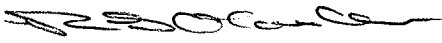


**Shoreline Policy and Procedure**  
**FIN – Debt collection - FIN 11-1**

PP-11-001

<b>Subject: Procedure for Collection of Debts</b>	<b>Code and statutory authority:</b>
<b>Effective Date</b> February 2011	<b>Approved By:</b>
<u>Prior Versions and Related Policies</u> <ul style="list-style-type: none"> <li>• <b>Shoreline Policy and Procedure – Debt Collection - dated 1/08</b></li> <li>• <b>Accident Claims Damaging City Property dated 1/31/03</b></li> </ul>	<b>City Manager</b> 

**1.0 PURPOSE**

The purpose of this policy is to detail the City’s procedure for collecting debts, including debts related to insufficient funds checks, damage to City property, breach of contract, code enforcement abatement costs, assessment of civil penalties, and taxes and fees.

**2.0 DEPARTMENTS AFFECTED**

All departments.

**3.0 REFERENCES AND FORMS**

**3.1 REFERENCES**

**A. Statutes of limitation**

1. RCW 4.16.040: Six year statute of limitations for actions in contract and actions upon account receivables incurred in the ordinary course of business.
2. RCW 4.16.080: Three year statute of limitations for actions involving property damage.
3. RCW 9.46.350: Five year statute of limitations for bringing a civil action involving collection of gambling tax.

**B. Interest rate: RCW 19.52.020: Highest permissible interest rate (12%).**

**C. Gambling tax and lien**

1. SMC 3.30.060: Due date and delinquency of gambling tax
2. RCW 9.46.350 and RCW 84.60.010: Gambling tax liens

**D. Utility tax**

1. SMC 3.32.060 Due date and delinquency of utility tax

- E. Abatement:
  - 1. SMC 20.30.775 Penalties and costs
  - 2. SMC 3.35.180 Code abatement fund

### 3.2 TEMPLATES

- A. Certification of Abatement Costs to County Treasurer
- B. Promissory Note
- C. Gambling tax lien letter

## 4.0 PROCEDURES

### 4.1 CIVIL DEBTS - GENERAL

- A. Debt Collection Letter and Civil Penalties Letter: For collection of general civil debts, including insufficient funds checks, damage to City property of a non-criminal nature, utility tax and breach of contract damages, Finance sends a debt collection letter and an invoice to the individual responsible for payment. Code Enforcement sends the first civil penalties letter. If the civil penalties are not paid or settled within thirty (30) days of the letter, the civil penalties shall be forwarded to Finance for invoicing.
- B. Two Past-Due Notices: If the individual does not respond to the initial invoice, Finance sends two (2) past-due invoices. The first past-due invoice shall be mailed within forty-five (45) days of the initial invoice. The second past-due invoice shall be mailed within ninety (90) days of the initial invoice (i.e., 45 days after the first past-due invoice). If the individual still does not respond, Finance telephones the individual to obtain payment commitment.
- C. Collections: If the individual fails to respond after Finance's attempts, the following procedures apply:
  - 1. For amounts under \$5,000, Finance sends the claim to the collections agency. (Note: civil penalties shall only be filed with the collections agency if the debtor defaults on a promissory note associated with the civil penalties.)
  - 2. For WCIA-covered debts over \$5,000, Finance forwards the file to WCIA
  - 3. For non-WCIA-covered debts over \$5,000, Finance forwards the file to the City Attorney's Office. The Finance Director must be informed of the file transfer. The City Attorney's Office will proceed with collection for all amounts of civil penalties.
    - a. The City Attorney's Office will proceed with collection via a promissory note or a lawsuit. If a promissory note is used, the interest rate shall be set at a commercial rate for personal loans. A lower interest rate of the average rate of return that Shoreline receives on investments may be used if the debtor demonstrates hardship based on assets, income and outstanding debt. The rate shall be 12% if the note is in default. The promissory note shall not exceed five (5) years,

except that promissory notes for gambling tax debts shall not extend more than two years beyond the date executed.

D. All debt collections shall be deposited into the appropriate fund.

#### **4.2 GAMBLING TAX**

A. If a gambling tax has not paid by the thirtieth (30<sup>th</sup>) day of the second month next succeeding the quarterly period in which tax accrued, then:

1. The City Attorney's Office shall proceed with a collections action and business license revocation.
2. In lieu of an immediate collections action and business license revocation, the gambling establishment may execute a promissory note prepared by the City Attorney's Office.
  - a. The amount due under a promissory note cannot exceed the total of the previous three quarters of taxes due to the City, and in no circumstance shall exceed \$400,000.
  - b. If the debt is over \$150,000, the note must be secured. The asset value of the security must equal the entire principal amount of the note.
  - c. The note shall bear interest at a rate comparable to secured commercial loans with a term of two years or less.
  - d. The term of the note shall not exceed two (2) years from date of execution.
3. A gambling tax lien on the real property and personal property owned by the gambling establishment shall be filed by the City Attorney's Office pursuant to 9.46.110. This lien will take the form of a certified letter to the owner and will be recorded against the property

#### **4.3 DEBTS INVOLVING CRIMINAL CITATIONS**

A. Upon receipt of the cost for loss or repair of city property resulting from criminal conduct, Finance sends a debt collection letter and an invoice to the individual responsible for the property damage to recover costs of loss or repair. If information on the individual responsible is needed, Finance shall work with the City Attorney's Office to obtain this information. Finance shall notify the City Attorney once the individual is invoiced, and shall notify the City Attorney in the event the individual pays the City. The City Attorney will include a restitution demand as part of any sentence.

#### **4.4 CODE ENFORCEMENT ABATEMENT COSTS**

A. Unfit dwellings and premises

- a. The Code Enforcement Officer tracks the abatement costs, including the cost of repairs, alterations, improvements, vacating, closing, removal and demolition. If the building is removed, PADS shall, if possible, sell the materials from the building or premises, and credit the proceeds of the sale against the cost of removal or demolition. If there is a positive balance from

the sale, it shall be paid to entitled parties, as determined by the PADS Director.

- b. Once the abatement has concluded, the Code Enforcement Officer forwards the total amount of abatement costs to the Finance Director, taking into account proceeds of any material sale.
- c. Finance shall send a debt collection letter and invoice for abatement costs to the property owner. No past-due notices shall be sent. A promissory note may be used if the debtor cannot pay in full. All monies collected for abatement costs shall be allocated to support expenditures for abatement, and deposited in the code abatement fund.
- d. If the debt is not paid within thirty (30) days, the Finance Director sends a certification of abatement costs to the County Treasurer certifying the amount spent on abatement.
- e. The County Treasurer enters the amount of such assessment on the tax rolls against the property for the current year, to be collected as general taxes, and deposited in the general fund of the City. The assessment shall be a lien against the property, of equal rank with State, county and municipal taxes.

B. Junk vehicles

1. The Code Enforcement Officer tracks the costs for abating junk vehicles, If the vehicle wrecker, hulk hauler or scrap processor posts any net proceeds from the sale of the junk vehicle, the proceeds of the sale shall be credited toward the cost of removal or demolition.
2. Once the abatement has concluded, the Code Enforcement Officer forwards the total amount of abatement costs to the Finance Director, taking into account proceeds of any sale. The Code Enforcement Officer also forwards all information regarding the last registered vehicle owner, and the landowner on which the vehicle was located. If a hearing was held to determine ownership of the vehicle, the Code Enforcement Officer forwards the outcome of the hearing to Finance.
3. Finance sends a debt collection letter and invoice for abatement costs due to the last registered vehicle owner. No past due notices shall be sent.
4. If no registered vehicle owner can be contacted, then Finance sends a debt collection letter and invoice for abatement costs to the landowner on which the vehicle was located. However, if the landowner has shown in a hearing that the vehicle was placed on his/her property without his/her consent, then the landowner cannot be invoiced for the costs.
5. If the landowner does not respond to the invoice within thirty (30) days of the initial invoice and the hearing, if any, then the Finance Director shall certify the costs to the County Treasurer to be entered upon the tax rolls.