



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #19  
WRKS 04/12/2011

## MEMORANDUM

April 7, 2011

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator *Eric*  
David Parker, City Engineer/CIP Executive

SUBJECT: Special Assessment District – Municipal Code Ordinance

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider the development of a chapter within the Franklin Municipal Code that describes the policy and process for the implementation of special assessment districts for sanitary sewer infrastructure.

### **Background**

Over the past few years, the City has worked with neighborhoods faced with the threat of failing septic systems to bring these neighborhoods onto the City's sanitary sewer system. These projects have achieved the important goal of bringing residents on to the sanitary sewer system and avoiding the threat to public health associated with failing septic systems. The Tennessee Code Annotated (TCA) provides authority and general guidance for the implementation of special assessment districts. In implementing five sanitary sewer assessment district projects over the past several years, the Board has given policy direction with each project regarding the implementation and the assignment of costs to the property owners who will have access to the sanitary sewer system and those absorbed by the City/utility rate payers. Attached is a table that summarizes the key elements of the five sanitary sewer assessment projects completed by the City in recent years. In order to clarify this process, it is recommended that the City's policy and process for implementing sanitary sewer assessment districts be codified in a new chapter within Title 18 of the Franklin Municipal Code. Attached is draft Ordinance 2011-12, which provides an outline of the basic components of this new chapter of the Municipal Code. Further direction from the Board is sought on the various components that should be included within this chapter.

### **Options**

The Board may choose to approve, modify, or decline to adopt the new chapter of the Municipal Code.

### **Financial Impact**

The codification of the special assessment process does not have a direct financial impact. The implementation of these projects has significant financial impact for participating residents, utility customers, and the City.

### **Recommendation**

It is recommended that the Board approve the creation of Chapter 5 of Title 18 of the City of Franklin Municipal Code codifying the process for implementing a special assessment district. Specific direction from the Board regarding the various components of this new chapter is being sought.

# ASSESSMENT DISTRICTS COMPARISON

9-Mar-11

David Parker, City Engineer/CIP Executive

The following is a comparison of the various items (issues) included or excluded in the various resolutions or ordinances creating the assessment districts in the City. These are the terms in the Resolution and/or Ordinance that are City controlled, the remaining terms are dictated by T.C.A. §§ 7-33-101 to 314. (The information presented is the most current available at this time.)

Terms in Resolution	Highgate Subdivision	Hooper Lane	Monticello Subdivision	Country Road	Boyd Mill Avenue
District Approved	Resolution 2008-21	Resolution 2008-29	Resolution 2009-14	Ordinance 2009-70	Ordinance 2009-71
System Type	Low Pressure	Gravity	Gravity	Low Pressure	Low Pressure
Final Construction Cost	\$ 239,212.00	\$ 60,710.00	\$ 1,047,011.91	\$ 110,250.00	\$ 193,227.00
Construction Cost Paid By Other Than Assessment District	\$ 34,625.00			\$ 44,100.00 ARRA/SRF Forgiven	\$ 77,290.80 ARRA/SRF Forgiven \$ 30,136.20 City Paid
Planning & Engineering Cost	\$ 61,200.00 Waived	\$ 15,600.00	\$143,132.32 Waived	\$ 6,468.60 Waived	\$ 42,400.00 Waived
Rights-of-Way Cost	\$ 9,296 City's Cost	\$ 1,527.00	\$ 3,164.00	None	None
Pavement Resurfacing			\$212,500.00 Waived		
Trench Repair Paving Cost	\$ 44,160.00 Included in Project Cost	\$ 9,573.00 Included in Project Cost	\$238,060 Waived \$89,440 Included in Project Cost	\$ 52,902.00 Included in Project Cost	\$ 49,250.00 Included in Project Cost
Financing Cost	\$ 368.00	\$ 137.00	\$ 1,461.81	\$ 110.07	\$ 154.44
Total Assessment District Cost	\$ 204,955.00	\$ 76,448.00	\$ 813,577.72	\$ 66,269.07	\$ 85,954.44
City Fees Waived	Sewer Access & Installation Charge	None	Sewer Access & Installation Charge	Sewer Access & Installation Charge	Sewer Access & Installation Charge
Property Assessment Approved	Resolution 2009-13	Resolution 2009-24	Ordinance 2010-80 As Amended Twice	Ordinance 2010-77	Ordinance 2010-76
Pay Back Term	Ten (10) Years	Ten (10) Years	Twenty (20) Years	Twenty (20) Years	Twenty (20) Years
Interest Rate	4.50%	4.50%	4.00%	4.00%	4.00%

Other Pertinent Information					
Total Appraised Value of Properties	\$ 9,271,400.00	\$ 835,000.00	\$ 23,414,400.00	\$ 2,461,600.00	\$ 1,136,350.00
Number of Properties in Assessment District	29	9	108	8	28
Average Per Parcel Appraised Value	\$ 319,703.45	\$ 92,777.78	\$ 216,800.00	\$ 307,700.00	\$ 40,583.93

**ORDINANCE 2011-12**

**TO BE ENTITLED: “AN ORDINANCE TO ESTABLISH  
CHAPTER 5 OF TITLE 18 OF THE CITY OF FRANKLIN  
MUNICIPAL CODE, SPECIAL ASSESSMENT  
DISTRICTS.”**

**WHEREAS**, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of Franklin, Tennessee the Board of Mayor and Aldermen is authorized to prescribe regulations and standards that encourage and advance the quality of life within the City; and

**WHEREAS**, in the legislative judgment of the Board of Mayor and Aldermen the Board has found that ordinances and policies that regulate land use, guide the installation and maintenance of the City’s infrastructure, and deliver essential services must be dynamic and modified from time to time to reflect changes in best practices, model codes, land and labor costs, and safety standards necessary to preserve and promote the private and public interest; and

**WHEREAS**, the Board of Mayor and Aldermen has decided to create a separate chapter in Title 18 of the Franklin Municipal Code for the purpose of the establishment and management of Special Assessment Districts for sanitary sewer infrastructure improvements within the City, entitled Title 18, Chapter 5 – Special Assessment Districts.

**NOW, THEREFORE:**

**SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN**, Tennessee, that Title 18 of the City of Franklin Municipal code is hereby amended by revising the table of contents for Title 18 to read as follows:

**TITLE 18**

**WATER AND WASTEWATER**

**CHAPTER**

- 1. WATER**
- 2. WASTEWATER**
- 3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.**
- 4. RECLAIMED WATER**
- 5. SPECIAL ASSESSMENT DISTRICTS**

**SECTION II: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN**, Tennessee, that Title 18, Chapter 5 – Special Assessment Districts of the Franklin Municipal Code is hereby created and approved to read as follows:

## CHAPTER 18

### SPECIAL ASSESSMENT DISTRICTS

#### SECTION

- 18-501. Title and Purpose.
- 18-502. Authority
- 18-503. Definitions.
- 18-504. Ordinance to Make Improvements and Establish Special Assessment District.
- 18-505. Appearance by Affected Persons; Final Action; Certiorari Review.
- 18-506. Competitive Bidding; Principal Bond Amount; Performance Bonds; Bindingness; Unacceptability.
- 18-507. Improvement Assessments.
- 18-508. Properties Benefited Later by Improvements.
- 18-509. Benefited Government Properties.
- 18-510. Time of Assessments; Due Date, Penalties and Interest; Installment Option; Delinquency.
- 18-511. Liens.

**18-501. Title and Purpose.** This Ordinance shall be known as the “Special Assessment Districts Ordinance” for the City of Franklin, Tennessee.

This Ordinance is intended to manage the manner in which Sanitary Sewer Improvements are addressed in developed areas which do not have existing Sanitary Sewers, but rely on subsurface disposal systems for the disposal of sewerage waste. When the Board shall have ordered the design and construction of any Sanitary Sewer Improvement in accordance with the standard practices of the City Water Management Department, the Board shall have the power, for the purpose of providing means to pay that portion of the cost of the Improvements not chargeable to the City proper, to issue negotiable bonds of the City or finance by any other means authorized by charter or state law for the cost of the Improvements. This Ordinance sets general policy, minimum requirements and standards, and is supported and enforced through other more detailed regulations, design criteria, and other accepted materials to maintain or benefit water quality and the effects on the quality of life and character of the City.

**18-502. Authority.** This Ordinance is enacted pursuant to the authority granted by the Tennessee Code Annotated, Title 7, Chapter 33.

**18-503. Definitions.** For the purpose of this Chapter, unless specifically defined below or by other chapters of this Title, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter it’s most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word “shall” connotes mandatory and not discretionary; the word “may” is permissive. The following definitions shall

apply in the interpretation of this Chapter and in any regulations promulgated hereunder, unless specifically stated otherwise:

- (1) "Assessed Value Basis" means the plan for making annual improvement assessments according to the assessed values of benefited properties, as assessed for purposes of municipal property taxation, or as provided by this part. Such assessed values shall be the measure of benefits to benefited property or property to be benefited.
- (2) "Benefited Property" or "Property to be Benefited" means, as determined by the City, land, excluding improvement, that is within a reasonable distance from a sanitary sewer and to which is made available a means of drainage for sewage, or that abuts on a street or other public way to be improved .
- (3) "Board" means the Board of Mayor and Aldermen of the City of Franklin, Tennessee.
- (4) "City" means the City of Franklin, Tennessee.
- (5) "City Engineer" means the City of Franklin, City Engineer who has the authority to delegate to designated staff, which includes, but is not limited to, the Director of Engineering, Staff Engineers, and the Director of the Water Management Department.
- (6) "Costs" means cost of labor, materials, equipment necessary to complete an improvement, land, easements, and other necessary expenses connected with an improvement, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, fiscal agents' fees, preparation of plans and specifications, publication expenses, interest that may become due on bonds before collection of the first improvement assessments, a reasonable allowance for unforeseen contingencies, and other costs of financing.
- (7) "Director" means the Director of the Water Management Department of the City of Franklin, Tennessee.
- (8) "Engineer" or "Professional Engineer." An Engineer duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of civil engineering.
- (9) "Improvement" means the construction, installation or substantial reconstruction of gravity and/or low pressure sanitary sewers.
- (10) "Improvement Assessment" means an assessment made each year against benefited property to pay the costs of an improvement, in the proportion that the assessed value of each parcel or lot of benefited property bears to the total assessed value of all benefited property according to the latest assessments of such property for purposes of municipal property taxation or as provided by this part.
- (11) "Public Sanitary Sewer" means a Sanitary Sewer controlled by the City to which owners of abutting properties may have access. In general, the Public Sanitary Sewer shall include the main gravity or low pressure Sanitary Sewer in the street or public easement and the service branch to the property or easement line.

- (12) “Sanitary Sewer” means an underground conduit for the passage of sewage, and pumping stations, pressure lines, and outlets where deemed necessary and to which storm, surface and ground water are not intentionally admitted.
- (13) “Service Line” means the pipe line extending from any Public Sanitary Sewer main of the City to the facility which generates Wastewater.
- (14) “Sewage or Wastewater” means the water carried wastes from residences, business buildings, institutions and industrial establishments.
- (15) “User” means any person, firm, corporation or government entity that discharges, causes, or permits the discharge of Wastewater into a Public Sanitary Sewer.
- (16) “Wastewater” – see Sewage or Wastewater above.

**18-504. Ordinance to Make Improvements and Establish Special Assessment District.**

(1) When the Board shall determine to construct an improvement as authorized by this Chapter, or when it is petitioned by the owners of property to be benefited having an assessed value of at least fifty-one percent (51%) of the total assessed value of all the property to be benefited from the proposed improvement, it shall adopt an ordinance that such improvement shall be made. The ordinance shall describe the geographical limits of the properties to be benefited, and the location, nature, scope and extent of the improvement. The ordinance shall also include a preliminary estimate of the costs prepared by the City Engineer, a declaration that the improvement will be designed and construction will be supervised by an engineer licensed by the state of Tennessee, and a statement of the proportion of total costs to be assessed against benefited properties, which shall not exceed seventy-five percent (75%) of the total costs of the improvement; provided, that the total costs may be assessed against benefited properties if the Board additionally pledges full faith and credit of the City to satisfy any deficiency in collections of improvement assessments. In all succeeding proceedings, the City shall be bound and limited by the ordinance as it may be amended, except that the total costs assessed against benefited properties may exceed the preliminary estimate of costs by not more than ten percent (10%). The ordinance shall provide for a public hearing before the Board to be held at the time and place as specified in the ordinance and in conjunction with the second (2<sup>nd</sup>) and final reading of the ordinance. In addition, the City shall hold a public meeting to answer questions and receive comments concerning the ordinance either in conjunction with or prior to the first (1<sup>st</sup>) reading of the ordinance.

(2)(A) The City shall publish the ordinance and a notice of the public hearing and public meeting at least seven (7) days in advance of the hearing or meeting in a newspaper of general circulation in the City and by posting at City Hall in a prominent location generally accessible to the general public.

(B) The public hearing notice shall state that any owner of property to be benefited may appear to be heard as to:

- (i) Whether the proposed improvement should be undertaken as planned, or abandoned;
  - (ii) Whether the nature and scope of the improvement should be altered; and
  - (iii) Whether the improvement should be financed through the issuance of bonds on the Assessed Value Basis as authorized by this Chapter and Tennessee Code Annotated, Title 7, Chapter 33.
- (3) The public hearing notice shall also be sent by first class mail to the owners of properties to be benefited or their agents of record, at the time of adoption of the ordinance, at the addresses currently entered on the property assessment records.

**18-505. Appearance by Affected Persons; Final Action; Certiorari Review.**

- (1) At the public hearing as required above, or at the time and place to which the hearing may be adjourned from time to time, all persons whose property may be affected by such improvement may appear in person or by attorney or by petition.
- (2) After the public hearing and after considering any objections, the Board by ordinance may confirm, amend or rescind the original ordinance as its final action.
- (3) Such final action shall be the final determination of the issues presented, unless the owner of property to be benefited files, within ten (10) days thereafter, a petition for certiorari in the circuit court having jurisdiction to review the action of the governing body. Failure to take such steps within the ten (10) days constitutes a waiver of all objections.

**18-506. Competitive Bidding; Principle Bond Amount; Performance Bonds; Bindingness; Unacceptability.**

- (1) Proposals for the construction of an improvement shall be solicited as sealed competitive bids after public advertisement at least once in a newspaper having general circulation in the City not less than three (3) weeks prior to the date set for receipt of bids.
- (2) Upon or after the acceptance by the City of a bid, or combination of bids, the Board may determine the principal amount of bonds to be issued for the proposed improvement, taking into account the amount of the accepted bid or bids, and all other costs of the improvement. These bonds shall be issued pursuant to Tennessee Code Annotated Title 9, Chapter 2.
- (3) Each contract shall be supported by a performance bond for the full amount of the contract, with good surety to be approved by the City.
- (4) A bid shall not be binding on a contractor unless the Board awards the construction contract within ninety (90) days after the date of opening bids.
- (5) If the Board determines that no bids are acceptable, it may direct that the improvement be accomplished by the City's own forces, in which event the costs of construction included in the

total costs for purposes of determining improvement assessments shall not exceed the lowest construction bid or bids that conform to all bid requirements.

**18-507. Improvement Assessments.**

(1) Improvement assessments shall be assessed annually against the benefited property in the proportion that the assessed value of each lot or parcel bears to the whole assessed value of the benefited properties. Properties not assessed for taxation, such as public property or property exempt from taxation, shall be specially assessed by the county assessor, or by a special assessor appointed by the Board for this purpose, for which compensation may be paid from the “(name of improvement) special fund” or from the general fund of the City. Any such special assessment shall be subject to the procedure for equalization and judicial review provided by the law for assessments made for purposes of property taxation.

(2) Improvement assessments authorized by this part shall not be levied against undeveloped or largely undeveloped areas, but shall be limited to areas in which a majority of the lots or parcels of land contain buildings or other structures.

**18-508. Properties Benefited Later by Improvements.** The City by ordinance may authorize properties other than the properties originally benefited by an Improvement to receive the benefits of the improvement, and may make equitable provisions, which may be adjusted from year to year as bonds are retired, whereby the owners of such later benefited properties will assume a fair proportionate share of the improvement assessments, or otherwise be placed as nearly as practicable on a basis of financial equity with the owners of properties initially subject to the improvement assessments.

**18-509. Benefited Government Properties.** Benefited property owned by the City, Williamson County, the state of Tennessee, or the United States government or its agencies, if federal law makes such property subject to assessment, shall be subject to improvement assessments, the same as private property, and the amount of each annual improvement assessment shall be paid by the City, Williamson County, state of Tennessee, or United States government, as the case may be. In the case of the state of Tennessee, the amount of improvement assessment shall be certified by the City to the commissioner of finance and administration, who shall direct the state treasurer to pay the assessment to the City out of an appropriate appropriation or from any money in the state treasury not otherwise appropriated. No benefited property shall be exempt from improvement assessments. Improvement assessments against such public property shall be enforceable by writ of mandamus or other appropriate remedy.

**18-510. Time of Assessments; Due Date, Penalties and Interest; Installment Option; Delinquency.** Annual improvement assessments for each improvement shall be made by the Board when the levy of City property taxes is made; and such improvement assessments shall be due at the same time, or times, the City property taxes are due, and shall be subject to the same penalties and accrual of interest in the event of nonpayment as in the case of City property taxes. The Board may permit owners of benefited property to pay improvement assessments in equal monthly installments, the first installment to be due and payable when the improvement

assessment is due; in this event any monthly payment shall be delinquent thirty (30) days after it is due and payable, and the whole balance of the annual improvement assessment shall then become delinquent and be subject to all penalties and interest as provided in this part.

**18-511. Liens.** Each improvement assessment, with any penalty or interest incident to the nonpayment of the assessment, shall constitute a lien upon the lot or parcel of benefited property against which it is assessed. The lien shall attach to each lot or parcel of benefited property at the time the annual improvement assessment is made, and then shall take precedence over all other liens, whether created prior to or subsequent to the making of such improvement assessment, except state, county and municipal property taxes, and prior special assessments. The lien shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners, if the description is sufficient to identify the property subject to the assessment. No irregularity in the proceedings of the Board shall exempt any benefited property from the lien for the improvement assessment, or from the payment of the assessment, or from the penalties or interest on the assessment.

**18-512. Costs Used for Calculation of Property Assessments.** The Costs of the Improvement to be used by the Board for the calculation of the Improvement Assessments shall be the project Costs after final acceptance of the Improvement by the City as long as the final project Costs do not exceed the estimated Costs as approved in the establishing ordinance for the special assessment district by more than ten percent (10%). Should the final project Costs exceed the estimated Costs by more than one hundred ten percent (110%); then the Improvement Assessments shall be calculated using the estimated Costs plus ten percent (10%). The final project Costs shall include those costs as identified in the Definitions, Section 18-503 (6), with a further breakdown of the "labor, materials, equipment necessary to compete an Improvement" costs to include trench excavation, piping, manholes and any other required appurtenance for a completed Public Sanitary Sewer system, trench pavement repair, stormwater prevention and erosion control materials, installation and maintenance, final clean-up and grading, and property stabilization.

**SECTION IV. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee,** that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE:**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**ERIC S. STUCKEY**  
City Administrator/Recorder

**DR. KEN MOORE**  
Mayor

**PASSED FIRST READING:**

\_\_\_\_\_

**PUBLIC HEARING:**

\_\_\_\_\_

**PASSED SECOND READING:**

\_\_\_\_\_