

Introduced by: Mayor
Date: July 15, 1975
Hearing: August 19, 1975
Vote: 113 "Yes", 9 "NO"
Action: Enacted

KENAI PENINSULA BOROUGH

ORDINANCE 75- 45

AN ORDINANCE PROVIDING THE PROCEDURE FOR DISTRAINT AND SALE, OF PERSONAL PROPERTY, FOR DELINQUENT PERSONAL PROPERTY TAXES PURSUANT TO A.S. 29.53.220.

WHEREAS, the Assembly of the Kenai Peninsula Borough has authorized distraint of personal property; and

WHEREAS, there is not now a procedure established by ordinance for distraint, and sale; and

WHEREAS, such procedure should be established pursuant to A.S. 29.53.220; and

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That Section 25.05.095 of the Kenai Peninsula Borough Code of Ordinances is repealed and reenacted as follows:

Section 25.05.095. Distraint and its Procedure

The lien of personal property taxes may be enforced by distraint and sale of property, according to the provisions of A.S. 29.53.220. The procedure for distraint and sale of property shall be as follows:

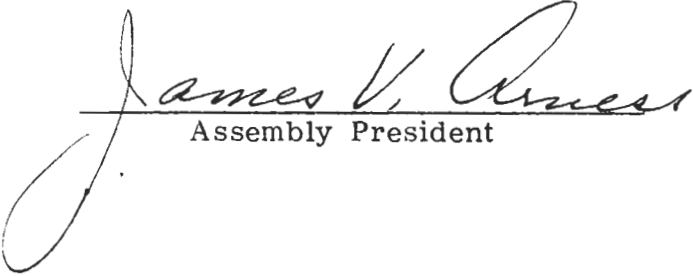
- (A) The tax collector shall have first made written demand on the person assessed, by ordinary mail to his last known address, pursuant to K.P.C. 25.05.110.

- (B) The Borough Clerk shall issue a distraint warrant to a peace officer, after a determination has been made by the Borough Attorney pursuant to K.P.C. 25.05.110. The warrant shall include a description of the property subject to distraint; the amount and year of the taxes, penalty, and interest, costs to-date and total amount then due; and the date, time, and place of sale.
- (C) A copy of the distraint warrant shall be left with the owner, or possessor of the property, or at his dwelling, or usual place of business, with a person of suitable age and discretion, or if the taxpayer is a corporation, then with an officer, manager, or an agent for process.
- (D) The Borough Clerk shall cause at least one notice to be published in a newspaper of general circulation within the borough, setting out the description of the property distrained, and the time and place of sale.
- (E) The sale shall be by public auction set not less than 15 days after the date of the first publication, nor more than 60 days after the date of seizure. The Borough Tax Collector may adjourn the sale from time to time, but not for more than 90 days in all after seizure. The property shall be restored to the owner upon payment of taxes, penalty, interest and total cost, providing said payment is made prior to the time of sale, and by cash.
- (F) Property under distraint shall be sold at public auction, offering the property at not less than its fair minimum price, as estimated by the Borough Assessor. Should a bid not be received for the minimum value of the property, it may either be stricken off to the borough, or returned to the owner, in the discretion of the Borough Tax Collector. If stricken off to the borough, the borough may dispose of it as it sees fit.

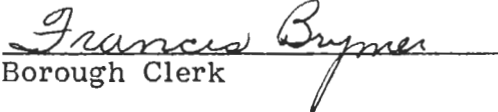
- (G) The actual proceeds, or credit for the minimum price if stricken off to the borough, of the sale, shall be applied first to costs, then to interest, then to penalty, and then to taxes, after which, any excess shall be given over to the owner, by check. The terms of all sales hereunder shall be cash. The former owner of the property, shall be served by mail, at his last known address with the results of the sale.
- (H) Should the sale proceeds be insufficient to pay the costs, taxes, penalty and interest, a supplemental warrant may be issued. In no event shall the costs assessed, at any sale, exceed 20% of the value realized at said sale.

Section 2. This ordinance takes effect immediately upon enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 19 DAY OF August, 1975.


Assembly President

ATTEST:


Borough Clerk

Kenai Peninsula Borough
Ordinance 75-45
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