

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2008-06

**AN ORDINANCE AMENDING TITLE 13 OF THE CITY OF DILLINGHAM'S CODE OF ORDINANCES TO CODIFY PENALTIES AND CHARGING OF INTEREST ON DELINQUENT SEWER ACCOUNTS, TO PROVIDE FOR PROCEDURES FOR DISCONNECTING DELINQUENT SEWER ACCOUNTS SIMILAR TO THE PROCEDURES ALREADY PROVIDED FOR DELINQUENT WATER ACCOUNTS, AND TO SPECIFY THAT SEWER SERVICES ARE PROVIDED TO THE OWNERS OF REAL PROPERTY AND THAT OWNERS OF REAL PROPERTY ARE RESPONSIBLE FOR THE FEES ASSOCIATED WITH THESE SERVICES.**

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WHEREAS, some property owners and property occupants who benefit from sewer service are delinquent in their payment for these services; and

WHEREAS, the City incurs additional administrative expense and carrying costs because of customers' late paid or unpaid bills for sewer service; and

WHEREAS, the City Council desires to codify a penalty for late paid or unpaid sewer bills and the charging of interest on the delinquent sewer accounts in order to help offset the City's costs associated with late paid or unpaid sewer bills as well as to provide customers an added incentive to pay their sewer bills on time; and

WHEREAS, the City Council desires to provide for notice and a procedure before sewer service is disconnected that is similar to the notice and procedure provided before water service is shut off for delinquent bills; and

WHEREAS, Section 13.04.010 of Dillingham's Municipal Code of Ordinances requires that improvements within 180 feet of the city's sewer lines utilize the city's sewer utility services; and

WHEREAS, the City Council believes that requiring connections to city sewer service is critical to maintaining the health, safety and welfare of the residents of Dillingham and visitors; and

WHEREAS, the City Finance Department has reported difficulty in collecting from persons renting, leasing, or otherwise occupying improvements in the city that receive sewer services and fail to pay for sewer utility services when the account is in that person's name; and

WHEREAS, the owners of improvements receive health, safety, and welfare benefits of sewer services provided to their improvement even when the improvement is not occupied by the owner in the form of better community health and also in the form of a protected investment in the improvement;

**Bold and underline added. [CAPS AND BRACKETS, DELETED.]**

NOW, THEREFORE, BE IT ENACTED by the Dillingham City Council:

Section 1. Classification. This is a Code Ordinance.

Section 2. Amendment of section. DMC13.01.030 is amended to read as follows:

- D. All [USERS] **owners of property** receiving sewer service are obligated to pay for such service in accordance with the applicable rate schedule set forth by the Dillingham City Council. [HOWEVER, IN THE CASE OF A LANDLORD/TENANT RELATIONSHIP, THE PROPERTY OWNER WILL BE HELD LIABLE FOR ALL UNPAID BILLINGS TO THE PREMISES.]

Section 3. Adoption of section. DMC 13.01.040 is adopted to read as follows:

**13.01.040 Application of sewer service.**

- A. Only the owner of real property receiving sewer service shall be permitted to apply for sewer services to their property. Applications for connection to the sewer system are covered in Section 13.12.010 of this Title.**
- B. Application to have sewer service provided to a property shall be made in writing to the City on the City's form. By receiving service to a property the property owner is agreeing to abide by and accept all of the provisions of this chapter and any regulations adopted pursuant to this chapter.**
- C. The owner of real property receiving sewer services shall be responsible for payment of all charges for sewer service provided to their real property.**
- D. Upon written notice on the City's form, the City will send the sewer bills to a tenant on the real property receiving sewer service. The City will accept payment from the tenant but this in no way will reduce or eliminate the owner's primary responsibility for the payment of sewer services.**

Section 4. Amendment of section. DMC 13.20.010 is amended to read as follows:

- A. Sewer service will be provided only at the rates, fees, and charges established in the **Sewer System Tariff** [SEWERAGE SYSTEM TARIFF] which has been duly adopted and approved by the Dillingham City Council. A copy of the tariff shall be available for public inspection during regular business hours at City Hall.

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

- B. [ANNUALLY, THE CITY SHALL NOTIFY EACH SEWER SYSTEM CUSTOMER OF THE SERVICE RATE FOR HIS CLASS OF SERVICE AND THE PORTION OF THE USER CHARGES ALLOCATED TO OPERATION, MAINTENANCE, REPLACEMENT, AND DEBT SERVICE OF THE SEWERAGE SYSTEM.] **Annually, the Sewer System Tariff will be reviewed and adjusted as needed to provide the necessary revenues for the operation, repair, maintenance, and replacement of the sewer system.** [USER CHARGE RATES SHALL ALSO BE REVIEWED ANNUALLY AND ADJUSTED AS NEEDED TO PROVIDE NECESSARY REVENUES FOR THE OPERATION, REPAIR, MAINTENANCE, AND REPLACEMENT OF THE SEWERAGE SYSTEM.]

Section 5. Adoption of section(s). DMC 13.20.015, 13.20.016, and 13.20.017 are adopted to read as follows:

**13.20.015 Connections, billings, penalties and interest, and procedure upon delinquency.**

- A. All applications for sewer service shall be made to the city on forms provided by the city and as specified in Chapter 13.01. The applicant remains personally liable for payment for the service until such is terminated or transferred by the city.**
- B. Bills will be mailed out by the last day of each month. Accounts are delinquent if payment is not received by the 15<sup>th</sup> day of the following month. Nonreceipt of a bill does not alter the due or delinquency date. A penalty of twenty percent (20%) will be added to any delinquent payment. In addition, interest at the rate of ten and one-half percent (10 1/2 %) per annum will be charged on any delinquent amount.**
- C. A fee of ten dollars (\$10.00) shall be charged for each start of sewer service and a fee of ten dollars (\$10.00) shall be charged for each disconnection of sewer service.**
- D. A penalty of twenty-five dollars (\$25.00) will be assessed to the owner of the property for failure to notify the City of occupancy. In addition, a minimum of one month service back billing will be assessed to the owner of the property for this failure to notify.**
- E. Every charge made in connection with the construction, installation or repair of facilities incidental to providing sewer service, or for sewer services provided, constitutes a lien chargeable against the property, and has status the same as if the charge was levied as a property tax. The lien may be foreclosed in the same manner as any other lien or mortgage against the property for nonpayment, in addition to other remedies provided in this chapter or elsewhere.**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

- F. Notice may be sent to the person responsible for any delinquent account, by first class mail, that sewer service will be disconnected on a date certain, which date shall be not less than sixty days after the bill was mailed and thirty days after the date such notice is mailed. The notice should also be mailed to other interested parties or anyone requesting such notice, and shall advise of the following facts and procedure:**
- 1. The address of the premises, the date of the billing, the amount due and the amount that is delinquent;**
  - 2. The date the city intends to disconnect sewer service;**
  - 3. The right of each consumer to a hearing before City Manager or the City Manager's Designee upon the filing of a request for hearing received by the city at least one business day before the disconnect date;**
  - 4. The fact that the notice will be canceled upon payment of all delinquent amounts prior to the date specified in the notice;**
- G. Upon receipt of a timely request for a hearing, copies of all pertinent documents shall be made available to the consumer and a hearing date shall be set by the City Manager or the City Manager's Designee. The hearing shall be informal and upon such rules as the City Manager or the City Manager's Designee might deem appropriate. Continuance may be granted or telephonic participation utilized as necessary, and the consumer shall have the right to ask questions, testify and state his or her case with or without assistance. The issue to be determined is whether the charges are in fact delinquent to the premises, and the amount of the delinquency. The City Manager or the City Manager's Designee shall clearly express his or her decision either orally at the close of the hearing or within three days in writing.**
- H. A consumer may avoid disconnection by paying all delinquent amounts up until the date specified for disconnection. If payment of all delinquent amounts is not made by either the date specified in the notice or, in the event of a hearing, within ten days after decision by the City Manager or the City Manager's Designee, then service may be disconnected. When so disconnected, sewer service will not be turned on except by proper representatives of the city and upon payment of all amounts due, including the City's costs incurred disconnecting the sewer service, and any required deposit.**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

1. Where the user is served by the water system, disconnection shall be by shutoff of water service to the property.
  2. Where the user is not served by the water system, disconnection may be made by excavating and exposing the building sewer within the right-of-way or easement and capping the pipe.
- I. Nothing in this chapter prevents agreement by the City and consumer on procedure or settlement of an outstanding balance in accordance with City policy.

**13.20.016 Shutoff of persons on delinquent list.**

**The sewer may be disconnected to any premises owned or occupied by a person or business who has been placed on any delinquent list maintained by the city, and who has been provided notice and an opportunity for an informal hearing in accordance with the provisions of this code, and who has failed to cure the delinquency within a period of sixty days after notice of their placement on any delinquent list was mailed.**

**13.20.017 Tenant's option to pay for sewer service.**

**If the premises owned by a person who has been placed on any delinquent list maintained by the city are occupied by persons who are not on any delinquent list, services may be restored, or termination of services avoided, if the occupant pays the delinquent sewer service bill.**

Section 6. Effective Date. This ordinance is effective upon passage.

Section 7. Severability. If any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this Ordinance or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision or application.

ADOPTED by the Dillingham City Council on 4/17, 2008.

SEAL:



*Alice Ruby*  
 Alice Ruby, Mayor

ATTEST:

*Janice Shilanski*  
 Janice Shilanski, City Clerk

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]