

## Establishing Special Assessments

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

Table of Contents

Establishing Special Assessments .....	3
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## Establishing Special Assessments

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Cities frequently receive requests from neighborhoods for drainage projects, street improvements, or other public works construction that benefit only the requesting neighborhood. Instead of spending citywide funds for the project, the city may use a special assessment process in which the benefitting property owners pay part or all of the improvement costs. The state code provides two separate, yet similar, procedures for establishing special assessments, and some city charters include a local procedure.

### **Establishing Special Assessments: Procedure Number One**

Any city, unless its private act charter provides otherwise, may use special assessments to pay for constructing or improving streets, alleys, or other public places. Assessments are calculated according to the frontage of the abutting lot or parcel to the street, alley, or other public place (front-foot basis). The improvement district is created by ordinance following a public hearing. Two-thirds of the project cost is paid by the neighborhood, and one-third is paid by the city. No property owner has to pay an assessment of more than 50 percent of the market value of his or her lot and the improvements.

If the owners of at least 75 percent of the front-footage in the benefitting neighborhood wish to relieve the city from bearing its burden to contribute toward the cost of the improvement, they may state in the petition their desire to pay 100 percent of the cost. However, in this event, the maximum assessment is still one-half of the assessed value of each lot.

T.C.A. § 7-32-101(b) allows municipalities to make special assessments for flood control and water management against owners of property in a benefitted flood plain. The municipality must assess at least two-thirds of the cost not paid by federal funds to the benefitted owners.

The assessment becomes a lien against the property. Property owners may pay the assessment over five years at 6 percent interest. T.C.A. §§ 7-32-101, et seq. Cities may borrow money under the Local Government Public Obligations Act of 1986 to pay for the improvements. T.C.A. §§ 7-33-101, et seq., T.C.A. § 7-33-201.

A municipality may acquire streets, sidewalks, utilities and related improvements, parking facilities, parks, and greenways from private entities when the municipality reasonably believes there will be private investment of at least \$25,000,000 on property adjacent to the facility. T.C.A. § 7-32-101. A municipality accepting public facilities under this statute may issue revenue bonds to finance the purchase. The authority to issue revenue bonds also may be delegated to the industrial development corporation or the public building authority. T.C.A. § 7-33-121.

### **Establishing Special Assessments: Procedure Number Two**

Under this alternative procedure, cities may authorize special assessments for streets, sidewalks, and other public ways, including storm drains, sanitary sewers, and the undergrounding of overhead utility cables, including streetscape improvements.

Charges for the improvements are allocated to property owners based on assessed values of their benefitted properties instead of on a front-foot basis. The full cost of the project may be charged to the property owners if the city pledges the full faith and credit of the municipality to satisfy any deficiency in collections. Otherwise, 75 percent of the cost may be charged. T.C.A. §§ 7-33-301, et seq.

Churches and other tax-exempt properties, except church-owned property in premier tourist resort cities, are charged an assessment, but undeveloped areas may not be charged. T.C.A. § 7-33-310. The law, somewhat ambiguously, seems to require the governing body to act if the owners of 51 percent of the total assessed value of the property to be benefitted petition for an improvement. T.C.A. § 7-33-303.

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