

Kenai Peninsula Borough  
Office of the Borough Clerk

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**MEMORANDUM**

**TO:** Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Johni Blankenship, Borough Clerk (B)

**FROM:** Michele Turner, Deputy Borough Clerk (M.T.)

**DATE:** September 4, 2018

**RE:** Ordinance 2018-27: Amending KPB 20.60, KPB 5.35, and KPB 14.31  
Creating a New Requirement that Property Owners Pay Off the  
Remaining Balance or Prepay Estimated Costs of Any Special  
Assessments on Property to be Subdivided Before a Final Plat is  
Recorded and Providing Notice of the Requirement (Mayor)

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The Road Service Area Board addressed the referenced ordinance at their meeting in August. Please amend the last Whereas clause to read:

**"WHEREAS**, The Kenai Peninsula Borough Road Service Area Board, at its regular meeting of August 14, 2018, recommended approval by the passage of RSA Resolution 2018-05;"

Thank you.

**KENAI PENINSULA BOROUGH ROAD SERVICE AREA  
RESOLUTION 2018-05**

**A RESOLUTION RECOMMENDING AMENDMENTS TO KPB CHAPTER 14.31  
REGARDING A NEW REQUIREMENT THAT PROPERTY OWNERS PAY OFF THE  
REMAINING BALANCE OR PREPAY ESTIMATED COSTS OF ANY SPECIAL  
ASSESSMENTS ON PROPERTY TO BE SUBDIVIDED BEFORE A FINAL PLAT IS  
RECORDED, AND PROVIDING NOTICE OF THE REQUIREMENT**

**WHEREAS,** AS 40.15.020, Plats to Be Acknowledged and Contain Certificate that Taxes and Assessments Are Paid, allows for collection of taxes prior to recordation of a plat; and

**WHEREAS,** KPB 20.60.030 requires taxes to be paid before a final plat is recorded but does not specifically include special assessments; and

**WHEREAS,** KPB 14.31.010 also provides authority for the borough assembly to assess against the property of a state or federal governmental unit and private property to be benefitted by capital improvements to borough roads all or a portion of the cost of the improvement; and

**WHEREAS,** pursuant to AS 29.46.080(c) assessments are liens on property and are prior and paramount to all liens except municipal tax liens; and

**WHEREAS,** when property is subdivided the legal descriptions change which seriously complicates the ability to enforce the lien; and

**WHEREAS,** when property subject to an assessment lien is subdivided it is difficult to fairly allocate the lien among the newly created parcels; and

**WHEREAS,** in order to satisfy the lien, all assessments must be paid before the parcel is subdivided; and

**NOW, THEREFORE, BE IT RESOLVED BY THE ROAD SERVICE AREA BOARD:**

**SECTION 1.** That the road service area board recommends the following code revisions:

That KPB 14.31.080(B) is hereby amended as follows:

**14.31.080. – Restrictions on district formation.**

- 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 under KPB 14.31.065 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 under KPB 14.31.065. In the event a property owner seeks to subdivide a benefited parcel after the date of the RSA resolution or after costs are assessed under this chapter, the property owner shall be required to pay off the remaining balance of the assessment, or prepay estimated costs if the final assessment has not been determined, prior to approval of the final plat pursuant to KPB 20.60.030. If prepayment of the estimated cost of the assessment is required, the subdividing property owner shall be issued a refund for any amount in excess of the prepaid estimated cost over the final assessment. If the petition or project fails for any reason, the borough shall refund the prepayment. If a final plat is not approved pursuant to KPB 20.60.030 and the subdividing property owner requests a refund of the prepayment in writing within 30 days of denial of the final plat, the borough shall refund the prepayment. If the estimated costs are less than the final assessment the subdividing property owner shall be responsible for payment of the difference, due within 30 days of the final assessment approval.

That KPB 14.31.090(E) is hereby amended as follows:

**14.31.090. - Assembly resolution to form district and proceed with improvement.**

- E. After public hearing, the assembly may adopt the resolution to form the district and proceed with the improvement. The resolution shall:
1. Describe the improvement and its location;
  2. Describe the parcels benefitted by the improvement;
  3. Approve the estimated cost of the improvement;
  4. Make a finding that the improvement is necessary and should be made, as required by AS 29.46.020;
  5. Identify any parcels within the boundaries excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment;
  6. If the mayor signed the petition on behalf of the borough, approve the mayor's action;
  7. Include an estimated assessment roll showing the amount of the assessment against each parcel;
  8. Authorize the mayor to proceed with the construction of the improvement; [and]

9. Require the clerk to record in the district recorder's office a copy of the resolution to proceed and the estimated assessment roll; and[.]
10. Include notice that the property owner must pay off the remaining balance of any special assessments on property to be subdivided, or prepay estimated costs if the final assessment has not been determined, before a final plat may be signed and recorded pursuant to KPB 20.60.030.

That KPB 14.31.130(A) is hereby amended as follows:

**14.31.130. – Notice of assessment.**

- A. Within 15 days after the adoption of an ordinance levying an assessment under KPB 14.31.110, the finance director shall mail an assessment statement to the record owner of each assessed parcel. The statement shall describe the parcel, state the date of mailing of the statement, the amount of the total allocated assessment, the assessment lien amount, the times for payment of the assessment, the rate of interest on unpaid installments, the penalty and rate of interest on delinquent installments, and notice of the deferral of principal option described in KPB 14.31.145. The statement shall include notice that it is the final determination of the assessment and that the property owner has 30 days from the date of mailing of the notice to appeal the assessment to the superior court. The statement shall also include notice that if a benefited parcel is subdivided following assessment of costs under this chapter, the property owner shall be required to pay off the remaining balance of the assessment, or prepay estimated costs if the final assessment has not been determined, prior to approval of the final plat pursuant to KPB 20.60.030.

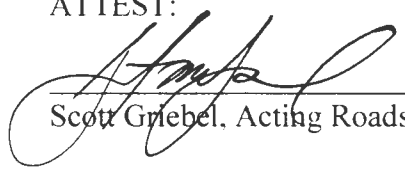
**SECTION 2.** That this resolution takes effect immediately upon its adoption.

**SECTION 3.** That a copy of this resolution shall be forwarded to the mayor and the assembly.

**ADOPTED BY THE KENAI PENINSULA BOROUGH ROAD SERVICE AREA BOARD  
ON THIS 14TH DAY OF AUGUST 2018.**

  
Robert Ruffner  
Road Service Area Board Chair

ATTEST:

  
Scott Griebel, Acting Roads Director