

CODE ORDINANCE

Sponsored by: Assemblymember Sumner  
Introduced: 09/07/21  
Public Hearing: 09/21/21  
Amended: 09/21/21  
Adopted: 09/21/21

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 21-091**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING PORTIONS OF MSB 3.28, SPECIAL ASSESSMENTS TO CHANGE THE THRESHOLD FOR CONTIGUOUS LOCAL IMPROVEMENT DISTRICTS FROM 70 PERCENT TO 50 PERCENT.

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WHEREAS, the intent and rationale of this ordinance is found in the accompanying Informational Memorandum No. 21-178.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of Section. MSB 3.28.010 is hereby amended to read as follows:

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) [SEVENTY] **Fifty** percent in value of the property to be benefited, and property that will bear more than [70] **50** percent of the estimated cost of a natural gas distribution line improvement; or

(b) [SEVENTY] **Fifty** percent in value of the property to be benefited, and property that will bear more than [70] **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.

Section 3. Amendment of Section. MSB 3.08.020 is hereby amended to read as follows:

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 [70] 50 percent of the appraised value of all property in any other proposed local improvement district; and

(ii) property that will bear more than [70] 50 percent of the estimated cost of the improvement; or

(iii) not less than [70] 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 [70] 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.

Section 4. Amendment of Section. MSB 3.08.050 is hereby amended to read as follows:

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 two 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 [70] 50 percent of the estimated cost of a natural gas distribution line improvement; or more than [70] 50 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.

(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.

Section 5. Amendment of Section. MSB 3.08.062 is hereby amended to read as follows:

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 [70] 50 percent of the estimated cost of a natural gas distribution line improvement; or more than [70] 50 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 [70] 50 percent of the estimated cost of a natural gas distribution line improvement; or more than [70] 50 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.

Section 6. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 21 day of September, 2021.



VERN HALTER, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

YES: McKee, Yundt, Tew, Sumner, and Boeve

NO: Hale and Nowers