

YAVAPAI COUNTY SPECIAL DISTRICTS HANDBOOK



Ninth Edition, March 2013

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RESOLUTION NO. 1842

**AMENDING RESOLUTION NO. 1317 ESTABLISHING POLICIES FOR THE
CREATION OF COUNTY IMPROVEMENT DISTRICTS AND OTHER SPECIAL TAXING
DISTRICTS, AND ANNEXATIONS THERETO**

WHEREAS, counties are charged by statute with certain responsibilities related to the creation of county improvement districts and other special districts, and annexations thereto, as set forth in Arizona Revised Statutes, Title 48; and

WHEREAS, the Board of Supervisors desires that these statutory responsibilities be performed with the greatest degree of efficiency possible and at the least expense to County taxpayers; and

WHEREAS, the Board of Supervisors recognizes that efforts to create special taxing districts sometimes results in divisiveness in the community and desires first and foremost to encourage residents to work with each other to find mutually agreeable solutions to problems; and

WHEREAS, the Board of Supervisors recognizes that even though special taxing districts are charged for services provided by the County, the cost of administering some special taxing districts, including county road improvement districts and community facilities districts is never fully recovered and therefore represents a burden on all County taxpayers.

NOW, THEREFORE, BE IT RESOLVED that the following policies related to the creation of county improvement districts and other special taxing districts, and annexations thereto, are adopted:

Definitions:

- a. "Special taxing districts" are districts created pursuant to the provisions of Arizona Revised Statutes Title 48 for which the County bears responsibility with regard to creation.
- b. "County improvement districts" are districts created pursuant to Arizona Revised Statutes Title 48, Chapter 6.
- c. "County road improvement district" is a county improvement district created for the purpose of improving a road or roads to County standard with the expectation that upon completion of the improvements the road or roads will be accepted into the County's road maintenance system.
- d. "Community Facilities Districts: are districts created pursuant to the provisions of Arizona Revised Statutes Title 48, Chapter 4.

County Improvement Districts

- (1) A party proposing formation shall prepare the necessary legal descriptions prior to any preliminary work being performed by county departments. The legal descriptions shall be stamped or signed as sufficient and meeting statutory requirements with regard to contiguity by a registered professional engineer, registered surveyor, or other person similarly qualified to write and attest to the accuracy of a legal description.

- (2) Bond amounts for the creation of county improvement districts shall include all costs to the County in the event the district is not established. Bond submitted in the form of a personal check, whether on the account of an individual or an organization, shall be cashed upon receipt.
- (3) Verification of petitions for creation of county improvement districts shall be accomplished according to availability of staff time in the Assessor's Office, but every effort shall be made to verify the petitions in a timely manner. The Assessor's determination of the sufficiency of signatures shall be the official and final determination with regard to whether the petitions will be accepted and a hearing on creation of the district set.
- (4) The County **will not** provide construction cost estimates for potential road improvement districts. Proponents of such districts will be advised to check with local contractors to obtain construction costs estimates.
- (5) The Board of Supervisors may choose to not establish a county improvement district **for which it would sit as the board of directors** unless petitions are signed by at least 60% of the property owners by area or by number, indicating that a clear majority of property owners are in favor of the district and the proposed improvements. The Board may deny creation of any improvement district if, for any reason, the Board determines that the public convenience, necessity or welfare will not be served by the creation of the district, or if the establishment petitions request improvement of a road or roads to less than County standard.
- (6) In the case of county road improvement districts, roads will be built to County standard unless a variance to the County road standard has been granted. The Board of Supervisors may consider a variance upon a determination by the district engineer that construction to County standard would be impractical due to physical conditions or other engineering concerns. In any case where a recommendation exists to grant a variance to the County standard, the appropriate fire district will be asked to review and comment on the proposal and the comments of the fire district will be considered by the Board of Supervisors in its deliberations regarding the granting of any variance.
- (7) In the case of a county road improvement district that has been established the Board of Supervisors, sitting as the Board of Directors for the district, may choose to postpone approval of a resolution of intention to order improvements until such time as all right-of-way necessary for the proposed improvements has been donated to the County.

Other Special Taxing Districts

- (1) A party proposing formation shall prepare the necessary legal descriptions prior to any preliminary work being performed by the county departments. The legal descriptions shall be stamped or signed as sufficient and meeting statutory requirements with regard to contiguity by a registered professional engineer, registered surveyor, or other person similarly qualified to write and attest to the accuracy of a legal description.
- (2) Bond amounts, where permissible, for the creation of special taxing districts other than county improvement districts, shall include all costs to the County in the event the district is not established. Bond submitted in the form of a personal check, whether on the account of an individual or an organization, shall be cashed upon receipt of the impact

statement for establishment of the district. For the proposed creation of a Community Facilities District, Board of Supervisor approval will be required prior to any preliminary county work being performed. Upon approval from the Board of Supervisors a bond will be required prior to any preliminary county work being performed.

- (3) The County will not provide construction cost estimates for potential community facilities districts. Proponents of such districts will be advised to check with local contractors to obtain construction costs or estimates.
- (4) In the case of a community facilities district established under Title 48 Chapter 4, and pursuant to A.R.S. §48-707 (H) upon receipt of petitions with 100 percent of the land owner's signatures, a public hearing will be required. Upon conclusion of the hearing, the Board of Supervisors, in its sole discretion may decline to establish the proposed district, direct that an election be held pursuant to A.R.S. §48-707 (B) or waive the election requirement and approve the establishment of the district.
- (5) Upon the call of election for the formation of a community facilities district by the Board of Supervisors, a separate bond covering the total estimated costs of the election will be deposited with the Clerk of the Board in the event the formation of the district is not approved at the election. Bond submitted in the form of a personal check, whether on the account of an individual or an organization, shall be cashed upon receipt.
- (6) Verification of petitions for establishment of districts pursuant to A.R.S. §48-261 shall be accomplished in accordance with A.R.S. §48-266. The determination of the Assessor and the Recorder as to the sufficiency of the signatures shall be the County's official and final determination with regard to whether the petitions meet statutory requirements.
- (7) Verification of boundary change petitions for districts established pursuant to A.R.S. §48-261 shall be accomplished in accordance with §48-266. The determination of the Assessor and the Recorder as to the sufficiency of signatures shall be the County's official and final determination with regard to whether the petitions meet statutory requirements.

APPROVED AND ADOPTED this 16th day of September, 2013.

/s/ A.G. "Chip" Davis A.G "Chip" Davis
Chairman, Board of Supervisors

ATTES

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/s/ Ana Wayman-Trujillo Ana Wayman-Trujillo
Clerk, Board of Supervisors

APPROVED AS TO FORM:

Jack Fields Jack Fields
Deputy County Attorney

INTRODUCTION



March 2013

The purpose of this handbook is to provide information regarding the responsibilities of counties with regard to special districts in a format that is, hopefully, easy to follow and understand. Although the focus of the handbook is primarily on county responsibilities, we have also included sections regarding boundary changes, reporting requirements, elections, public records and records management, and the open meeting law that we hope our local special districts will find useful. We have not included information regarding the processes involved with making improvements for road, water, wastewater or sanitary districts because the processes are complex and require the assistance of engineers, attorneys, bond attorneys and financial consultants.

Those who use this handbook should be aware that the information contained in it may change because of legislative action, and as a result **users are advised to treat this handbook only as a guide and to refer to the statutes for specific information.** We also cannot stress enough the importance of legal advice with regard to many of the procedures outlined in this book.

Significant changes to this edition of the Yavapai County Special Districts Handbook include changes to the sections related to creation and boundary changes for fire districts and sanitary districts with regard to how property held in multiple ownership is treated for purposes of determining the validity of petitions and with regard to requests from individual property owners for annexation; new statutory language in the section related to public records and records management that more specifically defines what public records are; and the section on annual filings includes a new requirement for fire districts beginning in fiscal year 2013-2014 with regard to posting their adopted budgets on a website.

We are especially pleased to be able to provide this handbook on our website, and hope that you will find it useful. We welcome any comments or suggestions you may have. Please forward your comments and/or suggestions to:

Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
1015 Fair Street
Prescott, AZ 86305
Kim.Kapin@yavapai.us

COUNTY IMPROVEMENT DISTRICTS



TYPES OF COUNTY IMPROVEMENT DISTRICTS

The most common types of County Improvement Districts in Yavapai County are listed below:

County Road Improvement District (CRID) – may be established to improve roadways, including building the road or roads to County standard with related structures such as sidewalks, curbs, gutters, culverts, bridges, tunnels, etc. Improvements are financed through the sale of bonds. The Board of Supervisors sits as the district’s Board of Directors.

Road Improvement and Maintenance District (RIMD) – may be established to improve and provide maintenance for a road that is not built to County standard. Roads improved and maintained through this type of district must be public roads. The district is governed by a local elected board.

Street Lighting Improvement District (SLID) – may be established for the sole purpose of purchasing electricity for the lighting of public streets and parks within the district. There is no improvement process involved in this type of district that requires bonds. Instead, a tax is levied annually to pay for the costs of electricity. The Board of Supervisors sits as the district’s Board of Directors.

Domestic Water Improvement District (DWID) – may be established for the acquisition, construction, reconstruction or repair of waterworks for the delivery of water for domestic purposes. Improvements may be financed through the sale of bonds or through a loan provided by the Water Infrastructure Finance Authority of Arizona. Domestic Water Improvement Districts may charge user fees and connection fees in addition to levying a property tax for maintenance and operation of the district. The district is governed by a local elected board.

Domestic Wastewater Improvement District (DWWID) – may be established for the purpose of building a wastewater system or purchasing an existing domestic wastewater treatment facility within the district, and, if necessary, making improvements to the system. Improvements may be financed through the sale of bonds or through a loan provided by the Water Infrastructure Finance Authority of Arizona. Domestic Wastewater Improvement Districts may charge user fees and connection fees in addition to levying a property tax for maintenance and operation of the district. The district is governed by a local elected board.

Road Enhancement Improvement District (REID) - may be established for the purpose of enhancing one or more roads or highways and providing for ongoing maintenance of the enhancements, or a district that is converted from a county improvement district formed for road enhancement improvements that require ongoing maintenance. The district is governed by a local elected board.

Note: A County Improvement District that owns a domestic water delivery system may be converted to a Domestic Water Improvement District by order of the Board of Supervisors pursuant to A.R.S. §48-1018. Similarly, a County Improvement District that owns a wastewater treatment facility serving the residents of the district may be converted to a Domestic Wastewater Improvement District. A County Improvement District formed for the purpose of improving and maintaining roads may be converted to a County Road Improvement and Maintenance District pursuant to A.R.S. §48-1088, and a County Improvement District formed for the purpose of making road enhancements and providing ongoing maintenance of the enhancements may be converted to a Road Enhancement Improvement District pursuant to A.R.S. §48-1098.

CREATION OF COUNTY IMPROVEMENT DISTRICTS

County Improvement Districts (CIDs) are created by the Board of Supervisors for the purpose of making street, sewer, or other local improvements, and for the acquisition and operation of a community center, park, or recreational area. All of the requirements outlined below also apply to the creation of street lighting districts, domestic water improvement districts, domestic wastewater improvement districts, road improvement and maintenance districts, and road enhancement improvement districts. A district that is formed for the purpose of providing domestic water service may also provide domestic wastewater service upon approval by the Board of Supervisors.

Lands which shall or may be excluded from a County Improvement District, Domestic Water Improvement District or Domestic Wastewater Improvement District are outlined in A.R.S. §48-902(B),(C),(D) and (E). A.R.S. §48-902(G) specifically provides that in the case of Domestic Water Improvement Districts, these districts may be formed or expanded in noncontiguous areas, but if the proposed boundaries of a noncontiguous district are located within six miles of an incorporated city or town, the district must obtain the consent of the governing body of the city or town prior to forming or expanding the district. State lands or state trust lands may be included within such districts upon written consent of the state land commissioner. However, state or state trust lands shall not be included for the purpose of forming a district or for objecting to the formation or expansion of a district. After November 1, 2007, a legal description submitted with a petition for establishment of a County Improvement District must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

Petitions received by the Board of Supervisors requesting establishment of a CID **must be signed by a majority of the persons owning real property in the proposed district or by the owners of 51% or more of the real property in the proposed district. *The Yavapai County Board of Supervisors, on December 17, 2001, approved Resolution No. 1317, Establishing Policies for the Creation of County Improvement Districts and Other Special Taxing Districts, and Annexations Thereto, which provides that County Improvement Districts for which the Board of Supervisors must sit as the Board of Directors may not be established unless petitions are signed by at least 60% of the property owners by area or by number.*** It is recommended that the Petition to Incur Expense be included with the petition to establish. Petition forms provided by Yavapai County for establishment of CIDs include the Petition to Incur Expense. **Proponents of a CID should be aware that while a district can be established if a majority of property owners sign petitions, the Petition to Incur Expense is sufficient only if petitions have been signed by the owners of a majority of the property fronting on the proposed improvement, or if the cost to be assessed will be applied to an assessment district, by the owners of a majority of the frontage of property contained within the assessment district.** Specifics related to the Petition to Incur Expense and the process related to notice, protests, assessments and so forth are found in A.R.S. §48-915, et seq and also in this handbook. Prior to circulating petitions, it is recommended that you provide a copy of

your legal description and map to the Clerk of the Board for review by the County to ensure accuracy.

Persons circulating petitions for establishment should be aware of Northwest Fire District vs. City of Tucson (185 Ari. 102,1995) and its impact on determining the validity of signatures on petitions, and should also be familiar with the County's method for verification of property owners, which information is available on the County website.

The required contents of each petition, as outlined in A.R.S. §48-903(C) or §48-1012 are:

- The name of the proposed improvement district.
- The necessity for the proposed district.
- That the public convenience, necessity or welfare will be promoted by the establishment of the district and that the property to be included in such district will be benefited.
- The boundaries of the proposed district.
- A general outline of the proposed improvement.
- Any other matters which may be required by A.R.S. §48-903, including for example, that if the petition is for formation of a domestic water improvement district, domestic wastewater improvement district, road improvement and maintenance district or road enhancement improvement district it shall include the names of the board of directors of the proposed district (not less than three members), and dates of election.
- In the case of a domestic water improvement district or a domestic wastewater improvement district, the petition must state whether the boundaries of the proposed district are wholly or partially within the existing service area of a public service corporation that provides such services and has a certificate of convenience and necessity from the Arizona Corporation Commission; or whether the boundaries of the proposed district are within the service area for a public service corporation that provides such services and has an application for a certificate of convenience and necessity pending before the Commission.

By statute, the petitions cannot be declared void because of any alleged defect, and the Board of Supervisors must allow the petitions to be amended to conform with statutory requirements. Additional petitions or signatures may be filed up to the day of the hearing on the original petition and must be treated as if they were filed with the original petition.

At the time the petition is filed with the Board of Supervisors, a bond must also be provided by the petitioners in an amount sufficient to pay the expenses connected with the proceedings. If, at any time during the proceedings, the Board of Supervisors determines that the bond is insufficient, it may order the filing of an additional bond not less than 10 days from the date of its order. If the petitioners fail to file the additional bond, the petition shall be dismissed by the Board.

Once the petition is filed with the Board of Supervisors, the Board sets a hearing date not later than 40 days from receipt of the petition. "Receipt of the petition" is considered to be official receipt by the Board at a regular or special Board meeting.

If the petition is signed by all of the property owners in the proposed district, and if the petitioners provide a records search (typically a title report) showing the names of all of the property owners in the proposed district, notice and a formal hearing on establishment is not required. Instead, the Board may simply establish the district. However, if the proposed district is a domestic water improvement district or a domestic wastewater improvement district whose boundaries are either wholly or partially within the service area of a public service corporation that holds or certificate of convenience and necessity or has an application for a CCN pending with the Arizona Corporation Commission, the Board of Supervisors must provide notice and hold a hearing as otherwise prescribed by statute.

The Board of Supervisors must publish the notice of hearing and statement of boundaries of the proposed district twice in a newspaper of general circulation in the County. The publications must be one week apart, with the first publication not less than 10 days prior to the hearing date.

Not less than 20 days before the hearing date, the Board of Supervisors must mail notice to the owners of real property within the proposed district, using the names and addresses that appear on the most recent assessment roll for taxes. The Clerk of the Board must retain all notices which are returned as undeliverable or which indicate that the address is incorrect, and must prepare a list of the names and addresses on the returned notices and deliver it to the County Recorder or a searcher of records for the purpose of conducting a records search. The County Recorder may charge up to \$3.00 for each record search, and this cost is to be included in assessments against property owners in the district in accordance with A.R.S. §48-927. It is not necessary for the Board of Supervisors to mail notices of the hearing to new property owners or addresses based on the information that is provided by the Recorder or searcher of records. However, the new property owner or address information must be used for purposes of mailing notice of the resolution of intention and any subsequent hearings related to the resolution of intention and the work to be performed, as well as hearings related to the assessment, until such time as a new tax assessment roll is available (A.R.S. §§48-916, 48-917, 48-924 and 48-928).

At the hearing, the Board of Supervisors:

- May hear the comments of property owners in the proposed district on any matter related to the establishment of the proposed district. Persons wishing to object to establishment may file objections with the Clerk of the Board of Supervisors prior to the hearing date.
- Determines if the petition has been signed by the requisite number of owners of real property in the proposed district.
- Determines if there is any property within the proposed boundaries of the district which would not benefit from establishment, and excludes it from the boundaries.
- Determines if the public convenience, necessity or welfare will be promoted by establishment of the district, and if it so finds, approves establishment of the district by means of an Order of Establishment which includes the Board's findings, establishes boundaries, and, in the case of domestic water improvement districts and domestic wastewater improvement districts, lists the names of the district's board of directors, election dates and expiration of terms.

If the Board approves establishment of the proposed district, the costs of establishment are paid by the new district. If the Board declines to establish the proposed district, it dismisses the proceedings and taxes the costs of the proceedings against all signers of the petition, and may collect costs on the bond of the petitioners.

Any party aggrieved by action taken by a Board of Supervisors to establish a district may bring action in superior court, in the county in which the newly established district is located not later than 20 days after the Board establishes the district.

Districts established in this manner are governed by the Board of Supervisors sitting as the board of directors, **except for road improvement and maintenance districts, road enhancement improvement districts, domestic water improvement districts and domestic wastewater improvement districts, which have their own elected boards of directors.**

Although current statutes do not require that the Order of Establishment of the district be recorded with the County Recorder, in order to assure that this action becomes part of the permanent record of the history of the district, and in order to assure that the properties within the district boundaries are identified for tax and assessment purposes and that qualified electors residing within the district are identified for voting purposes, it is critical that the Order of Establishment be recorded.

The Board of Supervisors will take responsibility for recording the Order of Establishment and will be responsible for sending a copy to the Arizona Department of Revenue, along with a request for taxing authority for the district, and to the Elections Department. The Elections Department will be responsible for providing a copy of the Order to the United States Department of Justice for pre-clearance purposes (with regard to road improvement and maintenance districts, domestic water and domestic

wastewater improvement districts only).

In the case of road improvement and maintenance districts, domestic water improvement districts and domestic wastewater improvement districts, the Clerk of the Board of Supervisors will, upon establishment of the district, send to the district's board of directors copies of the Open Meeting Law for each member of the board and Oaths of Office. No member of the board of directors may sit in his or her official capacity as such until the Oath of Office has been completed. The Clerk will also provide the district with a Notice of Posting form which should be completed and filed with the Clerk in compliance with the Open Meeting Law. A copy of the completed form must also be posted permanently at a posting place in the district. (See Public Records & Open Meeting Law section of this handbook).

To review:

- Petitions are presented to the Board of Supervisors.
- A bond must accompany petitions.
- Board of Supervisors sets hearing date not later than 40 days from the date of receipt of the petitions.
- Board of Supervisors publishes notice of hearing and statement of boundaries twice in a newspaper of general circulation with the first publication being not less than 10 days prior to the hearing; and mails notice of the hearing to all property owners in the proposed district not less than 20 days prior to the hearing.
- Clerk of the Board retains returned notices and provides a list of the returns to the County Recorder or other searcher of records. Any new addresses provided as a result of the records search are retained for future processes, but the County is not required to mail new notices on the establishment hearing.
- Hearing is held.
- If the district is approved, the Board of Supervisors issues the Order of Establishment. Costs are paid by board of directors of district.
- If the district is denied, the Board of Supervisors taxes the costs against the signers of petition and may collect costs on the bond of petitioners.
- The Board of Supervisors records Order of Establishment and notifies Arizona Department of Revenue, Treasurer, and Elections Department. Elections Department notifies United States Department of Justice.
- Notice of postings of notices of meetings is filed with the Clerk of the Board of Supervisors and copy is posted at posting place.

Note: In the case of a Road Improvement and Maintenance District or Road Enhancement Improvement District, the district is required to appoint a Clerk and to employ a Superintendent (Superintendent of Streets) and to provide an office and mailing address for the Clerk and the Superintendent.

Yavapai County Contact Person for County Improvement Districts:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

Yavapai County Contact Person for Road Improvement Districts (where road will be built to County standard):

Laura Bunn, Road Improvement District Coordinator

Yavapai County Public Works Department

(928) 771-3183

laura.bunn@yavapai.us

BOUNDARY CHANGES FOR COUNTY IMPROVEMENT DISTRICTS

The process for additions to or alterations of a County Improvement District's boundaries is set forth in A.R.S. §48-906(D).

The required contents of each petition, as outlined in A.R.S. §48-906(D) or §48-1014 are:

- The name of the improvement district to which the addition or alteration is proposed.
- The necessity for the proposed addition or alteration.
- That the public convenience, necessity or welfare will be promoted by the addition or alteration of the district and that the property to be included in such district will be benefited.
- The boundaries of the proposed addition or alteration. After November 1, 2007, a legal description submitted with a petition for a boundary change to a County Improvement District must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

In the case of a domestic water improvement district or a domestic wastewater improvement district, the petition must state whether the boundaries of the proposed addition or alteration are wholly or partially within the existing service area of a public service corporation that provides such services and has a certificate of convenience and necessity from the Arizona Corporation Commission; or whether the boundaries of the proposed addition or alteration are within the service area for a public service corporation that provides such services and has an application for a certificate of convenience and necessity pending before the Commission.

The governing board of the district must publish the notice of hearing and statement of boundaries of the proposed district twice in a newspaper of general circulation in the County. The publications must be one week apart, with the first publication not less than 10 days prior to the hearing date.

Not less than 20 days before the hearing date, the governing board must mail notice to the owners of real property within the proposed addition or alteration, using the names and addresses that appear on the most recent assessment roll for taxes.

If the boundary change petition includes lands that are wholly or partially within the boundaries of an existing territory of a public service corporation that provides domestic water or domestic wastewater services pursuant to a Certificate of Convenience and Necessity (CC&N) issued by the Arizona Corporation Commission, or if it includes lands that are within the proposed service territory of such a public service corporation which has a pending application for a CC&N before the Commission, then notice of the

hearing must also be mailed to the Corporation Commission at least 20 days before the hearing.

Upon approval of a boundary change, the governing board of the district issues an Order of Boundary Change. This may be an order to annex territory or to de-annex territory. The governing board is responsible for notifying the Arizona Department of Revenue and the U.S. Department of Justice of any boundary changes. In the case of road improvement districts (where roads will be built to County standard) or street lighting improvement districts, the Board of Supervisors notifies the Arizona Department of Revenue. No notification to the U.S. Department of Justice is necessary for these districts because the Board of Supervisors sits as the Board of Directors for the district and there is no statutory authority for district elections.

In accordance with A.R.S. §48-905(C), if the petition is signed by the owners of all of the property in the proposed annexation area, and if the petitioners provide a copy of a record search that shows the names of the owners of all the property in the proposed district, the Board of Supervisors may, if the boundary change is for a road improvement district or street lighting improvement district, summarily approve the annexation without going through the formal hearing process. If the boundary change is for a road improvement and maintenance district, or domestic water or domestic wastewater improvement district, the local board of directors of the district is responsible for approving the change.

In accordance with A.R.S. §48-906(E), any property owner whose land is adjacent to the boundaries of an improvement district may request in writing that the governing body of the district amend the district's boundaries to include his land, and no petition is necessary. This type of boundary change may be made by order of the governing body and is final upon the recording of the Order of Boundary Change.

Upon approval of a boundary change, the governing board may order the petitioners or, an individual requester if that is the case, to pay for all costs related to the boundary change.

Yavapai County Contact for Boundary Changes (where the Board of Supervisors sits as the Board of Directors of the district):

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

Persons interested in making a boundary change to a district governed by its own elected board of directors should contact the district board or district administrator.

CONVERSION OF COUNTY IMPROVEMENT DISTRICTS TO DOMESTIC WATER IMPROVEMENT DISTRICTS, DOMESTIC WASTEWATER IMPROVEMENT DISTRICTS, ROAD IMPROVEMENT AND MAINTENANCE DISTRICTS, OR ROAD ENHANCEMENT IMPROVEMENT DISTRICTS

A County Improvement District that has constructed and owns a water system providing domestic water to residents of the district may be converted to a Domestic Water Improvement District with its own elected board of directors. Likewise, a County Improvement District that owns a wastewater treatment system serving the residents of the district may be converted to a Domestic Wastewater Improvement District with its own elected board of directors. A County Improvement District that has constructed a road or roads serving the residents of the district may be converted to a Road Improvement and Maintenance District provided that the road or roads are built to a design and construction standard that is at least 20 percent of what it would have cost to build the road or roads to County standard.

The process for creation of these districts is governed by A.R.S. §48-1012 for domestic water and domestic wastewater districts, by A.R.S. §48-1082 for road improvement and maintenance districts, and by A.R.S. §48-1092 for road enhancement improvement districts, which is the same as creation of a County Improvement District with the exception that the petition for formation of the district should also list the names of the board of directors of the proposed district.

The process for conversion is governed by A.R.S. §48-1018 for Domestic Water Improvement Districts and Domestic Wastewater Improvement Districts, by A.R.S. §48-1088 for Road Improvement and Maintenance Districts, and by A.R.S. §48-1098 for Road Enhancement Improvement Districts. Two methods of conversion are provided:

- The Board of Supervisors may, by resolution, order conversion of a County Improvement District to a Domestic Water Improvement District, Domestic Wastewater Improvement District, Road Improvement and Maintenance District or Road Enhancement Improvement District after a public hearing. Notice of the hearing must be mailed to the owners of real property in the district not less than 20 days prior to the hearing. For notification purposes, the most recent assessment roll should be used.
- The owners of at least 50% of the property subject to an assessment to pay for existing improvements, or, in the case of a county improvement district formed for the purpose of road enhancements requiring ongoing maintenance, the owners of at least 50% of the property in the county improvement district, may petition the Board of Supervisors to convert the district into a Domestic Water Improvement District, Domestic Wastewater Improvement District, Road Improvement and Maintenance District or Road Enhancement Improvement District, which the Board may do by resolution after considering the petition.

As part of the conversion process, the Board of Supervisors specifies the number of members to serve on the board of directors and appoints the initial members.

The costs and expenses incurred by a County Improvement District and by any petitioners seeking the conversion of a County Improvement District are a liability of the converted district. If conversion is not ordered, the costs and expenses remain a liability of the County Improvement District.

Upon conversion, all assets and liabilities of the converted County Improvement District become the assets and liabilities of the Domestic Water Improvement District, Domestic Wastewater Improvement District or Road Improvement and Maintenance District or Road Enhancement Improvement District, and the district has full rights to collect any debt, liability, obligation or assessment owed to the former County Improvement District. No person is relieved of any debt, liability, obligation or assessment to a County Improvement District by reason of its conversion.

Following creation or conversion, which includes appointment of the first board of directors, the directors shall meet and divide themselves by lot into two classes:

- The first class members serve for 4 years.
- The second class members serve for 2 years.
- Thereafter, at each regular election, the first of which would be held 2 years after establishment, terms for all members will be 4 years.

The board of directors elects a chairman each year.

In the case of both Domestic Water Improvement District elections and Domestic Wastewater Improvement District elections, any “natural person” who is a qualified elector of the state and a real property owner within the district, or who is a qualified elector of the district, is eligible to vote (A.R.S. §48-1012(F)). Corporations, trusts and the like are not considered to be a “natural person.” Persons who are qualified to vote in Domestic Water Improvement District and Domestic Wastewater Improvement District elections are also qualified to serve on the board of directors for such districts.

In the case of Road Improvement and Maintenance Districts and Road Enhancement Improvement Districts elections, any “natural person” is a qualified elector who resides within the boundaries of the district. There is no requirement that a qualified elector of this type of district own property in the district. Corporations, trusts and the like are not considered to be a “natural person.”

Boundary changes to these districts are handled in the same manner as creation of the district, except that the district board of directors, and not the Board of Supervisors, is responsible for all processes related to the boundary change. The district may charge petitioners for costs involved in processing boundary changes. If 100% of the property owners in a boundary change area sign petitions and the petitioners provide a copy of a

record search showing the names of the owners of all the property in the proposed district, the board of directors may approve the boundary change without going through the hearing process.

Appointments to fill vacancies on the board of directors of a Domestic Water Improvement District, Domestic Wastewater Improvement District, Road Improvement and Maintenance District or Road Enhancement Improvement District are made by the district board of directors.

In the case of a Road Improvement and Maintenance District or Road Enhancement Improvement District, the district is required to appoint a Clerk and to employ a Superintendent (Superintendent of Streets) and to provide an office and mailing address for the Clerk and the Superintendent.

Yavapai County Contact for Conversion:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

MERGER OF COUNTY IMPROVEMENT DISTRICTS

APPLIES TO DOMESTIC WATER IMPROVEMENT DISTRICTS ONLY

If either of the following occurs, the Board of Supervisors is required to hold a hearing on the merger of two or more domestic water improvement districts:

- A petition containing the signatures of at least 25% of the qualified electors within each of the affected districts proposing the merger has been filed with the Board of Supervisors; or
- The board of directors of each of the affected districts has adopted by a two-thirds vote a resolution requesting the merger of the districts and that resolution has been filed with the Board of Supervisors.

The petition or resolution must contain the name and a description of the proposed district, along with a detailed and accurate map of the area to be included in the district. No new territory may be included as a result of the merger, but once the merger has been accomplished the new district may annex territory. The petition or resolution must also specify that the proposed district will be administered by a district board. The petitions are verified by the Board of Supervisors in the same manner as petitions for establishment of a county improvement district (§48-903).

If the proposed district is located in more than one county, the petition or resolutions are submitted to the Board of Supervisors in the county in which the majority of the assessed valuation of the proposed merged district is located. The Boards of Supervisors in any other counties in which the affected districts are located provide information and assistance to the lead county Board.

The Board of Supervisors determines the time and place for the public hearing on the merger (*no public notice requirements are included in the statute providing for merger of domestic water improvement districts, §48-1020*). After the public hearing, if the Board determines that the proposed merger would serve the public convenience, welfare or necessity, the Board calls an election for a vote on the question of the merger. The petitioners or the boards of directors of the affected districts are required to deposit with the Board of Supervisors funds sufficient to defray the cost of the election, but such deposit cannot exceed \$1,000. If the election is successful, the deposit is to be reimbursed from the newly merged district's funds but in any event the county is to be reimbursed for the cost of the election. The Board cannot call an election to merge districts more than often than once every two years. The statute does not provide direction with regard to public notice for the election, and it is advisable to consult with the County Attorney's Office to determine what kind of public notice is appropriate.

The ballot must contain the following language:

"(Insert districts' names) merge as a domestic water improvement district – Yes"

“(Insert districts’ names) merge as a domestic water improvement district – No”

Within 14 days after the election, the Board of Supervisors must canvass the returns and if a majority of the votes cast in each of the affected districts is in favor of merging, the Board enters that fact on its minutes.

If the merger has been approved by the voters, the governing body of the affected district with the largest population calls a joint meeting of the governing bodies of all districts affected by the merger. A majority of the members of each governing body constitutes a quorum for purposes of the joint meeting. At the joint meeting, the governing bodies of the districts appoint at least five people from those currently serving on the governing bodies of the affected districts and those persons appointed complete their regular terms of office, except that no more than a simple majority of those appointed may serve terms that end in the same year. No more than a simple majority shall be appointed from the same district board, and the majority of the merged board shall be filled by board members from the district that has the greater number of customers.

The newly appointed board of the merged district meets and organizes itself and elects a chairman. The board then passes a resolution declaring the districts merged and each affected district joined. The resolution and the names of the newly organized board members shall be sent to the Board of Supervisors within 30 days after organization and a certified copy of the resolution and the legal description of the merged district shall be recorded in each county in which the district exists. When the resolution has been recorded the merger is complete. The merged district assumes any debts of each of the affected districts.

To review:

- A petition or resolution requesting merger of two or more domestic water improvement districts is filed with the Board of Supervisors.
- The Board of Supervisors verifies the petitions, if applicable.
- The Board of Supervisors holds a public hearing, and if it finds that the merger would serve the public convenience, welfare or necessity, it calls an election for a vote on the question. Petitioners or districts requesting the merger must file funds sufficient to cover the cost of the election.
- The Board of Supervisors canvasses the returns within 14 days after the election. If the election to merge the districts was approved, the Board enters that fact in its minutes.
- If the vote is in favor of the merger, the governing body of the affected district with the largest population calls a joint meeting of the governing bodies of the

affected districts.

- The members of the governing bodies appoint at least five persons from those currently serving to serve on the new board, and it elects a chairman.
- Oaths of Office are administered to members of the new board.
- The new board passes a resolution declaring the districts merged and each affected district joined. Within 30 days the resolution is sent to the Board of Supervisors and is also recorded in each county in which the district exists. Upon recording, the merger is complete.
- The new governing body notifies the State Department of Revenue, the United States Department of Justice, County Assessor, Treasurer, and Elections Department of the merger.

Yavapai County Contact Person for Mergers of Domestic Water Improvement Districts:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

FILLING VACANCIES ON THE LOCAL BOARD AND REVOCATION OF AUTHORITY FOR COUNTY IMPROVEMENT DISTRICTS

FILLING VACANCIES

When a member of a local governing board resigns his or her position, the member must continue to fulfill his or her obligations until a successor is appointed. A board member who loses residency and does not own property (property ownership applies only to domestic water improvement districts), dies, or is adjudicated to be insane is automatically removed from the board. What constitutes a vacancy in office is further defined in A.R.S. §38-291.

Domestic Water Improvement Districts

If a vacancy occurs in a Domestic Water Improvement District, the district's board of directors appoints a qualified elector of the district to fill the office for the remaining portion of the term being vacated. The term "qualified elector" in a district with a population of 10,000 or less may mean a qualified elector who resides in the district and may or may not own property in the district, or a qualified elector in the state who owns property in the district but does not reside in the district.

Domestic Wastewater Improvement Districts

If a vacancy occurs in a Domestic Wastewater Improvement District, the district's board of directors appoints a qualified elector of the district to fill the office for the remaining portion of the term being vacated. The term "qualified elector" in a district with a population of 10,000 or less may mean a qualified elector who resides in the district and may or may not own property in the district, or a qualified elector in the state who owns property in the district but does not reside in the district.

Road Improvement and Maintenance Districts

If a vacancy occurs in a Road Improvement and Maintenance District, the district's board of directors appoints a qualified elector of the district to fill the office for the remaining portion of the term being vacated. The term "qualified elector" means a person who resides in the district. A qualified elector of the district may or may not own property in the district.

Road Enhancement Improvement Districts

If a vacancy occurs in a Road Enhancement Improvement District, the district's board of directors appoints a qualified elector of the district to fill the office for the remaining portion of the term being vacated. The term "qualified elector" means a person who resides in the district. A qualified elector of the district may or may not own property in the district.

REVOCATION OF AUTHORITY

If the board of directors of a Road Improvement and Maintenance District, Road Enhancement Improvement District, a Domestic Water Improvement District or Domestic Wastewater Improvement District lacks a quorum on the board for more than 30 days for any reason, the Board of Supervisors may revoke the authority of the appointed or elected board members pursuant to A.R.S. §48-1086, §48-1096, and §48-1016 respectively.

The Board of Supervisors may, at any time, revoke the authority of a Road Improvement and Maintenance District, Road Enhancement Improvement District, Domestic Water Improvement District or Domestic Wastewater Improvement District if the Board of Supervisors feels it is necessary in order to protect the residents of the district. If a district's authority is revoked, the Board of Supervisors governs the district pursuant to A.R.S. §48-908, but has the option of calling for new elections for the district board of directors.

REVIEW OF FINANCIAL TRANSACTIONS NOTIFICATION REGARDING FEES

REVIEW OF FINANCIAL TRANSACTIONS

The Board of Supervisors is granted authority under A.R.S. §48-1015 to review and comment on financial transactions of a Domestic Water Improvement District or Domestic Wastewater Improvement District with a population of less than 10,000 but the Board of Supervisors does not have the authority to veto such financial transactions. The Board of Supervisors also has authority under A.R.S. §48-1085 to review and comment on financial transactions of a Road Improvement and Maintenance District, and under A.R.S. §48-1095 to review and comment on financial transactions of a Road Enhancement Improvement District, but it does not have veto authority.

NOTIFICATION REGARDING FEES

Domestic Water Improvement Districts and Domestic Wastewater Improvement Districts are authorized by A.R.S. §48-910 to establish fees for operation, maintenance and replacement of a system or a portion thereof, hook-up fees and lateral fees. Domestic Wastewater Improvement Districts are also authorized to charge a capacity fee and an availability fee. A hearing must be held prior to the approval of such fees, and the Board of Supervisors must be notified of the hearing not less than 10 days prior to the hearing. The Board of Supervisors has the statutory authority under A.R.S. §48-910(C) to be represented at the hearing and to advise the district's board of directors.

ASSESSMENT REALLOCATION FOR COUNTY IMPROVEMENT DISTRICTS

When a property with an outstanding assessment is split, assessment reallocation is important in order to ensure that the assessment still owed is pro-rated for each of the new parcels and also to ensure the owners of the new parcels receive notification of payment due on the assessment. The governing body of a county improvement district has the authority under A.R.S. §48-932 to reallocate all or part of an assessment using the following procedures.

The superintendent prepares a list of the assessment(s) to be reallocated. The list includes the assessment number, legal description and amount assessed on each affected parcel before the reallocation, and the assessment number, legal description and name and address of the owner as shown on the most recent tax roll. It also includes the amount to be assessed on each parcel after reallocation.

The superintendent prepares an amendment to the assessment diagram reflecting the new assessment numbers and parcel boundaries.

The superintendent mails notice to each owner of an affected parcel showing the proposed reallocation and stating that the owner may file a written objection to the reallocation within 20 days after the notice was mailed. If no objections are received within the 20-day period, the governing board may approve the reallocation. If timely objections are received the board is required to hold a hearing on the objections and to mail notice of hearing to all affected owners at least 10 days prior to the hearing. At the hearing the objecting parties present evidence supporting their objections, after which the governing board may approve the proposed reallocation or make changes and approve the reallocation with those changes. The board also approves the amendment to the assessment diagram, either as submitted or with changes.

Following the board's decision, the superintendent records the reallocated assessment and amended assessment diagram in the superintendent's office. (The reallocated assessment should also be recorded with the County Recorder.)

The amount assessed immediately after the reallocation shall be equal to the amount assessed immediately before the reallocation.

As a condition to reallocation, the board may require the affected property owners to pay the costs of reallocation, including engineering or legal costs, or may include the costs in the amount assessed against the affected parcels. The costs are due and payable as part of the next installment of the assessment.

See contact information on following page.

Yavapai County Contact Person for Assessment Reallocation for County Road Improvement Districts only:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

Persons interested in assessment reallocation in domestic water improvement districts, domestic wastewater improvement districts or road improvement and maintenance districts with their own local governing boards should contact the appropriate district.

DISSOLUTION OF COUNTY IMPROVEMENT DISTRICTS

A County Improvement District may be dissolved by its board of directors when all bonds and other obligations of the district are paid or have become barred by the statute of limitations and the operation and maintenance functions of the district or the major part thereof have been taken over by the incorporated city or town, by the County, or by a utility. A.R.S. §48-264 also provides for dissolution of a County Improvement District by the Board of Supervisors if the district has been inactive for at least five consecutive years, is determined to have no future purpose and has no current debt.

If there are surplus bonds or residual assets remaining at the time of dissolution, the Board of Supervisors directs the disposition of the bonds or assets in accordance with A.R.S. §48-958.

Although the law does not require that the Order of Dissolution of the district be recorded, in order to ensure that this action becomes part of the permanent record of the history of the district, and in order to ensure that the impact of this action on taxes, assessments, and voting is taken care of, it is critical that the Order be recorded. The Board of Supervisors takes responsibility for recording the Order of Dissolution for County Improvement Districts for which the Board sits as the Board of Directors of the district. In the case of Road Improvement and Maintenance Districts, Road Enhancement Improvement Districts, Domestic Water Improvement Districts and Domestic Wastewater Improvement Districts, the district governing board should be responsible for recording the Order of Dissolution.

The Board of Directors, whether it is the Board of Supervisors sitting as the Board of Directors of a County Improvement District, or the district governing board of a Road Improvement and Maintenance District, Road Enhancement Improvement District, Domestic Water Improvement or Domestic Wastewater Improvement District, should be responsible for notifying the Arizona Department of Revenue, the U.S. Department of Justice, the County Treasurer, and the County Elections Department of the dissolution of the district.

FIRE DISTRICTS



CREATION OF FIRE DISTRICTS

An impact statement requesting formation of a fire district is received by the Board of Supervisors. Those preparing the statement may request help from the Board of Supervisors in the completion of the statement, which must conform with the requirements of A.R.S. §48-261(A)(1). Information regarding valuation, taxes, and property ownership which is needed to prepare the impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of the boundaries of the proposed district must be a legal description.

The impact statement is considered to be “officially received” when the Board of Supervisors takes formal action at a regular Board meeting to accept the impact statement and set the hearing date. The hearing must be held not less than 30 days nor more than 60 days after receipt of the impact statement. Once the impact statement is officially received, staff will request information from the Assessor regarding assessed value to determine if the assessed value listed in the impact statement is accurate. Staff will also request that Cartography review the legal description and map submitted with the impact statement to determine if they are sufficient. If the assessed value listed in the impact statement is not reflective of current values, the person or persons submitting the impact statement will be contacted and given the new information and asked whether they wish to reduce their proposed tax rate or increase their proposed budget based on the new valuation information. Likewise, if the map and legal description are not sufficient, the person or persons submitting the impact statement will be contacted and asked to provide sufficient information. The Board may require amendment of the impact statement. After November 1, 2007, a legal description submitted with an impact statement for establishment of a fire district must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

When officially receiving the impact statement and setting the hearing date, the Board will also set bond in an amount sufficient to cover the costs incurred by the County in the event the district is not formed. These costs may include any expense incurred from completion of the district impact statement, mailing of the notice of hearing to district property owners, publication of the notice of hearing, and any other expenses reasonably incurred. If the district is ultimately established, then the bond is returned and the costs are charged against the new district.

Prior to the hearing on the impact statement, the Clerk of the Board mails a written notice of the statement and hearing to each owner of taxable property in the proposed district. In addition:

- Notice must be posted in 3 conspicuous public places within the proposed district.
- Notice must be published twice in a daily newspaper of general circulation in the area of the proposed district, at least 10 days prior to the hearing. If no daily

newspaper of general circulation exists in the area of the proposed district, then notice must be published at least twice at any time before the hearing.

At the hearing, the Board of Supervisors notes any changes to the impact statement and determines whether creation of the proposed district will promote public health, comfort, convenience, necessity or welfare. If the Board determines that the public health, comfort, convenience, necessity or welfare will be promoted by the creation of the district, and approves the impact statement, it then authorizes the circulation of a petition to form the district. Once the impact statement is approved, it **cannot** be amended. Once the Board authorizes circulation of a petition, if the petition turned in meets statutory requirements the Board **must** order formation of the district. Within 15 days after the Board authorizes circulation of the petition, the Clerk of the Board determines the minimum number of signatures required for property owners and that number remains fixed.

If the Board of Supervisors finds that the public health, comfort, convenience, necessity or welfare will **not** be promoted by creation of the district, it will not approve the impact statement and will not authorize circulation of the petition. In such a case, another impact statement for substantially the same district may not be filed with the Board until 6 months after the date of denial.

The only petition required for formation of a fire district is a petition of property owners. Although the organizing board of a fire district will contain only three members, the petition should state whether the elected board will have three or five members.

The petition must be in a form substantially similar to the form prescribed in A.R.S. §48-266.

The petition must, at all times, contain a legal description of the boundaries of the proposed district; a detailed, accurate map of the proposed district; and the names, addresses and occupations of the three proposed members of the district's organizing board of directors.

In order to establish the district, the petition must comply with A.R.S. §48-261(A)(7)(b) and (c) which requires that the petition be signed by more than one-half of the property owners in the area of the proposed district and that it be signed by persons owning collectively more than one-half of the assessed valuation of the property in the area of the proposed district.

Proponents of the district have one year from the date the Board authorizes circulation of the petition in which to obtain signatures and file the petition with the Clerk of the Board. **The petition will be verified as of the date of submittal to the County – not as of the date an individual signed the petition.** Therefore, the longer the petition is out, the greater the chance that property will have transferred ownership between the time the petition is signed and the time the petition is submitted to the Board.

With regard to determining the validity of the petition, property held in multiple ownership is treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the petition. The number of persons owning property inside the boundaries of the proposed district shall be determined as follows:

- In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the most recent assessment of property.
- In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the most recent valuation of property.
- If an undivided parcel of property is owned by multiple owners, those owners are deemed to be one owner for the purposes of this section.
- If a person owns multiple parcels of property, that owner is deemed to be a single owner for the purposes of this section.

With regard to assessed valuation, in the case of property assessed by the County Assessor, values shall be the same as those shown on the last assessment roll of the County. Assessed valuation does not include property that is owned by a County, the state of Arizona or the United States government, and in the case of a multiple ownership of a single parcel of property, any one property owner constitutes the entire ownership of interest. The value of centrally valued properties is determined by the Arizona Department of Revenue.

Petition signatures on which taxes and assessments are not current at the time of petition review shall be invalidated.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

When the petition is submitted, the Board of Supervisors will be asked to formally accept it and set a hearing not less than 10 nor more than 30 days from the date the Board officially receives the petition. "Official receipt" means official action by the Board at a regular Board meeting to accept the petition. After the Board accepts the petition and sets the hearing, no additional petitions or signatures may be filed. Following official receipt, copies of the petition will be sent to the County Assessor, who is required to verify that it contains the names of more than one-half of the property owners in the proposed district and determine the total assessed valuation of the property owned by the persons who signed the petition. The Assessor must report the results of the verification to the Board of Supervisors within 10 days, excluding Saturdays, Sundays and other legal holidays. (A.R.S. §48-266)

If the petition is valid, at the hearing the Board of Supervisors approves an Order of Establishment of the district, which shall be completed no later than 10 days from the date of the hearing and which is filed with the County Recorder. **The district is considered created 30 days after the Board of Supervisors votes to create it.** The decision of the Board of Supervisors is subject to judicial review under Title 12, Chapter 7, Article 6 (A.R.S. §12-901 et seq).

The Order of Establishment should contain the dates on which elections may be called for the district, including the date of the first election, the names of the three members of the organizing board of directors, and whether the district will elect five directors upon its first election. For fire districts, all elections except for special elections to fill a vacancy or reorganize a district are held on the first Tuesday after the first Monday in November of the first even numbered year following the year in which the district is established. Elections are held every two years thereafter. The order should conform with the format required by the County Recorder for recording. The text of the order must start two inches from the top of each page.

Although current statutes do not require that the Order of Establishment be *recorded* (statute requires “filing”), it is imperative that recording is done in order to ensure that property records and voter registration records are changed to reflect the new district. In Yavapai County, the Clerk of the Board is responsible for recording all Orders of Establishment.

Following establishment and recording of the Order of Establishment, the Clerk of the Board will notify the Arizona Department of Revenue and the County Elections Department of the establishment of the district. The Elections Department will notify the U.S. Department of Justice.

The first board of directors of the district, called the “organizing board of directors”, consists of the three people named in the impact statement. If there is a vacancy on the organizing board, the remaining members appoint the interim member. The organizing board elects a chairman and clerk from its members. In the first regular election after establishment of the district, if the governing body is comprised of three people, the two people receiving the first and second highest number of votes are elected to four-year terms and the person receiving the third highest number of votes is elected to a two-year term. If the governing body is comprised of five people, the three people receiving the first, second and third highest number of votes are elected to four-year terms and the two people receiving the fourth and fifth highest number of votes are elected to two-year terms. Thereafter, the term of office for each board member is four years. *(Note: There is no legal requirement that the organizing board of directors be qualified electors residing in the district.)*

The Clerk of the Board provides the new district with a copy of the Open Meeting Law for each member, Oath of Office forms, and a notice of posting of notices of meetings which should be completed and returned to the Clerk of the Board. Upon completion of the Oaths of Office, one copy is retained by the district and another copy may be sent to

the Clerk of the Board. **No member may be officially seated on the board until his or her Oath of Office has been completed.**

To review:

- Impact statement is received by Board of Supervisors.
- Board of Supervisors official receives impact statement, sets hearing, and sets bond.
- Clerk of the Board of Supervisors mails notice to property owners and posts and publishes notices.
- Hearing is held.
- Board of Supervisors may approve circulation of a petition. Proponents have one year in which to circulate the petition and file it with the Clerk of the Board. The Clerk of the Board determines the number of property owner signatures necessary to meet the “more than one-half” requirement.
- Petition is presented to Board of Supervisors for official receipt and Board sets hearing on establishment not less than 10 nor more than 30 days from receipt of the petition.
- Board of Supervisors determines validity of the petition.
- Board of Supervisors holds hearing.
- If petition meet statutory requirements, the Board of Supervisors approves establishment of the district, and the district is deemed created 30 days following the Board’s decision.
- Order of Establishment is recorded and conformed copy sent to new governing body of district. Clerk of the Board provides each member of the governing body with a summary of the Open Meeting Law, Oath of Office forms, and Public Notice of meetings form.
- Clerk of the Board notifies Arizona Department of Revenue and County Elections Department of establishment. Elections Department notifies U.S. Department of Justice.
- Governing body completes Oaths of Office and elects chairman and clerk from its members.
- Governing body files with Board of Supervisors notice of posting of meeting notices and posts copy at posting place.

Yavapai County Contact Person for Creation of Fire Districts:
Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
(928) 771-3200
Kim.Kapin@yavapai.us

BOUNDARY CHANGES FOR FIRE DISTRICTS

Individuals interested in making a change in the boundaries (adding or withdrawing property) of a fire district prepare a boundary change impact statement and present it to the governing body of the district. The statement must include at least the items outlined in A.R.S. §48-262(A)(1) (a), (b), (c), (d), (e), and (f). Information regarding valuation, taxes, and property ownership which is needed to prepare the boundary change impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of boundaries in the impact statement must be a legal description. The boundaries of the proposed change shall not overlap with the boundaries of any other proposed new district of the same type or any annexation by a district of the same type for which petitions are being circulated on the date that the boundary change impact statement is filed with the governing body. After November 1, 2007, a legal description submitted with an impact statement for a boundary change to a fire district must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

In the alternative, any property owner whose property is adjacent to the boundaries of the district may request in writing that the governing body of the district amend the district's boundaries to include his or her property. If the governing body concludes that annexing the property is beneficial to the district, it may order the boundary change and no impact statement or petitions are required. A boundary change accomplished in this manner must be recorded and the order amending the boundary must include a description of the property.

A fire district cannot annex or otherwise add territory that is already included in another existing fire district, unless the territory is first de-annexed from the existing district. A fire district cannot approve an annexation unless the territory to be annexed is contiguous with the fire district's existing boundary. Lands owned by or under the jurisdiction of the United States government, the state of Arizona or any political subdivision of the state other than an incorporated city or town are not considered as intervening between a district's existing boundary and lands adjacent to them for purposes of annexation. A fire district also may not approve an annexation if the area proposed to be annexed surrounds any unincorporated territory and that unincorporated territory is not also included in the district.

If an annexation contains area within an incorporated city or town, the governing body of that entity must endorse the impact statement. In addition, annexations must be contiguous to the district boundaries and any withdrawal of property must not result in a noncontiguous portion of the district that is less than one square mile in size.

If an incorporated city or town has previously adopted a resolution designating a fire district as the fire service agency for the city or town, the jurisdictional boundaries of the fire district are automatically changed to include any property annexed into the city or town. Boundary changes to fire districts that are accomplished in this manner are

effective on the effective date of the annexation by the city or town. In a case where a city or town has designated a fire district as its fire service agency and the city or town annexes property that is already part of a different fire district, the annexed property remains in the fire district in which it was located prior to the annexation by the city or town. The district should notify the U.S. Department of Justice and the Arizona Department of Revenue of the change.

In the case of withdrawal of property, circulation of petitions is to be approved only if the withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size and only after the governing body determines if the district has any existing bonds or other evidences of indebtedness.

Upon receipt of the boundary change impact statement, the governing body sets a hearing for not fewer than 20 nor more than 30 days from receipt of the statement.

A copy of the boundary change impact statement is sent to the Board of Supervisors by the clerk of the governing body, along with the notice of the hearing on the statement. The Board of Supervisors reviews the proposed change and **may** submit comments to the governing body within 10 days of receipt of the statement and notice. The governing body also may, at any time prior to the hearing, require that the statement be amended to include any information that the governing body deems relevant and necessary. In Yavapai County, the impact statement is circulated to members of the Board and to the Assessor and Cartography. Any comments that are received are forwarded to the district.

The clerk of the governing body sends by first class mail a written notice of the statement, its purpose, and notice of the day, hour and place of the hearing to each owner of taxable property within the boundaries of the proposed change. Notice of the hearing is posted at three public places in the area of the proposed change and is also published twice in a daily newspaper of general circulation in the area of the proposed change, or at least twice at any time before the hearing if no such paper exists.

At the hearing, the comments of the Board of Supervisors are considered, as well as those for and against the proposed change. The governing body determines whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If so, the impact statement is approved and the persons proposing the change are authorized to circulate petitions. If the governing body denies circulation of petitions, another request for a similar boundary change may be presented to the governing body after six months from the date of denial. Within 15 days after the governing body grants approval to circulate petitions, and after resolution of any appeal of the governing body's action, the Clerk of the Board determines the minimum number of property owner signatures necessary in order to meet statutory requirements that the petitions be signed by more than one-half of the property owners within the proposed boundary change. Once the Clerk has determined that number, it remains fixed regardless of any subsequent changes in property records.

Aggrieved persons may appeal the governing body's decision to the Superior Court as spelled out in A.R.S. §48-262(A)(14).

Proponents of the boundary change circulate petitions in accordance with A.R.S. §48-262(A)(10), which refers to A.R.S. 48-266. The petitions must be in substantially the same form as prescribed in A.R.S. §48-266(B). **Petitions must, at all times, contain a legal description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area. No alteration of the described area shall be made after the hearing to consider the boundary impact statement. Proponents present the petitions to the governing board, being sure all maps and legal descriptions remain attached to the petitions.**

For the purpose of determining the validity of the petitions presented for a boundary change, property held in multiple ownership shall be treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the boundary change petition. The number of persons owning property inside the boundaries of the proposed boundary change shall be determined as follows:

- In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the most recent assessment of property.
- In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the most recent valuation of property.
- If an undivided parcel of property is owned by multiple owners, those owners are deemed to be one owner for the purposes of this section.
- If a person owns multiple parcels of property, that owner is deemed to be a single owner for the purposes of this section.

The petitions must be returned to the governing body of the fire district within one year from the date of the approval to circulate. Any petition returned more than one year from that date is void. If an appeal is filed against the governing body's decision to authorize circulation of petitions, the time period for gathering signatures begins on the date an action is filed in Superior Court and ends when the time period for any further appeal has expired. In any event, proponents of a boundary change should be encouraged to turn in the completed petitions in a timely fashion to avoid changes in property ownership which can severely complicate the verification process and can jeopardize efforts to achieve the boundary change.

After the petitions are filed with the governing body, the governing body sets a hearing no less than 10 nor more than 30 days from receipt of the petitions. At the same time, the governing body sends the original petitions to the Board of Supervisors, which must

determine the validity of the petitions, according to A.R.S. §48-262(B). Petitions must contain the signatures of more than one-half of the property owners within the boundaries of the proposed change with such number having been determined by the Clerk of the Board of Supervisors, and the signatures of property owners of more than one-half of the assessed valuation of the property within the boundaries of the proposed change. **Property owner petitions will be verified as of the date of submittal of the petitions – not as of the date an individual signed a petition.** Therefore, the longer petitions are out, the greater the chance that property will have transferred ownership between the time petitions are signed and the time the petitions are submitted to the Board.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

If the petitions contain the required signatures, the governing body, after its hearing, is required to approve the boundary change. It approves an Order of Boundary Change and a copy of the Order is recorded with the County Recorder. The boundary change becomes effective 30 days after the governing body approves it. Any appeal of the boundary change must be presented to the Board of Supervisors during the 30 day period. The Order of Boundary Change should conform with the format required by the County Recorder for recording, with the text of the order starting two inches from the top of each page.

The governing body is responsible for notifying the Arizona Department of Revenue, United States Department of Justice, and Yavapai County Elections Department of boundary change action.

Counties may charge fire districts for the cost of processing boundary changes.

To review:

- A boundary impact statement is presented to the district governing board.
- The governing body sets a hearing.
- Boundary Impact Statement is sent to the Board of Supervisors along with notice of hearing, and notice of the hearing is mailed to each owner of taxable property within the proposed boundary change by the clerk of the governing body. The clerk of the governing body posts and publishes the notice.
- Board of Supervisors reviews of Boundary Impact Statement.
- Governing body holds hearing and either authorizes or denies circulation of petitions. The Clerk of the Board determines the number of property owner signatures necessary to meet the “more than one-half” requirement.

- Proponents have one year from the date the governing body authorizes circulation of petitions to obtain signatures and file them with the district. If an appeal is filed, the time allowable for the collection of signatures begins on the date an action is filed in Superior Court and continues until the time for any further appeal has expired.
- Governing body receives completed petitions and sets hearing on the boundary change for not fewer than 10 nor more than 30 days from the date of receipt of the petitions.
- Governing body sends petitions to Board of Supervisors, which provides for verification in accordance with the provisions of A.R.S. §48-262(B).
- If the petitions contain the necessary signatures to meet statutory requirements, the governing body, at its hearing, approves an order changing the district boundaries.
- Governing body records Order of Boundary Change and notifies the Arizona Department of Revenue, United States Department of Justice, and Yavapai County Elections Department of the action.

Persons interested in making boundary changes to a fire district should contact the fire district.

FIRE DISTRICT REORGANIZATION

A fire district which is administered by a three-member board may be reorganized to allow for a five-member board. (A.R.S. §48-816).

Petitions to reorganize a fire district must contain the signatures of at least 25% of the qualified electors within the district. There is no statutorily prescribed petition form for reorganization. Persons circulating petitions for reorganization of a fire district are not required to file a \$500 threshold exemption statement or statement of organization. A.R.S. §16-901(19), which defines “political committee” says in part that “political committee means a candidate or any association or combination of persons that is organized...in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number...” There is no statutory requirement that petitions for reorganization have a serial number.

Petitions for reorganization of a fire district are filed with the Clerk of the Board of Supervisors, who will have the signatures verified through the County Recorder’s Office.

If the County Recorder verifies that the petitions contain the signatures of at least 25% of the qualified electors in the district, the Clerk of the Board will, within 30 days of receiving the petitions, ask the Board of Supervisors to accept the petitions and approve an Order of Election for an election which may be held on any consolidated election date as prescribed in A.R.S. §16-204 (see also §16-201). Notice of the election is given in the same manner as that for bond elections under A.R.S. §48-806.

The Board of Supervisors may not call for a reorganization election for the same district more frequently than once every two years.

The Order of Election should contain the following information:

- The purpose of the election.
- The date the polls will be open and the date early voting will begin.
- The last date to register to vote in the election.
- The name of the election district affected by the election.

The ballot must contain the following language:

“Reorganize as a fire district administered by a
five member board – yes”

Reorganize as a fire district administered by a
five member board – no”

The ballot must also allow electors to indicate their choice for board members in the event reorganization is approved. Therefore, the election provides for the question on whether or not to reorganize the district and it also provides for election of board members.

If a tie vote occurs, the Board of Supervisors is required by A.R.S. §16-649 to draw lots to determine who will serve the four-year terms and who will serve the two-year terms. Notice of the drawing of lots must be provided to the candidates involved five days prior to the drawing of lots. It is not necessary for the candidates to be present for the drawing of lots.

Within 14 days following the election, the Board of Supervisors must meet and canvass the election. If it is determined that a majority of the votes cast at the election was in favor of reorganizing the district, the Board shall so declare and shall announce the names of those elected to the board.

The Clerk of the Board provides certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law to the newly-elected board members.

Counties may charge fire districts for the cost of reorganization.

To review:

- Fire districts may be reorganized from a three-member board to a five-member board.
- Petitions to reorganize must contain at least 25% of the qualified electors in the district.
- Petitions are submitted to the Clerk of the Board of Supervisors and verified by the County Recorder.
- If the petitions are verified as containing the signatures of at least 25% of the qualified electors in the district, the Board of Supervisors accepts the petitions and approves an Order of Election, with the election to be held on any consolidated election date as prescribed in A.R.S. §16-204 (see also §16-201). in accordance with A.R.S. §48-802(D)(3).
- The election is held, and not less than 14 days following the election the Board of Supervisors conducts a canvass. If the result of the election is to reorganize the district, the Board so declares and announces the names of those elected to the board of directors.

- The Clerk of the Board provides the new members of the board of directors with certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law.

Note:

If the Board of Supervisors determines at any time prior to 120 days before the next regular scheduled district board election that the population in a fire district with a three-member board exceeds 4,000 residents, the Board shall order an increase to five in the number of members on the district's board. If the Board of Supervisors determines at any time prior to 180 days before the next regularly scheduled election for members of a district board that the population of a fire district administered by a five-member board exceeds 50,000 residents the Board shall inform the fire district board that it may expand to seven members upon a majority vote of the district board. (A.R.S. §48-803(A)).

Yavapai County Contact Person for Reorganization:
Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
(928) 771-3200
Kim.Kapin@yavapai.us

FIRE DISTRICT MERGERS

A.R.S. §48-820 sets forth the basic requirements for a merger of fire districts. There are two methods for accomplishing a merger of fire districts; one method utilizes an election and the other method does not. Prior to consideration adoption of a resolution calling for a merger, the governing body of a fire district must obtain written consent to the merger from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district. ***If written consent is not obtained, then a merger can only be accomplished by means of an election.***

Election Method

Following adoption of a resolution calling for consideration of a merger, the governing body of each fire district that is a party to the merger must send written notice of the resolution, its purpose and notice of a public hearing on the proposed merger to each owner of taxable property within the boundaries of the district. The notice must contain the name and description of the boundaries of each district proposed to be merged and a detailed, accurate map of the area to be included in the merger. ***No new territory may be included as a result of the merger.*** In addition to mailing notice, the clerk of each fire district governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located. Such posting and publication must occur at least ten (10) days prior to the public hearing.

The clerk of each fire district governing body must also mail a copy of the resolution in support of the merger to the chairman of the Board of Supervisors of the county in which the proposed merged district is located, or to the chairman of each Board of Supervisors if more than one county is involved. Within ten (10) days of receiving the resolution, the chairman of the Board of Supervisors orders a review of the proposed merger and submits written comments to the governing body of each fire district that is a party to the merger.

At the public hearing on the proposed merger, the governing body of each fire district considers the comments of the Board of Supervisors and takes comments from the public for and against the proposed merger. Following the hearing the governing body of each fire district may adopt, by a three-fourths vote, a resolution that the merger will promote public health, comfort, convenience, necessity or welfare. The resolutions are then submitted to the Board of Supervisors by each of the affected fire districts. If the proposed merged district is located in more than one county, the resolutions from the fire districts are submitted to the Board of Supervisors of the county in which the majority of the assessed valuation of the proposed merged district is located.

Upon receipt of the resolutions, the Board of Supervisors issues an order calling for an election on the merger. A merger election can only be held every two years, and is held in conjunction with the general election. The ballot language is as follows:

“(Insert fire districts’ names) merge as a fire district – Yes”

“(Insert fire districts’ names) merge as a fire district – No”

The Board of Supervisors must meet and canvass the returns within 14 days following the election, and if it determines that a majority of the votes cast at the election in each of the affected districts is in favor of merger it enters that fact on its minutes.

Within 30 days following the canvass, the governing body of the merging fire district with the largest population calls a joint meeting of the governing bodies of all of the merging fire districts. At the meeting, the governing bodies appoint a total of five people from those currently serving on the governing bodies of the fire districts who will complete their regular terms of office, except that no more than three of those people may serve terms that end in the same year. No more than three people can be appointed to the newly-merged governing body from the same fire district. Subsequent terms of office are filled by means of electing board members who are qualified electors of the merged district.

The newly-appointed governing body elects a chairman and a clerk and by resolution declares the districts merged and declares the name of the newly-merged district. The resolution and the names of the new board members are sent to the Board of Supervisors, and the merger is deemed to be completed 30 days after the adoption of the resolution. The Board of Supervisors records the resolution with the County Recorder and sends a copy to the governing board of the merged districts.

Non-Election Method

Merger without an election is possible only when written consent to the merger has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of a merger and the resolution following the public hearing and calling for a merger are both approved by unanimous vote by the governing bodies of each of the affected fire districts.

The governing body of the newly-merged district notifies the State Department of Revenue, the United States Department of Justice, the County Assessor, Treasurer, and Elections Department of the merger.

The members of the new governing body must take oaths of office.

To review:

- Governing bodies of the districts wishing to merge request written consent to the merger from any single taxpayer residing within each of the affected districts who owns 30% or more of the next assessed valuation in the district. If written consent is not obtained, an election must be held.

- Governing bodies of the districts wishing to merge adopt resolutions calling for consideration of the merger.
- Governing bodies send notice of the resolution, its purpose and notice of a public hearing on the proposed merger to each owner of taxable property within the boundaries of the district. Each governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located.
- Governing bodies send copies of their resolutions to the chairman of the Board of Supervisors, who, within ten (10) days of receipt orders a review of the matter and submits written comments to each district governing board.
- Each governing body holds a public hearing at which the comments of the Board of Supervisors are considered and comments for and against the merger are taken from the public. In order to proceed with the merger, each governing body must approve, by a three-fourths vote, a resolution finding that a merger will promote the public health, comfort, convenience, necessity or welfare.
- Following the public hearing the resolution is forwarded to the Board of Supervisors, which orders an election on the question of merger. Such an election can be held only every two years and it coincides with the general election date.
- After the election, the Board of Supervisors has 14 days in which to canvass the results of the election.
- If the election to merge is successful, within 30 days following the canvass the governing body of the merging fire district with the largest population calls a joint meeting of the governing bodies of all of the merging fire districts. A total of five people are appointed from those currently serving on the governing bodies who serve as directors for the newly-merged district. Oaths of office are signed.
- The newly-appointed governing body by resolution elects a chairman and clerk, declares the districts merged and declares the name of the newly-merged district. The resolution and the names of the new board members are sent to the Board of Supervisors. The merger is deemed to be completed 30 days after adoption of the resolution.
- If written consent to the merger has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of a merger and the resolution following the public hearing and calling for a merger are both approved by unanimous vote by the governing bodies of each of the affected fire districts, the merger is deemed completed.

- The original resolution is sent to Board of Supervisors, which records it and returns a copy to the new governing body.
- The new governing body notifies State Department of Revenue, United States Department of Justice, County Assessor, Treasurer, and Elections Department of merger.

Note: A noncontiguous county island fire district formed pursuant to A.R.S. §48-851 shall not merge with a fire district formed pursuant to A.R.S. §48-261. (A.R.S. §48-820(D))

Yavapai County Contact Person for Fire District Mergers:
Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
(928) 771-3200
Kim.Kapin@yavapai.us

FIRE DISTRICT CONSOLIDATION

There are two methods for consolidating fire districts. One method involves an election and the other method does not. An election for consolidation is called by the Board of Supervisors upon receipt of a resolution for consolidation from the requesting fire district, and such an election may only be called every two years and would be held on the general election date. The ballot language for the election is as follows:

“(Insert fire districts’ names) consolidate as a fire district – Yes”

“(Insert fire districts’ names) consolidate as a fire district – No”

The election must be canvassed within 14 days after the election.

Consolidation without an election is possible only when written consent to the consolidation has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when each vote required by statute with regard to the consolidation process is approved by unanimous vote by the governing bodies of each of the affected fire districts.

General Procedure for Consolidation

A resolution requesting the consolidation of one fire district into another fire district is passed by a majority vote of the governing body of the district making the request, and a copy of the resolution is sent by first class mail to the fire district into which consolidation is being requested. If the request for consolidation is approved by a majority vote of the governing body of the fire district receiving the request, the two fire districts by mutual agreement prepare a consolidation impact statement. The consolidation impact statement includes:

- A legal description of the boundaries of the proposed consolidated district and a detailed, accurate map of the area to be included in the consolidated district.
- An estimate of the assessed valuation in the proposed consolidated district.
- An estimate of the change in the property tax liability of a typical resident of the proposed consolidated district that would result from consolidation.
- A list and explanation of benefits that will result from consolidation.
- A list and explanation of injuries that will result from consolidation.

No new territory may be included as a result of district consolidation.

When the consolidation impact statement is completed, the governing body of each fire district sets a hearing on the impact statement that is not less than 60 nor more than 90 days after the date of the completion and approval of the consolidated impact statement. The consolidated impact statement may be amended at any time prior to the determination made at the hearing. The clerk of the governing body of each fire district sends, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing to each owner of taxable property within the boundaries of the respective fire districts. At least ten (10) days before the hearing, the clerks also post notice of the hearing in at least three conspicuous public places in their respective fire districts and publish notice of the hearing twice in a daily newspaper of general circulation in the area of the proposed consolidated district.

At the hearing, persons may appear for and against the proposed consolidation. If the governing body of each fire district determines that the public health, comfort, convenience, necessity or welfare will be promoted by consolidation, it will approve the consolidated district impact statement. Within 15 days after approval, the clerk of the governing body of the district requesting consolidation (“the requesting fire district”) sends, by first-class mail, notice of the approval to the fire district in which consolidation is requested (“the receiving fire district”). On receipt of the request, the governing body of the receiving fire district sets hearing on consolidation of the districts. The hearing must be held not less than 30 nor more than 60 days after the date of approval by the requesting fire district. At the hearing, the governing body of the receiving fire district determines whether creation of a consolidated district will promote the public health, comfort, convenience, necessity or welfare, and if it so determines it approves a resolution declaring the districts consolidated and each district joined. If the consolidated district will include property located in an incorporated city or town, the governing body can approve the creation of the consolidated district only if the governing body of the affected city or town endorses the creation by ordinance or resolution.

A copy of the resolution is then sent to the Board of Supervisors. The persons currently serving as the governing body of the receiving fire district continue to serve as the governing body of the newly consolidated fire district and complete their regular terms. The governing body of a newly-consolidated district must have at least five members. However, if consolidation results in a new district population greater than 50,000 persons, the new governing board may appoint two additional members to serve until the next general election, at which time the two appointed positions would become elected positions.

The governing body of the newly-consolidated district declares the name of the district.

To review:

- Governing bodies of the districts wishing to consolidate adopt resolutions calling for consideration of the consolidation.

- Governing bodies send notice of the resolution, its purpose and notice of a public hearing on the proposed consolidation to each owner of taxable property within the boundaries of the district. Each governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located.
- Governing bodies send copies of their resolutions to the chairman of the Board of Supervisors, who, within ten (10) days of receipt orders a review of the matter and submits written comments to each district governing board.
- Each governing body holds a public hearing at which the comments of the Board of Supervisors are considered and comments for and against the consolidation are taken from the public. In order to proceed with the consolidation, each governing body must approve, by a three-fourths vote, a resolution finding that a consolidation will promote the public health, comfort, convenience, necessity or welfare.
- If written consent to the consolidation has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of consolidation and the resolution following the public hearing and calling for consolidation are both approved by unanimous vote by the governing bodies of each of the affected fire districts, the consolidation is deemed completed.
- Following the public hearing the resolution is forwarded to the Board of Supervisors, which orders an election on the question of consolidation. Such an election can be held only every two years and it coincides with the general election date.
- After the election, the Board of Supervisors has 14 days in which to canvass the results of the election.
- The governing body of the consolidated fire district notifies State Department of Revenue, United States Department of Justice, County Assessor, Treasurer, and Elections Department of the consolidation.

NOTE: The statutory language for consolidation is somewhat confusing, but the process for consolidation is essentially the same as that for mergers. The difference between a consolidation and a merger is that the governing body of a merged district is comprised of governing board members of each fire district that is a party to the merger, while the governing body of a consolidated district is the same governing body in place for the receiving district at the time consolidation is requested. If consolidation is

successful, the governing body of the district requesting consolidation into the receiving district is eliminated.

Yavapai County Contact Person for Fire District Consolidation:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

FILLING VACANCIES ON THE BOARD

Vacancies from other than term expiration that occur in a fire district are filled by the remaining members of the board. If an entire board of directors resigns, or for any reason cannot fulfill its duties, the Board of Supervisors is required to appoint an administrator for the district. However, if the Board fails to appoint an administrator within 30 days of receiving notice that the district board of directors has, in its entirety, resigned or is unable to fulfill its responsibilities, then a special election is held to fill the vacancies on the district board. (A.R.S. §48-803(B)).

Vacancy in office is defined in A.R.S. §38-291.

DISSOLUTION OF FIRE DISTRICTS

Dissolution of fire districts is addressed in A.R.S. §48-815.01 and §48-815.02. The process mirrors the process for establishment of a fire district.

An impact statement requesting dissolution of a fire district is received by the Board of Supervisors. The impact statement must contain at least the information set forth in A.R.S. §48-815.01(A)(1):

- A legal description of the boundaries of the district and a detailed, accurate map of the district.
- A list and explanation of benefits that will result from the proposed dissolution of the district.
- A list and explanation of the injuries that will result from the proposed dissolution of the district.

The impact statement is considered to be “officially received” when the Board of Supervisors takes formal action at a regular Board meeting to accept the impact statement and set the hearing date. The hearing must be held not less than 30 days nor more than 60 days after receipt of the impact statement. Once the impact statement is officially received, staff will request that Cartography review the legal description and map submitted with the impact statement to determine if they are sufficient. If the map and legal description are not sufficient, the person or persons submitting the impact statement will be contacted and asked to provide sufficient information. The Board may require amendment of the impact statement.

When officially receiving the impact statement and setting the hearing date, the Board will also set bond in an amount sufficient to cover the costs incurred by the County in the event the district is not dissolved. These costs may include any expense incurred from completion of the district impact statement, mailing of the notice of hearing to district property owners, publication of the notice of hearing, and any other expenses reasonably incurred. If the district is ultimately dissolved, those costs are a valid charge against the district.

Prior to the hearing on the impact statement, the Clerk of the Board mails a written notice of the statement and its purpose and information regarding the hearing to each owner of taxable property in the fire district. In addition:

- Notice must be posted in 3 conspicuous public places within the fire district.
- Notice must be published twice in a daily newspaper of general circulation in the area of the fire district, at least 10 days prior to the hearing. If no daily newspaper of

general circulation exists in the area of the fire district, then notice must be published at least twice at any time before the hearing.

At the hearing, the Board of Supervisors hears those who appear for and against the proposed dissolution, and determines whether dissolution of the district will promote public health, comfort, convenience, necessity or welfare. If the Board determines that the public health, comfort, convenience, necessity or welfare will be promoted by the dissolution of the district, and approves the impact statement, it then authorizes the circulation of a petition to dissolve the district. Once the impact statement is approved, it **cannot** be amended. Once the Board authorizes circulation of the petition for dissolution, if the petition that is filed meets statutory requirements the Board **must** order dissolution of the district. Within 15 days after the Board authorizes circulation of the petition, the Clerk of the Board determines the minimum number of signatures property owner signatures required and that number remains fixed.

If the Board of Supervisors finds that the public health, comfort, convenience, necessity or welfare will **not** be promoted by dissolution of the district, it will not approve the impact statement and will not authorize circulation of the petition. In such a case, another impact statement for a similar district dissolution may not be filed with the Board until 6 months after the date of denial.

The petition must comply with A.R.S. §48-815.02, and must at all times contain a legal description of the boundaries of the district and a detailed, accurate map of the district. In order to dissolve the district, the petition must be signed by more than one-half of the property owners in the district and be signed by persons owning collectively more than one-half of the assessed valuation of the property in the district.

Proponents of dissolution have one year from the date the Board authorizes circulation of the petition in which to obtain signatures and file the petition with the Clerk of the Board. **The petition will be verified as of the date of submittal to the County – not as of the date an individual signed the petition.** Therefore, the longer the petition is out, the greater the chance that property will have transferred ownership between the time the petition is signed and the time the petition is submitted to the Board.

With regard to determining the validity of the petition, property held in multiple ownership is treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the petition. With regard to assessed valuation, in the case of property assessed by the County Assessor, values shall be the same as those shown on the last assessment roll of the County. Assessed valuation does not include property that is owned by a County, the state of Arizona or the United States government, and in the case of a multiple ownership of a single parcel of property, any one property owner constitutes the entire ownership of interest. The value of centrally valued properties is determined by the Arizona Department of Revenue.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

When the petition is submitted, the Board of Supervisors will be asked to formally accept it and set a hearing not less than 10 nor more than 30 days from the date the Board officially receives the petition. "Official receipt" means official action by the Board at a regular Board meeting to accept the petition. After the Board accepts the petitions and sets the hearing, no additional petitions or signatures may be filed. Following official receipt, copies of the petition will be sent to the County Assessor, who is required to verify that it contains the names of more than one-half of the property owners in the proposed district and determine the total assessed valuation of the property owned by the persons who signed the petition. The Assessor must report the results of the verification to the Board of Supervisors within 10 days, excluding Saturdays, Sundays and other legal holidays. (A.R.S. §48-815.02)

If the petition is valid, at the hearing the Board of Supervisors approves an Order of Dissolution of the district, which shall be completed no later than 10 days from the date of the hearing and which is filed with the County Recorder. **The district is considered dissolved 30 days after the Board of Supervisors votes to dissolve it.** The decision of the Board of Supervisors is subject to judicial review under Title 12, Chapter 7, Article 6 (A.R.S. §12-901 et seq).

Following recordation of the Order of Dissolution, all money remaining in the fire district fund after the payment of all valid claims against the district is transferred to the County's general fund. If all of the fire district was within the corporate limits of a city or town the equipment, assets and liabilities of the district are transferred to the city or town. If the district was an employer covered by the Arizona State Retirement System, the Clerk of the Board of Supervisors notifies the director of the Arizona State Retirement System of the dissolution of the district. Taxes continue to be levied as provided in A.R.S. §48-806(I) on all taxable property within the formal boundaries of the district in order to pay the principal and interest on outstanding bonds of the district.

To review:

- Impact statement is received by Board of Supervisors.
- Board of Supervisors official receives impact statement, sets hearing, and sets bond.
- Clerk of the Board of Supervisors mails notice to property owners and posts and publishes notices.
- Hearing is held.
- Board of Supervisors may approve circulation of a petition. Proponents have one year in which to circulate the petition and file it with the Clerk of the Board.

- Petition is presented to Board of Supervisors for official receipt and Board sets hearing on establishment not less than 10 nor more than 30 days from receipt of the petition.
- Board of Supervisors determines validity of the petition.
- Board of Supervisors holds hearing.
- If petition meet statutory requirements, the Board of Supervisors approves dissolution of the district, records the Order of Dissolution with the County Recorder, and the district is deemed dissolved 30 days following the Board's decision.
- Clerk of the Board notifies Arizona Department of Revenue and County Elections Department of dissolution of the district. Elections Department notifies U.S. Department of Justice.
- Remaining district funds are transferred to the County's general fund, or if all of the district was within a city or town, to that city or town. Taxes continued to be levied on properties in the now-dissolved district for purposes of paying principal and interest on any outstanding bonds.

Yavapai County Contact Person for Dissolution of Fire Districts:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

SANITARY DISTRICTS



CREATION OF SANITARY DISTRICTS

An impact statement requesting formation of a sanitary district is received by the Board of Supervisors. Those preparing the statement may request help from the Board of Supervisors in the completion of the statement, which must conform with the requirements of A.R.S. §48-261(A)(1). Information regarding valuation, taxes, and property ownership which is needed to prepare the impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of the boundaries of the proposed district must be a legal description. After November 1, 2007, a legal description submitted with an impact statement for establishment of a sanitary district must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

Sanitary districts comprising 160 acres or more in size must be governed by a board of directors of not less than three members who must be qualified electors of the district. Sanitary districts comprised of less than 160 acres in size are governed by the Board of Supervisors, sitting as the district's board of directors. In Yavapai County, those wishing to establish a sanitary district less than 160 acres in size are advised instead to establish as a County Improvement District with the understanding that following establishment the district will be converted to a Domestic Wastewater Improvement District.

The impact statement is considered to be "officially received" when the Board of Supervisors takes formal action at a regular Board meeting to accept the impact statement and set the hearing date. The hearing must be held not less than 30 days nor more than 60 days after receipt of the impact statement. Once the impact statement is officially received, staff will request information from the Assessor regarding assessed value to determine if the assessed value listed in the impact statement is accurate. Staff will also request that Cartography review the legal description and map submitted with the impact statement to determine if they are sufficient. If the assessed value listed in the impact statement is not reflective of current values, the person or persons submitting the impact statement will be contacted and given the new information and asked whether they wish to reduce their proposed tax rate or increase their proposed budget based on the new valuation information. Likewise, if the map and legal description are not sufficient, the person or persons submitting the impact statement will be contacted and asked to provide sufficient information. The Board may require amendment of the impact statement.

In officially receiving the impact statement and setting the hearing date, the Board will also set bond in an amount sufficient to cover the costs incurred by the County in the event the district is not formed. These costs may include any expense incurred from completion of the district impact statement, mailing of the notice of hearing to district property owners, publication of the notice of hearing, and any other expenses reasonably incurred. If the district is ultimately established, then the bond is returned and the costs are charged against the new district.

Prior to the hearing on the impact statement, the Clerk of the Board mails a written notice of the statement and hearing to each owner of taxable property in the proposed district. In addition:

- Notice must be posted in 3 conspicuous public places within the proposed district.
- Notice must be published twice in a daily newspaper of general circulation in the area of the proposed district, at least 10 days prior to the hearing. If no daily newspaper of general circulation exists in the area of the proposed district, then notice must be published at least twice at any time before the hearing.

At the hearing, the Board of Supervisors notes any changes to the impact statement and determines whether creation of the proposed district will promote public health, comfort, convenience, necessity or welfare. If the Board determines that the public health, comfort, convenience, necessity or welfare will be promoted by the creation of the district, and approves the impact statement, it then authorizes the circulation of a petition to form the district. Once the impact statement is approved, it **cannot** be amended. Once the Board authorizes circulation of the petition, if the petition turned in meets statutory requirements the Board **must** order formation of the district. Within 15 days after the Board authorizes circulation of petitions, the Clerk of the Board determines the minimum number of signatures required for property owners and that number remains fixed.

If the Board of Supervisors finds that the public health, comfort, convenience, necessity or welfare will **not** be promoted by creation of the district, it will not approve the impact statement and will not authorize circulation of the petition. In such a case, another impact statement for substantially the same the district may not be filed with the Board until 6 months after the date of denial.

The only petition required for formation of a sanitary district is a petition of property owners. Although the organizing board of the sanitary district will contain only three members, the petition should state whether the elected board will have three or five members.

The petition must be in a form substantially similar to the form prescribed in A.R.S. §48-266.

The petition must, at all times, contain a legal description of the boundaries of the proposed district; a detailed, accurate map of the proposed district; and the names, addresses and occupations of the three proposed members of the district's organizing board of directors.

In order to establish the district, the petition must comply with A.R.S. §48-261(A)(7)(b) and (c) which requires that the petition be signed by more than one-half of the property owners in the area of the proposed district and that it be signed by persons owning

collectively more than one-half of the assessed valuation of the property in the area of the proposed district.

Proponents of the district have one year from the date the Board authorizes circulation of the petition in which to obtain signatures and file the petition with the Clerk of the Board.

The petition will be verified as of the date of submittal to the County – not as of the date an individual signed a petition. Therefore, the longer petition is out, the greater the chance that property will have transferred ownership between the time the petition is signed and the time the petition is submitted to the Board.

With regard to determining the validity of the petition, property held in multiple ownership is treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the petition. The number of persons owning property inside the boundaries of the proposed district shall be determined as follows:

- In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the most recent assessment of property.
- In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the most recent valuation of property.
- If an undivided parcel of property is owned by multiple owners, those owners are deemed to be one owner for the purposes of this section.
- If a person owns multiple parcels of property, that owner is deemed to be a single owner for the purposes of this section.

With regard to assessed valuation, in the case of property assessed by the County Assessor, values shall be the same as those shown on the last assessment roll of the County. Assessed valuation does not include property that is owned by a County, the state of Arizona or the United States government, and in the case of a multiple ownership of a single parcel of property, any one property owner constitutes the entire ownership of interest. The value of centrally valued properties is determined by the Arizona Department of Revenue.

Petition signatures on which taxes and assessments are not current at the time of petition review shall be invalidated.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

When the petition is submitted, the Board of Supervisors will be asked to formally accept it and set a hearing not less than 10 nor more than 30 days from the date the Board officially receives the petition. "Official receipt" means official action by the Board at a regular Board meeting to accept the petition. After the Board accepts the petition and sets the hearing, no additional petitions or signatures may be filed. Following official receipt, copies of the petition will be sent to the County Assessor, who is required to verify that it contains the names of more than one-half of the property owners in the proposed district and determine the total assessed valuation of the property owned by the persons who signed the petition. The Assessor must report the results of the verification to the Board of Supervisors within 10 days, excluding Saturdays, Sundays and other legal holidays. (A.R.S. §48-266)

If the petition is valid, at the hearing the Board of Supervisors approves an Order of Establishment of the district, which shall be completed no later than 10 days from the date of the hearing and which is filed with the County Recorder. **The district is considered created 30 days after the Board of Supervisors votes to create it.** The decision of the Board of Supervisors is subject to judicial review under Title 12, Chapter 7, Article 6 (A.R.S. §12-901 et seq).

The Order of Establishment should contain the dates on which elections may be called for the district, including the date of the first election, and the names of members of the organizing board of directors, and whether the district will elect five directors upon its first election. The order should conform with the format required by the County Recorder for recording. (A sample is included at the end of this chapter.) The text of the order must start two inches from the top of each page.

Although current statutes do not require that the Order of Establishment be recorded, it is imperative that recording is done in order to ensure that property records and voter registration records are changed to reflect the new district. In Yavapai County, the Clerk of the Board is responsible for recording all Orders of Establishment.

Following establishment and recording of the Order of Establishment, the Clerk of the Board will notify the Arizona Department of Revenue and County Elections Department of the establishment of the district. The Elections Department will notify the U.S. Department of Justice.

The first board of directors of the district, called the "organizing board of directors", consists of the three people named in the impact statement. If there is a vacancy on the organizing board, the remaining members appoint the interim member. The organizing board elects a chairman and clerk from its members. In the first regular election after establishment of the district, the two people receiving the first and second highest number of votes are elected to four-year terms and the person receiving the third highest number of votes is elected to a two-year term. Thereafter, the term of office for each board member is four years. *(Note: There is no legal requirement that the organizing board of directors be qualified electors residing in the district.)*

The Clerk of the Board provides the new district with a copy of the Open Meeting Law for each member, Oath of Office forms, and a notice of posting of notices of meetings which should be completed and returned to the Clerk of the Board. Upon completion of the Oaths of Office, one copy is retained by the district and another copy may be sent to the Clerk of the Board. **No member may be officially seated on the board until his or her Oath of Office has been completed.** *(Note: There is no legal requirement that the organizing board of directors be qualified electors residing in the district.)*

To review:

- Impact statement is received by Board of Supervisors.
- Board of Supervisors official receives impact statement, sets hearing, and sets bond.
- Clerk of the Board of Supervisors mails notice to property owners and posts and publishes notices.
- Hearing is held.
- Board of Supervisors may approve circulation of a petition. Proponents have one year in which to circulate the petition and file it with the Clerk of the Board.
- Petition is presented to Board of Supervisors for official receipt and Board sets hearing on establishment not less than 10 nor more than 30 days from receipt of the petition.
- Board of Supervisors determines validity of petition.
- Board of Supervisors holds hearing.
- If petition meets statutory requirements, the Board of Supervisors approves establishment of the district, and the district is deemed created 30 days following the Board's decision.
- Order of Establishment is recorded and conformed copy sent to new governing body of district. Clerk of the Board provides each member of the governing body with a summary of the Open Meeting Law, Oath of Office forms, and Public Notice of meetings form.
- Clerk of the Board notifies Arizona Department of Revenue and County Elections Department of establishment. Elections Department notifies the United States Department of Justice.
- Governing body completes Oaths of Office and elects chairman and clerk from its members.

- Governing body files with Board of Supervisors notice of posting of meeting notices and posts copy at posting place.

Yavapai County Contact Person for Creation of Sanitary Districts:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

BOUNDARY CHANGES FOR SANITARY DISTRICTS

Individuals interested in making a change in the boundaries (adding or withdrawing property) of a sanitary district prepare a boundary change impact statement and present it to the governing body of the district. The statement must include at least the items outlined in A.R.S. §48-262(A)(1) (a), (b), (c), (d), (e), and (f). Information regarding valuation, taxes, and property ownership which is needed to prepare the boundary change impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of boundaries in the impact statement must be a legal description. The boundaries of the proposed change shall not overlap with the boundaries of any other proposed new district of the same type or any annexation by a district of the same type for which petitions are being circulated on the date that the boundary change impact statement is filed with the governing body. After November 1, 2007, a legal description submitted with an impact statement for a boundary change to a sanitary district must include only entire parcels of real property and may not result in split parcels. (A.R.S. §48-272)

In the alternative, any property owner whose property is adjacent to the boundaries of the district may request in writing that the governing body of the district amend the district's boundaries to include his or her property. If the governing body concludes that annexing the property is beneficial to the district, it may order the boundary change and no impact statement or petitions are required. A boundary change accomplished in this manner must be recorded and the order amending the boundary must include a description of the property.

Annexation to a sanitary district need not be contiguous, pursuant to A.R.S. §48-2002, provided the provisions of that statute are met. Pursuant to the provisions of A.R.S. §48-2003, a sanitary district may also annex all or a portion of territory located within an incorporated city or town, upon resolution of the governing board followed by an election in the city or town in which a majority of the qualified electors voting at the election vote in favor of the annexation.

In the case of withdrawal of property, the petitions are to be approved only if the withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size and only after the governing body determines if the district has any existing bonds or other evidences of indebtedness.

Upon receipt of the boundary change impact statement, the governing body sets a hearing for not fewer than 20 nor more than 30 days from receipt of the statement.

A copy of the boundary change impact statement is sent to the Board of Supervisors by the clerk of the governing body, along with the notice of the hearing on the statement. The Board of Supervisors reviews the proposed change and **may** submit comments to the governing body within 10 days of receipt of the statement and notice. The governing board also may, at any time prior to the hearing, require that the statement be

amended to include any information that the governing board deems relevant and necessary. In Yavapai County, the impact statement is circulated to members of the Board and to the Assessor and Cartography. Any comments that are received are forwarded to the district.

The clerk of the governing body sends by first class mail a written notice of the statement, its purpose, and notice of the day, hour and place of the hearing to each owner of taxable property within the boundaries of the proposed change. Notice of the hearing is posted at three public places in the area of the proposed change and is also published twice in a daily newspaper of general circulation in the area of the proposed change, or at least twice at any time before the hearing if no such paper exists.

At the hearing, the comments of the Board of Supervisors are considered, as well as those for and against the proposed change. The governing body determines whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If so, the impact statement is approved and the persons proposing the change are authorized to circulate petitions. If the governing body denies circulation of petitions, another request for a similar boundary change may be presented to the governing body after six months from the date of denial. Within 15 days after the governing body grants approval to circulate petitions, and after resolution of any appeal of the governing body's action, the Clerk of the Board determines the minimum number of property owner signatures necessary in order to meet statutory requirements that the petitions be signed by more than one-half of the property owners within the proposed boundary change. Once the Clerk has determined that number, it remains fixed regardless of any subsequent changes in property records.

Aggrieved persons may appeal the governing body's decision to the Superior Court as spelled out in A.R.S. §48-262(A)(14).

Proponents of the boundary change circulate petitions in accordance with A.R.S. §48-262(A) (10), which refers to A.R.S. §48-266. The petitions must be in substantially the same form as prescribed in A.R.S. §48-266(B). **Petitions must, at all times, contain a legal description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area. No alteration of the described area shall be made after the hearing to consider the boundary impact statement. Proponents present the petitions to the governing board, being sure all maps and legal descriptions remain attached to the petitions.**

The petitions must be returned to the governing body of the sanitary district within one year from the date of the approval to circulate. Any petition returned more than one year from that date is void. If an appeal is filed against the governing body's decision to authorize circulation of petitions, the time period for gathering signatures begins on the date an action is filed in Superior Court and ends when the time period for any further appeal has expired. In any event, proponents of a boundary change should be encouraged to turn in the completed petitions in a timely fashion to avoid changes in

property ownership which can severely complicate the verification process and can jeopardize efforts to achieve the boundary change.

For the purpose of determining the validity of the petitions presented for a boundary change, property held in multiple ownership shall be treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the boundary change petition. The number of persons owning property inside the boundaries of the proposed boundary change shall be determined as follows:

- In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the most recent assessment of property.
- In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the most recent valuation of property.
- If an undivided parcel of property is owned by multiple owners, those owners are deemed to be one owner for the purposes of this section.
- If a person owns multiple parcels of property, that owner is deemed to be a single owner for the purposes of this section.

After the petitions are filed with the governing body, the governing body sets a hearing no less than 10 nor more than 30 days from receipt of the petitions. At the same time, the governing body sends the original petitions to the Board of Supervisors, which must determine the validity of the petitions, according to A.R.S. §48-262(A)(8) (a), (b), (c), (d), and (B)(1), (B)(2), (B)(3) (a) and (B)(3) (b). Petitions must contain the signatures of more than one-half of the property owners within the boundaries of the proposed change with such number having been determined by the Clerk of the Board of Supervisors, and the signatures of property owners of more than one-half of the assessed valuation of the property within the boundaries of the proposed change. **Property owner petitions will be verified as of the date of submittal of the petitions – not as of the date an individual signed a petition.** Therefore, the longer petitions are out, the greater the chance that property will have transferred ownership between the time petitions are signed and the time the petitions are submitted to the Board.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

If the petitions contain the required signatures, the governing body, after its hearing, is required to approve the boundary change. It approves an Order of Boundary Change and a copy of the Order is recorded with the County Recorder. The boundary change becomes effective 30 days after the governing body approves it. Any appeal of the boundary change must be presented to the Board of Supervisors during the 30 day

period. The Order of Boundary Change should conform with the format required by the County Recorder for recording, with the text of the order starting two inches from the top of each page.

The governing body must be sure to notify the Arizona Department of Revenue, United States Department of Justice, and Yavapai County Elections Department of this action.

To review:

- A boundary impact statement is presented to the district governing board.
- The governing body sets a hearing.
- Boundary Impact Statement is sent to the Board of Supervisors along with notice of hearing, and notice of the hearing is mailed to each owner of taxable property and each qualified elector within the proposed boundary change by the clerk of the governing body. The clerk of the governing body posts and publishes the notice.
- Board of Supervisors reviews Boundary Impact Statement.
- Governing body holds hearing and either authorizes or denies circulation of petitions. The Clerk of the Board determines the number of property owner signatures necessary to meet the “more than one-half” requirement.
- Proponents have one year from the date the governing body authorizes circulation of petitions to obtain signatures and file them with the district. If an appeal is filed, the time allowable for the collection of signatures begins on the date an action is filed in Superior Court and continues until the time for any further appeal has expired.
- Governing body receives completed petitions and sets hearing on the boundary change for not fewer than 10 nor more than 30 days from the date of receipt of the petitions.
- Governing body sends petitions to Board of Supervisors, which verifies them in accordance with the provisions of A.R.S. §48-261.
- If the petitions contain the necessary signatures to meet statutory requirements, the governing body, at its hearing, approves an order changing the district boundaries.
- Governing body records Order of Boundary Change and notifies the Arizona Department of Revenue, United States Department of Justice, and Yavapai County Elections Department of the action.

Persons interested in making boundary changes to a sanitary district should contact the sanitary district.

Contact person for Yavapai County (for Seligman Sanitary District):
Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
Toll-free from Seligman at 422-3426, extension 3200
Kim.Kapin@yavapai.us

SANITARY DISTRICT CONVERSION

A sanitary district that is less than 160 acres in size and is administered by the Board of Supervisors sitting as the district's board of directors may be converted to a district administered by its own local elected board of directors. The process is set forth under A.R.S. §48-2010(C).

Petitions to convert a sanitary district must contain the signatures of a least 25% of the qualified electors within the district. There is no statutorily prescribed petition form for conversion of a sanitary district. Persons circulating petitions for conversion of a sanitary district are not required to file a \$500 threshold exemption statement or statement of organization. A.R.S. §16-901(19), which defines "political committee" says in part that "political committee means a candidate or any association or combination of persons that is organized...in support of or opposition to an initiative referendum or recall or any other measure or proposition and that applies for a serial number..." There is no statutory requirement that petitions for conversion have a serial number.

Petitions for conversion of a sanitary district are filed with the Clerk of the Board of Supervisors, who will have the signatures verified through the County Recorder's Office.

If the County Recorder verifies that the petitions contain the signatures of at least 25% of the qualified electors in the district, the Clerk of the Board will ask the Board of Supervisors to accept the petitions and approve an Order of Election for the polling places to be open on one of the four election dates set forth in A.R.S. §16-204:

- The second Tuesday in March
- The third Tuesday in May
- The tenth Tuesday before the first Tuesday after the first Monday in November.
- The first Tuesday after the first Monday in November.

The Order of Election should contain the following information:

- The purpose of the election.
- The date of holding the election.
- The last date to register to vote in the election.
- The name of the election district conducting the election.

The Board of Supervisors is required to give notice of the election by posting copies of the Order of Election in three public places within the district not less than 20 days prior

to the date of the election. If a newspaper is published within the County having a general circulation within the district, the Board of Supervisors must also publish the Order of Election in the newspaper not less than once a week during each of the three calendar weeks preceding the calendar week of the election.

The ballot for the election must contain the following language:

“Convert from a sanitary district administered by the County Board of Supervisors to a sanitary district administered by a local board of directors consisting of (insert three or five members, as appropriate) – Yes”

“Convert from a sanitary district administered by the County Board of Supervisors to a sanitary district administered by a local board of directors consisting of (insert three or five members, as appropriate) –No”

The ballot must also allow electors to indicate their choice for board members in the event conversion is approved. Therefore, the election provides for the question on whether or not to convert the district and it also provides for election of board members.

If the conversion election is successful, the members of the new board of directors meet and divide themselves by lot into two classes as nearly equal in number as possible. Directors of the first class serve for a term of four years and directors of the second class serve for a term of two years until their successors are elected, after which all terms are four years.

Within 20 days following the election, the Board of Supervisors must meet and canvass the election. If it is determined that a majority of the votes cast at the election was in favor of reorganizing the district, the Board shall so declare and shall announce the names of those elected to the board.

The Clerk of the Board provides certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law to the newly-elected board members.

The sanitary district is required to reimburse the County for the expenses of the conversion election.

To review:

- A sanitary district of less than 160 acres in size and administered by the Board of Supervisors sitting as the district’s board of directors may be converted to have its own local elected board of directors.
- Petitions to convert must contain at least 25% of the qualified electors in the district.
- Petitions are submitted to the Clerk of the Board of Supervisors and verified by the County Recorder.

- If the petitions are verified as containing the signatures of at least 25% of the qualified electors in the district, the Board of Supervisors accepts the petitions and approves an Order of Election, with the election to be held on one of the four election dates listed in A.R.S. §16-204(B). (See also §16-201)
- The election is held, and not less than 20 days following the election the Board of Supervisors conducts a canvass. If the result of the election is to convert the district, the Board so declares and announces the names of the individuals elected to the new board of directors.
- The Clerk of the Board provides the new members of the board of directors with certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law.

Yavapai County Contact Person for Conversion:
Kim Kapin, Clerk of the Board/Special Districts Coordinator
Yavapai County Board of Supervisors
(928) 771-3200
Kim.Kapin@yavapai.us

SANITARY DISTRICT REORGANIZATION

A sanitary district that is administered by a three-member board may be reorganized to allow for a five-member board. (A.R.S. §48-2010(D)).

Petitions to reorganize a sanitary district must contain the signatures of at least 25% of the qualified electors within the district. There is no statutorily prescribed petition form for reorganization. Persons circulating petitions for reorganization of a sanitary district are not required to file a \$500 threshold exemption statement or statement of organization. A.R.S. §16-901(19), which defines “political committee” says in part that “political committee means a candidate or any association or combination of persons that is organized...in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number...” There is no statutory requirement that petitions for reorganization have a serial number.

Petitions for reorganization of a sanitary district are filed with the Clerk of the Board of Supervisors, who will have the signatures verified through the County Recorder’s Office. The Board of Supervisors may not call for a reorganization election for the same district more frequently than once every two years.

If the County Recorder verifies that the petitions contain the signatures of at least 25% of the qualified electors in the district, the Clerk of the Board will ask the Board of Supervisors to accept the petitions and approve an Order of Election for an election which may be held on any consolidated election date as prescribed in A.R.S. §16-204. (See also §16-201)

The Board of Supervisors is required to give notice of the election by posting copies of the Order of Election in three public places within the district not less than 20 days prior to the election. If a newspaper is published within the County that has a general circulation within the district, the Board of Supervisors must also publish the Order of Election in the newspaper not less than once a week during each of the three calendar weeks preceding the calendar week of the election.

The Order of Election should contain the following information:

- The purpose of the election.
- The date the polls will be open and the date early voting will begin.
- The last date to register to vote in the election.
- The name of the election district affected by the election.

The ballot must contain the following language:

“Shall the current three member sanitary district board be reorganized
to a five member board – Yes or No”

The ballot must also allow electors to indicate a choice for two additional board members in the event of reorganization. Therefore, the election provides for the question on whether or not to reorganize the district and it also provides for election of two new board members.

Within 20 days following the election, the Board of Supervisors must meet and canvass the election. If it is determined that a majority of the votes cast at the election was in favor of reorganizing the district, the Board shall so declare and shall announce the names of those elected to the board.

The Clerk of the Board provides certificates of election, Oaths of Office and copies of the Open Meeting Law to the newly-elected board members.

The sanitary district is required to reimburse the County for the costs of the reorganization election.

To review:

- Sanitary districts may be reorganized from a three-member board to a five-member board.
- Petitions to reorganize must contain at least 25% of the qualified electors in the district.
- Petitions are submitted to the Clerk of the Board of Supervisors and verified by the County Recorder.
- If the petitions are verified as containing the signatures of at least 25% of the qualified electors in the district, the Board of Supervisors accepts the petitions and approves an Order of Election, with the election to be held on any consolidated election date as prescribed in A.R.S. §16-204. (See also §16-201) The Board may not call for a reorganization election more frequently than once every two years.
- The election is held, and not less than 20 days following the election the Board of Supervisors conducts a canvass. If the result of the election is to reorganize the district, the Board so declares and announces the names of the two new individuals elected to the board of directors.
- The Clerk of the Board provides the new members of the board of directors with certificates of election, Oaths of Office and copies of the Open Meeting Law.

Yavapai County Contact Person for Reorganization:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

ANNUAL RATE HEARING AND TAX LEVY HEARING FOR SANITARY DISTRICTS

Annual Rate Hearing

Pursuant to A.R.S. §48-2027(H), all sanitary district fees authorized under A.R.S. §48-2027(G) are to be reviewed by the district's governing board on an annual basis. These include user fees, hookup fees, lateral fees, capacity fees and availability fees.

The governing board must publish notice of the time and place of the hearing, along with a statement of the rates to be considered or reviewed, not less than 20 nor more than 30 days before the hearing. Anyone who wishes to object to either the establishment of rates or the continuation of rates may file an objection with the chairman of the board of directors prior to the hearing date.

Tax Levy Hearing

Pursuant to A.R.S. §48-2026, prior to levying taxes for maintenance and operation of a sanitary district, the district governing board must publish in a newspaper of general circulation in the district an itemized statement of the amounts to be levied. The statement must contain a notice of the time and place for a meeting to consider the levy amounts. The statement and notice must be published not less than 20 nor more than 30 days prior to the meeting in a newspaper of general circulation in the district. Any owner of real property or of a mobile home within the district has the right to appear at the hearing and object to any item of the amount proposed for levy.

FILLING VACANCIES ON THE BOARD

If a vacancy in office occurs on the board of directors of a sanitary district, the district board appoints a qualified elector of the district to fill the office for the remaining portion of the term, except that if the remaining directors do not constitute a quorum, the county board of supervisors shall make the appointment to fill the vacancy (A.R.S. §48-2010(E)).

Vacancy in office is defined in A.R.S. §38-291.

ASSESSMENT REALLOCATION FOR SANITARY DISTRICTS

When a property with an outstanding assessment is split, assessment reallocation is important in order to ensure that the assessment still owed is pro-rated for each of the new parcels and also to ensure the owners of the new parcels receive notification of payment due on the assessment. The governing body of a sanitary district has the authority under A.R.S. §48-2062 to reallocate all or part of an assessment. The procedure for reallocation is as follows:

- The governing body prepares a list of the assessment(s) to be reallocated. The list includes the assessment number, legal description and amount assessed on each affected parcel before the reallocation, and the assessment number, legal description and name and address of the owner as shown on the most recent tax roll. It also includes the amount to be assessed on each parcel after reallocation.
- The governing body prepares an amendment to the assessment diagram reflecting the new assessment numbers and parcel boundaries.
- The governing body mails notice to each owner of an affected parcel showing the proposed reallocation and stating that the owner may file a written objection to the reallocation within 20 days after the notice was mailed. If no objections are received within the 20-day period, the governing board may approve the reallocation. If timely objections are received the board is required to hold a hearing on the objections and to mail notice of hearing to all affected owners at least 10 days prior to the hearing. At the hearing the objecting parties present evidence supporting their objections, after which the governing board may approve the proposed reallocation or make changes and approve the reallocation with those changes. The board also approves the amendment to the assessment diagram, either as submitted or with changes.
- Following the board's decision, the reallocated assessment and amended assessment diagram are recorded.
- The amount assessed immediately after the reallocation shall be equal to the amount assessed immediately before the reallocation.
- As a condition to reallocation, the board may require the affected property owners to pay the costs of reallocation, including engineering or legal costs, or may include the costs in the amount assessed against the affected parcels. The costs are due and payable as part of the next installment of the assessment.

Persons interested in assessment reallocation in sanitary districts should contact the appropriate district.

DISSOLUTION OF SANITARY DISTRICTS

The dissolution of sanitary districts is spelled out in A.R.S. §48-2028 and §48-2029. A.R.S. §48-264 also provides for dissolution of inactive special taxing districts upon approval of a resolution by the Board of Supervisors to dissolve the district.

A sanitary district may be dissolved under A.R.S. §48-2028 if it has no bonded indebtedness and when all legal indebtedness has been discharged, and if the operational function of the district has been assumed by another legal entity.

The board of directors calls a special election on the question of dissolution. The election must be held on one of the four consolidated election dates set forth in A.R.S. §16-204:

- The second Tuesday in March.
- The third Tuesday in May.
- The tenth Tuesday before the first Tuesday after the first Monday in November.
- The first Tuesday after the first Monday in November.

The Order of Election should contain the following information:

- The purpose of the election.
- The date of holding the election.
- The last date to register to vote in the election.
- The name of the election district conducting the election.

The Order of Election must be published in both English and Spanish at least twice in a newspaper of general circulation in the district not less than once a week during each of the two calendar weeks preceding 90 days before the election. Instead of publishing the Order, a copy of the Order of Election may be mailed to each household in the district containing a qualified elector not later than 90 days before the election.

In addition, notice of the election must also be published in both English and Spanish in a newspaper published within the County and which has a general circulation in the district. Such publication must occur not less than once a week during each of the two calendar weeks preceding 20 days before the election. The notice of election should contain at least the following information:

- The date of the election.

- The location of the polls.
- The hours the polls will be open.
- The purpose of the election.
- The name of the election district conducting the election.

Although A.R.S. §48-2028 does not prescribe the format for the ballot it is reasonable to follow the statutory format for the dissolution of fire districts, which with minor modification would result in the following language:

“Dissolution of (*insert district name*) sanitary district – Yes”

“Dissolution of (*insert district name*) sanitary district – No”

If a majority of the voters favors dissolution, the board of directors by resolution declares the district dissolved. A certified copy of the resolution is filed, within 15 days after its adoption, with the Clerk of the Board of Supervisors, who will record the resolution with the County Recorder.

The Board of Supervisors notifies the Arizona Department of Revenue and the Elections Department of the dissolution. The County Elections Department will notify the U.S. Department of Justice of the dissolution of the district.

After dissolution, property located within the corporate limits of a city or town vests in the city or town. Other property vests in the County. Funds left over are transferred to the city or town and to the County in proportion to the assessed valuation of taxable real property in the city or town and in the County.

If, after dissolution, a legal indebtedness is found to remain, the Board of Supervisors may levy a tax to pay for it (pursuant to A.R.S. §48-2028(C)).

When dissolution of a sanitary district is to coincide with the incorporation of a city or town under A.R.S. §9-101.02, the election for incorporation of the city or town can serve as the dissolution election as well, as long as the provisions of A.R.S. §48-1018(A) are satisfied.

There is provision, under A.R.S. §48-2029, for an alternate method of dissolution of a sanitary district and transfer of all powers, duties and responsibilities of the district to a city or town, as trustee. The dissolution must be approved by the board of directors and by the governing body of the city or town. A.R.S. §48-2029 spells out the transfer of power, responsibilities, and duties of the district board of directors, its officers and employees to the city or town. It also spells out how the city or town accepts trusteeship

of the district and provides for governance of the district after dissolution if there is bonded or other legal indebtedness.

A.R.S. §48-2029 also provides for dissolution of a sanitary district which is partially in the incorporated limits of two or more cities or towns and in the unincorporated area of a county.

Yavapai County Contact Person for Dissolution of Sanitary Districts:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 771-3200

Kim.Kapin@yavapai.us

ELECTIONS AND RECALL ELECTIONS



ELECTIONS FOR SPECIAL DISTRICTS

Special district elections are generally considered to be nonpartisan elections **except** for special districts whose elections are held concurrently with the general election (A.R.S. §16-226(B)). Therefore, the publication requirements described in this section may not apply to those districts whose elections are held on a general election date. Generally, election law found in Title 16 is applicable to Title 48 special districts and districts should consult with their attorney for legal advice regarding election procedures.

There are also other types of elections which a special district may want to hold, such as bond elections, elections to reorganize a fire district or sanitary district, merge fire districts, recall elections, and elections to dissolve the district. Some of these types of elections are addressed in this handbook.

Who Conducts the Election

Proper conduct of an election is a very complex process. There are numerous deadlines that must be observed, poll workers who must be hired and trained, translation and printing of ballots, and so on. The district may choose to conduct its own election, or it may decide to contract with Yavapai County or with a private contractor to conduct the election. If the district decides to contract with the County, reimbursement of actual costs is provided for in the County's annual fee schedule for special districts. In addition, there may be specific County policies regarding the County's role as a contractor for other jurisdictions. For example, the County Elections Department only conducts vote-by-mail elections for its jurisdictions. The only exception to that policy is for jurisdictional elections held in conjunction with the General Election, in which case a polling place election will be required. The Elections Department also will not contract with districts during the County Primary Election. In addition, if a district's election is to be included on a General Election ballot, the Elections Department will ask the district for permission to cancel the district election if no nominating petitions have been filed or if only one nominating petition for each open position has been filed.

If the district decides to conduct its own election, it will need to obtain polling places, obtain and train poll workers, order ballots, and, if applicable, perform a logic and accuracy test on the vote tabulating equipment.

Use of County Voter Registration Rolls

A.R.S. §16-172 states that any political subdivision of the state may use county voter registration rolls to conduct an election. However, if a district wishes to use those rolls, it must negotiate a contract with the County Recorder and reimburse the Recorder for the actual cost of preparation of the rolls. The contract must be negotiated at least 60 days prior to the election.

Affidavit of Compliance

The district must also provide the Board of Supervisors with an affidavit of compliance not less than 5 days before the election (A.R.S. §16-229). The affidavit certifies that the district is in compliance with applicable federal and state election laws.

Election Dates

Fire district board elections coincide with the regular County general election dates (A.R.S. §48-802(D)(3)). District board election dates for most other Title 48 special districts are described in A.R.S. §16-225. The four consolidated election dates provided for in A.R.S. §16-204 are:

- The second Tuesday in March.
- The third Tuesday in May.
- The tenth Tuesday before the first Tuesday after the first Monday in November.
- The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city town, school district community college district ***or special taxing district***, except as provided by title 48.

The dates for the election of board members for districts ***other than fire districts*** are chosen from the consolidated election dates listed above at the time the district is established and should be contained in the district's Order of Establishment.

Nominating Petitions

With the exception of fire district or sanitary district reorganization elections, either the district, or whomever the district contracts with to conduct the election, must determine the number of signatures needed for each elected position. This number is determined by a statutory formula set forth in A.R.S. §16-322(A)(12), which provides for one-half of one percent of the votes cast in the district, but not fewer than 5 signatures nor more than 250 signatures. The County Elections Department can provide one candidate packet to the district, which can then make copies for district candidates. Nominating petitions may be made available to candidates at any time, but must be filed no less than 90 nor more than 120 days prior to the election. The district designates the filing location for candidate petitions, which may be with the district or with whomever is conducting the election for the district. Write-in candidates must file their paperwork no later than 76 days before the election.

Candidates must file a \$500 threshold exemption statement or a statement of organization prior to circulating petitions, except that persons circulating petitions for

reorganization of a fire district or sanitary district, or for conversion of a sanitary district are not required to file a \$500 threshold exemption statement or statement of organization. A.R.S. §16-901(19), which defines “political committee” says in part that “political committee means a candidate or any association or combination of persons that is organized...in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number...” There is no statutory requirement that petitions for reorganization or conversion have a serial number.

Early voting begins 26 days prior to the election, but voters may request absentee ballots as early as 93 days prior to the election. Early voting is handled by the County Recorder or person responsible for the election.

The last day to register to vote in the election is 29 days prior to the election.

Ballot Preparation

All jurisdictions in Arizona are required by the U.S. Department of Justice to provide ballots in both English and Spanish. Some counties in Arizona are also required to provide translators at polling places and audio recordings of the translated ballot at centralized locations for Native American populations.

Canceling an Election

Domestic water improvement districts, domestic wastewater improvement districts, fire districts, sanitary districts and road improvement and maintenance districts may request that the Board of Supervisors cancel an election for board members if, at the end of the filing period, the total number of persons who file a nomination petition for a candidate and the number of persons who file a nomination paper for a write-in candidate is less than or equal to the number of positions to be filled at the election. If no person has filed a nominating petition and if no nomination papers for a write-in candidate have been filed, then upon cancellation of the election by the Board of Supervisors the office is deemed vacant and is filled as otherwise provided by law. In the case of hospital districts, the district board of directors may cancel the election and appoint the person who filed the nominating petition, or if no person has filed a nominating petition, cancel the election and fill the vacancy as provided by law. If no person has filed a nominating petition, the Board of Supervisors may cancel the election for that office and the office is deemed vacant and is filled as otherwise provided by law, except that if the remaining directors do not constitute a quorum the Board of Supervisors makes the appointment to fill the vacancy. The Board’s action to cancel an election is done by resolution.

Who Can Vote

In order to vote in a special district election, a person must be a qualified elector of the district, which means the person is a registered voter residing in the district. **The only exceptions are domestic water improvement districts and domestic wastewater**

improvement districts, and only if the district has a population of 10,000 or less according to the most recent decennial census. In the case of domestic water improvement districts and domestic wastewater improvement districts the term “qualified elector” may mean a qualified elector who resides in the district and may or may not own property in the district, or a qualified elector who is registered to vote in the state and who owns property in the district but does not reside in the district. Nonresident property owners whose property is held in trust or by a corporation do not qualify to vote in a domestic water improvement or domestic wastewater improvement district election.

When to File with the U.S. Department of Justice

If the district has made any boundary changes since its last election, or if there are any changes for the upcoming election that are different from the district’s last election, the district will need to do a pre-clearance submission to the United States Department of Justice. It is important to begin this process as early as possible. The United States Department of Justice has 60 days in which to respond to the submission. Requests for pre-clearance should be sent to:

For requests sent by regular mail:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530

For requests sent by Airborne, DHL, Federal Express or UPS:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G Street, N.W.
Washington, DC 20006

The above addresses for the Department of Justice may be subject to change and it is recommended that addresses be confirmed prior to making submissions. The Voting Section Home Page for the Department of Justice is found at the following address, and may provide additional information: www.justice.gov/crt/about/vot/

If a district chooses the option of conducting an election by mail, United States Department of Justice pre-clearance should be obtained four months before the election.

Elections by Mail

Statutory authority to conduct elections by mail and the procedures for conducting those elections are found Title 16, Chapter 2, Article 3 and in Title 16, Chapter 4, Article 8.1. In order to conduct an election by mail, a district must first obtain the approval of the County Board of Supervisors of the county in which the district, or the greatest part of the district, is located. Once approval has been obtained, the district may call for the election but must do so no later than 120 days prior to the date of the election.

In Yavapai County, districts have the option of asking that all future elections, with the exception of those held in conjunction with the General Election, be conducted by mail, thereby eliminating the need to make a formal request to the Board of Supervisors for each election. However, should a district wish to hold a polling place election after receiving such “blanket” approval for mail ballot elections it must request permission from the Board of Supervisors to hold a polling place election.

After calling for the election, the governing body must publish the Order of Election at least twice in a newspaper of general circulation in the district not less than once a week during each of the two calendar weeks preceding 90 days before the election. The Order of Election must contain the following information:

- The purpose of the election.
- The date of the election.
- The last date and place for filing nomination petitions, if applicable.
- The last date to register to vote in the election.
- The name of the election district conducting the election.
- The proposed boundaries of the district, if for establishment or annexation.
- The date that ballots will be mailed to qualified electors.

In lieu of publishing the notice, the governing board has the option of mailing the Order of Election to each household in the district containing a qualified elector not later than 90 days before the election.

In addition, the governing body must also publish in a newspaper of general circulation within the district a notice of the election at least once a week during each of the two weeks immediately preceding 30 days before the election. The notice must contain at least the following:

- The date of the election.

- The date ballots will be mailed.
- The deadline and location for return of the ballots.
- How to obtain a replacement ballot.
- A statement that no polling place will be provided.
- The name of the district conducting the election.
- The qualifications of electors.

If a governing body prefers, in lieu of publishing the notice, it may mail the notice to each household in the district containing a qualified elector not later than 45 days before the election. **In the case of domestic water improvement districts and domestic wastewater improvement districts, the district must mail notice of the election to any nonresident qualified electors of the district.**

Statutes provide for the ballots to be mailed to electors by first class mail not more than 26 days before the election or less than 15 days before the election. The envelope in which the ballot is mailed must be marked ***“Do not forward. Return to sender. Return postage guaranteed. Address correction requested.”*** Ballots must be returned to the officer in charge of elections, or to a designated depository site, no later than 7:00 p.m. on the day of the election.

The officer in charge of elections must also designate a central location in the district for electors to obtain replacement ballots, and that location must be open until 7:00 p.m. on election day. An elector may obtain a replacement ballot until 7:00 p.m. on election day upon presentation of a signed and sworn statement that the original ballot was lost, spoiled, destroyed or not received.

Polling Place Elections

Statutes governing polling place elections for special districts are found in Title 16, Chapter 2, Article 3, but districts must also, where applicable, comply with the provisions of Title 16, Chapter 4 regarding the conduct of elections. The governing board approves an Order of Election not less than 120 days prior to the election. The district must then notify the Board of Supervisors of the Order of Election, and must either publish the Order of Election once each week for two calendar weeks preceding 90 days prior to the election, or mail the Order to each household in the district containing a qualified elector no later than 90 days prior to the election. The Order of Election should contain the following information:

- The date of the election.
- The last date and place for filing nomination petitions, if applicable.

- The last date to register to vote in the election.
- The name of the election district conducting the election.
- The proposed boundaries of the district, if for establishment or annexation.

The district must also publish a notice of election once a week for the two calendar weeks preceding 20 days prior to the election or mail a notice of election to each household in the district containing a qualified elector not later than 10 days prior to the election. **In the case of domestic water improvement districts and domestic wastewater improvement districts, the district must mail notice of the election to any nonresident qualified electors of the district.** All notices need to be in both English and Spanish.

Canvassing the Election

Following the election, the district board must canvass the election (A.R.S. §16-642(B)). This is done not less than 6 nor more than 20 days following the election. After the district board has canvassed the election, it must present the official canvass to the Board of Supervisors at the Board of Supervisor's next regular meeting. In the case of reorganization or conversion elections for sanitary districts, the canvass must occur not more than 20 days following the election.

Yavapai County Contact Persons for Elections for Special Districts:

Lynn Constabile, Elections Director
Yavapai County Elections Department
(928) 771-3250
web.elections@yavapai.us

Laurin Custis, Registrar of Voters
Yavapai County Voter Registration Department
(928) 771-3248
web.voter.registration@yavapai.us

RECALL ELECTIONS

Notice: This section applies to recall election procedures **only** in special districts such as fire districts, sanitary districts, domestic water improvement districts and domestic wastewater improvement districts. This section is being included for informational purposes, but readers are advised that what is provided here is merely an overview of the process. Because of the seriousness of recall and the absolute necessity for anyone proposing a recall to work closely with the County Elections Department from the beginning, no sample documents related to recall elections have been included in this handbook.

Every public officer holding an elective office, whether the person was elected, appointed, or retained in that office, is subject to recall by the qualified electors of the electoral district from which he or she was elected to office. Recall action may not be taken against any public officer until that officer has held office for 6 months, but election to a subsequent term of office does not renew the six month waiting period (A.R.S. §19-201 et seq.).

The recall packet is available from the County Elections Department. A person or organization wishing to take recall action against an elected official must present to the officer in charge of elections (in Yavapai County, this is the Elections Director) a completed application for recall petition serial number. A separate application must be completed for each person being recalled. The application must contain a statement of 200 words or less giving the grounds for recall. When the application is filed with the officer in charge of elections, that person will assign a petition serial number, determine the number of signatures which must be collected, and determine the deadline for filing the petitions. The signatures required must equal 25% of the votes cast in the last preceding general election for all candidates who ran for the office being held by the officer being recalled. If the elective officer to be recalled was appointed to the office or was deemed elected as the result of an election being cancelled because of the absence of opposing candidates, the recall petition must be signed by the number of qualified electors that is equal to at least 10% of the number of active registered voters in the jurisdiction or district represented by that elective officer as determined on the date of the last General Election. The deadline for filing the petitions is 120 days from the date the application for recall is filed with the officer in charge of elections.

Before circulating petitions, a statement of organization or \$500 threshold exemption statement must be filed. Petition signatures collected before the filing of a statement of organization or \$500 threshold exemption statement are invalid (A.R.S. §19-202(C)).

The person or organization taking the recall action is responsible for providing petitions. The petition serial number must appear on both sides of the petition in the location indicated, and the statement of recall must be a portion of the petition or it must accompany the petition. The petitions must be returned on or before the filing deadline.

The officer in charge of elections has 10 days to count the signatures, and, if enough signatures appear to have been gathered, the officer in charge of elections will submit the petitions to the County Recorder for verification. If there are not enough signatures, the officer in charge of elections will notify the person or organization initiating the recall that there are insufficient signatures and return the petitions to them.

Upon receipt of the recall petitions from the officer in charge of elections, the County Recorder has 60 days to verify that **all** the signatures are those of qualified electors living within the district. When the petitions are returned to the officer in charge of elections by the County Recorder, the officer has 5 days in which to total the number of valid signatures. If the number of valid signatures is sufficient to proceed, the petitions are considered to have been **officially filed**.

Once the petitions are officially filed, the officer in charge of elections will notify, within 48 hours (excluding weekends and holidays), the officer being recalled, giving the grounds for the recall and notifying the officer of his or her right to prepare a defensive statement to be printed on the ballot. Failure by the officer to submit a defensive statement within 10 days constitutes a waiver of the officer's right to have a defensive statement printed on the ballot. The officer who is the subject of the recall may choose to resign, and may do so by tendering a written resignation to the officer in charge of elections within 5 days of the date the petitions were officially filed (excluding weekends and holidays). If the officer being recalled resigns, his position is filled as provided by law.

If the officer being recalled does not resign within 5 days, the Board of Supervisors shall, within 15 days, issue an order calling for a special recall election to be held on the next consolidated election date that is 90 days or more after the order calling for the election. The consolidated election dates, pursuant to A.R.S. §16-204 are:

- The second Tuesday in March.
- The third Tuesday in May.
- The tenth Tuesday before the first Tuesday after the first Monday in November.
- The first Tuesday after the first Monday in November.

Nomination petitions of candidates desiring to run against the officer being recalled may be filed not more than 90 nor less than 60 days prior to the recall election. The officer being recalled is automatically placed on the ballot and does not need to circulate nomination petitions.

Following the election, the district board shall canvass the election not less than 6 nor more than 20 days following the election and shall present the canvass to the Board of Supervisors at the Board's next regularly scheduled meeting. (A.R.S. §19-215 and 16-642)

If the officer being recalled is, in fact, recalled as a result of the election, he or she continues to serve until completion of the election canvass.

If the officer being recalled is not recalled as a result of the election, no further recall action may be taken against the officer except as prescribed in A.R.S. §19-202.

Cost of the Election is a Charge Against the District

The district in which the officer being recalled serves must reimburse the County for expenses incurred in conducting the recall election. The County Recorder is entitled to reimbursement at a rate not to exceed 50 cents per signature for work performed in verifying signatures on the recall petitions. The Elections Department charges for its services in accordance with the Yavapai County fee schedule for special districts, which is updated annually.

Yavapai County Contact Person for Recall:

Lynn Constabile, Elections Director
Yavapai County Elections Department
(928) 771-3250
web.elections@yavapai.us

PUBLIC RECORDS AND RECORDS MANAGEMENT



PUBLIC RECORDS AND RECORDS MANAGEMENT

Arizona Revised Statutes define public records as "all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to section 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained in the record, and includes records that are made confidential by statute. Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records as used in this article." (A.R.S. §41-151.18)

Special districts, because they are governmental entities, are subject to Arizona laws regarding public records. There are specific provisions regarding the length of time that various types of records must be kept as well as how the destruction of records must be documented. The best resource for information regarding public records, including specific and common sense information about what actually constitutes a record, how long records must be kept, how to destroy records and how to best store records is the Records Management Division of the Arizona Department of Library, Archives and Public Records, 1919 West Jefferson, Phoenix, Arizona, 85009, 602-542-3741, e-mail: rmd@lib.az.us. The Records Management Division offers classes in records management as well as personalized assistance in dealing with records.

Public's Right to Examine Records

In addition to statutes requiring the keeping of records there are also statutes which deal with the public's right to examine records, including obtaining copies of records. Essentially, the law provides that public records must be open to inspection by any person at all times during regular office hours, and that copies of public records must be furnished when requested. A fee may be charged for such copies except that a fee may not be charged if the copies are for the purpose of making a claim for a pension, allotment, allowance, compensation, insurance or other benefits which will be presented to the United States government or one of its bureaus or departments. ***There are statutory penalties for failure to allow the inspection of public records or for failing to provide copies when requested to do so.*** (A.R.S. §39-121, et seq.)

Executive session minutes are **not** open to public inspection, and there may be some other district records, such as correspondence involving attorney-client privilege, which are also considered to be confidential. A district should consult with its attorney

regarding any records which may be deemed to be confidential and not subject to public scrutiny.

Contact for Records Management Information:

AZ Department of Library, Archives & Public Records, Records Management Division

1919 W. Jefferson

Phoenix, AZ 85009

Phone: (602) 926-3815

Fax: (602) 256-2838

rmd@azlibrary.gov

OPEN MEETING LAW



OPEN MEETING LAW

Notice: The information contained in this section of this handbook should not, under any circumstances, be considered as a substitute for the legal advice of your district's attorney.

Arizona Revised Statutes Title 38, Chapter 3, Article 3.1 addresses public meetings and proceedings. With the exception of executive sessions **all** meetings conducted by public bodies are open to the public, **including** meetings of advisory committees that are established by official action of the public body or by the public body's presiding officer if the members of those committees have been appointed to make recommendations to the public body.

Notice of Public Meetings

A special district may post on its website, in a conspicuous manner, a statement indicating where all public notices of their meetings will be posted, including the physical and electronic locations, and also give additional public notice as is reasonable and practicable as to all meetings. A district may also post all of its public meeting notices on its website and give additional public notices as is reasonable and practicable as to all meetings. Technological problems or failures that prevent the posting of public notices does not prevent the district from holding the meeting for which the notice was posted provided that the district complies with all other public notices requirements set forth in A.R.S. §38-431.02.

Districts that do not post public meeting information on their website will need to file with the Clerk of the Board of Supervisors a statement indicating where all public notices of their meetings will be posted. A standard form for this purpose is available on the Special Districts department page of the Yavapai County website. The district should complete the form and send it to the Clerk of the Board. The Clerk will sign the form, file the original in his or her office, and send a copy back to the district, which must post it at the location where notices are posted. The form does not need to be filed with the Board of Supervisors again unless the information on it changes.

Meeting agendas must be posted no less than 24 hours prior to the meeting. The agenda must list the specific matters to be discussed, considered or decided at the meeting. The governing board may discuss only those matters which are listed on the agenda. ***A member of a governing body is prohibited by law from knowingly directing any staff member to communicate with another member of the governing body on his or her behalf if such communication would circumvent in any way the provisions of the open meeting law.*** Matters not listed on the agenda cannot be discussed unless it is determined there is an emergency, in which case an emergency may be declared and the matter discussed and action taken. If an emergency is declared, a notice must be posted within 24 hours following the meeting

notifying the public of the emergency and describing the emergency matter as it would have been described if it had been on the agenda.

In cases of emergency a governing board should always give as much public notice as possible, but a governing board may hold an emergency meeting without posting an agenda in advance. Again, **notice of the emergency meeting must be posted within 24 hours following the meeting.** The notice must contain the same information that would have been provided had the subject of the emergency meeting been part of a regular meeting agenda.

Executive sessions may be held only for the reasons set forth in A.R.S. §38-431.03. Notice of executive session should identify in general terms the reason for the executive session, and should include the statutory reference under which the executive session is justified. The notice must provide more than just a recital of the statutory provisions authorizing the executive session, but it does not need to contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege. **Only individuals whose presence is reasonably necessary in order for the governing board to carry out its executive session responsibilities may attend an executive session.**

If an executive session is held to discuss a personnel matter, the governing board must deliver notice of the meeting to the person who is the subject of the executive session no less than 24 hours prior to the meeting. The notice must provide the person with whatever information the governing board deems appropriate, and must provide an opportunity for the person to indicate whether he or she wants discussion of the personnel matter held in executive session or in public session. A sample notice of executive session for a personnel matter is included in the forms section of this handbook.

Minutes of Governing Board Meetings

- The minutes of open session meetings must contain, at a minimum:
- The date, time and place of the meeting.
- The members of the public body recorded as either present or absent.
- A general description of the matters considered.
- An accurate description of all legal actions, proposed, discussed, or taken, and the names of the members making each motion.
- The names of any persons making statements or presenting material to the governing board, and a reference to the agenda item to which they referred.

Minutes of open session meetings are public records and must be made available to the public upon request.

Executive session minutes are confidential and may be seen only by any member of the governing board that met in the executive session and members who did not attend the executive session; any officer, appointee or employee who was the subject of discussion at an executive session; staff personnel, to the extent necessary for them to prepare and maintain the minutes of the executive session; the attorney for the public body to the extent necessary for the attorney to represent the public body; the Auditor General in connection with an authorized audit; or if subpoenaed by a court. In addition, the Attorney General or County Attorney may request executive session minutes when investigating violations of the open meeting law.

ANNUAL FILINGS



ANNUAL FILINGS

Annual Audit Reports

Each district organized under Title 48 must have its reports audited in accordance with generally accepted auditing standards, with the exception of districts organized under the following chapters:

Chapter 4 – Municipal Improvement Districts
Chapter 6 – County Improvement Districts
Chapter 17 – Agricultural Improvement Districts
Chapter 22 – Multi-County Water Conservation Districts
Chapter 27 – Groundwater Replenishment Districts
Chapter 28 – Active Management Area Water Districts

The audits are required for districts whose budgets are \$1 million or more. Districts with budgets of \$100,000 or more but less than \$1 million must have a financial review performed annually. Districts with budgets of more than \$50,000 but less than \$100,000 must have a financial review performed at least biennially (A.R.S. §48-253). Districts whose budgets are \$50,000 or less must have a financial review performed at the request of the County Board of Supervisors or upon receipt of a request for a financial review that is signed by at least ten residents of the district. A district cannot be required to perform a financial review more than once per fiscal year.

If a district submits an annual report for the preceding fiscal year in compliance with A.R.S. §48-251 which is attested to by an independent certified public accountant, the district is deemed to have complied with the requirements under A.R.S. §48-253. A copy of the annual report must be submitted to the County Treasurer.

A district may select an outside auditor who is a certified public accountant or a representative who is selected by the Board of Supervisors and who is trained as an auditor.

A district may advertise and use competitive bidding to select an agent to perform the audits or financial reviews required by this section.

Copies of the completed audit or financial report must be submitted to the County Treasurer and to the Board of Supervisors within 180 days after the close of the district's fiscal year, or within 180 days after a request for a financial review is received by the district pursuant to A.R.S. §48-253(A)(1).

If a district fails to comply with the requirement, the County Treasurer or the Board of Supervisors may petition the Superior Court to show cause why the report has not been submitted and, failing to show cause, the Court shall order the district to submit the audit or financial review within 10 days. The district may be ordered to pay reasonable attorney fees and costs associated with this action.

Annual Budgets

Each district organized under Title 48 must submit an annual budget to the Board of Supervisors and to the County Treasurer, with the exception of districts organized under the following Chapters:

- Chapter 4 – Municipal Improvement Districts
- Chapter 6 – County Improvement Districts
- Chapter 17 – Agricultural Improvement Districts
- Chapter 22 – Multi-County Water Conservation Districts
- Chapter 27 – Groundwater Replenishment Districts
- Chapter 28 – Active Management Area Water Districts

The budget must be prepared in a manner consistent with the annual financial statements required under Title 48, Chapter 1, Article 9, and must be submitted no later than July 10 of each year, except that fire districts have until August 1 to submit their budgets.

If a district fails to comply with this requirement, any taxpayer residing in the district, the Board of Supervisors, or the County Treasurer may petition the County Superior Court to show cause why the report has not been submitted and failing to do that, the Court shall order the district to submit the budget within 10 days. The district may be required to pay reasonable attorney fees and costs associated with this action.

Each special district may have budget requirements in addition to the requirements of A.R.S. §48-252. For example, the disposition of a sanitary district's fees, rentals and service charges is directed by A.R.S. §48-2027. Tax levies for sanitary districts must also be certified to the Board of Supervisors in accordance with A.R.S. §48-2025(C) and §48-2026(C).

All County improvement districts, including domestic water improvement districts, domestic wastewater improvement districts, road improvement and maintenance districts, and street lighting improvement districts must comply with A.R.S. §48-954, which refers to the budget process described in A.R.S. §42-17101 through §42-17106. This includes publishing a summary of the estimates of revenues and expenses that includes the addresses of libraries and of websites where the complete copy of the estimates of revenues and expenses can be found, and posting the complete estimate on the district's website.

Fire Districts must comply with A.R.S. §48-805(A)(2) and §48-807(E) with regard to the budget process. Pursuant to A.R.S. §48-807(G), beginning with the 2013-2014 fiscal year, a fire district must post a complete copy of its adopted budget on the district's website, or if the district does not have a website on the website of a fire district association, within seven business days after final adoption of the budget and must keep the copy on the website for at least 60 months.

Annual Reports

Pursuant to A.R.S. §48-251, each district organized under Title 48 with the exception of districts organized under Chapters 4, 6, 17, 22, 27 and 28, must submit an annual report within 180 days after the end of the district's fiscal year. Districts not operating during the entire period covered by the report are also exempt. The report must be submitted to the Clerk of the Board of Supervisors of the County in which the district is located.

The report shall contain the following:

- Beginning and ending balances, all revenues and expenditures for the preceding fiscal year including all monies, gifts of donations received from all sources with a value exceeding \$100.
- Legal description of any boundary changes occurring during the preceding fiscal year.
- The names, occupations and business telephone numbers of all members of the governing board and officers of the district on the last day of the preceding fiscal year.
- The schedule and locations of regular board meetings and locations where public notices of meetings are posted.
- Name and title of person(s) completing the report.

The Clerk of the Board will notify each district not in compliance with the reporting requirements by certified mail and the district must comply within 30 days after receipt of such notice. Any district remaining in noncompliance after 30 days will be assessed a penalty of \$100.00 per day for each day that the district is not in compliance with the reporting requirements until such time as the Board of Supervisors receives a copy of the district's annual report, to the extent that the district monies are available and unencumbered.

If the annual report is attested to by an independent certified public accountant and includes everything that is required, the report may be submitted to the County Treasurer as well and the district is then considered to have complied with A.R.S. §48-253, covering annual audit and financial reviews. (A.R.S. §48-253 (B)).

Yavapai County Contact Person for Annual Reports:

Kim Kapin, Clerk of the Board/Special Districts Coordinator

Yavapai County Board of Supervisors

(928) 928-771-3200

Kim.Kapin@yavapai.us

NON-COUNTY CONTACT INFORMATION

Submit Orders of Establishment and Boundary Changes to:

Flo Villaverde, Program Project Specialist
CIS/GIS Section
Property Tax Division - GIS
Arizona Department of Revenue
1600 West Monroe Street
Phoenix, AZ 85007-2612
602-716-6832
fvillaverde@azdor.gov

Submit Orders of Establishment and Boundary Changes and election preclearance requests to:

For requests sent by regular mail:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530

For requests sent by Airborne, DHL, Federal Express or UPS:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G Street, N.W.
Washington, DC 20006

The above addresses for the Department of Justice may be subject to change and it is recommended that addresses be confirmed prior to making submissions. The Voting Section Home Page for the Department of Justice is found at the following address, and may provide additional information: www.justice.gov/crt/about/vot/

SPECIAL DISTRICT FORMS

A variety of forms that may be useful to special districts are currently available on the Yavapai County website at the following address:

www.yavapai.us/sd/forms/