

1 Introduced by: Assembly Member Dvorak thru the Mayor
2 Drafted by: Borough Attorney and Assembly Member Dvorak
3 Introduced on: 03/18/2021
4 Failed on: 03/18/2021
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6 **KODIAK ISLAND BOROUGH**
7 **ORDINANCE NO. FY2021-29**
8

9 **AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH REPEALING**
10 **SECTIONS OF KODIAK ISLAND BOROUGH CODE, TITLE 4, SERVICE AREAS PERTAINING**
11 **TO CERTAIN EXEMPTIONS FOR ROAD MAINTENANCE SERVICES FOR PROPERTIES**
12 **ALONG STATE ROADS.**
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14 **WHEREAS,** the Kodiak Island Borough adopted KIB Ordinance No. 97-28, which provided the
15 borough mayor discretion to exempt certain properties within established road service areas, lying
16 along state road rights-of-way exclusively, from paying the established road service area
17 assessment upon a determination that the properties did not receive any service; and,
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19 **WHEREAS,** the said ordinance was subsequently amended by KIB Ordinance No. 98-04, in
20 order to reflect the borough's transition from the Strong Mayor Form of government to the
21 manager form of government; and,
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23 **WHEREAS,** exempting said properties from tax levy by ordinance alone, and at the discretion
24 of the borough manager solely, provides for a property tax exemption not authorized by state law
25 and constitutes a defacto amendment of the road service area boundary without the required
26 election process prescribed under KIB Code Chapter 4.05, Formation and Modification of Service
27 Areas; and,
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29 **WHEREAS,** it is inequitable to consider the owners of exempted properties along state roads
30 as fully empowered members of the service area, as originally voted on at the formation of said
31 service areas, when they are eligible to run for elected service area board seats when they do not
32 appear to have a vested interest in the levels of service to be provided and the determination of
33 the appropriate level of taxation for such services; and,
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35 **WHEREAS,** even though they may not receive a direct service for road maintenance, the
36 property owners along state roads may receive some benefit from the construction and
37 maintenance of nearby and surrounding borough roads which may provide more efficient access
38 to their property, provide drainage improvements to or from the contiguous vicinity, local road
39 access for the cost effective delivery of other desirable services in the general area, such as for
40 heating fuel, electricity, communications, water and sewer utilities, and improved emergency
41 response access; and,
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43 **WHEREAS,** other indirect benefits may also accrue to the land owners along state roads
44 provided by the detour around occasional blockage of state roads due to road maintenance,
45 disaster or other utility construction or maintenance; and,
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47 **WHEREAS,** without the ability to deliver road services to areas not fronting state rights-of-way
48 the owners of land fronting on state rights-of-way would be less able to develop their lands behind
49 the state road frontage, to the detriment of both the land owners along state roads and the
50 community as a whole; and,

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52 **WHEREAS,** if the Assembly determines that these parcels are not benefitted from the service
53 area services and the service area boundaries should be altered to remove the parcels, then the
54 process in KIBC 4.05 may be followed and a vote on the issue held in the appropriate area
55 affected to ratify an ordinance altering the service area boundaries.

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57 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND**
58 **BOROUGH** that:

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60 **Section 1:** This ordinance is of general application and shall be codified.

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62 **Section 2:** That section 4.50.015 of the Kodiak Island Borough Code of Ordinances is re-
63 pealed. This section pertains to the Womens bay Service Area and currently reads:

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65 **4.50.015 Service area exemptions.**

66 Parcels abutting state-maintained roads whose only access is on a state-
67 maintained road, and there is no potential use of service area roads for access
68 within described boundaries of the service area, shall be excluded from road
69 construction and maintenance and the rate of taxation to finance that service within
70 the service area. The determination that the parcel receives no benefits from the
71 service shall be made by the manager, or designee, and is appealable to the
72 assembly.

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74 **Section 3:** That section 4.60.015 of the Kodiak Island Borough Code of Ordinances is re-
75 pealed. This section pertains to the Monashka Bay Road Service Area and
76 currently reads:

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78 **4.60.015 Service area exemptions.**

79 Parcels abutting state-maintained roads whose only access is on a state-
80 maintained road, and there is no potential use of service area roads for access
81 within described boundaries of the service area, shall be excluded from road
82 construction and maintenance and the rate of taxation to finance that service within
83 the service area. The determination that the parcel receives no benefits from the
84 service shall be made by the manager, or designee, and is appealable to the
85 assembly.

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87 **Section 4:** That section 4.70.015 of the Kodiak Island Borough Code of Ordinances is
88 repealed. This section pertains to the Service Area No. 1 and currently reads:

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90 **4.70.015 Service area exemptions.**

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Parcels abutting state-maintained roads whose only access is on a state-maintained road, and there is no potential use of service area roads for access within described boundaries of the service area, shall be excluded from road construction and maintenance and the rate of taxation to finance that service within the service area. The determination that the parcel receives no benefits from the service shall be made by the manager, or designee, and is appealable to the assembly.

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Section 5: That section 4.90.015 of the Kodiak Island Borough Code of Ordinances is repealed. This section pertains to the Bay View Road Service Area and currently reads:

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4.90.015 Service area exemptions.

Parcels abutting state-maintained roads whose only access is on a state-maintained road, and there is no potential use of service area roads for access within described boundaries of the service area, shall be excluded from road construction and maintenance and the rate of taxation to finance that service within the service area. The determination that the parcel receives no benefits from the service shall be made by the manager, or designee, and is appealable to the assembly.

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Effective Date: This ordinance takes effect as provided in KIBC 1.10.040.

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**FAILED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS EIGHTEENTH DAY OF MARCH, 2021.**

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KODIAK ISLAND BOROUGH

ATTEST:

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William Roberts, Mayor

Alise L. Rice, Borough Clerk

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VOTES:

Ayes: Williams, Arndt, and Dvorak

Noes: Smith, Symmons, Turner, and Kavanaugh