



## KENAI PENINSULA BOROUGH

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MIKE NAVARRE  
BOROUGH MAYOR

### MEMORANDUM

**TO:** Dale Bagley, Assembly President  
Members, Kenai Peninsula Borough Assembly

**THRU:** Mike Navarre, Mayor *MP*  
Dale Bagley, Assembly President *DLB*  
Kelly Cooper, Assembly Member *(K) for K.C.*

**FROM:** Elizabeth Leduc, Assistant Borough Attorney *EL*

**DATE:** June 4, 2015

**SUBJECT:** Amendment to Ordinance 2015-13, An Ordinance Amending KPB Chapter 14.31, Regarding Road Improvement Assessment Districts

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After the introduction of this ordinance, the legal department became aware of some additional language required in KPB 14.31.070 to ensure that borough code is consistent with state law regarding the formation of special assessment districts. The other amendments listed here are minor housekeeping changes that were also identified after introduction.

- Amend KPB 14.31.010(B) in Section 1 as shown in ***bold italics*** as follows:

#### 14.31.010. Assessment Authority.

...

- B. Pursuant to AS 29.46.020(a) the procedures ***[IN KPB 14.31.040 THROUGH 14.31.100 APPLY TO THE LEVYING OF ASSESSMENTS UNDER THIS CHAPTER IN LIEU OF] set out in KPB chapter 14.31 shall replace and supersede*** the procedures in AS 29.46.030 through 29.46.100.

- Amend KPB 14.31.070(B) in Section 1 as shown in ***bold italics*** as follows:

#### 14.31.070. Circulation and filing of petition; signature requirements.

...

- B. ***The petition must include the petition report approved by the RSA board under KPB 14.31.065 [060] and a signature page with instructions.***
- ...

- Amend KPB 14.31.070(D) in Section 1 as shown in ***bold italics*** as follows:

**14.31.070. Circulation and filing of petition; signature requirements.**

...

D. In order for the assembly to consider the proposed special assessment district, the petition must contain the signatures of the owners of record of (a) at least 60 percent of the total number of parcels subject to assessment within the proposed district and (b) ***at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation.***

1. *Multiple owners.* When a parcel is owned by more than one person or entity, signatures for each owner are required in order for the parcel to count towards the ***[60 PERCENT] signature*** thresholds. All signatures shall be consistent with the requirements listed in KPB 14.31.070(D)(2)-(6), as applicable.

...

5. *Trusts.* Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the ***[60 PERCENT] signature*** thresholds unless otherwise provided in the trust document. The signature of the trustee(s) will only be accepted by the clerk if it is accompanied by a copy of the trust document.

6. *Kenai Peninsula Borough.* The mayor shall be the designee for signing any petition when borough land is part of the proposed district. Where the Kenai Peninsula Borough abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the ***[60 PERCENT] signature*** thresholds, will be reduced by the number of parcels owned by the borough within the proposed district.

...

- Amend KPB 14.31.080(A)(1) and (2) in Section 1 as shown in ***bold italics*** as follows:

**14.31.080. Restrictions on district formation.**

A. A special assessment district may not be formed if it violates any of the following restrictions [DETERMINED AS OF THE DATE OF FILING THE PETITION TO FORM THE DISTRICT WITH THE BOROUGH CLERK]:

1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed 21 percent for gravel improvements to an existing road, or 25 percent for paving improvements, or 40 percent for construction of a new road, of the current assessed value of the parcel.

A. For the purposes of this restriction, the estimated amount of the assessment against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. If the assembly

does not approve the resolution to form the district and proceed with the improvement, the borough will refund the prepayment.

B. Any such prepayment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form *the district* and proceed *with the improvement [THE DISTRICT]*.

2. In no case shall a special assessment district be approved by the assembly where properties that will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement.

For the purposes of this restriction, the delinquent tax may be paid before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the to form *the district* and proceed *with the improvement [THE DISTRICT]*.