

WATERSHED IMPROVEMENT DISTRICT STEP-BY-STEP INSTRUCTIONS



Helpful Definitions

Landowner: Defined in the principal act as: “any person, or a group of persons, firm or corporation holding title to, or occupying under a contract of purchase, any land lying within a watershed improvement district organized or proposed to be organized under the provisions of this act” (W.S. 41-8-101 (c)).

Written Authorization: Defined in the principal act as: “an affidavit filed with the election official . . . setting forth a general legal description of the property owned, the street or common name address for the property, the name or names of all owners of the property described, and a statement that the person signing the written authorization is the only person having authority to act on behalf of the owner or owners of the property” (W.S. 41-8-101 (f)).

Due Notice: Defined “*for provisions other than elections and referendum provisions*” in the principal act: “notice published at least twice, with an interval of at least six (6) days between the two (2) publication dates, in a newspaper of general circulation within the boundaries of the proposed or organized district” (W.S. 41-8-101 (d)).

It goes on to specify that the notice of hearings held under this act “shall fix the time, place and purpose thereof, which time shall not be less than ten (10) or more than fifteen (15) days after the *first* publication or first posting of such notice.” (W.S. 41-8-101 (d)).

It also provides that “at any hearing held pursuant to such notice. . . adjournment may be made. . . without the necessity of renewing such notice for such adjourned dates.” (W.S. 41-8-101(d)).

For elections or referendums notice shall be as specified in the Special District Elections Act of 1994 (W.S. 41-8-101(d) and 41-8-108). There is no specific definition for “Due notice” in the Special District Elections Act; however, there are publication requirements for the election. These include a proclamation of election (W. S. 22-29-110 (a) for organization and initial director elections and 22-29-112 (c) for subsequent director elections), publication of a sample ballot (W.S. 22-29-110 (c)) for formation and initial director elections, and a list of candidates for subsequent director elections (22-29-112 (e)).

The Formation Process

- 1) The interested group or individual should obtain the information for the petition and all necessary forms for formation from the Conservation District (CD). CD secretary fills out formation tracking sheet (Sample form 1)
- 2) The group or individual submits a map and legal description of the proposed Watershed Improvement District (WID) to the County Assessor and the Department of Revenue. Before a petition can be considered filed, the County Assessor and Department of Revenue must review the boundaries for any proposed conflict. Within 60 days of receiving the information, they will provide written comments that should be submitted with the petition (W.S. 22-29-109). (Sample forms 2 & 2A)
- 3) The petition is submitted to the CD Board of Supervisors (BOS). BOS submits copy to Wyoming Board of Agriculture (WDA) (W.S. 41-8-105). The petition is filed with the Secretary of CD (W.S. 22-29-107).
 - Petition must comply with Special District Elections Act, 22-29-105 (41-8-105)
 - Signed by at least 25% of landowners owning at least 25% of the assessed valuation of property (22-29-105 (a)). On the petition, the signer must (22-29-106):
 - Include the date of signature
 - Indicate whether they are signing the petition as an:
 - Elector: include date of birth and place of residence
 - Landowner: include number of acres owned and county where on the assessment roll
 - Legal Representative of landowner: include signer's written authorization to sign as legal representative
 - The formal, completed petition must include: (W.S. 22-29-105 (f))
 - Proposed name of Watershed Improvement District (WID)
 - Proposed boundaries, including a map and description
 - A request that a WID be formed under WID law and pursuant to the Special District Elections Act.
 - Purpose of the WID and what services will be provided, acquired, operated, or constructed
 - Proposed method of financing improvements overview provided within the 1st year
 - Number and names of individuals willing to serve on the initial WID Board of Directors
 - Who is responsible for the cost of formation
- 4) Within 10 days after petition is offered for filing, the CD Secretary examines the petition for the number of qualified signers (W.S. 22-29-107 (b)). The secretary shall disregard the signature of any person not shown as the owner on the County Assessment rolls, unless provided with written evidence prior to certifying the petition (W.S. 22-29-108).

The petition is not considered filed until the CD Secretary certifies and attaches a certificate that states (W.S. 22-29-107 (c)):

- Secretary has verified the qualifications of the signers
- Secretary has ascertained the number of qualified signers
- The requisite number of qualified signers have been obtained

5) The CD BOS acts on petition as specified in W. S. 22-29-109 (W.S. 41-8-107 (a))

- CD BOS set a date of hearing to be held 45-90 days after filing.
- CD BOS cause notice for the hearing in newspaper (Sample form 3) twice with an interval of at least six days between the two publication dates and the first (W. S. 22-29-109 (a) (ii) says the “last of notices published at least 10 days before hearing”) notice published between 10 and 15 days before the hearing date (W. S. 41-8-101 (d)) and posted in public 3 places. The notice shall state:
 - Time and place and purpose of hearing (W. S. 41-8-101 (d) and (W. S. 22-29-109 (a) (ii) (C))
 - Purpose of proposed District (W. S. 22-29-109 (a) (ii) (A))
 - Name and boundaries of proposed District (W. S. 22-29-109 (a) (ii) (B))
 - That all interest persons may appear and be heard (W. S. 22-29-109 (a) (ii) (D))
- Hold hearing concerning any matters affecting the creation and record the proceedings as part of the public record in the CD minutes (W. S. 22-29-109 (b)). The CD may adjourn the hearing without additional notice, unless the total time period exceeds four weeks (W. S. 22-29-109 (c)).
- If written protests signed by owners of at least 35% of assessed valuation of property within the proposed District are received within 30 days after adjourning the hearing, the proposal shall fail (W. S. 22-29-109 (e))
- Determine whether or not WID is needed in the interest of public health, safety, and welfare
 - If determination is that WID is not needed (W. S. 41-8-107(d)):
 - Make and record the determination in the CD minutes
 - Deny the Petition and the process ends
 - If determination is Yes the WID is needed (W. S. 41-8-107(c)):
 - Define boundaries by metes and bounds or by legal subdivisions. (These boundaries should already have been established and reviewed by the Assessor’s office. Unless the initial boundary determinations are changed within the hearing, this is just a process to formalize the boundaries.)
 - BOS can exclude land that will not be benefited (W. S. 41-8-107 (b))
 - BOS can include additional land, but shall adjourn and cause notice of a further hearing (W. S. 41-8-107 (c))
 - Make and record determination in the CD minutes

- 6) After finding that there is a need and determining the boundaries, the BOS holds a referendum to help determine whether the operation of the District is administratively practicable and feasible (W. S. 41-8-108)
 - Notice shall be given as provided in the Special District Elections Act of 1994 (W. S. 41-8-108). Published at least twice, with an interval of at least six (6) days between the two (2) publication dates, in a newspaper of general circulation within the boundaries of the proposed or organized district. (Sample form 4)
 - By Mail Ballot or next election date (W. S. 41-8-108) which is at least sixty (60) days after the entry of the finding. If not held on the same day as a primary or general election, all elections (including mail ballots) shall be held on the Tuesday following the first Monday in May or November, or on the Tuesday following the third Monday in August (W. S. 22-21-103).
 - If mail ballot
 - No later than 45 days prior to election day, CD request from County Clerk a list of qualified electors residing within the affected District (W. S. 22-29-116 (a) (i))
 - No later than 30 days prior to election day, County Clerk certify and submit the list of qualified electors (this serves as the poll list) (W. S. 22-29-116 (a) (ii))
 - 25-15 days prior to the election, mail to each landowner who has filed a written authorization (Sample form 5) and request for a mail ballot and to each qualified elector entitled to vote, a mail ballot package (W. S. 22-29-116 (a) (iii)) marked "Do not forward. Address Correction Requested."
 - Include the following information on the ballot:
 - Name of the WID or proposed WID (W. S. 22-29-113 (h) (i))
 - County and date of Election (W. S. 22-29-113 (h) (ii))
 - Number and length of terms for each office (if initial director, terms will be chosen by lot after the election) (W. S. 22-29-113 (h) (iii))
 - Any other ballot proposition (W. S. 22-29-113 (h) (iv))
 - A warning statement "The criminal laws regulating the conduct of elections contained in chapter 26 of the Wyoming Election Code of 1973, as amended, apply with equal force to elections conducted by mail." (W. S. 22-29-116 (a) (iv))
 - Ballots must be made available at the election officials office (CD office) from 25 days prior to the election until close of the election day (W. S. 22-29-116(a)(v))
 - Election official shall provide a minimum of one polling place (CD office) to be open for 5 consecutive hours anytime between 9 a.m. and 7 p.m. and set forth in the notice of election (W.S. 22-29-116(b))
 - All qualified electors and owners of land within the boundaries of the district, as determined by written authorizations, are eligible to vote (W.S. 41-8-109)
 - **Qualified electors** are defined as a natural person who is a citizen of the United States; is a bona fide resident of the proposed district, will be at least 18 on the day of the election, and is registered to vote (W.S. 22-29-104 (v))
 - **Landowners** are defined as any person, or a group of persons, firm or corporation holding title to, or occupying under a contract of purchase, any

land lying within a watershed improvement district organized or proposed to be organized (W.S. 41-8-101 (c)). Here "person" includes an individual, corporation, partnership, association, or other entity owning land within the proposed district provided that the individual who signs the petition presents the CD with a written authorization to sign (W.S. 22-29-104 (ii))

- 40-50 days before the election CD BOS publish proclamation for the formation election at least once stating (W.S. 22-29-110 (a)):
 - date of the election
 - who is the filing officer
 - question of formation
 - other pertinent election information
- Written authorizations (sample forms 5, 5A) must be filed with the CD at least 30 days prior to the election (W.S. 41-8-109 (c)).
- At least 10 days prior to the formation election CD publish a sample ballot in newspaper (W.S. 22-29-110 (c))
 - Question of formation
 - Candidates
 - Other ballot propositions (sample form 6)
- Election is conducted by the CD under the direction of County Clerk and at the expense of the CD (as the sponsor) who may request reimbursement from the WID upon formation (W.S. 22-29-111 (b)).
- Election shall be canvassed by a canvassing Board consisting of the District Secretary and two electors appointed by the District Board (W.S. 22-29-114 (e)). Results are obtained and reported (W.S. 41-8-110).
 - Polling officers (CD BOS selects 3, one of which is the superintendent) count votes when the polls are considered closed. If mail ballot this is close of business on the Election Day (W.S. 41-8-110).
 - Polling officers deliver report and ballots to polling superintendent (W.S. 41-8-110).
 - Polling superintendent certifies results to the BOS (W.S. 41-8-110) to be compiled.
- BOS/Canvassing Board cause minutes of the canvassing meeting and signs the abstract of the votes (W.S. 22-29-114 (e)(i)) (Sample form 7)
 - Total number of votes cast in the election (22-29-114 (e)(i)(A))
 - Number of votes received by each person at each polling place (W.S. 22-29-114(e)(i)(B))
 - Statement of the offices to be filled and declaration of the winners (W.S. 22-29-114(e)(i)(C))
 - Result of any ballot proposition (W.S. 22-29-114 (e) (i) (D))
- BOS/Canvassing Board file abstract with Election Official and County Clerk (W.S. 22-29-114 (e)(ii))
- BOS determines whether the operation of the proposed WID is administratively practicable and feasible (W.S. 41-8-110)
 - If determination is that operation of the WID is not practicable and feasible:
 - Make and record the determination in the CD minutes
 - Deny the petition and the process ends

- If determination is that operation of the WID is practicable and feasible (only with a majority of votes CAST in the referendum in favor and that the affirmative votes represent a majority of the acres included (W.S. 41-8-110)):
 - Declare WID to be created (W.S. 41-8-110)
 - Certify the creation to the County Clerk and County Commissioners for recordation (W.S. 41-8-110)(Sample form 8)
 - Certificate of the BOS filed with the Secretary of State and a copy filed with Wyoming Board of Agriculture (W.S. 41-8-110)
 - CD send written notice of the formation to the Wyoming Department of Audit (W.S. 22-29-111)(h))
 - Within 10 days after formation, the WID file a copy of the legal description which is contained within the formation document and a copy of an official map with the department of revenue, the county assessor, and the county clerk (22-29-103 (e) (i))
- 7) BOS holds elections for WID Board of Directors (BOD) (V41-8-112). Held within 30 days after the creation of the WID (W.S. 41-8-112(a))
- Following the formation election, CD BOS publish proclamation stating (W.S. 22-29-110 (a)):
 - date of the election
 - who is the filing officer
 - what offices are to be filled, including the terms of office
 - filing period for offices
 - other pertinent election information (Sample form 9)
 - 25-30 days before the initial director election, candidates shall file an application (sample form 10) for election in the CD office (W.S. 41-8-112 (c)) using the approved format (W.S. 22-29-110 (b)). CD will determine whether applicant is eligible (W.S. 22-29-110 (e))
 - landowner within the WID
 - Cannot be a CD supervisor
 - BOD consists of 5 members (for 1st election, choose (by lot) the lengths of initial terms)
 - BOD serve staggered three year terms
 - BOD annually elect a chairman, secretary, and treasurer (W.S. 41-8-112 (b))
 - BOS/Canvassing Board file abstract and certificate of election with CD & County Clerk (Sample forms 11 & 11A)
 - Within 10 days after being notified of being elected, candidates must file an oath of office (sample form 12) with the CD and the County Clerk (W.S. 22-29-118)

Responsibilities/Requirements of the formed WID

Treasurer executes a surety bond with premium paid by the WID. The amount of the bond should be for the amount of money for which the treasurer is responsible (determined by BOD) (W.S. 41-8-112 (b)).

WID subject to oversight of accounts by the Department of Audit in accordance with W.S. 9-1-507 (a) (iii) (W.S. 41-8-112 (b))

- Prepare and file an annual report of their books and records according to the rules promulgated by the director of the Department of Audit (W.S. 9-1-507 (a) (iii))
 - Rules provide for different levels of oversight depending upon the revenues received or expenditures made by the district during the fiscal year
- At the expense of the WID (W.S. 9-1-507 (a) (iii))

BOD file annual report with CD BOS (due March 1 each year) and including (W.S. 41-8-112 (b)):

- Financial statement
- Operation and maintenance activities for previous year
- Proposed developments for current year
- BOS file copy of WID Annual Report to WDA

WID annually (if changes) file a copy of the legal description and a map with the Department of Revenue, County Assessor and County Clerk at a date specified by them (W.S. 22-29-103 (e) (ii))

BOD holds joint quarterly meetings with BOS (W.S. 41-8-112 (d))

- To consult BOS and advise upon WID activities
- One shall include a joint inspection tour

Special District must file with the County Commissioners and County Clerk a list of current directors by April 30 of each year (22-29-113(d))

Under the supervision of the CD BOS the WID BOD can (41-8-113 (a)):

- Levy and collect assessments for special benefits
- Acquire, maintain, and dispose of property
- Have power of eminent domain
- Construct structures (as necessary for the performance of the WID)
- Borrow money
- Cooperate with towns, cities, counties, state, and federal agencies

W.S. 41-8-114 through 126 discuss other powers etc. for the WID such as bonds, assessments, appraisals, etc. Not all mention or seem to pertain to the CD

- 114: Bonds
- 115: per diem/mileage reimbursements
- 116: hearings on proposed projects
- 117-119: appraisals for benefited property; paid by the WID
- 120: assessments on state land
- 121: certifying assessments to County Commissioners
- 122: Levy taxes. Notes that expenditures are made under the Supervision of BOS.
- 123: Liens
- 124: Repealed.
- 125: If CD is dissolved, WDA becomes supervising body
- 126: Existing Water Rights

Other notes that may apply.

- Candidates are NOT required to file receipts and expenditures report (W.S. 22-29-113 (b)(iii))
- Special District elections not conducted in conjunction with another election are at the expense of the Special District (W.S. 22-29-113 (c))
- If the formation of the WID fails by protest or at the referendum
 - If by protest: no action to resubmit petition for 6 months
 - If at the referendum: no action to resubmit petition for 1 year
- For Mail Ballot elections, the election official for a formation election is the CD staff or supervisor and for subsequent elections after the formation the election official is the CD Secretary for annual BOD elections or the WID Secretary for other elections held by the WID (W.S. 22-29-115(a)(i))
- County Commissioners may order formation elections to be mail ballots (W.S. 22-29-115(c)).
- Contact your County Clerk for further information on the WID election process.