

**Effective date:** August 23, 2016

**Resolution No.:** 225/2016

**Subject:** **Collections/Disconnections Policy**

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## Goal

To provide clarity and consistency on the collections and disconnection policies of the Utilities Department.

## Scope

To detail the policies surrounding collections and disconnections.

## Definitions

**“Collector”** means the municipal officer assigned responsibility as collector of taxes for the municipality, as defined by the *Community Charter*;

**“Supervisor of Revenues and Collection”** means the Collector for all purposes within the City of Penticton;

**“Fees and Charges Bylaw”** means the City Fees and Charges Bylaw as amended from time to time; and

**“Municipal Utilities”** includes Electricity, Sewer, and Water.

## Policy

### COLD WEATHER POLICIES

1. “Cold weather policies” will be in force from December 1<sup>st</sup> through March 31<sup>st</sup> of each year. At the discretion of the Supervisor of Revenues and Collection, those dates may vary from year-to-year depending upon weather conditions.
2. Disconnection for recoveries of delinquent accounts will continue to be carried out during “cold weather” conditions but the Supervisor of Revenues and Collection will review any services that are off before the end of the work day with a view to reconnecting services where cold weather damage is a concern. Should a service be reconnected for this reason, it may be disconnected again the next day if payment and/or acceptable arrangements are not made. In the case of a rental property, contact may be made with the registered owner to achieve a suitable resolution.

3. When cold weather damage is a concern, the City will attempt to monitor services that are due to be disconnected as a result of no service application on file. In certain cases, such as in the case of new owners, service may be left on and/or efforts made to reach a registered owner for instructions. Any efforts on the City's part to protect owners' property from damage will be done on a "without prejudice" basis and will not be intended to relieve owners of their responsibility to take necessary precautions to protect their property.

## **DELINQUENT ACCOUNTS**

4. Section 258 of the *Community Charter* empowers the Collector (Supervisor of Revenues and Collection) to transfer unpaid utilities to taxes on the property to which the services were provided. Any charges on utility accounts that were due and payable by December 31<sup>st</sup> for services rendered prior to November and remain unpaid on that date, are deemed to be taxes in arrears and are so entered on the tax rolls of the benefiting property.
5. Once an unpaid account is transferred to taxes or paid by the owner, the City will create a delinquent customer record that will be used to screen all new applications for service. Should an applicant or co-occupant have an outstanding delinquent account from a former address (which has either been transferred to taxes or paid by the registered owner), that account together with applicable interest (current rate of 10%) must be paid to the City prior to the provision of service.
6. Upon recovery of any such monies, the owner whose property was attached or who paid the bill will be reimbursed. If the City is unable to locate a former owner at the time of recovery, the recovered funds will be held in suspense until the owner is located.
7. If a customer is unable to provide full payment of a delinquent account, arrangements for repayment, over a reasonable period, may be approved by the Supervisor of Revenues and Collection. Under normal circumstances, an initial payment equal to 50% of the amount owed would be required with payment of the balance within 30 days. Should a customer fail to keep the arrangement, services will be disconnected without notice.
8. This policy applies to customers who have benefited from the utility service provided whether or not they have signed the application for service. In addition, service will be withheld from premises where a delinquent customer is an occupant unless 1) that service predated the delinquent customer's tenancy or 2) the service is to be maintained in the name of the registered owner.
9. If service is provided to a customer and then the customer is found to have an outstanding delinquent account, a letter will be sent requiring payment within a reasonable time frame (normally five (5) business days). Should payment or acceptable repayment arrangements not be received, services will be withdrawn to effect payment.
10. Once services have been disconnected the delinquent amount together with the applicable reconnection fee will be required prior to reconnection. Upon receipt of payment, services will be scheduled for reconnection as soon as practical after 2:00 PM. In the case of business accounts, the 2:00 PM reconnection start time will be waived on the first occasion.

11. The applicable administration fee is payable once the City's service representative has arrived on site. Should the service representative leave the services on at the request of the customer/occupant or because access to the meter is unavailable, the normal administration fee still applies. If the service representative is required to attend to the site more than once to effect disconnection or reconnection of services, the reconnection/administration fee is payable for each trip.
12. Disconnection of services for delinquent accounts will normally be scheduled from Monday through Thursday from 8:30 AM until 2:00 PM. Reconnection will normally be carried out between 2:00 PM and 4:30 PM. In order to allow for same-day reconnection, without overtime or call-out charges, payment must be made by 4:00 PM. Exceptions to these practices will be subject to the approval of the Supervisor of Revenues and Collection.
13. If a City line crew is required to effect disconnection, the additional cost is the responsibility of the customer. Reconnection will not be carried out until payment or suitable arrangements for payment of both the delinquent amount and reconnection charge are made. If the line crew was used because of a meter access problem, the access problem is also to be resolved prior to reconnection.
14. In the case of utility accounts for both electric and water services, the City will normally withdraw electric services first. However, should the disconnection of electrical service not result in payment and reconnection within a reasonable time frame (normally 2-3 days), disconnection of water services or contact with the landlord, in the case of tenants, may be pursued to effect payment or finalization of the account.
15. While the City offers customers numerous payment alternatives, deadlines for payment to avoid disconnection of services refer to payment actually being received at City Hall by that date. Accordingly, customers subject to disconnection are to ensure the method of payment chosen will result in payment being received by City Hall prior to the deadline. In the case of electronic payments, the City must have received notification of the funds by its financial institution prior to the disconnection deadline.
16. Collection of outstanding accounts is subject to the statute of limitations for debt payment (currently six (6) years and the time period begins with the account finalization date). In all situations, the City will exercise its right to collect within that 6 year period.

### **ACCOUNTS IN ARREARS**

17. In practice, any account holder with
  - a) arrears of \$75 or more, or
  - b) on whose account no payment has been received within three (3) monthly billings,will receive an automated phone call if a valid number exists in the utility system three (3) business days after the due date of the original bill. In addition, in the case of tenant accounts, the property



owner or designate will have the opportunity to receive notice via either automated phone call or email that the account has entered an arrears status.

- a. In order to receive notification, the property owner or designate will be required to provide either or both of:
  - i. A valid phone number
  - ii. A valid email address
- b. Property owners or their designate will only receive the information required to clear the arrears amount. This requirement is not at the discretion of the City, but regulated under the *Freedom of Information and Protection of Privacy Act*. The only information provided will be:
  - i. The utility account number,
  - ii. The utility service address, and
  - iii. The amount in arrears.

18. After a further three (3) business days, any account holder a) with arrears of \$75 or more, or b) on an account which no payment has been received within three (3) monthly billings, will receive a 'regular' notice with a scheduled deadline to bring the account back to a current status. The notice will advise the account holder that the once the scheduled deadline has passed that:

- a. In the instance of owner-held accounts the arrears amount is now eligible for transfer to tax if left unpaid December 31<sup>st</sup> as per Section 258 of the *Community Charter*, and
- b. In the instance of tenant-held accounts the arrears amount will be referred to the property owner or their designate.

19. In addition, an arrears 'warning' note will be printed on the next regular utility bill.

20. The day following the scheduled deadline, any tenant account a) with arrears of \$75 or more, or b) on an account which no payment has been received within three (3) monthly billings, will be reported by letter to the property owner or their designate. Letters will be mailed to either a mailing address provided by the property owner or their designate, or in the absence of such, the mailing address of the owner as found in the City's property tax system.

- a. The letter will advise the property owner or their designate that the arrears amount is now eligible for transfer to tax if left unpaid December 31<sup>st</sup> as per Section 258 of the *Community Charter*.
- b. Property owners or their designate will only receive the information required to clear the arrears amount. This requirement is not at the discretion of the City, but regulated under the *Freedom of Information and Protection of Privacy Act*. The only information provided will be:
  - i. The utility account number,
  - ii. The utility service address, and
  - iii. The amount in arrears.

21. The City reserves the right to disconnect for irregular or extreme non-payment situations for services in respect of which any rates and charges remain due and unpaid the day after the due date at the discretion of the Supervisor of Revenues and Collection, and no further services provided unless and

until all rates and charges in arrears in respect thereof are paid, together with reconnection charge (as per the Fees and Charges Bylaw). For greater certainty, this discretion will not be subject to any request or demand by landlords, property owners, or property managers.

## RETURNED CHEQUES

22. Returned cheques (including pre-authorized payments) will be debited back to the utility account(s) involved together with a returned cheque charge and any forfeited prompt payment discount. The returned cheque charge will not be applicable in cases where the City could have prevented the item from being returned (i.e. body & figures differ, stale or postdated, no signature, etc.). Customers on pre-authorized payment plan will have their plan stopped until payment of the returned item has been made.
23. When a cheque is returned that previously covered a "current" amount, a letter will be sent to the customer requesting replacement funds, including the returned cheque charge and any forfeited discount, in certified form to be remitted within seven (7) days of the date of the letter.
24. When a cheque is returned that previously covered an "arrears" amount, the return of the cheque renders the account subject to the same remedies as would have occurred had the cheque not been remitted. A letter will be sent to the account holder requesting replacement funds, including the returned cheque charge, in certified form to be remitted immediately.
  - a. In the instance of tenant utility accounts, the return to arrears status will be reported by email (if available) or letter to the property owner or their designate. Letters will be mailed to either a mailing address provided by the property owner or their designate, or in the absence of such, the mailing address of the owner as found in the City's property tax system.
    - i. The letter will advise the property owner or their designate that the arrears amount is now eligible for transfer to tax if left unpaid December 31<sup>st</sup> as per Section 258 of the *Community Charter*.
    - ii. Property owners or their designate will only receive the information required to clear the arrears amount. This requirement is not at the discretion of the City, but regulated under the *Freedom of Information and Protection of Privacy Act*. The only information provided will be:
      1. The utility account number,
      2. The utility service address, and
      3. The amount in arrears.
25. Upon receipt of a third returned item from an individual customer or on an individual account, the Supervisor of Revenues and Collection may require all future payments to the City by that customer or on that account to be in certified form. Notice of this requirement will be sent to the customer in writing. The privilege of payment by uncertified cheques may be restored after one year at the request of the customer and upon approval of the Supervisor of Revenues and Collection.

## TRANSFER TO TAXES

26. Section 258 (1) & (2) of the Community Charter reads as follows:

Special fees may be collected as property taxes

(1) *This section applies to the following:*

- a. *Fees imposed under this Act or the Local Government Act, for work done or services provided to land or improvements;*
- b. *Fees imposed under section 196 (1) (a) [fire and security systems]*
- c. *Amounts that the municipality is entitled to recover for work done or services provided to land or improvements under any provision of this Act or the Local Government Act that authorizes the municipality to recover amounts in the event of default by a person.*

(2) *An amount referred to in (1)*

- a. *May be collected in the same manner and with the same remedies as property taxes and,*
- b. *If it is due and payable by December 31 and unpaid on that date, is deemed to be taxes in arrears.*

27. The above quoted sections of the *Community Charter* empowers the Collector (Supervisor of Revenues and Collection) to transfer unpaid utilities to taxes on the property to which the services were provided regardless of whose name the utility account was in.

28. This transfer to tax and any adjustments is performed within 45 days of December 31<sup>st</sup>. Payment received after December 31<sup>st</sup> but prior to the completion of the transfer will eliminate the need to transfer the account to taxes.

29. An ongoing effort is made throughout the year to alert registered owners to unpaid utility accounts prior to the arrears balances being transferred to property. As well, if the account remains unpaid and is transferred to property taxes, an additional letter will be generated advising the registered owner of the transfer to taxes.

30. In the case of all Municipal Utilities, the *Community Charter* deems utility charges to be equivalent to taxes and, as such, are recoverable in the same manner as taxes. That means that the utility transfer to taxes survives any change of ownership. Accordingly, when property is changing hands, legal firms should be searching for unpaid utilities as well as unpaid taxes on the property. To facilitate this process, the City makes utility information available to legal firms who are conveying the property via online Tax Certificates. It is then up to the legal firm as to what steps they will take to protect their client's interests.

31. Should a purchaser of property become aware that a utility account, for a period of time that precedes their ownership of the property, is outstanding and subject to a transfer to taxes, he/she should refer the matter to the legal firm that handled the conveyance on their behalf.

32. Once an unpaid account is transferred to taxes or paid by an owner prior to transfer, the City will not knowingly provide service to the customer who left the bill unpaid until the amount involved has been repaid either directly to the owner or through the City to the owner (see "Delinquent Accounts" policy for details).

**UNPAID FINAL ACCOUNTS**

33. If a tenant customer has finalized service with the City in one location and is receiving service elsewhere within the City, service at the new location is subject to disconnection if the utility account at the former location becomes overdue. Should the tenant customer move to a location within the City where the previously unpaid utility account predates the tenant customer's move by more than the statute of limitations or where the utility account is maintained in the name of the property owner, that account will not be subject to disconnection.

34. A finalized utility account entering arrears status will follow the same process as an active utility account entering arrears status with the exception that after the scheduled deadline, service at the new location is in jeopardy. When this condition exists, utility staff will issue a "manual" disconnection notice based on the same criteria as a delinquent utility account.

**Previous revisions**

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Certified Correct:



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