

**CITIES:** The legislative body of any city of the third class,  
**STREET REPAIRS:** fourth class, of any city having a special charter,  
**SPECIAL TAX:** and towns and villages shall have power within the  
municipality by ordinance, to cause the streets,  
avenues, alleys and public places of the city or  
any part thereof to be sprinkled, oiled, or repaired,  
surfaced and resurfaced, and the cost thereof to be provided for and  
defrayed by a special tax assessed on the adjoining property fronting  
or bordering on those surfaces repaired, etc., as frequently as that  
legislative body deems it necessary so long as the total cost of such  
improvements shall not exceed \$1.00 per front foot per annum upon  
said assessed property.

September 16, 1959



Honorable Basil V. Jones, Member  
Missouri House of Representatives  
Cass County  
308 North Jeffreys  
Pleasant Hill, Missouri

Dear Mr. Jones:

This is in response to your letter of August 22, 1959,  
which we quote:

"Inquiry has been made of me as to how often a city may exercise the provisions of House Bill No. 280, which directs the action of city governments in repairing city streets, at a maximum cost of \$1.00 or less per front foot. My city fellows want to know if this particular application may be made more often than once per year. Since, obviously, there would quite necessarily be a definite limitation as to frequency allowed, will you be so kind, General, as to give me this information with regard to this bill, made into law as of the 29th day of this August. I would suppose once per year would be the correct answer. I know you won't have to 'think' about the matter but will know. Even I am not too sure that I should address your office. If not, I am sure you will refer my question to the proper state office, please."

We quote Section 88.665, House Bill No. 280, 70th General Assembly, Truly Agreed to and Finally Passed:

"The legislative body of any city of the third class, fourth class, of any city

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having a special charter, and towns and villages shall have power within the municipality, by ordinance, in all cases where the cost does not exceed \$1.00 per front foot per annum upon the property abutting upon any street, avenue, alley or public place to be improved as in this section provided, to cause the streets, avenues, alleys and public places of the city, or any part thereof, to be sprinkled, oiled, repaired, surfaced and resurfaced, and the cost thereof to be provided for and defrayed by a special tax to be assessed in favor of the municipality or contractor on the adjoining property fronting or bordering on the streets, avenues, alleys and public places where such sprinkling, oiling, repairing, surfacing and resurfacing is proposed to be done, in proportion that the linear feet of each lot fronting or bordering on the street, avenue, alley and public place so to be sprinkled, oiled, repaired, surfaced and resurfaced bears to the total number of linear feet of all the property chargeable with the special tax aforesaid in the territory embraced by the contract under which said sprinkling, oiling, repairing, surfacing and resurfacing is to be done. The above work may be done by said municipality and an accurate account of the cost thereof kept by said municipality or may be contracted for annually by the legislative body at such time and under such terms as shall be provided by ordinance, and the municipality shall be divided into convenient sprinkling, oiling, repairing, surfacing and resurfacing districts for the above purpose, and each district shall be let separately. The special tax bill spoken of shall be and become a lien on the property charged therewith from and after the commencing of such sprinkling, oiling, repairing, surfacing and resurfacing of such streets, avenues, alleys or public places under the provisions of an ordinance providing therefor, and shall be prima facie evidence of the liability of the property charged therewith to the extent and amount therein specified and may be collected of and from the owner of the land in the name of and by such municipality

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or contractor as any other claim in any court of competent jurisdiction with interest at a rate not to exceed eight per cent per annum, and they shall be issued and collected in the manner provided by ordinance; provided, that in no case shall the provisions of this section apply where the cost of such improvement shall exceed \$1.00 per front foot per annum upon the property abutting upon any street, avenue, alley or public place, provided further, that the cost of sprinkling, oiling, repairing, surfacing and resurfacing of any street, avenue, alley or public place or any part thereof may be paid out of the general revenue fund of the municipality or other funds which the municipality may have for such purposes if the legislative body of such municipality so desires, in which case the proceedings of the municipality for such improvements shall specify that payment will be made out of the general revenue fund or other funds in whole or in part."

It is the opinion of this office that Section 88.665, supra, authorizes the legislative body of any city, as therein specified, by ordinance to cause the streets, avenues, alleys and public places of the city or any part thereof to be sprinkled, oiled, repaired, surfaced and resurfaced, with the cost thereof to be provided for and defrayed by a special tax assessment with the frequency that the legislative body of that city desires, so long as the frequency of such actions does not cause the expenses therefor to be in excess of \$1.00 per front foot per annum.

This is a matter of statutory construction, and there would appear to be no restriction in House Bill No. 280, supra, which would preclude the legislative body of the city involved from effecting the stated repairs of the streets as often as it so chooses in a year's time consistent with the maximum expenses authorized by House Bill No. 280, supra.

#### CONCLUSION

It is the opinion of this office that the legislative body of any city of the third class, fourth class, of any city having a special charter, and towns and villages shall have power within the municipality by ordinance, to cause the streets, avenues, alleys and public places of the city or any part

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thereof to be sprinkled, oiled, or repaired, surfaced and re-surfaced, and the cost thereof to be provided for and defrayed by a special tax assessed on the adjoining property fronting or bordering on those surfaces repaired, etc., as frequently as that legislative body deems it necessary so long as the total cost of such improvements shall not exceed \$1.00 per front foot per annum upon said assessed property.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James B. Slusher.

Yours very truly,

JOHN M. DALTON  
Attorney General

JBS:mc