

# PROPERTY OWNER'S GUIDE TO SPECIAL ASSESSMENT DISTRICTS



## FUNDING PUBLIC AND PRIVATE IMPROVEMENT PROJECTS

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Special assessments can be a useful tool to help residents fund necessary projects for roads, sidewalks, water, sewer and lake improvements. This document is intended to help guide Genoa Charter Township residents through the special assessment process. It provides a level of detail that most residents will not need to know to get a project completed successfully. If you are interested in establishing a special assessment district the most difficult task you will face is circulating the petitions and getting them signed properly. Basically you need to:

1. **Contact the Township Manager who will help guide you through the process with help from the Clerk, Treasurer and Assessor.**
2. **Attend an informational meeting.**
3. **Circulate petitions. Get them signed properly and deliver them to the Township Manager.**

This document is not intended as legal advice and the applicable statutes should be referred to for all purposes in connection with special assessments and the matter discussed in this guide.

## **Section 1 – INTRODUCTION TO SPECIAL ASSESSEMENTS**

Various state statutes authorize townships to make improvements and provide services to the residents and taxpayers. Act 188 of 1954, as amended, establishes and authorizes townships to utilize special assessment procedures to fund the costs of certain public and private improvements:

*“AN ACT to provide for the making of certain improvements by township; to provide for paying for the improvements by the issuance of bonds, to provide for the levying of taxes, to provide for assessing the whole or a part of the cost of improvements against property benefitted; and to provide for the issuance of bonds in anticipation of the collection of special assessments and for the obligation of the township on the bonds.”* Public Improvements, Act 188 of 1954, as amended, MCL 41.721-738

### **Special Assessment Defined**

A special assessment is a charge against property for an improvement that confers a special benefit to that property different from the benefit enjoyed by the general public. Special assessments are different from general property taxes. Differences include:

- Cannot be imposed against personal property
- Are not subject to constitutional and statutory limitations (millage limitations, uniformity requirements, rollbacks)
- Generally not tax deductible
- May be township wide or just those properties specially benefiting from the particular improvement project or service.

## **Types of Improvements Authorized by Special Assessment**

There are various types of public improvements authorized by PA 188 of 1954, as amended (MCL 41.721). According to MCL 41.722, some of the types of improvements authorized by the Act include:

- The construction, improvement and maintenance of storm or sanitary sewers
- The construction, improvement and maintenance of water systems
- The construction, improvement and maintenance of public roads
- The acquisition, improvement and maintenance of public parks
- The collection and disposal of garbage and rubbish
- The installation, improvement and maintenance of lighting systems\*
- The construction, improvement and maintenance of private roads
- The construction, improvement and maintenance of sidewalks and bicycle paths
- The eradication or control of aquatic weeds and plants
- The construction, improvement and maintenance of a lake, pond, river, stream, lagoon, or other body of water or of an improvement to the body of water. This includes, but is not limited to, dredging.

\*Special assessments for street lighting are covered under PA 246 of 1931 (MCL 41.289b), and have a somewhat different process than the other improvements listed above.

### **Special Assessment District**

A Special Assessment District is a defined grouping of properties especially benefitted by an improvement. While statute allows for a township to initiate a SAD, it is typically done by petition of the property owners in a designated area who wish to make an improvement. The township then acts in an administrative capacity by establishing the district, gathering the cost estimate and plans for the improvement, providing funding or financing for the cost of the improvement, and the levying and collection of the special assessment to pay off the debt.

### **Cost Estimates**

All costs the township may incur from the time of initial application through the duration of the special assessment and/or for as long as there are any outstanding bonds issued to fund the improvement should be included in the final cost estimate. Related costs would include administrative, publication, engineering, construction, financial consultation and legal services.

### **Allocation of Costs**

There is no specific formula within statute as to how the assessment is apportioned among the benefitted properties. There are several different methods commonly used to allocate or spread the costs for the improvement including but not limited to pro-rata, front footage, land area or a combination of methods. The method used varies according to the nature of the improvement and the type and characteristics of the properties contained within the SAD.

- Most road projects and lake management SAD's are apportioned on a pro-rata basis which is a proportional distribution across the properties.
- Most water or sewer SAD's are apportioned by a combination of acreage, front footage and or Residential Equivalent Units. \*\*

\*\* A Residential Equivalent Unit (REU) is a unit of measure of the impact of a facility on a sewer or water system equal to the amount of water or sewer used by an average household per day.

The primary goal when selecting a method is for the special assessment against each parcel to be related to the benefit received by the parcel. Major differences in special assessment amounts on each parcel in a district where land uses are similar may be an indication that a different method should be used.

#### **Township Participation for Public Subdivision Roads**

Several subdivisions in Genoa have successfully petitioned the Township Board for special assessment districts for road improvements. In order to encourage these efforts the Township Board has a policy whereby, at their discretion, they may fund a project on a public subdivision road at 25% or \$1,000 per home whichever is less. The Township may only participate, as described in this section, in one project per subdivision every ten years.

#### **Financing the Improvement Project**

The Township has a revolving fund (Fund #264) to finance most projects. Projects financed by the revolving fund are charged 2% annual interest on remaining principal. Property owners have the option to pay the assessment early to avoid financing costs.

If the project is large and/or the revolving fund is unable to finance a project the Township Board may issue and sell bonds. Bonds must be issued in accordance with PA 34 of 2001, "Revised Municipal Finance Act" (MCL 141.2101-2821). Bond payments are made as the benefitting property owners pay the special assessment.

#### **Paying the Special Assessment**

Special assessments can be paid in full without interest at the time the assessment is first levied, or may be paid in annual installments for a specified number of years using a declining balance method. Each

annual payment is less than the previous year's payment. The principal is repaid in equal installments in each payment, but the amount paid toward interest is reduced with each payment. Special assessment installments are levied on an annual basis.

### **Special Assessment Hearing and Objections**

There are two public hearings in the special assessment process. At the first public hearing the Township Board will hear objections and support regarding the petition, the improvement and the special assessment district. The second public hearing is to review and hear any objections to, or support for, the special assessment roll. Notice of the hearings will be published in the newspaper and mailed to the property owners to be assessed.

Objection or support can be expressed in two ways. The first is by written letter delivered to the Township Manager before or at the time of the public hearing described above. The second way is to attend the public hearings in person. It must be noted that if a property owner wishes to challenge the petitions, improvement, district and/or special assessment, they must have made an official protest as described above.

### **Additional Charges for Water and Sewer Service**

A special assessment for water or sewer improvements is only for costs associated with the installation of the project improvements described in the SAD. There may be other charges associated with connections to the public system, including but not limited to the cost of installing the water or sewer connection line between the public improvement and the private property structure. The cost of this service connection is paid by each property owner individually. Qualified property owners or contractors can install the connector lines through the permit process in the Livingston County Building Department and the Utility Department. The special assessment must be paid whether the connection is made or not.

### **Additional Charges for Street Lighting Service**

A special assessment for street lighting improvements involves the costs and expenses associated with the installation of the lighting system, as well as an annual determination and assessment of the amount needed for maintenance and electricity in order to provide the lighting service. According to statute, "the assessment may be made with in a special assessment roll or in a column provided in the regular tax roll." MCL 41.289c. A street lighting district may be enacted and terminated by the Township Board or by petition of property owners.

## SECTION 2 – CREATING A SPECIAL ASSESSMENT DISTRICT

Special assessment districts can be initiated by the township or by citizen petition. Unless there is an underlying health, safety or welfare issue, the township prefers the citizen petition process in order to demonstrate public support for an improvement by special assessment.

The following steps explain how to establish a special assessment district by citizen petition in Genoa Charter Township. Special assessment districts for street lighting are covered under a separate statute with different steps. If the improvement project will be funded through bonding, the process will be adjusted to conform with laws applicable to the bonding process.

### **Step 1: Contact the Township Manager.**

The Manager will visit the site, determine preliminary project limits, evaluate the project and generate a conceptual cost estimate. For lake projects the property owners generally determine what the scope of the project will be. The Manager will update the interested owners and determine if there is interest in moving forward.

### **Step 2: Informational Meeting.**

An informational meeting will be scheduled. Affected property owners will receive a letter inviting them to attend. The project and process will be explained. Questions will be answered and the level of interest will be solicited.

### **Step 3: Formal Petition.**

If there is interest in moving forward formal petitions will be prepared by the Township Manager. The Township Manager will notify interested parties that the petitions are available for circulation.

### **Step 4: Petition Sufficiency.**

Completed petitions are returned to the Manager's office. The Manager will retain copies and forward originals to the Township Clerk. Owners of record are verified by the Assessing Department. It is important to note that the statute requires the signature of the "record property owners" in the citizen petition process. Accordingly, administrators, guardians and powers of attorney cannot sign the petition unless the power of attorney document or a court order has specifically granted the power to sign on behalf of the record owner. If more than one person is an owner of record all parties must sign. For example if both husband and wife own the property, both must sign.

Sufficiency of the petition is typically based on the following:

- Owners of more than 50% of total land area in the district are required for sewer and water projects.
- Owners of more than 50% of total frontage in the district are required for road improvement projects.

- Owners of not less than 10% of property sites are required for sufficiency of street light projects.
- Owners of more than 50% of property sites are required for lake improvement/maintenance projects.

**Step 5: Resolution #1.**

After the petition has been verified and the sufficiency requirement has been met the request will be brought before the Township Board of Trustees for consideration of a resolution, prepared by the Township Manager, directing the preparation of plans and cost estimates for the project to be presented at the first of two public hearings.

**Step 6: Resolution #2.**

With plans and cost estimates completed the Township Board of Trustees will consider a resolution, prepared by the Township Manager, tentatively approving its intention to make the improvement, tentatively designating the special assessment district and setting a date and time for the first public hearing. The resolution will also direct that the completed plans and cost estimates are to be given to the Township Clerk and made available for public inspection prior to the first public hearing. Street lighting districts will proceed in a slightly different and abbreviated manner.

**Step 7: Notice of 1<sup>st</sup> Public Hearing.**

Notice of public hearings in special assessment proceedings are mailed to each record owner of the properties to be included in the district at least 10 days before the date of the hearing. Notice is published twice by the Manager’s office before the public hearing in a newspaper circulating in the township. The first publication shall also be at least 10 days before the date of the public hearing. The notice of hearing will contain the following:

- Date, time and location of the hearing.
- Description of the proposed special assessment district
- Advise that plans and cost estimate for the improvement are on file at the office of the Township Clerk and are available for public inspection.
- A statement that appearance and protest at the hearing is required in order to appeal the amount of the special assessment to the Michigan Tax Tribunal, and describing the manner in which an appearance and protest are made and how protests may be filed by letter (MCL 211.741(2)). *An appeal for a SAD related to a drainage project would go to the circuit court.*

**Step 8: 1<sup>st</sup> Public Hearing.**

The first public hearing will be held by the Township Board as required under Public Act 188 of 1954, as amended, to hear objections/support and to answer questions regarding the proposed improvement project.

**Step 9: Resolution #3.**

After conclusion of the 1<sup>st</sup> public hearing the Township Board will consider adoption of a resolution, prepared by the Township Manager, doing all of the following:

- Describing the improvement and determining to complete the improvements.
- Approving the plans and cost estimates as presented.
- Designating the boundaries of the district.
- Confirming the petition for sufficiency (if petition is required).
- Specifying the amount of the improvement costs to be paid by the Township, if any.
- Designating the length of the special assessment district's term.
- If periodic redeterminations of cost will be necessary, such necessity and the dates when such redeterminations are made.
- Directing that the Assessor prepare the special assessment roll.

**Step 10: Resolution #4.**

Once the special assessment roll has been created the Township Board of Trustees will consider a resolution, prepared by the Township Manager, setting a date and time for the second public hearing. The completed special assessment roll will be given to the Township Clerk to be made available for public inspection prior to the second public hearing.

**Step 11: Notice of 2<sup>nd</sup> Public Hearing.**

Notice of public hearing in special assessment proceedings shall be given to each record owner by the Manager's office, or the party of interest in, of the properties to be included in the district at least 10 days before the hearing. Notice shall also be published twice before the public hearing in a newspaper circulating in the township with the first publication also being at least 10 days before the public hearing. Notice for public hearing for street lighting projects follows a different schedule. The notice of public hearing will contain:

- Date, time and location of the hearing.
- Description of the proposed special assessment district
- Advice that plans and cost estimate for the improvement are on file at the office of the Township Clerk and are available for public inspection.
- A statement that appearance and protest at the hearing is required in order to appeal the amount of the special assessment to the Michigan Tax Tribunal, and describing the manner in which an appearance and protest shall be made and that protests may be filed by letter (MCL 211.741(2)). *An appeal for a SAD related to a drainage project would go to the circuit court.*

**Step 12: 2<sup>nd</sup> Public Hearing.**

The second public hearing will be held by the Township Board as required under Public Act 188 of 1954, as amended, to hear objections/support and to answer questions regarding the proposed improvement project.

**Step 13: Resolution #5.**

After the 2<sup>nd</sup> public hearing the Township Board of Trustees will consider a resolution, prepared by the Township Manager, to confirm the special assessment roll. The Township Board will also determine the number of annual installments.

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