

ORDINANCE NO. 28181

AN ORDINANCE OF THE CITY OF SAN JOSE ADOPTING A LIMITED AMNESTY PROGRAM UNDER WHICH THE CITY WILL FORGIVE UP TO THIRTY PERCENT OF CERTAIN TYPES OF DELINQUENT ACCOUNTS, INCLUDING UP TO THIRTY PERCENT OF ANY INTEREST AND PENALTIES ASSOCIATED WITH SUCH ACCOUNTS, UPON THE DEBTOR'S FULL PAYMENT OF SEVENTY PERCENT OF THE TOTAL AMOUNT OF THE DELINQUENT ACCOUNT

WHEREAS, experience has demonstrated that the likelihood of the City of San José ("City") collecting certain types of delinquent accounts through the normal collection process greatly diminishes after 365 days; and

WHEREAS, obtaining payment of such delinquent accounts would be difficult without the City expending significant additional resources; and

WHEREAS, by increasing voluntary payment of such delinquent accounts, the City can increase its revenues and reduce its collection costs; and

WHEREAS, the City desires to implement a limited-period amnesty program to encourage persons with such delinquent accounts to voluntarily pay a specified percentage of their delinquent accounts, in exchange for the City forgiving the balance owed; and

WHEREAS, the amnesty program will not apply to otherwise eligible delinquent accounts where the Department of Finance has filed a small claims collection action or has referred the delinquent account to the Office of the City Attorney, because in such situations a determination has been made that an opportunity exists to collect the full amount of the delinquent account through normal collection efforts;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE
THAT:

SECTION 1. The definitions set forth in this Section shall govern the application and interpretation of this Ordinance.

- A. "Amnesty Period" means the period commencing at 12:00 a.m. on January 21, 2008 and ending at 5:00 p.m. on March 21, 2008.
- B. "Amnesty Program" means the program described in this Ordinance.
- C. "Debtor" means a person who owes the City money because of an Eligible Delinquent Account.
- D. "Director" means the Director of the Department of Finance, including the Director's authorized designees.
- E. "Eligible Delinquent Account" means an active account receivable that meets all of the following requirements:
 - 1. The Debtor's account receivable is classified as one of the following types of accounts:
 - a. Recycle Plus invoices (does not include unpaid accounts on the tax roll);
 - b. Administrative Citations (does not include administrative citations issued for violations of the City's airport curfew);
 - c. Reimbursement for special events / parades (outstanding charges related to City services);

- d. Return to Maker Checks (checks returned unpaid, includes the principal amount of the check and any related fees);
- e. Auto Dismantler Permit fees;
- f. Animal Impound and Boarding fees;
- g. Temporary Board-up costs;
- h. Monthly Septic Tank Hauler fees;
- i. Admissions to Happy Hollow for special events;
- j. Photostat charges (unpaid charges for police reports and photographs);
- k. Real Estate Rentals (rents due for use of city property);
- l. Police Disturbance fees;
- m. Mobile Home Mediation fees;
- n. Taxi Cab Stand Rentals (monthly fee);
- o. Landscape (Cost of replacing City trees / landscape);
- p. Side Install (Cost of installing a Wye cleanout);
- q. Damage to City Property (Cost of replacing / repairing City property);

- r. Refuse Removal (Cost of private property clean-up); and
 - s. Use of Off Duty Officers (unpaid court appearance fees for off duty officers).
- 2. The Debtor's account is 365 or more days past due at some point during the Amnesty Period.
 - 3. The Department of Finance has neither filed a small claims action to collect the account nor referred the account to the Office of the City Attorney for action.
- F. "Total Obligation" means the total amount owed to the City by the Debtor during the Amnesty Period, including penalties and interest.

SECTION 2. The Director shall be responsible for administering the Amnesty Program. The Director is authorized to adopt reasonable rules and regulations as needed to implement the Amnesty Program consistent with the provisions set forth herein.

SECTION 3. The Amnesty Program shall be effective only during the Amnesty Period.

SECTION 4. To receive the benefits of the Amnesty Program, the obligation of the Debtor must be an Eligible Delinquent Account, and the Debtor must pay to the Director, on or before the end of the Amnesty Period, not less than seventy percent (70%) of the Total Obligation; or enter into and satisfy the requirements of an installment payment plan as set forth in Section 6 below.

SECTION 5. Any Debtor meeting the conditions set forth in Section 4 of this Ordinance shall be entitled to the following benefits:

- A. The City shall waive and forever give up any right or claim to the remaining thirty percent (30%) of the Total Obligation or such lesser amount of the Total Obligation that remains owing as of the end of the Amnesty Period.
- B. The City shall waive and forever give up any right or claim to any and all interest and penalties that would otherwise accrue as a result of the Debtor's failure to pay the Eligible Delinquent Account during the period from January 12, 2008 up to and including March 21, 2008.
- C. The City shall close the Debtor's delinquent account as if paid in full, and forever give up any right to take legal action against the Debtor based upon the nonpayment of the Eligible Delinquent Account.

SECTION 6. In order to participate in the Amnesty Program, the Debtor must apply for amnesty to the Director during the Amnesty Period. The Debtor's application may be made in person, by mail or by telephone.

- A. The Debtor shall include with his/her application sufficient information for the Director to determine the Debtor's Total Obligation and that the Debtor's obligation is an Eligible Delinquent Account.
- B. The Debtor's application shall include the full payment of any amount required to be paid pursuant to Section 4 of this Ordinance.
- C. If the Debtor submits his/her application to the Director by mail, then the following shall apply:
 - 1. The application must be addressed and mailed to:

City of San Jose
Department of Finance
Attn. Amnesty 2008
P.O. Box 11009
San Jose, California 95103-1009

2. The application must show a postmark evidencing that it was mailed on or before March 21, 2008.
 3. Any required payment must be made by check, credit card or money order as specified by the Director.
- D. If the Debtor submits his/her application to the Director in person, then the following shall apply:
1. The application must be made at the Small Business Center located on the first floor of City Hall, located at 200 East Santa Clara Street, San Jose, California, or as otherwise directed by the Director, during normal business hours, no later than the close of business on March 21, 2008.
 2. Any required payment must be made by cash, check, credit card or money order as specified by the Director.
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- E. If the Debtor submits his/her application to the Director by telephone, then the following shall apply:
1. The application must be made by telephoning the number designated by the Revenue Management Division of the Department of Finance. The telephone call must be made during normal business hours no later than the close of

business on March 21, 2008. The Debtor must speak to an Amnesty Program employee to request the amnesty and provide payment information.

2. Any required payment shall be by credit card only as specified by the Director. The Debtor shall give credit card authorization for the full amount of any required payment.

- F. If the Debtor owes Five Hundred Dollars (\$500.00) or more, the Debtor may pay on the installment basis set forth below. Otherwise, the sum due under the Amnesty Program shall be paid in full at the time the application for the Amnesty Program is submitted to the City.
- G. The City's installment payment plan requires the Debtor to make an initial payment, at the time the application for the Amnesty Program is submitted to the City, of both (1) an amount equal to one-sixth (1/6) of the Total Obligation owed, and (2) a fee to the City in the amount of Fifty Dollars (\$50) to reimburse the City for its costs of administering the installment payment plan. The remainder of the Total Obligation owed shall be paid in no more than five (5) equal installments. The first installment payment shall be due thirty (30) days from the date the application for the Amnesty Program is made and each installment payment thereafter shall be due thirty (30) days from that date.
- H. Failure of the Debtor to fully pay an installment when due shall disqualify the Debtor from receiving the forgiveness of any remaining past due obligation, interest, civil penalty, or criminal action applicable under this Ordinance and the total unpaid amount owed the City, including penalties and interest, shall become immediately due and payable. "Failure of the Debtor to fully pay an installment when due" means a failure of the Debtor to tender payment for the installment amount owed by the applicable due date, or, if tender has been made, a failure of the City to receive full value for the tender by the due date because of a dishonored check, rejected credit card submittal or other reason.

SECTION 7. Except as otherwise provided herein, no refund or credit shall be granted for any amount of the underlying obligation, or of interest or penalty, paid prior to the time the Debtor applies for amnesty under the Amnesty Program.

PASSED FOR PUBLICATION of title this 4th day of December, 2007, by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE, OLIVERIO, PYLE, WILLIAMS; REED
NOES:	NONE
ABSENT:	LICCARDO, NGUYEN
DISQUALIFIED:	NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk