

Sec. 29.35.490. Service areas in second and third class boroughs.

(a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if

(1) the exercise of the power is approved by a majority of the voters residing in the service area;
or

(2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.

(b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.

(c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to develop state or municipal land as required by the planning, platting, and land use regulations of the borough.

History -

(Sec. 10 ch 74 SLA 1985)

Decisions -

When voter approval not required. - Where a mayor and assembly are exercising the same powers within the same geographical area and are subject to the same constraints with respect to approval and appropriation that existed before the alteration, voter approval of an ordinance is not required. *North Kenai Peninsula Rd. Maintenance Serv. Area v. Kenai Peninsula Borough*, 850 P.2d 636 (Alaska 1993).

Road service tax. - Challenge to a road service tax was rejected because it was not a special assessment. It was calculated by applying a mill rate to the assessed value of the property; moreover, a borough has authority to tax for road services, and the validity of the tax does not depend upon whether the property owner receives a special benefit. *DeVilbiss v. Matanuska-Susitna Borough*, 356 P.3d 290 (Alaska 2015).