

## **CHAPTER 11-28.2 RECREATION SERVICE DISTRICTS**

### **11-28.2-01. Establishment of recreation service districts - Petition - Purpose.**

The board of county commissioners of any county, at any meeting of the board, by majority vote of all of the members may, upon the petition of ten percent of the individuals who qualify under section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of the district to determine the question of the establishment of a recreation service district for the purpose of providing services, which may include police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to those provided by the local governing body or agency to summer homes, cottages, and other residences and establishments that exist within the area, and provide for the improvement and control of the environmental quality of the recreation service district. The recreation service district must be limited in size and location to an area contiguous to or within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, the district must consist of not less than forty privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for an election, the petition must be accompanied by any information required by the board of county commissioners, including the boundaries of the proposed recreation district, the approximate number of qualified voters, and a sufficient deposit of money to cover all costs of the election. Within sixty days after the calling of an election, the board of county commissioners shall provide an election on the question of whether a recreation service district should be established and shall establish procedures for voting and other necessary matters not inconsistent with this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters. If a majority of the qualified electors voting on the question approve of the establishment of a recreation service district, the district must be organized.

The board of commissioners of a recreation service district may extend the boundaries of the district to property within or contiguous to the one-quarter mile [402.34 meters] limit through the annexation procedures provided in sections 11-28.2-06 through 11-28.2-08.

### **11-28.2-02. Meetings of recreation service districts - Election of board.**

The first meeting of the recreation service district must be held within thirty days after the district is organized at a time and place designated by the board of county commissioners. At the meeting, the qualified voters, as defined in section 11-28.2-03, shall elect not less than five qualified voters of the district to serve as members of the board of recreation service district commissioners. Each member elected and qualified shall serve until the first annual meeting of the district. The voters of the district shall assemble and hold an annual meeting during the month of June of each year, at a time and place within the county designated by the board of recreation service district commissioners. In addition to the annual meeting, the board of recreation service district commissioners may call a special meeting of the voters of the district at the time and place the board selects. For any annual or special meeting, the board shall publish notice of the meeting not less than fifteen days before the meeting in the official county newspaper of the county in which the district is located and the notice must be mailed to property owners of the district as recorded in the county treasurer's office in which the district is located not less than fifteen days before the meeting. No fewer than five qualified voters of the district must be elected to serve on the board of recreation service district commissioners at the annual meeting. Each member elected shall serve a term of three years, until a successor is elected and qualified. The term of each member must be established so that the terms of approximately one-third of the members terminate each year. The members of the board are entitled to receive compensation in an amount of no more than one hundred dollars per meeting of the board, as determined by the board.

### **11-28.2-03. Qualifications of voters and commissioners.**

In order that there may be a fair representation of property owners and residents of the recreation service district, a person eighteen years of age and older may qualify as a voter for purposes of this chapter by presenting adequate proof or by signing a proper affidavit that the person qualifies by either one of the following methods:

1. That the person is a resident of the county for all other purposes of voting and maintains a permanent residence within the recreation service district.
2. That the person owns real property within the recreation service district. If there is more than one owner of such real property, each shall be entitled to one vote.

It is the intent of this section that all persons who shall be affected by the provisions of this chapter shall be allowed to have a voice or vote.

### **11-28.2-04. Powers of recreation service districts - Levying of special assessments.**

Each recreation service district established under this chapter may provide services, which may include police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to those provided by the local governing body or other agency to summer homes, cottages, and other residences and establishments that exist within its boundaries, provide for the improvement and control of the environmental quality of the recreation service district, and levy special assessments necessary to provide the services. Any project or service provided by a recreation service district other than under section 11-28.2-04.1 must first be approved by a majority of the qualified voters of the district affected by the special assessment and present and voting at an annual or special meeting called as provided in this chapter. The levying of special assessments for services and improvement of environmental quality must be levied against those parcels of property benefited in the manner provided by law for the levying of special assessments for municipalities and the costs of police protection may be levied in that manner. A recreation service district may contract with other political subdivisions for joint or cooperative action as provided in chapter 54-40. The board of recreation service district commissioners are responsible for the administration and accounting of any obligations and accounts undertaken in accordance with this chapter. The board of recreation service district commissioners shall serve as the special assessment commission and shall make a complete list of the annual benefits and assessments on each parcel of property within the district. The board shall also hear appeals from aggrieved property owners concerning assessments made and may increase or decrease any assessment if just and necessary. A special assessment may not exceed the benefits determined by the board to the parcel of property assessed. The board may cooperate with the state or federal government in furnishing assurances and meeting local cooperation requirements, within the scope of the power of the board, in connection with any project involving the construction, improvement, operation, maintenance, conservation, or use of the area, including waters, within the recreation service district.

#### **11-28.2-04.1. Power of recreation service districts to make improvements - Creating district - Determining necessity - Contracting for improvement - Levying special assessments and taxes and imposing service charges - Issuance of warrants.**

Each recreation service district established under the provisions of this chapter shall have the authority to make those improvements specified in subdivisions a, b, and f of subsection 8 of section 21-03-06. In making any such improvement, in addition to any other powers granted in chapter 21-03, a recreation service district shall, subject to the provisions of this section, be deemed to be a "municipality", as the term is used in chapters 40-22 through 40-27, for the purpose of creating an improvement district, determining the necessity of making an improvement, contracting for an improvement, levying special assessments and general taxes and imposing service charges to pay the cost of an improvement, issuing temporary, definitive, and refunding warrants to finance an improvement, and levying general taxes to pay any deficiency in moneys available to pay the principal and interest on any warrants so issued. The above language refers to all projects and services costing more than five thousand dollars. Provided, however, with respect to section 40-22-15, if the resolution declaring improvements necessary is required to be published, it shall also be sent by first-class mail to the owners of all

property within the improvement district not more than ten days after the first publication of the resolution.

**11-28.2-04.2. Powers of recreation service districts - General tax levy.**

The board of recreation service district commissioners of a recreation service district created under the provisions of this chapter may, upon proper resolution of the board, levy a tax for general purposes not exceeding the limitation in section 57-15-26.1.

**11-28.2-05. Dissolution of recreation service districts.**

Any recreation service district shall be dissolved upon a vote of a majority of the qualified voters in the district, provided that such district has no outstanding indebtedness. Any funds remaining upon the dissolution of a recreation service district shall be deposited in the general fund of the county in which such recreation service district is located.

**11-28.2-06. Annexation by petition of owners.**

Upon a written petition signed by the owner of any property within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land dedicated to public use for recreational purposes or contiguous to that area and not embraced within the limits of the recreation service district, the board of commissioners of the recreation service district may annex the territory to the district.

**11-28.2-07. Petition of owners - Annexation.**

If the recreation service district annexes the area, it shall do so by resolution. When a copy of the resolution and an accurate map of the annexed area, certified by the chairman of the board of commissioners, are filed and recorded with the county recorder, the annexation becomes effective. An annexation is effective for the purpose of levying special assessments by the recreation service district on and after the first day of the next February.

**11-28.2-08. Annexation by resolution of district.**

The board of commissioners of a recreation service district may adopt a resolution to annex territory as follows:

1. The board shall adopt a resolution describing the property to be annexed.
2. The board shall publish the resolution and a notice of the time and place the board will meet to hear and determine the sufficiency of any written protests against the proposed annexation in the official newspaper of the county once each week for two consecutive weeks. The board shall mail a notice to the owner of each parcel of real property within the area to be annexed at the person's last-known mailing address. The notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing. The owners of any real property within the territory proposed to be annexed, within thirty days of the first publication of the resolution, may file written protests with the board protesting against the proposed annexation. No state-owned property may be annexed without the written consent of the state agency or department having control of the property. The board, at its next meeting after the expiration of the time for filing the protests, shall hear and determine the sufficiency of the protests.
3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the district. When a copy of the resolution and an accurate map of the annexed area, certified by the chairman of the board, are filed and recorded with the county recorder, the annexation becomes effective. Annexation is effective for the purpose of special assessments levied by the recreation service district on and after the first day of the next February. If the owners of one-fourth or more of the territory proposed to be annexed protest, the board shall stop its pursuit of the annexation.