

ORDINANCE NO. 5 | a

AN ORDINANCE PROVIDING FOR ARBITRARY ASSESSMENTS IN THE EVENT OF FAILURE TO FILE A SALES TAX RETURN, AND ESTABLISHING THE REMEDY OF DISTRAINT AND SALE FOR THE COLLECTION OF DELINQUENT SALES TAXES.

BENEFIT ENACTED BY THE COUNCIL OF THE VILLAGE OF BETHEL,
ALASKA, AS FOLLOWS:

Section 1. That of Ordinance No. 1 be and the same is hereby amended by adding at the end thereof, 10 (2) new subsections designated as (a) and (b), to read as follows:

" (a) ARBITRARY ASSESSMENT- In the event any person or business entity responsible for the collection and payment of the tax on retail sales and services, provided for herein, shall fail, refuse, or neglect to file a return, as required by this ordinance, the City Clerk shall make an arbitrary assessment setting forth an estimated amount of retail sales and services which shall be as fair and equitable as they may be able to make from the best information in their possession.

(b) DISTRAINT PROCEDURE- In addition to any remedy provided by law, including a personal action, the collection of delinquent sales taxes may be enforced by distraint and sale of the personal property of the person, or business entity, responsible for the payment of the same. No seizure, levy, or distraint shall be made unless, and until, written demand, mailed by certified or registered mail to the last known address of the person or business entity assessed, shall first have been made demanding payment for the amount of the tax, penalty, and interest. No sale of seized property shall be valid unless made at public auction after at least TEN (10) days notice has been given by posting in THREE (3) public places within ONE (1) mile of the place where the sale is to be held, and distraint and sale shall be effectuated by virtue of a warrant issued by

the City Clerk to any citizen of the Village of Bethel, Alaska, designated as a Special Officer for such purpose by the Village council, directing the latter to forthwith seize, levy upon, distrain and sell such personal property of the delinquent taxpayer as may be sufficient to satisfy the tax with penalty, interest, and costs of sale. Reasonable expenses and costs of the distraint and sale shall be charged against and satisfied from the proceeds of such sale.

1. TIME OF SALE- The time of sale shall not be less than TEN (10) nor more than SIXTY (60) days from the date of such notification to the owner or possessor of the property, and the ^{place for} date proposed for the sale shall not be more than ONE (1) mile distant from the place of making such distraint. Such sale may be adjourned from time to time by the said Special Officer, if he deems it advisable, but not for a time to exceed in all NINETY (90) days.

2. PROPERTY FOR ACCOUNT OF VILLAGE- When any property is advertised for sale under distraint as aforesaid, the said Special Officer, making the seizure shall proceed to sell such property at public auction, offering the same at not less than a fair minimum price, including the expenses of making the seizure and of advertising the sale, and if the amount bid for such property at the sale is not equal to the fair minimum price so fixed, the said Special Officer, conducting the sale may declare such property to be purchased by him for the Village. The property so purchased may be sold by the said Special Officer, under such regulations as may be prescribed by the City Clerk.

3. REDEMPTION OF PROPERTY- In any case of distraint for the payment of taxes or deficiencies, the property so distrainted shall be restored to the owner or possessor, if prior to the sale, payment of the amount due is made to the City Clerk charged with the collection, together with the fees and other

charges; but in case of nonpayment, the said Special Officer, shall proceed to sell the said property at public auction.

4. CERTIFICATE OF SALE- In all cases of sale, as aforesaid, the certificate of sale---

a. Shall be prima facie evidence of the right of the said Special Officer, to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

b. Shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and

c. Where such property consists of stocks, shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the transfer on their books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificates, which shall be void, whether cancelled or not; and

d. Where the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.

5. SALE OF INDIVISIBLE PROPERTY- When any property liable to distraint for taxes is not divisible, so as to enable the collector by sale of a part thereof, to raise the whole amount of the tax or deficiency, interest, penalties, and additions thereto, and for the costs and charges of the distraint and sale, shall be surrendered to the owner of such property.

6. SUCCESSIVE SEIZURES- Whenever any property which is seized and sold by virtue of the foregoing provisions is not sufficient to satisfy the claim of the Village for which distraint or seizure is made, the said Special Officer, may thereafter,

and as often as the same may be necessary, proceed to seize and sell in like manner, any other property liable to seizure of the taxpayer against whom such claim exists, until the amount due from such taxpayer, together with all expenses, is fully paid.

7. SURRENDER OF PROPERTY SUBJECT TO DISTRAINT. Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the said Special Officer, making such levy, surrender such property or rights unless such property or rights, at the time of such demand, subject to an attachment under any judicial process. Any person who falls or refuses to so surrender any of such property or rights shall be liable in his own person and estate of the Village in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes or deficiencies (including penalties, and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy. The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

8. PRODUCTION OF BOOKS. All persons, and officers of companies or corporations are required, on demand of the said Special Officer, about to distraint or having distrained on any property, or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint, or the property or rights of property liable to distraint for the tax due.

9. COLLECTION BY DISTRAINT NOT EXCLUSIVE. The provisions of this ordinance shall not be deemed exclusive but shall be in addition to any and all existing remedies provided by law for the enforcement of the revenue laws of the Village.

10. ACTIONS VERSUS VILLAGES - SPECIAL ORDINANCE or V.I.S

... may be made a party defendant in the action at law or in equity by any person aggrieved by the unlawful seizure of his property, but only the Village shall be responsible for any final money judgment assessed against the said officer, and said judgment shall be paid or satisfied from the general fund of the Village.

11. RULES AND REGULATIONS The Village Clerk shall

write and publish all needful rules and regulations for the enforcement of this ordinance."

Section 2. That the effective date of this ordinance shall

9th day of January, 1958.

Robert W. ...
Mayor

SEED: _____

MOVED: _____

BY: _____

Clerk _____