





KENAI PENINSULA BOROUGH

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BOROUGH ASSEMBLY

MEMORANDUM

TO: Milli Martin, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Milli Martin, Assembly President 
Pete Sprague, Assembly Member 

DATE: April 8, 2009

SUBJECT: Ordinance 2009- 25, amending KPB Chapter 5.35, Utility Special Assessment Districts

On February 3, 2009, the assembly conducted a work session with the borough administration and representatives of various utilities operating in the Kenai Peninsula Borough. During that work session, the assessing department recommended numerous code changes that would address some of the concerns previously raised by members of the public and the assembly regarding the utility special assessment district formation and approval procedures. Further review and coordination by the Legal Department, Assessing Department and Planning Department has led to the following recommended changes that address many of the concerns raised during the recent review of the USAD process:

1. **Amendment of KPB 5.35.020, Authorized capital improvement**, to reflect Regulatory Commission of Alaska regulates public utilities, not the Alaska Public Utilities Commission.
2. **Amendment to KPB 5.35.030, Initiation of improvement proposal—Preclearance—Resubmission**, to clarify administrative duties and in conjunction with enactment of **KPB 5.35.105, Resolution approving petition application**, provide a process whereby early notice of a USAD is provided to parcel owners in the proposed USAD. The resolution and public hearing prior to the petition being circulated mirrors the RIAD code to the extent that the road service area conducts a review prior to the petition going to the public. This early notice provides 60 days for any redrawing of property lines to occur. The assembly holds a public hearing on a resolution approving the petition packet. If the assembly approves the resolution, no reconfiguration of parcels will be recognized for USAD assessment purposes after that time. The idea is to resolve all issues prior to the petition going out so that property owners have as many facts in front of them as possible **before** they sign or do not sign the petition forming the USAD district. Additionally KPB 5.35.105 provides that property shall be excluded from assessments if the property cannot be reasonably developed in a manner that would allow it to benefit from the improvement.

3. **Amendment to KPB 5.35.070, Property assessed**, to lock in the date by which all subdivisions, reversions of acreage, and lot line adjustments must be completed.
4. **Amendment to KPB 5.35.090, Method of assessment**, to provide that assessments shall be made based on an equal allocation per lot. While many different approaches were reviewed, all had benefits and detriments depending on the specific types of parcels at issue and ultimately raised greater concerns.¹
5. **Amendment to KPB 5.35.106, Petition filing**. Under the changes to the ordinance, the petition will only be circulated and filed after the assembly approves the petition packet and holds a public hearing on it.
6. **Amendment to KPB 5.35.107, Requirements of petition**, requiring the petition to include all the information approved by the assembly in the petition packet as well as a statement notifying property owners to contact the respective utility regarding any additional hook-up costs as well as notification that any costs to hook up to the main line are not included in the assessment. Additionally, the section is amended to set the filing fee at \$1000.
7. **KPB 5.35.110, the Resolution of necessity and Resolution to Proceed, KPB 5.35.120** are repealed and reenacted as a **Resolution to form the district and proceed with the improvement**. The change recommended is modeled after the RIAD program.
8. **Amendment to KPB 5.35.130** to reflect the change from having a resolution of necessity and resolution to proceed to only one resolution to form the district and proceed with the improvement.
9. **Amendment to 5.35.150, Ordinance of assessment**, to reflect changes to references in other parts of the code.
10. **Enactment of 5.35.155, Deferral of payment**, to provide for a hardship exemption whereby low income property owners cannot have their properties taken based on a failure to pay USAD assessments.

Attached for your convenience is a copy of the entire USAD code section with the proposed changes.

Your consideration of this ordinance would be appreciated.

¹ Please see attached memorandum from Scott Bloom dated January 22, 2009, detailing the pros and cons of various approaches.