



## KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520

Toll-free within the Borough: 1-800-478-4441

PHONE: (907) 262-4441 • FAX: (907) 262-1892

www.kpb.us

MIKE NAVARRE  
BOROUGH MAYOR

### MEMORANDUM

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

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

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

**DATE:** June 4, 2015

**SUBJECT:** Amendment to Ordinance 2015-12, An Ordinance Amending KPB Chapter 5.35, Regarding Utility Special Assessment Districts

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After the introduction of this ordinance, the legal department became aware of some additional language required in KPB 5.35.107 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 the proposed KPB 5.35.070(C) and (D) in Section 1 as shown in ***bold italics*** as follows:

#### **5.35.070. Property assessed – Restrictions on formation.**

...

- C. In no case may a property be assessed an amount in excess of [21] 50 percent of the fair market value of the property [AFTER GIVING EFFECT TO THE BENEFIT ACCRUING FROM THE IMPROVEMENT FOR WHICH ASSESSED].

For the purposes of this restriction, the estimated amount of the special assessment lien 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. Any such payment shall be received no later than the close of business at least 15 days prior to the date the assembly is scheduled to act on the resolution to form *the district* and proceed with the *[DISTRICT] improvement*. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough shall refund the prepayment.

D. In no case shall a special assessment district be approved for formation by the assembly under KPB 5.35.110 where properties which will bear more than 10 percent of the estimated costs of the improvement [ARE DELINQUENT IN PAYMENT OF] are subject to unpaid, past-due borough property taxes [FROM THE IMMEDIATELY PRECEDING TAX YEAR] 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 shall 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 *[DISTRICT] improvement*.

➤ Amend proposed KPB 5.35.107(C) in Section 1 as shown in *bold italics* as follows:

**5.35.107. Petition filing; Requirements of petition.**

...

C. *Signature requirements.* The petition shall contain the signatures of (a) the owners of record of [MORE THAN SEVENTY] at least 60 percent of the total number of parcels subject to assessment within the proposed district, and (b) *the owners of at least 60 percent in value of the property to be benefited*, in order to be considered by the assembly for formation. [; 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.]

1. Multiple owners. When a parcel is owned by more than one person or entity, signatures for each record owner are required in order for the parcel to count towards the *[60 PERCENT] signature* thresholds, consistent with the requirements listed in KPB 5.35.107(C)(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) shall be accepted by the borough 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, shall be reduced by the number of parcels owned by the borough within the proposed district.

7. Excluded parcels. When a parcel is excluded from the district by the mayor under KPB 5.35.105(B) or by law, the total number of parcels within the district, for the purpose of calculating the *[60 PERCENT] signature* thresholds, shall be reduced by the number of excluded parcels within the proposed district.