

Introduced by: Mayor  
Date: 08/06/24  
Hearing: 09/03/24  
Action: Enacted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2024-24**

**AN ORDINANCE AUTHORIZING RETENTION OR SALE OF CERTAIN REAL  
PROPERTY CONVEYED TO THE KENAI PENINSULA BOROUGH THROUGH TAX  
FORECLOSURE PROCEEDINGS**

**WHEREAS,** certain real property has been deeded to the Kenai Peninsula Borough (“KPB”) through tax foreclosure proceedings pursuant to AS 29.45.290 et seq. for delinquent payment of taxes; and

**WHEREAS,** these parcels have been reviewed by the KPB School District, all KPB administrative departments, service areas, cities, and the Planning Commission; and

**WHEREAS,** the KPB administration recommends certain parcels be retained for the public purpose, as noted; and

**WHEREAS,** in accordance with AS 29.45.460(c), notice of hearing of this ordinance was sent by certified mail to the former owners of record; and

**WHEREAS,** in accordance with KPB 5.12.320, notice of sale will be published in a newspaper(s) of general circulation in the KPB no less than 30 days before the date of the sale and posted within that time in at least three (3) public places in the KPB;

**WHEREAS,** the KPB will, up to 5:00 pm the day prior to the date of auction, extend the right to repurchase properties retained for public purpose and foreclosed properties that are scheduled for sale; and; and

**WHEREAS,** the Planning Commission conducted a public hearing during its regularly-scheduled meeting on August 12, 2024, and recommended approval by unanimous consent;

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

**SECTION 1.** That the real property listed and described in EXHIBIT A, incorporated herein by reference, is designated as tax foreclosed parcels retained for a public purpose with a recommended classification, pursuant to KPB 5.12.310.

- SECTION 2.** That it is hereby determined that a public need for the parcels listed in EXHIBIT B, incorporated herein by reference, does not exist and they are hereby designated as tax foreclosed parcels eligible for sale and may be sold by auction, pursuant to KPB 5.12.320.
- SECTION 3.** That the Mayor is hereby authorized to market and sell the real property designated as foreclosed parcels for sale for an amount not less than the judgment amount for delinquent taxes, plus penalties, interest and any and all other related costs as certified by the finance department for cash at a public outcry auction. All real property is to be sold as is, where is, subject to any and all encumbrances, restrictions of record, zoning ordinances, and any and all plat requirements and covenants.
- SECTION 4.** That in the event a parcel is sold for an amount in excess of the delinquent taxes, penalties, interest and any other related costs, excess sale proceeds for that parcel may be subject to proportioned additional sale fee incurred by KPB for Auction Services as defined in the contract for auction services.
- SECTION 5.** That once all deductions have been tabulated, the KPB Finance Director, or designee, will provide written notice to the former record owner(s) of the real property advising of the excess sale proceeds amount and the manner in which a claim for the balance of the proceeds may be submitted. Notice is sufficient if mailed to the former fee owner(s) at their last known address as disclosed by KPB assessor records. Upon presentation of a proper claim, KPB will remit excess sale proceeds to the former owner(s) of record. Per AS 29.45.480, a claim for excess proceeds which is filed after six (6) months from the date of the auction is forever barred. Upon expiration of the above claim period, all unclaimed excess sale proceeds are to be deposited in the KPB Land Trust Investment Fund, except for those parcels having delinquent amounts due to KPB for sales tax or other KPB liens. In those instances, the amounts required to payoff said delinquency or lien will be paid from the unclaimed excess sale proceeds prior to being deposited in the Land Trust Investment fund.
- SECTION 6.** That the Assembly authorizes the Mayor to conduct a live outcry auction, or online auction, or a combination thereof of the tax foreclosed real property listed in Exhibit B. The auction is to be held on October 5, 2024, at the Soldotna High School Auditorium, 425 West Marydale Ave., Soldotna, Alaska. Public notice will be prominently placed on the KPB's webpage in a consolidated location and on an official social media account of the KPB. In the event the KPB Administration is unable to proceed with the outcry auction on the designated date, the KPB Administration will reschedule the outcry auction to a date not more than 60 days later than the date designated in this Ordinance.

**SECTION 7.** That the Assembly hereby makes an exception to KPB 5.12.320(A)(2) and finds that the notice of sale must be published in a newspaper of general circulation in the Kenai Peninsula Borough no less than five (5) calendar days before the date of the sale. A notice of sale no less than five (5) calendar days before the date of the sale is in accordance with KPB 17.10.110 relating to disposition of interests in KPB land and complies with state law notice requirements relating to disposition and sale of foreclosed property. As set forth in Section 6, alternative public notice methods for the sale will also be provided in accordance with KPB 1.08.180. The notice must contain a brief description of the land, the general location of the land and the terms of the sale as fixed by the Assembly by this ordinance.

**SECTION 8.** That the Assembly finds it is in the best interests of the KPB to require tax foreclosure sale bidders to be Alaska residents. As a condition of bidder registration, bidders must provide a valid Alaska's driver's license or State of Alaska issued identification as proof of Alaska residency. In addition, through this residency restriction, KPB, as a political subdivision of the State, is furthering the State's purpose and intent in prioritizing the conveyance of Alaska lands to Alaska residents. Pursuant to AS 38.05.055, for state land sales, public auction or sale by sealed bid is restricted to bidders who have been residents of the state for at least one year immediately preceding the date of the sale. As a political subdivision of the State, the Assembly finds the state law compelling. Specific to foreclosed properties, restricting the tax foreclosure sale to Alaska residents is reasonable and necessary due to the challenges often presented by such properties. The KPB's interest is in returning foreclosed properties to the tax rolls and to provide residents an avenue to use local knowledge to discern whether a property is fit for a particular purpose.

**SECTION 9.** That the Mayor must execute and deliver to the buyer of any of the sale parcels a tax foreclosure deed specifically without any warranty or representation. Said deed will convey any and all interest KPB may have in the subject parcel, expressly reserving mineral rights, if any, to KPB. Prospective buyers are on notice by this Ordinance and by other means of publication or public notice of the terms of the sale. KPB has no expressed or implied knowledge of said parcels and does not guarantee any right, title or interest in and to any of the parcels sold nor to any improvements that may be located on said parcels. It is the burden of potential buyers to determine condition of title prior to bidding at the sale. KPB will be held harmless from any and all claims regarding title or possession to, and future use and enjoyment of, any of the parcels to be sold. Potential buyers are advised that KPB, at its sole discretion, reserves the right to withdraw any and or all of the parcels listed for sale.

**SECTION 10.** That \$20,511.93 is appropriated from the Land Trust Fund Account No. 250.2120.49999 to Account No. 250.2120.45110 to satisfy tax obligations pursuant to AS 29.45.290 for those parcels specifically being retained by KPB for a public purpose.

**SECTION 11.** That parcels repurchased by the former owner of record, or their heirs or assigns, on or by 5:00 p.m. AKST on October 4, 2024, will be removed from Exhibit A or Exhibit B, as applicable.

**SECTION 12.** That Section 1 shall become effective on October 4, 2024 at 5:01 p.m. AKST.

**SECTION 13.** That Section 2 through Section 11 shall be effective immediately.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF SEPTEMBER, 2024.**

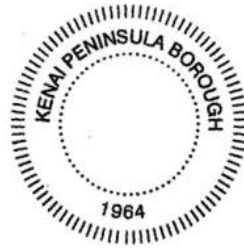
*Brent Johnson*

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Brent Johnson, Assembly President

ATTEST:

*Michele Turner*

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Michele Turner, CMC, Borough Clerk



Yes: Cooper, Cox, Ecklund, Elam, Ribbens, Tunseth, Tupper, Johnson

No: None

Absent: Hibbert