INTRODUCTION

This report outlines the procedures specified by Chapter 160A of the General Statutes for levying special assessments upon benefited properties for water and sewer system extensions. The report also includes samples of suggested forms to be used in a special assessment procedure.

Municipal officials using this report should determine whether local act or charter provisions require modification of the procedures and forms provided. It is also recommended that you seek the advice and guidance of your municipal attorney in the implementation of a special assessments procedure. League staff attorneys are also available to answer questions at 919-715-4000.

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General Counsel

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Assistant General Counsel
SPECIAL ASSESSMENTS FOR WATER AND SEWER EXTENSION

I. GRANT OF AUTHORITY

G.S. 160A-216 through 160A-236 provide (in part) that every municipality shall have authority to extend its water and sewer system, and to defray the expense of the extensions by special assessments upon the properties benefited by the extensions, made on the basis of:

1. The frontage abutting on the project, at an equal rate per foot of frontage, or
2. The area of land served, or subject to being served, by the project, at an equal rate per unit of area, or
3. The value added to the land served by the project, or subject to being served by it, at an equal rate per dollar of value added, or
4. The number of lots served, or subject to being served, where the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot, or
5. A combination of two or more of these bases. (G.S. 160A-218)

Whenever the “value added” basis is selected, it must be computed as the difference between the appraised value of the land without improvements as shown on the tax records of the county, and the appraised value of the land with improvements according to the appraisal standards and rules adopted by the county at its last revaluation. (G.S. 160A-218(3))

For each project, the governing body shall endeavor to establish an assessment method from among these bases that will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the project. However, the governing body’s decision is conclusive and not subject to review.

The governing body may provide that assessments shall be held in abeyance without interest until improvements on the properties have actually been connected to the water or sewer system for which the assessments were made, or until a day certain not more that 10 years from the confirmation of the assessment roll, whichever first occurs. If assessments are to be held in abeyance, the assessment resolution must classify the property assessed according to general land use, location with respect to the water or sewer system, or other relevant factors, and must provide for a uniform period of abeyance for each class of property. (G.S. 160A-237)

The following are suggested appropriate classifications: (1) properties which currently have no improvements thereon to which the system could be connected; (2) (in the case of water) properties that are currently served by an approved well; (3) (in the case of sewer) properties that are currently served by an approved septic tank or other on-site disposal system; and (4) properties in agricultural use.
II. REQUIRED PROCEDURES

1. Whenever the governing body decides to finance extensions by special assessments, it must adopt a preliminary resolution that shall contain the following:
   a. A statement of intent to undertake the project;
   b. A general description of the nature and location of the project;
   c. A statement as to the proposed basis for making the assessments (which shall include a general description of the boundaries of the area benefited if the basis of assessment is either “area served” or “value added”);
   d. A statement as to the percentage of the cost of the work that is to be assessed;
   e. A statement as to which, if any, assessments shall be held in abeyance and for how long;
   f. A statement as to the proposed terms of payment of the assessment;
   g. An order setting a time and place for a public hearing on the preliminary resolution at some date between three and ten weeks from the date of the adoption of the preliminary resolution. See Form #1. (G.S. 160A-223)

2. At least ten days before the date set for the public hearing, there must be published a notice of adoption of the preliminary assessment resolution and of the public hearing; the notice must also generally describe the nature and location of the project. See Form #2. (G.S. 160A-224)

3. At least ten days prior to the hearing, copies of the preliminary resolution must be mailed to all owners of property subject to the assessment. The person mailing the copies must certify to the governing body that the copies were mailed by first-class mail and specify the date of mailing. See Form #3 and Form #4. (G.S. 160A-224)

4. At the public hearing, the governing body must hear all interested persons who appear with respect to any matter covered by the preliminary resolution. (G.S. 160A-225)

5. After the public hearing, the governing body must adopt an assessment resolution directing that the project be undertaken, and describing the project in general (which may be by reference to the description in the Preliminary Assessment Resolution), and must set forth the following:
   a. The basis on which the special assessments shall be levied (together with a general description of the boundaries of the area benefited, if the basis of assessment is either “area served” or “value added”);
b. The percentage of the cost to be assessed (the percentage must be the same as proposed in the preliminary resolution);

c. The terms of payment. See Form #5. (G. S. 160A-225)

6. Upon completion of the project, the total cost must be computed. In addition to construction costs, the cost of all necessary legal services, the amount of interest paid during construction, cost of rights-of-ways, and the cost of publication of notices and resolutions may be included in the total cost. The governing body should then adopt a resolution declaring the cost, and ordering preparation of the Preliminary Assessment Roll, and calling a public hearing thereon. See Form #6. (G.S. 160A-226, -227)

7. A preliminary assessment roll must then be prepared and filed in the Clerk’s Office where it must be available for public inspection. Any assessments to be held in abeyance should be indicated on the assessment roll. See Form #7. (G.S. 160A-227). The governing body may establish a schedule of discounts, not to exceed 30%, to be applied to assessments paid within 30 days from publication of confirmation of the assessment roll (see paragraph number 12 below). If such a schedule is adopted, it must be included in the preliminary assessment roll. (G.S. 160A-226.1)

8. There must be published, at least 10 days before the date set for the public hearing, a notice of the completion of the Preliminary Assessment Roll, setting forth a general description of the project, noting the availability of the assessment roll in the Clerk’s office for inspection, and stating the time and place of the public hearing. See Form #8. (G.S. 160A-227)

9. A similar notice must also be mailed to each affected property owner at least ten days before the public hearing. The person mailing the notices must certify to the governing body that they were mailed by first-class mail and specify the date mailed. See Form #9 and Form #10. (G.S. 160A-227)

10. At the public hearing, the governing body must hear objections to the Preliminary Assessment Roll from all interested persons who appear. After the hearing, the governing body may make any proper corrections in the assessment roll, and must then adopt a resolution confirming the assessment roll and levying the assessments (the list of assessments inserted in the resolution should indicate any which are to be held in abeyance). The resolution should also direct the Clerk to deliver the assessment roll to the Tax Collector, and should direct publication of the required notice of confirmation and levy. The resolution must also state the day, hour and minute of confirmation, and should specify the due date of installments (either the due dates of property taxes, or the 60th day following confirmation and subsequent anniversaries of the 60th day). See Form #11. (G.S. 160A-228, -232)

11. The Clerk must immediately deliver to the Tax Collector the assessment roll. (G.S. 160A-228)

12. After the expiration of twenty (20) days from the confirmation of the assessment roll, the Tax Collector must publish a notice that the assessment roll has been confirmed, that the assessments may be paid within 30 days of publication without
interest, and that those then remaining unpaid will bear interest as provided in the assessment resolution. If a discount schedule has been established, it must be included in the notice. See Form #12. (G.S. 160A-229)

13. The assessments will then be due and payable and may be paid within 30 days from the date the notice is published without interest. Each property owner has the option to pay the assessment in the number of annual installments specified in the assessment resolution, at the rate of interest set forth therein. A property owner may elect the installment method simply by not paying in full during the 30 day period. (G.S. 160A-232, -233)

14. If any property owner shall default in the payment of any installment, all unpaid installments shall immediately become due and payable, unless the governing body waives acceleration. The assessment lien may be foreclosed in the same manner as property tax liens, except that lien sales and lien sale certificates shall not be required, and foreclosure may begin at any time following thirty days after default. The assessment lien takes effect at the moment of confirmation of the assessment roll and is inferior to all prior and subsequent liens upon the property for state, local and federal taxes, and is superior to all other liens. (G.S. 160A-233)

15. Form #13 is a receipt for prepayment of assessment. The governing body may, in its discretion, decline to undertake requested extensions unless the affected property owners pay in advance the estimated assessments (to be finally adjusted after completion of the project). This practice is advantageous where there are not otherwise available sufficient funds to undertake the extensions. The usual policy in such cases is to order the project to be undertaken only after a given percentage of the estimated cost is deposited with the City, Town or Village by the property owners.
III. SUGGESTED FORMS

FORM #1

PRELIMINARY ASSESSMENT RESOLUTION

WHEREAS, the (Governing Body) of the (City) (Town) (Village) of __________________ has determined that it may be in the best interest of the (City) (Town) (Village) to extend its (water) (sewer) system and that in order to provide such extensions it would be necessary to assess (part) (all) of the cost thereof upon the real property benefited thereby;

NOW, THEREFORE, BE IT RESOLVED by the (Governing Body) of the (City) (Town) (Village) of ____________________________, North Carolina, that:

1. It is intended that the (water) (sewer) system of the (City) (Town) (Village) of __________________________be extended by constructing (describe nature and location of facility) pursuant to Article 10, Chapter 160A of the General Statutes.

2. (______ percent of the) (The) total cost of said extension shall hereafter be assessed upon the benefited properties on the basis of (insert the assessment basis chosen from those set out in G.S. 160A-218). (If the basis chosen is either area served or value added, include a general description of the boundaries of the area benefited.)

3. (If applicable) The assessments against the following class(es) of property shall be held in abeyance, without interest, until connections are actually made to the system or until the 10th anniversary date of confirmation of the assessment roll, whichever first occurs: (insert appropriate classifications).

4. The assessments herein provided for shall be payable in cash, or if any property owner shall so elect, such owner shall have the option of paying the assessment in ______(not more than 10) equal annual installments, said installments to bear interest at the rate of ______(not more than 8) percent per annum.

5. A public hearing on all matters covered by this resolution will be held at ______(a.m.) (p.m.) on the ______day of ____________, 20__, at ______(place)______.

Adopted this _____day of __________________, 20__.
NOTICE OF PRELIMINARY ASSESSMENT RESOLUTION AND HEARING THEREON

The public will take notice that a preliminary assessment resolution providing for a proposed (water) (sewer) extension to (describe nature and location of facility) was adopted by the (Governing Body) of the (City) (Town) (Village) of ______________________, North Carolina on the _______ day of ____________________________, 20___.

The (Governing Body) will hold a public hearing at ________(a.m.) (p.m.) on the ______ day of ____________________________, 20___, at ______(place)____ for the purpose of hearing all interested persons.

____________________________________________
(City) (Town) (Village) Clerk

(To be published at least 10 days before the date of the public hearing.)
Dear ___________________________:

The enclosed Preliminary Assessment Resolution providing for proposed extension of the (water) (sewer) system ___ (describe nature and location of facility) ___ has been adopted by the ___ (Governing Body) ___ of the (City) (Town) (Village) of _______________________.

Please take notice that the proposed extension, if undertaken, could result in an assessment against your property, and that a public hearing on the matter will be held at ______ (a.m.) (p.m.) on the ______ day of ______________________, 20___, at (place) ___.

Sincerely yours,

_________________________________________
(City) (Town) (Village) Clerk

(To be mailed with a copy of the Preliminary Assessment Resolution, by first-class mail, to each affected real property owner no later than 10 days before the date of the public hearing.)
CERTIFICATE OF MAILING OF PRELIMINARY ASSESSMENT RESOLUTIONS

TO THE HONORABLE MAYOR AND (GOVERNING BOARD) OF THE (CITY) (TOWN) (VILLAGE) OF ________________.

I, ____________________________, (City) (Town) (Village) Clerk, do hereby certify that copies of the preliminary assessment resolution providing for a proposed (water) (sewer) extension to ________________, adopted on the _______ day of ________________, 20___, were mailed by first-class mail on the _______ day of ________________, 20___, to the owners of all real property subject to assessment should the project be undertaken, to wit: (Insert list of owners and mailing addresses).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the (City) (Town) (Village), this ______ day of ________________, 20___.

____________________________________________
(City) (Town) (Village) Clerk
RESOLUTION DIRECTING THAT THE PROJECT BE UNDERTAKEN

WHEREAS, on the _____ day of ______________, 20___, the ___(Governing Body)___ of the (City) (Town) (Village) of _________________ adopted a Preliminary Assessment Resolution providing for the extension of the (water) (sewer) system to (describe nature and location of facility) ____, said extension to be financed by assessment of (part of the) (the total) cost against the benefited real property; and

WHEREAS, the required public hearing has been held after due notice to the public and to the owners of the affected real property;

NOW, THEREFORE, BE IT RESOLVED by the ___(Governing Body)___ of the (City) (Town) (Village) of _________________ that:

1. The (water) (sewer) system of the (City) (Town) (Village) shall be extended by constructing a (describe nature and location of facility) ___, under and by virtue of Article 10, Chapter 160A of the General Statutes of North Carolina and the procedure therein established, and said project is hereby directed to be undertaken.

2. (_____ percent of the) (The total) cost of said extension be hereafter assessed upon the benefited properties on the basis of (insert the assessment basis; include a general description of the boundaries of the area benefited if the basis is either “area served” or “value added”).

3. (If applicable) The assessments against the following class(es) of property shall be held in abeyance, without interest, until connections are actually made to the system or until the 10th anniversary date of confirmation of the assessment roll, whichever first occurs: (insert appropriate classifications).

4. The assessments herein provided for shall be payable in cash, or if any property owner shall so elect, such owner shall have the option of paying the assessment in ____________ (not more than 10) equal annual installments, said installments to bear interest at the rate of _____ (not more than 8) percent per annum.

5. (The discount schedule, if any, may be included in the resolution).

Adopted this _____ day of _________________, 20__. 
RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL, AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL

WHEREAS, the extension of the (water) (sewer) system (describe nature and location of facility), was ordered by Resolution of this (Governing Body) duly passed on the ____ day of ________________, 20___, and has been completed in accordance therewith; and

WHEREAS, the total cost of the project has been computed;

NOW, THEREFORE, BE IT RESOLVED by the (Governing Board) of the (City) (Town) (Village) of ___________________________ that:

1. The total cost of the above described project is hereby declared to be ____________________.

2. The (City) (Town) (Village) Clerk is hereby directed to prepare a Preliminary Assessment Roll showing the individual assessments upon the benefited properties.

3. The (City) (Town) (Village) Clerk is hereby directed to make available during regular office hours, in the Clerk’s office, the Preliminary Assessment Roll for public inspection from this day through the _____ day of ________________, 20____. (Same date as hearing date set below.)

4. The (Governing Body) will hold a public hearing at ______(a.m.) (p.m.) on the _____ day of ________________, 20___, at ___(place)___ for the purpose of hearing all interested persons.

5. The (City) (Town) (Village) Clerk is hereby directed to publish the required notice of the public hearing and, no later than 10 days before the public hearing, to mail by first-class mail copies of the notice to the owners of real property listed on the Preliminary Assessment Roll.

ADOPTED this _____ day of ______________________, 20__.
(CITY) (TOWN) (VILLAGE) OF __________________________________

ASSESSMENT ROLL FOR (WATER) (SEWER) EXTENSION

__________________________
(Designate Extension)

<table>
<thead>
<tr>
<th>OWNERS ASSESSED</th>
<th>LOT NUMBER*</th>
<th>FRONTAGE**</th>
<th>AMOUNT ASSESSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>John White</td>
<td>26-301</td>
<td>120</td>
<td>$480.00</td>
</tr>
<tr>
<td>Alvin &amp; Agnes Brown</td>
<td>26-302</td>
<td>120</td>
<td>$480.00</td>
</tr>
<tr>
<td>Green Bros., Inc.</td>
<td>26-303</td>
<td>240</td>
<td>$960.00</td>
</tr>
</tbody>
</table>

Schedule of discounts (if any). Applicable to assessments paid in full within 30 days of publication of notice of confirmation of the assessment roll.

*Property Tax Map parcel Numbers are generally used.

**Or other basis of assessment.
FORM #8

NOTICE OF PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND PUBLIC HEARING

The public will take notice that the Preliminary Assessment Roll for the (water) (sewer) extension (describe nature and location of facility) has been prepared and is available for public inspection in the office of the (City) (Town) (Village) Clerk until the _____ day of ____________, 20____ (same date as below). The (Governing Body) will hold a public hearing at _________ (a.m.) (p.m.) on the _____ day of ________________, 20____, at the ___ (place) ____, for the purpose of hearing objections to the Preliminary Assessment Roll from all interested persons who appear.

____________________________________
(City) (Town) (Village) Clerk

(To be published at least 10 days before the date of public hearing.)
NOTICE OF PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND PUBLIC HEARING

Please take notice that the Preliminary Assessment Roll on the (water) (sewer) extension ____ (describe nature and location of facility) ____ has been prepared, showing an assessment against your property in the amount of $____________. The Preliminary Assessment Roll is available for public inspection in the office of the (City) (Town) (Village) Clerk until the ____ day of ________________, 20___ (same date as below). The ____ (Governing Body) ____ will hold a public hearing at ______ (a.m.) (p.m.) on the ____ day of ________________, 20___, at ____ (place) ____, for the purpose of hearing objections to the Preliminary Assessment Roll from all interested persons.

______________________________________________
(City) (Town) (Village) Clerk

(To be mailed to each affected real property owner at least 10 days before the date of the public hearing.)
CERTIFICATE OF MAILING OF NOTICES OF PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND PUBLIC HEARING TO PROPERTY OWNERS

TO THE HONORABLE MAYOR AND __ (GOVERNING BODY) __ OF THE (CITY) (TOWN) (VILLAGE) OF ______________________________:

I, ____________________________, (City) (Town) (Village) Clerk, do hereby certify that notices of preparation of the Preliminary Assessment Roll for the (water) (sewer) extension __ (describe nature and location of facility) __, and of the public hearing thereon, were mailed by first-class mail on the _____ day of __________________, 20___, to all the owners of real property shown thereon, indicating to each such owner the amount of the assessment against such owner’s property.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the (City) (Town) (Village), this _____ day of _____________________, 20___.

_____________________________________________
(City) (Town) (Village) Clerk
RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS

WHEREAS, the (Governing Body) of the (City) (Town) (Village) of _____________________________ has on this day held a public hearing, after due notice as required by law, on the Preliminary Assessment Roll for the (water) (sewer) extension to ________________; and

WHEREAS, the (Governing Body) has heard all those present who requested to be heard, and has found the said Assessment Roll to be proper and correct;

NOW, THEREFORE, BE IT RESOLVED by the (Governing Body) of the (City) (Town) (Village) of _____________________________ that:

1. The Assessment Roll for the (water) (sewer) extension ________________ is hereby declared to be correct, and is hereby confirmed in accordance with G.S. 160A-228, and the assessments shown thereon are hereby levied pursuant to authority granted by G.S. 160A-216, as follows:

   (List Assessments as they appear on Roll.)

2. The (City) (Town) (Village) Clerk is hereby directed to deliver to the (City) (Town) (Village) Tax Collector the said Assessment Roll, and the Tax Collector is hereby charged with the collection of the said assessments in accordance with the procedure established by law.

3. The (City) (Town) (Village) Tax Collector is hereby directed to publish on the _____ day of _____________________, 20____, a notice of confirmation of the Assessment Roll, which notice shall set forth the terms of payment of the assessments, (with installment payments to become due and payable on succeeding due dates of property tax) (with the first installment payment to become due and payable on the 60th day following confirmation and the succeeding installments to become due and payable on the same date in succeeding years).

Adopted this _____ day of _____________________, 20____.
NOTICE OF CONFIRMATION OF ASSESSMENT ROLL AND LEVYING OF ASSESSMENTS

The Public will take notice that the Assessment Roll for the (water) (sewer) extension (describe nature and location of facility) was duly confirmed by the (Governing Body) of the (City) (Town) (Village) of ______________________ and the assessments shown thereon duly levied, on the _____ day of ______________, 20____, at (time)___.

Assessments shown on the Assessment Roll may be paid in cash, without interest, to the Tax Collector of the (City) (Town) (Village) of ______________________ prior to the _____ day of ______________, 20__.*, or any property owner may elect to pay the assessment in ______ equal annual installments bearing interest at the rate of ______ percent per annum, (each of said installments due and payable with interest on each of the _____ succeeding due dates of property taxes) (the first installment with interest due and payable on the _____ day of ______________, 20__, [the 60th day after the date of confirmation] and the succeeding installments with interest due and payable on the same date in each succeeding year until the assessment is paid in full). Assessments paid in full prior to the _____ day of ______________, 20__., will be subject to the following discount (insert discount schedule if one has been adopted).

____________________
(City) (Town) (Village) Tax Collector

* This date must be the 30th day following the publication of this notice.

(This notice must be published after the 20th day following confirmation and the date for payment in full without interest must be the 30th day following the date of publication of this notice.)
(CITY) (TOWN) (VILLAGE) OF _______________________________,
NORTH CAROLINA
RECEIPT FOR PREPAYMENT OF SPECIAL ASSESSMENT

Received of ________________________ ____, $___________, as a prepayment of a special assessment for (water) (sewer) extension to be levied on benefited properties in accordance with a Resolution of the ___(Governing Body)___ dated the _____ day of ____________, 20____, for LOT NO. __________, BLOCK NO. ______________. This is a preliminary settlement and is subject to adjustment and final settlement upon determination of the total cost of the project and an accurate determination of the proportionate cost assessed against each parcel of property. This is not a final receipt for the special assessment upon the above described lot.

____________________________________
(Signature of Clerk or Finance Officer)

____________________________________
(Date)