

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2013-01 (SUB-1)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING CHAPTERS 4.21 AND 4.22 OF THE DILLINGHAM MUNICIPAL CODE TO IMPLEMENT IDENTICAL PENALTIES FOR VIOLATIONS OF THE CITY'S FISH AND SEVERANCE TAX PROVISIONS AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING SECTION 4.21.040 OF THE DILLINGHAM MUNICIPAL CODE TO LIMIT THE PENALTY ASSESSED FOR FAILURE TO FILE OR REMIT RAW FISH SALES TAX RETURNS TO TEN PERCENT, AND TO LIMIT THE INTEREST TO 6%

WHEREAS, it is in the City of Dillingham's best interest to standardize its penalty and interest rates when legally possible in order to facilitate the administration of its Code by providing some consistency;

WHEREAS, the severance and raw fish tax provisions, including those related to enforcement, recordkeeping, and legal remedies, are intended to be consistent with one another;

NOW, THEREFORE, BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Amendment of Section 4.21.140. Section 4.21.140 of the Dillingham Municipal Code is hereby amended to read as follows: (Additions are underlined and deletions are shown as strikethrough.)

4.21.140 Penalties and Interest.

A. A person who fails to file a return as required under this chapter or who fails to remit all the taxes due the city shall pay a penalty of five ten percent of the taxes due with a minimum penalty of one hundred dollars if no return is filed. ~~The penalty is imposed for each month or part of a month during which the delinquency or failure to file exists up to a maximum of fifteen percent; provided, .~~ The total penalty for a single calendar quarter shall not exceed three thousand dollars. The filing of an incomplete return shall be treated as the filing of no return.

B. Interest at the rate of ~~ten and one-half~~ six percent per annum shall be paid on all amounts due the city that are not received by the city as required under this chapter, ~~except~~ Interest does not accrue on penalties.

C. A person who fails to apply for a certificate of registration as required by this chapter shall pay a penalty of three hundred dollars for the first offense. A buyer purchaser of seafood products who, after notice, continues to conduct business without obtaining a certificate of authority to collect sales tax registering as required by section 4.22.040 is subject to a penalty of five hundred dollars for each subsequent offense. Each day the purchaser conducts business without registering shall constitute a separate offense. If the City determines that a registered purchaser has previously violated this chapter, the registered purchaser is subject to the same penalty for violations committed prior to the registration. A certificate of registration shall not be issued or renewed if the purchaser has not paid all fines, penalties, and other obligations to the city.

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

~~Such penalty must be paid before the license is issued if the original license was issued before the determination that a penalty was due. A person who fails to apply for a certificate of registration, who engages in taxable transactions after being informed in writing that a certificate of registration is required, shall pay a penalty of four hundred dollars before the license is issued or before a renewal or amended license is issued if the original license was issued before the determination that a penalty was due.~~

D. A person required to collect a tax under this chapter who fails to provide a written statement setting out the amount of the tax due on the transaction shall pay a penalty to the city equal to the amount of the tax due on the sale.

E. In the event that the city is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books or records, allow inspection, failure to file a return, or falsification of records, the city may make an estimate of the tax due based on any information available to it. Notice of the estimate of taxes due shall be furnished the seller and shall become final for the purposes of determining liability of seller to the city in thirty (30) days unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability. A failure of or refusal of a person required to collect a tax under this chapter to produce records or allow inspection at such reasonable times as requested or demanded by the sales tax administrator shall pay to the city a penalty equal to three times any deficiency found or estimated to have occurred by the sales tax administrator; provided, the minimum penalty payment is one thousand dollars.

F. A person required to maintain records under the provisions of this chapter shall immediately notify the city of any fire, theft or other casualty that would prevent the person from complying with the provisions of this chapter. Such casualty is a defense to a civil penalty levied under subsection E of this section, but does not excuse the person from the liability for payment to the city of taxes required to be collected. Accidental or unexplained loss of funds or records does not excuse a person from the performance of any of the requirements under this chapter.

Section 2. Repeal of Section 4.22.050. Section 4.22.050 of the Dillingham Municipal Code is hereby repealed.

~~4.22.050 Enforcement and penalties.~~

~~A. The superior court, upon request of the city, shall issue an injunction requiring compliance with the provisions of this chapter.~~

~~B. The city may determine the severance tax on parties who have not filed a return in an amount based on historical data or the best information reasonably available to the city.~~

~~C. A person who fails, refuses, or neglects to file a severance tax return in compliance with this chapter shall, in addition to any other penalties provided by law, be liable for a penalty of ten percent of the tax. (Ord. 12-09 § 1 (part), 2012.)~~

Section 3. Repeal and Reenactment of Section 4.22.090. Section 4.20.090 of the Dillingham Municipal Code is hereby repealed and reenacted to read as follows:

4.22.090 Penalties and interest.

~~All taxes due under this chapter but not timely paid as required are subject to a penalty of five percent of the tax due. Interest shall accrue on the tax due including penalties and interest at the rate of twelve percent per year from the date such taxes are due. Partial payments shall be applied first to accrued penalties, then to interest, and then to principal. A payment is timely paid when mailed to the city postage prepaid bearing a postmark date no later than the due date. (Ord. 12-09 § 1 (part), 2012.)~~

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

4.22.090 Penalties and interest.

A. A person who fails to file a return as required under this chapter or who fails to remit all the taxes due the city shall pay a penalty of ten percent of the taxes due with a minimum penalty of one hundred dollars if no return is file. The total penalty for a single calendar quarter shall not exceed three thousand dollars. The filing of an incomplete return shall be treated as the filing of no return.

B. Interest at the rate of six percent per annum shall be paid on all amounts due the city that are not received by the city as required under this chapter. Interest does not accrue on penalties.

C. A person who fails to apply for a certificate of registration as required by this chapter shall pay a penalty of three hundred dollars for the first offense. A purchaser of seafood products who, after notice, continues to conduct business without registering as required by section 4.22.040 is subject to a penalty of five hundred dollars for each subsequent offense. Each day the purchaser conducts business without registering shall constitute a separate offense. If the City determines that a registered purchaser has previously violated this chapter, the registered purchaser is subject to the same penalty for violations of this chapter committed prior to the registration. A certificate of registration shall not be issued or renewed if the purchaser has not paid all fines, penalties, and other obligations to the City.

D. A person required to collect a tax under this chapter who fails to provide a written statement setting out the amount of the tax due on the transaction shall pay a penalty to the city equal to the amount of the tax due on the sale.

E. In the event that the city is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books or records, allow inspection, failure to file a return, or falsification of records, the city may make an estimate of the tax due based on any information available to it. Notice of the estimate of taxes due shall be furnished the seller and shall become final for the purposes of determining liability of seller to the city in thirty (30) days unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability.

F. A person required to maintain records under the provisions of this chapter shall immediately notify the city of any fire, theft or other casualty that would prevent the person from complying with the provisions of this chapter. Such casualty is a defense to a civil penalty levied under subsection E of this section, but does not excuse the person from the liability for payment to the city of taxes required to be collected. Accidental or unexplained loss of funds or records does not excuse a person from the performance of any of the requirements under this chapter.

Section 4. Chapter 4.22 of the Dillingham Municipal Code is hereby amended by adding a new section 4.22.100 to read as follows:

4.22.100 Enforcement and Collection

The provisions of Sections 4.21.150 - .290, except sections 4.21.240 and 4.21.260 are incorporated herein by reference and shall apply equally to all transactions that are subject to, and all liabilities arising under, this chapter.

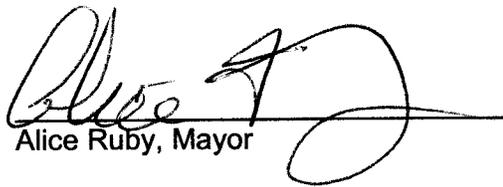
Section 5. Effective Date. This ordinance is effective upon adoption.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on
April 11, 2013.

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

SEAL:




Alice Ruby, Mayor

ATTEST:


Janice Williams, City Clerk

City of Dillingham Information Memorandum No. O2013-01 (SUB-1)

Subject: An ordinance of the Dillingham City Council amending section 4.21.040 of the Dillingham Municipal Code to limit the penalty assessed for failure to file or remit raw fish sales tax returns to ten percent, and to limit the interest to 6%

Agenda of: April 11, 2013

Council Action: Council introduced Ordinance No. 2013-01 at the February 7, 2013 Regular Council Meeting.

Manager: Recommend approval.

City Manager: Carol Shade, acting
Rose Loera

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

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

Other Attachment(s):

- Public Hearing was advertised in the March 28, 2013 edition of Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing.

Summary Statement.

This ordinance was vetted through the Code Review Committee, introduced February 7, scheduled for a public hearing March 7, and then postponed to April 11 pending a further review by the Committee. This City is required to hold another public hearing. It is being brought back as a substitute ordinance, Ordinance No. 2013-01 (SUB-1). The original ordinance proposed bringing the penalty and interest in the raw fish tax code in line with sales, and real and personal property tax penalty and interest. We were proposing dealing with the severance tax code separately since the enforcement section found in the raw fish sales tax was not included in the severance tax section, as it should have been.

However, when the Attorney started working on the severance code, he proposed combining the ordinances for the recommended changes to the severance and raw fish tax, since the two were intended to be identical. Instead of rewriting the entire sections of the raw fish tax code in the severance tax code, he cross-referenced some sections the raw fish sales tax code.

The substitute language is presented in gray-coloring. These are not substantive changes. It is mainly clean up and to standardize penalties and interest.

We will be recommending Council adopt Ordinance No. 2013-01 (SUB-1) at their April 11, 2013 meeting.

RATES: 55 cents per word, minimum \$5.50 per ad.
DEADLINE: 12 noon, Monday for next publication

LEGALS

Notice of Petition to Change Name
A petition has been filed in the Superior Court (Case # 3JN-13-00014C1) requesting a name change from (current name) Kingston J. Jankowiak to Kingston J. Jankowiak Heim. A hearing on this request will be held on 5/20/2013 at 8:30 a.m.

Notice of petition to Change Name
A petition has been filed in the Superior Court (Case # 3JD-13-00010C1) requesting a name change from (current name) Heather J. Mueller to Heather J. McCheslon. A hearing on this request will be held on April 05, 2013 at 3:00 pm at Courtroom B, Dillingham Courthouse, 715 Seward, Dillingham, AK.

Montana 11th Judicial District Court Flat Head County
in re the parenting of: KS. Kimberly Bruner, Petitioner, and Tyler Sloan, Respondent.
Cause No: DR-12-808A Summons for Publication
THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE NAMED RESPONDENT:
You the respondent, are hereby summoned to answer the Petition in this action, which is filed with the Clerk of this Court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the Petitioner within twenty-one days after the service of this Summons, exclusive of the day of service; and in case of your failure to appear or answer, judgement will be taken against you for the relief demanded in the Petition.
This action is brought to establish a permanent parenting plan for the minor child(ren).

Dated this 8th day of January, 2013.
Peg L. Allison, Clerk of Court
Kathleen Donohue By, Deputy Clerk

HELP WANTED

Journeyman Lineman
Nushagak Cooperative

Nushagak Cooperative seeks applicants for the position of Journeyman Lineman. Minimum qualifications include: must possess a Journeyman Lineman Classification and be able to possess the Alaska State Certification of fitness classification for Journeyman Lineman within one (1) year from the date of hire. CDL License required. Salary range is \$29,714/yr. \$33,191/yr DOE. A detailed job description is available at the Cooperative's Customer Service Office, our website www.nushel.com or the Employment Service Office. If interested, please submit an application and resume to Nushagak Cooperative Customer Service Office or mail or fax it to the below address, attention Gayla Powers. Position open until filled.

Gayla Powers Human Resource Generalist
Nushagak Cooperative
P.O. Box 350
Dillingham, AK 99576
Fax: 907-842-2780
Email: gpowes@nushagak.coop
EOE

SAVEC Job Announcement
Bristol Bay Rural Jobs Accelerator Project Coordinator OBJECTIVE: Gain an understanding of SAVEC, the Bristol Bay Jobs Accelerator Project, and the Bristol Bay Regional Vision to develop and implement a fisheries, seafood processing, and mariculture training program, provide information to local and regional agencies, businesses and individuals, and to migrant requirements. **Job Knowledge/Documentation required:** Bachelor's Degree in Business, Economics, Rural Development or related field. Preferred two years' work experience in project coordination and curriculum development or similar activities. Must be self-motivated, detail-oriented with ability to multi-task and have excellent planning and logistical skills. Ability to independently track multiple activities and provide follow-through to ensure timelines and funding requirements are met. Outstanding written and verbal communication skills. Familiarity with making travel arrangements, conference planning and monitoring project budget is preferred. Familiarity with Bristol Bay area, people, and cultures. Familiarity with fishing, seafood and maritime industry is preferred. Computer skills; MS programs, email/internet, and database programs. Complete achievement of certain of the above specifications may not be required if, in the opinion of SAVEC a particular candidate possesses significant offsetting characteristics, such as past accomplishments, experience, education, or estimate of future potential. **REPORTS TO:** Instructional Operations Manager or designee **DUTY STATION:** King Salmon, Alaska. **TO APPLY:** In addition to a fully completed SAVEC application form, candidates are asked to provide a current resume and writing sample. **CLOSING DATE:** March 29, 2013.
For more details or to apply, contact Steven Angasan at Southwest Alaska Vocational and Education Center, Box 615 King Salmon, AK 99613. Visit www.savec.org for information on SAVEC and its offerings. For a full job description, application, or more information, you can email your request to steven@savec.org and steven.angasan@yahoo.com. Applications can be scanned and e-mailed back, or faxed.
Phone: (907) 246-4600 Fax: (907) 246-4607.

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Wanted 2013 Bristol Bay Drift Permit On Medical

Transfer. Will pay up front money before season.
Call 808-552-5231

FOR SALE

LAND FOR SALE
The Bristol Bay Native Association, on behalf of the Native landowner, is offering the following land for sale by sealed bid: U. S. Survey 9183, contains 159.98 acres. Situated approximately 8 1/2 miles southeasterly of the village of Eggevik, Alaska. Access is in winter with snow mobile. Terrain is generally level with a slight slope to the northwest. The ground surface is predominantly rocky tussocks. Vegetation is low lying tundra plants. Best use of this land is determined to be subsistence or private recreational use. No utilities available, no zoning or taxes. Minimum Bid is \$64,000.00. Cash or Deferred payment accepted. Property is subject to easements & dedications of record and CCR on record. For more information on property, bid procedures, and terms of sale, call or write:
Bristol Bay Native Association
Land Management Services
P.O. Box 310
Dillingham, Alaska 99576
Phone: 907-842-5257 ext. 330



PUBLIC NOTICE

Public Hearing on Ordinance Nos. 2013-01, 2013-02, 2013-03 and 2013-04

The City Of Dillingham will hold a **Public Hearing on Thursday, April 11, 2013, at 7:00 P.M. in the City Council Chambers for the purpose of taking comment from the public on Ordinance No. 2013-01, 2013-02, 2013-03, and 2013-04 as follows:**

- Ordinance No. 2013-01, An Ordinance of the Dillingham City Council Amending Section 4.21.040 of the Dillingham Municipal Code to Limit the Penalty Assessed for Failure to File or Remit Raw Fish Sales Tax Returns to Ten Percent, and to Limit the Interest to 6%**
 - Ordinance no. 2013-02, An Ordinance of the Dillingham City Council Amending Sections 4.15.110 Through 4.15.170 of the Dillingham Municipal Code to Amend the Procedures for Appeal Hearings Before the Board of Equalization and to Delete Repetitive Language in these Sections**
 - Ordinance No. 2013-03, An Ordinance of the Dillingham City Council Amending the Budget by Adopting Budget Amendment No. 1 and Appropriating Funds for the FY 2013 City of Dillingham Budget**
 - Ordinance No. 2013-04, An Ordinance of the Dillingham City Council Amending Section 17.15.030 of the Dillingham Municipal Code to Change the Language Requesting Council Take Action on Planning Commission Resolution to Recommend Vacation of an Alley from "30 Days to Veto" to "45 days to Approve" a Recommended Vacation**
- If you have any questions, please forward them to the City Clerk's office at 842-5212 or email cityclerk@dillinghamak.us.

The Bristol Bay Times
"Dutch Harbor Fisherman"

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Business Directory



ARCTIC CHIROPRACTIC & MASSAGE



ARCTIC CHIROPRACTIC & MASSAGE



ARCTIC CHIROPRACTIC & MASSAGE