

Introduced by: Nash
Date: March 7, 1991
Hearing: April 2, 1991
Vote: Unanimous
Action: Enacted

KENAI PENINSULA BOROUGH

ORDINANCE 91-11 (SUBSTITUTE II)

REPEALING THE PROVISIONS OF KPB 5.18.330 PROVIDING FOR THE PUBLICATION OF CURRENT BUSINESSES, ADDING A NEW SECTION KPB 5.18.620 FOR PROVIDING FOR QUARTERLY PUBLICATION OF DELINQUENT BUSINESSES, AND AMENDING KPB 5.18.540 TO REMOVE THE CONFIDENTIALITY ON PAYMENT AGREEMENTS.

WHEREAS, KPB 5.18.330 (A) requires the Borough to maintain for public inspection an index of current certificates of registration of businesses, updated at least quarterly; and

WHEREAS, KPB 5.18.330 (B) requires the annual publication of a list of all businesses with a then-current certificate of registration; and

WHEREAS, KPB 5.18.540 (A) provides that sales tax returns of sellers who comply with the sales tax code are confidential, and that the returns of those who do not comply are open to public inspection and publication except for payment agreements payable in less than thirty days; and

WHEREAS, there is sometimes confusion in the general public as to which publication represents which classification of business; and

WHEREAS, the purpose of publication is to force compliance with the sales tax code;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That KPB 5.18.540 (C) is amended to read as follows:

C. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any seller

or agent of any seller required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within 30 days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise [, WHICH DOES NOT PROVIDE FOR PAYMENT IN FULL OF ALL TAXES, INTEREST, PENALTIES, FEES, COSTS, OR OTHER PAYMENTS REQUIRED BY THIS CHAPTER WITHIN 30 DAYS OF THE DATE OF THE AGREEMENT,] shall not act as any prohibition to disclosure of the records of that seller as otherwise provided in this chapter.

Section 2. That 5.18.330 is amended by repealing subsection B.

Section 3. That 5.18.620 (D) is amended to read as follows:

D. Sellers who have not filed returns for (2) two consecutive reporting periods shall be assumed to have ceased conducting business and shall be removed from the roll of active business [AS FOLLOWS:

1. AS SOON AS PRACTICABLE AFTER THE EXPIRATION OF 30 DAYS FOLLOWING THE END OF THE SECOND CONSECUTIVE REPORTING PERIOD IN WHICH A RETURN IS NOT FILED, THE MAYOR SHALL PUBLISH IN A NEWSPAPER IN GENERAL OR CUSTOMARY CIRCULATION IN THE APPROPRIATE AREA OF THE BOROUGH, A LIST OF ALL SELLERS WHO HAVE NOT SO FILED AND ARE THEREFORE ASSUMED TO NO LONGER BE CONDUCTING BUSINESS IN THE KENAI PENINSULA BOROUGH. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ADDITIONAL PUBLICATIONS IN SUCH OTHER NEWSPAPERS AS THE MAYOR SHALL AUTHORIZE].

[2.]

Section 4. That 5.18.620 is amended by adding a new subsection F to read as follows:

F. As soon as practicable after the expiration of thirty days following the end of each calendar quarter, the Mayor shall publish in a newspaper of general or customary circulation in the appropriate area of the borough, a list of every seller who:

1. Was conducting business in the borough and was required to file a return during that quarter, but who has not filed the required return, unless seller has paid any balance due for that period in full;

2. Did not pay all balances due, as long as the balance due is greater than \$100; or

3. Owe taxes, penalty or interest pursuant to a payment agreement unless the payment agreement requires payment in full within 30 days of the date of execution of the agreement.

Section 5. That sections 1, 2, and 3 of this ordinance shall become effective immediately upon enactment. Section 4 of this ordinance shall become effective immediately upon enactment, except as it applies to any seller who has executed a payment agreement with the borough on or before the date of enactment, as long as the seller is at the time of enactment and remains in compliance with that agreement and all other borough tax ordinances.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 2nd DAY OF APRIL 1991.


James W. Skogstad, Assembly President

ATTEST:


Acting Borough Clerk