

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 3.28 TO INCREASE THE PROPERTY OWNER BALLOT THRESHOLD FOR CONTIGUOUS LOCAL IMPROVEMENT DISTRICTS FROM 54 PERCENT TO 67 PERCENT.

AGENDA OF: April 7, 2026

ASSEMBLY ACTION:

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator	<p style="text-align: right;">3 / 2 6 / 2 0 2 6</p> <p>X N S for Assm Bowles and Su ...</p> <p>Signed by: Nicholas Spiropoulos</p>
Finance Director	<p style="text-align: center;">Recoverable Signature</p> <p>X Cheyenne Heindel</p> <p>Signed by: Cheyenne Heindel</p>
Borough Attorney	<p style="text-align: right;">3 / 2 7 / 2 0 2 6</p> <p>X Nicholas Spiropoulos</p> <p>Signed by: Nicholas Spiropoulos</p>
Borough Manager	<p style="text-align: right;">3 / 2 7 / 2 0 2 6</p> <p>X G W H a y s</p> <p>Signed by: George Hays</p>
Borough Clerk	<p style="text-align: right;">3 / 2 7 / 2 0 2 6</p> <p>X Brenda J. Henry for</p> <p>Signed by: Brenda Henry</p>

ATTACHMENT (S): Ordinance Serial No. 26-046 (3 pp)
MSB 3.28 (10 pp)

SUMMARY STATEMENT: This legislation is sponsored by Assemblymembers Bowles and Sumner to change the property owner ballot threshold percentage required for the creation of contiguous local improvement districts ("LIDs") to a supermajority of 67%.

RECOMMENDATION OF ADMINISTRATION: Introduce and set for public hearing.

CHAPTER 3.28: SPECIAL ASSESSMENTS

Section

3.28.010 Creation of improvement districts

3.28.020 Initiation by petition

3.28.030 Assembly initiation

3.28.040 Administrative report

3.28.050 Decision and notice

3.28.060 Objections and revisions [Repealed]

3.28.062 Ballots and revisions

3.28.070 Assembly resolution; filed of record

3.28.080 Assessment roll

3.28.090 Hearing and settlement

3.28.100 Payment

3.28.110 Objection and appeal

3.28.120 Special assessment bonds

3.28.130 Local improvement district maps

3.28.140 Allocation of costs in road special assessment districts

3.28.180 Negotiations

3.28.010 CREATION OF IMPROVEMENT DISTRICTS.

(A) Local improvement districts may be created as provided in this chapter for the purpose of acquiring, installing or constructing capital improvements, all or a portion of the costs of which may be paid by assessments against the property benefited. The assembly may assess against the property of a governmental unit and private real property benefited by a capital

improvement all or a portion of the cost of acquiring, installing or constructing the capital improvement. The real property that is benefited by an improvement may be abutting, adjoining, adjacent, contiguous, or noncontiguous to the improvement. The state shall pay an assessment levied except as otherwise provided by law.

(B) For purposes of this section a "contiguous" improvement district is defined to mean and be comprised of properties that are touching at a point or along a boundary.

"Noncontiguous" improvement district is defined as referring to an improvement district comprised of a parcel or parcels of real property that do not connect or touch at a point or along a boundary.

(C) A proposal for a contiguous improvement district may be initiated by:

(1) petition to the assembly by the owners of:

(a) fifty percent in value of the property to be benefited, and property that will bear more than 50 percent of the estimated cost of a natural gas distribution line improvement; or

(b) fifty percent in value of the property to be benefited, and property that will bear more than 50 percent of the estimated cost of any other improvement; or

(2) the assembly.

(D) A proposal for a noncontiguous improvement district may be initiated by:

(1) petition to the assembly by the owners of 100 percent in value of the property that will bear 100 percent of the estimated cost of the capital improvement; or

(2) the assembly.

(Ord. 21-091, § 2, 2021; Ord. 16-015, § 2, 2016; Ord. 10-105, § 2, 2010; Ord. 03-122, § 2, 2003; Ord. 01-083, § 2, 2001; Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.020 INITIATION BY PETITION.

(A) A local improvement district may be initiated by filing a petition with the finance director. On receipt of a petition proposing formation of a local improvement district, the finance director shall submit the petition to the clerk for certification.

(B) Petitions must contain:

(1) the signature of the property owner;

- (2) the mailing address of the property owner;
 - (3) the legal description of the property or the property's borough tax identification number;
 - (4) the date the property owner signed the petition;
 - (5) the name, mailing address and daytime telephone number of the person initiating the local improvement district;
 - (6) a statement of the improvements proposed, which may include the estimated cost of the improvements to be assessed against the properties in the proposed area; and
 - (7) a vicinity map indicating the location of the proposed boundary of the LID.
- (C) The clerk shall certify a petition to form a local improvement district only if the petition contains:
- (1) signatures, dated within 90 calendar days preceding submission of the petition to the finance director, of record owners, according to the borough's tax assessment records.
 - (a) For contiguous improvement projects:
 - (i) not less than 50 percent of the appraised value of all property in any other proposed local improvement district; and
 - (ii) property that will bear more than 50 percent of the estimated cost of the improvement; or
 - (iii) not less than 50 percent of the appraised value of all property in a proposed natural gas distribution line local improvement district, and property that will bear more than 50 percent of the estimated cost of the improvement.
 - (b) For noncontiguous improvement projects, 100 percent in value of the property that will bear 100 percent of the estimated cost of the capital improvement.
 - (2) All of the information required in subsection (B) of this section.
- (D) Upon certification, the clerk shall forward the petition to the finance director for further action.
- (E) Petitions found insufficient by the clerk shall be immediately returned to their sponsors by the finance director.

(Ord. 21-091, § 3, 2021; Ord. 16-015, § 3, 2016; Ord. 10-105, § 3, 2010; Ord. 03-122, § 3, 2003; Ord. 01-083, § 3, 2001; Ord. 96-178, § 2, 1996; Ord. 89-259, § 2, 1989; Ord. 85-69, § 2, 1985; Ord. 84-34, § 24 (part), 1984)

3.28.030 ASSEMBLY INITIATION.

The assembly may direct the manager to prepare a proposal for an improvement district. The assembly may initiate a local improvement district by making the finding that there is sufficient evidence of the necessity for the improvement to justify the holding of a public hearing.

(Ord. 94-001AM, § 4 (part), 1994; Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.040 ADMINISTRATIVE REPORT.

(A) When an improvement district is initiated, the manager shall compile and develop an improvement plan including the following information:

- (1) a description of all properties benefited by the improvement;
- (2) a proposed allocation of assessments based upon the benefits received;
- (3) a report evaluating the need for and benefit of the improvement; and
- (4) the estimated cost of the improvement, and the percentage of the improvement cost to be assessed against the properties benefited.

(B) The manager shall present this information to the assembly within 60 calendar days of the date of receipt of all information required by this section.

(Ord. 95-027, § 2, 1995; Ord. 89-259, § 2, 1989; Ord. 89-126, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.050 DECISION AND NOTICE.

(A) The manager shall forward the report on a proposed local improvement district to the assembly in the form of an ordinance creating the district. When the assembly introduces the ordinance it shall set a date for the public hearing on the ordinance, which shall be not less than 30 calendar days after the date on which notices will be mailed under subsection (B) of this section.

(B) After the assembly sets the time for the public hearing the finance director shall:

- (1) publish a notice of the public hearing at least once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough; and
- (2) mail, certified return receipt requested, a notice of the public hearing to every current record owner of property within the local improvement district. The notice shall include the following:

- (a) the time and place of the public hearing;
- (b) the estimated cost of the improvement to each property;
- (c) proposed boundary area map; and
- (d) a ballot with a return envelope addressed to the borough finance department. The ballot shall request the property owner to indicate approval or disapproval of the local improvement district by marking a vote of "yes" or "no" on the ballot, and shall state that the assembly will not proceed with the improvement unless, within 30 days after mailing notice of the public hearing, the borough receives ballots marked "yes" from owners of property bearing more than 54 percent of the estimated cost of a natural gas distribution line improvement; or more than 54 percent of the estimated cost of any other improvement, except that for noncontiguous improvement districts, the borough must receive ballots marked "yes" from 100 percent of property owners bearing 100 percent of the estimated cost of the improvement. For contiguous local improvement district proposals, the percentage calculation will be calculated based upon the total number of ballots returned. Unreturned ballots will not affect the calculation.

(C) After holding a public hearing on the improvement plan, the assembly shall act upon an ordinance to approve the plan, create a local improvement district, and proceed with the improvements. The assembly shall find by ordinance whether:

- (1) the improvement request is necessary and should be made; and
- (2) the request has sufficient and proper petitioners.

(D) Where a proposed improvement is to be acquired, installed, or constructed under a power exercised through a service area, the assembly shall consider any recommendations of the supervisors of the service area.

(Ord. 23-057, § 2, 2023; Ord. 21-091, § 4, 2021; Ord. 16-015, § 4, 2016; Ord. 10-105, § 4, 2010; Ord. 03-122, § 4, 2003; Ord. 98-011, § 2, 1998; Ord. 96-178, § 3, 1996; Ord. 89-259, § 2, 1989; Ord. 85-69, § 3, 1985; Ord. 84-34, § 24 (part), 1984)

3.28.060 Objections and revisions. [Repealed by Ord. 98-011, § 3, 1997]

3.28.062 BALLOTS AND REVISIONS.

(A) Ballots approving or disapproving a local improvement district may be filed for a period of 30 calendar days after mailing of notice of the public hearing.

(B) The assembly may not proceed with the improvement unless ballots approving a contiguous local improvement district are timely filed by owners of property bearing more than 54 percent of the estimated cost of a natural gas distribution line improvement; or more than 54 percent of the estimated cost of any other improvement; or for a noncontiguous local improvement district, by owners of property bearing 100 percent of the estimated cost of the improvement. If sufficient ballots are not timely filed, the assembly may not proceed with the improvement unless it revises the plan, and a new balloting of owners of property in the local improvement district results in the timely filing of ballots approving the local improvement district by owners of property bearing more than 54 percent of the estimated cost of a natural gas distribution line improvement; or more than 54 percent of the estimated cost of any other improvement; or for a noncontiguous local improvement district, of owners of property bearing 100 percent of the estimated cost of the improvement. A revised plan shall be approved and adopted as an original plan as provided in MSB 3.28.050. For contiguous local improvement district proposals, the percentage calculation will be calculated based upon the total number of ballots returned. Unreturned ballots will not affect the calculation.

(Ord. 23-057, § 3, 2023; Ord. 21-091, § 5, 2021; Ord. 16-015, § 5, 2016; Ord. 10-105, § 5, 2010; Ord. 03-122, § 5, 2003; Ord. 98-011, § 4, 1998)

3.28.070 ASSEMBLY RESOLUTION; FILED OF RECORD.

(A) The administration shall file on record with the district recorder all resolutions creating local improvement districts.

(B) Failure to file a resolution or ordinance as required by subsection (A) of this section shall not operate to impair any right or interest the borough has in any property within a local improvement district under applicable borough ordinances, code or state law.

(Ord. 94-001AM, § 4 (part), 1994; Assembly Memo. 90-028, 1990; Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.080 ASSESSMENT ROLL.

- (A) At any time after approval of an improvement plan, the assembly shall assess the authorized percentage of the cost against property in the local improvement district in proportion to benefit received by means of a method approved by the assembly.
- (B) The total amount of assessments for an improvement may not exceed the allowable cost of the improvement under A.S. 29.46.110. An assessment may not exceed 25 percent of the assessed value for real property taxation of the property assessed.
- (C) The special assessment roll contains property descriptions, names of owners of record and assessment amounts. The special assessment roll shall be prepared by the finance director in conjunction with the borough assessor.
- (D) The assembly shall fix a time to hear objections to the roll. The finance director shall send an assessment and hearing notice by mail to each record owner of an assessed property not less than 15 calendar days before the hearing.

(Ord. 95-027, § 4, 1995; Ord. 94-001AM, § 4 (part), 1994; Assembly Memo. 90-028, 1990; Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.090 HEARING AND SETTLEMENT.

After the public hearing, the assembly shall correct errors and any inequalities in the roll. When the roll is corrected it shall be confirmed by resolution.

(Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.100 PAYMENT.

- (A) The assembly shall fix times of payment and the rate of interest on unpaid installments. Payment may not be required sooner than 60 calendar days after mailing of the assessment statement. Payment may be made in one sum or by installment. The penalty for delinquent installments and assessment payments is the same as the penalty for delinquent second-half real property taxes that is in effect on the date of delinquency.
- (B) Within 30 calendar days after fixing the time of payment, the finance director shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, the time of delinquency and penalties.

(C) Within five calendar days after the statements are mailed, the finance director shall publish notice that the statements have been mailed.

(D) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in A.S. 29.45.300 through 29.45.490 for enforcement of property tax liens.

(Ord. 95-027, § 5, 1995; Assembly Memo. 90-028, 1990; Ord 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.110 OBJECTION AND APPEAL.

(A) The validity of an assessment may not be contested by a person who did not file with the clerk a written objection to the assessment roll before its confirmation.

(B) The decision of the assembly upon an objection may be appealed to the superior court within 30 calendar days of the date of confirmation of the assessment roll.

(C) If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered valid in all respects.

(Ord. 95-027, § 6, 1995; Assembly Memo. 90-028, 1990; Ord. 89-259, § 2, 1989; Ord. 84-34, § 24 (part), 1984)

3.28.120 SPECIAL ASSESSMENT BONDS.

(A) The assembly may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefited may be pledged by the assembly to secure general obligation bonds, and this section is not a limitation upon use of general obligation by bonds.

(B) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosures shall be against all property on which assessments are in default. The period of redemption shall be the same as in the case of a mortgage foreclosure on real property.

(C) Before the assembly may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting

payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. Interest on the guarantee fund shall be a cost of the improvement district.

(Assembly Memo. 90-028, 1990; Ord. 84-34, § 24 (part), 1984)

3.28.130 LOCAL IMPROVEMENT DISTRICT MAPS.

(A) The clerk shall maintain official local improvement district maps showing the geographic boundaries of local improvement districts.

(B) In the event of conflict between description of local improvement district boundaries in resolutions or ordinances relating to local improvement districts and official local improvement district area maps maintained by the clerk, descriptions found in resolutions or ordinances of the assembly shall govern.

(Assembly Memo. 90-028, 1990; Ord. 84-34, § 24 (part), 1984)

3.28.140 ALLOCATION OF COSTS IN ROAD SPECIAL ASSESSMENT DISTRICTS.

(A) Assessments for costs of road and drainage construction and improvements shall be allocated among the parcels within the road special assessment district as follows:

(1) *Areas not zoned residential or restricted to residential use.* For areas which are not zoned residential or for subdivisions where a majority of the lots are not restricted to residential uses under recorded conditions, covenants and restrictions, the allocation of costs shall be according to the number of square feet within each parcel located between the front property line and the rear property line, or a line drawn 150 feet back from the front property line, whichever line yields the fewer square feet. For a lot of less than 60,000 square feet applied to residential use which has frontage on more than one street, the assessment shall be based on frontage along the street on which the lot has longer frontage only.

(2) *Areas zoned residential or restricted to residential use.* For areas zoned residential or within subdivisions where a majority of the lots within the subdivision are restricted to residential uses under recorded conditions, covenants and restrictions, the allocation of costs shall be assessed on a per lot basis so that each lot is assessed the same amount.

(Ord. 94-001AM, § 4 (part), 1994; Assembly Memo. 90-028, 1990; Ord. 85-3, § 2, 1985; Ord. 84-57, § 2, 1984)

3.28.180 NEGOTIATIONS.

Notwithstanding provisions of MSB 3.08 governing competitive bidding, the manager may negotiate with a utility for the design and construction of the installation of utility facilities and may, in addition, enter other agreements with a utility facility and to protect the public interest as are necessary to clarify ownership, operation, and responsibility of the utility.

(Ord. 94-001AM, § 4 (part), 1994; Ord. 90-54, § 2, 1990)