

Introduced by: Mayor  
Date: 08/23/22  
Hearing: 09/06/22  
Action: Enacted  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-39**

**AN ORDINANCE OF ASSESSMENT CONFIRMING THE ASSESSMENT ROLL  
FOR THE LOOKOUT DRIVE UTILITY SPECIAL ASSESSMENT DISTRICT AND  
ESTABLISHING THE METHOD FOR TERMINATING ASSESSMENTS AND  
MAKING REFUNDS TO PROPERTY OWNERS**

- WHEREAS,** the borough mayor, on November 4, 2021, approved the petition application for the formation of the Lookout Drive Utility Special Assessment District ("the District"); and
- WHEREAS,** Resolution 2022-005 established the District and authorized the construction of the improvement; and
- WHEREAS,** Ordinance 2021-19-36 appropriated \$78,978.78 for the District natural gas line project; and
- WHEREAS,** the total costs of constructing the improvements, including all allowable amounts as provided in KPB 5.35.080 and AS 29.46.110 ("Costs") are now known; and
- WHEREAS,** the District special assessment roll has been prepared with the total Costs of the improvement spread equally among all the lots within the District; and
- WHEREAS,** the borough clerk has published a notice of the filing of the assessment roll once in a newspaper of general circulation within the Kenai Peninsula Borough (Borough) stating that such assessment has been made and is on file in the office of the borough clerk, and providing notice of the time and place for the hearing held September 6, 2022 where objections would be heard; and
- WHEREAS,** the assembly, on September 6, 2022, held a hearing on the assessment roll at which time all persons objecting to assessments were given an opportunity to present their objections; and
- WHEREAS,** notice of the assessment and hearing was mailed to each owner of record as shown on the rolls of the borough assessor not less than 10-days before the hearing; and
- WHEREAS,** the assembly found no errors or inequalities in the roll; and

**WHEREAS,** the assembly finds that the roll should be confirmed; and

**WHEREAS,** the mainline has been constructed and any necessary property acquisitions completed for the natural gas pipeline in the District (the "Project"); and

**WHEREAS,** special assessments will be levied on properties in the District that are specially benefited by the Project, and said special assessments, with interest thereon, will be sufficient (together with other amounts) and available to pay the actual cost to the Borough of the improvements plus interest;

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

**SECTION 1. Classification.** That this ordinance shall be a non-code ordinance.

**SECTION 2. Confirmation of Roll.** That the assessment roll for Lookout Drive Utility Special Assessment District, attached as Exhibit A to this ordinance, as presented to the assembly on February 15, 2022 in the total amount of \$78,978.78 is confirmed.

**SECTION 3. Notice of Assessment.** On the first day of the month following the enactment date of this ordinance, the finance director shall mail to the record owner of each property assessed a statement designating the property, the assessment amount, the schedule of payments, the time of delinquency, and penalties. Within five days after the statements are mailed, the finance director will publish a notice that the statements have been mailed and that the assessment roll is on file in the office of the borough clerk. After enactment of this ordinance the clerk shall file in the office of the Kenai District Recorder a notice of assessment on all parcels assessed within the utility special assessment district.

**SECTION 4. Payment of Assessment.** That the entire assessment may be prepaid without interest or penalty within 30- days of the date of mailing of the assessment statement. Thereafter, the assessment may be prepaid in whole or in part with interest to the payment date. Interest on the unpaid amount of the assessment shall accrue at the rate of 7.5% per annum. Assessments that are not prepaid shall be paid in 10 equal annual installments on March 31 of each year, commencing March 31, 2023. Installments shall include principal plus accrued interest.

**SECTION 5. Delinquencies.** That if an installment of the assessment is delinquent, the balance of the assessment, plus accrued interest, becomes due and delinquent 30- days after the date of notice of the installment delinquency. Notice of the delinquency shall be mailed to the owner of record. The notice must contain notice of the nonpayment of the installment and that the balance of the assessment, plus accrued interest, will become due and delinquent if the installment, interest and penalty are not paid within 30- days of the date of the notice. The penalty for delinquent installment and assessment payments is the same as the penalty for delinquent real property taxes in effect on the date of the delinquency.

**SECTION 6. Establishment of Reserve and Refund Accounts.**

- A. That there is established the District Reserve and Refund Account (the "Reserve and Refund Account").
- B. That there shall be paid into the Reserve and Refund Account:
  - 1. All monies received from ENSTAR Natural Gas Company that are refund entitlements arising out of new customers connecting to the gas line installed within the District; and
  - 2. The final refund due under the ENSTAR line extension tariff; and
  - 3. Interest on the average Reserve and Refund Account balance at the rate determined by the Finance Director to be the average interest earned on borough investments during the year.

**SECTION 7. Distribution of Reserve and Refund Account Funds.**

- A. The borough will refund the funds in the Reserve and Refund Account at the end of each fiscal year an amount equal to the fund balance divided by the number of lots within the District provided the refunded amount is greater than or equal to \$250.00 per parcel. If the amount is under \$250.00, the refund will be carried over to the following fiscal year. The order of refund will be: First, to any outstanding balance applied in the order of unpaid costs, penalty, interest, and then principal; and, Second, to the owner of record as shown on the most recent records of the borough assessor. If any lot within the District is divided into two or more lots, the refund for such re-subdivided lots shall be computed by counting the re-subdivided lots as a single lot for purposes of determining the initial refund entitlement. If any lots are consolidated, the converse shall apply. The initial refund entitlement shall then be divided equally among the subject lots. If an account is in a delinquent or foreclosure status, any such refund will be applied against the delinquent balance in the order described above.
- B. That upon the repayment to the borough of all indebtedness incurred for this assessment district or after the borough receives the final refund entitlements arising out of new customers connecting to the gas line, any funds remaining in the Reserve and Refund Account will be distributed as provided under this section.

**SECTION 8. Termination of Assessment and Refund of Pro Rata Share of Assessment Prepayments.**

- A. That upon the discharge of all indebtedness to the borough, all unpaid, non-delinquent assessment installments are cancelled. The finance director shall refund to the owner of record as shown on the records of the borough assessor an amount equal to the fund balance divided by the number of lots within the District.
- B. That for any lot upon which foreclosure proceedings to recover delinquent assessment installments has been commenced prior to the cancellation of remaining assessment installments, the amount due shall be recomputed as provided in subsection A, except there will be no refund.

**SECTION 9. Appropriation.** That there is appropriated for the purposes set out in this ordinance the refunds from ENSTAR attributable to the District, all assessments and interest in the District, assessment foreclosure proceeds and interest earned on the funds as provided in Section 6(B)(2). The appropriation under this section does not lapse until after the final refund required under section 7(A) has been made.

**SECTION 10. Authority for Ordinance.** That the borough has ascertained and hereby determines that each and every matter and thing as to which provision is made in this ordinance is necessary in order to carry out and effectuate the purposes of the Borough in accordance with our constitution and statutes of the State of Alaska, and the Code of Ordinances of the Kenai Peninsula Borough.

**SECTION 11. Severability.** That if any one or more of the covenants and agreements provided in this ordinance to be performed on the part of the borough is declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreements or agreements shall be null and void and shall be deemed separable from the remaining covenants and agreements in this ordinance and shall in no way affect the validity of the other provisions of this ordinance.

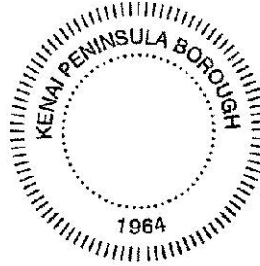
**SECTION 12. Effective Date.** That this ordinance shall be effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF SEPTEMBER, 2022.**

Brent Johnson  
Brent Johnson, Assembly President

ATTEST:

John Blankenship  
John Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson  
No: None  
Absent: None

**LOOKOUT DRIVE USAD - FINAL ASSESSMENT ROLL**

Ordinance of Assessment

Non-Refundable Filing Fee per 5.35.030(D): \$1,000 Paid: September 13, 2021

Enstar Construction Cost: 71,719.00  
 Enstar Non-Standard Cost: 0.00  
**Enstar Final Cost: 71,719.00**  
 KPB Administration Cost: 7,259.78  
**Total FINAL Project Cost: 78,978.78**

Total Assessed Value: 2021 Assessed Value (AV) 78,978.78  
 Total Project Cost: 78,978.78  
 (Less ) Total Paid Prepayments of Assessments: **(4,387.71)**  
**Total Assessments: 74,591.07**

Total number of parcels petition signature percentage calculation:  
 Total number of parcels in favor of project: 14  
 Percentage of parcels in favor: 77.78%  
 Percentage of AV parcels in favor, district value: 80.74%  
 Current percentage of parcels in district delinquent in real property taxes: 0.00%

Total # of Parcels for Assessments: 18  
 Cost Per Parcel: 4,387.71

PARCEL_ID	LEGAL	2022 ASSED VALUE	LIEN LIMIT <50% A.V. per 5.35.070(C)	MAXIMUM ASSESSMENT	PREPAYMENT REQUIRED 5.35.070(B)&(C)	PREPAYMENT PAID IN FULL 5.35.070(B)	CKY/DATE	OWNER	ADDRESS	CITY, ST, ZIP	VOTE IN FAVOR	VOTE IN FAVOR A.V.	DEL TAX	SPC ASSMT
173-151-08	T 65 R 14W SEC 16 SEWARD MERIDIAN HM 0830081 BLUFF POINT SUB LOT 8	1,006,700	0.44%	4,387.71	0.00			SHAPIRO DAVID M	PO BOX 2477	HOMER, AK 99603	YES	1,006,700	NO	NO
173-151-09	T 65 R 14W SEC 16 SEWARD MERIDIAN HM 0830081 BLUFF POINT SUB LOT 9	134,400	3.26%	4,387.71	0.00			ZHOU XUHONG	PO BOX 1084	ARCADIA, CA 91077	YES	134,400	NO	NO
173-151-13	T 65 R 14W SEC 16 SEWARD MERIDIAN HM 2010054 BLUFF POINT SUB-DONICH ADDN LOT 10A	245,300	1.79%	4,387.71	0.00			MCMALIGHTON LAURAN	1013 E FIREWEED LN	ANCHORAGE, AK 99508		0	NO	NO
173-151-14	T 65 R 14W SEC 16 SEWARD MERIDIAN HM 2010054 BLUFF POINT SUB-DONICH ADDN LOT 11A	568,500	0.77%	4,387.71	0.00			DONICH DANIEL H	PO BOX 918	HOMER, AK 99603	YES	568,500	NO	NO
173-630-28	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 1 BLK 4	383,900	1.14%	4,387.71	0.00			SCHNEIDER PATRICK & DAWN	PO BOX 667	HOMER, AK 99603	YES	383,900	NO	NO
173-630-29	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 2 BLK 4	168,000	2.61%	4,387.71	0.00			DONAHUE CLAIRE	1110 W 6TH AVE APT 202	ANCHORAGE, AK 99501	YES	168,000	NO	NO
173-630-31	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 4 BLK 4	176,100	2.49%	4,387.71	0.00			ROHR JOHN ROBERT	PO BOX 2621	HOMER, AK 99603	YES	176,100	NO	NO
173-630-32	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 5 BLK 4	156,000	2.81%	4,387.71	0.00			HOWORTH KAREN	41965 LOOKOUT DR	HOMER, AK 99603		0	NO	NO
173-630-33	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 7 BLK 3	366,700	1.20%	4,387.71	0.00			BEACH GEO & WEBB SYDNEY	PO BOX 2512	HOMER, AK 99603	YES	366,700	NO	NO
173-630-34	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 6 BLK 3	362,200	1.21%	4,387.71	0.00			ROHR JOHN R	PO BOX 2621	HOMER, AK 99603	YES	362,200	NO	NO
173-630-35	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 5 BLK 3	103,000	4.26%	4,387.71	0.00			ROHR JOHN R	PO BOX 2621	HOMER, AK 99603	YES	103,000	NO	NO
173-630-36	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 2 BLK 3	320,800	1.37%	4,387.71	0.00			SULLIVAN FAMILY TRUST	70 CEDAR AVE APT 1	COCOA BEACH, FL 32931		0	NO	NO
173-630-37	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 1 BLK 3	153,200	2.86%	4,387.71	0.00			BREWER GLENN A	67925 WALTER THOMAS RD	HOMER, AK 99603	YES	153,200	NO	NO
173-630-38	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0770078 DIAMOND CAPE SUB UNIT 1 LOT 3 BLK 3	221,500	1.98%	4,387.71	0.00			KEBSCHULL DAVID E & MARILYN	41626 N EMERALD LAKE DR	ANTHEM, AZ 85086	YES	221,500	NO	NO
173-630-56	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0840114 DIAMOND CAPE SUB UNIT 1 RESUB LOT 3-A BLK 4	364,600	1.20%	4,387.71	0.00			AERS DAVID P	PO BOX 2045	HOMER, AK 99603		0	NO	NO
173-630-57	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0840114 DIAMOND CAPE SUB UNIT 1 RESUB LOT 3-B BLK 4	252,100	1.74%	4,387.71	0.00			NOLLAR DAVID W & KATHRYN L	32 N BUENA VISTA ST	REDLANDS, CA 92373	YES	252,100	NO	NO
173-630-58	T 65 R 14W SEC 9 SEWARD MERIDIAN HM 0990069 DIAMOND CAPE UNIT THREE LOT 2-A BLK 5	220,100	1.99%	4,387.71	0.00			CARLSON ROBERT A	14401 ELMORE RD	ANCHORAGE, AK 99516	YES	220,100	NO	NO
173-151-12 REPLAT in process	T 65 R 14W SEC 16 SEWARD MERIDIAN HM 0830081 BLUFF POINT SUB LOT 12	437,700	1.00%	0.00	4,387.71	4,387.71	CC #267868 12/21/2021	CURRY CHRISTIE R	PO BOX 976	LA CONNER, WA 98257	YES	437,700	NO	NO
<b>18</b>	<b>Total Benefitted Parcels</b>	<b>5,640,800</b>	<b>0</b>	<b>74,591.07</b>	<b>4,387.71</b>	<b>4,387.71</b>	<b>as of 7/27/2022</b>				<b>14</b>	<b>4,554,100</b>	<b>0</b>	<b>0</b>