

By: City Clerk, Police Chief and City Attorney
Introduced: August 12, 2013
Public Hearing: August 26, 2013
Amended: August 26, 2013
Adopted: August 26, 2013
Vote: Harris, Sullivan-Leonard, Woodruff and Wall in favor
Buswell absent and Seat A Vacant

**City of Wasilla
Ordinance Serial No. 13-23(AM)**

An ordinance of the Wasilla City Council amending Wasilla Municipal Code (WMC) Chapters 1.20 General Penalty, 6.40 Business Licenses, 7.32 Animal Care and Regulation, 8.12 Public Nuisance, 9.08 Petty Theft, 9.16 Curfew, 12.08 Street Classification and Design Standard, 12.12 Driveway, 12.28 Skate Devices, 13.08 Sewer Service System, and 13.12 Wastewater Pretreatment Requirements; all amendments are related to penalties, remedies and fees and associated process; and adopting a reference in 2.76 for the Administrative Hearing Officer to have jurisdiction of business licenses hearings.

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

Section 2. Amendment of chapter. WMC 1.20 General Penalty is hereby amended to read as follows:

1.20.010 General penalty.

A. Penalty. Unless another penalty is specifically provided by this code for the violation of any particular provision, any person who violates any of the provisions or fails to comply with any of the mandatory requirements of this code, upon conviction, shall be punished by a fine not to exceed ~~three hundred dollars (\$300.00)~~ and **no less than \$50.** ~~The violation shall be treated as an infraction.~~

B. Procedure. The charge for the violation of a code provision may be brought by a city police officer, the mayor, ~~a or that~~ city official **that is** responsible for the administration and enforcement of the code provision which has been violated, ~~or the city attorney at the direction of the mayor or city council.~~ A person charged may dispose of an infraction offense by paying the fine set for the violation charged and pleading “no contest” in person or by mail, or may appear in court to contest the charge. As an infraction, trial is by the court without a jury, and there is no right to court-appointed defense counsel.

C. Separate Violations. Each day of a continuing violation of this code shall constitute a separate offense.

D. Civil Action Alternatives. In addition to any other remedies or penalties which may be provided in this code, or may otherwise be available, the city or any

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aggrieved person may institute a civil action against a person who violates any provision of the code. In addition to injunctive and compensatory relief, a civil penalty not to exceed ~~one thousand dollars (\$1,000.00)~~ may be imposed for each violation. 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.

1.20.020 Penalty surcharge authorization and collection.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of ~~a an ordinance~~, code provision, or regulation of the city brought under citation or criminal complaint that would require a proceeding in the Alaska Court system if the defendant were to enter a plea of not guilty. This surcharge is imposed in addition to any other fine or other penalty provided by law. The court may impose and collect the surcharge on all penalties imposed by the court or fines and bail forfeitures that are paid to the court. The surcharge shall be deposited into the general fund of the state of Alaska in accordance with AS 29.25.072.

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 ~~fifteen (15)~~ days after the date of the 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 **shall** ~~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.

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
WMC 6.04. 015 085	Business License Required Violations	\$250
WMC 6.08. 020 110	Permit required for Public Vending and Special Events	\$100
WMC 6.08.030	Single Location Vendor Permit	\$100
WMC 6.08.040	Mobile Vendor permit	\$100

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<u>WMC 6.08.050</u>	<u>Short-term Vendor Permit</u>	<u>\$100</u>
<u>WMC 6.08.060</u>	<u>Application for Vendor Permit</u>	<u>\$100</u>
<u>WMC 6.08.070</u>	<u>Permit Conditions for Vendors</u>	<u>\$100</u>
<u>WMC 6.08.080</u>	<u>Operating Requirements for Vendors</u>	<u>\$100</u>
<u>WMC 6.08.090</u>	<u>Revocation or Suspension of Vendor Permit</u>	<u>\$100</u>
WMC 8.04.030	Sale of Fireworks	\$100
WMC 8.04.040	Use of Fireworks	\$100
WMC 8.08.010	Refuse Enclosure Required	\$100
<u>WMC 8.08.020</u>	<u>Refuse Unauthorized Use</u>	<u>\$100</u>
<u>WMC 8.08.030</u>	<u>Refuse Collection and Transportation</u>	<u>\$100</u>
WMC 8.08.040	Litter Unlawful	\$100
WMC 8.12.060	Nuisance	\$300
WMC 9.04.020	Lewd Conduct	\$200
WMC 9.08. 025 030(C)	Petty Theft in the First Degree	\$300
WMC 9.08. 035 030(D)	Petty Theft in the Second Degree	\$100 50
WMC 9.12.010	Discharge of Firearm	\$300 200
<u>WMC 9.12.030</u>	<u>Concealed Weapons</u>	<u>\$300</u>
<u>WMC 9.16.020</u>	<u>Curfew for minors age 17 or less - 1st Offense</u>	<u>Warning</u>
<u>WMC 9.16.020</u>	<u>Curfew for minors age 17 or less - 2nd Offense or more</u>	<u>\$100</u>
WMC 9.20.010	Trespassing	\$100
WMC 9.24.020	Vandalism per Violation	\$300 500
<u>WMC 9.24.030</u>	<u>Vandalism - Parent Civil Liability</u>	<u>\$300</u>
WMC 10.08.020	Obstruction of Right-of-Way	\$50
WMC 10.08.030	Unlawful Use of Two-Way Left-Turn Lane	\$100
WMC 10.12.020	Prohibited Operation of Off-Road Vehicles	\$50
WMC 10.12.030	Operation of Off-Road Vehicle by a Minor	\$100
WMC 10.12.040	Operation of Off-Road Vehicle Without Helmet	\$100
<u>WMC 10.12.050</u>	<u>Off Road Vehicles – Parent</u>	<u>\$100</u>

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	Responsibility	
WMC 10.12.060	Speeding of Off-Road Vehicle	\$100
<u>WMC 10.12.080</u>	<u>Off Road Vehicle Equipment</u>	<u>\$100</u>
<u>WMC 10.12.090</u>	<u>Off Road Vehicle Towing</u>	<u>\$100</u>
WMC 10.20.010	Stopping, Standing or Parking Where Prohibited	\$50 25
WMC 10.20.020	Parking to Display Vehicle for Sale	\$50
WMC 10.20.030	Stopping, Standing or Parking at Prohibited Time	\$50 25
WMC 10.20.040	Stopping, Standing or Parking Beyond Time Limit	\$50 25
WMC 10.20.050(A)	Unauthorized Use of Parking Reserved for Persons with Disabilities	\$300 100
WMC 10.20.050(B)	Unauthorized Use of Special License Plate or Permit Issued to a Person with a Disability	\$300 200
WMC 12.08.090	Posting of Assigned Street Addresses	\$50 30*
<u>WMC 12.12.030</u>	<u>Driveway Permits</u>	<u>\$250</u>
WMC 12.20.020	Motorized Uses on Lakes	\$100
<u>WMC 12.20.030</u>	<u>Prohibition of Motorized Uses on Lakes</u>	<u>\$100</u>
WMC 12.24.025	Violation of Park Rules	\$250
<u>WMC 12.24.030</u>	<u>Park Use Permits</u>	<u>\$250</u>
<u>WMC 12.28.020</u>	<u>Skate Devices – 1st Offense; device may be confiscated for 10 days</u>	<u>Warning</u>
<u>WMC 12.28.020</u>	<u>Skate Devices – 2nd Offense; device may be confiscated for 30 days</u>	<u>\$50</u>
<u>WMC 12.28.020</u>	<u>Skate Devices – 3rd Offense; device permanently confiscated</u>	<u>\$100</u>
WMC 13.08.020	Sewage Disposal	\$300
<u>WMC 13.08.030</u>	<u>Use of Public Sewer Required</u>	<u>\$300</u>
<u>WMC 13.08.050</u>	<u>Sewer Connection Permits</u>	<u>\$300</u>
<u>WMC 13.08.110</u>	<u>Control of Wastewater</u>	<u>\$300</u>
<u>WMC 13.08.120</u>	<u>Prohibitions Sewer and Wastewater</u>	<u>\$300</u>
WMC 13.08.140	Sewage Violations	\$300

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WMC 13.12.030	Wastewater Pretreatment Violations	\$300
<u>WMC 13.12.050</u>	<u>Excessive or Accidental Discharges</u>	<u>\$300</u>
WMC 13.20.060	Airport Violations	\$300
WMC 13.20. 270 070	Airport Animal Violations	\$300
WMC 16.08.090	Land Use Code Violations	\$300
<u>WMC 16.08.010</u>	<u>Permit for Land Development Required</u>	<u>\$300</u>
<u>WMC 16.32.050</u>	<u>Signs Prohibited</u>	<u>\$300</u>

*Citation must be dismissed if proof of correction is presented to the code enforcement officer within ~~fourteen~~ (14) days after the date of the citation. If the required correction is not made, the offense may be disposed of without court appearance upon payment of the fine amount listed.

Section 3. Amendment of sections. WMC 6.04.035 Review of application, 6.04.065 Suspension or revocation of business license, 6.04.075 Regulations, and 6.04.085 Violations - Remedies, in the Business Licenses Chapter, are hereby amended to read as follows:

6.04.035 Review of application.

A. The finance director shall issue a business license to an applicant upon finding that the application includes all required information, the applicant has paid any required application fee, and the applicant has satisfied the requirements of subsections B and C of this section.

B. The finance director shall review ~~refer~~ a business license application ~~for review by the finance department~~ to determine whether the applicant is delinquent in paying any amount to the city for any purpose ~~any tax or assessment, or any fee or charge for city utility service~~. The finance director ~~department~~ shall notify the applicant in writing of any delinquency that it finds. In response to the notice, the applicant shall either:

1. Provide evidence satisfactory to the finance director that the delinquent amount has been paid; or

2. Provide a plan for paying the delinquent amount ~~satisfactory to the finance director,~~ with security, satisfactory to the finance director, for the payment of the delinquent amount.

C. The finance director shall refer a business license application, other than an application to renew a business license, to ~~that was issued after the effective date of the ordinance codified in this chapter, for review by~~ the city planner to determine whether any structure, or use of land or a structure, where the applicant will engage in business does not conform to Title 16, or the terms and conditions of any rezoning, planning commission approval, or administrative approval granted under Title 16. The city planner shall notify the applicant in writing of any such nonconformity. In response to the notice, the applicant shall either:

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1. Provide evidence satisfactory to the city planner that the nonconformity has been corrected; or

2. Provide a plan for correction of the nonconformity satisfactory to the city planner, with security satisfactory to the city planner for the performance of the plan.

D. The finance director may investigate the financial condition and credit history of a business license applicant. ~~If, and if~~ the finance director finds that the financial condition or credit history of the applicant indicates a substantial risk that the applicant may will not make full and timely payment of sales tax as required under Chapter 5.16, the finance director may require the applicant to post a bond or other security to ensure ~~for such~~ full and timely payment.

6.04.065 Suspension or revocation of business license.

A. The finance director may suspend or revoke a business license when the finance director determines that the licensee is delinquent in paying sales tax under Chapter 5.16, or the licensee has failed to comply with the requirements of this chapter ~~Section 6.04.045 or 6.04.055.~~

B. The finance director shall not suspend or revoke a business license without first providing notice and an opportunity for a hearing on the suspension or revocation under this subsection.

1. At least fifteen (15) calendar days before suspending or revoking a business license, the finance director shall mail notice of the suspension or revocation by certified mail, return receipt requested, to the last-known address of the licensee.

2. The notice of proposed suspension or revocation shall identify the licensee, state any other name under which the licensee engages in business in the city, and describe the sales tax payment delinquency or other cause for the suspension or revocation, state that unless a hearing is requested, the finance director will suspend or revoke the licensee's business license under this section upon the expiration of ~~fifteen~~ (15) calendar days from the date of the notice, state that the right to a hearing will be waived if not timely requested, and the contact information ~~name, address, telephone number~~ of the finance director or other city representative to be contacted concerning the proposed suspension or revocation.

3. The licensee may request ~~obtain~~ a hearing on the proposed suspension or revocation ~~by requesting the hearing~~ in writing to at the office of the city clerk ~~finance director~~ not more than ~~fifteen~~ (15) calendar days after the date of the notice of proposed suspension or revocation.

C. Upon written request by the licensee, a hearing officer designated by the city clerk in compliance with Chapter 2.76, ~~finance director~~ shall conduct a hearing on the proposed suspension or revocation within ~~seven~~ 30 calendar days after the request for

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hearing. The sole issue before the hearing officer shall be whether one or more of the grounds stated in subsection A of this section for suspending or revoking the business license has occurred and is continuing. The hearing officer shall conduct the hearing in an informal manner ~~and shall not be bound by the technical rules of evidence~~. The licensee may appear, present evidence, and ~~cross~~examine witnesses. The hearing shall be recorded. Within ~~seven~~ **10 calendar** days after the conclusion of the hearing, the hearing officer shall prepare a written decision whether to suspend or revoke the business license, and provide a copy of the decision to the licensee **and the finance director**.

D. A hearing officer's decision suspending or revoking a business license shall include an order that the licensee immediately cease and desist from engaging in business in the city unless and until the business license is reinstated or reissued.

E. Any person aggrieved by the hearing officer's **written** decision under subsection C of this section to suspend or revoke a business license may appeal the decision to the **Alaska Superior Court in Palmer and governed by the 600 Series of the Alaska Rules of Appellate Procedure**, within ~~thirty (30)~~ **calendar** days after the date the decision was **given** mailed or delivered to the parties. **The city clerk shall estimate the cost of preparing the transcript of the hearing and compiling the record on the appeal. The appellant shall deposit the estimated costs for preparation of the transcript and record with the city clerk in advance. Upon completion of the record on appeal, the city clerk shall refund any excess deposit or charge to the appellant for costs exceeding the deposit or charge to the appellant for costs exceeding the deposit and any additional charges that were underestimated before the transcript is released. The hearing before the Superior Courts is an administrative appeal heard solely on the record established before the hearing office.** Unless the court orders otherwise, a decision to suspend or revoke a business license takes effect immediately upon its issuance.

6.04.075 Regulations.

The finance director may **implement** promulgate regulations and adopt forms to ~~implement, interpret or clarify~~ make specific the provisions of this chapter.

6.04.085 Violations – Remedies.

A. **Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.** ~~No person may:~~

1. ~~Engage in business in the city without a current business license required by this chapter.~~

2. ~~Knowingly submit false information in a document filed with the city under this chapter.~~

B. A person who is convicted of violating a provision of this subsection shall be subject to a fine of not more than **\$300** ~~one thousand dollars (\$1,000.00) plus any~~

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~~surcharge required to be imposed by AS 29.25.074, imprisonment for not more than ninety (90) days, or both such fine and imprisonment.~~

C. The city may bring a civil action to:

1. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.

2. Recover a civil penalty of one thousand dollars (\$1,000.00) for each violation of this chapter.

D. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

E. All remedies for violations of this chapter are cumulative and are in addition to any others existing at law or in equity.

Section 4. Adoption of subsection. WMC 2.76.040(A)(3), in the Administrative Hearing Officers chapter, is hereby adopted to read as follows:

A. Administrative hearing officers shall have jurisdiction over the following:

1. Appeals of a planning commission decision pursuant to Title 16; and
2. Classification, written orders and forfeiture of animals pursuant to Title 7.

3. Business License hearings, pursuant to Chapter 6.04.

Section 5. Amendment of section. WMC 7.32.050 Fines and infractions, in the Animal Care and Regulation title, is hereby amended to read as follows:

7.32.050 Fines for infractions.

A. The following fine schedule is established for violations of the following provisions of this title:

<i>Amount</i>		
<i>Section</i>	<i>Section Description</i>	<i>Fine</i>
7.04.030	Animal annoyance	\$50.00
7.04.040	Failure to provide sanitary enclosure	
	First offense	\$100.00
	Second offense, same person within 12 months	\$150.00
	Third offense, same person (within 12 months)	\$200.00

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7.04.050	Keeping diseased animals	
	First offense	\$100.00
	Second offense, same person within 12 months	\$150.00
	Third offense, same person (within 12 months)	\$200.00
7.04.060	Animals in public places	
	First offense	\$100.00
	Second offense, same person within 12 months	\$150.00
	Third offense, same person (within 12 months)	\$200.00
7.04.070(A)	Failure to restrain animal	
	First offense	\$100.00
	Second offense, same owner (within 12 months)	\$150.00
	Third offense, same owner (within 12 months)	\$200.00
7.04.070(C)	Release from restraint by non-owner	
	First offense	\$100.00
	Second offense, same person (within 12 months)	\$150.00
	Third offense, same person (within 12 months)	\$200.00
7.04.090	Cruelty to animals	\$300.00
7.04.100(D)	Failure to pay fees, costs and expenses	\$100.00
7.04.110(A)	Trapping domestic or domesticated animals	\$300.00
7.04.110(B)	Failure to check live trap	\$300.00
7.04.110(C)	Failure to provide humane care for trapped animals	\$300.00
7.04.110(D)	Failure to release in a timely manner	
	First offense	\$100.00
	Second offense, same person (within 12 months)	\$150.00
	Third offense, same person (within 12 months)	\$200.00
7.04.110(E)	Unlawful release of a trapped animal	
	First offense	\$100.00
	Second offense, same person (within 12 months)	\$150.00

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	Third offense, same person (within 12 months)	\$200.00
<u>7.12.030(A)</u>	<u>Interference with animal care and regulation officer</u>	<u>\$200.00</u>
<u>7.12.030(B)</u>	<u>Unlawful release of animal in custody of city</u>	<u>\$150.00</u>
<u>7.12.030(C)</u>	<u>Interference with investigation, reporting or prosecution</u>	<u>\$100.00</u>
<u>7.12.030(D)</u>	<u>Failure of citizen to notify or surrender detained animal</u>	<u>\$50.00</u>
<u>7.16.010(A)</u>	Failure to register dog or cat	
	First offense	\$0
	Second offense, same person (within 12 months)	\$75.00
	Third offense, same person (within 12 months)	\$100.00
<u>7.16.020(A)</u>	Failure to register kennel or cattery	\$150.00
<u>7.16.020(C)</u>	Failure to re-register kennel or cattery	\$75.00
<u>7.16.030</u>	Failure to update and provide registration information	\$50.00
<u>7.16.040(B)</u>	Failure to meet kennel or cattery requirements	\$200.00
<u>7.16.110</u>	Failure to comply with written administrative order	\$100.00
<u>7.28.050(J)</u>	Failure to spay or neuter adopted dog or cat	\$100.00
<u>7.20.030(B)</u>	<u>Filing fraudulent documentation</u>	<u>\$200.00</u>
<u>7.20.040(F)</u>	<u>Failure to comply with written release order</u>	
	<u>First offense</u>	<u>\$100.00</u>
	<u>Second offense, same person (within 12 months)</u>	<u>\$200.00</u>
	<u>Third offense, same person (within 12 months)</u>	<u>\$300.00</u>
<u>7.20.060(C)</u>	<u>Owning a Level 5 classification animal</u>	<u>\$300.00</u>
<u>7.20.070</u>	<u>Failure to notify of running-at-large classified animal</u>	
	<u>First offense</u>	<u>\$100.00</u>
	<u>Second offense, same person (within 12 months)</u>	<u>\$200.00</u>
	<u>Third offense, same person (within 12</u>	<u>\$300.00</u>

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	<u>months)</u>	
7.20.100(D)	<u>Failure to notify of change in ownership of a classified animal</u>	<u>\$250.00</u>
7.24.020(A)	Failure to immunize dog or cat for rabies	\$100.00
7.24.020(B)	Fraudulent rabies certificate	\$250.00
7.24.030(A)	Failure of doctors to report bite	\$150.00
7.24.030(B)	Failure of veterinarians to report rabies	\$150.00
7.24.030(C)	Failure of citizens to report bite	\$50.00
7.24.040	Failure to surrender animal for supervised quarantine	\$200.00
7.24.060(A)	Failure to report rabies of a quarantined animal	\$150.00
7.24.060(C)(1)	Unauthorized destruction of rabid animal	\$50.00
7.24.060(C)(2)	Failure of veterinarian to destroy rabid animal	\$50.00
7.24.060(D)(1)	Failure to surrender rabid animal	\$200.00
7.28.050(J)	<u>Failure to spay or neuter adopted dog or cat</u>	<u>\$100.00</u>
7.20.030(B)	Filing fraudulent documentation	\$200.00
7.20.040(F)	Failure to comply with written release order	
	First offense	\$100.00
	Second offense, same person (within 12 months)	\$200.00
	Third offense, same person (within 12 months)	\$300.00
7.20.060(C)	Owning a Level 5 classification animal	\$300.00
7.20.070	Failure to notify of running-at large classified animal	
	First offense	\$100.00
	Second offense, same person (within 12 months)	\$200.00
	Third offense, same person (within 12 months)	\$300.00
7.20.100(D)	Failure to notify of change in ownership of a classified animal	\$250.00
7.12.030(A)	Interference with animal care and regulation officer	\$200.00
7.12.030(B)	Unlawful release of animal in custody of city	\$150.00
7.12.030(C)	Interference with investigation, reporting or	\$100.00

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	prosecution	
7.12.030(D)	Failure of citizen to notify or surrender detained animal	\$50.00

B. — The fines set forth in subsection A of this section may not be judicially reduced.

Section 6. Amendment of section. WMC 8.12.060 Violations, enforcement, and penalties, in the Public Nuisance chapter, is hereby amended to read as follows:

8.12.060 Remedies ~~Violations, enforcement, and penalties.~~

A. Trash or junk determined to be a public nuisance under this chapter is a violation of city code.

B. Except as otherwise specified in this chapter violations of this chapter are infractions.

C. Remedies, ~~enforcement actions,~~ and penalties **for violations of** ~~specified in~~ this chapter **are as provided in** ~~shall be consistent with the terms and provisions of~~ Chapter 1.20 and Section 8.12.070 of this code.

D. The city shall recover all costs and fees for the clean-up and restoration of the property including: towing, storage, soil remediation, disposal fees, environmental restoration costs, attorney fees and court costs.

E. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

F. All remedies for violations of this chapter are cumulative and are in addition to any other existing at law or in equity.

Section 7. Amendment of chapter. WMC 9.08 Petty theft, is hereby amended to read as follows:

9.08.01530 Petty theft.

A. A person commits petty theft if:

1. With intent to deprive another of property or to appropriate property of another to oneself or a third person, the person obtains the property of another; or

2. The person commits petty theft by shoplifting under subsection B of this section.

B. A person commits petty theft by shoplifting if:

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1. The person knowingly takes or removes any merchandise, not purchased by the person from the premises of a commercial establishment, with intent to deprive the owner of the merchandise or with intent to appropriate the merchandise; or

2. Without authority the person knowingly conceals on or about the person the merchandise of a commercial establishment, not purchased by the person, while still upon the premises of the commercial establishment, with intent to deprive the owner of the merchandise or with intent to appropriate the merchandise. Merchandise found concealed upon or about the person which has not been purchased by the person is prima facie evidence of a knowing concealment.

9.08.025 Petty theft in first degree.

~~C.~~ A person commits petty theft in the first degree if the person commits petty theft as defined in **this chapter** ~~subsection A of this section~~ and the value of the property or services is ~~fifty dollars (\$50.00)~~ or more but less than ~~five hundred dollars (\$500.00)~~.

9.08.035 Petty theft in second degree.

~~D.~~ A person commits petty theft in the second degree if the person commits petty theft as defined in **this chapter** ~~subsection A of this section~~ and the value of the property or services is less than ~~fifty dollars (\$50.00)~~.

9.08.045 Remedies and penalties.

~~E.~~ Remedies and penalties for **violations of this chapter** ~~committing petty theft~~ are as provided in Chapter 1.20.

Section 8. Amendment of section. WMC 9.16.030 Violation - Penalty, in the Curfew chapter, is hereby amended to read as follows:

9.16.030 Remedies and penalties Violation - Penalty.

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

B. Offenders may be released to the control and custody of their parent and/or guardian or, after contacting a parent or guardian, a citation may be issued pursuant to Chapter 1.20. ~~First time offenders will be released to the control and custody of their parent or guardian with written notice that any subsequent violation(s) will result in an infraction violation being issued to the responsible parent with a civil fine in the amount of one hundred dollars (\$100.00). The provisions set forth hereafter in this section are made pursuant to the authority granted by AS 29.25.070, providing that a municipality may allow disposition of a violation without court appearance and may establish a schedule of fine amounts for such offenses in the instance of violations that cannot result in incarceration or the loss of a valuable license. A person charged with an offense pursuant to this curfew ordinance may dispose of the charge by paying the fine in the amount of one hundred dollars (\$100.00) and checking the "no contest" box on the citation form charging the curfew ordinance violation. Such disposition may be by mail or in person. The person may, alternatively, choose to appear in court and contest the~~

Underline, added. Strikethrough, deleted

~~citation. In such an event, there shall be no monetary bail amount required of a person so charged who responds to the summons provided for in the citation. Trial, if any, shall be held without jury. A person contesting a curfew violation citation shall not be entitled to a court appointed lawyer. If the court, conducting trial without jury, finds the person so charged guilty, no incarceration may be ordered and the maximum fine is to be one hundred dollars (\$100.00).~~

Section 9. Amendment of section. WMC 12.08.120 Enforcement, in the Street Classification and Design Standard chapter, is hereby amended to read as follows:

12.08.120 Remedies and penalties~~Enforcement.~~

Remedies and penalties for Any violations of this chapter are as ~~may be remedied in the manner~~ provided by Chapter 1.20.

Section 10. Adoption of section. WMC 12.12.090 Remedies and Penalties, in the Driveway Apron Construction chapter, is hereby adopted to read as follows:

12.08.090 Remedies and penalties.

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

Section 11. Amendment of section. WMC 12.28.030 Violation - Penalty, in the Skate Devices chapter, is hereby amended to read as follows:

12.28.030 Remedies and penalties~~Violation—Penalty.~~

A. The offense for any person, firm or corporation violating any provision of this chapter shall be as follows:

1. For the first offense a written warning shall be given and the skate device may be confiscated for ~~ten (10)~~ calendar days.

2. For the second offense a ~~fifty dollar (\$50.00)~~ fine shall be paid and the skate device may be confiscated for ~~thirty (30)~~ calendar days.

3. For the third offense a ~~one hundred dollar (\$100.00)~~ fine shall be paid and the skate device shall be permanently confiscated.

B. Upon the discretion of the court, community work service may be performed in lieu of payment of the fine.

C. The Wasilla City police department may confiscate skate devices as authorized in this section.

Underline, added. ~~Strikethrough, deleted~~

D. In cases involving a contested citation, a confiscated skate device shall be held as evidence, not released until a mandated court appearance is satisfied, and dealt with as ordered by the court.

Section 12. Amendment of section. WMC 13.08.140 Remedies and penalties, in the Sewer Service System chapter, is hereby amended to read as follows:

A. Upon a finding by the public works director that any person constructed a public sewer, private sewer or building sewer in violation of this chapter, the public works director may order any action necessary to ensure compliance with all provisions of this chapter.

B. Notice of an enforcement order will be served by the public works director in writing to the owner of the 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.

C. The public works director may at any time enter upon a property to discontinue sewer service without notice, upon determination that there is being discharged from the property materials deemed to be dangerous, injurious to treatment process or hazardous to any person, structure or treatment process.

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

E. Change of ownership or occupancy of premises 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. A property owner notified and found to be in violation of this chapter must permanently cease all violations.

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

H. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

I. All remedies for violations of this chapter are cumulative and are in addition to any other existing at law or in equity.

Section 13. Amendment of section. WMC 13.12.120 Remedies and penalties, in the Wastewater Pretreatment Requirements chapter, is hereby amended to read as follows:

Underline, added. Strikethrough, deleted

A. 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.

B. Notice of an enforcement order will be served by the public works director in person, in writing to the owner of the sewer building 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 owner shall be given.

C. Suspension of sewer service and/or suspension of a wastewater contribution permit, will be given by the public works director if 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 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 steps 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 discharge in noncompliance.

E. 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.

F. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.

G. All remedies for violations of this chapter are cumulative and are in addition to any other existing at law or in equity.

Section 14. Effective date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on August 26, 2013.


VERNE E. RUPRIGHT, Mayor

ATTEST:


KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

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CITY OF
WASILLA
 • ALASKA •







CITY COUNCIL LEGISLATION STAFF REPORT

Ordinance Serial No. 13-23: Amending Wasilla Municipal Code (WMC) Chapters 1.20 General Penalty, 6.40 Business Licenses, 7.32 Animal Care and Regulation, 8.12 Public Nuisance, 9.08 Petty Theft, 9.16 Curfew, 12.08 Street Classification and Design Standard, 12.12 Driveway, 12.12 Skate Devices, 13.08 Sewer Service System, and 13.12 Wastewater Pretreatment Requirements; all amendments are related to penalties, remedies and fees and associated process; and adopting a reference in 2.76, for the Administrative Hearing Officer to have jurisdiction of business licenses hearings.

Originators: Kristie Smithers, City Clerk and Gene Belden, Police Chief

Date: July 30, 2013

Agenda of: 8/12/2013

Route to:	Department Head	Signature	Date
X	Chief of Police		8/1/13
X	Public Works Director		7/30/13
X	Recreation & Cultural Services Director		7/31/2013
X	Finance Director		7/31/13
X	Deputy Administrator		7/31/13
X	City Clerk		7/30/13

Reviewed by Mayor Verne E. Rupright: 

Fiscal Impact: yes, possible increase in revenue or no

Funds Available: yes or no **Account name/number:**

Attachments: Ordinance Serial No. 13-23 (15 pages)

Summary Statement: Over the past several months, the City Clerk and Police Chief have been working with the Court to ensure our fine and penalty schedule is up to date. In our review, we have found several sections within the Wasilla Municipal Code (WMC) that were in need of attention. We have also worked with the City Attorney on this project. At this time we request concurrence of the City Council to update our general fines and penalties as attached in Ordinance Serial No. 13.23.

Below is a brief description of the items to be updated:

Section 2. Amending WMC 1.20, General Penalty. Reworded for clarity. Table shown in 1.20.030 is updated; see a brief description of corrections or additions to the table shown below or in detail following this section.

- WMC 6.08.020 corrected cite reference and added more references to vending citations.

- WMC 8.08 added fines in regard to refuse.
- WMC 9.12.030 added in regard to concealed weapons.
- WMC 9.24.030 added fine to schedule in regard to parent liability for vandalism.
- WMC 10.12 added several fines to schedule in regard to off-road vehicles.
- WMC 12.20.030 added new fine in regard to probation of motorized uses on lakes;
- WMC 12.24.030, corrected and added a cite in regard to park rules.
- WMC 12.28, added fines to schedule regarding skate devices.
- WMC 13.20.270 is correct cite for animal violations at the airport.
- WMC 16.08.010 and 16.32.050, added to fine schedule in regard to land development.

Section 3. Amending WMC 6.04.065 Suspension or Revocation of Business License, 6.04.075 Regulations, and 6.04.085 Violations - Remedies, in the Business Licenses Chapter. Reworded for clarity; added new hearing process. Corrected cite in fine schedule to be WMC 6.04.015, in table in 1.20.030.

Section 4. Adoption of subsection WMC 2.76.040(A)(3) to include Business Licenses hearings in the Administrative Hearing Offices jurisdiction.

Section 5. WMC 7.32.050 Fines and Infractions, in the Animal Care and Regulation title. Fine amounts amended and arranged in order by code cite.

Section 6. WMC 8.12.060, Violations, Enforcement, and Penalties, in the Public Nuisance chapter. Reworded for clarity and added items E and F for consistency as in other similar offenses which may occur more than one day.

Section 7. Amending WMC 9.08, Petty Theft. Section numbers now included; minor grammatical changes throughout. Corrected cites in fine schedule table in 1.20.030.

Section 8. Amending WMC 9.16.030, Violation – Penalty in the Curfew chapter. Section reworded for clarity. Added new cite to fine schedule table in 1.20.030.

Section 9. Amending WMC 12.08.120, Enforcement, in the Street Classification and Design Standard chapter. Retitled and reworded for clarity.

Section 10. Adopting a new subsection 12.12.090 in the Driveway Apron Construction chapter. Added new WMC 12.12.090, Remedies and Penalties section. Added new cite to fine schedule table in 1.20.030.

Section 11. Amending WMC 12.28.030, Violation – Penalty in the Skate Devices chapter. Reworded for clarity. Added new cite to fine schedule table in 1.20.030.

Section 12. Amending WMC 13.08.140, Remedies and Penalties, in the Sewer Service System chapter. Added new subsections H and I for consistency, as in other similar offenses which may occur more than one day. Added new cites to fine schedule table in 1.20.030; removed wrong cite from table in 1.20.030.

Section 13. Amending WMC 13.12.120 Remedies and Penalties, in the Wastewater Pretreatment Requirements chapter. Added new subsections F and G for consistency; as in other similar offenses which may occur more than one day. Added new cite to fine schedule table in 1.20.030.

Staff Recommendation: Introduce and set for public hearing Ordinance Serial No. 13-23.