

**SPECIAL ASSESSMENTS FOR
WATER AND SEWER SYSTEM EXTENSIONS
PROCEDURES AND FORMS**

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NORTH CAROLINA LEAGUE OF MUNICIPALITIES

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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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 of 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 than 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 be begun 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.

FORM #2

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.)

FORM #3

LETTER TRANSMITTING PRELIMINARY ASSESSMENT RESOLUTION TO
PROPERTY OWNERS

(DATE)

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.)

FORM #4

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 _____ (describe nature and location of facility) _____, 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

FORM #5

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_____.

FORM #6

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____.

FORM #7

(CITY) (TOWN) (VILLAGE) OF _____
ASSESSMENT ROLL FOR (WATER) (SEWER) EXTENSION

_____ (Designate Extension) _____

OWNERS ASSESSED	LOT NUMBER*	FRONTAGE**	AMOUNT ASSESSED
John White	26-301	120	\$480.00
Alvin & Agnes Brown	26-302	120	\$480.00
Green Bros., Inc.	26-303	240	\$960.00

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.)

FORM #9

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.)

FORM #10

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

FORM #12

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.)

FORM #13

(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)