

4.15.230 Personal property—Collection, delinquency, remedies.

A. A Demand for Payment of Personal Property Taxes. Prior to December 31st of each year the city clerk will work with the collections person and together shall mail, postage fully paid, to all persons whose personal property taxes are delinquent, demand payment of the taxes plus penalty and interest. This shall be the date of mailing of the notice of tax due referred to in subsections (C)(2)(a) and (b) of this section.

B. Methods of Collection of Personal Property Taxes. Personal property taxes together with the penalty and interest, may be collected, after the same become due, either by distraint or in a personal action brought in the name of the city against such owner in the courts of the state, or both such methods of collection may be used, in the discretion of the council. Neither of such methods shall be deemed exclusive remedies.

C. Collection by Distraint and Sale.

1. Persons Subject to Enforcement. If at any time a taxpayer is more than six months delinquent in any of the sales or personal property taxes levied by the city due the city, he/she shall be subject to the enforcement procedures provided in this chapter, which are in addition to any other enforcement procedures already provided for and are not exclusive.

2. Distraint. The lien of personal property taxes and other nonreal taxes may be enforced by distraint and sale of the personal property of the person assessed. The procedure shall be as follows:

a. Demand shall be made of the person assessed by sending him/her a notice of the amount of tax due, the penalty and interest and the total and notice to the effect that if the taxes and all penalty and interest are not paid by a date certain which date shall not be less than thirty days from the date of mailing, that his/her personal property shall be subject to distraint and sale. The notice shall be sent by certified mail, return receipt requested or may be served in person with return of the person making service. The notice shall be signed by the city clerk.

b. If no payment is made within the time specified or in accordance with any repayment plan authorized by this chapter, the city clerk shall issue a warrant directed to an enforcement officer of the city to be designated by the city manager, direct him to seize, levy upon, distraint, and sell by public auction such personal property of the person assessed as the tax may have been levied upon, and that if the same is not sufficient to satisfy the tax, penalty, interest, costs, and expenses of sale, such warrant may authorize seizure, levy, distraint and sale of such other personal property of the person against whom the tax was assessed as may be sufficient to satisfy such tax, penalty,

interest, costs and expenses of sale.

i. No sale of any property may be made without at least fifteen days' notice being given by publishing a notice of the sale at least two times in a newspaper of general circulation within the city, or if there is no such newspaper, by posting within the times stated a notice in seven public places within the city, and by mailing by certified first class prepaid mail a copy of the notice to the person assessed.

ii. Sale. The sale of such property shall be made at public auction and such personal property shall be sold to the highest bidder for cash. All sales of personal property shall be made at a time of day to be fixed by the city clerk in such notice, and the same shall be fixed between the hours of ten a.m. and five p.m. of the day of the sale, and the sale may be adjourned by the city clerk from day to day for want of purchasers of sufficient bids, or if for any valid reason the city clerk is prevented from attending at the time and place set for the sale, the sale may be adjourned and continued from day to day if necessary until all of such personal property has been sold to pay the costs and expenses provided in this chapter, and the tax, penalty and interest in full.

iii. From the proceeds of the sale which shall convey all the right title and interest of the person assessed, shall be paid, in the following order: the actual expenses of sale, tax, penalty, interest, and other costs including attorney's fees.

iv. Schedule of Costs. The following shall be the schedule of costs and attorney's fees applicable to all personal property tax delinquencies collected or sought to be collected using the provisions of this chapter:

(A) If redemption is made prior to sale:

(1) Actual costs of seizing and preserving the property;

(2) Actual costs of publication and giving notice;

(3) Attorney's fees in the amount of twenty percent of the first one hundred dollars, but with a minimum of ten dollars, fifteen percent of the next five hundred dollars and ten percent thereafter.

(B) If no redemption is made before the property is sold:

(1) All costs stated above plus any actual accruing costs;

(2) Attorney's fees in addition to those stated of fifteen percent of the first one hundred dollars but with a minimum of ten dollars, five percent of the balance.

v. Any remaining sums shall be returned to the person assessed, or if not claimed within six months shall become the property of the city, and sale is forever barred.

vi. The city clerk shall apply the proceeds of the sale in the manner set forth, and shall keep a record of all such sales and all such proceedings, and shall keep on file the returns of the city clerk relating thereto, and in all cases of sale of personal property, the city clerk shall, if requested, give the purchaser a bill of sale on behalf of the city under his/her hand. (Ord. 01-12 § 1 (part), 2001; Ord. 13-11 § 3, 2013; Ord. 16-10 § 3, 2016.)

4.15.365 Repayment plan.

A. A delinquent taxpayer and the city may agree to enter a repayment plan. No repayment plan agreement shall be valid unless agreed to by the parties in writing.

B. Only persons who would be eligible to enter a repayment plan under Section 4.20.265(B) shall be eligible for a repayment plan under this section. A repayment plan agreement executed under the authority of this chapter must include substantially the same terms as sales tax repayment plans as required by Section 4.20.265(C), except the delinquent taxpayer shall not be required to agree to provide a security interest in the form of a lien as required by Section 4.20.265(C)(6).

C. If a property owner and the city execute a valid repayment plan and the property owner does not default prior to the time the annual foreclosure roll is prepared, the property shall not be placed on the foreclosure roll for that year. In the event a property is excluded from the annual foreclosure roll as provided in this subsection, the city retains every right provided by law to foreclose on the property in the event of a default on the repayment plan.

D. If a taxpayer fails to pay one or more payments as agreed, the taxpayer and subject property shall be in default and the entire amount owed at the time of default shall become immediately due. The resulting delinquency shall be considered to have occurred in the year of the default on the payment plan, regardless of the year or years in which the tax accrued. The city will send the taxpayer a notice of default. The city may then foreclose on the property or take any other remedy available under the law including placing the seller on the city's denied services list using the procedures set forth in Chapter 4.40. (Ord. 13-11 § 5, 2013.)