



Port Sheldon Township, Ottawa County, MI

# CITIZEN'S GUIDE TO SPECIAL ASSESSMENT DISTRICTS (SAD)

This summary is prepared and used by a township to describe the special assessment process. The summary is general in nature, and that any discrepancy between the summary and the applicable Michigan law would be resolved in favor of Michigan law - Public Act 188 of 1954

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This guide describes the step by step process for the creation of a special assessment district and its administration. 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 matters discussed in this guide.

## Section 1 – INTRODUCTION TO SPECIAL ASSESSMENTS

Various state statutes authorize townships to make public improvements and provide services to their residents and taxpayers. The special assessment process is one way a township can expend public money for any improvements made to private property, such as private roads or street lights in a subdivision. Act 188 of 1954, as amended, establishes and authorizes townships to utilize special assessment procedures to fund the costs of certain types of public 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 a public improvement that confers a special benefit to that property different from the benefit enjoyed by the general public. [*Fluckey vs. City of Plymouth*, 358 Mich. 447, 100 N.W.2d 486 (1960)].

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

### Special Benefit

In theory, the proportional share of the cost of the improvement defrayed by special assessment against the benefitted property will be generally offset by the increase in the property's value once the improvement is in place. In other words, any public improvement that would increase the market value of a property could be considered a special benefit.

### Types of Authorized Improvements 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 sidewalks and bicycle paths
- The eradication or control of aquatic weeds and plants
- The construction, improvement, and maintenance of *private roads*
- 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 (abbreviated) process than the other improvements listed above. Please refer to Section 3, page 10 of this document for information on how to obtain a copy of this Act.*

### **Special Assessment District (SAD)**

A SAD is a defined grouping of properties especially benefitted by the 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 authorized improvement. The township then acts in an administrative capacity by establishing the district, gathering the cost estimates 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 remain any outstanding bonds issued to fund the improvement should be included in the final cost estimate. Related costs would include those services related to administrative (clerical and treasurer functions), engineering (design, inspection and contingency fund), construction (materials, labor and contingency fund), consultation (financial) and legal (township and/or bond specialized) services.

For citizen initiated public improvement paving projects using PA 188 of 1954 as the underlying statute and when the Township is acting in the role of lender; total project cost shall include all costs from the time of initial application through the life of the special assessment district *except* administrative staff time associated with the project.

### **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 against those properties within the SAD, including but not limited to front foot, land area, site/lot, lot depth, value, or a combination of these methods. The method used varies according to the nature of the improvement, and the type and characteristics of the properties contained within the SAD.

While front foot may be the simplest method to allocate costs, it may not necessarily be the most appropriate. 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 the land uses are similar may be an indication that a different method should be used.

### **Private Roads**

Act No. 95 Public Acts of 2022 – Approved June 14, 2022, effective date June 14, 2022

AN ACT to amend 1972 PA 139, entitled “An act authorizing township boards to provide for the maintenance and improvement of private roads by contract and to provide payments by special assessment districts; and to repeal certain acts and parts of acts,” by amending section 2 (MCL 247.392).

The People of the State of Michigan enact: Sec. 2. Upon receiving a petition, the township board of any township may enter into a contract or make any maintenance or improvement with the allocation of cost to be spread against all of the owners in the special assessment district benefiting on a pro rata frontage basis or against each owner equally in the special assessment district benefiting. The maintenance or improvement and assessment of cost must not be completed until the township board has created the special assessment district and assessed the properties with proper notice of public hearings to all of the owners of property within the special assessment district to be benefited.

### **Financing the Improvement Project**

To finance an improvement through the special assessment process, the Township Board borrow funds or may issue and sell bonds. Bonds must be issued in accordance with PA 34 of 2001, “Revised Municipal Finance Act” (MCL 141.2101-2821). As the costs for the improvement project are repaid by the benefitting property owners through a special assessment, the bonds are repaid.

### **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, depending on the nature and duration of the district, with the winter ad valorem property taxes, issued on December 1<sup>st</sup>. The Township Board will determine the amount of interest to be charged for the special assessment according to state statute.

For citizen initiated public improvement paving projects using PA 188 of 1954 as the underlying statute and when the Township is acting in the role of lender; the number of annual installments shall be 5 or 10 years as determined by the Board of Trustees. The interest rate shall be lesser of 3% over the local bank prime interest rate or 8%.

The State of Michigan, under PA 225 of 1976, "Deferred Collection of Special Assessments on Homestead Properties" allows for special assessments levied on principal residence property to be deferred for eligible property owners. To obtain a deferment, the applicant files an affidavit which is reviewed at the local level for accuracy and sent on to the state for final approval. Approval is based on age (unless permanently and totally disabled) and household income levels. If a state deferment is obtained, the state pays the special assessment on the property, but then places a lien in the amount of the special assessment on the property. The state is repaid with interest at the time the property is sold. Please refer to Section 3, page 10, for the links to the deferment application form and its corresponding "Frequently Asked Questions" document.

### **Special Assessment Hearings and Objections**

There are two public hearings in the special assessment process. At the first public hearing, the Township Board will hear objections to the petition, to the improvement, and to the special assessment district.

*Note: During this first public hearing, residents will have the option to add or remove their names from the formal petition supporting the improvement, up until the close of that hearing.*

The second public hearing is to review and hear any objections to the special assessment roll. Advance notice of the public hearings will be published in the newspaper and mailed to the property owners to be assessed.

Objections can be made in one of two ways. The first is by written letter delivered to the Township Clerk before or at the time of the public hearings described above. The second way is to attend the public hearings and state the objections 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 at the appropriate public hearing above.

### **Restoration of Property**

Any private land that has been damaged or disrupted will be reasonably restored as reasonably possible, and great effort will be taken to save planted materials such as trees and bushes. Restoration of driveways or seeding of lawns will be completed after ground has settled. These issues will be handled and coordinated through consultation with the Department of Public Services, the Township Engineer, and the Isabella County Road Commission.

### **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 main line improvement that is the subject of the SAD. There may be other charges associated with connection to the system, including but not limited to the cost of installing the water or sewer connection line between the public improvement (main) and the structure is paid by each property owner individually. Qualified property owners or contractors can install the connector lines through the permit process in the Department of Public Services. The special assessment must be paid whether 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 either in a special assessment roll or in a column provided in the regular

tax roll.” MCL 41.489c. A street lighting district may be enacted and terminated by the Township Board or by petition of property owners. Please refer to Section 3, page 10 for information on how to obtain a copy of the applicable statute.

## Section 2 – INITIATION AND CREATION OF A SPECIAL ASSESSMENT DISTRICT (SAD)

Special assessment districts can be initiated by the township and/or by citizen petition. Some townships prefer the citizen petition process in order to demonstrate public support for an improvement by special assessment. Although Port Sheldon Township prefers citizen petitions for the initiation of SADs, it reserves the right to consider and establish SADs without a petition.

Port Sheldon Township will utilize the process set forth in this Section 2 in establishing a special assessment district by citizen petition. Special assessment districts for street lighting are covered under a separate statute, which allows for an abbreviated process from that of other districts. Such deviations from the process outlined below are noted accordingly. Additionally, it should be noted that if funding for the improvement project will be provided through bonding, the process set forth below will be adjusted to conform with laws applicable to the bonding process.

### Step 1: **Application for Special Assessment Improvement**

An interested party shall complete the Application for Special Assessment Improvement form. This form is available on the Township website and at the Township Office. Completed application forms are turned in to the Township Clerk's office.

**Step 2: Feasibility Review.** Completed Application forms are reviewed by any Township departments and personnel deemed necessary, for an initial evaluation of whether the improvement as proposed is feasible. Township staff will present the application to the Township Board of Trustees for consideration and approval to move forward with the preparation of a preliminary estimate of project costs. These items are returned to the Clerk with the application form

**Step 3: Formal Petition.** If the application is accepted, the Township sends affected property owners notice that an application for improvement was received and reviewed, and that a formal petition has been created for circulation. The petition is drafted by Township Personnel who then contacts the original applicant for pickup to begin circulation.

**Step 4: Petition Sufficiency.** Completed petitions are turned in to the Clerk's office. Owners of record are verified by the Assessing Department and signatures are verified by the Clerk's office. If current ownership is questionable or cannot be obtained through verification against the current assessment roll and records located in the Ottawa County Register of Deeds office, a title search may be deemed necessary. The additional cost of a title search would be added to the total projected cost estimate of the improvement. It is important to note that statute requires the signature of the “record property owners” in the citizen petition process. Accordingly, administrators, guardians and powers of attorney would not be permitted to sign the petition, unless the power of attorney document or a court order has specifically granted the power to sign a special assessment petition on behalf of the record owner.

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 sufficiency for sewer and water projects.
- Owners of more than 50% of total frontage in the district are required for sufficiency for road improvement, snow plowing, and lake improvement projects (may use frontage on the lake).
- Owners of not less than 10% of property sites are required for sufficiency of street light 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 directing the Township Staff/Engineer to either obtain or prepare the plans and cost estimates for the project to be presented at the first of two public hearings.

**Step 6: Resolution #2.** Once the plans and cost estimates have been completed, the Township Board of Trustees will consider a resolution 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 to **Step 13: 2<sup>nd</sup> Public Hearing**, at which the question of creating the district and defraying the expenses by special assessment will both be addressed.*

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

Notice of public hearings in special assessment proceedings shall be mailed to each record owner of, or party of interest in, the properties to be included in the district, at least 10 days before the date of 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 date of the public hearing. The notice of hearing should contain the following:

- Date, time and location of the hearing
- Description of the proposed special assessment district
- Advice that plans and cost estimates 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))

**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 to the proposed improvement project, the petitions or the district.

**Step 9: Resolution #3.** After conclusion of the 1st public hearing, the Township Board will consider adoption of a resolution 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 term of the special assessment district's existence
- If periodic redeterminations of cost will be necessary, such necessity and the dates when such redeterminations shall be made shall be stated
- Directing the supervisor to prepare the special assessment roll

**Step 10: Bids.** Once the Board of Trustees has adopted Resolution #3, Township Staff will initiate the sealed bid process in order to select a contractor to construct the public improvement. Cost estimates will be refined based upon the bid results. In the case of road improvements final cost for these improvements will be obtained from the Ottawa County Road Commission. The supervisor will be charged with the task of assigning the appropriate benefit amount for each parcel within the district. Once the individual benefit amounts and the final cost estimate have been determined, the special assessment roll will be created.

**Step 11: Resolution #4.** Once the special assessment roll has been created, the Township Board of Trustees will consider a resolution 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 12: Notice of 2<sup>nd</sup> Public Hearing. (Hearing on the Assessment)**

Notice of public hearings in special assessment proceedings shall be given to each record owner, or the party of interest in, of the properties to be included in the district, at least 10 days before the date of 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 date of the public hearing. *Notice for public hearing for street lighting districts only require at least 5 days before the date of the public hearing, and may be published in a newspaper of general circulation in the district, or, if none available, posted in at least 3 of the most public places in the district.* The notice of hearing should contain:

- Date, time and location of the hearing
- Description of the proposed special assessment district
- Advice that plans and cost estimates for the improvement, as well as the special assessment roll 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 to appeal the amount of 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))

**Step 13: 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 to the assessment roll.

**Step 14: Resolution #5.** After the 2<sup>nd</sup> public hearing, the Township Board of Trustees will consider a resolution to confirm the special assessment roll. The Township Board will also determine the number of annual installments and the interest rate to be charged on future installments.

**Step 15: Bid Award.** The Township Board will consider awarding of the bid for the improvement project.

**Step 16: Notice of Assessment.** A notice of special assessment will be mailed to affected property owners within 20 days after confirmation of the special assessment roll. At this time, the Township Board will begin the process of obtaining funding and/or issuing bonds to finance the construction of the project.

**Step 17: Commence Construction.** The Township will commence construction of the improvement project.

**Step 18: Implement Assessments.** The Township will begin the process of collecting the special assessments against the individual properties within the special assessment district.

### SECTION 3 – Statutes, Forms, Related Documents

This section of the Guide is designed to provide the reader with information on how to obtain copies of the relevant statutes, include samples of local administrative forms, and access to other related documents and information pertaining to establishing a SAD within the Township. These documents include:

**Statutes.** There are various public acts which describe the process for administering special assessments for public improvements and services from ambulance to weed control. Each specific act outlines the details and forms the basis behind the itemized steps described in Sections 1 and 2 of this document as they pertain to certain improvements or services.

Copies of the acts not included as part of this document can be found through the search engine at [www.legislature.mi.gov](http://www.legislature.mi.gov):

- PA 162 of 1962 – Notice of Special Assessment Hearings (*part of General Property Tax Act*)
- PA 188 of 1954 – Public Improvements
- PA 225 of 1976 – Deferment of Special Assessments on Homesteads
- PA 246 of 1931 – Pavements, Sidewalks, and Elevated Structures (*Street Lighting*)
- PA 267 of 1976 – Open Meetings Act

**Forms.** The following forms are those which interested property owners would need to file with the Township in order to begin the SAD process.

Informal Petition for Special Assessment Improvement form (example) ..... 11 - 12

Documents pertaining to deferment can be found at the following links:

Frequently Asked Questions (FAQs) About Deferred Special Assessments  
[https://www.michigan.gov/documents/treasury/DeferredSpecialAssessments\\_189257\\_7.pdf](https://www.michigan.gov/documents/treasury/DeferredSpecialAssessments_189257_7.pdf)

Senior Citizen or Totally and Permanently Disabled Person's Affidavit Requesting Special Assessment Deferment  
[https://www.michigan.gov/documents/2748f\\_2630\\_7.pdf](https://www.michigan.gov/documents/2748f_2630_7.pdf)

# Port Sheldon Township - Ottawa County, Michigan

## APPLICATION FOR PUBLIC IMPROVEMENT BY SPECIAL ASSESSMENT In accordance with Public Act 188 of 1954, as amended

APPLICANT INFORMATION			
<i>Name</i>	<i>Phone</i>		
<i>Address</i>	<i>Email</i>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Property Identification Number</i>

PUBLIC IMPROVEMENT INFORMATION
<p><b>Type of Improvement:</b></p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Public/Private Road  <input type="checkbox"/> Water System  <input type="checkbox"/> Sanitary Sewer                 </div> <div style="width: 45%;"> <input type="checkbox"/> Lighting System  <input type="checkbox"/> Other _____                 </div> </div>
<p><i>Location of Improvement: (please give a detailed description of affected subdivisions, streets, and/or properties to be included in the district)</i></p>          

APPLICANT SIGNATURE
<div style="display: flex; justify-content: space-between; border-top: 1px solid black; margin-top: 10px;"> <span style="width: 45%;"><i>Name</i></span> <span style="width: 45%;"><i>Date</i></span> </div>

TOWNSHIP DEPARTMENT REVIEW	INITIAL/DATE AND RETURN TO TOWNSHIP CLERK
	<input type="checkbox"/> / _____ Approved as submitted <input type="checkbox"/> / _____ Changes required (see comments) <input type="checkbox"/> / _____ Not feasible project at this time
<b>Township Comments:</b>	<input type="checkbox"/> / _____ Approved as submitted <input type="checkbox"/> / _____ Changes required (see comments) <input type="checkbox"/> / _____ Not feasible project at this time
<b>Other Staff Comments:</b>	<input type="checkbox"/> / _____ Approved as submitted <input type="checkbox"/> / _____ Changes required (see comments) <input type="checkbox"/> / _____ Not feasible project at this time

