

Introduced by: Mayor  
Date: 11/18/08  
Hearing: 01/06/09  
Action: Failed to Enact  
Vote: 4 Yes, 5 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2008-35**

**AN ORDINANCE AMENDING KPB CHAPTER 14.31, SPECIAL  
ASSESSMENTS-ROAD IMPROVEMENTS**

- WHEREAS,** KPB Chapter 14.31, Special Assessments-Road Improvements, provides a means for benefitted property owners and the Kenai Peninsula Borough Road Service Area (RSA) to share in the cost and process of improving existing roads to RSA standards; and
- WHEREAS,** KPB 5.20.170 and KPB 14.31.055 provides for a match funding program for Road Improvement Assessment Districts (RIADs); and
- WHEREAS,** the RSA, with few exceptions, requires all new roads within the borough's rights-of-way be built to KPB 14.06 road standards; and
- WHEREAS,** there are many undeveloped private parcels and rights-of-way within the borough; and
- WHEREAS,** it is often cost prohibitive or otherwise impractical for one private property owner to construct new access within a right-of-way to KPB 14.06 road standards that would allow for vehicular access or development; and
- WHEREAS,** broadening the scope of KPB 14.31 to include new road construction as well as improvement of existing roads would provide a means for neighboring lot owners to share in the cost of new construction and would provide opportunity for new quality roads to be built where it otherwise might not be practical; and
- WHEREAS,** improvement of existing roads is a higher priority than construction of new roads for the RSA, and limiting RSA match funds to road improvements will ensure that available match funding is used for road improvements and not for the benefit of private development; and
- WHEREAS,** engineer's estimates for RIADs are consistently greater than the current \$1,000 filing fee intended to pay for the estimate and a sliding scale structure for the filing fee will more reasonably account for the costs incurred; and
- WHEREAS,** at its October 21, 2008, meeting, the RSA recommended enactment of this ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That KPB 14.31.020 is hereby amended as follows:

**14.31.020. Authorized capital improvements.**

Special assessments may be levied under this chapter [ONLY] for the improvement of existing roads or construction of new roads in dedicated public rights-of-way to meet or exceed road construction standards adopted in KPB Chapter 14.06[.030] that are in effect at the time of the formation of the special assessment district in which the assessments are levied.

**SECTION 2.** That KPB 14.31.050(A) is hereby amended as follows:

**14.31.050. Review of petition application.**

A. After receiving an application for a petition to form a special assessment district, the borough assessor shall determine the boundaries of the proposed district after consulting with the road service area director. Once the borough assessor makes an initial determination that formation of the proposed district is feasible based on the proposed boundaries and criteria set forth in KPB 14.31.080, a filing fee based on the cost of obtaining a professional civil engineer's estimate of the total project costs and petition preparation shall be paid pursuant to one of the methods below, as determined by the road service area board:

1. The petition sponsor shall pay a nonrefundable filing fee consistent with the following table:

<u>Assessed Value of Property Subject to Assessment</u>	<u>Filing Fee</u>
<u>\$2,000,000.00 or less</u>	<u>\$1,000.00</u>
<u>\$2,000,000.01 to \$3,000,000.00</u>	<u>\$1,400.00</u>
<u>\$3,000,000.01 to \$4,000,000.00</u>	<u>\$1,800.00</u>
<u>\$4,000,000.01 to \$5,000,000.00</u>	<u>\$2,200.00</u>
<u>Assessed Value of Property Subject to Assessment greater than \$5,000,000.00 shall require a filing fee consistent with the scale in this table.</u>	

[OF \$1,000] If an additional filing fee is necessary to defray the cost of the engineer's estimate for the project cost, the remaining filing fee may be paid by the road service area. One hundred percent of the costs incurred by the borough to complete the project shall be assessed against the benefitted parcels in compliance with KPB 14.31.110.

2. The petition sponsor shall pay 100[%] percent of the above described filing fee, which shall be nonrefundable. One hundred percent of the costs incurred by the borough to complete the project shall be assessed against the benefitted parcels in compliance with KPB 14.31.110.

**SECTION 3.** That KPB 14.31.055 is hereby amended as follows:

**14.31.055. Road service area match program.**

- A. There is established pursuant to KPB 5.20.170 a borough match program for RIAD projects that upgrade existing roads as follows:
  1. The road service area board may authorize that up to 50 percent of the costs of a RIAD be defrayed from this fund for local or internal subdivision roads subject to the assembly's annual appropriation to the fund.
  2. The road service area board may authorize that up to 70 percent of the costs of a RIAD be defrayed from this fund to pave or improve a paved collector road subject to the assembly's annual appropriation to the fund.
  3. Where pavement RIADS include both parcels abutting a collector road and internal subdivision roads, the parcels abutting the collector road qualify for up to a 70 percent match, and the parcels abutting an internal subdivision road qualify for up to a 50 percent match.
- B. A borough match may be considered for the following types of RIAD projects:
  1. Pavement projects for existing roads which have been certified for borough maintenance;
  2. Gravel projects for existing roads which do not meet borough standards in order that the road be brought to borough standards;
  3. Gravel projects for existing substandard gravel roads which have been certified for borough maintenance in order that the road be brought to borough standards.
- C. The annual deadline application for the match program is June 1 of each year.
- D. The road service area board shall consider the following factors in evaluating applications for the match program:
  1. Whether it is economically feasible to improve the road to RSA certification standards;

2. To what extent do the assessed values of properties support the scope of work for each project;
3. The number of applications for projects received that year;
4. The funds available in the Road Improvement Assessment District Match Fund;
5. Whether an application for district formation has been previously filed and whether conditions have changed to make the project more feasible than in past application years;
6. The number of residents served;
7. The number of parcels served;
8. The feasibility of the project's compliance with KPB 14.31.080 criteria regarding restrictions on formation; and
9. Whether there is alternate access to properties served by the road and the condition of that alternate access.

E. The road service area board may adopt procedures by board resolution for implementation of this program consistent with this chapter.

**SECTION 4.** That KPB 14.31.080 is hereby amended as follows:

**14.31.080. Restrictions on district formation.**

- A. A special assessment district may not be formed if it violates any of the following restrictions, determined as of the date of filing the petition to form the district with the borough clerk:
  1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed [TWENTY-ONE (21%)] 21 percent for gravel improvements to an existing road, or [TWENTY-FIVE (25%)] 25 percent for paving improvements, or 40 percent for construction of a new road, of the current assessed value of the parcel. For the purposes of this restriction, the estimated amount of the assessment against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough will refund the prepayment.

2. A special assessment district may not be formed if parcels in the proposed district which would bear more than [TEN (10)] 10 percent of the estimated cost of the improvement are delinquent in payment of borough real property taxes in the immediately preceding tax year.
  3. A special assessment district for the upgrade of an existing road, including paving, may not be formed if unimproved parcels represent more than 40[percent] percent of the total assessed value of real property in the district. A parcel is improved under this subsection if it contains operable water and waste-water disposal systems or a dwelling or a building suitable for commercial use.
  4. For construction of new roads, a special assessment district may not be formed if one owner owns more than 40 percent of the parcels to be benefitted.
- B. The provisions of KPB 14.31.080 must be met at the time the clerk certifies the petition pursuant to 14.31.070(C).
- C. The legal description of parcels within the proposed district as of the date of the clerk's certification will be used to determine assessment. Any replats of parcels pending during the formation process must be complete by the clerk's certification of the petition in order for the parcels to be assessed as replatted.

**SECTION 5.** That KPB 14.31.160 is hereby amended as follows:

**14.31.160. Definitions.**

"Arterial road" means a road intended to carry traffic from local and subdivision roads to major highways. Such roads primarily accommodate relatively large volumes of traffic for relatively long distances at relatively high speeds.

"Benefit" means an advantage gained from the improvement greater than that shared by the general public under this ordinance. Improved access is one way of ascertaining that a parcel is benefitted.

"Collector road" means roads that provide both land access and carry traffic from local or subdivision roads to arterial or major highway systems.

"Improved parcel" means a parcel that contains operable water and a wastewater disposal system or a dwelling or a building for commercial use.

"Local road" means a road designed and intended to serve local areas. Such roads primarily accommodate land access to abutting property. Local roads feed traffic into collector and arterial street systems.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY  
OF \* 2009.**

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Milli Martin, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

Yes: Pierce, Smith, Sprague, Martin  
No: Fischer, Knopp, Long, Smalley, Superman  
Absent: None