

POSSIBLE MOTION

I MOVE TO approve Ordinance 2016-06S on second and final reading.

Memo

Thru: Mark Gorman, Municipal Administrator

To: City and Borough of Sitka Assembly

From: Jay Sweeney, Chief Financial and Administrative Officer 

Date: June 22, 2016

Re: **Credit and Collection Policy**

Mayor McConnell and Assembly Members,

Issue: The Sitka General Code (SGC or "Code") does not presently contain a comprehensive credit and collection policy applicable to all aspects of the Municipality; bits and pieces of such policy are scattered through Titles 4, 13 and 15 of the Code. As a result, there is no comprehensive set of policies which set forth how the Municipality extends credit to its customers, how and when such credit is revoked, and how and when the Municipality will seek to collect past due amounts from its customers. The attached credit and collection policy, presented to you in the form of an ordinance, seeks to remedy the problem by establishing a comprehensive set of regulations.

Background:

The lack of a comprehensive Municipal credit and collections policy has been a long-standing problem which has manifested itself in inefficient operations; inconsistent procedures; and staff, Assembly, and citizen frustration with the inability of the Municipality to prudently manage its fiscal operations.

As a general business policy, the Municipality extends credit to all of its customers. While not apparent, this is intuitive; in almost every sense, the Municipality provides a service, then bills the customer for the service. The provision of services before payment, based on the customer's commitment to eventual payment, is the act of extending credit. If credit is not extended, then business is conducted on a cash basis wherein payment is tendered before goods or services are provided or sold.

Most organizations which extend credit to their customers have some type of official credit policy. Such a policy usually specifies when and how credit will be granted, how much credit will be granted, normal trade terms under which customers are expected to remit payment in full for goods or services sold on credit, circumstances under which credit may be revoked, what transpires when credit is revoked, and how revoked credit may be restored. The Municipality has no such comprehensive credit policy. The closest the Municipality comes is in the Electric Utility Policies contained in SGC 15.01.030.

In addition, most credit policies either contain procedures pertaining to collections of past due amounts, or, exist in tandem with a separate collection policy. Collection policies detail when and how past due balances owed by customers are subject to various collection procedures. Such policies often detail exactly when past due balances are turned over to collection agencies; the levying of fees for collection efforts, and the reporting of delinquencies to credit bureaus. Collection policies are usually tied closely to collection policies, as a normal collection tool is the revocation of credit. Again, this makes intuitive sense, as it is fiscally imprudent to continue to advance credit to a customer who can't pay. Again, the Municipality has no such comprehensive collections policy. The closest the Municipality comes is, again, in the Electric Utility Policies contained in SGC 15.01.030, and, in Title 4 of the SGC, Chapters 4.35 and 4.40.

Ramifications:

As a result of not having a comprehensive credit and collections policy, the Municipality operates inefficiently and inconsistently. Credit is often extended to customers in one respect who have past due accounts owed to the Municipality in another respect. Collection efforts have been piecemeal, with different staff elements of the Municipality having responsibility during different parts of the collections process.

Efforts by the Municipality to collect large debts owed have been hampered by the lack of procedures which would allow for both rapid collection efforts, and, the ability to limit the degree to which a customer or business could build up past due balances owed the Municipality.

Finally, efforts to manage credit and collections has been hampered by the absence of defining law in the Code which would serve as the underlying legal basis for actions the Municipality might seek to take. More defining policy is needed.

Recommendations And Proposed Actions:

The issue of Municipal credit and collections is complex. We are breaking new ground with our recommendations for establishing a comprehensive credit and collections policy. Thus, staff anticipates that development and implementation of an effective, comprehensive credit and collections policy will be an evolutionary process. The proposed policy is a starting point. We anticipate that much public debate will take place over our recommendations.

The attached credit and collections policy has the following key elements:

- 1) It is comprehensive, in that it defines each customer's over-arching credit relationship with the Municipality as a whole. It moves away from the concept of a customer having separate credit with various elements of the Municipality, such as utilities, harbors, and general government.
- 2) It firmly establishes that all citizens and customers are granted credit, in that the Municipality will bill them for goods and services after providing them. Such credit can be revoked upon approval of the Administrator, however, placing customers and citizens without credit on a cash-only basis.
- 3) It establishes what happens when credit is revoked, and, what actions a citizen or customer must take to restore credit.
- 4) It streamlines and clarifies the collections process, specifying at what point past due balances are turned over to collection services.

- 5) It ties the concepts of extension of credit and collections together, in that credit may be formally revoked at the point in time in which past due balances are turned over to external collection agencies.
- 6) The policy was written in a comprehensive, organized fashion, anticipating that some provisions under consideration might be added later. For this reason, some sections of the Code which are under consideration but not ready for adoption at this time are Reserved.

Summary: A comprehensive credit and collections policy is badly needed by the Municipality, in order to improve its fiscal management. Existing policies are piecemeal and fragmented. Credit and collections are complex topics, however, and development of an effective credit and collections process will be an evolutionary process. Passage of the attached ordinance, containing the initial proposed credit and collections policy for the Municipality would be an important first step.

New Business First Reading**E** **ORD 16-06**

Renaming and amending Chapter 4.40 of the Sitka General Code, "Uncollectable Accounts and Bad Debt Write-Offs" and amending Sections 4.40.010 "Definitions", 4.40.020 "Policies", and 4.40.030 "Records and Reporting" and adding Sections 4.40.040 "Write-Off of Uncollectable Accounts", 4.40.050 "Utility Debts Remain with Real Property", and 4.40.060 "Authority to Offset"

Ordinance 2016-06 was introduced on first reading and after discussion the Assembly felt the ordinance may need to be reworked and moved to postpone the ordinance. After realizing that if they postponed the ordinance, they would not be able to rework it from its original state they voted down the motion to postpone; simultaneously they withdrew their original motion to pass on first reading. Therefore, if the ordinance as written, comes back, it would be considered first introduction/reading. From conversations at the table an alternate ordinance may be brought forward in its place. It was also expressed that while this ordinance deserved discussion it should occur after a utility subsidization ordinance had been explored.

Additional New Business Items

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2016-06S

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA RENAMING AND AMENDING CHAPTER 4.40 OF THE SITKA GENERAL CODE, "UNCOLLECTABLE ACCOUNTS AND BAD DEBT WRITE-OFFS", AND AMENDING SECTIONS 4.40.010 "DEFINITIONS", 4.40.020 "POLICIES", AND 4.40.030 "RECORDS AND REPORTING" AND ADDING SECTIONS 4.40.040 "WRITE-OFF OF UNCOLLECTABLE ACCOUNTS", 4.40.050 "UTILITY DEBTS REMAIN WITH REAL PROPERTY", AND 4.40.060 "AUTHORITY TO OFFSET"

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstances shall not be affected thereby.

3. PURPOSE. The purposes of this ordinance are to rename and expand Chapter 4.40 of the Sitka General Code into a Municipal Credit and Collections Policy, which will include and revise existing Municipal uncollectable accounts and bad debt write-off procedures; authorize the Municipality to offset past due debts owed to the Municipality against future payments to be made; and to establish a framework for additional credit and collection policy guidelines.

4. ENACTMENT. The Assembly of the City and Borough of Sitka hereby revises Chapter 4.40 of the Sitka General Code as set out below (new language underlined; deleted language stricken):

Chapter 4.40

UNCOLLECTABLE ACCOUNTS AND BAD DEBT WRITE-OFFS
MUNICIPAL CREDIT AND COLLECTIONS POLICY

Sections:

- 4.40.010 Definitions
4.40.020 Policies Municipal Credit Policy
4.40.030 Records and Reporting Municipal Collections Policy
4.40.040 Write-off of Uncollectable Accounts
4.40.050 Utility Debts Remain With Real Property
4.40.060 Authority to Offset

48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86

4.40.010 Definitions

A. ~~“Bad debt”~~ Uncollectable Accounts refers to any account or debt owed the Municipality which has become overdue by more than ~~one hundred twenty ninety~~ days.

B. “Collection” means any action taken by the Municipality to attempt to collect a debt or account which is overdue.

C. “Credit” means the extension of any services by the Municipality to any person or entity for which a charge or fee is levied, and, for which the charge or service is provided in advance of payment.

~~B D.~~ “Cash Only Basis” means that any goods or services provided to a citizen must be prepaid, either by credit card or by placing cash on accounts in advance of billing.

E. “Debt” means any sum of money which a citizen of the city and borough, or customer of the ~~city and borough~~ Municipality in some capacity, is legally obligated to pay to the city and borough for any purpose.

~~C F.~~ “Overdue” refers to any debt owed to the city and borough of Sitka which has not been paid within thirty days of the date the payment was due. As an exception, debts owed for utility services consumed are considered overdue fifteen days after the date the payment was due. “Good Standing” shall mean that any citizen, business, or other entity doing business with the City and Borough does not have an account which is overdue.

G. “Overdue” refers to any debt owed to the city and borough of Sitka which has not been paid within thirty days of the date the payment was due. As an exception, debts owed for utility services consumed are considered overdue fifteen days after the date the payment was due.

H. “Write Off” refers to any debt for which collection action is no longer pursued.

4.40.020 Policies Municipal Credit Policy

A. ~~Bad debts are to be accounted for by the city and borough of Sitka finance department until collected or permanently written off.~~ The City and Borough of Sitka shall, as a basic policy, provide goods and services to its citizens in advance of payment, and, bill citizens for amounts owed.

87 B. ~~The finance department will take ongoing aggressive action to collect all debts owed~~
88 ~~to the municipality which are not otherwise written off under the provisions of this~~
89 ~~chapter. These actions may include, but are not limited to, turning over of delinquent~~
90 ~~accounts to a collection agency for collection; filing of negative credit reports with credit~~
91 ~~bureaus; and, filing cases with the state of Alaska Small Claims Court. If a citizen,~~
92 ~~business, or other entity has an unpaid bill which is more than 120 days old, and, is~~
93 ~~therefore has an overdue debt, the City and Borough of Sitka may require all future all~~
94 ~~business interactions between a citizen, business, or other entity will be henceforth~~
95 ~~conducted on a cash-only basis until credit is restored. Any determination to place a~~
96 ~~citizen, business or entity on a cash-only basis must be approved by the Administrator.~~
97 ~~For purposes of municipal utilities and moorage, accounts will be required to be prepaid.~~

98
99 C. ~~Bad debts over one hundred twenty days old which are under a cumulative amount of~~
100 ~~one hundred dollars per customer may be written off immediately upon approval of the~~
101 ~~finance director, if they are deemed not to be cost efficient to attempt to collect on. Once~~
102 ~~revoked, credit may be restored by returning to good standing. Good standing would be~~
103 ~~achieved by both resolving all overdue accounts, and, by written application to the~~
104 ~~Municipality. The Municipality may, at its discretion, require a deposit as a condition of~~
105 ~~restoring credit.~~

106
107 * * *

108
109 **4.40.030 ~~Records and reporting~~ Municipal Collections Policy**

110 A. ~~The City and Borough of Sitka finance department shall keep records of all bad debts~~
111 ~~which have been permanently written off for a period of three years after the year of the~~
112 ~~write-off shall take lawful actions to collect all debts owed to the Municipality which~~
113 ~~have become overdue.~~

114
115 B. ~~The administrator will submit a report to the assembly, on an annual basis within the~~
116 ~~first month of the new fiscal year, of all bad debts written off under the provisions of this~~
117 ~~chapter for the prior fiscal year The City and Borough of Sitka shall employ progressive~~
118 ~~steps to attempt to collect debts owed to the Municipality. These progressive steps shall~~
119 ~~may include the following:~~

120
121 1. Mailing of a collection dunning letter to the last known valid address of the
122 debtor;

123
124 2. Mailing and physical posting of a utility disconnection notice for failure to
125 resolve any debt owed the Municipality;

126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164

3. Physical disconnection of utilities for failure to resolve any debt owed the Municipality;

4. Forwarding of overdue accounts to a collection agency for further collection attempts;

5. Publication on the Municipal website and/or in a local newspaper of the names of residents, businesses and other entities who meet all of the following criteria: (1) have a debt or debts owed to the Municipality which are overdue; (2) to whom a collection/dunning letter has been written; and (3) who has not entered into a payment plan with the Municipality

6. Revocation of all credit by revoking the good standing an individual, business or other entity and placing such an entity on a cash-only basis.

7. Filing of a civil suit in the appropriate legal jurisdiction for both a judgment of indebtedness and a writ of execution.

8. Employment of process servers to execute writs of judgment, taking all appropriate actions afforded by law to include till taps, bank account sweeps, and seizure of other collateral.

9. Filing of foreclosure lawsuits against all real property against which a deed of trust is held.

C. The City and Borough of Sitka may, at its discretion, add collection costs to any overdue balance. As a matter of policy, collection costs will be added to all accounts turned over to a collection agency for further collection attempts.

D. The Administrator shall have the authority to approve payment plans for overdue balances owed the Municipality. This authority may be delegated. This authority shall include the ability to establish repayment terms. The following criteria shall be applicable to all payment plans:

1. A citizen, business, or entity may have only one active repayment plan at any time. Consolidation of multiple debts into repayment plans may occur at the discretion of the Administrator.

165 2. Any payment plan shall be for past due balances only and shall contain a
166 provision that all new balances must be paid in full in addition to required
167 payment per the plan.

168
169 3. Unless unusual circumstances are present, no payment plan shall have a
170 repayment term exceeding 12 months.

171
172 4. For any payment plan exceeding \$5,000, the Municipality shall, as a matter of
173 course, require the debtor to agree to a lien on real property owned by the debtor
174 as a condition; agree to a Confession of Judgment; and, agree to having
175 reasonable legal fees added to any judgment obtained by the Municipality.

176
177 5. Any uncured default on a payment plan shall constitute a reason for revocation
178 of good standing and allow the Municipality, at its discretion, to place the debtor
179 on a cash-only basis.

180
181 **4.40.040 Write-Off of Uncollectable Accounts.**

182 A. Unpaid debts for which more than 120 days has elapsed since the date of the bill or
183 invoice, and which are under a cumulative amount of two hundred dollars per customer,
184 may be written off immediately upon approval of the Finance Director, if they are
185 deemed not to be cost efficient to attempt to collect on.

186
187 B. Unpaid debts for which more than 120 days has elapsed since the date of the bill or
188 invoice,, and which are under a cumulative amount of one thousand dollars per customer,
189 may be written off immediately upon approval of the Administrator, if they are deemed
190 not to be cost efficient to attempt to collect on.

191
192 C. Unpaid debts for which more than 120 days has elapsed since the date of the bill or
193 invoice, and which are over cumulative amount of one thousand dollars per customer,
194 may be written off immediately upon approval of the Assembly.

195
196 D. Any overdue debt which is not collected within 90 days shall, as a matter of
197 accounting policy be recorded against the allowance for uncollectable accounts when
198 applicable under governmental accounting guidelines. Collection actions shall not cease,
199 however, until the debt is collected, a statute of limitations is reached, or the debt is
200 written off. Any debt recorded against the allowance for uncollectable accounts, which is

201 subsequently recovered, shall as a matter of accounting policy, be recorded as a recovery
202 of bad debt.

203
204 **4.40.050 Utility Debts Remain With Real Property (Reserved)**

205
206 **4.40.060 Authority To Offset**

207
208 A. If a resident, business, vendor, or other entity has an overdue balance owed to any
209 department of the Municipality (excluding Sitka Community Hospital), the Municipality
210 shall have the authority to offset such overdue balances against any payment to be made
211 to such resident, business, vendor, or other entity unless otherwise prohibited by law.

212
213 B. No offset of an overdue balance shall occur unless the resident, business, vendor, or
214 other entity is notified in writing of the overdue balance and afforded a minimum period
215 of 10 business days to remit the overdue balance. During this 10 business day period, the
216 Municipality will withhold payments otherwise due.

217
218
219 **EFFECTIVE DATE.** This ordinance shall become effective thirty days after the date of
220 passage.

221
222 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,
223 Alaska this 12th day of July, 2016.

224
225
226
227
228
229

Mim McConnell, Mayor

230 **ATTEST:**
231
232
233
234
235

Sara Peterson, CMC
236 **Municipal Clerk**
237