

Prepared by: Attorney/Clerk
Requested by: Police/Clerk
Introduced: August 27, 2001
Public Hearing: September 10, 2001
Adopted: September 10, 2001
Vote: Unanimous; Bennett absent

**CITY OF WASILLA
ORDINANCE SERIAL NO. 01-47**

AN ORDINANCE OF THE WASILLA CITY COUNCIL ENACTING WASILLA MUNICIPAL CODE SECTION 1.20.030 ESTABLISHING A PROCEDURE FOR PAYMENT OF A FINE IN LIEU OF COURT APPEARANCE FOR SCHEDULED VIOLATIONS OF THE WASILLA MUNICIPAL CODE, AND A SCHEDULE OF FINES FOR VIOLATIONS OF CERTAIN PROVISIONS OF TITLES 6, 8, 10, 12, 13 AND 16 OF THE WASILLA MUNICIPAL CODE; AND AMENDING CERTAIN PROVISIONS OF TITLES 6, 8, 10, 12, 13 AND 16 OF THE WASILLA MUNICIPAL CODE TO REFLECT THE PROVISION OF A SCHEDULE OF FINES IN WASILLA MUNICIPAL CODE SECTION 1.20.030.

BE IT ENACTED:

* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

* **Section 2. Adoption of section.** WMC 1.20.030, Disposition of scheduled offenses; fine schedule, is hereby adopted to read as follows:

1.20.030 Disposition of scheduled offenses; fine schedule.

A. A person cited for an offense for which a fine is established in subsection C of this section may mail or personally deliver to the clerk of court the amount of the fine indicated on the citation for the offense plus any surcharge required to be imposed by AS 29.25.074, together with a copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine. A motor vehicle or traffic citation may be mailed or personally delivered within five days after the date of the citation. A citation for a scheduled offense other than a motor vehicle or traffic citation may be mailed or personally delivered within 15 days after the date of the

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

citation. The payment of a fine under this subsection shall be treated as a judgment of conviction. The fine paid is complete satisfaction for the offense.

B. If a person cited for an offense for which a fine amount is established in subsection C of this section appears in court to contest the citation and is found guilty, the maximum sentence which may be imposed is the scheduled fine amount plus any surcharge required to be imposed by AS 29.25.074.

C. The following violations of this code are amenable to disposition without court appearance upon payment of a fine in the amount listed below.

<u>CODE SECTION</u>	<u>DESCRIPTION OF OFFENSE</u>	<u>FINE</u>
<u>WMC 6.04.060</u>	<u>Business License Violations</u>	<u>\$250</u>
<u>WMC 6.08.110</u>	<u>Public Vending and Special Events</u>	<u>\$100</u>
<u>WMC 6.12.130</u>	<u>Taxicab and Chauffeurs Violations</u>	<u>\$100</u>
<u>WMC 8.04.030</u>	<u>Sale of Fireworks</u>	<u>\$100</u>
<u>WMC 8.04.040</u>	<u>Use of Fireworks</u>	<u>\$100</u>
<u>WMC 8.08.010</u>	<u>Refuse Enclosure Required</u>	<u>\$100</u>
<u>WMC 8.08.040</u>	<u>Litter Unlawful</u>	<u>\$100</u>
<u>WMC 8.12.020</u>	<u>Political Sign Posting on Right-of-Way</u>	<u>\$100</u>
<u>WMC 9.04.020</u>	<u>Lewd Conduct</u>	<u>\$200</u>
<u>WMC 9.12.010</u>	<u>Discharge of Firearm</u>	<u>\$200</u>
<u>WMC 9.20.010</u>	<u>Trespassing</u>	<u>\$100</u>
<u>WMC 10.08.020</u>	<u>Obstruction of Right-of-Way</u>	<u>\$50</u>
<u>WMC 10.12.020</u>	<u>Prohibited Operation of Off-Road Vehicles</u>	<u>\$50</u>
<u>WMC 10.12.030</u>	<u>Operation of Off-Road Vehicle by a Minor</u>	<u>\$100</u>
<u>WMC 10.12.040</u>	<u>Operation of Off-Road Vehicle Without Helmet</u>	<u>\$100</u>
<u>WMC 10.12.050</u>	<u>Speeding of Off-Road Vehicle</u>	<u>\$100</u>

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

WMC 12.20.020	Motorized Uses on Lakes	\$100
WMC 12.24.020	Violation of Park Rules	\$250
WMC 13.08.020	Sewage Disposal	\$300
WMC 13.08.140	Sewage Violations	\$300
WMC 13.12.030	Wastewater Pretreatment Violations	\$300
WMC 13.20.060	Airport Violations	\$300
WMC 16.08.090	Land Use Code Violations	\$300

* **Section 3. Amendment of section.** WMC 6.04.080, Business Licenses Generally, Criminal prosecution-penalties, is hereby amended to read as follows:

6.04.080 Remedies and [CRIMINAL PROSECUTION-]penalties.

Remedies and penalties for violations [A PERSON, WHO VIOLATES ANY PROVISION] of this chapter **are as provided in Chapter 1.20** [, OR ANY REGULATION ADOPTED PURSUANT THERETO, IS SUBJECT TO THE CITY'S PENALTY CODE].

* **Section 4. Amendment of section.** WMC 6.08.110, Public Vending Licenses, Violations–Penalties, is hereby amended to read as follows:

6.08.110 Remedies and [VIOLATIONS--]penalties.

Remedies and penalties for violations [A VIOLATION OF ANY PROVISION] of this chapter **are as provided in Chapter 1.20** [SHALL BE AN INFRACTION. A CITATION ISSUED FOR THIS VIOLATION SHALL BE AGAINST THE PERMITTED APPLICANT OR ORGANIZATION. THE FINE SHALL BE ONE HUNDRED DOLLARS (\$100) FOR EACH VIOLATION]. A total of three citations in one calendar year **against a person holding a permit under this chapter** shall result in the revocation of the permit.

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

* **Section 5. Amendment of section.** WMC 6.12.130, Taxicabs, Suspension, revocation and penalty, is hereby amended to read as follows:

6.12.130 Suspension [.] and revocation; [and] remedies and penalties[PENALTY].

A. Taxicab and chauffeur permits issued under this chapter may be suspended or revoked by the police chief. A taxicab or chauffeur permit shall be revoked or suspended if there is a finding that the permit holder has:

1. Willfully done or permitted to be done an act in violation of a statute, borough or city law relating to the business, profession or occupation licensed;

2. Conducted the permitted business, profession or occupation in such a manner as to constitute a threat to public health, safety or general welfare.

B. **Remedies and penalties for violations** ANY VIOLATION] of this chapter [IS UNLAWFUL, AND IS PUNISHABLE BY A FINE NOT TO EXCEED ONE HUNDRED DOLLARS (\$100.00)]**are as provided in Chapter 1.20.**

* **Section 6. Amendment of section.** WMC 8.04.070, Fireworks, Penalties for Violations, is hereby amended to read as follows:

8.04.070 Remedies and penalties[FOR VIOLATIONS].

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.[EVERY PERSON, FIRM, CORPORATION, CLUB, ASSOCIATION OR ORGANIZATION VIOLATING THIS CHAPTER SHALL BE PUNISHABLE BY A FINE NOT EXCEEDING ONE HUNDRED DOLLARS (\$100.00) WITH A MANDATORY COURT APPEARANCE, THE FINE SHALL BE ASSESSED BY THE COURT. IF NEEDED, RESTITUTION SHALL BE ASSESSED BY THE COURT].

* **Section 7. Adoption of section.** WMC 8.08.050, Garbage Collection and Disposal, Remedies and penalties, is hereby adopted to read as follows:

8.08.050 Remedies and penalties.

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

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 8. Adoption of section.** WMC 8.12.080, Political Campaign Signs, Remedies and penalties, is hereby adopted to read as follows:

8.12.080 Remedies and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 9. Adoption of section.** WMC 9.04.040, Lewdness, Remedies and penalties, is hereby adopted to read as follows:

9.04.040 Remedies and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 10. Adoption of section.** WMC 9.12.040, Weapons, Remedies and penalties, is hereby adopted to read as follows:

9.12.040 Remedies and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 11. Amendment of section.** WMC 9.20.030, Trespassing, Violation-Penalty, is hereby amended to read as follows:

9.20.030 Remedies [Violation]and penalties[-PENALTY].

Remedies and penalties for violations [A VIOLATION OF ANY PROVISION] of this chapter **are as provided in Chapter 1.20**[SHALL BE PUNISHED BY A FINE OF ONE HUNDRED DOLLARS (\$100.00)].

* **Section 12. Adoption of section.** WMC 10.08.040, Miscellaneous Traffic Regulations, Remedies and penalties, is hereby adopted to read as follows:

10.08.040 Remedies and penalties.

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

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 13. Amendment of section title and subsection.** The title and subsection A of WMC 10.12.100, Off-Road Vehicles, Penalties and impoundment, are hereby amended to read as follows:

10.12.100 Remedies, penalties and impoundment.

A. **Remedies and penalties for violations of** [A VIOLATION OF ANY PROVISION OF] this chapter **are as provided in Chapter 1.20** [SHALL BE PUNISHED BY A FINE OF ONE HUNDRED DOLLARS (\$100.00)].

* **Section 14. Amendment of section.** WMC 12.20.040, City Lakes and Waterways, Violations--Penalties, is hereby amended to read as follows:

12.20.040 Remedies and [VIOLATIONS--]penalties.

Remedies and penalties for violations [A PERSON WHO VIOLATES ANY PROVISION]of this chapter **are as provided**[IS GUILTY OF A MISDEMEANOR AND SUBJECT TO THE GENERAL PENALTIES] in **Chapter** [SECTION]1.20.[010.]

* **Section 15. Amendment of section.** WMC 12.24.050, Parks and Recreational Facilities, Enforcement, is hereby amended to read as follows:

12.24.050 Remedies [ENFORCEMENT]and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.[NON-COMPLIANCE WITH FACILITIES RULES, REGULATIONS, OR PERMIT CONDITIONS IS AN INFRACTION AND PUNISHABLE BY A FINE OF UP TO TWO HUNDRED FIFTY DOLLARS (\$250)].

* **Section 16. Amendment of section.** WMC 13.08.140, Sewer Service System, Violations--Remedies, is hereby amended to read as follows:

13.08.140 [VIOLATIONS--]Remedies and penalties.

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

A. Upon a finding by the public works director that [IF] any person [SHALL] constructed ed a public sewer, private sewer or building sewer in violation of this chapter, the public works director [MAYOR] may [ISSUE AN] order any action necessary to ensure compliance with all provisions of this chapter. [TO SUCH PERSON TO STOP WORK IN PROGRESS WHICH IS NOT THEN IN COMPLIANCE WITH THIS CHAPTER OR THE MAYOR MAY ISSUE AN ORDER TO CORRECT WORK WHICH HAS BEEN PERFORMED. SUCH PERSON SHALL FORTHWITH TAKE SUCH ACTION AS MAY BE NECESSARY TO COMPLY WITH SUCH ORDER AND WITH THIS CHAPTER, ALL AT THE EXPENSE OF SUCH PERSON.]

B. [DISCONTINUANCE OF SERVICE.

1. Notice of an enforcement order will be served by the public works director in writing to [THE MAYOR MAY ORDER] the owner of the [ANY] property from which discharges are occurring as shown on the Matanuska-Susitna Borough tax roll. In the case of service on an owner who is not found to be occupying the property, certified mail service to the property owner shall be given[PROHIBITED BY THIS CHAPTER ARE ENTERING ANY SEWER TO CORRECT SUCH CONDITION. THE MAYOR SHALL FIRST GIVE WRITTEN NOTICE OF SUCH PROHIBITED DISCHARGE TO THE PERSON, AND ONLY IF SUCH PERSON FAILS TO CORRECT SUCH CONDITION WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THE MAYOR MAY ENTER UPON SUCH PROPERTY AND REMOVE OR CLOSE SEWER CONNECTIONS AS HEREINAFTER PROVIDED].

[2. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B)(1) OF THIS SECTION, AT THE MAYOR'S DISCRETION SEWER SERVICE TO ANY]

C. The public works director may at any time enter upon a property to discontinue sewer service [PROPERTY MAY BE DISCONTINUED IMMEDIATELY AND] without notice, upon determination that there is being discharged from the

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

[SUCH] property [ANY] materials deemed to be dangerous, injurious to treatment process or hazardous to any person, structure or treatment process. [THE MAYOR SHALL HAVE THE RIGHT TO ENTER UPON THE PERSON'S PROPERTY TO REMOVE OR CLOSE SEWER CONNECTIONS AS HEREINAFTER PROVIDED.]

D[C]. Sewer service shall not be restored until all charges, including the expense of removal, closing, and restoration, and any other costs or attorney[']S fees [SHALL] have been paid and the cause for discontinuance of service corrected.

E[D]. Change of ownership or occupancy of premise found delinquent shall not be cause for reducing or eliminating these charges if transfer or change is to a spouse, parent or child of the delinquent customer.

F[E]. A property owner notified and [ANY PERSON] found to be in violation [OF ANY PROVISION] of this 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,] must permanently cease all violations.

1. ANY PERSON WHO SHALL CONTINUE ANY VIOLATION BEYOND THE TIME LIMIT PROVIDED FOR IN THIS CHAPTER OR THE TIME LIMIT PROVIDED IN THE WRITTEN NOTICE REQUIRED BY THIS SECTION SHALL BE GUILTY OF AN INFRACTION, AND ON CONVICTION THEREOF, SHALL BE FINED IN AN AMOUNT NOT EXCEEDING ONE HUNDRED DOLLARS (\$100.00) FOR EACH VIOLATION. EACH DAY IN WHICH ANY VIOLATION SHALL CONTINUE SHALL BE DEEMED A SEPARATE OFFENSE.

2. CIVIL CAUSE OF ACTION. THE CITY MAY BRING A CAUSE OF ACTION AGAINST ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, COMPANY OR OTHER ENTITY FOR VIOLATION OF ANY PROVISION OF THIS CHAPTER, AND

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

THE SUPERIOR COURT OF THE STATE OF ALASKA SHALL HAVE JURISDICTION IN THE MATTERS UNDER THE PROVISIONS OF THIS CHAPTER.

3. INJUNCTION. IN ANY SUIT BROUGHT UNDER ANY PROVISION OF THIS CHAPTER, THE COURT MAY ENJOIN THE PARTY SUBJECT TO SUIT FROM FURTHER VIOLATION OF THIS CHAPTER.

4. DAMAGES. IN ANY SUIT BROUGHT UNDER THE PROVISIONS OF THIS CHAPTER IN WHICH IT IS DETERMINED THAT THE PARTY SUBJECT TO SUIT IS IN VIOLATION OF ANY SECTION OF THIS CHAPTER, THE PARTY SUBJECT TO SUIT SHALL BE LIABLE TO THE CITY FOR ITS DAMAGES INCLUDING ATTORNEY FEES AND COSTS OF THE ACTION.]

G. In addition to the other remedies provided in this section, remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 17. Amendment of section.** WMC 13.12.120, Wastewater Pretreatment Requirements, Enforcement, and 13.12.130, Wastewater Pretreatment Requirements, Penalties and Remedies, are hereby amended to read as follows:

13.12.120 **Remedies and Penalties** [ENFORCEMENT].

A. [FINDING OF VIOLATION BY DIRECTOR. ANY USER WHO VIOLATES THE REQUIREMENTS OR STANDARDS OF THIS CHAPTER MAY BE SUBJECT TO A FINDING OF A VIOLATION BY THE DIRECTOR. THE FINDING OF A VIOLATION MAY BE BASED ON ONE OR MORE OF THE FOLLOWING VIOLATIONS, SUCH LIST NOT TO BE CONSIDERED A COMPLETE LIST OF POSSIBLE VIOLATIONS OF THIS CHAPTER:

1. FAILURE OF A USER TO FACTUALLY REPORT THE WASTEWATER CONSTITUENTS AND CHARACTERISTICS OF THE DISCHARGE;
2. FAILURE OF THE USER TO REPORT SIGNIFICANT CHANGES IN OPERATIONS, OR WASTEWATER CONSTITUENTS AND CHARACTERISTICS;

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

3. REFUSAL OF REASONABLE ACCESS TO THE USER'S PREMISES FOR THE PURPOSE OF INSPECTION OR MONITORING; OR

4. VIOLATION OF THE GENERAL REQUIREMENTS OF THIS CHAPTER OR OF THE CONDITIONS OF A PERMIT;]

[B. ENFORCEMENT ORDERS/ACTION.] Upon a finding by the public works director that a person or building sewer is in violation of the requirements or standards of this chapter, the public works director may order any action necessary to ensure compliance with all provisions with this chapter [ANY ONE, OR MORE, OF THE FOLLOWING:

1. THE DISCONTINUATION OF THE ACTIVITY, USE OR FAILURE TO TAKE ACTION THAT IS IN VIOLATION OF THE REQUIREMENTS OR STANDARDS OF THIS CHAPTER;

2. THE ABATEMENT OF THE ACTIVITY, USE OR FAILURE TO TAKE ACTION THAT IS IN VIOLATION OF THE REQUIREMENTS OR STANDARDS OF THIS CHAPTER;

3. SUBMITTAL BY THE USER OF A PLAN FOR COMPLIANCE WITH THE TERMS OF THIS CHAPTER. THE PLAN SHALL INCLUDE A SCHEDULE FOR COMPLETION AND PROCEDURES TO ACCOMPLISH COMPLIANCE. THE DIRECTOR WILL REVIEW AND APPROVE, CONDITION OR DENY THE PLAN AS SUBMITTED BY THE USER;

4. ANY OTHER ACTION NECESSARY TO ENSURE COMPLIANCE WITH ALL PROVISIONS OF THIS CHAPTER, INCLUDING SUSPENSION OF SEWER SERVICE AND/OR SUSPENSION OF A WASTEWATER CONTRIBUTION PERMIT FOR ANY BUILDING SEWER IMPACTED BY THE ACTIVITY, USE OR FAILURE TO TAKE ACTION THAT IS IN VIOLATION OF THE REQUIREMENTS OR STANDARDS OF THIS CHAPTER].

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

B. Notice of an enforcement order will be served by the public works director in person, in writing[, TO ANY PERSON EIGHTEEN (18) YEARS OR OLDER IN OCCUPANCY OF THE SEWER BUILDING THAT IS THE SUBJECT OF THE ENFORCEMENT ORDER OR] to the owner of the sewer building as shown on the Matanuska-Susitna Borough tax roll[S OF THE MATANUSKA-SUSITNA BOROUGH]. In the case [OF NO PERSON EIGHTEEN (18) YEARS OR OLDER OCCUPYING THE PROPERTY, OR IN THE CASE] of service on an owner who is not found to be occupying the property, certified mail service to [ON] the owner shall be given [BE DEEMED SUFFICIENT].

C. Suspension of sewer service and/or suspension of a wastewater contribution permit, will be given by the public works director if [WILL GENERALLY BE AVAILABLE TO THE DIRECTOR WHEN] necessary or desirable to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, or to the environment, or causes interference to the city POTW or causes the city to violate any condition of its NPDES permit.

D. Any person notified for a suspension of the sewer service and/or the wastewater contribution permit must [SHALL] immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city may take [such] steps [AS] necessary or desirable, including the immediate severance of the sewer connection. Reinstatement of the sewer service and/or wastewater contribution permit shall require proof, by the user, of the elimination of the [NONCOMPLYING] discharge in noncompliance.

[C. PROTEST HEARING PROCEDURE. IN THE EVENT THAT A USER DISPUTES THE FINDING BY THE DIRECTOR THAT A VIOLATION OF THIS CHAPTER HAS OCCURRED OR IS OCCURRING OR IN THE EVENT THAT A USER

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

DISPUTES THE ENFORCEMENT ORDER ISSUED BY THE DIRECTOR, THEN NOTICE, IN WRITING, SHALL BE SERVED BY THE USER, REQUESTING A HEARING BEFORE THE MAYOR ON THE DISPUTED ISSUE(S). SUCH NOTICE SHALL PROVIDE CLEAR SPECIFICATION OF: (1) THE ISSUES IN DISPUTE; (2) THE EVIDENCE THAT THE USER RELIES UPON OR WILL RELY UPON TO DISPUTE THE FINDINGS/ORDER OF THE DIRECTOR; AND (3) WHY THE USER BELIEVES THE FINDINGS/ORDER OF THE DIRECTOR IS IN ERROR.

THE MAYOR MAY APPOINT A DESIGNEE TO HOLD THE HEARING AND PROVIDE A WRITTEN REPORT CONTAINING FINDING OF FACTS AND RECOMMENDATION FOR THE FINAL DECISION BY THE MAYOR.

1. THE PROCEDURES FOR A HEARING, IF REQUESTED BY THE USER, SHALL BE AS FOLLOWS:

A. THE USER HAS THE RIGHT TO A HEARING BEFORE THE MAYOR OR HIS OR HER DESIGNEE.

B. THE USER'S REQUEST FOR A HEARING MUST BE IN WRITING, SIGNED BY THE USER (OR COUNSEL OF THE USER) AND DELIVERED TO THE MAYOR'S OFFICE WITHIN THREE BUSINESS DAYS OF RECEIPT OF THE FINDINGS/ORDER OF THE DIRECTOR THAT IS BEING DISPUTED. THE CONTENTS OF SUCH A REQUEST FOR A HEARING SHALL INCLUDE THE NOTICES DESCRIBED ABOVE. THE USER'S FAILURE TO REQUEST A HEARING WITHIN THE TIME AND MANNER PROVIDED SHALL BE DEEMED A WAIVER OF HIS OR HER APPEAL RIGHTS AND TO ANY APPELLATE REVIEW TO WHICH HE OR SHE MIGHT HAVE OTHERWISE BEEN ENTITLED, AND IN SUCH AN EVENT THE DIRECTOR'S FINDINGS/ORDER BECOMES FINAL. FOR GOOD CAUSE SHOWN BY THE USER, THE MAYOR MAY EXTEND THE TIME FOR PRESENTATION OF THE SUBJECTS TO BE SPECIFIED AND NOTICED BY THE

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

USER IN THE REQUEST FOR A HEARING. ANY SUCH REQUEST FOR EXTENSION (OF THE PRESENTATION OF SUBJECTS TO BE SPECIFIED AND NOTICED BY THE USER IN THE REQUEST FOR A HEARING) MUST BE SUPPORTED BY A SHOWING OF GOOD CAUSE, IN WRITING, AND PRESENTED BY THE USER WITHIN THREE BUSINESS DAYS OF THE RECEIPT OF THE FINDINGS/ORDER OF THE DIRECTOR THAT IS BEING DISPUTED.

C. IF THE USER DULY DELIVERS HIS OR HER REQUEST FOR A HEARING, THE MAYOR OR HIS OR HER DESIGNEE WILL HOLD A HEARING WITHIN FIVE DAYS FROM THE DATE OF RECEIPT OF THE REQUEST. THE MAYOR OR HIS OR HER DESIGNEE MAY EXTEND IN WRITING THE HEARING DATE, BUT NO EXTENSION OF MORE THAN TWENTY (20) DAYS SHALL BE GRANTED. THE MAYOR OR HIS OR HER DESIGNEE SHALL NOTIFY THE USER OF THE DATE, TIME AND PLACE OF THE HEARING.

D. THE USER, AT HIS OR HER OWN EXPENSE, MAY BE REPRESENTED BY COUNSEL.

E. THE HEARING SHALL BE OPEN TO THE PUBLIC.

F. ALL TESTIMONY SHALL BE UNDER OATH. THE PROCEEDINGS SHALL BE TAPE RECORDED. UPON WRITTEN REQUEST, THE USER IS ENTITLED TO A COPY OF THE TAPE UPON REQUEST AND PAYMENT OF THE COST OF REPRODUCTION. THE USER OR REPRESENTATIVE OF THE USER MAY EXAMINE AND CROSS-EXAMINE WITNESSES. THE MAYOR OR HIS OR HER DESIGNEE MAY ALSO QUESTION WITNESSES. EXHIBITS MAY BE INTRODUCED. THE ALASKA RULES OF EVIDENCE NEED NOT BE STRICTLY FOLLOWED. IRRELEVANT OR UNDULY REPETITIOUS EVIDENCE MAY BE EXCLUDED. THE FACTUAL RECORD IS CLOSED AT THE CLOSE OF THE HEARING. THE MAYOR OR HIS OR HER DESIGNEE MAY CONTINUE THE HEARING FOR GOOD CAUSE.

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

- G. THE ORDER OF PRESENTATION WILL BE:
- I. BRIEF OPENING STATEMENT BY THE CITY;
 - II. BRIEF OPENING STATEMENT BY THE USER, WHICH IS OPTIONAL;
 - III. PRESENTATION OF EVIDENCE BY CITY;
 - IV. PRESENTATION OF EVIDENCE BY THE USER.
 - V. REBUTTAL AS NECESSARY;
 - VI. ARGUMENT BY CITY;
 - VII. ARGUMENT BY USER;
 - VIII. REBUTTAL ARGUMENT BY CITY;

H. ALTHOUGH, AS INDICATED BELOW, THE CITY MUST PROVE THE EXISTENCE OF FACTS SUPPORTING THE FINDING/ORDER OF THE USER BY PREPONDERANCE OF THE PRESENTED FACTS, THE USER MUST PROVE, BY PREPONDERANCE OF THE EVIDENCE, THE FACTUAL BASIS UPON WHICH HE OR SHE IS RELYING TO OPPOSE THE FINDINGS/ORDER.

2. IF SEWER SERVICE OR THE WASTEWATER CONTRIBUTION PERMIT HAS NOT ALREADY BEEN SUSPENDED BY ACTION OF THE DIRECTOR, THE MAYOR, OR HIS OR HER DESIGNEE, AS PART OF THE HEARING PROCEDURE NOTED ABOVE, MAY SUSPEND SUCH SERVICE OR PERMIT. IN THE ALTERNATIVE, THE MAYOR, OR HIS OR HER DESIGNEE, MAY REINSTATE THE SEWER SERVICE OR PERMIT PENDING A FINAL DECISION ON THE HEARING.

3. THE MAYOR MAY EXERCISE INDEPENDENT JUDGMENT AS TO THE WEIGHT OF THE EVIDENCE PRESENTED BY THE PARTIES. THE DIRECTOR OR OTHER CITY REPRESENTATIVE SHALL PROVE THE EXISTENCE OF FACTS SUBSTANTIATING THE FINDINGS/ORDER IN DISPUTE BY A PREPONDERANCE OF THE PRESENTED FACTS.

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

4. THE MAYOR SHALL ISSUE A WRITTEN DECISION NO LATER THAN SEVEN WORKING DAYS AFTER THE CLOSE OF THE HEARING. THE DECISION SHALL INCLUDE FINDINGS OF FACT AND A STATEMENT OF THE REASON FOR THE DECISION.

5. IF THE MAYOR DETERMINES THAT A PREPONDERANCE OF THE FACTS PRESENTED DO NOT SUPPORT THE FINDINGS/ORDER OF THE DIRECTOR, THE MAYOR MAY STILL IMPOSE A LESSER FORM OF FINDINGS/ORDER FOR THE USER TO FOLLOW AND ABIDE BY.

6. THE AFFECTED USER MAY APPEAL THE MAYOR'S DECISION BY FILING A WRITTEN NOTICE OF APPEAL WITH THE ALASKA SUPERIOR COURT FOR THE THIRD JUDICIAL DISTRICT AT PALMER IN ACCORDANCE WITH THE ALASKA RULES OF APPELLATE PROCEDURE. THE SUPERIOR COURT SHALL HAVE NO JURISDICTION TO HEAR THE APPEAL UNLESS THE USER FILES THE NOTICE OF APPEAL WITHIN THIRTY (30) DAYS AFTER THE USER'S RECEIPT OF THE MAYOR'S DECISION. THE SUPERIOR COURT SHALL LIMIT ITS REVIEW OF THE DECISION TO WHETHER OR NOT SUBSTANTIAL EVIDENCE EXISTS, IN LIGHT OF THE WHOLE RECORD, SUCH THAT A REASONABLE MIND MIGHT ACCEPT THE DECISION.

7. THE MAYOR HAS THE AUTHORITY TO NEGOTIATE ALTERNATIVE FORMS OF FINDINGS/ORDERS AT ANY TIME IN THE HEARING PROCESS.]

13.12.130 [PENALTIES AND]Remedies and penalties.

In addition to the other remedies provided in Section 13.12.120, remedies and penalties for violations of this chapter **are as provided in Chapter 1.20**[MAY BE SUBJECT TO ENFORCEMENT ORDERS, AS PROVIDED ABOVE IN THIS CHAPTER, AND MAY BE FURTHER SUBJECT TO THE FOLLOWING PENALTIES AND REMEDIES].

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

[A. GENERAL PROVISIONS. REGARDLESS OF THE ALTERNATIVE PENALTY/REMEDY THAT MAY BE PURSUED BY THE DIRECTOR OR CITY, THE FOLLOWING GENERAL PROVISIONS SHALL APPLY:

1. ALL REMEDIES HEREUNDER ARE CUMULATIVE AND ARE IN ADDITION TO THOSE EXISTING AT LAW OR EQUITY.

2. AT ANY STAGE IN ANY PROCEEDING TO PENALIZE OR REMEDY A VIOLATION OF THIS CHAPTER, THE MAYOR MAY MITIGATE FINES OR OTHER PENALTIES IN ORDER TO PROMOTE SETTLEMENT OF A DISPUTE ON TERMS DEEMED JUST AND EQUITABLE UNDER THE CIRCUMSTANCES.

3. A PROCEEDING TO PENALIZE OR REMEDY A VIOLATION OF THIS CHAPTER MAY INCLUDE, BUT IS NOT REQUIRED TO INCLUDE, THE OWNER OF THE BUILDING SEWER OR PART THEREOF, ANY LESSEE OR OCCUPANT OF THE BUILDING SEWER OR ANY PART THEREOF, AND/OR THE DEVELOPER (INCLUDING THE DEVELOPER'S AGENTS, CONTRACTORS, SUBCONTRACTORS AND EMPLOYEES).

4. EACH ACT IN VIOLATION OF THIS CHAPTER AND EVERY DAY A VIOLATION OF THIS CHAPTER EXISTS MAY BE CONSIDERED TO CONSTITUTE A SEPARATE VIOLATION.

5. THE CITY MAY FILE A CIVIL ACTION TO ENFORCE THIS CHAPTER AND/OR ISSUE AN INFRACTION CITATION PURSUANT TO THE PROCEDURES AND SUBSTANTIVE PROVISIONS THAT FOLLOW.

B. INFRACTION CITATION. THE CITY MAY FILE AN INFRACTION CITATION TO ENFORCE THIS CHAPTER PURSUANT TO THE GENERAL PENALTY PROCEDURES AND SUBSTANTIVE PROVISIONS SET FORTH IN CHAPTER 1.20. THE GENERAL PROVISIONS SET FORTH IN THIS SECTION, ABOVE, SHALL BE CONSIDERED TO SUPPLEMENT THE PENALTIES AND PROCEDURES OF

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

CHAPTER 1.20.

C. CIVIL ACTION. THE CITY MAY FILE A CIVIL ACTION TO ENFORCE THIS CHAPTER. IN SUCH A CIVIL ACTION THE CITY MAY REQUEST THAT THE COURT ENTER AN ORDER TO ENJOIN A VIOLATOR(S) FROM VIOLATING ANY PROVISION OF THIS CHAPTER. ON APPLICATION FOR INJUNCTIVE RELIEF AND A FINDING OF A VIOLATION OR THREATENED VIOLATION, THE COURT SHALL GRANT THE INJUNCTION. THE CIVIL PENALTY THAT MAY BE IMPOSED BY THE COURT FOR EACH VIOLATION MAY BE IN A SUM NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00), PAYABLE TO THE CITY. THE CITY MAY REQUEST AN AWARD OF ITS COSTS AND ATTORNEYS FEES INCURRED IN THE COURSE OF PREPARING, FILING AND PROSECUTING THE CIVIL ACTION.]

* **Section 18. Adoption of section.** WMC 13.20.310, Wasilla Municipal Airport, Remedies and penalties, is hereby adopted to read as follows:

13.20.310 Remedies and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

* **Section 19. Amendment of section.** WMC 16.08.090, Land Development Code, Penalties and Remedies, is hereby amended to read as follows:

16.08.090 Violations, remedies and penalties [AND REMEDIES].

[VIOLATIONS OF THIS TITLE MAY BE SUBJECT TO THE "COMPLIANCE" AND "ENFORCEMENT ORDERS," AS PROVIDED ABOVE IN THIS CHAPTER, AND MAY BE FURTHER SUBJECT TO THE FOLLOWING PENALTIES AND REMEDIES.]

A. **No person may erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any structure, or use of land or a structure, or cause or permit the same to be done in violation of this title. The city planner may order the discontinuance or removal**

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

of any structure, or use of land or a structure that violates this title by order served upon any person who owns, control or occupies the land or structure. A person who is served with such an order shall cause the structure, or use of land or a structure, that is the subject to the order to be discontinued or removed within the time prescribed by the order [GENERAL PROVISIONS. REGARDLESS

OF THE ALTERNATIVE PENALTY/REMEDY THAT MAY BE PURSUED BY THE PLANNER OR CITY, THE FOLLOWING GENERAL PROVISIONS SHALL APPLY:

1. ALL REMEDIES HEREUNDER ARE CUMULATIVE AND ARE IN ADDITION TO THOSE EXISTING AT LAW OR EQUITY.

2. AT ANY STAGE IN ANY PROCEEDING TO PENALIZE OR REMEDY A VIOLATION OF THIS TITLE, THE MAYOR MAY MITIGATE FINES OR OTHER PENALTIES IN ORDER TO PROMOTE SETTLEMENT OF A DISPUTE ON TERMS DEEMED JUST AND EQUITABLE UNDER THE CIRCUMSTANCES.

3. A PROCEEDING TO PENALIZE OR REMEDY A VIOLATION OF THIS TITLE MAY INCLUDE, BUT IS NOT REQUIRED TO INCLUDE, THE OWNER OF THE SITE OR PART THEREOF, ANY LESSEE OR OCCUPANT OF THE SITE OR ANY PART THEREOF, AND/OR THE DEVELOPER, (INCLUDING THE DEVELOPER'S AGENTS, CONTRACTORS, SUBCONTRACTORS AND EMPLOYEES).

4. EACH ACT IN VIOLATION OF THIS TITLE AND EVERY DAY A VIOLATION OF THIS TITLE EXISTS MAY BE CONSIDERED TO CONSTITUTE A SEPARATE VIOLATION.

5. THE CITY MAY FILE A CIVIL ACTION TO ENFORCE THIS TITLE AND/OR ISSUE AN INFRACTION CITATION PURSUANT TO THE PROCEDURES AND SUBSTANTIVE PROVISIONS THAT FOLLOW.]

B. In addition to the other remedies provided in this section, violations of this chapter are subject to the remedies and penalties provided [INFRACTION

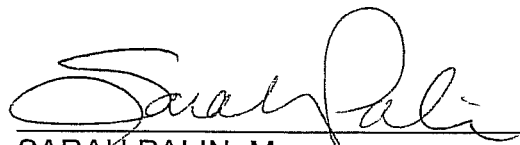
Bold and underline added. [CAPS AND BRACKETS, DELETED.]

CITATION. THE CITY MAY FILE AN INFRACTION CITATION TO ENFORCE THIS TITLE PURSUANT TO THE GENERAL PENALTY PROCEDURES AND SUBSTANTIVE PROVISIONS SET FORTH]in Chapter 1.20. [THE GENERAL PROVISIONS SET FORTH IN THIS SECTION, ABOVE, SHALL BE CONSIDERED TO SUPPLEMENT THE PENALTIES AND PROCEDURES OF CHAPTER 1.20.

C. CIVIL ACTION. THE CITY MAY FILE A CIVIL ACTION TO ENFORCE THIS TITLE. IN SUCH A CIVIL ACTION THE CITY MAY REQUEST THAT THE COURT ENTER AN ORDER TO ENJOIN A VIOLATOR(S) FROM VIOLATING ANY PROVISION OF THIS TITLE. ON APPLICATION FOR INJUNCTIVE RELIEF AND A FINDING OF A VIOLATION OR THREATENED VIOLATION, THE COURT SHALL GRANT THE INJUNCTION. THE CIVIL PENALTY THAT MAY BE IMPOSED BY THE COURT FOR EACH VIOLATION MAY BE IN A SUM NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00), PAYABLE TO THE CITY. THE CITY MAY REQUEST AN AWARD OF ITS COSTS AND ATTORNEYS FEES INCURRED IN THE COURSE OF PREPARING, FILING AND PROSECUTING THE CIVIL ACTION.]

* **Section 20. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council, Alaska, on September 10, 2001.


SARAH PALIN, Mayor

ATTEST:


KRISTIE L. VANGORDER, CMC
City Clerk

[SEAL]

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

SUBJECT: CODE REVISION FOR GENERAL PENALTIES

REQUESTED BY: Chief Fannon/Kristie VanGorder, City Clerk *KV*

PREPARED BY: K.VanGorder/T. Klinkner

DATE: August 20, 2001

FOR AGENDA OF: August 27, 2001

SUMMARY:

Chief Fannon has requested a change to several sections of the code, which refer to penalties and violations.

Proposed Ordinance Serial No. 01-47 establishes fines for these sections, which are now included in Title 1 and will allow the police department to issue citations for infractions. This ordinance also cleans up the language and makes all penalty sections consistent with one another and refers to Title 1 for the fine amount.

FISCAL IMPACT: No Yes, amount requested: \$

Fund:

CLERK'S RECOMMENDED ACTION: Introduce ordinance and set for public hearing.

Administration Initial: *JWC for Mayor Palin*

Presented with: Ord 01-47
Date: 9/10/01 Verified by: *KV*

Attachments: Proposed Ordinance Serial No. 01-47