

Introduced by: Mayor
Date: 8/20/96
Hearing: 9/17/96
Action: Enacted as Amended
Vote: Unanimous

**KENAI PENINSULA BOROUGH
ORDINANCE 96-38**

**AN ORDINANCE AMENDING SECTION 5.35.080., COSTS ASSESSED,
FOR UTILITY SPECIAL ASSESSMENTS**

WHEREAS, Section 5.35.070 Part C, states that "In no case may a property be assessed an amount in excess of eighteen (18%) percent of the fair market value of the property after giving effect to the benefit accruing from the improvement for which assessed; and

WHEREAS, Section 5.35.080 states in part that "The assembly shall assess one hundred percent of all costs of a public improvement against the property benefitted by the improvement."; and

WHEREAS, said language in Section 5.35.080 precludes property owners from prepaying a portion of the allocated costs;

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

SECTION 1. That Section 5.35.050 be amended to read:

5.35.050 Requirements of petition.

The petition shall include a description of the proposed improvements, the estimated cost, a description of the proposed geographic district subject to the special assessment as previously approved by the assessor pursuant to 5.35.030. The petition shall contain the signatures of (a) the owners of record of more than seventy percent of the total number of parcels subject to assessment within the proposed district; and (b) the owners of record of properties within the district which would be subject to greater than seventy percent of the total assessment under the petitioner's proposal. The petition must contain or be accompanied by a statement from an authorized officer or employee of the utility whose service is sought to be extended acknowledging that the project as proposed by the petition meets the requirements of the utility and that the utility approves and will support construction of the extension. A nonrefundable filing fee shall be remitted with the petition in an amount to be determined by the mayor. No property owner may withdraw his approval of the proposed improvement for a period of six (6) months after the date of filing of petition, and this six (6) month approval shall be expressly stated upon the petition. Nothing in this section shall be construed to preclude a property owner from filing an objection as provided in KPB 5.35.110(D) within the time provided by ordinance or regulation.

SECTION 2. That Section 5.35.070 be amended to read:

5.35.070 Property assessed.

A. The assembly may assess for an improvement any real property benefitted or any interest in real property benefitted by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law.

B. In the case where the assembly determines that the district boundaries or method of apportionment of cost as proposed by petition is improper or inappropriate, then the assembly may modify the petition terms and resubmit the petition to the utility for further consideration and resubmission with appropriate signatures by the petitioners.

C. In no case may a property be assessed an amount in excess of twenty-one (21%) [EIGHTEEN (18%)] percent of the fair market value of the property after giving effect to the benefit accruing from the improvement for which assessed.

D. In no case shall a special assessment district be approved where properties which will bear more than four (4%) percent of the estimated costs of the improvement are delinquent in payment of borough property taxes.

SECTION 3. That Section 5.35.080 be amended to read:

5.35.080 Costs assessed.

The assembly shall assess one hundred percent of all costs of a public improvement against the parcels of property benefitted by the improvement, less the filing fee or any other costs prepaid prior to assessment. The total [ASSESSMENT] costs for an improvement shall include the actual costs of the improvement, including costs of acquisition of interest in land for the improvement, design, engineering, administration, overhead, professional services, bond costs, financing costs, and interest incurred as a result of the improvement, and all other costs resulting from the construction of the improvement.

SECTION 4. That Section 5.35.090 be amended to read:

5.35.090 Method of assessment.

The methods of assessment set forth in this section will be used. The determination of the method to be used may involve determinations on the character of the properties in the assessment district and the benefit received from the improvement.

A. Allocation of costs on a per lot basis so that each lot is [ASSESSED] charged an equal amount; or

B. Allocation in proportion to assessed property valuations for land.

The method prescribed in subsection A of this section shall be used unless the character of the properties are such that one or more parcels are more than three times the size of the typical lot in which case the allocation method in subsection B shall be followed; provided, however, the method in subsection A may be used despite a disparity in lot size where legal or physical restrictions effectively limit the larger lot to the same use as the typical lots in the assessment district.

SECTION 5. That Section 5.35.170 be amended to read:

5.35.170 Return of excess funds.

Any and all funds collected from assessments levied for a specific project which exceed the actual total expenditures made by the borough on the project; and, any and all funds returned to the borough by the utility as a refund of expenditures made by the borough on a specific project, shall either be returned to the owners of record of the assessed properties on a pro rata basis or applied to the outstanding debt, in the manner provided by the ordinance of assessment.

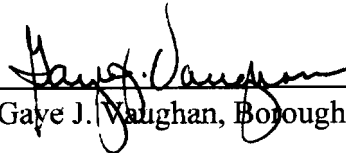
SECTION 6. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 17th DAY OF SEPTEMBER, 1996.



Andrew P. Scalzi, Assembly President

ATTEST:



Gaye J. Vaughan, Borough Clerk