

# Mercer County

## Special Assessment District Procedure/Ordinance

(Commission Amended 01/03/2024)

Mercer County will consider the creation of a special assessment district to defray the expense of an improvement project that will cost at least \$50,000 (See NDCC 11-11-55.1 and 40-22-01 for specific projects)

1. The Board of County Commissioner, upon receipt of a petition of sixty percent or more of the landowners within the special assessment district, may establish a special assessment district for such improvements pursuant to NDCC 11-11-55.1 and those chapters referred to in the statute.
2. To initiate a Special Assessment an interested party will act as a sponsor and provide a contact person to represent the user group desiring the improvement. The sponsor must contact the contracted engineer to explain the type of improvement desired and the exact extent of improvement area.
3. The contracted engineer will furnish an engineering report pursuant to NDCC 40-22-10. For road improvement projects, the contracted engineer will also prepare a petition for paving improvements to the sponsor. The engineering report and petition will describe the proposed project, define benefited properties, described improvement area, and provide an estimate of the cost of the project. All paving projects must include a chip seal application.
4. The sponsor will circulate a petition and acquire the required number of signatures. The full petition including the engineering report must be presented to the benefited property owners. If the proposed district is in an organized township the petition must include a letter from the appropriate township board(s) stating their support for or opposition to the petition.
5. The completed petition shall be returned to the county contracted engineer for review. The county contracted engineer will forward the petition to the county auditor for filing. These plans shall remain in the office of the county auditor and be subject to inspection by an interested person.
6. Once a properly completed petition is delivered to the county auditor it will be transmitted to the county special assessment screening committee for review. The membership of the county special assessment screening committee shall consist of a county commissioner, the contracted engineer, and the county auditor.
7. The screening committee will consider the petition, the feasibility of the project, the predictability of solvency of the district, and then will make a recommendation to the board of county commissioners.

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8. The county commission will take a vote on the screening committee's recommendation. If the request is approved, the county commission will accept the engineering report and a petition for paving improvements by resolution and will create a special assessment district by adopting a resolution of necessity.
9. The adopted resolution of necessity, engineer's report and a map of the proposed special assessment district will be published once a week for two consecutive weeks (first publication at least 30 days prior to public hearing) in the official county newspaper with a prescribed date and time of public hearing.
10. As per NDCC 40-22-18. Protest bar to proceeding -invalid or insufficient protest -payment of costs – tax levy
11. If protest is insufficient and the county commission desires to proceed, the contracted engineer will prepare plans and specifications for approval by resolution of the county commission. All costs associated with plan and specification preparations will be included in the cost of the special assessment district.
12. The project is advertised for bids in accordance with the North Dakota Century Code.
13. The contract is awarded, and the proper bond is posted by the successful bidder.
14. The project is constructed by the successful bidder as per governing specifications for final approval by the contracted engineer.
15. Pursuant to NDCC 40-23-01, the county commission shall appoint three county residents as members of a commission, which shall be known as the special assessment commission.
16. The special assessment commission shall inspect the project and determine proportionate benefits pursuant to NDCC 40-23-07. This Commission will prepare a complete list of benefits and assessments setting forth:
  - a. Each tract benefited: and
  - b. The total amount to be assessed.
    - Total final cost will include final contract construction cost, engineering expenses, bond counsel (legal) expenses, financial consultant expenses, all bond issuance fees, plus an amount equal to \$1,000.00 plus 3% of the total project cost (but never to exceed \$10,000) to cover administrative expenses for the County.

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17. Pursuant to NDCC 40-23-09 and 40-23-10 the assessment list, excluding the amount each lot or tract is benefitted by the improvement, will be published once each week for two consecutive weeks (first publication at least 15 days prior to hearing).
18. The special assessment commission holds a public meeting to hear all objections to the method of assessment no less than 15 days after the first publication of the notice.
19. The special assessment commission confirms the final distribution of costs among the beneficiaries at a public meeting and certifies the results to the county commission.
20. The county commission holds a public meeting to hear any aggrieved persons pursuant to NDCC 40-23-14, to consider any amendments, and if it so chooses confirms the assessment. If the county commission confirms the assessment, it shall be filed with the county auditor.
21. For road improvement projects, petitioners acknowledge that normal, routine roadway maintenance will be provided by the current responsible road entity. Any subsequent seal coats, resurfacing or other major structural work must be paid for by the property owners in the form of a future, separate special assessment district.
22. If any funds remain after the special assessment improvement bond has been paid, 50% of the funds shall be transferred back to the residents in the special assessment district at a prorated rate. The remaining 50% shall be held by the county in a fund to cover potential deficient special assessments, or if no such obligations are outstanding, then to any fund the governing body may direct pursuant NDCC 40-23-20 and 40-23-21.
23. The Mercer County Commission reserves the right to define the voting procedure on a district by district basis, but would not circumvent any century code procedures.