

Introduced by:	Mayor
Date:	12/12/23
Hearing:	01/02/24
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2023-26**

**AN ORDINANCE CONFIRMING THE ASSESSMENT ROLL FOR THE OXFORD  
AVENUE UTILITY SPECIAL ASSESSMENT DISTRICT AND ESTABLISHING THE  
METHOD FOR TERMINATING ASSESSMENTS AND ISSUING REFUNDS TO  
PROPERTY OWNERS**

- WHEREAS,** on June 20, 2023 the Kenai Peninsula Borough Mayor approved the petition application for the formation of the Oxford Avenue Utility Special Assessment District (the "District"); and
- WHEREAS,** Resolution 2023-052 established the District and authorized the construction of the improvement; and
- WHEREAS,** Ordinance 2023-19-06 appropriated \$47,987 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 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 January 2, 2024 where objections would be heard; and
- WHEREAS,** on January 2, 2024, the Assembly 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 ten 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 is a non-code ordinance.

**SECTION 2. Confirmation of Roll.** That the assessment roll for Oxford Avenue Utility Special Assessment District ("the District"), attached as Exhibit A to this ordinance, as presented to the Assembly on August 15, 2023 in the total amount of \$47,987 is confirmed.

**SECTION 3. Notice of Assessment.** On the first day of the month following the enactment date of this ordinance, the Finance Director will 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 will record, in the Kenai Recording District, 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 thirty 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 10.5% per annum. Assessments that are not prepaid will be paid in ten equal annual installments on March 31 of each year, commencing March 31, 2025. 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 thirty 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 thirty 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 per parcel. If the amount is under \$250, 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 will 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 will apply. The initial refund entitlement will 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 shall 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 this ordinance is enacted pursuant to KPB Chapter 5.35 and in accordance with applicable State law.

**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 shall be 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.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF JANUARY, 2024.

*Brent Johnson*

Brent Johnson, Assembly President

ATTEST:

*Michele Turner*

Michele Turner, CMC, Borough Clerk



Yes: Cooper, Cox, Ecklund, Elam, Hibbert, Ribbens, Tunseth, Tupper, Johnson  
No: None  
Absent: None

# Ordinance 2023-26 Exhibit A

## OXFORD AVENUE USAD - FINAL ASSESSMENT ROLL

Ordinance of Assessment

Non-Refundable Filing Fee per 5.35.030(D): \$1,000 *KPB 5.35.030(D)*

**Paid: 5/1/2023**

Enstar Construction Cost:	31,901.00
Enstar Non-Standard Cost:	9,806.00
<b>Enstar Total Cost:</b>	<b>41,707.00</b>
KPB Administration Cost:	6,280.00
<b>FINAL Total Project Cost:</b>	<b>47,987.00</b>
Total # of Parcels for Assessments:	4
<b>Cost Per Parcel:</b>	<b>11,996.75</b>

Total Assessed Value: <b>2023 Assessed Value (AV)</b>	
Total Project Cost:	47,987.00
(Less ) Total Prepayments of Assessments:	<u>(1,414.25)</u>
<b>Total Assessments:</b>	<b>46,572.75</b>

Total number of parcels included in petition calculations:	4	KPB 5.35.107(C)(7)
Total number of Parcels in Favor of project:	3	
Percentages of parcels in Favor of project (%):	75.00%	KPB 5.35.107(C)(a), 60%
Percentage of district's assessed value in favor of project (%):	98.41%	KPB 5.35.107(C)(b), 60%
% Parcels Delinquent for Real Property Taxes (<10%):	0.00%	KPB 5.35.070(D), <10%

PARCEL ID	LEGAL	2023 ASSESSED VALUE	LIEN LIMIT <50% A.V. 5.35.070(C)	MAX ASSMT Less Prepayments	Prepayments of Assmts 5.35.070(B)&(C)	OWNER	MAILING ADDRESS	CITY ST ZIP	DEL TAX DUE	OTH SPC ASSMTS	IN FAVOR 'YES'	IN FAVOR AV
131-042-31	T 4N R 11W SEC 11 Seward Meridian KN 2016081 WAPITI ACRES 2016 ADDN TRACT C2	700,700	1.71%	11,996.75	0.00	HUTCHISON MARY E & MICHAEL L	26562 HEAVY DOWN DR	SOLDOTNA AK 99669	NO	NO	YES	700,700
131-042-32	T 4N R 11W SEC 11 Seward Meridian KN 2016081 WAPITI ACRES 2016 ADDN TRACT C3	503,600	2.38%	11,996.75	0.00	TONIONE JOSHUA K DUKOWITZ KENDRA L	47962 OXFORD AVE	SOLDOTNA AK 99669	NO	NO	YES	503,600
131-091-56	T 4N R 11W SEC 14 Seward Meridian KN 0920019 ELK VISTA SUB TRACT A	107,200	11.19%	11,979.25	17.50	DUKOWITZ, DENISE L DUKOWITZ, KEVIN R	47973 OXFORD AVE	SOLDOTNA AK 99669	NO	NO	YES	107,200
131-720-02	T 4N R 11W SEC 15 Seward Meridian KN 0830273 ECHO LAKE SUB ANDREWS 1983 NORTH ADDN TRACT 2	21,200	56.59%	10,600.00	1,396.75	ANDREWS BARBARA J	31851 ECHO LAKE RD	SOLDOTNA AK 99669	NO	NO		0

<b>4</b>	<b># Benefited Parcels</b>	<b>1,332,700</b>	<b>46,572.75</b>	<b>1,414.25</b>	<b>3</b>	<b>1,311,500</b>
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The following parcel has been excluded by the Mayor from the assessment due to the physical characteristics of the property, on the basis of financially infeasible to develop, as the cost to develop the property would exceed the increase in value due to development.

131-720-01	T 4N R 11W SEC 15 Seward Meridian KN 0830273 ECHO LAKE SUB ANDREWS 1983 NORTH ADDN TRACT 1	18,500	64.85%	0.00	0.00	GLICK DARLENE C & NORMAN	31930 HATMAN CIR	SOLDOTNA AK 99669				
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<b>5</b>	<b># of Parcels located within District</b>
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as of 10/26/2023