

Council /Administrative Policy

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1. **PURPOSE**

The purpose of this policy is to establish guidelines to maximize the collection of accounts receivable in a professional and consistent manner.

2. **POLICY**

2.1 **Applicability**

The provision of this policy applies to the collection of all accounts receivable. City staff will utilize all legal means to collect payments due to the City under Federal and State Statutes that govern collection practices, including: The Fair Debt Collection Practices Act, The Fair Credit Reporting Act, California's Rosenthal Fair Debt Collection Practices Act under Civil Code 1788, and the Brentwood Municipal Code ("Code").

3. **PROCEDURES**

The Administrative Services Department ("Administrative Services") is responsible for the collection of revenues that are owed to the City. When accounts become past due, the City will take certain collection actions that may include, but are not limited to: invoicing, sending statements or notices, making phone calls, placing special assessments, liens, court judgments, or utilization of the Franchise Tax Board Interagency Intercept Collections Program. The City may also utilize a collection agency to assist in the collection process. If bankruptcy notification is received by the City for any accounts in the collection process, the City will follow the Federal bankruptcy laws and City of Brentwood policies and procedures.

The collection action taken will depend on the type of account being collected.

Certain types of accounts receivable are listed below with guidelines on how to proceed with the collection process.

4. **TYPES OF ACCOUNTS RECEIVABLE**

4.1 **Utility Billing**

The due date for utility bills is dictated by Code. If the invoice for utilities is not paid by the due date, the collection process is initiated. The next course of action will depend upon whether the customer account is active or closed.

4.1.1 **Active Accounts**

- If payment is not received by the due date, notices are mailed to account holders on or prior to the thirtieth and the thirty-seventh day after the original bill date.

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- Service will be disconnected if the past due balance is not paid by the fortieth day after the original bill date. (Code Section 14.01.580)

4.1.2 **Closed Accounts**

- If payment is not received by the due date of the final bill, notices are mailed to account holders on the thirtieth day after the date of the final bill date.
- If the final balance is not paid by the sixtieth day after the original bill date, the account is scheduled to be assigned to collections.
- Prior to assigning to collections, Utility Billing staff will review existing accounts to determine if the former account holder(s) has/have an active account. If an active account exists, the final balance on the closed account will be transferred to the active account and the customer is notified. (Code Section 14.01.160)
- If no active account exists, the account is assigned to collections
- If a former account holder with an outstanding balance or a prior account tries to open a new account, water service shall be refused until all outstanding charges including collection fees are paid.

4.2 **Citations & Abatement Orders**

The designated enforcement officer will forward the following to Administrative Services so that an invoice can be issued:

- all citations
- all abatement orders, if costs are associated with them, including supporting documentation for those costs

If the invoice is not paid by the due date, the next course of action is based on whether the amount owed is for a citation or abatement.

4.2.1 **Citations**

Citation collections will be administered pursuant to Municipal Code Chapter 1.12 Administrative Citation.

- The City Clerk will notify Administrative Services of hearing requests and decisions of the hearing officer.
- If a hearing is not requested, collection actions will proceed if the citation is not paid by the due date Administrative Services will determine the most effective way to proceed with the collection

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options available, including collection actions used for Other Accounts Receivable. (Section 5 of this Policy)

- In order to release a lien, a payment in cash or certified funds must be submitted to the City. After payment is received, the Director of Administrative Services ("Director") or designee will sign the Release of Lien which will be given to the property owner for filing with the County Recorder's Officer.

4.2.2 Abatement Orders

Abatement collections will be administered pursuant to Municipal Code Chapter 8.00 Nuisances.

4.3 Overtime Inspection

Overtime Inspection is a service provided by the City for inspections that are done after normal working hours. Departments are responsible for providing Administrative Services with the overtime hours and billing information so that an invoice can be generated. Payment is due within 30 days from the invoice date.

If the invoice is not paid within 30 days, overtime inspections will be stopped until payment in full is made and the standard collection process is followed as indicated in Other Accounts Receivable. (Section 5 of this Policy)

5. OTHER ACCOUNTS RECEIVABLE

Accounts not listed above will follow the standard collection practice as noted below and in a manner consistent with this policy.

Collection Action

- At 30 days past the invoice date, a reminder notice is sent to the responsible party requesting payment upon receipt.
- At 60 days past the invoice date, a past due notice is sent to the responsible party requesting payment within 10 days of receipt.
- At 90 days past the invoice date, an urgent demand notice is sent to the responsible party requesting payment within 5 days of receipt.
- If at 120 days the citation is not paid, upon approval of the Director or his/her designee, a notice is sent informing the customer that their account is being referred to a collection agency.
- At 120 days the account will be forwarded to the collection agency including any identifying customer information on file such as address, telephone

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number, driver's license and social security number.

6. **FRANCHISE TAX BOARD INTERAGENCY INTERCEPT COLLECTIONS PROGRAM**

Government Code sections 12419.2-3, 12419.5, and 12419.7-12, authorize the use of the Franchise Tax Board Interagency Intercept Collections Program ("State Intercept Program") for the City to collect funds.

The State Intercept Program is administered by the Franchise Tax Board ("FTB") in conjunction with the State Controller's Office. The FTB is able to intercept refunds due to California residents and transfer the funds to pay the individual's debts to participating agencies. The FTB does not intercept corporation or partnership funds.

Upon recommendation of the collection agency and the approval of the Director and in consultation with the City Attorney, the City shall initiate the utilization of the State Intercept Program.

6.1 Qualifying Debts

The City can submit debts such as delinquent fines, court ordered payments or other debts as permitted and updated in the Government Code.

6.2 Debt Criteria

- A valid social security number ("SSN") of each debtor in order to participate.
- Only one debt amount for each debtor. If the debtor has multiple accounts then they must be summed and submitted as one account balance.
- The debt amount must be \$10 or greater.
- The debtor has not filed bankruptcy.

7. **SMALL CLAIMS**

- The collection agency shall identify accounts whereby the debtor has failed to respond to agency's collection attempts yet has the ability to pay.
- The collection agency will notify the City that there are outstanding debts for which a claim could be filed in small claims court. Notification shall include the reasons why the collection agency deems the filing of a particular action worthy (e.g. debtor has a job, owns personal or real property, etc.)
- Upon receiving notification, the Director, in consultation with the City Attorney, may authorize the collection agency to file a claim.
- The collection agency's in-house legal counsel shall prepare and file all necessary paperwork with the court on the City's behalf. The collection agency will notify the debtor of the filing, as required. A representative of the collection agency shall

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accompany the City’s representative to the small claims court having jurisdiction.

- If debtor fails to attend the hearing, a judgment may be award in the City’s favor. If the judgment is awarded and entered, the City shall assign the judgment to the collection agency for post-judgment collection.

8. PAYMENT PLAN

In order to utilize all means available to collect outstanding receivables, the Director or his/her designee has the authority to execute payment plan agreements.

9. COLLECTION FEES/PENALITES

The Cost Allocation Plan and Schedule of Fees will allow the City to recover costs for attorney services, collection agency services and costs associated with liens and assessments. Staff will recover the applicable fees which are determined by the type of collection item.

10. UNCOLLECTIBLE RECEIVABLES

It is the intent of the City to reflect the value of its receivables and ensure that resources are used efficiently and not devoted to the recovery of uncollectible receivables; therefore, the City will not assign an account to a collection agency for an amount less than \$25.00.

The timely identification of losses is an essential element in appropriately measuring the value of the City’s assets. When an outstanding receivable is determined to be uncollectible, a write-off will be accomplished pursuant to Council Administrative Policy 10-5 Budget and Fiscal Policies.

The Director or his/her designee has the authority to settle uncollectible accounts up to the limit granted for write-offs in Policy 10-5 Budget and Fiscal Policies.