

ORDINANCE NO. 2246

ORDINANCE REPEALING PREEXISTING SELAH MUNICIPAL CODE CHAPTER 1.41
AND RECODIFYING THOSE TOPICS WITHIN A NEW SELAH MUNICIPAL CODE
CHAPTER 20.03

WHEREAS, City staff has recommended that the currently-existing Chapter 1.41, labeled "Service Fees", of the Selah Municipal Code (SMC) should be repealed and replaced by a to-be-enacted new Chapter 20.03, labeled "Fees and Consequences Due to Non-Payment or Late Payment", so as to conform with changes that have been recently implemented by City management, to promote better organization of the SMC, and also to implement additional substantive changes; and

WHEREAS, the City Council finds that good cause exists;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, does hereby ordain as follows:

Section 1. Repeal of SMC Chapter 1.41. That SMC Chapter 1.41, which presently reads and provides as follows:

Chapter 1.41 SERVICE FEES

1.41.010 Service fees.

The clerk-treasurer is authorized to charge and collect twenty dollars for each incident in which a draft, check or other negotiable instrument is presented, which is later dishonored or unpaid.

The service fee shall be imposed against the person who is benefited by the payment, i.e., utility customer, recreation program participant, etc. If a minor, the guardian will be responsible.

1.41.020 Delinquent fees for water, sewer and garbage bills.

The clerk-treasurer is authorized to charge and collect ten dollars for each delinquent water and sewer bill and three dollars for each delinquent garbage bill. State agencies and school districts shall be exempt from assessment of delinquency fees for water, sewer and garbage bills.

; shall be and hereby is fully repealed.

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Section 2. Enactment of SMC Chapter 20.03. That a new SMC Chapter 20.03, to read as follows:

Chapter 20.03 FEES AND CONSEQUENCES DUE TO NON-PAYMENT OR
LATE PAYMENT

20.03.010 Handling Fee for Dishonored Check.

Unless prohibited by other law or the terms of a written agreement or written contract that the city validly entered into, a handling fee of forty dollars (\$40.00) shall be imposed by the city for each instance in which a check, draft or other instrument whereon the city was designated as a payee or recipient is or becomes fully or partially dishonored for any reason – including but not limited to nonsufficient funds, a closed account, a stop payment order, temporary hold, fraud, identity theft, incompleteness or irregularity. If other law or the terms of a written agreement or written contract that the city validly entered into specifies a lesser handling fee in a specific instance, then such lesser amount shall be applicable in that instance.

Such handling fee shall be imposed for each and every instance, it shall be imposed in addition to and irrespective of any delinquency fee or other item, and it shall be imposed jointly and severally against each and every maker, endorser, drawer, person or entity who – as an actual payor or purported payor – made, endorsed, drew, negotiated or delivered the check, draft or instrument; provided however, the mayor, city administrator or the delegatee(s) of either, if any, shall have discretion to reduce or waive the handling fee in rare circumstances when good cause exists.

20.03.020 Multiple Dishonored Checks within Twelve Months.

Unless prohibited by other law or the terms of a written agreement or written contract that the city validly entered into, if a person or entity – as an actual payor or purported payor – makes, endorses, draws, negotiates or delivers more than two checks, drafts or other instruments in any combination whereon the city was designated as a payee or recipient that are or become fully or partially dishonored for any reason within any period of 366 days in duration, the city shall no longer accept any personal or business check, draft or other similar instrument from such person or entity, whether exclusively or jointly, until at least 366 days have elapsed since the date of dishonor of the most-recent dishonored check, draft or instrument that was provided to the city by such person or entity. If other law or the terms of a written agreement or written contract that the city validly entered into specifies a greater number of dishonored items prior to a probationary period of time applying in a specific instance or specifies a probationary period of a lesser duration in a specific instance, then such number and such duration shall be applicable in that instance.

During such probationary period of time, the city shall only accept payment from

such person or entity in the form of cash, credit card, a cashier's check, a money order or other form whereby payment is either guaranteed or immediately validated; provided however, the mayor, city administrator or the delegatee(s) of either, if any, shall have discretion to reduce or waive the probationary period of time in rare circumstances when good cause exists.

20.03.030 Notice of Dishonor; Court Action by City.

Consistent with RCW 62A.3-515 in its presently-existing form or any amended or readopted form, or pursuant to other applicable law, the city may issue a notice of dishonor and pursue all court remedies due to dishonor of any check, draft or other similar instrument for any reason other than a justifiable stop payment order – including but not limited to monetary interest, collection costs, attorneys' fees, and additional damages of three times the face amount of the dishonored check, draft or instrument, or, if lessor, three hundred dollars (\$300.00). However, if the terms of a written contract or agreement that the city validly entered into specifies lessor remedies in a specific instance, such lessor remedies shall apply in that instance.

Prior to instituting any court action due to a dishonored item, the city attorney or his/her delegatee(s), if any, shall seek and obtain approval to do so from the city council consistent with RCW 35A.12.100 in its presently-existing form or any amended or readopted form, or pursuant to other applicable law.

20.03.040 Utility Account Delinquency Fee.

Unless prohibited by other law or the terms of a written agreement or written contract that the city validly entered into, a one-time delinquency fee of thirty dollars (\$30.00) shall be imposed by the city upon a utility account for each instance in which the utility account – whether for water, sewer, garbage, or any combination thereof – enters delinquent status for any amount. If other law or the terms of a written agreement or written contract that the city validly entered into specifies a lessor delinquency fee in a specific instance, then such lessor amount shall be applicable in that instance.

Such one-time delinquency fee shall be imposed for each and every instance, and it shall be imposed in addition to and irrespective of any handling fee or other item; provided however, only one delinquency fee may be imposed per billing cycle even if the customer is delinquent on multiple utility services during such cycle; provided further, the mayor, city administrator or the delegatee(s) of either, if any, shall have discretion to reduce or waive the delinquency fee in rare circumstances when good cause exists.

20.03.050 Suspension of Utility Service.

Utility service to a customer or property – whether for water, sewer, garbage, or any combination thereof, and whether provided directly by the city, by a third-party

contractor acting on the city's behalf, or any combination thereof – may be suspended by the city due to delinquency of payment of any amount until the delinquency is fully resolved. SMC Title 9 specifies when a delinquency occurs.

20.03.060 Property Lien for Unpaid Utility Fees and Charges.

All delinquent utility fees, charges, items, and any combination thereof, shall become a lien against the title of the real property location or locations where the utility service or any portion thereof was provided by the city or was enjoyed by or benefited the customer. SMC Title 9 specifies how a lien shall be recorded and foreclosed. By contrast, a handling fee due to a dishonored check, draft or item is imposed against a person or entity and not against real estate, and, thus, a handling fee shall not be included within any pre-judgment lien and may only be included within a post-judgment lien following court action.

20.03.070 Financial Obligations Owed to City Under a Written Contract.

Unless prohibited by other law or the terms of a written agreement or written contract that the city validly entered into, the city may – via immediate action by the mayor, city administrator or their delegatee(s), if any – suspend providing contractual benefits, rights, privileges, immunities, tenancy, occupancy, service, or any combination thereof, to any person or entity when such person or entity fails to make full and timely payment to the city as required by the terms of a written agreement or written contract between the city and such person or entity.

; shall be and hereby is enacted.


Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Corrections. The City Attorney and the codifiers of the SMC are authorized to make any necessary or desirable clerical or formatting changes – including but not limited to correcting scrivener errors; changing formatting; eliminating bold, italic and underscore emphasis; changing numbering; and correcting references – when publishing or republishing the official text of any section(s), Chapter(s), title(s) or other portion(s) of the SMC due to any amendment, addition, alteration, change, impact or enactment effectuated by this Ordinance.

Section 5. Publishing & Effective Date. Consistent with RCW 35A.12.130 (3rd ¶) and .160 (1st and 2nd ¶¶), this Ordinance or a summary of it shall be published at least once in the City's official newspaper prior to the Ordinance taking effect.


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PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH,
WASHINGTON this 11th day of February, 2025.



Roger Bell, Mayor

ATTEST:



Courtney McGarity, City Clerk

APPROVED AS TO FORM:



Rob Case, City Attorney