

CITY OF DILLINGHAM, ALASKA
ORDINANCE NO. 2013-19 (SUB 1)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING TITLE 1 OF THE DILLINGHAM MUNICIPAL CODE TO CREATE A FINE SCHEDULE FOR MINOR OFFENSES AND AMENDING OTHER TITLES TO MAKE VIOLATIONS AND PENALTIES CONSISTENT WITH NEW TITLE 1

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Repeal and re-enactment of Chapter 1.20. Chapter 1.20 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

1.20.010 General penalty.

A. Every act prohibited by city ordinance is unlawful. Unless another penalty is expressly provided by this code for a particular act or offense, every person convicted of a violation of any provision of this code, or any rule or regulation adopted or issued pursuant to this code shall be punished by a fine of not more than three hundred dollars.

B. In addition to any other remedies or penalties which may be provided in this code, or may otherwise be available, the city or any aggrieved person may institute a civil action to obtain injunctive or compensatory relief against a person who violates any provision of the code. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of violation or threatened violation, the superior court shall grant the injunction.

C. Each act of violation and every day upon which the violation shall occur will constitute a separate offense.

D. Any surcharge required to be imposed under AS 12.55.039 shall be added to any penalty imposed or levied pursuant to this section, and all such collected surcharges shall be remitted to the State of Alaska, Department of Administration as required by AS 29.25.074.

1.20.020 Procedure.

A. The charge for the violation of a code provision may be brought by a city police officer, the city manager, or that city official responsible for the administration and enforcement of the code provision which has been violated.

B. The City shall use the Alaska Uniform Citation form to provide notice of an infraction to anyone accused of violating any provision of this Code.

1.20.030 Disposition of infraction offenses.

A person charged with an infraction offense may appear in court to contest the charge, and must appear if the citation indicates that a court appearance is mandatory. As an infraction, trial is by the court without a jury, and there is no right to court-appointed defense counsel.

1.20.040 Minor Offense Fine Schedule.

In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below, plus the state surcharge required by AS 12.55.039 and AS 29.25.074. The Alaska Court System's Rule of Minor Offense Procedures applies to all offenses listed below. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine schedule amount listed below for that offense. Citations charging these offenses must meet the requirements of the Minor Offense Rules. The fines set forth below may not be judicially reduced.

Code Section	Offense	Penalty/Fine
2.42.050.A	Failure to register/pay for mooring of vessel	75
.B	Failure to display registration or obtain new mooring agreement	75
.C	Mooring in prohibited area	75
.F	Providing false information on mooring agreement or application	75
.G	Failure to attend to vessel	75
.I	Failure to display harbor decal	75
2.42.090.E	Providing false information on mooring agreement or application	75
.F	Failure to respond	75

.H	Failure to display harbor decal	75
2.42.100.E	Failure to remove vessel	75
2.42.130.A	Reckless operating – vessel	300
.B	Negligent operating – vessel	300
.D	Noise violation – vessel	75
.E	Excessive speed – vessel	75
.F	Anchoring within Port without permission	75
.G	Failure to stop for Port Director	75
2.42.140.A	Blinding light violation underway	75
.B	Light violation not underway	75
.C	Nuisance light violation	75
2.42.150.C	No exhaust muffler	75
2.42.160	Obstruction of navigation by auxiliary vessel	75
2.42.170.A	Unlawful occupancy of vessel	75
2.42.180.A	Dumping trash in port	300
.B	Failure to maintain floats and premises in an orderly condition	75
.C	Littering in port	75

.D	Improper disposal of waste oil	75
.E	Discharge oily waste	300
2.42.190.B	Unlawful storage	75
2.42.200.A	Unlawful access of port utilities	75
.B	Damaging port facilities	75
.C	unpermitted waste disposal	75
2.42.210	Float bumpers, improper material	75
2.42.220.A	Using skids for vessel removal	75
.B	Freight loading without fees, private or common carrier	75
2.42.230	Failure to report accident	300
2.42.240.A	Unattended fire or flames	300
.B	Combustible liquid on port facilities	75
.C	Lack of fire suppression	75
.D	Smoking where prohibited	75
2.42.250.A	Unrestrained animal	75
.B	Failure to clean up after dog	75
.C	Excessive noise or other disturbance by pet	75

2.42.260	Unaccompanied minor	75
2.42.270	No wheeled vehicles	75
2.42.280.A	Posting signs without permission	75
2.42.290	Fishing from dock	75
2.42.300.A	Diving, swimming within port	75
2.42.310	Vessel repairs without permission	75
.320.A.1	Nuisance within the Port	75
A.2	Sign tampering	75
A.3	Interfering with Port director	300
4.16.060	Business license violation	75
.070	Failure to post business license	75
4.20.210.A.1	Failure to obtain certificate to collect city sales tax	300 first offense 500 second offense
A.2	Failure to remit sales tax returns	75
A.3	Falsifying sales tax records	300 first offense 500 second offense
A.4	Failure to allow inspection of records	300 first offense 500 second offense
4.21.140.C	Failure to apply for certificate of	300 first offense 500 second

	registration for fish tax	offense
4.22.090.C	Failure to apply for certificate of registration, severance tax	300 first offense 500 second offense
7.03.010.A	Domestic Animal Registration Required	75
7.03.010.E	Registered Domestic Animal Shall Bear Registration Tag	75
.F	Failure to produce registration	75
.G	Failure to transfer registration	75
.H	Use of another animal's tag	75
.I	Rabies vaccination	75
7.03.020.A	Kennel permit required	75
7.04.010.A	Failure To Restrain Animal - First through Fifth Offense	75
.B	Failure to confine sick animal	75
.C	Releasing animal owned by another	75
.D	Releasing quarantined animal	300
7.06.010.A	Selling sick animals	75
.B	Buying or selling unweaned animals	75
7.06.020.A	"Free" Animals – unweaned	75

7.07.010.A	Animals Creating Disturbance or Nuisance Prohibited	75
.B	Animal disturbing public property	75
.C	Animal disturbing private property	75
.B	Animal disturbing garbage	75
7.07.020.B	Dangerous Animals Prohibited	75
7.08.010	Animal Cruelty Prohibited	300
7.09.030	Unlawful release of impounded animals	300
7.12.010	Possession of wolf hybrid	300
7.14.020	Violate quarantine	300
7.15.010	Handling rabid animals	75
7.15.020	Violate area-wide quarantine	300
8.04.030	Improper storage of refuse	75
8.04.040	Containers on right of way	75
8.04.050	Failure to dispose of refuse	75
.060	Improper transport of refuse	75
8.08.010	Fireworks prohibited	75
8.10.030	Smoking prohibited where posted	75 per day

9.38.010.C	Public drunkenness	75
9.38.020	Nuisance – excessive noise	75
9.38.035	Excessive noise projection	75
9.38.040	Excessive noise – motor vehicles	75
9.50.010	Trespass	75
9.56.010	Defacing notices	75
9.74.010	Curfew violation	75
9.74.040	Curfew – parental responsibility	75
9.86.010	Discharge firearm	75
11.12.050	Outdoor burning	75
.020	Sound control	75
11.20.020	ORV in business district	75
11.20.030	ORV operations, state roadways outside Business District	75
11.20.040	ORV operations, state roadways within City	75
11.20.050	ORV operations, city roadways outside Business District	75
11.20.060	ORV operations within City boundaries	75
11.20.070	ORV, age restriction	75
.075	Helmets required	75
.080	Headlights required	75
.090	Parental responsibility	75

11.21.020	Snowmobiles on City rights of way	75
11.21.030	Snowmobile operation, after dark	75
.040	Helmets required	75
12.05.010.B	Private use of public lands	75
12.06.030.A	Unauthorized camping	75
12.06.050	Camping fees and permits required	75
12.06.060.A	Waste disposal	75
.B	Noise violation	75
.C	Unpermitted structures	75
.E	Defacing facilities	75
.F	Animals	75
.G	Failure to clean	75
12.06.070	Waste storage	75
12.06.080	Unattended camp	75
12.06.090	Unauthorized structures	75
12.08.070	Encroachment permit required	75
13.04.010.B	Public sewer service required	75
13.04.030.A	Unlawful disposal	75
.B	Unlawful discharge	75
.C	Discharge of banned substances	75
13.12.010.A	Unpermitted connection to sewer	75

14.04.010	Water sources	75
14.04.070	Unauthorized water connection	75
14.12.030	Cold weather protection	75
15.04.030	Floodplain permit	300 per day
15.04.031.C	Non-compliant construction	300 per day
15.04.061	Residential structures	300 per day
15.04.062	Nonresidential structures	300 per day
15.04.065	Flood related erosion hazard areas	300 per day
15.08.040	Notice of construction required	75 residential 300 commercial
17.30.050	Addressing	75
18.16.010	Land use permit	75 residential 300 commercial
18.24.020.A	CBD yard violation	75 residential 300 commercial
18.28.020.A	GUD yard violation	75 residential 300 commercial
18.36.010	Parking requirements	75 residential 300 commercial
18.36.030	Off-street loading facilities	75 residential 300 commercial
18.36.040	Location of parking spaces	75 residential 300 commercial

18.36.060	Design of parking areas	75 residential 300 commercial
18.36.070	Minimum standards for off-street parking spaces	75 residential 300 commercial
18.40.020	View obstruction	75 residential 300 commercial
18.44.030	Altering non-conforming building	75 residential 300 commercial

1.20.050 Attempted infraction.

Every person who attempts to commit an infraction but fails or is prevented or is intercepted in its perpetration is guilty of an infraction and shall be punished in the manner prescribed for the infraction itself.

1.20.060 Abetting in infraction.

When no punishment for counseling, abetting or aiding in the commission of a particular infraction is expressly described by ordinance, every person who counsels, abets or aids another in committing an infraction is equally guilty of the infraction and punishable in the same way.

Section 3. Repeal of Sections 2.42.340, 2.42.350, and 2.42.360. Sections 2.42.340, 2.42.350, and 2.42.360 of the Dillingham Municipal Code are hereby repealed.

Section 4. Repeal of Section 2.80.140. Section 2.80.140 of the Dillingham Municipal Code is hereby repealed.

Section 5. Amendment of Section 4.15.100. Section 4.15.100 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

4.15.100 Violations.

For failing to file a tax statement or filing a false statement in an attempt to evade taxation, the city may impose upon the property owner a filing fee of one hundred dollars. When filing late, a fee of fifty dollars will be added. ~~Any person subject to this penalty shall also pay a surcharge required to be imposed under AS 12.55.039.~~

Section 6. Repeal and re-enactment of Section 4.16.060. Section 4.16.060 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

4.16.060 Prohibited acts.

A. It is unlawful:

1. For any person to operate a business within the City of Dillingham without obtaining a City business license within 45 days of commencing business within the City.
2. For any person to fail to renew a business license on or before January 1st of any year in which the business continues to operate in Dillingham.
3. For any person to engage in a business or activity regulated by this Code contrary to any provision of this title or contrary to any provision, term or condition of a license or regulation issued under this title.
4. For any person to obtain or attempt to obtain a license by making a false statement in the application, or by other fraudulent or deceptive means.
5. For any person to forge, counterfeit or fraudulently alter a license issued under this title.
6. For any person licensed or regulated under this title to knowingly or willfully authorize, order, instruct or permit an employee, agent or person under his supervision or control to do an act in connection with the licensed activity which violates any provision of this Code, a municipal regulation, or a license issued under this title.

B. For the purposes of this section:

1. "person" includes any person who has effective control of a business.
2. A person has effective control of a business if the person supervises the day to day affairs or holds any of the following positions in the business, or the equivalent thereof: the proprietor or proprietors, general partner in case of a partnership, the president, and each person or entity owning more than thirty percent of the voting stock in case of a corporation; and in case of a limited liability company the manager of the company, or if there is no manager, all members of the company.

C. In addition to any monetary penalty, the city may seek an injunction in the superior court requiring the business, or each person with effective control of the business, to obtain the required business license and also recover compensatory damages, including full, actual, reasonable attorneys' fees, from each such person. Upon application for an injunction under this section, the superior court shall issue the injunction.

D. The city may also have any person or business that violates section, or any vessel owned by any such person or business, placed on the city's denied services list using the procedures set forth in Chapter 4.40.

Section 7. Repeal and re-enactment of Section 4.20.210. Section 4.20.210 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

4.20.210 Violations -- Penalties

A. It is unlawful for any seller who is required to obtain a certificate of authority to collect city sales tax:

1. To fail to obtain a certificate of authority within the time prescribed by this chapter.

2. To fail to file a return as required by this chapter, or fail to remit taxes collected or which should have been collected. The filing of an incomplete return is the equivalent of filing no return.
3. To falsify or knowingly misrepresent any record required by this chapter.
4. To deny the City permission to inspect records required to be kept by this chapter.

B. In addition to penalties for violations of this section set forth in 1.20.040, the City may recover by civil action the amount which the seller should have remitted to the city as sales tax, plus a penalty of ten percent of the taxes collected but not remitted, or which should have been collected. The city may also recover full actual reasonable attorney's fees in any action against a delinquent seller.

C. The city may also have any person or business that violates section, or any vessel owned by any such person or business, placed on the city's denied services list using the procedures set forth in Chapter 4.40.

Section 8. Repeal of Section 4.20.230. Section 4.20.230 of the Dillingham Municipal Code is hereby repealed.

Section 9. Amendment of Section 4.21.290. Section 4.21.290 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

4.21.290 Violation—Criminal enforcement.

A. Failure to obey ~~Violation of~~ any of the requirements of this chapter is a violation, ~~misdemeanor~~. For convictions of a violation of a provision of this chapter, a fine of ~~not to exceed~~ five hundred dollars shall ~~may~~ be imposed; except, for a subsequent violation of any provisions of this chapter, whether similar to or different from the prior conviction, a ~~the maximum~~ penalty that may be imposed is a fine of one thousand dollars shall be imposed ~~or imprisonment for not to exceed thirty days, or both~~, if the subsequent conviction is for a violation that occurred after, but within three years of, the conviction for the prior violation.

B. Each day upon which a violation of this chapter continues is a separate offense.

C. The city may recover taxes, interest, ~~civil~~ penalties and other amounts due in a civil action independent of or in addition to any criminal action filed.

Section 10. Repeal and re-enactment of Section 7.16.020. Section 7.16.020 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

7.16.020 Violations – Penalties.

A person who violates any provision of this title is guilty of an infraction and subject to a fine as set forth in DMC § 1.20.040, in addition to any surcharge required by AS 12.55.039(a)(4).

Section 11. Amendment of Section 8.04.095. Section 8.04.095 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

8.04.095 Violations – Penalties. ~~Civil penalties.~~

In addition to the provisions of Section 8.04.090, a person who violates this chapter is guilty of an infraction and subject to a fine as set forth in DMC § 1.20.040, ~~civil penalty of one hundred dollars for the first offense and two hundred dollars for each additional offense within twelve months from the date of the first offense,~~ plus any surcharge required to be imposed under AS 23.55.039, ~~may be imposed upon a person violating this chapter.~~ Each day that a violation persists shall constitute a separate offense. In addition to law enforcement officers, the City animal control officer is authorized to issue citations for any violation of this title.

Section 12. Repeal of Section 8.04.096. Section 8.04.096 of the Dillingham Municipal Code is hereby repealed.

Section 13. Amendment of Section 9.74.050. Section 9.74.050 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

9.74.050 Violations -- Penaltiesy.

Any violation of this chapter by a person under the age of eighteen years or by his or her parent, guardian, or other adult person having the care and custody of the minor child under eighteen years of age, or both, is punishable by a fine of seventy-five ~~not more than fifty~~ dollars and such person shall also pay any surcharge required to be imposed under AS 12.55.039.

Section 14. Repeal and Re-enactment of Chapter 11.04. Chapter 11.04 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

11.04.010 State traffic laws, and regulations adopted by reference.

A. The city adopts all vehicle and traffic statutes and regulations of the state of Alaska, as they presently exist and as they may be revised in the future, as the traffic code for the city.

B. Notwithstanding subsection A of this section, the City does not adopt those state traffic laws that establish misdemeanor and felony offenses, including AS 28.35.030.

C. All citations issued under this ordinance shall use the appropriate “AS” or “AAC” or CFR statute or regulation-numbers, include a description of the offense, and indicate that the offense was adopted by reference as a city ordinance.

11.04.020 Fine schedule.

A. The city adopts as its traffic fine schedule the “Traffic Bail Forfeiture Schedule” and the “Oversize Vehicle Bail Forfeiture Schedule” in Administrative Rules 43.1 and 43.6 of the Alaska Rules of Court and any other bail forfeiture schedules relating to vehicles adopted by the Alaska Supreme Court. In addition, the city adopts all amendments of those schedules that become effective after the effective date of this ordinance. Citations for offenses listed on these schedules may be disposed of as

provided in AS 12.25.195 - .230, without a court appearance, upon payment of the amounts listed plus the state surcharge required by AS 12.55.039 and AS 29.25.074. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the amount listed for that offense on the schedule. Citations charging these offenses must meet the requirements of Minor Offense Rule 3 of the Alaska Rules of Court. If an offense is not listed on the fine schedule, the defendant must appear in court to answer to the charges.

B. Pursuant to AS 28.90.030, whenever a person violates a provision or regulation adopted under the authority of this title within a highway work zone or traffic safety corridor, notwithstanding the amount of the fine or the maximum fine set under this title, the fine, or maximum fine, is double the amount provided in this title.

C. Pursuant to AS 28.05.151(e), an offense adopted by this section may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person.

11.04.030 Incorporation of additional traffic regulations in code.

Additional traffic ordinances of the city that are necessary to meet specific local requirements shall be incorporated in other chapters of this title.

11.04.040 Copies to Alaska Court System.

A copy of all ordinances enacted by the city that create or affect any minor offense designated by this Code shall be forwarded to the City Attorney, who shall submit the ordinance to the Alaska Court System for inclusion in the Uniform Minor Offense Table.

Section 15. Repeal and Re-enactment of Section 11.20.120. Section 11.20.120 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

11.20.120 Violation -- Penalties

A person who violates this chapter is guilty of an infraction and subject to a fine as set forth in DMC § 1.20.040.

Section 16. Repeal and Re-enactment of Section 11.21.050. Section 11.21.050 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows:

11.21.050 Violation -- Penalties

A person who violates this chapter is guilty of an infraction and subject to a fine as set forth in DMC § 1.20.040.

Section 17. Amendment of Section 12.05.010. Section 12.05.010 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

12.05.010 Private use of public lands prohibited.

A. The private use by individuals of public lands belonging to the city for the storage, seasonal or otherwise, of boats, boat apparatus or fishing gear, is prohibited unless otherwise expressly authorized by this chapter.

B. Any boat, boat apparatus or fishing gear placed on city property in violation of this section may be impounded by the city and sold pursuant to the provisions of Sections 2.42.320 and 2.42.330 of this code.

C. Any person who violates this section is guilty of an infraction ~~misdemeanor~~ and ~~any person convicted of violating the provisions of this chapter shall be subject to a~~ penalty as set forth in DMC § 1.20.040, plus any surcharge required to be imposed under AS 12.55.039. ~~the general penalty set forth in Chapter 1.20.~~

Section 18. Repeal and Re-enactment of Section 12.06.110. Section 12.06.110 of the Dillingham Municipal Code is hereby repealed and re-enacted to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

12.06.110 Violation – Penalties.

Any person who violates this section is guilty of an infraction and shall be subject to a penalty as set forth in DMC § 1.20.040.

Section 19. Amendment of Section 13.16.020. Section 13.16.020 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

13.16.020 Penalties.

A. Any person violating any of the provisions of this ~~title chapter~~ shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

B. Any person found to be violating any provision of this ~~title chapter~~ shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

C. Any person who willfully ~~willfully~~ continues any violation beyond the time limit provided for in the written notice ~~this section~~ is guilty of an infraction ~~misdemeanor~~ and, upon conviction thereof, shall be fined in an amount not exceeding three hundred ~~one thousand~~ dollars for each violation and must also pay any surcharge required to be imposed under AS 12.55.039. Each day in which any such violation continues shall be deemed a separate offense. In addition to law enforcement officers, the City Public Works Department is authorized to issue citations for any violation of this title.

D. The city attorney may obtain a civil injunction or temporary restraining order to obtain immediate compliance with any provision of this chapter. In addition to any penalties assessed, the city may petition the court for award of reasonable attorneys' fees and costs of prosecuting such an action.

Section 20. Amendment of Section 15.04.120. Section 15.04.120 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

15.04.120 Violation—Enforcement.

The planning director will administer and enforce this chapter, unless otherwise designated under Section 15.04.041(B). The planning director or designee may order the discontinuance of unlawful uses of land, buildings or structures; the removal or abatement of unlawful buildings or structures or any unlawful additions or alterations thereto; the discontinuation of construction or preparatory activity leading to an unlawful structure or use of land; or any other action necessary to ensure compliance with this chapter. City police officers are also authorized to issue citations to any person who violates any provision of this chapter.

Section 21. Amendment of Section 15.04.125. Section 15.04.125 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

15.04.125 Violation—Penalties and remedies.

A. Violation. A violation of provisions of this chapter shall be an infraction, ~~a civil offense~~. Upon conviction, the court shall levy ~~the appropriate~~ a fine of three hundred dollars for each day the violation exists up to a maximum fine of one thousand dollars ~~not to exceed one thousand dollars~~ and assess any surcharge required to be imposed under AS 12.55.039. Each day that an unlawful act or condition continues constitutes a separate violation.

B. Remedies.

1. In case any structure is constructed or substantially improved in violation of this chapter, the city, in addition to other remedies, shall institute any proper actions or proceedings necessary, including enjoining of connections to public utilities, to restrain, correct or abate such violations.

2. Pursuant to AS 29.40.190, the city or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, or a term, condition or limitation imposed by the planning commission.

Section 22. Amendment of Section 15.08.020. Section 15.08.020 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

15.08.020 Application of codes.

The provisions of this chapter apply to both public and private property. It applies to all commercial and residential structures and their occupancies.

Section 23. Amendment of Chapter 15.08. Chapter 15.08 of the Dillingham Municipal Code is hereby amended by the addition of a new section 15.08.060 to read as follows:

15.08.060 Violation—Penalties.

A. Violation. A violation of any provision of this chapter shall be an infraction. Each day that an unlawful act or condition continues constitutes a separate violation. Upon conviction, the court shall levy a fine as follows and assess any surcharge required to be imposed under AS 12.55.039:

1. Construction of residential structure – Seventy-five dollars for each day the violation exists up to a maximum fine of three hundred dollars.
2. Construction of commercial structure – Three hundred dollars for each day the violation exists up to a maximum fine of one thousand dollars

B. Definitions. For the purposes of this Title, the following definitions shall apply:

1. “residential structure” means any structure that is primarily intended for use as a single family dwelling house or duplex, or a structure that is appurtenant to such a structure.

2. “commercial structure” means any structure that is not residential or which is primarily intended for commercial purposes, including the renting of dwelling space to occupants if the structure is comprised of more than two discrete dwelling units or apartments, or a structure that is appurtenant to such a structure.

Section 24. Amendment of Chapter 17.30. Chapter 17.30 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

17.30.080 Violation and penalties.

Failure or refusal by a property owner to display an address as required in Section 17.30.050 shall be an infraction. Upon conviction, the court shall levy a fine as set forth in DMC § 1.20.040 and assess any surcharge required to be imposed under AS 12.55.039. Each day that an unlawful act or condition continues constitutes a separate violation. ~~will subject property owner to penalties described in Section 17.31.020.~~

Section 25. Amendment of Chapter 18.60. Chapter 18.60 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

18.60.010 Violation—Enforcement.

The planning director or designee may order the discontinuance of unlawful uses of land, buildings or structures; the removal or abatement of unlawful buildings or structures or any unlawful additions or alterations thereto; the discontinuation of construction or preparatory activity leading to an unlawful structure or use of land; or any other action necessary to ensure compliance with this title. City police officers are also authorized to issue citations to any person who violates any provision of this chapter based on information supplied by the Planning Director or Department of Public Works.

18.60.020 Violation—Penalties and remedies.

A. Violation. A violation of provisions of this title shall be an infraction, a civil offense. ~~Upon conviction, the court shall levy the appropriate fine of three hundred dollars for each day the violation exists not to exceed one thousand dollars and assess any surcharge required to be imposed under AS 12.55.039. Each day that an unlawful act or condition continues constitutes a separate violation.~~ Upon conviction, the court shall levy a fine as follows and assess any surcharge required to be imposed under AS 12.55.039:

1. residential property – Seventy-five dollars for each day the violation exists up to a maximum fine of three hundred dollars.

2. commercial property – Three hundred dollars for each day the violation exists up to a maximum fine of one thousand dollars

B. Remedies.

1. In case any structure is constructed or substantially improved in violation of this chapter, the city, in addition to other remedies, shall institute any proper actions or proceedings necessary, including enjoining of connections to public utilities, to restrain, correct or abate such violations.

2. Pursuant to AS 29.40.190, the city or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, or a term, condition or limitation imposed by the planning commission.

~~Section 26. Amendment of Section 18.60.020. Section 18.60.020 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)~~

~~**18.60.020 Violation—Penalties and remedies.**~~

~~A. Violation. A violation of provisions of this chapter shall be an infraction, a civil offense. Upon conviction, the court shall levy the appropriate a fine of three hundred dollars for each day the violation exists up to a maximum fine of one thousand dollars not to exceed one thousand dollars and assess any surcharge required to be imposed under AS 12.55.039. Each day that an unlawful act or condition continues constitutes a separate violation.~~

~~B. Remedies.~~

~~1. In case any structure is constructed or substantially improved in violation of this chapter, the city, in addition to other remedies, shall institute any proper actions or proceedings necessary, including enjoining of connections to public utilities, to restrain, correct or abate such violations.~~

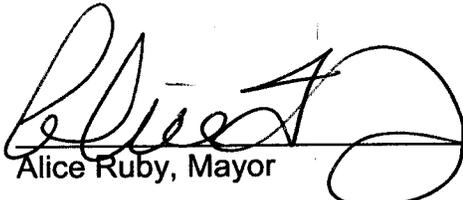
~~2. Pursuant to AS 29.40.190, the city or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, or a term, condition or limitation imposed by the planning commission.~~

~~**Section 286. Effective Date.** This ordinance is effective upon adoption.~~

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on
Nov. 7, 2013.

SEAL:




Alice Ruby, Mayor

ATTEST:


Janice Williams, City Clerk

Note: Ordinance 2013-19 (SUB 1) is a substitute ordinance. Section 26 will be deleted in its entirety, since it was replaced by Section 25 and left in place in error. Section 28 was renumbered Section 26.

Subject: An Ordinance of the Dillingham Municipal Code amending title 1 of the Dillingham Municipal Code to create a fine schedule for minor offenses and amending other titles to make violations and penalties consistent with new Title 1

Agenda of: **November 7, 2013**

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade	CS	
X	Chief of Police / Dan Pasquariello	DP	
X	Planning / Jody Seitz	JS	
X	Port / Jean Barrett	JB	
X	City Clerk / Janice Williams	JW	

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

Other Attachment(s):

- Draft Standard Operating Procedure for Finance Department

Summary Statement.

Ordinance No. 2013-19 was vetted through the Code Review Committee and is being recommended to the Council for adoption.

The State of Alaska adopted new minor offense rules that went into effect April 15, 2013. At the August 8, Code Review Committee meeting Chief Dan Pasquariello explained there were problems with the City's current code, and staff was working with Attorney Munson who was assisting other municipalities with the same issues; clarifying the requirements for the new uniform Minor Offense Table that would establish which ordinances were enforced as minor offenses from the State's perspective, and determining what amendments the State needed to see in the City's code in order to process and collect tickets on the City's behalf. Chief Pasquariello noted the State was only forwarding the fees established in the City ordinance. The other fees were going to the State. The State discussed the urgency of getting this matter cleared up, because the City was losing its share of revenues.

Citations will be issued through the Finance, Planning, Port, and Public Safety Department, which includes Animal Control. Attached is a sample SOP that was created for the Finance Dept. The public safety department has its own standard operating procedures. The citation procedure would be covered in the Port Tariff. A SOP will also be created for the Planning Department.

At the November 7 Council Meeting the Council will be asked to substitute Ordinance No. 2013-19 with Ordinance No. 2013-19 (SUB-1). The changes are to delete Section 26 in its entirety, since it was replaced by Section 25 and left in place in error. Section 28 was renumbered Section 26.

This ordinance was advertised in the October 31 edition of the Bristol Bay Times to meet the mandatory requirement that a public hearing of a proposed ordinance will follow publication by at least five days.

City of Dillingham

Approved By: Rose Loera

SOP#: FIN 13-004

Adopted: 11.7.2013

Effective: 11.7.2013

DMC Reference: Chapt. 1.20, Violations & Penalties

Title: ISSUING CITATIONS FOR CODE VIOLATIONS

Scope: This procedure applies to the Finance Department.

Purpose:

The State of Alaska adopted new minor offense rules that went into effect April 15, 2013. The City of Dillingham will use a citation that is in compliance with the new minor offense rules.

Procedures:

- A. Firsthand, a letter from an official in the Finance Department responsible for the administration and enforcement of the Finance Dept. code provisions will be mailed to an individual warning of a code violation. The letter will be sent by USPS regular mail and by certified mailing. The letter will indicate if the individual is not in compliance, within 30 days a citation will be issued.
- B. If the issue is not rectified, the Dillingham Municipal Code allows that a charge for the violation of a code provision may be brought by a city police officer, the city manager, or that city official responsible for the administration and enforcement of the code provision which has been violated.
- C. The Finance official shall use the Alaska Uniform Citation form (12-213 AUC) to provide notice of an infraction to anyone accused of violating any provision of the City's Municipal Code.
- D. A \$10 surcharge will be added on all City of Dillingham ordinance violations.
- E. A police officer must sign all citations. The Finance official involved can then testify about the violation if there is a court hearing. The Finance Department will then mail out the citation.
- F. Revenue from citations will be issued by the Court to the City of Dillingham.
- G. Unpaid citations will be collected through the Court.