

Rural Improvement Districts

Lewis and Clark County, MT



POLICIES and PROCEDURES MANUAL

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by the
Board of County Commissioners

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LEWIS AND CLARK COUNTY RURAL IMPROVEMENT DISTRICT POLICY

SECTION 1.0 INTRODUCTION

As with many Montana counties, there is not enough funding to maintain all public roads, many of which only benefit a few properties. One option for road and other public works improvements and maintenance is to create a Rural Improvement District (RID). An RID is a legal taxing authority that can raise funds in specific areas for specific improvements and on-going maintenance.

The purpose of an RID is to allow residents of Lewis and Clark County, in areas outside incorporated cities and towns, to finance and construct needed public improvements or to fund maintenance activities. The RID process is undertaken by Lewis and Clark County pursuant to the provisions of Title 7, Chapter 12, Part 21 of the Montana Code Annotated (MCA). By statute, the Board of County Commissioners of Lewis and Clark County (the Board) is vested with the authority to order and create RIDs.

The RID process has been made available to residents of Lewis and Clark County to enable the financing needed to allow the building, purchasing, and maintenance of public improvements, while safeguarding the County Rural Improvement District Revolving Fund and avoiding a burden to general County taxpayers. As residents of an RID are financially obligated to debt service resulting from improvements, RIDs will only be created after there has been full consideration of all factors by the Board.

To ensure RID decisions are informed, consistent, and comply with state statutes, the Board hereby adopts the following policies, procedures, and guidelines for the creation of RIDs. All current and future statutes related to RIDs take precedence over the policies, procedures, and guidelines in this document.

SECTION 2.0 DEFINITIONS

The following definitions and abbreviations are used throughout this policy:

BENEFITED LOT, TRACT, OR PARCEL: A lot, tract or parcel that meets the following criteria:

1. Abuts an improved right of way within the district; or
2. Otherwise receives a benefit, such as dust abatement or flood control, from an improved right of way within the district.

BOARD: The Board of County Commissioners of Lewis and Clark County.

COUNTY: The political subdivision of the state of Montana known as Lewis and Clark County.

LOT, TRACT, OR PARCEL: A property interest that meets any of the following criteria:

1. Any tract of record or any portion of a tract of record (a "piece of land") within the boundaries of an improvement district; and
2. Any portion of a tract of record that is rented, leased, or otherwise conveyed within the boundaries of an improvement district; and
3. Each unit of a condominium or townhouse within the boundaries of an improvement district; and
4. Each part of a building or structure that is rented, leased, or otherwise conveyed, and within the boundaries of an improvement district.

MONTANA CODE ANNOTATED (MCA): A compilation of the Montana State Constitution and all state laws, also called statutes. It is updated after each legislative session.

PETITIONER: An individual or group of individuals requesting a Rural Improvement District for improvements or maintenance to public infrastructure.

RURAL IMPROVEMENT DISTRICT (RID): A rural improvement district created under the provision of Section 7-12-21, MCA.

SECTION 3.0 FORMATION OF A RURAL IMPROVEMENT DISTRICT

Section 7-12-2102, MCA identifies four ways to create an RID.

3.1 BOCC CREATED

The Board may create an RID whenever the public interest or convenience may dictate. The following considerations will be applied by the Board in evaluating whether the project is in the public interest or convenience:

1. The proposed project's effect on the health, safety, and general welfare of residents within the proposed district and on additional residents of the County.
2. The number of and manner in which property owners are directly benefited.
3. The estimated financial burden on each individual tract, parcel, or lot in the proposed district.
4. The public support for creation within the proposed district.

3.2 RID WITH PETITION OF 100%

The Board may also order and create an RID upon the receipt of a petition to create an RID that contains the consent of all owners of property to be included in the district.

1. This method is commonly used when RIDs are created during the subdivision development process; however, any group may use this process to create an RID.
2. The Lewis and Clark County Subdivision Regulations require the formation of an RID for certain improvements. RIDs for required improvements or maintenance must be established prior to final platting of the subdivision when all proposed lots are owned by the subdivision applicant.

3.3 RID FOR MAINTENANCE WITH PETITION OF 85%

The Board may order and create an RID solely for road maintenance upon the receipt of a petition to create the RID that contains consent of owners of more than 85% of the property proposed to be included in the district.

3.4 RID FOR CITY AND COUNTY PROPERTIES

The Board may order and create an RID covering projects abutting the city limits and include properties inside the city where the RID abuts and benefits the property. These city properties may not be included in the RID if 40% or more of parcel included in the city protest the creation.

SECTION 4.0 SCOPE OF IMPROVEMENTS AND MAINTENANCE

There are many different types of projects that may be considered for RIDs . All projects and activities considered must be for public infrastructure.

All RIDs must define the scope of the improvements and/or maintenance with a description and statement of purpose. The scope will be included within the resolution of intention to create the RID or with the resolution to create the RID, as necessary based on the RID creation requirements.

County staff will ensure the scope defined is permissible.

4.1 PROJECT TYPES

The RID procedure may be used for projects that improve and/or maintain public infrastructure through building, constructing, or acquiring by purchase one or more of the improvements of the kind described in Section 7-12-4102, MCA.

The Board will consider proposals on an individual basis and reserves the right to approve or disapprove the use of an RID.

4.2 BENEFITING PROPERTIES

The scope of the improvement or maintenance for the proposed RID is used to identify the properties to be assessed. Generally speaking, a property is benefited if the improvement provides a special benefit to the property which goes beyond the general benefits of other properties.

4.3 BOUNDARY

The benefiting lots, tracts, or parcels are then used to determine the boundary of the RID in a map.

1. A map of the RID boundary must be included with the resolution of intention to create the district and the resolution to create the district.
2. This map must clearly define lots, tracts, or parcels to be assessed in the RID, as well as show the limits of each road or public infrastructure to be improved or maintained as defined by the scope.

4.4 COST ESTIMATES

Estimates for improvements and/or maintenance will be made according to the scope of the project(s) and subject to review by Lewis and Clark County Public Works Department staff. Each proposed RID will include a plan for long-term maintenance to ensure assessments account for inflation over time.

4.5 METHOD OF ASSESSMENT

The Board shall assess the entire cost of the improvements and maintenance against benefited lots, tracts, or parcels of land in the district. The assessment method used will follow one of those identified in Section 7-12-2151, MCA.

SECTION 5.0 RESOLUTION OF INTENTION

As stated in Section 3.1 of this policy and Section 7-12-2101(1), MCA, the Board may create an RID whenever the public interest or convenience may dictate. The following considerations will be applied by the Board in evaluating whether the project is in the public interest or convenience:

1. The proposed project's effect on the health, safety, and general welfare of residents within the proposed district and on additional residents of the County.
2. The number of and manner in which property owners are directly benefited.
3. The estimated financial burden on each individual tract, parcel, or lot in the proposed district.
4. The public support for creation within the proposed district.

The Board will consider these factors in determining when to create a new RID. In order to measure the public support for RID creation within the proposed district, the Board may choose to require documentation of support. This will ensure adequate public support and the efficient use of County staff time during the RID creation process. Details on this process can be found in Section 10 of this policy.

When an RID has been proposed for creation through one of the methods in Section 3, except as described in Section 3.2, the Board shall pass a resolution of intention before creating the district. Section 3.2 applies only when 100% of the proposed district's property owners support creation, therefore allowing the process to move forward with a resolution to create (see Section 6.0).

5.1 REQUIREMENTS

In conjunction with Section 7-12-2103, MCA, the resolution of intention must:

1. Designate the number of the district;
2. Describe the boundaries of the district;
3. State the general character of the improvements and/or maintenance to be made;
4. Designate the cost estimate of the work and the party to have charge of the work;
5. Specify the method by which the costs of improvements and/or maintenance will be assessed against property; and
6. If property will be equally assessed, specify that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of bonded indebtedness, the assessment per lot, tract, or parcel will be recalculated. This also applies to ongoing maintenance districts.

5.2 PUBLISH AND NOTICE PASSAGE OF RESOLUTION

Once the resolution of intention has been passed by the Board, notice of the passage must be published as provided in Section 7-1-2121, MCA. This includes publication in the newspaper twice, with at least 6 days separating each publication.

A copy of the notice must be mailed to each person, firm, or corporation owning real property within the proposed district. The notice must include the general character of the improvements and/or maintenance proposed, the assessment method, and designate the time and place where the Board will hear protest against the district during public hearing.

5.3 PROTEST PERIOD

Each owner of real property to be assessed by the proposed district will have 30 days, from the date of the first publication of the notice, to make written protest against the proposed work or against the creation of the district to be assessed.

The protest must:

1. Be in writing;
2. Identify the property in the district owned by the protester;
3. Be signed by all owners of the property;
4. Be delivered to the County Clerk.

5.4 PROTEST PROCEDURE FOR CONDOMINIUMS

Each owner of a condominium unit must receive individual notice of passage of the resolution of intention and if the RID is successful, each condominium unit will be levied and assessed individually.

Each owner of a condominium unit is entitled to protest; however, protests made by unit owners must be made collectively through the condominium owner's association and signed by an officer of the association (7-12-2141, MCA).

SECTION 6.0 RESOLUTION TO CREATE

When a petition is received to create an RID with 100% consent of property owners to be included in a district (as described in Section 3.2), the process may begin with the resolution to create the district.

In the formation of RIDs following all other methods described in Section 3.0, the second step in the RID process is for the Board to adopt a resolution to create the RID. This follows requirements outlined in Section 7-12-2113, MCA.

6.1 HEARING ON PROTEST

During the public hearing where the Board will consider a resolution to create an RID, the Board will hear and pass upon all received protest.

If more than 50% of the property owners in the proposed district protest, further action cannot be taken for six months.

If 50% or less of the property owners protest, the Board can move forward with the resolution to create the district.

6.2 PASSAGE OF RESOLUTION

When sufficient protests have not been made, the Board can pass a resolution to create the RID in accordance with the resolution of intention.

SECTION 7.0 RESOLUTION TO LEVY AND ASSESS

The final step in creating a new RID is for the Board to adopt a resolution to levy and assess the RID. This will allow the tax department to begin assessing residents included within the district to defray the cost of improvements and/or maintenance.

The resolution to levy and assess must contain a description of each lot, tract, or parcel, the name of the owner, the assessment amount, and the assessment method.

7.1 NOTICE OF RESOLUTION

The proposed resolution to levy and assess will be kept on file in the office of the County Clerk and made available to the public. Notice of the resolution will be mailed to the property owners within the RID at least 10 days before the public hearing to adopt the final resolution and will include the date, time and place in which the hearing will take place. Notice will also be published in the newspaper twice, at least six days apart. The second publication must be at least 5 days before the public hearing.

7.2 ASSESSMENT

RIDs will be assessed based on one or any combination of assessment methods outlined in Section 7-12-2151, MCA.

If an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of a district in which property owners are assessed equally, the Board shall recalculate the amount assessable to each lot, tract, or parcel.

7.3 PUBLIC LAND ASSESSMENT

If lots, tracts, or parcels owned by the County, state, or federal government are included within the district, the County will be responsible to pay the assessment for each lot, tract or parcel. While included in the district and the assessment, these properties will not be included when determining the support for a potential RID.

7.4 TAX EXEMPT PROPERTIES

RIDs are special assessments and require public process for creation. Therefore, lots, tracts, or parcels otherwise exempt from property taxes are subject to special assessments for RIDs.

7.5 HEARING FOR RESOLUTION

At the time specified in the notice, the Board will meet to hear all objections. All resolutions to levy and assess must be passed and adopted before the first Monday in September to be included on the following November's tax bill. This resolution must be delivered to the County Treasurer two days after its passage.

SECTION 8.0 FINANCING IMPROVEMENTS

The method for financing improvements for RIDs will be determined by the Lewis and Clark County Finance Department. Factors such as total construction cost and the period of debt service may be considered. Financing options may include the sale of bonds or an INTERCAP loan from the Montana Board of Investments. Any option for financing must include 5% of the total amount financed be deposited into the RID Revolving Fund (7-12-2182, MCA).

Any road, street, or other such improvements shall not, upon approval of the RID, become part of the County-maintained public infrastructure. The procedure for acceptance of a road, street, or other public improvement by the County is outlined in MCA.

The County will assume no funding responsibility for any improvement or maintenance created by the RID unless otherwise provided for in the resolution to create the RID.

SECTION 9.0 MAINTENANCE OF IMPROVEMENTS

Maintenance costs for RIDs will be estimated, as near as practicable, the cost of maintaining, preserving, or repairing the improvements in each district for each year. Property within the boundary of the RID will be assessed the amount equal to the whole cost of maintenance for the district.

The resolution levying assessments to defray the cost of maintenance will be prepared in the same manner as the resolution levying assessments for improvements described in Section 7.0 of this policy.

9.1 ADMINISTRATION

An administration cost of 5%, not to exceed \$500, will be added to the annual assessment of the district to defray the cost incurred by the County to administer the RID. This cost covers the oversight and management of the RID by County staff.

SECTION 10.0 PETITION

When the public is interested in creating a new RID, the County will assist by providing the improvement and maintenance descriptions and estimated costs, and the estimated assessment per property. The

interested party will need to submit a signed petition with at least 20% support of the benefited properties that would be assessed for the RID.

When the petition is received, the County will develop a resolution of intention to create the district to be heard by the Board during a public meeting. Before passing the resolution, the Board will consider the following criteria:

1. The proposed project's effect on the health, safety, and general welfare of residents within the proposed district and on additional residents of the County.
2. The number of and manner in which property owners are directly benefited.
3. The estimated financial burden on each individual tract, parcel, or lot in the proposed district.
4. The public support for creation within the proposed district.

If the resolution of intention is passed, written notice will be sent to all benefiting property owners and a 30-day comment and protest period will begin (see Section 5.0 of this policy).

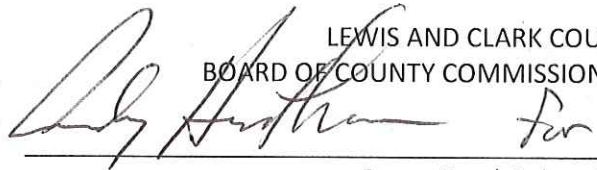
SECTION 11.0 SEVERABILITY

If any portion of this policy is found by a court of law to be illegal or if the Board itself, for whatever reason, deletes or changes any portion of this policy, the remaining portions shall remain in effect so far as is logical and in keeping with statutory provisions.


SECTION 12.0 COMPLAINT

This policy shall be reviewed by the County every two years. The Board may, at its discretion, modify portions of this policy in October of each year.

DATED this 29 day of October 2020.


LEWIS AND CLARK COUNTY
BOARD OF COUNTY COMMISSIONERS
for
Susan Good Geise, Chair

ATTEST:



Amy Reeves, Clerk of the Board