

Introduced by: Mayor Combs

Date: May 26, 2009

Public Hearing: June 9, 2009

Action: Adopted

Vote: Unanimous

Yes:

No:

Erbey

Best

Vanover

Brown

Chmielewski

Combs

CITY OF PALMER, ALASKA

ORDINANCE NO. 09-010

AN ORDINANCE OF THE PALMER CITY COUNCIL AMENDING CHAPTER 3.08, SPECIAL ASSESSMENTS, TO CLARIFY THE DESCRIPTION AND PROCEDURES FOR A LOCAL IMPROVEMENT DISTRICT

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Chapter 3.08 is hereby amended to read as follows (new language is underlined and deleted language is stricken):

3.08.010 Property assessed. Districts—Initiation—Methods.

Local improvement districts as provided in this chapter are 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 council may assess against the real property benefited all or any part of the cost of acquiring property interests for and the design, plans, specifications, administration, engineering, architectural, legal expense, construction, repair, reconstruction or other improvement of all or any part of a public improvement. When more than one property is to be specially benefited, the project is considered a local improvement special assessment district. ~~A special assessment district may be initiated by:~~

- ~~A. Petition to the council by the owners of property bearing a percentage of the cost of the property to be benefited; or~~
- ~~B. The council.~~

3.08.015 District initiation.

A local improvement district may be initiated by:

- A. Petition to the council by the owners of property bearing a percentage of the cost of the property to be benefited;

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- B. By motion of the city council directing the city manager to prepare a proposal for an improvement district;
- C. The City Manager.

3.08.020 District formation. ~~Districts—Initiation—By petition.~~

- A. Procedures. However initiated, the procedures set out in this section shall apply to the formation of a local improvement district.

A. Form and Requirements.

1. The property owner petition shall be in a form prescribed by the city manager and shall include a description of the improvement sought by the petition.
2. The original or copies of the petition shall be signed by all the owners of a majority of the parcels in the district; provided, however, pursuant to PMC 3.08.081, the method to determine the amount of the assessments need not be by the per-parcel method. The petition, when signed, shall be filed with the city clerk. A property owner may not withdraw his or her signature of approval for six months after the petition has been filed with the clerk unless authorized by the council.
3. On receipt of a petition proposing formation of a local improvement district, the manager shall submit the petition to the clerk for certification.
4. Once certified by the clerk, the clerk shall forward the petition to the manager for further action. No property owner may withdraw his signature of approval for six months after the petition has been filed with the city clerk unless authorized by council.
5. A petition found insufficient by the clerk shall be immediately returned to the petition sponsor by the manager.

- B. City Manager Action. Upon receipt by the city manager of the petition from the city clerk The city manager shall make prepare a survey and report in the form of a resolution to the council concerning the need for and the estimated cost of the district. The report shall contain:

1. A plan defining the district, outlining the properties to be assessed and showing the desirable extent of the proposed improvement. In addition, the report shall include
2. The number of parcels in the district and the following information for each parcel:
 - a. front feet;
 - b. square feet;
 - c. square feet per 30-foot zone;; and
 - d. assessed value using the then most-current Matanuska-Susitna Borough assessed values (to include "work in progress" values) of land and improvements.
3. The district may be defined:
 - a. By a boundary description; or
 - b. By a designation of the properties to be assessed within the district by lot, block, and subdivision; or
 - c. If unsubdivided, by other appropriate designation, which designation may generally refer to streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as "and included public streets, rights-of-way and properties."
4. Upon receipt and consideration of the resolution, the council, may propose the formation of a local improvement district with such boundaries, improvements, and assessment formula as the council determines appropriate. The survey and report

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- ~~of the city manager may be made either before or at the time of a public hearing on the necessity for the proposed improvement.~~
- C. Public Hearing. After the notices of the hearing required in PMC 3.08.085 are given, the council shall hold a public hearing on the resolution concerning ~~upon~~ the necessity for the proposed improvement. The ~~council or city manager~~ city clerk shall fix the time and place of the public hearing, which may be continued from time to time as the council may decide. After the ~~public hearing~~ the interested persons favoring or opposing the proposed improvement, the council may decrease the extent or value of the improvement, or may delete from the district properties not benefited in whole or in part by the improvement. ~~No change may be made resulting in an improvement district containing petitioners of properties bearing less than 50 percent of the estimated costs, unless other sufficient property owners are added to the petition prior to council action on the petition.~~
- D. Property owner protest. If protests in writing as to the necessity of a local improvement are made by the owners of property who shall bear 50 percent or more of the estimated assessable cost of the improvement, the council shall not proceed with the improvement until the protests have been reduced to less than 50 percent, except upon the approval of at least five members of the council. Written protests shall be submitted to the city clerk by 5 p.m. on the day the council meets to consider the resolution.
- E. Council Action. After the public hearing is closed, the council shall ~~adopt a~~ consider the resolution ~~determining either to proceed or not to proceed with~~ regarding the proposed improvement. The council resolution ~~to proceed~~ shall:
1. Find that the improvement is necessary and of benefit to the properties to be assessed, and that the petition for the improvement has been signed by sufficient and proper petitioners. The findings of the council are conclusive. The resolution shall
 2. Require an account to be kept of all costs of the improvement and direct the city manager to prepare the assessment roll. The council in the resolution shall
 3. Assess the authorized percentage or rate of the costs of the improvement against the properties within the district.
- ~~E. Assessment Roll. After the improvement has been completed and the costs of the improvement computed, the city manager shall prepare an assessment roll for the special assessment district. The assessment roll shall contain, as to each property to be assessed a brief description or designation of the property; the name of the owner or reputed owner of the property to be assessed and the amount assessed against the property.~~
- ~~F. Public Hearing — Objections. When the assessment roll is completed, the council or city manager shall fix a time and place for a public hearing on objections to the assessment roll. The notices required in this section shall be given in accordance with PMC 3.08.085. 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 and 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. When the roll is finally determined, the city clerk shall so certify.~~
- ~~G. 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 the payment schedule of the assessment.

- ~~H. Notice. Notice by publication and mail shall be given of any public hearing required in this section. Notice of the public hearing shall be published in a newspaper of general circulation in the city at least once a week for two consecutive weeks before the time fixed for the hearing. The city clerk shall send a written notice by first class mail at least 15 days before the time of the hearing to persons whose names appear on the current assessment roll as owners of real property within the special assessment district. 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 notice shall generally inform the assessment roll owners of the manner and method of protesting or objecting to the action to be taken at the public hearing.~~

3.08.025 Assessment roll and resolution confirming the assessment roll.

- A. After the improvement has been completed and the costs of the improvement computed, the city manager shall prepare an assessment roll for the local improvement district. The assessment roll shall contain, as to each property to be assessed:
1. A brief description or designation of the property;
 2. The name of the owner or reputed owner of the property to be assessed; and
 3. The amount assessed against the property.
- B. Public Hearing.
1. 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. The notices required in this section shall be given in accordance with PMC 3.08.085.
 2. At the public hearing, an owner of property to be assessed shall have the right to present his or her objection to the assessment roll by showing errors and inequalities in the assessment roll and submitting any reason for amendment and correction of the assessment roll. The public hearing may be continued from time to time as the council shall decide.
 3. After the public hearing, the council may correct any error or inequality in the assessment roll. When the roll is finally determined, the city clerk shall so certify.
- C. Confirmation. After the public hearing and determination of the assessment roll, the council, by resolution, shall confirm the special assessment roll of the local improvement district. The resolution shall provide for the levy and the payment schedule of the assessment.

3.08.030 Districts — Initiation — By council.

- A. ~~Initiation. The council, by motion or other action, may direct the city manager, or approve his request, to make a survey and report on a proposed council initiated special assessment district.~~
- B. ~~City Manager Action. Upon receipt by the city manager of the petition from the city clerk, the city manager shall make a survey and report to the council 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 and showing the desirable extent of the proposed~~

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improvement. In addition, the report shall include the number of parcels in the district and the following information for each parcel: front feet, square feet, square feet per 30-foot zone, and assessed value using the then most current Matanuska-Susitna Borough assessed values (to include "work in progress" values) of land and improvements. The district may be defined:

1. By a boundary description; or
2. By a designation of the properties to be assessed within the district by lot, block and subdivision; or
3. If unsubdivided, by other appropriate designation, which designation may generally refer to the streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as "and included public streets, rights-of-way and properties."

The survey and report of the city manager may be made either before or at the time of a public hearing on the necessity for the proposed improvement.

- C. ~~Public Hearing.~~ The council shall hold a public hearing on the necessity for the local improvement after the notice of hearing required in this section is given. The council or city manager shall fix the time and place of the public hearing, which may be continued from time to time as the council decides. If protests in writing as to the necessity of a local improvement are made by the owners of property who shall bear 50 percent or more of the estimated cost of the improvement, the council shall not proceed with the improvement until the protests have been reduced to less than 50 percent, except upon the approval of at least five members of the council. 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.
- D. ~~Council Action.~~ After the public hearing is closed, the council shall adopt a resolution determining either to proceed or not to proceed with the proposed improvement. The council resolution to proceed shall find that the improvement is necessary and will benefit the properties within the district. The findings of the council are conclusive. The resolution shall require an account to be kept of all costs of the improvement and direct the city manager to prepare the assessment roll. The council in the resolution shall assess the authorized percentage or rate of the costs of the improvement against the property within the district.
- E. ~~Assessment Roll.~~ After the improvement has been completed and the costs of the improvement computed, the city manager 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 council or city manager shall fix a time and place for a public hearing on objections to the assessment roll. The notices required in this section shall be given before the hearing.
- F. ~~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. When the roll is finally determined, the city clerk shall so certify.

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- G. ~~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.~~
- H. ~~Notice. Notice by publication and mail shall be given of any public hearing required in this section. Notice of the public hearing shall be published in a newspaper of general circulation in the city at least once a week for two consecutive weeks before the time fixed for the hearing. The city clerk shall send a written notice by first class mail at least 15 days before the time of the hearing to persons whose names appear on the current assessment roll as owners of real property within the special assessment district. 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 notice shall generally inform the assessment roll owners of the manner and method of protesting or objecting to the action to be taken at the public hearing.~~

~~3.08.040 Property eligible.~~

~~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, noncontiguous or other property or interests in property benefited directly or indirectly by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law. A benefited property may be included in whole or in part in more than one special assessment district.~~

3.08.050 Determination of legal owner.

The person or persons whose name is listed on the latest borough assessment roll as the owner of the property to be assessed is presumed to be the legal owner of the property. If the property owner is unknown, the property may be assessed in the name of "unknown owner." No assessment is invalidated by a mistake, omission or error in the name of the owner if the property is correctly described.

3.08.060 Amount assessed.

- A. The council may assess up to 100 percent of any or all costs of a public improvement against each parcel of property benefited by the improvement. Unless a specific method of computation of the benefit to the property is expressly provided for ascertaining the amount to be assessed against the property benefited by a designated improvement, the council shall assess each parcel of property in a ~~special assessment~~ local improvement district in proportion to, and not to exceed, the value of the benefits received from the improvement.
- B. If grant funds are available and applied toward the costs of a public improvement, the council, in its discretion, may apply such funds to the assessed costs, unassessed costs, or both.

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3.08.081 Allocation of costs. ~~Assessment amount determination.~~

- A. The council shall determine the method of assessment allocation for each local improvement ~~special assessment~~ district. Any determination made by the council with respect to the method of allocating costs is final.
- B. The following methods of allocation of assessed costs among benefited properties are permitted:
 - 1. Allocation of costs based on the then most-current Matanuska-Susitna Borough assessed values (to include "work in progress" values) of land and improvements;
 - 2. Allocation of costs on a front-foot basis, including adjusted and unadjusted front-foot;
 - 3. Allocation of costs on a square-foot basis;
 - 4. Allocation of costs on a per-lot basis so that each lot is assessed the same amount;
 - 5. Allocation of costs on a zone square-foot basis;
 - 6. Allocation of costs on any other reasonable basis or combination of bases (including without limitation subsection (B)(1) through (5) of this section) which results in an assessment proportionate to the benefit received, to include, without limitation, allocation that takes into account different zoning districts and future use to which property is reasonably adaptable within a reasonably foreseeable time.

3.08.085 Public hearing notice.

Notice by publication and mail shall be given of any public hearing required in this chapter. Notice of the public hearing shall be published in a newspaper of general circulation in the city at least once a week for two consecutive weeks before the time fixed for the hearing. The clerk shall send a written notice by first-class mail at least 15 days before the time of the hearing to persons whose names appear on the current assessment roll as owners of real property within the local improvement district. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the local improvement 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 notice shall generally inform the assessment roll owners of the manner and method of protesting or objecting to the action to be taken at the public hearing.

3.08.090 Assessment notice – Contents – Mailing.

- a. Within 30 days after the resolution confirming the assessment roll and fixing the date of delinquency, the ~~treasurer~~ Director of the Department of Administration shall mail, with postage prepaid, a notice to the owner of each property assessed. The notice shall:
 - 1. Designate the property;
 - 2. State the amount of the assessment;
 - 3. Describe the schedule of payments and delinquencies, and
 - 4. List the amount of the penalty and interest.
- b. Not more than 60 nor less than 30 days before the date the assessment or the first installment of the assessment becomes delinquent, the ~~treasurer~~ Director of the Department of Administration shall mail a payment notice to each property owner, but the failure to mail the notice shall in no way affect any liability for or enforcement of payment of all or any part of the special assessment.
- c. Within five days after the statements are mailed, the city clerk shall publish notice that the statements have been mailed.

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3.08.100 Payment schedule – Delinquency interest.

- A. 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 shall bear an interest rate based on the Alaska Municipal Bond Bank's general obligation bond effective rate at the time the council confirms the assessment role ~~at the rate of simple interest as established in the current, adopted budget, from the date of the confirmation of the assessment roll~~ until paid, except that no interest shall be charged if payment in full is made within 60 days of the resolution, or the time set out in the resolution for the first payment. No payment shall be required within 60 days after the resolution.
- B. A penalty established in the current, adopted budget shall be added to any assessment or assessment installment (or interest installment under subsection (E)(4) of this section), whichever is less, not paid before the date of delinquency or unless a monthly payment plan has been approved, and both the assessment and penalty shall draw an interest rate based on the Alaska Municipal Bond Bank's general obligation bond effective rate at the time the council confirms the assessment role ~~at the rate as established in the current, adopted budget,~~ per year until paid.
- C. Monthly installment payments may be scheduled upon the written request of the property owners and written approval by the city manager. Monthly installments shall carry the interest rate based on the Alaska Municipal Bond Bank's general obligation bond effective rate at the time the council confirms the assessment role ~~established in the current, adopted budget~~ and shall be due and payable on or before the tenth day and will be deemed delinquent with the penalty established in the current, adopted budget on the amount delinquent, which shall bear interest as above.
- D. When a property owner owns more than one lot in an improvement district, the total assessment of all the lots shall determine the repayment schedule. The repayment schedule is as follows:
 - 1. Assessments totaling \$1,500.99 or less shall pay the same in three equal annual installments;
 - 2. A property owner with assessments of \$1,501 to \$3,500.99 shall pay the same in five equal annual installments;
 - 3. A property owner with assessments of \$3,501 to \$6,500.99 shall pay the same in 10 equal annual installments;
 - 4. A property owner with assessments of \$6,501 or more shall pay the same in 20 equal annual installments.
- E. When a property owner owns property in more than one improvement district, the improvement district whose roll is spread first shall be repaid first. Subject to the following, replacement of the assessment amount for the parcel or parcels in the second district will be deferred:
 - 1. The owner must submit a written request for the deferral;
 - 2. The request must be approved in writing by the city manager;
 - 3. The repayment schedule shall not be deferred for more than two parcels in the second assessment district. No deferral will be granted for a parcel in a third or other assessment district. For purposes of this section, assessment districts for different purposes, e.g., road, water and sewer, covering substantially the same area are considered a single assessment district;
 - 4. The first \$10,000 of interest arising from the deferred assessment during the deferral period shall not be charged. All interest arising from the deferred assessment during the deferral period in excess of \$10,000 shall be due the city annually, even during the

- period the payment on the assessment itself is deferred. All interest arising after the deferral period ends shall be charged;
5. The deferral period shall end upon:
 - a. The actual repayment of all the assessments due on the first assessment district;
 - b. Upon the date when the last payment is due under the repayment schedule for the first assessment district; or
 - c. Upon transfer of ownership of the last parcel owned in the first assessment district, whichever occurs first;
 6. Upon the transfer of ownership of a parcel for which there is a deferred assessment, an assessment payment for that parcel only shall be due immediately in the amount which would be due if no deferment had been granted. Interest not charged shall not be included. Repayment will commence according to the original repayment schedule for that parcel. Repayment for the remaining untransferred parcel, if any, for which repayment was deferred shall continue to be deferred until the deferral period ends. The repayment schedule for the remaining parcel shall be determined by consideration of the amount assessed only against it, and not by adding the amount assessed against the parcel sold;
 7. Transfer of ownership shall include any transfer of title or a lease for 10 years or more, whether by law or otherwise, but shall not include a transfer between spouses;
 8. If the owner transfers ownership of a parcel for which the payment of assessments has been deferred, neither the owner nor the new owner will be entitled to a deferral of assessment payments for the parcel transferred or for any additional parcel in any district.

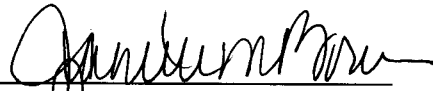
3.08.110 Lien – Priority – Collection.

- A. 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, and the lien shall be of the same character, effect and duration as a lien for city and borough real property taxes.
- B. 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, and no person shall have any right to repurchase or redeem the tax-foreclosed property except as provided by such procedures.
- C. The city may devote the property to a public purpose or use by resolution or other action of the council showing the council's intent to devote the property to a public purpose or use.
- D. 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.
- E. The remedies provided by this section may apply to reassessments.

Section 4. Effective Date. Ordinance No. 09-010 shall take effect upon adoption of the Palmer City Council.

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Passed and approved this ninth day of June, 2009.


Janette Bower, CMC City Clerk
John C. Combs, Mayor

