high collection rates with efforts to optimize customer service. The proposed revisions listed in the following table set out the section number and title where revisions have been made:

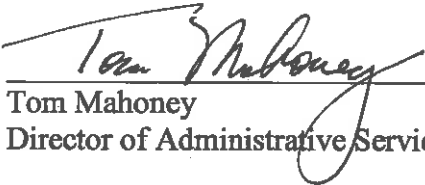
Section Number	Title	Proposed Change
Introductory paragraph		Provides authority to deviate from the policy and clarifies that the policy creates no right to have charges written off or otherwise forgiven.
Section II. B (3)	Sewer Accounts	Allows two days for processing before past due charges are assessed on sewer bills in accordance with Section 29-245 of the Code of Ordinances.
Section II. B (4) a.	Sewer Accounts; Extended Payment Arrangements	Requires customers exercising the "extended payment arrangements" option to pay the immediately-due amount at the time a customer enters into extended payment arrangements.
Section III. A (2)	Abatement; Written Off Amounts Owed	Clarifies that receivables may be written off when they can no longer be collected through the filing of civil lawsuit or when collection can no longer be pursued due to expiration of statute of limitations and expiration (without revival) of a judgment lien.
Section III. A (5)	Abatement; Written Off Amounts Owed	Allows amounts less than \$1,000.00 to be written off administratively when writing them off will facilitate the transfer of real property.

Adding the section to allow abatement of amounts less than \$1,000.00 will greater facilitate the expedited transfer of property and avoid a four-to-six week delay while awaiting City Council approval. Abatement of bills in excess of \$1,000.00 will continue to require City Council approval.

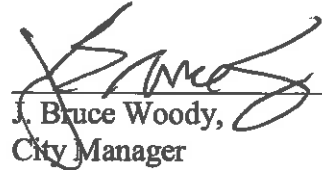
The revisions to this policy will serve to enhance the City's efforts to provide uniformity in the form of a standard guide for collection activities conducted throughout the City.

Submitted By:

Reviewed By:



Tom Mahoney
Director of Administrative Services



J. Bruce Woody,
City Manager

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WRITE-OFF AND COLLECTIONS POLICY

The City of St. Joseph has set forth this Write-Off and Collections Policy (the "Policy") to establish a consistent and effective method of handling accounts receivables, improving collection efforts, and removing incorrect billings that may occur. The focus of collection efforts will be concentrated on balances that remain uncollected for more than 60 days ("Current Receivables"). This Policy shall not be deemed to create a right to have charges written-off or otherwise forgiven; furthermore, this Policy shall be generally followed, but the Director of Administrative Services, or his or her designee, may authorize actions which are not in strict compliance with this Policy.

I. Collection of Past Due Charges

A. Relation of Policy to Other Requirements

This Policy is not intended to modify requirements established by state statute or City ordinances. To the extent this Policy conflicts with such statutes or ordinances, the statutory or ordinance requirements will control.

B. Extended Payment Arrangements

If not prohibited by other policies, the Director of Administrative Services or his or her designee may allow installment payments of Past Due Charges over a specified period of time ("Extended Payment Arrangements"). If the debtor does not honor the Extended Payment Arrangement schedule, the City may take any other actions within this Policy.

C. Criteria Used for Past Due Accounts and Actions

Collection measures established by this Policy for particular types and amounts owed may be modified based upon the following criteria:

1. *Compliance with Extended Payment Arrangements:* Failure to comply with previously-agreed upon Extended Payment Arrangements may result in an immediate transfer of any balance due to the designated collection agency; or to the City Attorney to pursue collection through the filing of a lawsuit.
2. *Effectiveness of Collection Agency Efforts:* Ineffectiveness of outside collection agencies' efforts to collect from a debtor may result in immediate referral to the City Attorney to pursue collection through the filing of a lawsuit.
3. *Level of Amounts Owed:* More significant amounts owed may result in immediate referral to the City Attorney to pursue collection through the filing of a lawsuit.

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D. Accounts Over 60 Days

Except where otherwise noted in the sections below, if payment of City charges is not received within 60 days, the City may, within the discretion of the Director of Administrative Services or his or her designee, take one or more of the following actions based upon the described criteria to secure payment of such charges:

1. With the approval of the City Attorney, a lawsuit may be filed in any court of competent jurisdiction to collect all amounts owed by the debtor that may be lawfully collected through the filing of a lawsuit.
2. The account may be forwarded to the designated collection agency.
3. The terms of the non-payment may be communicated to any or all of the nationally recognized credit reporting agencies.
4. Services may be denied or other actions may be taken in accordance with other ordinances and policies established for such services (e.g., suspension of water service for unpaid sewer bills; booting/towing of vehicles for unpaid fines and penalties arising from parking violations; delay, suspension or revocation of business, taxi, and trade licenses).

E. Record Keeping

In all circumstances above, transaction records (billings, payments, adjustments, write-offs, etc.) will be maintained in the Administrative Services Department. A listing of each account will be available upon request.

F. Relation of Notices to "Next Steps"

Throughout this Policy, various steps describe notices requiring that debtors take action within a specified time period. It is important to note, however, that the next step is not initiated until a few days after the time period specified in the notice. These gaps in timing are intended to allow for delivery, processing, and posting.

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II. Specific Receivables

A. Property Taxes

1. Except as otherwise described in this section of this Policy, all collection efforts shall be pursued by the Buchanan County Collector in accordance with state laws, regulations, and guidelines and/or any policies, practices or procedures established by the said Collector.
2. Business Past Due Charges are reviewed by Administrative Services Department and must be paid before business licenses are renewed.

Note: Extended Payment Arrangements and other options that may otherwise be allowed by this Policy may not be available for payment of property taxes due to the Buchanan County Collector's policies, practices, and procedures.

B. Sewer Accounts

1. Current Accounts. Current Accounts refer to those sewer accounts billed since resumption of billing by City staff, which commenced in conjunction with the October 2012 billing. An Aging Report reflecting all Current Accounts will be monitored and amounts that remain unpaid for more than 60 days beyond the respective dates upon which they were billed may be written off to "Bad Debt Expense" and forwarded to the designated collection agency for further collection actions.
2. Final Accounts. Final Accounts refer to all closed accounts with unpaid balances owed. Customers with Final Accounts will be mailed a final statement indicating the full balance owed. Those amounts that remain unpaid for more than 15 days beyond the respective dates upon which they were billed may be written off to "Bad Debt Expense" and forwarded to the designated collection agency for further collection actions.
3. Past Due Charges. Past Due Charges are amounts that remain uncollected past the date upon which said amounts were billed and will, thereafter, be reflected on the next sewer bill. Section 29-245 of the Code of Ordinances states "[a]ll bills for sewerage service amounts that remain uncollected past the date upon which said amounts were billed and, are thereafter, reflected on the next sewer bill shall be immediately subject to a penalty of 10% on any current charges submitted after the posted due date." To implement that Section and allow time for processing payments, an additional "Past Due Fee" may be assessed to sewer account which has Past Due Charges when charges have remained unpaid for two days beyond the due date.

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4. “Extended Payment Arrangements”. Extended Payment Arrangements may be available under extraordinary circumstances, with the prior written approval of the Administrative Services Director, or his or her designee. The following options are available:
 - a. “Fifty Percent” Option – The customer must make a down payment of fifty percent (50%) of the total amount due (including the amount stated on the Termination Notice and all other charges on the account) simultaneous with: (i) execution of a six-month installment plan pursuant to which the remaining fifty percent (50%) of the total account balance is paid in monthly installments until paid in full and (ii) payment, in full, of the current charges due.
 - b. “Twelve-Month Payment Plan” Option – The customer must pay all current charges and agree to pay all past due charges, in equivalent installments, over a twelve-month period.
 - c. “Income Qualified” Option – The customer must submit a request to, and work in conjunction with, a designated Social Service task force for purposes of determining eligibility. If the Social Service task force deems the customer eligible, it shall provide the City with all documentation in support and a payment plan will be developed, which will require the customer to (i) pay the current charges due, in full, and (ii) pay one-twelfth (1/12) of the total account balance (principal only). All Past Due Penalties and other fees associated with untimely payment will be waived upon completion of the payment plan.
5. Disconnection of Water Service by Water Company. The City may request the water company to terminate/disconnect water service in accordance with State law. Any disconnection fee assessed by the water company shall be added to the total amount due as an “Adjustment”.
6. Reconnection of Water Service by City. A customer who has been disconnected as set out in paragraph 5 above may subsequently request the City to reconnect his/her water service. Prior to any reconnection of water service to the premises, the customer will be required to pay any reconnection fee(s) assessed by the water company, in addition to a Seventy-Five Dollar (\$75.00) deposit to the City. This deposit will be refunded to the customer, in full, five years from the date upon which said deposit was paid. However, if:

- a. Customer notifies the City that he/she is moving from the premises, then the deposit will be transferred as a credit to his/her new address; and
- b. Customer notifies the City that he/she wishes to terminate his/her water service, then the deposit will be applied to the customer's final bill; with any remaining amount refunded to the customer.

C. Municipal Court Fines, Penalties, and Costs

Efforts will be made to collect delinquent fines, costs, and penalties owed for adjudicated cases. Cases that are not adjudicated will result in issuance of a warrant for failure to appear or other action as may be required by the Municipal Judge and which are outside the scope of this Policy. The Missouri Department of Revenue may revoke or suspend driver's licenses as a result of unpaid fines, penalties, and costs; such actions are outside the scope of this Policy.

1. Assignment of a delinquent defendant's violation to the designated collection agency may occur when the defendant/debtor fails to pay any portion of amounts owed within 60 days of the date(s) required by a payment agreement. The cases for which collection is sought are reviewed and all active warrants associated with those cases are then recalled.
2. If a defendant makes an appearance before the Municipal Court Judge, the case can be recalled from the designated collection agency at the Judge's request.
3. Forwarding of files to the designated collection agency will occur by the 10th day of each month (or the first business day thereafter) following the review of cases from the prior month.

D. Parking Tickets

Parking citations are non-moving violations as recorded by parking enforcement staff or Police/Fire staff. Registered owners of the vehicles are responsible for these types of violations.

Collection Steps:

1. Before collection efforts are undertaken, vehicle owner information is researched in the Police Department MULES system in order to obtain any new owner information on plates not yet included in the City's parking data base.
2. If payment is not received within 15 days following issuance of a parking citation, a first notice delinquent letter will be sent.

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3. If payment is not received within ten days following issuance of a first notice delinquent letter, a second notice delinquent letter will be sent.
4. If payment is not received within five days following issuance of a second notice delinquent letter, a third notice (Legal Letter) will be mailed informing the owner of the vehicle for which the citation was issued that the outstanding citations must be paid by a specified date (typically 14 days from the date of the Legal Notice), or such owner will be subject to being summoned to Municipal Court.
5. Following issuance of a summons to Municipal Court, collection will be pursued as a Municipal Court fine, penalty, or cost.

E. Nuisance Abatement Charges, Administrative Citations and Related Unpaid Administrative Penalties

The City has the authority, under state statutes and City ordinances, to perform abatements for certain types of nuisance violations if property owners do not correct the nuisance within the time specified by the City Code of Ordinances. This has the advantage of correcting the violation for the benefit of other residents. However, without a credible way to collect the abatement charges the City has little ability to encourage property owners to maintain their properties in compliance with statutory and ordinance requirements.

Collection Steps:

1. The recipient of a nuisance abatement charge or administrative penalty will have 30 days from the date of billing to pay the amounts owed. If not paid within 40-50 days, the citation will be flagged for further review and possible collection measures.
2. On a monthly basis, accounts will be reviewed and amounts that remain unpaid beyond 40-50 days from the date of billing will be sent a collection notice requiring payment within ten days.
3. On a monthly basis, accounts will be reviewed and amounts that remain unpaid beyond 15 days following issuance of a collection notice may be forwarded to the designated collection agency; or to the City Attorney to pursue collection through the filing of a lawsuit.

Extended Payment Arrangements may be available under extraordinary circumstances.

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Statutory Liens

Nothing in this Policy shall be deemed to waive or otherwise release a statutory lien resulting from unpaid nuisance abatement costs. Furthermore, nothing in this Policy shall be deemed to restrict collection of amounts owed by pursuing foreclosure of a statutory lien.

Administrative Citation Judgment Liens

Notwithstanding any of the steps listed herein, any procedure that may lawfully be taken to record or otherwise perfect a judgment lien resulting from the issuance of an administrative penalty, may be undertaken at any time provided that the total amount sought for collection exceeds \$500.00.

F. Special Assessments - Sewer and Street Improvements

The City has the authority, under state statutes and City ordinances, to perform improvements for certain types of sewer and street improvements; as outlined by Section 8.1 of the City Charter.

Unpaid improvement costs may become a tax lien, and personal debt of owner of record, on the real property. The City will systematically pursue collections of these costs.

Collection Steps:

1. Amounts owed that remain unpaid for more than 30 days following the date the on which a special assessment bill was issued will be flagged as being past due.
2. On a monthly basis, amounts that remain unpaid beyond 30 days from the date of billing will be sent a collection notice requiring payment within 25 days.
3. On a monthly basis, amounts that remain unpaid beyond 60 days from the invoice date specified in a collection notice may be forwarded to the designated collection agency; or to the City Attorney to pursue collection through the filing of a lawsuit.

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III. Abatement of Amounts Owed

A. Abatement; Written-Off Amounts Owed

The Director of Administrative Services, or his or her designee, shall have the authority to write off receivables and/or penalties and interest if any of the following occur:

1. Information gathered for original billing is incorrect due to clerical error.
2. Collection through the filing of a civil lawsuit can no longer be pursued due to expiration of statute of limitation and expiration (without revival) of a judgment lien.
3. Billing information is not legally binding.
4. Partial payment of an account has left a remaining balance that would result in collection costs greater than the balance due.
5. Write-off less than \$1,000.00 per parcel in principal, and of additional interest and fees accrued on the principal, will facilitate the transfer of a parcel of real property.

B. Method of Remitting or Abating Taxes, Fees, or Charges

Other than with the exceptions noted in the next paragraph, no general or special tax or assessment, no fee or charge imposed pursuant to City ordinance, and no interest or penalty on any of them, shall be remitted or abated, or the right to enforce payment thereof released, unless expressly authorized by a Special Ordinance of the City Council.

Notwithstanding the foregoing, the Director of Administrative Services, or his or her designee, may, at any time prior to the sale of any lot or tract of land for delinquent taxes or suit brought for tangible personal property taxes, abate any particular tax or lien against the property for unpaid amounts owed per City ordinance in any of the following circumstances:

1. The fee or charge, and any interest and penalty resulting from the fee or charge, is a not a property lien and may be written off in accordance with Section III(A) above.
2. The tax or lien has been paid in full.
3. Abatement or adjustment is necessary to correct a data entry mistake that resulted in the tax or lien being levied against the wrong lot or tract. In the case of assessment as personal debt against the wrong person, abatement is necessary.

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4. Abatement or adjustment is necessary to correct a mistake in computing or extending any tax.
5. The United States Bankruptcy Court or other court having jurisdiction has issued an order requiring abatement or other action.
6. A tax lien has been foreclosed upon by the Buchanan County Collector extinguishing the taxes, liens, assessments, fees or charges.
7. Foreclosure has extinguished the City's right to maintain a lien against the property.
8. Statute of limitations set forth by the State of Missouri prevents collection.

IV. Bankruptcy Policy

A. Chapter 7 Bankruptcies. After the City receives a Notice of Filing of a Chapter 7 Bankruptcy, whoever receives the notice shall forward it to the Legal Department so that a memorandum can be sent to a designated representative(s) of the following Department Divisions: Community Development, Customer Assistance, Revenue and Finance and Property Maintenance. No collection efforts shall be taken with regard to any amounts past due and owing against any individual or business that is in a Chapter 7 Bankruptcy. However, nuisance violations may still be sent to any owner of record requesting that he/she abate a nuisance violation that exists on his/her property; notwithstanding the fact that the City might never be in a position to collect any related obligation that may later become due and owing.

1. Special Tax bills survive the bankruptcy process, so these obligations can be billed or re-sent to the designated collection agency following the conclusion of the Chapter 7 Bankruptcy, with notice of such to be provided by the Legal Department.
2. No attempt can be made to collect past due sewer bills or property maintenance or weed bills (special tax bills) during the pendency of a Chapter 7 Bankruptcy. Any financial obligations from the filing date forward remain the responsibility of the debtor for sewer bills.

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B. **Chapter 13 Bankruptcies.** After the City receives a Notice of Filing of a Chapter 13 Bankruptcy, whoever receives the notice shall forward it to the Legal Department so that a memorandum can be sent to a designated representative(s) of the following Department Divisions: Community Development, Customer Assistance, Revenue and Finance and Property Maintenance.

1. Appropriate personnel shall provide the Legal Department with statements of any and all nuisance abatement charges, unpaid administrative penalties (that correspond with an administrative citation) and sewer bills that remain past due and owing. The Legal Department will then contact appropriate personnel to submit a claim for payment of debts by the Bankruptcy Trustee.
2. The Legal Department shall provide the Division of Finance and Revenue with a file-stamped copy of all claims submitted to the Bankruptcy Court in Chapter 13 Bankruptcies, (which may contain any obligation owed to the City.).
3. Any financial obligations from the filing date forward remain the responsibility of the debtor for sewer bills.
4. Nuisance abatement charges and unpaid administrative penalties (that correspond with an administrative citation) shall not be collected during the pendency of the bankruptcy, although after the bankruptcy has concluded the City will be able to collect any and all special tax bills upon the sale of property, which should be paid to the City by the debtor in no more than 60 months.
5. The designated collection agency shall be informed of any bankruptcy that is filed. The City shall recall any accounts turned over to the designated collection agency and write off to bad debt. Conversely, the designated collection agency shall notify the City of any bankruptcies reported to it and return those accounts as uncollectable to be written off as bad debt.

NOTE: Currently, all collections (with the exception of Municipal Court collections) are referred to Berlin Wheeler, LLC; Municipal Court collections are currently referred to Capital Recovery Systems. This may, of course, be subject to change in the future. Any such contracts will be on file with the City Clerk.

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