

Introduced by: Mayor
Date: 09/07/21
Action: Adopted
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2021-066**

**A RESOLUTION APPROVING AN AGREEMENT FOR TRANSFER OF
DELINQUENT FINES AND OTHER DEBTS FOR COLLECTION IN MINOR
OFFENSE CASES BETWEEN THE ALASKA COURT SYSTEM AND THE KENAI
PENINSULA BOROUGH**

- WHEREAS,** in January of 2020, the assembly passed Ordinance 2019-39 repealing the previous Junk and Abandoned Vehicles ordinance and enacting a new version; and
- WHEREAS,** the updated version aligned the borough’s procedures with those outlined in Alaska Statutes; and
- WHEREAS,** the Junk and Abandoned Vehicle ordinance introduced infractions to the KPB Code of Ordinances in place of civil fines which had previously been the standard; and
- WHEREAS,** infractions were recommended because they involved no cost to the borough, were easier to enforce, and guaranteed that a person accused of a violation was provided speedy access to a judicial officer; and
- WHEREAS,** based upon the success of the infraction process with junk and abandoned vehicles, in April of 2020, the assembly passed Ordinance 2020-10 amending further sections of the KPB Code of Ordinances from civil fines to infractions and creating a simple table listing those infractions; and
- WHEREAS,** since the passage of Ordinance 2019-39, approximately 44 citations have been issued but not all were able to be served; and
- WHEREAS,** voluntary payment on the citations, despite payment going to the Alaska Court system has been low with less than one-quarter of the citations paid to date; and
- WHEREAS,** the court system sends reminders and allows individuals the opportunity to contest the citation at no cost; and
- WHEREAS,** only when a person refuses to pay or respond in any way does the court system issue a default which would make the citation eligible for transfer; and
- WHEREAS,** upon transfer the citation information would still need to be cross-verified against PFD information to ensure that the correct person’s PFD is being garnished; and

WHEREAS, the agreement would greatly increase the ability of the borough to collect on the amounts owed while not infringing on the rights of the individuals , all at no cost to the borough;

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

SECTION 1. That the agreement between the Alaska Court System and the Kenai Peninsula Borough for the transfer of delinquent fines and other debts for collection in minor offense cases is hereby approved. The mayor is authorized to execute an agreement substantially in the form of the attached agreement.

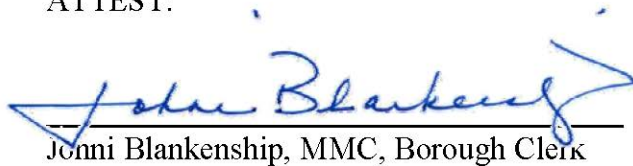
SECTION 2. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF SEPTEMBER, 2021.

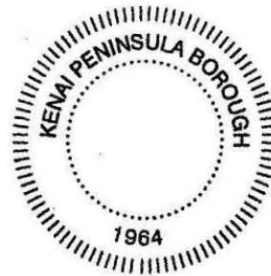


Brent Hibbert, Assembly President

ATTEST:



Jonni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No: None
Absent: Carpenter

**AGREEMENT BETWEEN THE ALASKA COURT SYSTEM AND KENAI PENINSULA
BOROUGH REGARDING THE TRANSFER OF DELINQUENT FINES AND OTHER DEBTS
FOR COLLECTION IN MINOR OFFENSE CASES**

The Kenai Peninsula Borough (the borough) and the Alaska Court System (the court system) agree as follows:

1. Borough's Readiness

- a. Technical Specifications. The borough has reviewed and agrees to comply with the technical specifications for receiving electronic information from the court system's electronic case management system, currently CourtView. A copy of the current Technical Specifications and Data Elements is attached. The court system will notify the borough of changes in the specifications.
- b. Ability to Import Data. The borough has successfully imported test data from the court system showing that the borough has the ability to electronically import collection records from court system.
- c. Permanent Fund Dividend RPII Memorandum of Agreement. The borough has entered or agrees that it will enter into an agreement with the Permanent Fund Dividend Division to file electronic garnishments.
- d. Account Password Agreement. The borough agrees to designate up to three borough personnel to have access to the collection records provided by the court system. The borough understands that each designated borough employee is required to sign an Account Password Agreement. A copy of the Account Password Agreement is attached.

2. Administrative Bulletin 43

The borough agrees to comply with applicable sections of Administrative Bulletin No. 43 and any future revisions to that bulletin. A copy of the bulletin is attached. The court will notify the borough of changes in the bulletin other than additions to the list of cities in section IV.A.2 that are authorized to serve writs on the PFD Division electronically.

3. Electronic Transfer Procedures

The court system will provide the borough with an electronic file containing the necessary data elements for debts that are transmitted electronically. The Information Services (IS) department of the court system is responsible for developing the format and delivery method for transferring the electronic file.

- a. The court system agrees to transfer information on the obligations listed in sections 4, 5, and 6 of this agreement.
- b. The court system will place the information in electronic files on a secure court system server so that the files are accessible only to the borough and the court system.
- c. The borough agrees not to alter in any way the information received from the court system or to add additional costs or charges without prior written approval of the court system.

- d. The borough agrees that it will not electronically garnish any permanent fund dividends for any debts that were not transferred to it electronically by the court.¹
- e. If the borough obtains additional identifying information for the debtor (for example, SSNs) from its own sources (for example, police files, tax rolls), it may include that information when it executes on the PFD. The borough must ensure that additional identifying information is matched to the correct debtor.
- f. The borough agrees that all data provided to it by the court system will be electronically imported into its database or other collection system. The borough agrees that it will not manually input the data into its collection system.
- g. The court will issue the borough a continuing Writ of Execution.² The borough agrees to permanently retain this writ and make it available for inspection upon request by a debtor.

4. Costs to Be Transferred for Collection

- a. Existing Judgments. Judgments for costs listed in 4.b that were entered more than five years before the effective date of the original agreement will not be transferred because Civil Rule 69(d) requires that a motion be filed before a writ of execution can be issued if five years have elapsed without a writ being issued on a judgment. These debts will be transferred within 30 days after the effective date of the original agreement.
- b. New Judgments. The court system agrees to electronically transfer the following to the borough within 30 days after the due date. The borough agrees to accept these debts for collection.

Minor Offenses

- (a) Fines
- (b) Police Training Surcharges Owed to the State³
- (c) Court Costs Owed to the State (Minor Offense Rule 10(e))⁴
- (d) Collection Costs Owed to the City (Minor Offense Rule 10(f))⁵

5. Debts Owed to the State

¹ For example, if a city has obtained a small claims judgment against a debtor, the city may not include that debt in its collection procedures under this agreement because that judgment would not be included in any electronic transfer from the court system to the city under this agreement.

² For more information on the Continuing Writ of Execution see Administrative Bulletin 43, Section III.D.

³ Police Training Surcharges are ordered under AS 12.55.039. These surcharges must be deposited in the state's general fund as required by AS 12.55.039(d) and AS 29.25.074. Under AS 29.25.074, a municipality may not enforce a penalty for violation of an ordinance for which AS 12.55.039 requires a surcharge unless the municipality authorizes the imposition of and provides for the collection of this surcharge.

⁴ Minor offense default judgments require the defendant to pay \$35 in court costs. Minor Offense Rule 10(e). Unlike collection costs, which belong to the city, court costs belong to the State of Alaska.

⁵ See Section 6 of this agreement for more information.

- a. The borough agrees to collect the following costs for the State of Alaska, maintain accurate records of the amount each defendant owes and the amount paid or collected and transfer all payments as follows:

(1) Police Training Surcharges

The borough agrees to transfer all police training surcharges at least quarterly by check to:

Alaska Police Standards Council
P.O. Box 111200
Juneau, AK 99811-1200

The check should be made payable to the State of Alaska. The check will then be deposited into the State's Revenue Account pursuant to AS 12.55.039(f). It is **not** necessary to include a list of the case numbers and defendants' names.

(2) Court Costs

The borough agrees to transfer all court costs collected to the court system as follows:

(a) When:

on January 2, April 1, July 1, and September 1 each year.

on the 1st of each month.

(b) How:

(i) Mail the check and an Excel spreadsheet to:

Fiscal Operations/Centralized Accounting
Alaska Court System
820 West 4th Avenue
Anchorage, AK 99501

The check must be made payable to: "Alaska Court System."

The excel spreadsheet must list the case numbers, defendants' full names, and the amount of court costs collected in each case. An example is attached.

(ii) In addition, the borough agrees to **email** the Excel spreadsheet to: CentralizedAccounting@courts.state.ak.us

- b. The borough further agrees that before assigning debts owed to the State of Alaska to a private collection agency, the borough must receive written authorization from the administrative director of the Alaska Court System. The court system will authorize collection by a private collection agency only if there is no cost to the state, unless otherwise approved by the Department of Law Collections Unit.

The administrative director agrees that the borough may assign debts owed to the State of Alaska to a private collection agency as long as there is no cost to the state to do so.

6. Borough Collection Costs

Under Minor Offense Rule 10(f), the court will assess the defendant \$35 in collection costs in minor offense cases when the fine and surcharges are transferred to the borough for collection. Collection costs belong to the borough. The borough agrees that it will **not** assess additional collection costs for seizing the PFD, even if its actual expenses exceed \$35, without prior written approval of the administrative director of the court system.⁶

7. Record of Payments, Credits and Refunds

For all debts transferred for collection, the borough agrees to maintain an accurate accounting of the amount each defendant owes, including all payments, credits and refunds.

8. Priority of Claims Against PFD

AS 43.23.065 establishes the priority of claims against permanent fund dividends. Because fines, court costs, collection costs, and surcharges have different priorities, the borough agrees that collection costs, court costs, and surcharges will not be combined with the fine. Instead, the fine, each cost, and the surcharges will be garnished separately. The borough further agrees that funds received from the Permanent Fund Dividend Division will be separately accounted for and allocated between the borough and the State of Alaska according to the priority specified in the statute. See attached chart entitled "Priority of Claims Against PFD."

9. Objections to Permanent Fund Dividend Seizure

If the borough seizes a permanent fund dividend and the defendant notifies the borough that a mistake has been made, the borough agrees that it will immediately attempt to determine whether the borough has made a mistake and, if so, correct the mistake. If the matter cannot be resolved within fifteen calendar days, the borough agrees to inform the defendant that (a) the defendant can file an objection with the court system; and (b) this objection must be filed with the court within 30 calendar days from the date the Permanent Fund Dividend Division mailed notice to the defendant that the defendant's dividend was seized.

10. Integration

This agreement and all attachments and amendments embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

⁶ The \$35 collection cost is for electronic executions on the PFD. If a city elects to seize other property to satisfy the judgments, the city must request a writ of execution from the court. For service of that writ, the defendant may be assessed collection costs in the amount authorized by Civil Rule 69 and Administrative Rule 11.

Court: Stacey Marz, Administrative Director
Alaska Court System
820 W. Fourth Ave.
Anchorage AK 99501

Fax No: (907) 264-8291
Email: smarz@akcourts.gov

- b. Upon termination, the borough will transfer information regarding the balance due on each case to the court system. The transfer must occur no later than 10 days after the termination date. The borough agrees to preserve all records regarding writs of execution, payments, credits, and refunds and to provide this information to the court system upon request.

13. Effective Date of Original Agreement: _____

KENAI PENINSULA BOROUGH

ALASKA COURT SYSTEM

Charlie Pierce, Mayor

Stacey Marz
Administrative Director

Date: _____

Date: _____

Attachments:

Administrative Bulletin 43
Technical Specifications and Data Elements
Excel Spreadsheet for Transferring Court Costs to Fiscal Operations Alaska Court System
Chart of Priority of Claims Against PFD

Distribution:

Original to Administrative Director
Duplicate Original to City Collections Department

Copy to: IS Applications Manager
IS CMS Manager
Clerk of Court