

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, except that such a request must be made before the county board of supervisors orders the creation of a proposed new district of the same type or the district governing body orders the annexation by a district of the same type in which the property owner's land is proposed for inclusion and for which petitions are being circulated. 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 deannexed 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 Pima and Pinal County, the impact statement is circulated to members of the Board and to the Assessor and GIS/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. §48262(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 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 Pima and Pinal 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 Pima and Pinal County Elections Department of the action.

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