

Requested by: City Council
Introduced Ord. No. 2012-18: October 4, 2012
Public Hearing Ord. No. 2012-18 Scheduled for: November 1, 2012
Postponed Adoption to: December 6, 2012
Public Hearing Ord. No. 2012-18 Scheduled for: December 6, 2012
Present Ordinance No. 2012-18 (SUB 1): December 6, 2012
Ordinance No. 2012-18 (SUB 1) Adopted: December 6, 2012

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2012-18 (SUB 1)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING CHAPTER 4.20 OF THE DILLINGHAM MUNICIPAL CODE TO LIMIT THE PENALTY ASSESSED FOR FAILURE TO FILE SALES TAX RETURNS OR REMIT SALES TAX TO TEN PERCENT, ELIMINATE INTEREST ACCRUAL ON PENALTY AMOUNTS AND PROVIDE AUTHORITY FOR REPAYMENT PLANS FOR UNPAID TAX

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Amendment of Section 4.20.210(B). Section 4.20.210(B) if the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

B. Failure to File a Return. A seller who fails to file a return as required by this chapter or who fails to remit taxes collected, or which should have been collected, is subject to a penalty. The penalty is five ten percent of the taxes collected, or which should have been collected, ~~per month, until paid~~. The filing of an incomplete return is the equivalent of filing no return.

Section 2. Amendment of Section 4.20.220. Section 4.20.220 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

4.20.220 Interest on late payments.

A seller who fails to remit payments in a timely manner shall be liable for interest charges of ~~ten and one-half~~ six percent per annum on the amount of delinquent taxes accruing from the due date until paid in full. Interest shall not accrue on any penalty imposed under Section 4.20.210(B).

Section 3. Amendment of Chapter 4.20. Chapter 4.20 of the Dillingham Municipal Code is hereby amended by adding a new section 4.20.265 to read as follows:

4.20.265 Repayment Plan

A. A seller who is delinquent may cure their delinquency by agreeing to a repayment plan signed by both the City of Dillingham and the seller. Extended payment arrangements in the form of the repayment plan may be granted to a seller for a period not to exceed two years.

(Items highlighted in gray shading are being introduced as SUB 1.)

The repayment plan contract will meet the following requirements:

1. The seller has not been placed on the delinquent list in the previous three calendar years.
2. The seller has not been in default on a repayment plan in the previous three calendar years.
3. The seller agrees to pay twenty per cent down payment of the tax, interest, and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.
4. The seller agrees to pay the balance of the tax and interest owed in equally monthly installments over a period not to exceed two (2) years.
5. The seller will provide a personal guarantee of the obligations under the repayment plan if the seller is a corporation or limited liability entity.
6. The seller agrees to pay all future tax bills in accordance with the provisions of this section.
7. The seller provides a security interest in the form of a sales tax lien to be recorded at the time the repayment plan is signed for the full amount of the delinquency including accrued interest and penalty.

B. Interest on repayment plans shall be at the rate of six per cent (6%) per annum on the amount of tax due provided that if the seller fails to make one or more payments at the time agreed under the repayment plan the full amount of interest owed under Section 4.20.220 shall be due and owing on the entire remaining balance.

C. If a seller fails to pay one or more payments as agreed, the City will consider the repayment plan to be no longer valid. The City will send the seller a notice that their repayment plan is no longer in force. The City may proceed to foreclose on the sales tax lien or to take any other remedy available under the law including placing the seller on the delinquent list.

Section 4. Effective Date. This ordinance is effective upon adoption.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on

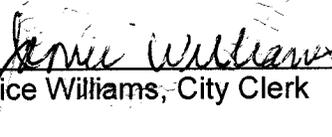
Dec. 6, 2012

SEAL:




Alice Ruby, Mayor

ATTEST:


Janice Williams, City Clerk

(Items highlighted in gray shading are being introduced as SUB 1.)

Subject: An ordinance of the Dillingham City Council amending Chapter 4.20 of the Dillingham Municipal Code to limit the penalty assessed for failure to file sales tax returns or remit sales tax to fifteen percent, eliminate interest accrual on penalty amounts and provide authority for repayment plans for unpaid tax

Agenda of: December 6, 2012

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance Director / Carol Shade		
X	City Clerk / Janice Williams	<i>JW</i>	

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s):

- Notice of Public Hearing is scheduled to be advertised in the November 29, 2012 edition of Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing, and was posted in three public places.

Summary Statement.

This ordinance was introduced October 4 and was vetted through the Code Review Committee. The Committee was tasked with reviewing penalty and interest fees. They recommended revising the penalty on late sales tax filings from 5 % per month to 15% per incident, one-time fee, and leaving the interest as is, which is 10.5% per annum.

When it came up on the agenda November 1 to recommend adoption, the Council was asked to postpone adoption, because the Code Review Committee was reevaluating several issues that arose after it was introduced, including the possibility of standardizing penalties and interest fees and adding language to define the consequences for being in default on a repayment plan. After further evaluation, the Committee recommended a penalty of 10%, and interest levied at 6%, same as the penalty and interest imposed for late payment on real and personal property taxes.

At the beginning of the public hearing, the public should be advised that copies of Ordinance No. 2012-18 (SUB 1) are on the table, and that comments on that version of the ordinance will also be welcomed during the public hearing on Ordinance No. 2012-18.

The Code Review Committee is recommending that the ordinance last read, Ordinance No. 2012-18, be substituted for the referred ordinance, Ordinance No. 2012-18 (SUB 1), noting the substitute text is highlighted in gray shading.

The adoption process should then go as follows:

“I move to amend Ordinance No. 2012-18 by substituting Ordinance No. 2012-18 (SUB 1).”

If the amendment is approved, the Council then votes on whether to adopt Ordinance No. 2012-18 (SUB 1).



PUBLIC NOTICE

Public Hearing on Ordinance No. 2012-17 (SUB 1)
and Ordinance No. 2012-18

The City Of Dillingham will hold a **Public Hearing on Thursday, December 6, 2012, at 7:00 P.M. in the City Council Chambers** for the purpose of taking comment from the public on Ordinance No. 2012-17 (SUB 1), and Ordinance No. 2012-18 as follows:

Ordinance No. 2012-17 (SUB 1), An Ordinance of the Dillingham City Council Amending Section 3.60.050, Ballots-Marking, Validity-Removal Prohibited, and Adding Section 3.60.055, Write-In Candidates

Ordinance No. 2012-18, An Ordinance of the Dillingham City Council Amending Chapter 4.20 of the Dillingham Municipal Code to Limit the Penalty Assessed for Failure to File Sales Tax Returns or Remit Sales Tax to Fifteen Percent, Eliminate Interest Accrual on Penalty Amounts and Provide Authority for Repayment Plans for Unpaid tax.

From the City Clerk's Office, 842-5212, cityclerk@dillinghamak.us.