

CITY OF PALMER, ALASKA

ORDINANCE NO. 479

AN ORDINANCE AMENDING CHAPTER 3.12, PROPERTY TAX, OF TITLE 3, REVENUE AND TAXATION, OF THE PALMER MUNICIPAL CODE.

THE CITY OF PALMER, ALASKA, ORDAINS:

Preamble. The City's current property tax ordinance, codified as Chapter 3.12, adopts the Matanuska-Susitna Borough property tax ordinance. After the City had passed its 1995 budget set its mill rate, and levied taxes to cover its budget, the Borough Assembly repealed the Borough's personal property tax. The Assembly's action was done with minimal notice to the City, without any consultation with the City, and apparently without knowledge of the negative impact on the City. The Borough Mayor has vetoed the action of the Assembly but the Assembly may try to override the Mayor's veto. This Ordinance 479 attempts to cure the emergency caused by the Assembly's action by amending Chapter 3.12 to retain the City's personal property tax to meet its budget already adopted. This Ordinance is effective only if the Assembly overrides the Borough Mayor's veto or otherwise repeals or reduces the Borough's personal property tax in any way.

Section 1. Classification. This ordinance shall be of a permanent nature and shall become a part of the City of Palmer Code of Ordinances.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Chapter 3.12 is amended in its entirety to read as follows:

Chapter 3.12

ASSESSMENT AND TAXATION

Sections:

- 3.12.010 Definitions.
- 3.12.020 Taxing authority-Assessor.
- 3.12.030 Required exemptions.
- 3.12.035 Optional exemptions.
- 3.12.040 Property subject to taxation.
- 3.12.050 Property tax assessments.
- 3.12.060 Methods of assessment.
- 3.12.070 Assessment procedure.
- 3.12.080 Personal property subject to taxation.
- 3.12.090 Tax situs of personal property.
- 3.12.100 Filing personal property tax returns.
- 3.12.110 Independent investigation.
- 3.12.120 Responsibility of corporate officers and directors; corporate filings.
- 3.12.130 Late filing.
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- 3.12.150 Failure to file.
- 3.12.160 Disclosure of ownership.
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- 3.12.200 Board of equalization-Appeal.
- 3.12.210 Board of equalization.
- 3.12.220 Board of equalization-Hearing.
- 3.12.230 Enforcement of tax obligations.
- 3.12.240 Rates of penalty and interest and collection of administrative costs.
- 3.12.250 Foreclosure list.
- 3.12.260 Refund of taxes.
- 3.12.270 Penalty for violation.
- 3.12.280 Incorporation.

3.12.010 Definitions.

(A) In this chapter, unless otherwise provided:

(1) "Assessor" means the Borough assessor or representative, provided that if the Borough assessor refuses to perform some or all of the duties of assessor hereunder, then "assessor" means the city assessor/finance director or designee to the extent that the Borough assessor fails to perform the duties hereunder set forth in this chapter 3.12.

(2) "Clerk" means the clerk of the board of equalization.

(3) "Board of equalization" means the quasi-judicial administrative entity duly appointed by the Borough Assembly for the purpose of hearing appeals from a property value determination of the assessor; provided, however, if the Assembly-appointed Board shall refuse to perform some or all duties of the board of equalization hereunder, then "board of equalization" means the quasi-judicial administrative entity duly appointed by the council for the purpose of hearing appeals from a property value determination of the assessor.

(4) "Full and true value" means the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(5) "Municipality" means a political subdivision incorporated under the laws of the state that is a home-rule or general-law city, a home-rule or general-law borough, or a unified municipality.

(6) "Person" includes any individual, firm, co-partnership, corporation, company, association, club, joint venture, estate, trust, or any other group or entity.

(7) "Personal property" means any tangible property other than real property, including but not limited to, merchandise, stock in trade, machinery, equipment, furniture, fixtures, vehicles, boats, and aircraft.

(8) "Real property" means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.

(9) "Tax year" means January 1 through December 31.

(10) "Borough" means Matanuska-Susitna Borough.

3.12.020 Taxing authority-Assessor/Finance Director.

The city may assess, levy, and collect ad valorem property taxes, subject to law.

3.15.030 Required exemptions.

(A) The property listed in AS 29.45.030 is exempt from general taxation, subject to the requirements set out in that statutory section.

(B) An application for exemption shall be filed no later than March 15 of the assessment year for which the exemption is requested. The assessor may accept an exemption application after March 15 of the assessment year for which the exemption is requested only upon a showing of good cause. Good cause, for purposes of waiver of the filing deadline, is a written explanation by a medical doctor which unequivocally establishes that the person seeking the exemption was physically or mentally incapacitated and therefore unable to submit a timely application or to appoint an authorized representative to file an exemption application on his behalf.

(C) Laws exempting certain property from execution under the code of civil procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

(D) A person may appeal the assessor's denial of an application for the exemption of property from taxation. The appeal shall be filed with the assessor, in writing, setting forth with specificity the explanation in support of the reason for the appeal, within 15 days of the assessor's determination to deny the exemption application. The assessor's decision on the appeal may be filed as an administrative appeal to the superior court, which appeal shall be on the record on which the assessor based his or her decision.

3.12.035 Optional exemptions.

(A) The assessor may, upon proper application, classify and exempt from taxation:

(1) The property of an organization not organized for business or profit-making purposes and used exclusively for community purposes if the income derived from rental of that property does not exceed the actual cost to the owner of the use by the renter;

(2) Historic sites, buildings, and monuments;
 (3) Land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the State of Alaska and the conveyance includes a covenant restricting use of the land to agricultural purposes only.

(B) Motor vehicles shall be subject to an annual motor vehicle registration tax levied and collected by the State of Alaska in accordance with AS 28.10.431. The annual motor vehicle registration tax is in lieu of city ad valorem taxation of the vehicle, until such time as the council acts to tax vehicles locally.

3.12.040 Property subject to taxation.

(A) All property not exempt under the Alaska State Constitution, the laws of the State of Alaska, the ordinances of the city, or the laws of the United States is subject to taxation. When any real property otherwise exempt from taxation pursuant to state or federal law, or for any other reason is leased, loaned, or otherwise made available to, and used by private persons, such persons' interest therein shall be taxed.

(B) Property taxes, with collection charges, penalties, interest, and maintenance costs are prior and paramount liens upon the property.

(C) All property subject to taxation shall be annually taxed at its full and true value as of January 1 of each tax year, except as provided in this section, AS 29.45.060, and AS 29.45.230.

3.12.050 Property tax assessments.

The assessor shall annually compile a list of all property subject to property taxes for the tax year. The assessor shall actually appraise all property subject to tax in the city.

3.12.060 Methods of assessment.

(A) Full and true value. The assessor shall appraise property at its full and true value as of January 1 of the assessment year, except as provided by state law.

(B) Personal property which has a tax situs within the city on January 1 of the tax year is subject to taxation at the rates applicable to real property in the location within the city where the personal property is most often found.

(C) Private leaseholds, contracts, or other interest in land or property owned or held by the United States, the state, or other political subdivisions, shall be taxable to the extent of the private interest.

(D) Methods to be used to assess business inventories. The city may use any lawful method to establish the full and true value of business inventory.

3.12.070 Assessment procedure.

(A) The assessor shall annually assess and list on the assessment roll all real and personal property in accordance with the procedures contained in AS 29.45.110(a).

(B) The assessor shall complete the annual assessment roll in accordance with the procedures contained in AS 29.45.240.

(C) The assessor may list property on a supplemental assessment roll in accordance with the procedures contained in AS 29.45.220.

(D) Real property shall be assessed to the owner of record in accordance with AS 29.45.160(b).

(E) Upon certification of the assessment roll, the assessor may not invalidate a tax assessment pursuant to AS 29.45.160(b).

(F) The description of real property on the assessment roll or other tax documents issued by the city or the borough is sufficient if it provides a reasonably certain identification of the property.

3.12.080 Personal property subject to taxation.

Personal property with a tax situs within the city is subject to taxation, unless exempt as provided by law.

3.12.090 Tax situs of personal property.

(A) All personal property which has a tax situs within the city on January 1 of the tax year is subject to taxation. Tax situs means the principal place where an item of personal property is located, having due regard to the residence and domicile of its owner, the place where it is registered or licensed, whether it is taxed by other municipalities, and any other factors which may indicate the principal location of the property.

(B) Tax situs, conclusive presumptions.

(1) Tax situs shall be conclusively presumed to be within the city when the property either singly or in combination:

- (a) has been or is usually used in the city;
- (b) has been or is kept or used in the city for 90 days or more in the months preceding the January 1 assessment;
- (c) has been or is kept or used in the city for any length of time preceding January 1 of the assessment year if such presence or use is intended to be permanent; "permanent" in this subsection means for a period of 90 days or more.

(2) Tax situs shall:

- (a) conclusively be presumed to be within the city where the ownership, maintenance, or use of such property requires a license or permit, and a license or permit has been issued by the State of Alaska or the city, and;
- (b) the property is so licensed or permitted and either the actual residence address or the mailing address of the licensee or permittee, or of the permissive user of the property, is in the city; or
- (c) the property is licensed or the permit issued and the domicile of the licensee or permittee, or the permissive user of the property is in the city; this subsection applies to property within the custody of persons or entities outside of the city; or
- (d) the property licensed or permitted is issued and the property is permanently outside the city when such licensing frees the owner or user or custodian of liability for similar taxes in any other taxing jurisdiction.

3.12.100 Filing personal property tax returns.

Personal property tax returns must be filed on or before March 15 of each tax year in accordance with AS 29.45.120.

3.12.110 Independent investigation.

The assessor, in accordance with AS 29.45.130, may make an independent investigation of property listed on a return or of any taxable property on which no return has been filed.

3.12.120 Responsibility of corporate officers and directors; corporate filings.

It shall be the responsibility of every director and principal officers of a corporation owning or controlling business personal property or inventory to ensure that timely and proper filings are made on behalf of the corporation for each tax year. Failure on the part of any director or principal officer of a corporation to file a timely and proper tax return is punishable as a misdemeanor under this title.

3.12.130 Late filing.

If the property tax which is levied results from a delinquent filing of a personal property tax return, penalty, interest, and administrative costs shall be applied to the property, pursuant to §3.15.240 of this title. A personal property tax return is delinquent if filed after March 15 of each tax year.

3.12.140 Involuntary filing.

Where the assessor has reasonable grounds to believe that a person owned taxable personal property on the date the tax liability attached to said property, and such person has failed to file a return as required by this section, the assessor may prepare and file an involuntary tax return on the owner's behalf. Payment of the tax under involuntary filing shall include penalty, interest, and administrative costs which shall be calculated in accordance with PMC §3.15.240.

3.12.150 Failure to file.

Failure to file a timely return as required by this title adds a 15 percent late filing penalty to the tax principal and, in addition, is a misdemeanor punishable under §3.15.270 of this title. Interest on tax (as well as penalty for failure to pay) comes after the penalty for failure to file.

3.12.160 Disclosure of ownership.

(A) Any person leasing, renting, or otherwise using personal property owned by another person shall, upon request of the assessor, disclose the name and mailing address of the owner of the personal property.

(B) On request by the assessor, persons leasing, renting, or otherwise making private property available to another person for location of a mobile home, shall disclose the name and mailing address of the owners of that mobile home to the assessor.

3.12.170 Mobile homes.

Mobile homes used or intended to be used for residential purposes and not in the same ownership as the land on which it is located, or mobile homes in permitted mobile home parks may be classified as personal property, pursuant to AS 29.45.070.

3.12.180 Inspection of returns-Confidentiality.

Personal property tax returns shall be confidential and shall be inspected only by officers authorized to administer the tax laws and law enforcement officers of the United States, State of Alaska, and municipalities, or in response to a valid subpoena. Any employee violating this restriction by communicating information obtained from personal property returns not required to be shown on the assessment roll, or by allowing any person not legally entitled to access to such returns to have access to them, shall be guilty of a misdemeanor punishable under this title.

3.12.190 Assessment notice.

(A) The assessor shall give each person named in the assessment roll a notice of assessment, showing the assessed value of the person's property. Each notice shall contain a brief summary of the dates when taxes are payable, delinquent, and subject to penalty and interest, and the dates when the board of equalization convenes.

(B) Sufficient assessment notice is given if mailed by first-class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. It shall be the responsibility of owner of the property to supply correct address to which notices are to be sent. Notice is effective on the date of mailing. The assessment notice shall also state that an appeal may be taken to the board of equalization only by filing written notice of appeal in the form approved by the borough or the city, specifying the grounds for the appeal with board of equalization within 30 days after notice of assessment is mailed.

(C) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll prior to the board of equalization hearings. If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice, allowing 30 days for appeal to the board of equalization.

3.12.200 Board of equalization-Appeal.

(A) A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(B) The appellant shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form that the board of equalization may require. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.

(C) The assessor shall notify an appellant by mail of the time and place of hearing.

(D) The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.

3.12.210 Board of equalization.

(A) The board of equalization is the Borough board of equalization; provided, however, if the Borough board refuses to perform its duties for the city, then the following applies. There is established the board of equalization, composed of three regular members and two alternate members. The board of equalization members may not be council members. All members of the board of equalization are appointed by the council. Alternate members are selected to serve by the board's presiding officer to fill a vacancy or an absence of a regular board member. All members of the board of equalization shall be appointed on the basis of their expertise in real and personal property appraisal, the real estate market, the personal property market, and other fields related to their functions as board members. The board of equalization shall be called as required for equalization matters. A presiding officer shall be selected by the board at its first annual meeting. Appeals to the board of equalization must be in writing, have been timely filed with the assessor as required, and reviewed by the assessment department prior to the meeting of the board. The assessor shall notify the appellant of the date and time that the appeal will be heard. No action of the board may be taken except upon concurrence of a majority of the members present.

(B) Board members shall be compensated at the rate of \$50 per meeting. All requests for reimbursement shall be actual expenses incurred on authorized board business.

3.12.220 Board of equalization-Hearing.

(A) An appeal before the board of equalization shall be conducted in accordance with the procedures adopted by the board, in addition to the following rules:

(1) If an appellant fails to appear in person, the board of equalization may proceed with the hearing.

(2) Anyone testifying before the board shall be administered an oath prior to giving testimony.

(3) Record. The clerk shall keep verbatim stenographic records or electronic recordings of the board's proceedings, showing the vote of each member on every question and all of the evidence presented.

(4) Counsel. All parties may be represented by counsel during hearings before the board. The borough attorney or the city attorney may offer legal counsel to the board in the course of its proceedings.

(5) Case number. Every appeal shall be assigned a case number which shall be read into the record along with the name of the appellant before the hearing on that appeal commences.

(6) Burden of proof. The burden of proof rests on the appellant. The only grounds for adjustment of an assessment are unequal, excessive, improper, or under-valuation based on the facts that are stated in a valid written appeal or provided at the appeal hearing. If the valuation is found to be too low, the board of equalization may raise the assessment. The borough or the city shall make available to the appellant all reasonably pertinent documents requested by the appellant at least five days before the hearing.

(7) Rules of evidence. The board shall not be restricted by the formal rules of evidence, however, the chairman may exclude evidence irrelevant to the issues appealed. Hearsay evidence may be considered, provided that there are adequate guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.

(8) Order of presentation. The appellant shall present argument first. Following the appellant, the assessor shall present the borough's or the city's argument. The appellant may, at the discretion of the chairman, make rebuttal presentations directed solely to the issues raised by the assessor. The borough attorney or the city attorney may question the appellant or the assessor on matters relating to the appeal. The members of the board may ask questions, through the chairman, of either the appellant or the assessor at any time during the hearing. After both the appellant and the assessor have presented their arguments, each may question the other through the chair.

(9) Witnesses and exhibits. The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing. All testimony before the board shall be under oath.

(10) Upon presentation of all testimony, the board may conclude the hearing and determine whether the assessment is proper. The board shall issue findings of fact and conclusions of law clearly stating the grounds upon which the board relied to reach its decision.

(11) Certification. The board shall certify its decision for an appeal to the assessor within seven days following its issuance.

(12) Other procedures and rules of operation may be adopted by the board of equalization.

(B) Further appeals. The appellant or the assessor may appeal a decision of the board to the superior court within 30 days in accordance with the Alaska State Rules of Appellate Procedure.

(C) If the Borough refuses to provide a clerk for the board, then the city shall provide a clerk of the board of equalization who shall record in the minutes of the meeting, all proceedings before the board, and the names of all persons appealing assessments. All changes, revisions, corrections, and orders relating to claims or adjustments, and all final decisions shall be recorded in the record to be kept by the clerk and to be known as the appeal record. Within seven days following the final hearings of the board, the board chair shall transmit to the assessor all corrections, revisions, or changes authorized and approved by the board and shall certify that the changes so reported are as approved by the board of equalization.

3.12.230 Enforcement of tax obligations.

(A) Real and personal property tax obligations are liens upon the property which are prior and paramount to all other liens or encumbrances against the property. Enforcement of property tax obligations shall be conducted in accordance with applicable state law and the procedures contained in this chapter.

(B) Distraint. The lien of personal property taxes may be enforced by distraint and sale of the property pursuant to this subsection.

(1) Upon application to the trial courts and after written demand is first made of the person assessed for the amount of tax, penalty, and interest owing, the manager or designee may obtain a judicial order directing that property for which such taxes, penalty, and interest are owed shall be distrained and held for further proceedings, provided, however, the borough or the city demonstrates specific facts by affidavit based on personal knowledge that the property:

(a) has been concealed, is concealed, or about to be concealed;

(b) is about to be destroyed;

(c) is in the process of or about to be removed from the jurisdiction;

(d) is about to be conveyed or encumbered; or

(e) is otherwise being disposed of, or about to be disposed of, in a manner so as to defraud the city.

(2) Upon execution of an order distraining the property, a hearing will be conducted no more than seven days, exclusive of Saturdays, Sundays, and legal holidays, following execution of the order, at which time the validity of the borough's or the city's lien shall be tested and other matters relevant to disposition of the tax obligation will be heard. The owner, upon execution of the order, will be notified of the time and place set for hearing. In the event personal service on the owner is impossible, alternative methods of service consistent with the Alaska State Rules of Civil Procedure may be employed, but in no case may the hearing required by this section be held more than seven days following date of actual or constructive service on the legal owner.

(3) At the hearing described in (B)(2) above, the borough or city and the legal owner of the property distrained may present evidence and offer arguments as are helpful in determining whether there exists a valid lien for personal property taxes on the property distrained, and whether such taxes, penalty, and interest remain unpaid. If, at the conclusion of the hearing the court, with or without a jury, finds that there exists a valid lien on the property distrained and that taxes, penalty, or interest on such property are unpaid, it shall issue an order of sale directing that such property be sold to satisfy the tax obligation.

(4) Order of sale issued pursuant to this section shall require sale by public auction, and may not be effective sooner than 15 days following the hearing described in (B)(3) above. Proceeds shall be applied first to attorneys' fees, costs, penalty, interest, and taxes; remaining proceeds shall be returned to the last owner of the property distrained.

(C) Civil action. The borough or the city may, in addition to other remedies provided in this chapter, initiate civil actions to collect unpaid taxes, penalty, and interest.

3.12.240 Rates of penalty and interest and collection of administrative costs.

A penalty of 5 percent of the tax due shall be added to all delinquent taxes on the day they become delinquent and every 30 days thereafter. However, the total penalty shall not exceed 15 percent of the tax due. Interest of 2 percent above the prime rate as of the date of levy shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. In addition to interest and penalty, the borough or the city may collect all costs associated with managing and maintaining the property or any costs authorized by law. A penalty of 15 percent on tax due shall accrue upon the late return of personal property assessments. The penalty and interest on all unpaid installments accrue from the date the installment becomes due.

3.12.250 Foreclosure list.

(A) If the Borough does not prepare an annual foreclosure list, then the city shall prepare an annual foreclosure list pursuant to AS 29.45.330.

(B) The provisions of AS 29.45.340-.490 apply to city delinquent property tax foreclosures.

(C) The city shall not foreclose against property determined by a federal, state, or local agency to be contaminated or found to contain hazardous materials subject to regulation by a federal, state, or local government. The borough or the city may proceed with a personal action against the delinquent taxpayer to collect the tax, costs, penalty, and interest.

3.12.260 Refund of taxes.

Any refund of taxes shall be in accord with provisions of AS 29.45.500.

3.12.270 Penalty for violation.

(A) Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this chapter shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(B) Every person convicted of knowingly failing to file a tax statement required by ordinance, or knowingly making a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind, or value of property subject to taxation with intent to evade the taxation, shall be punishable by a fine of not more than \$1,000 or imprisonment for 90 days, or both such fine and imprisonment as provided by AS 29.45.140.

3.12.280 Incorporation.

To the extent applicable and not inconsistent with the specific provisions of this title, state law is applicable to the collection of real and personal property taxes in the city.

Section 4. Publication and Effective Date. This ordinance shall become effective immediately upon its adoption; provided however, this Ordinance is effective only if the Assembly overrides the Borough Mayor's veto or otherwise repeals or reduces the Borough's personal property tax in any way. Publication shall be by making copies available to the public, and further it shall be published by being printed and included in the Palmer Municipal Code at its next regular supplementation and printing. Publication may also be made by posting a copy hereof on the City Hall bulletin board for a period of ten (10) days following its adoption. A notice of public hearing shall be given by such posting at least five (5) days before final passage.

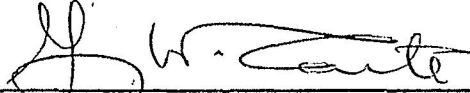
First Reading: December 27, 1994

Public Hearing &
Second Reading: December 29, 1994

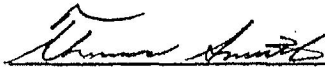
Adopted by the City Council of the City of Palmer, Alaska, this 29th day of December, 1994.

Public Hearing & Reading
On Reconsideration: February 14, 1995

Adopted as amended upon Reconsideration by the City Council of the City of Palmer, Alaska, this 14th day of February, 1995.



GEORGE W. CARTE, Mayor



THOMAS SMITH
City Clerk