



CITY OF WASILLA

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CODE ORDINANCE
REQUESTED BY: FINANCE
PREPARED BY: FINANCE

ORDINANCE SERIAL NO. 95-52

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA REPEALING AND REENACTING CHAPTER 2.60 (SPECIAL ASSESSMENT DISTRICTS) OF THE WASILLA MUNICIPAL CODE.

BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

SECTION I. Classification. This Ordinance is of a general and permanent nature and shall become a part of the Wasilla Municipal Code.

SECTION II. Purpose. To repeal & reenact Chapter 2.60 (Special Assessment Districts) of the Wasilla Municipal Code.

SECTION III. Repeal. Chapter 2.60 and Ordinances W78-01, 80-0-1.1978-1 1980, 82-7, 87-14, 88-11, 90-22, 94-02, & 94-21 are hereby repealed, but remain effective for certain special assessment districts as provided in SECTION V.

SECTION IV. Enactment. Chapter 2.60 is hereby enacted as follows:

CHAPTER 2.60

SPECIAL ASSESSMENT DISTRICTS

SECTIONS:

- 2.60.010 Property Assessed.
- 2.60.020 Property Owner.
- 2.60.030 Eligible Costs.
- 2.60.040 Reserved.
- 2.60.050 Amount Assessed.
- 2.60.060 Allocation of Costs
- 2.60.070 District Formation Procedures.
- 2.60.080 Contract Bids and Changed Conditions.
- 2.60.090 Interim Financing.
- 2.60.100 Assessment District Accounting.
- 2.60.110 Annexation to Assessment District.
- 2.60.120 Property Subject to Horizontal Property Regimes Act.

- 2.60.130 Planned Unit Developments.
- 2.60.140 Public Hearing Notice.
- 2.60.150 City Resolution, Filed on Record.
- 2.60.160 Waiver of Objections.
- 2.60.170 Cumulative Enforcement.
- 2.60.180 Application of State Law.
- 2.60.190 Correction of Invalid Special Assessments.
- 2.60.200 Payment of Assessment, Delinquency, Interest & Penalty.
- 2.60.210 Lien, Procedure for Collection.
- 2.60.220 Limitations on Suits, Actions, and Appeals.
- 2.60.230 Dissolution of Assessment District.

2.60.010 Property Assessed. The Council may assess, for an improvement, any real property specially benefited, or any interest in real property specially benefited, and the property specially benefited may include abutting, adjoining, adjacent, contiguous, non-contiguous or other property or interests in property benefited directly or indirectly by the improvement. The property to be assessed shall include any property or property interest which is not exempt from special assessments by law. A benefited property may be included in whole or in part in more than one special assessment district.

2.60.020 Property Owner. The person whose name is listed on the latest borough tax roll as the owner of the property to be assessed is conclusively presumed to be the legal owner of the property; the address of the person shown on that tax roll is conclusively presumed to be correct. If the property owner is unknown the property may be assessed in the name of the "unknown owner". No assessment is invalidated by a mistake, omission or error in the name of the owner if the property is correctly described.

2.60.030 Eligible Costs.

A. General. The Council may assess against the real property benefited, all or any part of the cost including costs of acquiring property interests and for the surveying, design, plans, specifications, administration, engineering, architectural, legal expense, construction, repair, interim and permanent financing, reconstruction, or other improvements of all or any part of a public improvement and such other costs as are set out in AS 29.46.110.

B. Street Appurtenances. The costs of providing a driveway or curb cut for a property requiring a driveway or curb cut may be assessed against that property. Upon application of the property owner, a storm drain, sewer or water connection may be constructed to a property benefited by the street improvement and the cost of the connection may be assessed against that property.

2.60.050 Amount Assessed. The Council may assess up to one hundred per cent (100%) of any or all assessable costs of a public improvement against the assessable property benefited by the improvement. The Council shall assess each assessable parcel of property in a special assessment district in proportion to, and not to exceed the value of the benefits received from the improvement using one of the methods of assessment permitted in Section 2.60.060.

2.60.060 Allocation of Costs.

A. Permitted Allocation of Cost Methods. The request for creation of a special assessment district may set forth the general terms of proposed allocation of costs among benefited properties, including:

1. Allocation of costs on a front foot basis;
2. Allocation of costs on a square foot basis;
3. Allocation of costs on a per lot basis so that each lot is assessed the same amount, or
4. Allocation of costs on any other reasonable basis which results in an assessment proportionate to the benefit received.

The Council may determine assessments using any of the above methods. Any determination made by the Council with respect to the method of allocating costs is final.

B. Municipal Participation in Costs. When assessments are waived or equivalent costs of lesser improvements are assessed, the un-assessed share of costs against the applicable lots shall be spread to the remaining properties in the district unless specifically authorized by the city council to be borne by the City.

C. City Funding. Subject to availability of grant funds and/or general funds, the City Council may appropriate money to pay the unassessed portion of street improvement costs. Unless otherwise provided by ordinance or resolution, the allocation of assessable costs for street improvements shall be as follows:

1. Major Collector Streets. No assessment will be levied for the improvement of streets designated on the Official Street Classification Map as major collector class streets. All of the cost of major collector street improvements will be borne by the City.
2. Other Streets. The City Council shall assess, at least one-third (1/3) of the total cost of street improvements to the assessable benefited properties and may fund no more than two-thirds (2/3) of the costs for the improvement of streets designated on the Official Street Classification Map as minor collector, commercial and local/residential class streets.

2.60.070 District Formation.

A. Initiation. An improvement proposal may be initiated by:

1. Petitions of property owners as set forth in AS.29.46.010,
2. Letters of interest or by other informal means signed by the owners who would pay approximately 50% of the assessable costs, or
3. The City Council by motion.

B. Procedures. However initiated, the procedures set out in Subsections 2.60.070 B1 through B7 shall apply to the formation of a special assessment district.

1. Feasibility Report. Upon receipt of a petition, indications of interest from property owners, or on its own initiative, the Council may by motion authorize or direct the Administration to prepare a report concerning the need for and the estimated cost of the district. The report shall contain a plan defining the district, outlining the properties to be assessed, recommended method of assessment and showing the desirable extent of the proposed improvement. The district may be defined by a boundary description, or by a designation of the properties to be assessed within the district by lot, block and subdivision, or if unsubdivided by other appropriate designation. The boundary description may generally refer to the streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as included public streets, rights-of-way and properties. Upon receipt and consideration of the report, the council, by resolution, may propose the formation of a special assessment district with such boundaries, improvements and assessment formula as the council determines appropriate.

2. Public Hearing. After adoption of a resolution pursuant to Section 2.60.070(B1) proposing formation of a district, a public hearing on the necessity for the local improvement shall be held. The time and place of the public hearing on the proposed improvement shall be set so as to allow sufficient time for the mailing and publication of notice procedures required in Section 2.60.140. The hearing may be continued from time to time. After hearing all interested persons favoring or opposing the proposed improvement, the Council may decrease the extent or value of the improvement, and may delete from the district properties not benefited by the improvement.

3. Council Action. After the public hearing is closed, the Council shall consider a resolution whether to proceed with the proposed improvement. If protests in writing as to the necessity of a local improvement are made by the owners of property bearing fifty percent (50%) or more of the estimated assessable cost of the improvement, the Council may not proceed with the improvement until the protests have been reduced to less than fifty percent (50%) except upon approval of not fewer than three-fourths of the Council if the council finds the improvement is needed to protect public health or safety. The Council resolution to form the special assessment district and proceed with the improvement must set out findings with respect

to the necessity of the improvement and benefit to the property within the district. The findings of the Council are conclusive. The resolution must contain a description of the boundary of the district, a list of the parcels included within the district, and a general description of the proposed improvement. The Council, in the resolution, shall assess the authorized percentage or rate of the costs of the improvement against the property within the district.

4. Assessment Roll. After the improvement has been completed and the costs of the improvement computed, the Finance Director shall prepare an assessment roll for the special assessment district. The assessment roll shall contain as to each parcel of property to be assessed, a brief description or designation of the parcel, the name of the owner or reputed owner of the parcel and the amount assessed against the parcel. When the assessment roll is completed, the City Clerk shall fix a time and place for a public hearing on objections to the assessment roll. Notice, in accordance with section 2.60.140 shall be given before the hearing.

5. Public Hearing, Objections. At the public hearing an owner of property to be assessed shall have the right to present his objection to the assessment roll by showing errors and inequalities in the assessment roll and submitting any reason for amendment or correction of the assessment roll. The public hearing may be continued from time to time as the Council shall decide. After the public hearing, the Council may correct any error or inequality in the assessment roll. If an assessment is reduced, the reduction shall be spread equitably among the other properties on the roll to the extent the city does not fund the amount of the reduction. If other assessments are increased as a result of a change in the proposed assessment roll, the owners of all properties whose assessments were increased shall receive notice and be given an opportunity to object and be heard in the same manner as for the initial assessment roll. When the roll is finally determined, the City Clerk shall so certify.

6. Confirmation. After the public hearing and determination of the assessment roll, the Council by resolution shall confirm the special assessment roll of the special assessment district. The resolution shall provide for the levy and payment schedule of the assessments.

7. Notice of Assessment. Within thirty (30) days after the resolution confirming the assessment roll and fixing the date of delinquency, the City Clerk's Office shall mail with postage prepaid a notice to the owner of each property assessed. The notice shall designate the property, the amount of the assessment, the schedule of payments and delinquencies and the amount of the penalty and interest. Not more than sixty (60) nor less than thirty (30) days before the date the assessment or the first installment of the assessment becomes delinquent, the Finance Department shall mail a payment notice to each property owner; the failure to mail either of the notices required by this Subsection shall in no way affect any liability for or enforcement of payment of all or any part of the special assessment.

2.60.080 Increased Estimated Costs.

A. Contract Award. A construction contract may be awarded for the improvement if the lowest acceptable bid does not cause the estimated assessable cost to increase by more than ten per cent (10%). In the event the lowest acceptable bid would cause assessable project costs to exceed the last estimate of assessable project costs by ten percent (10%) or more, notification of the increase over the last estimated assessable costs must be provided to the assessment district property owners. The "last estimate of assessable project costs" is the estimate of assessable project costs last placed before the council or approved by the council, prior to adoption of the district formation and improvement approval resolution under Section 2.60.070 (B3). The notice must contain a statement of the revised estimated assessment amount for the parcels that are the subject of the notice and a notice of the date by which the city must receive written objections. After notification, a contract may be awarded unless the city receives written objections within 15 days of the mailing of the notice from the owners who would bear more than fifty percent (50%) of the revised estimated assessable costs of the improvement. If objections in writing are filed by owners of property which will bear fifty percent (50%) or more of the assessable costs of the improvement, the project shall be discontinued unless the estimated assessable costs are reduced to 110% or less of the last estimate of assessable costs.

2.60.090 Interim Financing. The City may provide by resolution or ordinance for the borrowing of funds to provide interim financing for special assessment district improvements. The amount borrowed shall bear interest at a rate or rates authorized by the Council. Principal of, interest on and all costs of such financing shall be paid out of the proceeds of the sale of the Special Assessment District Bonds issued to fund, refund or reimburse such principal, interest and costs, or out of other funds paid into the Special Assessment District Fund.

2.60.100 Assessment District Accounting. A separate group of accounts shall be established for each separate assessment district and kept separate from all other municipal accounts. Assessments collected within a special assessment district will be applied only to costs, including financing costs and debt service, incurred with respect to that assessment district.

2.60.110 Assessment Districts Outside City. No area outside of the municipal boundaries will be included in an assessment district. Such areas must be annexed to the City of Wasilla before they are eligible for inclusion in an assessment district.

2.60.120 Property Subject to Horizontal Property Regimes Act. In the case of a parcel which, but for the provisions of the Alaska Horizontal Property Regimes Act, would be specially assessed for a portion of the costs of a public improvement as set forth in this Section, the assessment which would otherwise be levied against the parcel shall be levied against each apartment or unit according to its proportionate percentage interest in the common areas and facilities.

2.60.130 Planned Unit Developments. Common parcels within Planned Unit Developments not subject to the Alaska Horizontal Property Regimes Act, and which include

lands held both individually and in common, shall have their proportionate share of an assessment, applicable to common parcels, levied against the common ownership only.

2.60.140 Public Hearing Notice. Notice by publication and mail shall be given of the public hearings required under Section 2.60.070 (B2 and 4). Notice of the public hearing shall be published in a newspaper of general circulation within the City at least once in each of any two (2) consecutive weeks prior to the week fixed for the hearing. The City Clerk shall send a written notice by first class mail at least thirty (30) days prior to the time of the hearing to each owner of property to be assessed. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the special assessment district, the purpose of the public hearing, and the time and place fixed for the public hearing. The notice by mail shall include a summary of the improvement, the designation of the addressee's property to be assessed, the purpose of the public hearing, the amount of estimated or actual assessment against the property and the time and place fixed for the public hearing. Each published and mailed notice shall generally inform the property owner of the manner, method and time for protesting or objecting to the action to be taken at the public hearing.

2.60.150 City Resolution, Filed on Record.

A. Recordation. The City Clerk's Office shall file on record with the district recorder all resolutions creating or establishing assessment districts.

B. Failure to File. Failure to file a resolution as required by subsection (A) shall not operate to impair any right or interest the City has or may subsequently acquire in any property within an assessment district under applicable City ordinances or state law nor does such failure affect the validity or enforceability of any levy or lien established pursuant to this chapter.

2.60.160 Waiver of Objections. The irregularity or validity of any special assessment procedure is waived and may not be contested or questioned in any manner in any proceeding whatsoever by any person not filing a written objection to the assessment roll prior to its confirmation.

2.60.170 Cumulative Enforcement. The collection, foreclosure or enforcement of any installment or any part of a special assessment shall not bar, prevent or otherwise extinguish the right of the City to collect, foreclose or enforce the payment of any other installment or part of the same or any other special assessment.

2.60.180 Application of State Law. It is the purpose of this chapter to replace and supersede all the provisions of AS.29.46.030-29.46.100 except AS.29.46.080(c), provided, all privileges, protections, immunity, presumptions and authorizations set out in Alaska Statute Chapter 29.46 are retained and shall apply to the city and its special assessment district proceedings. The City retains all rights not inconsistent with this Chapter.

2.60.190 Correction of Invalid Special Assessments.

A. Council Corrections. If any special assessment procedure of the Council is found to be irregular or invalid for any reason, the Council may correct the same at any time within ninety (90) days after the confirmation of the special assessment roll or within one year after final determination of any litigation thereon, whether before or after the completion of the local improvement to which the special assessment applies.

B. Court Ordered Corrections. In the event that a court of competent jurisdiction orders that any or all of a special assessment may not be assessed or enforced by the Council because of any irregular or invalid special assessment procedure, the Council may make a new assessment or reassessment upon the properties specially benefited by the improvement by adopting a resolution to make a new assessment or a reassessment of the properties specially benefited by the improvement. The Council in the resolution shall provide for the time and date of a public hearing on the new assessment or reassessment, shall direct the Finance Director to prepare the assessment roll and shall assess the appropriate assessment against the property in the district. The previous findings of benefit and necessity for the improvement shall continue in full force and effect in any assessment or reassessment unless invalidated by a court order.

C. Initiation of Corrections. In the event of a need to correct the irregular or invalid special assessment procedure, the Council may proceed to make a new assessment or reassessment of the property specially benefited by beginning the assessment procedure again at the place where the defect that caused the inequity or invalidity occurred. Only those properties that are affected by the defect or that would be affected by the correction of the defect need to be included in the new proceedings.

D. Assessment Credits/Refunds.

1. In any new assessment or reassessment by the Council all sums paid upon the former assessment shall be credited to the property upon any new assessment or reassessment and the new assessment or reassessment shall, to that extent, be deemed satisfied;

2. If a refund, rather than credit, is determined to be available by a new assessment or reassessment, then the Council in the resolution confirming the assessment roll shall provide for a refund to the person owning the property affected on the date the new assessment roll confirms the amount of assessment to be refunded.

E. Enforcement/Collection. The new assessment or reassessment when completed shall be enforced and collected in the same manner that special assessments are enforced and collected.

2.60.200 Payment of Assessment.

A. Due Dates, Delinquency, Interest & Penalty. The Council in the resolution confirming the assessment roll shall fix a schedule of dates when the special assessment or special assessment installment payments become due and delinquent. Deferred or installment payments bear interest at the rate payable on bonds issued to finance the improvements within the Special Assessment District or at such other rate as may be authorized by the Council by resolution or ordinance, payable from the date of the confirmation of the assessment roll until paid. No payment shall be required within sixty (60) days after adoption of the resolution confirming the assessment roll. A penalty of eight percent (8%) shall be added to any assessment installment not paid before the date of delinquency, and both the assessment installment and penalty shall draw interest at a rate three percent (3%) per annum higher than the interest rate payable on the deferred or installment payments, until paid.

B. Waiver of Penalty and Interest. Penalty and the additional three percent (3%) interest on delinquent payments may be waived by the Council where the delinquency occurred through no fault of the property owner so assessed.

C. Early Payoff. An assessment may be paid in full or in part without interest on the amount paid during the 60 day period following the confirmation of the assessment roll or such greater or lesser prepayment period as the council may provide by resolution or ordinance. An assessment may be paid in full on any payment due date or at any other time without an early payoff penalty. An assessment balance paid in full on the due date or within three (3) months following the last due date will not be assessed the following year's interest. Any assessment balance paid in full during the last 9 months of the assessment payment year will be assessed a full year's interest. Partial prepayments of principal will not qualify for any interest reduction. Any delinquent interest or penalties on prior missed payments must also be paid in full before a release of lien will be issued.

2.60.210 Lien, Procedure for Collection. A special assessment shall be a first lien prior and paramount to all liens except city and borough real property tax liens, upon the property assessed from the time the special assessment is levied in the resolution confirming the assessment roll. The lien shall be of the same character, effect and duration as a lien for city and borough real property taxes. A lien for a special assessment may be collected, foreclosed and otherwise enforced in accordance with the procedures provided for the collection, foreclosure and enforcement of municipal tax liens on real property. No person shall have any right to repurchase or redeem the special assessment foreclosed property except as provided by such tax foreclosure procedures. The city may retain the property for a public purpose or sell the property in the same manner as provided in A.S. 29.45.460 for the retention or sale of tax foreclosed property. The city shall have the cumulative remedy for collection of a special assessment by civil action against the property owner for debt or foreclosure with the right of redemption as provided by law for real property mortgage foreclosures. The remedies provided by this Section may apply to reassessments.


2.60.220 Limitations on Suits, Actions, and Appeals. The decision of the Council on an objection to any assessment procedure may be appealed to the Superior Court, Third Judicial District, Alaska, in the manner provided by law. If no objection is filed or appeal taken within thirty (30) days after the date of confirmation of the Assessment Roll, the assessment procedure is considered valid in all respects.

2.60.230 Dissolution of Assessment District. An assessment district created to finance a capital improvement may be dissolved by Council resolution at any time after the district's share of the cost of the improvement has been paid.

SECTION V. Effective Date. This ordinance becomes effective January 1, 1996 and shall apply to all special assessment districts for which a petition or expression of interest is received or acted on by the Council at a Council meeting held on or after January 1, 1996. All other special assessment districts shall continue to be governed by the provisions of Chapter 2.60 repealed by this Ordinance.

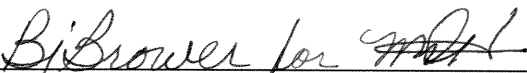
Introduction: 11/13/95
Public Hearing: 11/27/95

ADOPTED by the Council of the City of Wasilla on this 11th day of December, 1995.



JOHN C. STEIN, Mayor

ATTEST:



MARJORIE D. HARRIS, CMC
City Clerk