

CITY OF HOMER, ALASKA

ORDINANCE 90-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, REGARDING THE ENFORCEMENT OF ASSESSMENT AND TAX LIENS VIA FORECLOSURE AND THE ACCEPTANCE, CLASSIFICATION AND DISPOSITION OF FORECLOSED PROPERTIES CONVEYED TO THE CITY, REVISING TITLE 9 AND TITLE 18 OF THE HOMER CITY CODE.

Section 1. Section 9.04.020 of the Homer City Code is hereby deleted.

Section 2. Section 9.04.030 of the Homer City Code is hereby amended to read as follows:

9.04.030 Real and personal property tax--liability, assessment and collection. a. All real and personal property located within the corporate limits of the City which is not exempt from taxation by state law or City Code is subject to and liable for an annual tax for City purposes. ~~Such taxes shall be collected by the Kenai Peninsula Borough under the authority of the Alaska Statutes, Title 29, Chapter 53. The collection of such taxes shall be accomplished in accordance with the provisions of the Kenai Peninsula Borough Code, Chapter 5, and the Alaska Statutes, Title 29, Chapter 53.~~

b. The Kenai Peninsula Borough shall assess and collect the taxes levied by the City in accordance with AS 29.35.170, AS 29.45 and Chapter 5.12 of the Kenai Peninsula Borough Code.

Section 3. Section 9.04.040 of the Homer City Code is hereby amended to read as follows:

9.04.040 Annual tax levy. By June 15 of each year the City Council shall establish the rate of the annual levy by resolution, by resolution, the annual property tax levy rate and notify the Kenai Peninsula Borough Assembly of said rate.

Section 4. Chapter 9.08 of the Homer City Code is hereby amended to read as follows:

9.08.040 Foreclosure list. a. The City shall:

1. Annually, present in the Superior Court a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent assessments in the Superior Court for judgment. Improvement districts may be foreclosed individually, or more than one district may be combined in a single petition.

Section 6. Section 9.08.100 of the Homer City Code is hereby amended to read as follows:

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 Section 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.

Section 7. The first sentence of § 9.08.140 of the Homer City Code is hereby amended to read as follows:

9.08.140 Expiration. At least 30 days before the expiration of the redemption period the Clerk shall publish a redemption period expiration notice.

Section 8. Section 9.08.150 of the Homer City Code is hereby amended to read as follows:

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 misled 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.

Section 9. New § 9.08.152 of the Homer City Code is hereby created to read as follows:

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 property deeded to the City.

Section 10. Section 9.08.155 of the Homer City Code is hereby repealed and re-enacted to read as follows:

Section 14. Section 9.08.160 of the Homer City Code is hereby amended and recodified as new Section 18.02.065, to read as follows:

18.02.065 Foreclosed property subject to repurchase by record owner. a. Foreclosed property conveyed to the City may be repurchased by the record owner at the time of tax foreclosure of property acquired by the City, or his assigns, if such repurchase occurs may,--at-any-time before the sale or contract of sale of the tax-foreclosed property by the City,--repurchase-the property. The--City--shall--sell--the--property; The Owner may repurchase the property, for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight fifteen percent a year from the date of entry of judgment of foreclosure to the date of repurchase, together-with delinquent taxes and assessments levied as though it had continued in private ownership, and the cost of foreclosure and sale.

b. After adoption of an ordinance providing for the retention of a-tax-foreclosed property by the-municipality City for a public purpose pursuant to subsection 18.06.042, the right of the former record owner to repurchase the property ceases.

Section 15. Section 9.08.170 of the Homer City Code is hereby amended and recodified as new Section 18.12.055, to read as follows:

18.12.055 Proceeds of sale of foreclosed properties. a. Use On sale of foreclosed real property, the proceeds of such sale shall be first applied to the cost assessment, accrued interest, penalty,--and--costs, of collection and then divided between the Kenai Peninsula Borough and the City. The division is in proportion to the respective municipal taxes and assessments against the property at the time of foreclosure.

b. If foreclosed real property that has been held by the City for less than ten years after the close of the redemption period, and never designated to be retained for a public purpose pursuant to subsection 18.06.042, is sold at a foreclosure sale, the former record owner is entitled to the portion of the proceeds of the sale that exceeds the amount of unpaid taxes and assessments, the amount equal to taxes and assessments that would have been levied after foreclosure if the property had continued in private ownership, penalty, interest, and costs to the Kenai Peninsula Borough and City of foreclosing and selling the property.

c. If the former record owner is entitled to a portion of the proceeds of sale under subsection b., the City shall provide the former owner of the property written notice advising of the amount of the excess and the manner in which

a claim for the balance of the proceeds may be submitted. Notice is sufficient under this subsection if mailed to the former record owner at the last address of record of the former record owner. On presentation of a proper claim, the City shall remit the excess to the former record owner. A claim for the excess filed after six months of the date of sale is forever barred.

Section 16. New § 18.06.044 of the Homer City Code is hereby created to read as follows:

18.06.044 Payment of taxes on foreclosed property retained for public purpose. If the City retains foreclosed property for a public purpose pursuant to § 18.06.042, it shall satisfy unpaid taxes and assessments against the property held by the Kenai Peninsula Borough, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed value of the property, the City shall pay the Borough the assessed value.

Section 17. The second sentence of section 18.12.010 of the Homer City Code is hereby amended to read as follows:

The City Council shall have the authority to determine by resolution at a regular meeting when said property is no longer required for public purposes and to authorize the sale thereof; except no property acquired by the City through a foreclosure proceeding shall be sold unless an ordinance retaining the property for public purpose or classifying it for sale shall previously have been adopted pursuant to Section 18.05.042.

Section 18. This ordinance is of a general and permanent nature. Sections 1 through 17 are intended for inclusion in the city code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER,  
ALASKA, this 10<sup>th</sup> day of September, 1990.

THE CITY OF HOMER, ALASKA

  
JOHN P. CALHOUN, MAYOR

AYES: 6  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

ATTEST:

Mary L. Shannon  
~~Patti J. Whalin, CMC~~ MARY L. Shannon  
City Clerk

(City Seal)

First Reading:  
Public Hearing:  
Second Reading:  
Effective Date:

Reviewed and approved as to form and content:

C. E. Swickham  
C. E. Swickham, City Manager  
Date: 9-11-90

Gordon J. Tans  
Gordon J. Tans, Perkins Coie  
Date: 9/17/90