

## Alison Middleton

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**From:** Alan R Laing <alanlaing@ameritech.net>  
**Sent:** Thursday, July 8, 2021 12:01 PM  
**To:** Rick Robbins; Debra Rushton; Will Bunek; Patricia Soutas-Little; Gwenne Allgaier; Melinda Lautner; Clerk  
**Cc:** Rose Laing  
**Subject:** Special Assessment District- treating invasive lake species  
**Attachments:** SCAN0178.PDF

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello All,

We have received notice that there may soon be a property assessment for treating the eurasian milfoil.

I am a new property owner on the south portion of Lake Leelanau and also live on an inland lake south of Lansing in Calhoun County called Duck Lake.

We have been treating the milfoil in Duck Lake for about 5 years on a 7 year special assessment. I attached information on how to set up the Special Assessment District in case you are not privy yet. This methodology MUST be adhered to in order to assess lake owners. The landowners CANNOT be assessed blindly in any manner.

I encourage you all to read this information carefully and contact PLM or other firms that handle this.

I can be reached via this email if you have any questions I may be able to answer.

Thanks you,

Alan Laing  
5269 S. Lake Shore Dr.  
Cedar



## Setting Up Special Assessment Districts For Lake Management in Townships

Lake associations and riparian property owners have sometimes experienced frustration when attempting to implement lake management programs. Often, in the case of voluntary associations, problems arise when property owners refuse to join or fail to contribute their fair share to the funding. Also, it is normally not possible to force 100% participation through the association itself. These obstacles can severely limit the effectiveness of lake management programs. Nevertheless, there are Michigan statutes, which permit the creation of a special assessment district covering the entire lake involved through the local municipality (i.e., city, village, or township).

The first step in setting up a special assessment district is to obtain signatures of property owners in favor of lake management improvements or approved petitions. Once the signatures are obtained from property owners constituting 51% or more of the land area, the petition is presented to the municipality. Thereafter, public hearings are conducted (usually 2) in order for the municipality to hear property owners' opinions, decide whether to proceed with a special assessment, and determine the monetary assessment per property owner. Notice must be given in a local publication and by mailing a notice to property owners in a proposed assessment area prior to each public hearing.

Once the special assessment district is set up and enacted, the local municipality (usually in consultation with the lake association or riparian property owners) will contract the lake management program, with the cost put on the tax rolls for all benefited properties. The participation is 100%, since each property owner within the special assessment district (usually, all properties abutting a lake, and in some cases, including access properties) will have a share of the cost appear on his/her tax bill. Since the cost is on everybody's tax bill, payment is mandatory.

The cost per lot for lake management pursuant to a special assessment district varies. Typically, such costs range from \$75 to \$250 per lot per year. This figure can vary, however, depending on the nature of the management program (i.e., the type(s) of herbicides used), the size of the lake, how long the special assessment district is set up for and other factors.

## COMMONLY ASKED QUESTIONS

Q Are special assessment districts for lake management programs common in Michigan?

A Yes. There are many special assessment districts for lake management programs in municipalities throughout the state.

Q How does a lake association or group of riparian property owners go about prompting a municipality to set up a special assessment district?

A The statutory requirements are very specific. First, the property owners desiring a special assessment district must circulate a petition. Normally, that would involve getting the property owners owning more than 50% of the land area on the lake to sign the petition. No petition should be circulated, however, until the municipality has approved the form and petition language. Next, the municipality has the option to conduct an informational meeting to determine whether to schedule a formal hearing. If and when a formal hearing is scheduled, everyone in the proposed special assessment district will receive prior notice of the hearing. At the hearing, everyone can express his or her opinion about the proposed special assessment district, both "pro" and "con." After the hearing, the municipality has the option of either turning down or adopting the special assessment district. If the special assessment district is adopted, a second hearing will be scheduled later to confirm the special assessment roll—that is, to verify which properties will be located within the special assessment district and the cost per property/unit.

Q The above process seems complicated—is it?

A It is true that there are very specific statutory requirements which must be met. However, it is normally the duty of the municipality involved to make sure that all procedures are followed after appropriate petitions have been filed. Since not all municipalities are familiar with the special assessment process, it is essential that the municipality employ knowledgeable legal counsel to be actively involved in the process, from beginning to end. If the municipality's attorney is not familiar with this process, there are attorneys who specialize in this area who can serve as special counsel to the municipality for purposes of creating the special assessment district.

Q How are the costs of administering the special assessment district and additional costs (hearing costs, attorney fees, etc.) paid for?

A All such expenses are rolled back into the special assessment district. Quite often, such costs will be spread out over time.

Q If more than 50% of the property owners involved desire the special assessment district, must the municipality set it up?

A No. Even if most or all property owners petition the municipality to set up the district, it is still within the discretion of the municipality to decline to pursue the special assessment district. Nevertheless, if the municipality refuses to set up the district when the majority of property owners desire the district, the property owners would be justified in petitioning the municipality to pay for lake management out of its general fund pursuant to MCLA 41.418. When given the choice, most municipalities would prefer to pursue the special assessment district process, since then the taxpayers at large will not be paying for lake management programs.

Q How long does it take to set up a special assessment district?

A Even if a municipality moves very quickly and without public opposition, about the quickest that a special assessment district can be finalized from the date the petitions are filed is three months. It is not uncommon for the special assessment process to take between four and six months to complete. Accordingly, it is normally wise to begin circulating the petitions at least eight months to one year prior to the time you desire treatments.

Q What if a property owner objects to having his/her bottomlands treated?

A Usually, if that person notifies the municipality or Professional Lake Management, that person's bottomlands will not be treated unless it jeopardizes the success of the lake management program or limits management options. Professional Lake Management will try to fulfill a homeowner's request if possible. There are also legal guidelines which must be followed if a property owner objects.

Q Can a group of interested riparian property owners or a lake association retain legal counsel to advise it regarding this process of dealing with the local municipality?

A Yes. Only the attorney representing the municipality can be paid from the special assessment district, but private riparian property owners or lake associations certainly can consult with their own legal counsel regarding the process.

Q Is it better to utilize a statutory lake board rather than a special assessment district for lake management programs?

A Generally not. Setting up a statutory lake board is usually much more complicated and expensive. Furthermore, lakes tend to lose "local control," since members of the lake board will have to include a representative of the county commission, the county drain commissioner and the Michigan Department of Environmental Quality. Although statutory lake boards might be appropriate where multiple townships are involved or there are large problems which require lake dredging, the installation of a dam or similar large-scale projects, it is usually simpler, quicker and cheaper to utilize a special assessment district where management of aquatic weeds and water quality issues are the only problems involved.

Q What if a water body is divided between two or more municipalities?

A In this situation, each municipality will have to go through the special assessment process if the lake board process is not utilized. However, it is not uncommon for municipalities to work together in adopting a special assessment district. Typically, the smaller municipality will wait for the larger municipality's approval of a special assessment district.

If you have any questions regarding this process, please contact us at Professional Lake Management, 8865 100th Street SE, Alto, Michigan, 49302. Telephone 1-800-382-4434. Email: [jason@prolakemgmt.com](mailto:jason@prolakemgmt.com). We will be happy to assist you in any way possible. In the past, the Grand Rapids law firm of Law, Weathers & Richardson, P.C. has assisted many municipalities and riparian property owners regarding this process. For information, please contact: Clifford H. Bloom or Roger A. Swets of Law, Weathers & Richardson, P.C., 333 Bridge Street, N.W., Suite 800, Grand Rapids, Michigan 49504-5360. Telephone (616) 459-1171.

(This pamphlet is for general informational purposes only and is not an exhaustive or authoritative source regarding special assessment districts and related issues. For more information, please contact us at Professional Lake Management or consult with legal counsel of your choice.)



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## Public Act 188, Special Assessment Check List

### Preliminary Steps in Creation of Special Assessment District

- 1) Evaluation of Lake – Typically requested by lake association
- 2) Preparation of Lake Management Plan and cost estimates based on lake evaluation.
- 3) Preparation of petition form – To be approved by the Township.
- 4) Circulation of petition -- Signatures of riparian property owners must be obtained on the township approved petition.
- 5) Submission of Lake Management Plan and petitions for township review.
- 6) Township clerk must verify signatures are accurate for the proposed district.
- 7) Township clerk must verify that at least 51% of the land mass area is represented on the petition.
- 8) Preparation of Resolution 1 "Tentative Designation of SAD" – Can be prepared by the township, township attorney, or the lake association. However, the Resolution must be approved by the township attorney.
- 9) Township acknowledgement of submitted petitions and township board vote to adopt Resolution 1 – Usually done at regularly scheduled monthly meeting. Once adopted, the township will schedule a public hearing (either at regularly scheduled monthly meeting or at a special hearing).

**Note:** Prior to the first public hearing, the township must give notice in accordance with Public Act 188. Notice must be sent by mail at least 10 days prior to the scheduled public hearing date. Notice must also be published twice in a locally circulated publication with the first occurring at least 10 days prior to the scheduled public hearing date. Resolution 2 "Intent of Program" should be drafted prior to the public hearing and approved by the township attorney.

### First Public Hearing - Intent of the Program

- Township board will open up the hearing to public comment.
- Focus of public hearing is to discuss intent of program, not cost.
- Review of Lake Management Program given by lake manager.
- After public comment is heard, the township will close the public hearing. Resolution 2 will be read and the board will have an opportunity for discussion prior to voting on Resolution 2. The township will then set a date for the second and final public hearing.

**Note:** Prior to the second public hearing, the township must give notice in accordance with Public Act 188. Notice must be sent by mail at least 10 days prior to the scheduled public hearing date. Notice must also be published twice in a locally circulated publication with the first occurring at least 10 days prior to the scheduled public hearing date. Resolution 3 "Finalizing the Special Assessment Role" should be drafted prior to the public hearing and approved by the township attorney.

### Second Public Hearing – Finalizing the Special Assessment Role

- Township board will open up the hearing to public comment.
- Focus of public hearing is to discuss the tax role, not the intent of program.
- Optional review of Lake Management Program given by lake manager and/or description of proposed assessment structure given by a lake association representative or township.
- After public comment is heard, the township will close the public hearing. Resolution 3 will be read and the board will have an opportunity for discussion prior to voting on Resolution 3. The township will then put the assessment on predetermined tax role – winter, summer, or special.

**Note:** All resolutions should have approval by township attorney. Township attorney assistance will vary according to community and at the township attorney's discretion.

**Important:** This document is intended only for the use of the individuals or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this document is not the intended recipient, or the employees or agent responsible for delivering the document to the intended recipient, you are hereby notified that any discrimination, distribution, or copying of the communication is strictly prohibited.

# PETITION FOR SPECIAL ASSESSMENT DISTRICT FOR IMPROVEMENT OF \_\_\_\_\_ LAKE

\_\_\_\_\_ Township, \_\_\_\_\_ County, Michigan

We, the undersigned, representing the record owners of more than (51%) percent of the total land area within the proposed special assessment district (being lands abutting or having deeded access to \_\_\_\_\_ Lake) hereby petition the \_\_\_\_\_ Township Board to create a special assessment district for the purpose of lake management, aquatic vegetation control and related services to improve \_\_\_\_\_ Lake. The proposed special assessment district is legally described as follows:

Each owner of lands abutting \_\_\_\_\_ Lake will be assessed for one (1) unit. Each owner of property not abutting \_\_\_\_\_ Lake but having deeded access to the lake shall be assessed for one-half unit. This special assessment is for an estimated amount of \$\_\_\_\_\_ per year, per assessment unit share, for an initial period of 5 years. Budgets for subsequent years shall be determined during the last year of the assessment and will be subject to public hearing.

We, the petitioners understand that the improvement shall be conducted in accordance with plans for the same to be prepared, reviewed and approved by the township board, and that the costs thereof, including expenses connected with engineering, planning and legal costs will be assessed against each parcel of land within said proposed district.

**WARNING - A PERSON WHO KNOWINGLY SIGNS THIS PETITION MORE THAN ONCE, SIGNS A NAME OTHER THAN HIS OR HER OWN, SIGNS WHEN NOT QUALIFIED, OR SETS OPPOSITE HIS OR HER SIGNATURE ON A PETITION, A DATE OTHER THAN THE ACTUAL DATE THE SIGNATURE WAS AFFIXED, IS VIOLATING THE PROVISIONS OF MICHIGAN LAW.**

	Signature	Lake Address	City, State, Zip Code	Date of signing
	Printed Name	Permanent Address	City, State, Zip Code	
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CERTIFICATE OF CIRCULATOR	CIRCULATOR -- DO NOT SIGN OR DATE UNTIL AFTER CIRCULATING PETITION
<p>The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing the owner of property within the proposed assessment district and qualified to sign the petition.</p> <p><b>WARNING - A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.</b></p>	<p>(Signature of Circulator) _____ / / (Date)</p> <p>(Printed Name of Circulator) _____</p> <p>(Address of Circulator) _____</p>