Chapter 9.08 Enforcement of Local Improvement District Assessments

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9.08.010 Validity. Certified assessment rolls are valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll. (Prior code 13A-400.1).

9.08.020 Assessments to be liens. Assessments, together with penalty and interest, are liens upon the property assessed and are prior and paramount to all other liens or encumbrances against the property except municipal tax liens. (Ord. 88-14 §5, 1988; Prior code 13A-400.3).
a.By mail to a holder of a mortgage or other lien of record on the real property; and
b.By certified mail to a holder of a mortgage or other lien on the real property who requests the Clerk in writing to provide notice of a foreclosure list which includes such real property. (Ord. 90-18(A) §1, 1990; Prior code 13A-400.10).

9.08.030 Assessment collection. The City shall enforce delinquent assessment liens by foreclosure. (Prior code §13A-400.5).

9.08.040 Foreclosure list.
a. The City shall:
1. Annually, present a petition for judgment and a certified copy of the foreclosure list for delinquent assessments in the Superior Court. Improvement districts may be foreclosed individually, or more than one district may be combined in a single petition.
2. Publish the foreclosure for four consecutive weeks in a newspaper of general circulation distributed within the City or, if there is no newspaper of general circulation distributed with the City, post the list at three public places for at least thirty days;
3. Within ten days after the first publication or posting, mail to the last known owner of each property as his name and address appear on the list a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.
b. The list shall be arranged in alphabetical order as to the name and shall include:
1. The last known owner;
2. The property description as stated on the assessment roll;
3. Years and amounts of delinquency;

4. Penalty and interest due;
5. A statement that the list is available for public inspection at the Clerk's office;
6. A statement that the list has been presented to the Superior Court with a petition for judgment and decree.
c. Completion of the requirements of subsection a. of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list. (Ord. 91-2 §1 1991; Ord. 90-28, §4, 1990; prior code §13A-400.6).
9.08.050 Clearing delinquencies. During the publication or posting of the foreclosure list and up to the time of transfer to the City a person may pay the assessment, together with the penalty, interests and costs. The collector shall note payment on the foreclosure list. (Prior code §13A-400.8).

9.08.060 Notice to lien holders. In addition to the notice to the last known owner pursuant to subsection 9.08.040 a.3., the same notice shall be sent:
a. By mail to a holder of a mortgage or other lien of record on the real property; and
b. By certified mail to a holder of a mortgage or other lien on the real property who requests the Clerk in writing to provide notice of a foreclosure list which includes such real property. (Ord. 90-18(A) §1, 1990: Prior code §13A-400.10).

9.08.065 Costs of notice to be lien. Costs incurred in the determination of owners of record and holders of mortgages and other liens of record and costs of publication and other notice incurred by the City under this chapter are a lien on the property and shall be recovered by the City. (Ord. 90-18(A) §2, 1990).

9.08.070 Answer and objection. A person having an interest in a tract on the foreclosure list may file an answer within thirty days of the date of last publication, specifying his objection. The Court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the assessment is valid and that the assessment is unpaid. (Prior code 13A-400.12).

9.08.080 Judgment. The Court shall in a proper case give judgment and decree that the assessment liens be foreclosed. It is a several judgment against and lien on each parcel. Prior code 13A-400.14).

9.08.090 Transfer and appeal. a. Foreclosed properties are transferred to the City for the lien amounts. When answers are filed the Court may enter judgment against and order the transfer to the City of all other properties on the list pending determination of the matters in controversy. The Court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.
b. The Court Clerk shall deliver a certified copy of the judgment and decree to the City Clerk. The certified judgment and decree constitutes a transfer to the city.
c. The judgment and decree stops objections to it which could have been presented before judgment and decree.
d. Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be made in the manner provided for appeals in civil actions. (Prior code 13A-400.16).

9.08.100 Redemption period. Properties transferred to the City shall be held by the City for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs, including all costs incurred under this chapter and recoverable pursuant to 9.08.065. Property redeemed is subject to all taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property. (Ord. 90-28 §6, 1990; Ord. 88-14 §8, 1988; Prior code 13A-400.18).

9.08.110 Effect. Receipt of redemption money by the Clerk releases the judgment obtained through foreclosure. (AS 29.45.410). The clerk shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The Clerk shall file the certificate with the recorder and collect the recording fee from the person redeeming at the time of redemption. The Court Clerk shall file the certificate as part of the judgment roll. (Ord. 88-14 §9, 1988; Prior code 13A-400.20).

9.08.120 Additional liens. If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien. (Prior code 13A-400.22).

9.08.130 Possession during redemption period. Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under

his permission or control, the City may declare an immediate forfeiture of the right to possession. (Prior code 13A-400.24.

9.08.140 Expiration. At least thirty days before the expiration of the redemption period the Clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the City immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the City. The notice is published once a week for four consecutive weeks in a newspaper of general circulation within the City. If there is no newspaper of general circulation within the City, the notice is posted in three public places for at least four consecutive weeks. The Clerk shall send a copy of the published notice by certified mail to each record owner of the property against which a judgment of foreclosure has been taken and to all holders of mortgages or other liens of record on the property (AS 29.45.440(a)). The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner at the last address of record. The right of redemption shall expire thirty days after the date of the first publication notice. (Ord. 90-28 §7, 1990; Ord. 90-18(A) §3, 1990; Ord. 88-14 §10, 1988; Prior code 13A-400.26).

9.08.150 Deed to City. a. Upon expiration of the redemption period, the Borough Clerk or the Clerk of the Superior Court shall deed unredeemed properties to the City subject to the payment by the City of unpaid taxes of the Kenai Peninsula Borough. The deed shall be recorded in the Homer Recording District.
b. Conveyance gives the City clear title except for prior recorded tax liens of the United States, the State of Alaska and the Kenai Peninsula Borough.
c. No deed is invalid for irregularities, omissions or defects unless the former owner has been mislead so as to be injured. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner or other person having an interest in the property is forever barred. (Ord. 90-28 §8, 1990; Prior code 13A-400.26[2].)

9.08.152 Release of priority liens. In order to protect the title of the City, the City Council may by motion authorize the City Manager to secure the release of any priority lien on the property deeded to the City. (Ord. 90-28 §9, 1990).

9.08.155 City disposition of foreclosed properties. Foreclosed properties deeded to the City shall be classified pursuant to 18.06.042 of this Code and may be retained by the City or offered for sale pursuant to the applicable provisions of Title 18. (Ord. 90-28 §10, 1990).

[1] For statutory provisions authorizing cities to enforce tax liens, see AS 29.45.290-29.45.500. See Title 18, Property Management, as to the classification and disposition of foreclosed properties.

Prior ordinance history: Ordinances 76-16, 80-05, and 88-14; prior code 13A-400.

[2] Editors Note: The prior code contained two sections numbered 13A-400.26.

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