

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2008-07

**AN ORDINANCE AMENDING TITLE 14 OF THE CITY OF DILLINGHAM'S CODE OF ORDINANCES TO CODIFY PENALTIES AND CHARGING OF INTEREST ON DELINQUENT WATER ACCOUNTS AND TO SPECIFY THAT WATER 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 water 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 water service; and

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

WHEREAS, Section 14.04.010 of Dillingham's Municipal Code of Ordinances requires that improvements within 200 feet of the city's water lines utilize the city's water utility services; and

WHEREAS, the City Council believes that requiring connections to city water 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 water services and fail to pay for water utility services when the account is in that person's name; and

WHEREAS, the owners of improvements receive health, safety, and welfare benefits of water 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;

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

Section 1. Classification. This is a Code Ordinance.

Section 2. Amendment of section. DMC 14.04.060 is amended by changing the heading to read "Application for water service" and by the deletion and additions of new subsections (A) – (D) as follows:

14.04.060 [WATER SERVICE--APPLICATION--FEE.] Application for water service.

[APPLICATION TO HAVE WATER TURNED ON SHALL BE MADE IN WRITING TO THE CITY MANAGER AND SHALL CONTAIN AN AGREEMENT BY THE APPLICANT TO ABIDE BY AND ACCEPT ALL OF THE PROVISIONS OF THIS TITLE AND OF ANY REGULATIONS ADOPTED PURSUANT TO THIS TITLE AS CONDITIONS GOVERNING THE USE OF THE CITY WATER SUPPLY FACILITIES BY THE APPLICANT. A FEE OF TEN DOLLARS SHALL BE CHARGED FOR EACH START OF SERVICE AND A FEE OF TEN DOLLARS SHALL BE CHARGED FOR EACH DISCONNECTION.]

- A. Only the owner of real property receiving water service shall be permitted to apply for water services to their property. Applications for connection to the water system are covered in Section 14.04.030 of this Title.
- B. Application to have water 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 water services shall be responsible for payment of all charges for water service provided to their real property.
- D. Upon written notice on the City's form, the City will send the water bills to a tenant on the real property receiving water 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 water services.

Section 3. Amendment to section. DMC 14.20.010 is amended to read as follows:

- A. Water service will be provided only at the rates, fees, and charges established, and duly adopted and approved by the Dillingham city council. A copy of the rate schedule shall be available for public inspection during regular business hours at City Hall. [A CURRENT FILE OF ALL RATES ADOPTED BY THE CITY COUNCIL UNDER THIS TITLE SHALL BE AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS AT THE CITY OFFICE.]
- B. Annually, the water system charges will be reviewed and adjusted as needed to provide the necessary revenues for the operation, repair, maintenance, and replacement of the water system.

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

Section 4. Amendment of section. DMC 14.20.020 is amended by changing the section heading to read "Connections, billings, penalties and interest, and procedure upon delinquency," and by amending subsection (B), and adopting two new subsections (C) and (D) and relettering the current code sections (C – G) to (E – I).

**14.20.020 [CONNECTIONS, BILLINGS AND PROCEDURE UPON DELINQUENCY.]**  
**Connections, billings, penalties, and interest, and procedure upon delinquency.**

- 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.** [NOT PAID WITHIN THIRTY DAYS AFTER THE BILL IS MAILED.] Non-receipt 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 account.**
- C. A fee of ten dollars (\$10.00) shall be charged for each start of water service and a fee of ten dollars (\$10.00) shall be charged for each disconnection of water 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. [C].** Every charge made in connection with the construction, installation or repair of facilities incidental to providing water service, or for water furnished for consumption, 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.
- F. [D].** Notice may be sent to the person responsible for any delinquent account, by first class mail, that water service will be shut off 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 shut off the water;
  3. The right of each consumer to a hearing before the **City Manager or the City Manager's Designee** [FINANCE OFFICER] upon the

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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. [E.] 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** [FINANCE OFFICER.] The hearing shall be informal and upon such rules as the **City Manager or the City Manager's Designee** [FINANCE OFFICER] 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 HEARING SHALL BE TAPE RECORDED.] The **City Manager or the City Manager's Designee** [FINANCE OFFICER] shall clearly express his or her decision either orally at the close of the hearing or within three days in writing.

H. [F.] A consumer may avoid shut-off by paying all delinquent amounts up until the date specified for shut-off. 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** [FINANCE OFFICER], then service may be disconnected. [WHEN SO SHUT-OFF,] **Shut-off** water will not be turned on except by proper representatives of the city and upon payment of all amounts due and any required deposit.

I. [G.] Nothing in this chapter prevents agreement by the City and consumer on [AS TO] procedure or settlement of an outstanding balance in accordance with City policy [OR OTHERWISE].

Section 5. Amendment of section. DMC 14.20.022 is amended by changing the heading to read "Tenant's option to pay for water service" and the text of this section is amended to read as follows:

14.20.022 [TENANT'S OPTION TO ASSUME RESPONSIBILITY FOR ACCOUNT.]  
**Tenant's option to pay for water 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 [A NON-DELINQUENT OCCUPANT APPLIES FOR WATER SERVICE AND THE APPLICATION IS ACCEPTED] **the occupant pays the delinquent water service bill.**

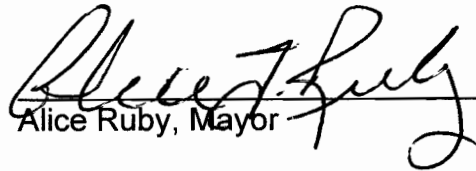
Section 6. Effective Date. This ordinance is effective upon passage.

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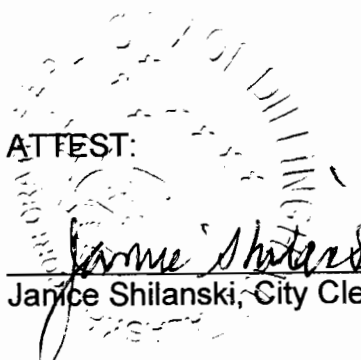
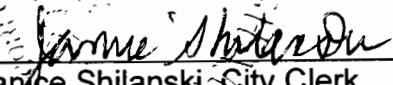
Section 7. Severability. If any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy 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, Mayor

ATTEST:

  
  
Janice Shilanski, City Clerk

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