The following is meant to be a general outline of the steps that need to be taken to implement a Road Improvement Assessment District (RIAD). It does not cover all aspects of the borough code or associated ordinances. For more in depth detail, you may research Kenai Peninsula Borough Code of Ordinance Chapter 14.31 online through the Borough Clerk’s Office or contact the Special Assessment Coordinator at the Kenai Peninsula Borough Assessing Department.

- KPB Assessing Dept: 907-714-2230 or 1-800-478-4441 Ext 2230 (borough only)
- Assembly / Clerk website go to: www.kpb.us/assembly-clerk

What is a RIAD?

A Road Improvement Assessment District (RIAD) is a process where the cost of upgrading existing roads or the construction of new roads in public rights-of-way to meet road construction standards is allocated to all benefited properties, KPB 14.31.020. A road within city limits would not be eligible. The allocated cost will be assessed (charged) to each benefited parcel by means of a special assessment lien (see KPB 14.31.030).

The owners of record of at least 60% of the total number of parcels subject to assessment within the proposed district, and at least 60% of the value of the property to be benefitted, must agree to share in the cost of the improvements of a RIAD (see KPB 14.31.070(D)). For this reason, it is advisable to informally talk to your neighbors to get a feeling if the majority of owners are willing to sign a petition for the improvement. The project will not go forward without the required signature thresholds.

Who initiates a RIAD?

Anyone who owns property in an area with a substandard road can initiate the process to implement a RIAD. The person (or persons) who initiate the project, referred to as the sponsor or sponsors, will coordinate the project on behalf of the property owners of the proposed district (see KPB 14.31.040). Being a sponsor is no easy task! The role will involve some organizational and communication skills. Co-sponsors are permissible and even encouraged for larger districts.
How is a RIAD initiated?

To initiate a special assessment district, the sponsor must submit an application and map (or detailed description of the proposed geographic area) to the KPB assessing department to form a RIAD and to participate in the RIAD match program no later than July 1 of each year. The term “district” means an area composed of individual parcels that are directly benefited by the public improvement for which the special assessment is to be levied.

The assessor and road service area (RSA) director will review the proposed district to determine all benefited parcels are included in the district. In regards to special assessments, the term “benefitted” means an advantage gained from the improvement that is greater than that shared by the general public, such as improved access or increased property value and marketability (see KPB 14.31.160). The real property or interest in real property that is benefitted by a road improvement may be abutting, adjoining, adjacent, or contiguous to the improvement (see KPB 14.31.030).

Once the assessor approves the boundaries of the proposed district, the RSA board must review the applications by September 1 of each year for consideration for construction in the following year (2-year process). Pursuant to KPB 14.31.050(D), an initial staff report will be created for the RSA board to consider an approval of an order for the engineer’s estimate.

Does the Borough or Road Service Area (RSA) offer a match fund program?

Subject to the assembly’s annual appropriation, the RSA board may authorize up to 50% match of the costs associated for a road improvement project. The application deadline for the match program is July 1 of each year (see KPB 14.31.055(C)). Construction of new roads does not qualify for the match fund.

The match program may be considered for following projects, per KPB 14.31.055(B):

1. Pavement projects for existing roads which have been certified for borough maintenance;
2. Pavement or gravel projects for existing roads which do not meet borough standards in order that the road(s) be brought up to borough standards; and
3. Pavement or gravel projects for existing substandard roads which have been certified for borough maintenance in order that the road(s) be brought up to borough standards.

The RSA must be able to accept the project as one that can be constructed and maintained. Per 14.31.055(D), the RSA board will consider several factors when evaluating the petition application for match funding, such as:

- If it is economically feasible to improve the road to RSA certification standards;
- The number of applications received that year & funds available in the match fund;
- If an application for district formation had been previously filed and whether conditions have changed to make the project more feasible than in past years;
- The number of residents and parcels served;
- The project’s compliance with any restrictions on formation per 14.31.080 criteria; and
- If there is alternate access to properties served by the road and the condition of that alternate access.
Who will be assessed (charged)?

All benefited parcels within the district boundary will be charged an equal portion of the actual total costs for the improvement, less the portion paid by the borough under the RSA match program. These costs may include, without limitation, cost of land acquisition necessary for the improvement, design, engineering, administration costs, professional services, and financing costs and interest, less any prepayments, per KPB 14.31.110 & 14.31.120.

The assembly may assess any real property or interest in real property that is determined to benefit by an improvement, such as properties which are abutting, adjoining, adjacent, or contiguous to the improvement. Benefited parcels may also include property which is otherwise exempt from taxation by law, such as property owned by the State, Borough, or a non-profit organization (see KPB 14.31.030). Those within the boundary who oppose the project will also be assessed as their parcels will still be benefited by the improvement.

Similar to a bank loan, an “assessment” constitutes a lien on the real property, and as such, is enforceable through a foreclosure process in the same manner as for non-payment of property taxes (see KPB 14.31.130). The lien will remain on the parcel until the debt has been paid in full.

When do the special assessments have to be paid?

Once the project has been completed, the actual cost of the public improvement will be assessed to each benefited parcel and payable in the manner provided by the ordinance levying the special assessment roll pursuant to KPB 14.31.100. This cost can be paid in full, or in ten (10) annual installments with interest on the unpaid amount of the assessment. Annual installment payments will include principal plus accrued interest. The interest rate charged is the prime rate plus two percent as of the date the ordinance confirming the assessment roll is enacted by the assembly (see KPB 5.10.040(A)(13) Investment of Moneys).

What are the restrictions to forming a RIAD?

A RIAD may not be formed if it violates any of the following restrictions per KPB 14.31.080(A):

- Lien Limit: The estimated amount of the assessment (lien) to be levied against each parcel in the district may not exceed: 21% of its assessed value for gravel or 25% for paved improvements for an existing road, or 40% for construction of a new road (new roads do not qualify for RSA matching funds). If a parcel’s estimated amount of the assessment lien exceeds the lien limit, the estimated amount of the assessment against the parcel may be reduced by the amount of a prepayment of the assessment.

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$10,000 Assessed Value / $3,000 Allocated Cost (e.g., 21% gravel project limit)

a) Assessed Value x 21% Lien Limit = Max. Assmnt: $10,000 x 21% = $2,100
b) Estimated Cost – Max. Assmnt = Prepayment: $3,000 – $2,100 = $900
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- Delinquent Taxes: If parcels in the proposed district that will bear more than 10% of the estimated costs of the improvement are subject to unpaid, past-due borough real property taxes.
Any required *prepayments of assessments* which exceed the lien limits or any payments of *past-due property taxes* must be received no later than close of business at least **15 days prior** to the date the assembly will act on the *resolution to form the district and proceed with the improvement*. Prepayments of assessments (only) are refundable if the assembly does not approve the resolution.

- **Unimproved Parcel Ratio:** If “unimproved parcels” (e.g., bare land) represent more than 40% of the total assessed value of the real property in the district. “Improved” parcels are defined as having an operable water or wastewater disposal system, or having a structure assessed for more than $5,000.

- **One-owner Property Ratio:** For construction of *new roads*, a RIAD may not be formed if one (1) owner owns more than 40% of the parcels to be benefited.

Pursuant to KPB 14.31.080(B), the legal description of parcels within the proposed district as of the date of the RSA resolution to approve the petition report and recommend a borough match will be used to determine assessment. “*No subdivision, reversion of acreage, or lot line adjustment will be recognized for RIAD assessment purposes after the RSA board issues the resolution.*” Any action to replat parcels within the proposed district must be *completed and recorded* before the date the RSA board approves the resolution (see KPB 14.31.050(J)(4)).

**Is there a deferral for economically disadvantaged property owners?**

A deferment of payment of *principle only* (assessment lien) may be available to qualifying residents of property within the special assessment district (see KPB 14.31.145). If approved, the deferral is a *postponement* of payment of principle only – this is not a forgiveness of the debt.

Residents must apply for the deferment each calendar year to certify that the qualifying conditions continue to exist. See the KPB Finance Department for all restrictions and requirements for the deferment of principle.

- **Applications and annual renewals** (to verify qualifying conditions continue to exist) must be submitted to Finance by **February 1st**;
- **Real property** must be owned and occupied as the primary residence and permanent place of abode of the qualifying applicant;
- **Property owner** must be economically disadvantaged – annual adjusted gross income is less than 200% of the Poverty Guidelines for Alaska per U.S. Health & Human Services;
- **Interest** will continue to accrue and must be paid on an annually basis;
- **If the property owner** no longer qualifies for the deferment based on the annual renewal application due to income qualifiers, or for changes in property ownership or residency, then payments on principal will resume, starting with the next payment due.
THE RIAD PROCESS

Phase 1) Application for a road improvement district – Due July 1

The sponsor must submit an application for a petition to form a district along with a map (or detailed description) of the proposed district with the borough assessor or the special assessment coordinator (see KPB 14.31.040). The assessor or coordinator will work with the road service area (RSA) director to determine the boundaries of the proposed project are proper and include all benefited parcels (see KPB 14.31.050(A)). The application to form a district and to participate in the RSA match fund must be received no later than July 1 of each year.

Approval by the RSA Board – Staff Report – Approval to order an engineer’s estimate

The assessor and RSA director will prepare an initial staff report of the proposed project to the RSA board for approval regarding the application and to consider an approval to order an engineer’s estimate for the proposed project. The RSA board must review the application for petition by September 1 of each year for construction in the following year (see KPB 14.31.050(E)). The RSA board will evaluate the applications on the following factors:

1) Whether the road is currently on the maintenance system;
2) The number of petitions for projects received that year;
3) The funds available in the RIAD engineer’s estimate fund; and
4) Whether an application for district formation had been previously filed, and whether conditions have changed to make the project more feasible than past application years.

Application Filing Fee (Non-Refundable)

If the RSA board approves an order for an engineer’s estimate, the sponsor must pay a non-refundable filing fee consistent with the amount listed in the most current KPB Schedule of Rates, Charges and Fees (KPB 1.26) prior to the RSA director ordering the engineer’s estimate. No additional efforts will be made by the borough until the fee has been paid in full (see KPB 14.31.050(G)).

The non-refundable application filing fee is used to offset the cost of obtaining a professional civil engineer’s estimate of the total project costs and for petition preparation. If additional funds are required to cover the cost to obtain the civil engineer’s estimate, the RSA board may provide the additional funds through the RIAD Engineer’s Estimate Fund (if funds are available), per KPB 5.20.160. If the RSA board provides additional funds to cover any additional cost for the estimate, and if the project proceeds, the additional amount will be added to the project’s total estimated cost.
Phase 2) Intent to proceed – Notice to property owners

Once the estimated cost has been calculated, the sponsor will be notified of the estimated cost for the project and if the proposed district remains in compliance with the restrictions on district formation. If the sponsor wishes to proceed after receiving the engineer’s estimate, the sponsor must submit to the assessor a written intent to proceed with the project (see 14.31.050(I)).

After receiving the sponsor’s written intent to proceed with the project, the assessing department will mail notices to all district property owners at least 10 days prior to the RSA board meeting of the proposed RIAD and the RSA resolution to approve the petition report and recommend a borough match.

Notices to all benefited property owners must include a notice that the legal description of parcels within the proposed district, as of the date the RSA board approves the resolution to approve the petition report and recommend a borough match, will be used to determine assessments. Any action to replat parcels within the proposed district must be completed and recorded before the date the RSA board approves the resolution (see KPB 14.31.050(J)(4)).

Phase 3) RSA resolution to approve petition report and match program

Pursuant to KPB 14.3.160, after the assessing department mails the notices to all affected property owners of the RSA resolution to approve the petition report and recommend a borough match, the assessor or assessor’s designee will prepare a petition report for the RSA board’s review. The petition report will contain all documents that will be included in the petition, such as a project information sheet, a map of the proposed district, and the estimated assessment roll (a spreadsheet that will include information such as the name of each recorded owner, tax parcel number, assessed value and legal description of each benefited parcels, the estimated the cost of the project plus a 10% contingency calculated by the assessing department, and allocated cost per parcel).

If the resolution to approve the petition report and recommend a borough match is approved by the RSA, the assessing department will prepare a final petition to provide to the sponsor for disbursement to all property owners (see KPB 14.31.065).

Phase 4) Circulation & filing of petition, signature requirements

The final petition will contain all the information approved in the RSA resolution petition report and a petition signature page which the owner(s) of record must sign to signify their approval of the project. The assessing department will provide at least one copy of the petition to the sponsor for distribution. The sponsor will be responsible for distributing the petition to all property owners within the approved boundaries and collecting the signatures of those property owners who support the formation of the RIAD (see KPB 14.31.070).
Deadline for Signatures – 45 days: The sponsor must submit the completed petition signature page(s) to the assessing department within 45 days of the date on which the assessing department distributes the petition to the sponsor. For this reason, it is very important to coordinate distribution of the petitions. For example, the sponsor may want to consider mailing the out-of-area petitions a few days before distributing the local petitions to allow for a delay in mail time.

Petition signature thresholds: In order to be considered by the assembly for formation, the petition must contain the signatures of:

a) at least 60% of the total number of parcels subject to assessment within the proposed district, and
b) at least 60% in value of the property to be benefited.

Signature Requirements:

• Multiple owners. When a parcel is owned by more than one person or entity, signatures for each owner are required in order for the parcel to count towards the signature thresholds.

• Signature by Proxy. Signatures by proxy will not be accepted by the clerk.

• Power of Attorney. The signature of a power of attorney will only be accepted by the clerk if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.

• Business entities.
  o Corporations. For parcels which are owned by a corporation, the petition must be signed by two individuals: one of whom is the chair of the board, the president, or the vice president, and the other of whom is the secretary or treasurer; or by another person or persons who have been given authority via corporate resolution.

  o Limited liability companies. For parcels which are owned by a LLC, the petition must be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.

  o Other business owners. For parcels which are owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes may sign the petition as owner.

• Trusts. Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) will only be accepted by the clerk if it is accompanied by a copy of the trust document.

• Kenai Peninsula Borough. For property owned by the Kenai Peninsula Borough in the proposed district, the mayor will be the designee for signing any petition. If the Borough abstains (declines to vote) from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, will be reduced by the number of parcels owned by the borough within the proposed district.
Signature Withdrawal: A signature on a petition may be withdrawn only by written notice from
the signer submitted to the assessing department prior to the final filing of the petition
signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is
submitted before the filing of the completed petition.

Certification of Petition: Once the completed petition is submitted to the assessing
department, the borough clerk will determine whether the petition contains sufficient
signatures. If the petition meets the requirements of the signature thresholds, the
borough clerk will certify the petition and submit the petition to the mayor to prepare a
resolution to form the district and proceed with the improvement.

- Prepayments on Lien Limits and/or Delinquent Real Property Taxes: For the purpose of the
  restrictions for prepayments of assessments (lien limits) and past-due borough real
  property taxes, any required payments must be received no later than close of business at
  least 15 days prior to the date the assembly will act on the resolution to form the district
  and proceed with the improvement. Prepayments of assessments (only) are refundable if
  the assembly does not approve the resolution (see KPB 14.31.080(1) & (2)).

Phase 5) Resolution to form the district and proceed with the improvement
& Ordinance of appropriation of funds

If the borough clerk determines that the petition bears sufficient signatures and the assessor
determines the district does not violate the restrictions to formation, the mayor will prepare for
assembly consideration a resolution to form the special assessment district and proceed with
the improvement (see KPB 14.31.090(A)). The finance department will prepare an ordinance of
appropriation for the estimated funds required for the project (see KPB 14.31.095). A public
hearing will be held the night the resolution and ordinance are to be considered.

All property owners within the district will be notified of the public hearing by certified mail not
less than 35 days before the date of the hearing, and by publication in a newspaper of general
circulation in the borough not less than 30 days before the hearing (see KPB 14.31.090(B)).

Written comments, including any objections as to the necessity of the formation of the district,
may be filed with the borough clerk for a period of 30 days after mailing of the notice of the
public hearing. If written objections to the necessity of the formation of the district are filed by
the owners of parcels bearing one-half or more of the estimated cost of the improvement, the
assembly may not proceed with the formation of the district (see KPB 14.31.090(D)).

After the public hearing, the assembly may adopt the resolution to form the district and
proceed with the improvement. If adopted, the resolution will authorize the mayor to proceed
with the construction of the improvement, and require the clerk to record in the district
recorder’s office a copy of the resolution and the estimated assessment roll (see KPB
14.31.090(E)).
Phase 6) Implementation of the improvements

After adoption of the resolution to form the district and proceed with the improvement, the construction process can begin by putting the project out to bid. In the event that the lowest, responsive, responsible, qualified bid exceeds the appropriation, then no contract will be entered without further assembly approval (see KPB 14.31.095(B)). Construction may begin once a bid has been awarded.

Phase 7) Ordinance levying assessments

After the project has been completed and the actual costs have been calculated, the final assessment roll will be developed, and will be submitted with an ordinance confirming the final assessment roll and levying the assessments. The ordinance will set the times for payment of the assessments, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. A notice of this hearing will be sent to all property owners within the district by regular mail not less than 15 days before the date of the hearing, and by public notice in a newspaper of general circulation. After the public hearing on the ordinance, the assembly may confirm the assessment roll by ordinance (see KPB 14.31.100).

Phase 8) Notice of assessment

Notice of assessment statements must be mailed to the owner of record of each property assessed within 15 days after the adoption of the ordinance of assessment. For each property the statement will designate the property, the total allocated assessment, the assessment lien amount, the schedule of payments, the time of delinquency, penalties, and notice of the deferral of principal option. The statement will include notice of the final determination of the assessment and that the property owner has 30 days from the date of the mailing of the notice to appeal the assessment to the superior court (see KPB 14.31.130(A)).

After enactment of the ordinance levying a special assessment, the borough clerk will file in the office of the district recorder an appropriate notice of assessment lien on all assessed parcels (see KPB 14.31.130(C)).

Hopefully this overview has been helpful in explaining some of the steps to implementing a Road Improvement Assessment District. For further information and details, please contact:

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