

DISTRICT BOARD
SUNDOWN SANITARY DISTRICT

ORDINANCE NO.)	
)	AN ORDINANCE AMENDING
2006-1-1)	ORDINANCE 2004-12-2 TO PROVIDE FOR
)	RECOVERY OF COSTS, DAMAGES AND
)	ATTORNEY FEES RESULTING FROM
)	ANY VIOLATION OR ENFORCEMENT OF
DISTRICT)	ORDINANCES AND DECLARING AN
)	EMERGENCY AS AUTHORIZED BY
)	ORS 198.550(3)

The District Board of SUNDOWN SANITARY SEWER DISTRICT ordains as follows:

ARTICLE ONE.

PURPOSE, AUTHORITY, POLICY,
PROCEDURE AND CONSTRUCTION
OF THIS ORDINANCE

1.1 Purpose. This Ordinance amendment is to provide for the recovery of costs and damages, including recovery of attorney fees by the prevailing party resulting from violation or enforcement of District Ordinances.

1.2 Authority. Pursuant to ORS 450.130, the Sundown Sanitary District is authorized to enforce sewer rules and regulations and the District Board hereby approves the following rules and regulations to allow for the recovery of the cost of such enforcement.

1.3 Policy. Users to the sewer system should be charged rates that reflect the operation of this system as a public utility in the District. Persons who cause additional costs to the District users by violation of the District Ordinances,

including but not limited to, failure to make payments when due should pay the costs of enforcement of the District's Ordinances.

1.4 Procedure. Based upon the provision for payment of costs to enforce the District Ordinances, the prevailing party would be entitled to recovery of costs and damages including attorney fees determined to be reasonable by the Court ruling on the enforcement action pursuant to Oregon Rules of Civil Procedure 68.

1.5 Construction. This Ordinance shall be construed most favorably to provide all necessary authority to carry out the above purposes, policies and authority and the below designated rules and regulations.

ARTICLE TWO.

SEWER REGULATIONS

Ordinance 2004-12-2 is amended to include the following:

2.18 Recovery of Costs and Damages.

2.18.1 Any person or persons, who as a result of violation or non compliance with any of the provisions of the District's Ordinances, cause expense, loss or damage to the District, shall immediately become liable to the District for the full sum of such expense, loss or damage. The Board may, at its discretion, instruct the attorney for the District to proceed against any such person or persons, in any court of competent jurisdiction, to bring a civil action under the name of the District, for the enforcement of the respective ordinance provisions and recovery of the full sum of such expense, loss, damage or non-payment of user fees and

assessments sustained by the District together with costs and attorney fees, whether or not litigation is filed, and at both trial and on appeal.

ARTICLE THREE. ADOPTION


3.1 **Affective Date.** This Ordinance shall become effective immediately upon adoption by the Board pursuant to ORS 198.550.

ARTICLE FOUR. DECLARATION OF EMERGENCY

4.1 An emergency is hereby declared because of the need to establish the Ordinance to enable the District to collect the amounts owed to it in order to pay its obligations as they become due. It is anticipated that if the non-emergency type of adoption were used, the District would not be able to collect its cost to recover obligations owed to it or would result in a delay of income, both of which would result in an economic hardship to the District. This Ordinance will be in full force and effect from and after its passage by the District Board pursuant to ORS 198.550.

PASSED by the unanimous consent of the District Board members present at a meeting attended by a quorum of the Board this 18th day of January, 2006.

Sundown Sanitary Sewer District

By: 
Steve McNulty
Board President

By: Eileen Chevront
Eileen Chevront
Board Secretary

ATTEST:

Walt Postlewait
Walt Postlewait, Board Member

Approved as to Form:

W. Louis Larson
W. Louis Larson
Attorney for District

By: Eileen Cheuvront
Eileen Cheuvront
Board Secretary

ATTEST:

Walt Postlewait
Walt Postlewait, Board Member

Approved as to Form:
W. Louis Larson
W. Louis Larson
Attorney for District

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SUNDOWN SANITARY DISTRICT
DISTRICT BOARD
NOTICE OF ADOPTION OF
EMERGENCY ORDINANCE
ORS 198.560(3)

ORDINANCE 2006-1-1

NOTICE IS HEREBY GIVEN that the District Board of the Sundown Sanitary District held its regular meeting of the Board on January 18, 2006 at 7:00 p.m. at Astoria High School Commons, 1001 W. Marine Drive, Astoria, OR 97103. At that meeting, an Emergency Ordinance, Ordinance 2006-1-1 was duly introduced, read twice and put on its final passage with the opportunity for public testimony and Board discussion.

Ordinance 2006-1-1 was passed by unanimous approval of all Board Members of the Board present. The Ordinance was entitled:

AN ORDINANCE AMENDING ORDINANCE 2004-12-2 TO PROVIDE FOR RECOVERY OF COSTS, DAMAGES AND ATTORNEY FEES RESULTING FROM ANY VIOLATION OR ENFORCEMENT OF DISTRICT ORDINANCES AND DECLARING AN EMERGENCY AS AUTHORIZED BY ORS 198.550(3)

The Ordinance was effective at 7:30 p.m., January 18, 2006.

A copy of the Ordinance is on file for inspection at the office of the District's attorney, Larson & Fischer, 990 Astor Street, Astoria, OR 97103. A copy is also on file at the County Clerk's Office, 820 Exchange Street, 2nd Floor, Astoria, OR 97103. A copy of the Ordinance is available for inspection at all three locations during normal business hours.

/s/ Steve McNulty
District Board President
Sundown Sanitary District

Publication Date: January 23, 2006