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SPECIAL DISTRICTS

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I. Introduction

The Code of Iowa contains many chapters and provisions that authorize the creation of local government entities, known collectively as "special districts." Special districts have emerged as a way to allow localized solutions for specific problems and services. A special district may not necessarily fall within the boundaries of a single local government entity, such as a city or county.¹ Some special districts have broad implementation throughout the state, such as rural water districts under Code Chapter 357A. Other special districts were enacted with a particular area, county, or situation in mind, such as a pilot project emergency response district under Code Chapter 357J.²

Purposes for the various special districts are broad and encompass many services and functions that are traditionally provided by local governmental entities, such as water services, fire protection services, emergency response services, law enforcement services, and street lighting. The 13 types of special districts analyzed in this Legislative Guide can largely be grouped into three main categories: special districts relating to the provision of utility services, special districts relating to the provision of law enforcement and emergency services, and special districts relating to economic development.

This Legislative Guide is intended to provide a summarization of the most common elements of the various special districts under the Code of Iowa, identify unique characteristics of certain types of special districts, and provide a brief description of each special district.

Unless otherwise indicated, references in this Legislative Guide to the Iowa Code are current through both the 2009 Iowa Code and 2009 Iowa Code Supplement.

II. Statutory Framework

A. Methods of Creating a Special District

The most common way under Iowa law to initiate the formation of a special district is through a petition process. Under this process, the county board of supervisors or other specified local government office³ is presented with a petition containing a minimum number of signatures. The required number of signatures can be based on a variety of statutory standards. The following are examples of such standards:

- The owners of at least 30 percent of all real property lying within the proposed district.⁴

¹ For certain special districts, if the special district provides the service that would have otherwise been provided by a different local government entity, the other local government may no longer be responsible for providing that service. See Iowa Code § 357J.15 (providing that if a city is located within an emergency response district, "[s]uch city shall not be responsible for providing fire protection service and emergency medical service as provided in section 364.16, and shall have no liability for the method, manner, or means by which the district provides the fire protection service and emergency medical service").

² See also Iowa Code § 357H.1(1) (limiting the designation of a rural improvement zone to areas of counties with less than 20,000 residents, not counting persons admitted or committed to an institution under the control of the Department of Corrections or institutions under the control of the Director of the Department of Human Services).

³ See Iowa Code § 358C.3(8) (requiring the petition to be submitted to and approved by the city council before it is filed with the county auditor).

⁴ Iowa Code § 357A.2.



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- Twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least 25 percent of the total assessed value of the proposed district.⁵
- The fewer of 25 property owners or 25 percent of the property owners of the proposed district.⁶
- Any 25 or more eligible electors residing within the limits of the proposed district.⁷

Certain special districts allow multiple standards for the required number of signatures on a petition. In particular, creation of a real estate improvement district under Code Chapter 358C may be initiated following a petition (requesting the issue be placed on the ballot) by a majority of the owners having an interest in the real property within the limits of a proposed district or following a petition by all of the owners having an interest in the real property within the proposed district (not requiring a vote by the electorate within the proposed district).⁸

Other special districts do not provide for creation by a petition process. For example, the creation of an emergency response district under Code Chapter 357J may be initiated only by the board of supervisors' own motion.⁹ The board of supervisors is, however, required to hold a public hearing on the proposed emergency response district¹⁰ and seek approval of the emergency response district plan by the state fire marshal.¹¹

B. Contents of a Petition

In addition to requirements relating to the number of petitioners, a petition may also be required to include:

- Information relating to the specific services to be provided by the special district.
- Information relating to the need for the services or purpose of the special district.
- The proposed location or boundaries of the special district.¹²
- The approximate number of persons that would be impacted or served by the special district.
- The proposed personnel, equipment, and facilities required by the special district.

⁵ Iowa Code § 357D.2.

⁶ Iowa Code § 357E.3.

⁷ Iowa Code § 358.2.

⁸ Iowa Code § 358C.3(1)-(2).

⁹ Iowa Code § 357J.3(1).

¹⁰ Iowa Code § 357J.3(1).

¹¹ Iowa Code § 357J.6(2)-(5). The board of supervisors must also submit the plan for the special district to the County Finance Committee. Iowa Code § 357J.6(2). The County Finance Committee is required to review the proposed district's financial information, including revenues, expenditures, and budget items as well as the financial implications and plan for transitioning to a new financing structure and report its findings to the state fire marshal. Iowa Code § 357J.6(3).

¹² The Iowa Supreme Court has held that the fact that an original petition omitted part of the boundary line description did not invalidate the organization of the district, where the omission was corrected in all proceedings subsequent to the first hearing. *Walker v. Sears*, 245 Iowa 262, 266, 61 N.W.2d 729, 731 (1953). Iowa Code § 357.1A(2) requires the petition to include "[t]he approximate district to be served." The Iowa Supreme Court examined this provision and held that "when it is proposed to establish a district almost one-third larger than that petitioned for, the petition does not set out an 'approximate' description of the property in the district proposed to be served, and therefore the terms of the statute are not substantially complied with." *Fiesel v. Bennett*, 255 Iowa 98, 280 N.W. 482, 484 (1938).

Certain petitions are required to include plans "describing the cost feasibility and estimated construction schedules."¹³ Petitions may also be required to include information on critical items that are relevant to a specific type of special district. For instance, a petition for a street lighting district is required to identify the proposed utility that will provide the street lighting service.¹⁴ Petitions may also be required to propose the names of owners of real estate in the proposed district or the designees of such owners, to serve as trustees of the district until their successors are elected and qualified.¹⁵

Petitions may also be required to include information relating to the petitioners themselves. A petition for a real estate improvement district is required to state that the owners of real estate who are forming the proposed district are willing to pay the taxes which may be levied against all of the property in the proposed district, are willing to pay special assessments against the real property benefited which may be assessed against them to pay the costs necessary to carry out the purposes of the district,¹⁶ and state that those owners waive any objections to a subsequent annexation by a city.¹⁷

Certain special districts may be established in combination with other special districts. Specifically, upon receipt of a petition having the required signatories as provided in Code Section 357.1A or Code Section 358.2, the board of supervisors must grant a hearing relative to the establishment of a proposed combined water and sanitary district.¹⁸ The petition for such a combined district must include the information required in Code Sections 357.1A and 358.2 for proposed water districts and sanitary districts.¹⁹

C. Special District Boundaries

Many special districts are limited in the types of real property that may be included within the district's boundaries. It is common to find that special districts may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships,²⁰ but may not include property assessed as agricultural land, or centrally assessed property.²¹ This limitation is found largely in relation to special districts that allow the imposition of a property tax levy or other special assessments where the agricultural land or centrally assessed property may not receive a direct benefit from the special district. Some of the special districts that specifically exclude specified types of property, such as centrally assessed property or manufacturing property, allow the owners of such property the option to be included in the district.²²

¹³ Iowa Code § 357A.2(3).

¹⁴ Iowa Code § 357C.1A(4).

¹⁵ Iowa Code § 358C.3(6). This petition requirement may be coupled with required disclosures regarding whether the proposed persons have any conflict of interest with the operation of the special district. Iowa Code § 358C.3(6).

¹⁶ Iowa Code § 358C.3(4).

¹⁷ Iowa Code § 358C.3(5).

¹⁸ Iowa Code § 357.1B.

¹⁹ Iowa Code § 357.1B(1). The board of supervisors of the county in which the proposed combined district or largest part of the proposed combined district is located shall have jurisdiction of the proceedings on the petition and the decision of a majority of the members of that board of supervisors is necessary for adoption. Iowa Code § 357.1B(1).

²⁰ See, e.g., Iowa Code § 357C.2.

²¹ See, e.g., Iowa Code §§ 357D.3, 357F.3.

²² See, e.g., Iowa Code § 357D.3.



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Other boundary limitations include preventing any area which is part of an urban renewal area under Code Chapter 403 from being included within a special district,²³ limiting a special district to “parcels of land within the boundaries of a city, on parcels of land, all or the major part of which is within two miles of the boundaries of a city, or on parcels of land from both locations,”²⁴ and restricting territory from being included within more than one of the same type of special district.²⁵

Some special districts do not have strict boundary limitations and "may include any incorporated or unincorporated areas within a county"²⁶ or "may include part or all of any incorporated city or cities, together with or without contiguous or noncontiguous territory including cemeteries and all publicly owned land."²⁷ But for some special districts, only "areas of contiguous territory may be incorporated within a district."²⁸

The boundaries and location of a special district may be impacted by the district's proximity to other governmental entities. Certain proposed special districts may be required to give notice of intent to provide a service within two miles of another local government entity, such as a city.²⁹

D. Petition Approval Process

A valid petition meeting all the statutory requirements will trigger a public hearing that is typically held within 30 days of the presentation of the petition.³⁰ Notice of the hearing is usually required by publication in a newspaper of general circulation within the proposed special district.³¹ Following the hearing, and typically within 10 days of the hearing, the board of supervisors or other specified entity is required to either establish the district by resolution or disallow the petition.³² For sanitary districts, however, a majority of the landowners, owning in the aggregate more than 70 percent of the total land in the proposed district, may file with the county auditor a written remonstrance (objection) against the proposed district at or before the time fixed for the hearing on the proposed district.³³ If such a remonstrance is filed, the board of supervisors must discontinue all further proceedings on the proposed district and charge the costs incurred to date relating to the establishment of the proposed district to the petitioners.³⁴

During the approval process, the board of supervisors may adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district.³⁵ However, for some special districts, the

²³ See, e.g., Iowa Code § 357H.4 (relating to the creation of rural improvement zones).

²⁴ Iowa Code § 358C.2(9).

²⁵ Iowa Code § 358.2.

²⁶ Iowa Code § 357J.4(1).

²⁷ Iowa Code § 357.2. It is also important to note that the publicly owned property may be required to pay and bear its proportionate share of the cost and expense associated with the special district upon the same basis as privately owned property. See Iowa Code § 357.2.

²⁸ Iowa Code § 358C.3(3).

²⁹ See Iowa Code § 357.1A.

³⁰ See, e.g., Iowa Code §§ 357.4, 357C.3.

³¹ Iowa Code §§ 357D.4, 357F.4.

³² Iowa Code §§ 357F.5, 357H.4. But see Iowa Code § 357.5 (“On the day fixed for such hearing, the board of supervisors shall by resolution establish the benefited water district or disallow the petition. For adequate reasons the board of supervisors may defer action on such petition for not to exceed ten days after the day first set for a hearing.”).

³³ Iowa Code § 358.5.

³⁴ Iowa Code § 358.5.

³⁵ Iowa Code §§ 357A.6, 357H.4.

boundaries of a proposed district shall not be changed to incorporate property which is not included in the original petition.³⁶

To establish a special district and submit the issue for approval at election, the board of supervisors is required, after hearing the statements, evidence, and suggestions made and offered at the hearing, to approve the petition.³⁷ Under certain special district chapters, however, the board of supervisors is first required to find that the “proposed district is reasonably necessary for the public health, convenience, and comfort of the residents, or may be of benefit in providing [the proposed service or function].”³⁸

If the special district is established, a competent disinterested civil engineer is appointed to prepare a preliminary plat showing:

- The proper design in general outline of the district.³⁹
- The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.⁴⁰
- The assessed valuation of the lots and parcels.⁴¹

The engineer is typically required to file a report within 30 days of appointment, which may be extended for good cause shown.⁴² After the engineer's report is filed, a public hearing is held concerning the engineer's preliminary plat.⁴³ Notice of that public hearing is typically provided in the same manner as the notice for the public hearing on the petition.⁴⁴ For some special districts, if the preliminary plat is disapproved, the board of supervisors may make changes in the boundaries as it deems necessary for board approval of the preliminary plat.⁴⁵

E. Approval at Election

If a preliminary plat has been approved by the board of supervisors, an election is typically required to be held in the district within 60 days⁴⁶ to approve or disapprove the levy of a tax on all the taxable property within the district⁴⁷ or determine whether the proposed improvement will be constructed,⁴⁸ and to choose candidates for the offices of trustees of the district.⁴⁹ The selection of an initial board of trustees is typically presented at the same election.

The vote is required to be by ballot and must clearly state the proposition to be voted upon.⁵⁰ Typically, any registered voter residing within the district at the time of the election

³⁶ Iowa Code §§ 357H.4, 358C.6.

³⁷ Iowa Code § 358C.6.

³⁸ Iowa Code § 357A.6.

³⁹ Iowa Code § 357C.5(1).

⁴⁰ Iowa Code § 357C.5(2).

⁴¹ Iowa Code § 357C.5(3).

⁴² Iowa Code § 357E.6(2).

⁴³ Iowa Code § 357D.7.

⁴⁴ Iowa Code § 357D.7.

⁴⁵ See, e.g., Iowa Code §§ 357D.7, 357E.7.

⁴⁶ See, e.g., Iowa Code § 357E.8.

⁴⁷ Iowa Code § 357E.8.

⁴⁸ Iowa Code § 357.12.

⁴⁹ Iowa Code §§ 357.12, 357C.7.

⁵⁰ Iowa Code § 357C.7.



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may vote.⁵¹ The ballot is required to set out the reason for the tax levy and the amount needed,⁵² if such issue is presented to the voters. Most tax levies are limited to raise only the amount needed.⁵³

Most Code chapters relating to special districts provide guidance as to how such elections are to be conducted. For example, Code Chapter 357 provides that "[i]t is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter."⁵⁴ Additionally, election judges are appointed, to serve without pay, by the board from among the registered voters of the district to be in charge of the election.⁵⁵ The threshold for voter approval of the proposition is usually a majority⁵⁶ of those voting on the proposition or 60 percent of those voting on the proposition.⁵⁷ Consequences may arise if a proposed district fails to receive the required number of votes. If any proposed sanitary district fails to receive a majority of votes cast at any election for the proposed district, then another petition cannot be filed for establishment of such a sanitary district within one year from the date of such previous election.⁵⁸

F. Special District Governance

The most common governance structure for a special district is a board of trustees. The initial selection of candidates for trustees is typically presented at the same election as voter approval of the district itself.⁵⁹ A typical example of how the initial board of trustees is selected for a special district is as follows:

*At the election, the names of candidates for trustee shall be written in by the voters on blank ballots without formal nomination, and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district; one to serve for one year, one for two years, and one for three years.*⁶⁰

Subsequent trustees are then selected by election by eligible voters in the district or by appointment by the board of supervisors.⁶¹ When a special district is established by a means other than an election by the residents of the district, an election may still be required to choose persons for the offices of trustee.⁶² For certain special districts, however, trustees may be selected using a different method. One example, in the establishment of a rural water district, is as follows:

As a part of the order incorporating the district, the supervisors shall fix the time and place at which the members shall meet to select from their number a board of directors. Selection of the initial board shall be not later than thirty days after the hearing. The

⁵¹ Iowa Code §§ 357.12, 357G.8.

⁵² Iowa Code § 357F.8.

⁵³ See, e.g., Iowa Code §§ 357G.8, 357J.10.

⁵⁴ Iowa Code § 357I.8.

⁵⁵ Iowa Code § 357I.8.

⁵⁶ See Iowa Code §§ 357.12, 357E.8.

⁵⁷ See, e.g., Iowa Code § 357C.7.

⁵⁸ Iowa Code § 358.2.

⁵⁹ Iowa Code § 357.12. Certain special districts, however, may have the initial board of trustees appointed by the board of supervisors from a list of persons required to be included with the petition. Iowa Code § 358C.10.

⁶⁰ Iowa Code § 357C.8.

⁶¹ Iowa Code § 357C.8. Such an election, under Iowa Code § 357H.5, requires a plurality to elect the five trustees of a rural improvement zone, and prohibits primary elections for that office. Iowa Code § 357H.6.

⁶² Iowa Code § 357H.5.



*number of directors on the board, not to exceed nine, shall be determined by a majority vote of those members present.*⁶³

A second example occurs in the establishment of recreational lake and water quality districts, where “[i]f the state owns at least four hundred acres of land contiguous to a lake within the district, the natural resource commission shall appoint two members of the board of trustees in addition to the three members provided in [Code Section 357E.9].”⁶⁴

Trustees are typically required to give bond in the amount required by the board of supervisors, the premium of which is paid by the district.⁶⁵ The trustees are usually required to be residents of the district⁶⁶ or own property in the district.⁶⁷ Most trustee vacancies are filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board of supervisors.⁶⁸ The trustees are typically allowed necessary expenses in the discharge of their duties, but they do not receive a salary.⁶⁹

Some special districts have governance structures other than a board of trustees. For emergency response districts under Code Chapter 357J, the district is governed by a commission composed of a member of the board of supervisors, the sheriff, and the mayor from each city within the district.⁷⁰ Additionally, that commission is required to “appoint a district fire chief who shall serve at the pleasure of the commission and shall be responsible for the coordination of fire protection service and emergency medical service throughout the district.”⁷¹

Boards of trustees, commissions, or other entities that govern the various special districts described in this Legislative Guide fall within the definition of “governmental body” under Code Chapter 21 (Iowa Open Meetings Law) and “government body” under Code Chapter 22 (Iowa Open Records Law).

G. Authority of the Special District

General. Many special districts’ boards of trustees are provided with general management authority, including the ability to purchase, own, rent, or maintain equipment within the state or outside the territorial jurisdiction and boundary limits of this state, provide housing for such apparatus and equipment, and certify for levy an annual tax.⁷² Additionally, a board of trustees may purchase material, employ personnel, and may

⁶³ Iowa Code § 357A.7.

⁶⁴ Iowa Code § 357E.9. Those two additional members have voting and other authority equal to the other members of the board of trustees and hold office at the pleasure of the Natural Resource Commission. Iowa Code § 357E.9.

⁶⁵ Iowa Code §§ 357E.9, 357.13(1).

⁶⁶ Iowa Code §§ 357E.9, 357.13.

⁶⁷ Iowa Code § 357E.9 (requiring the two additional trustees appointed by the Natural Resource Commission to be citizens of the state, not less than 18 years of age, and property owners within the district).

⁶⁸ Iowa Code § 357E.9.

⁶⁹ See, e.g., Iowa Code §§ 357.25, 357B.3, 357C.9.

⁷⁰ Iowa Code §§ 357J.2(2), 357J.11.

⁷¹ Iowa Code § 357J.13. The district fire chief is required to appoint an assistant fire chief for each existing fire department and station within the district who shall be responsible for delivery of fire protection service and emergency medical service within the areas designated by the commission. Iowa Code § 357J.14.

⁷² Iowa Code §§ 357B.3, 357F.10, 357G.10, 357J.12. A board of trustees typically also has the “authority to acquire by gift, lease, purchase, or grant any property, real or personal, in fee or a lesser interest needed to achieve the purposes for which the district was incorporated, to acquire easements by condemnation proceedings, and to sell and convey property owned, but no longer needed, by the district.” Iowa Code § 357A.11(5).



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perform all other acts necessary to properly maintain and operate the district,⁷³ including adoption of rules, regulations, and bylaws for the district.⁷⁴ The board of trustees may also be given the authority to contract with any city or county or public or private agency under Code Chapter 28E for the purpose of providing services related to the district.⁷⁵ A special district may even have the power to sell its services to other entities or persons outside the district's boundaries.⁷⁶

Despite a tendency to include broad authority provisions, certain Code chapters do provide lists of specific powers or areas of authority.⁷⁷ An important example of a specific power granted to special districts (or a board of supervisors acting on behalf of a special district) is the power to acquire rights-of-way or easements through condemnation.⁷⁸

Some of the most important powers granted to special districts are those relating to taxation⁷⁹ and the collection of special assessments and fees. Those special districts that require the collection of fees or other revenue for funding may be required to prepare a budget and adjust the rates that the district charges for its services in order to fund the budget.⁸⁰ Financial duties of the board of trustees may also include an audit and resulting reports.⁸¹

Property Tax. A special district's taxation authority typically includes the ability to levy a property tax up to a specified levy rate amount for the purpose of exercising the powers and duties of the special district.⁸² Such a property tax levy, however, may only be eligible for approval, for some special districts, when two-thirds of the governing body of the district is present at the meeting when the proposed property tax levy is approved,⁸³ or subject to approval by the voters.⁸⁴

A special district is typically only permitted to set the levy rate to raise the amount needed by the district.⁸⁵ Certain special districts are also given the ability to levy an additional property tax if the initial tax levy is "insufficient to provide the services authorized or required"⁸⁶ or to further secure the payment of bonds.⁸⁷

⁷³ Iowa Code §§ 357.25, 357C.9, 357D.10, 357E.10, 357F.10, 357G.10, 357H.7, 357I.10, 357J.12.

⁷⁴ Iowa Code § 357A.11(1).

⁷⁵ Iowa Code §§ 357B.3, 357F.10, 357G.10.

⁷⁶ Iowa Code § 357A.13 ("If the capacity of the [rural water] district's facilities permits, the district may sell water by contract to any city, other district, or other person, public or private, not within the boundaries of a district.").

⁷⁷ Iowa Code § 358C.4 (specifying the types of public improvements that a real estate improvement district may acquire, construct, reconstruct, install, maintain, and repair).

⁷⁸ Iowa Code §§ 357.31, 357A.11(5), 358.17, 358C.12(4)-(5).

⁷⁹ See, e.g., Iowa Code § 357B.3(1) ("The board of trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value for the purpose of exercising the powers granted in this section."). But see Iowa Code § 357A.15 (providing that a rural water district "shall not have power to levy any taxes").

⁸⁰ Iowa Code § 357A.11(4)(a).

⁸¹ Iowa Code § 357A.11(4)(b).

⁸² See Iowa Code § 357B.3(1). See also Iowa Code § 357C.9 ("The trustees may purchase street lighting service and facilities and may levy an annual tax not to exceed fifty-four cents per thousand dollars of assessed value for the purpose of exercising the powers granted in this chapter."). In addition to statutory levy rate limitations, Iowa Code ch. 357H, relating to rural improvement zones, allows the board of trustees to collect incremental property taxes in the same manner as tax increment financing for urban renewal areas under Iowa Code § 403.19. Iowa Code § 357H.9.

⁸³ See, e.g., Iowa Code § 357J.10.

⁸⁴ See, e.g., Iowa Code § 357C.9.

⁸⁵ See Iowa Code § 357J.10.

⁸⁶ Iowa Code § 357B.3(2).

⁸⁷ Iowa Code § 357H.8(4) (requiring the board of trustees to "provide for the assessment of an annual levy of a standby tax upon all taxable property within the rural improvement zone").

A board of trustees' authority may also extend to a variety of methods for financing the activities or projects of the special district,⁸⁸ including refinancing previous costs of a project.⁸⁹ A special district may anticipate the collection of property taxes⁹⁰ or other revenue,⁹¹ and may issue bonds. To provide funds for the payment of the costs of improvement projects and for the payment of other activities of the district, a board of trustees may borrow money and issue and sell certificates or may enter into contracts or other obligations payable from a sufficient portion of the future receipts of tax revenue.⁹² However, typically an indebtedness may not be incurred until authorized by an election.⁹³ Elections are held and notice given in the same manner as the election to approve the tax levy.⁹⁴ Some special district chapters allow both propositions to be submitted to the voters at the same election.⁹⁵

Code Chapter 358, relating to sanitary districts, and Code Chapter 358C, relating to real estate improvement districts, specifically limit the amount of debt that a district may incur.⁹⁶ Both chapters provide that a district cannot become indebted in any manner or for any purpose to an amount in the aggregate exceeding 5 percent on the value of the taxable property within such district.⁹⁷

Other Charges. The board of trustees operating a special district that provides a service, particularly a utility service, may have the authority to establish rates or charges for the utilities and services provided.⁹⁸ Some Code sections, however, require such rates or charges to be "just and equitable."⁹⁹ The board of trustees may also be authorized to determine a fee charged to landowners or residents within the special district, particularly those owners of any property joining an established district. An example, from Code Chapter 357C, of how such a fee may be computed is as follows:

1. The board of trustees shall first determine fair market value of all property and improvements owned by the benefited street lighting district, less any indebtedness.
2. The board shall then determine the assessed value of all property in said district. This shall be divided into the value determined in subsection 1 of this section.
3. The board shall determine the assessed value of the property of each landowner joining the established district.
4. The result obtained in subsection 2 shall be multiplied by the result obtained in subsection 3. The result shall be the initial fee to be charged each landowner.¹⁰⁰

⁸⁸ See, e.g., Iowa Code § 357A.11(8) (providing authority to issue revenue bonds or notes).

⁸⁹ Iowa Code § 357A.11(8).

⁹⁰ See, e.g., Iowa Code §§ 357B.4, 357I.12.

⁹¹ Iowa Code §§ 357A.15, 358.25.

⁹² Iowa Code § 357H.8.

⁹³ See, e.g., Iowa Code § 357I.12.

⁹⁴ See, e.g., Iowa Code § 357C.10.

⁹⁵ See, e.g., Iowa Code § 357C.10.

⁹⁶ Iowa Code §§ 358.21, 358C.16(1).

⁹⁷ Iowa Code §§ 358.21, 358C.16(1).

⁹⁸ See, e.g., Iowa Code § 358.20.

⁹⁹ Iowa Code § 358.20. The Iowa Supreme Court has examined the "just and equitable" requirement under Iowa Code § 358.20 and found a difference in connection fees between existing houses (\$50) and newly constructed houses (\$1,500) to be in violation of such a standard. *Kreifels v. South Panorama Sanitary District*, 474 N.W.2d 567, 570 (Iowa 1991).

¹⁰⁰ Iowa Code § 357C.13 (describing the determination of a fee charged to property owners within a street lighting district).



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Special Assessments. Similar to the fee described above, a special district may also have the authority to impose a special assessment to be used to cover the costs of installing all the necessary elements of a project for the special district.¹⁰¹ Specifically, the board of trustees may provide for payment of all or any portion of the costs of a public improvement by assessing all, or any portion of, the costs on property within the district according to the benefits derived.¹⁰² For some special districts, a special assessment may also be assessed on adjacent property according to the benefits derived by such property.¹⁰³ Additionally, situations arise when an improvement or the operation of the improvement may extend beyond the limits of a district. Under those circumstances, the rights and powers of the board of trustees is the same as if the improvement was located within the district; however, taxes cannot be levied upon any property outside of the district.¹⁰⁴

Special assessments are typically assessed in proportion to the special benefits conferred upon the property, and not in excess of the benefits.¹⁰⁵ The value of a property is the present fair market value of the property with the proposed public improvements completed.¹⁰⁶ Special assessments may be made to extend over a period of multiple years (e.g., "not to exceed 15 years"), payable in as nearly equal annual installments as practicable.¹⁰⁷

Payment of a special assessment against property is usually made in the same manner and under the same procedures as for special assessments by cities.¹⁰⁸ When the special assessment has been completed, the schedule of assessment is turned over to the county auditor, the installments due thereon are collected in the same manner as ordinary taxes and constitute a lien on the property against which they are made.¹⁰⁹

In certain limited situations, the authority of the board of trustees may extend beyond the boundaries of the district. For example, a sanitary sewer district board of trustees "may require connection to the sanitary sewer system established, maintained, or operated by the district from any adjacent property within the district, and require the installation of sanitary toilets or other sanitary sewage facilities and removal of other toilet and other sewage facilities on the property."¹¹⁰

¹⁰¹ Iowa Code §§ 357.3, 358.22, 358C.17.

¹⁰² See Iowa Code § 358C.17(1).

¹⁰³ Iowa Code § 358C.17(1).

¹⁰⁴ Iowa Code § 358.16(1). The board of trustees, however, may upon petition of property owners not included within the district as constituted, which seeks benefit from the operation of such sanitary district, include such property and the area involved within the limits of the sanitary district, and such added areas shall be subject to the same taxation as other portions of the district. Iowa Code § 358.16(1).

¹⁰⁵ Iowa Code § 358C.17(1).

¹⁰⁶ Iowa Code § 358C.17(1).

¹⁰⁷ Iowa Code § 358C.17(2).

¹⁰⁸ Iowa Code §§ 358.22, 358C.17(1).

¹⁰⁹ Iowa Code § 357.22.

¹¹⁰ Iowa Code § 358.16(2). If the property owner does not perform an action required by the board of trustees within a reasonable time after notice and hearing, the board of trustees may perform the required action and assess the costs of the action against the property for collection in the same manner as a property tax. Iowa Code § 358.16(2). This process of compelling property owners to connect to the district's sewer system has been upheld in an unpublished opinion of the Iowa Court of Appeals. *Faught v. Clear Lake Sanitary District*, 2007 WL 4191956, at *3-4 (Iowa App., Nov. 29, 2007).

H. Dissolving or Modifying the Special District

Many special districts may be dissolved by the board of trustees upon petition of a specified percentage of the resident eligible electors¹¹¹ or property taxpayers¹¹² in the district. In that event, the board of trustees may also dispose of any remaining property, the proceeds of which are first applied against outstanding obligations and any balance is applied as a tax credit for the property owners of the district.¹¹³

There are multiple ways in which territory may be added to a special district. Annexation of property by a special district has been held to be constitutional even when lacking notice to the owner of the property.¹¹⁴ Code Chapter 357C contains a common example where "[t]he owner of any property in an unincorporated area contiguous to the boundaries of an established district may petition the board to be included in the district."¹¹⁵ Upon receipt of a petition, the board submits the request to a competent disinterested civil engineer to investigate the feasibility of adding the additional territory and to make a report to the board.¹¹⁶ If the board agrees that the property should be added to the district, the tax levy for the next year is applied to the property and on the first day of the next fiscal year the property becomes a part of the district.¹¹⁷ Within its annexation authority, a board may condition the annexation of a parcel of property upon the annexation of additional property.¹¹⁸

Alternatively, pursuant to Code Chapter 357, if parties outside of the district "desire to be taken into the district or to obtain water from the district," the board of trustees may determine an amount to be assessed to such persons and, with consent of the board of supervisors, alter the boundaries of the district.¹¹⁹ Under Code Section 357A.14, relating to rural water districts, "[a]n owner of real property outside a district which can be economically served by the facilities of the district, or 30 percent of the owners of all real property lying within the outside perimeter of a proposed addition, may petition to be attached to the district."¹²⁰

Special districts may also have procedures for detaching property from a district. For example, property may be detached from a rural water district "[i]f it becomes apparent that any real property included within a district cannot economically or adequately be served by the facilities of the district"¹²¹ If such is the case, "the owners of the real property may file with the auditor a petition to the supervisors requesting that the real property be detached from the district."¹²² Other special districts allow detachment of property to occur

¹¹¹ Iowa Code § 357C.11.

¹¹² Iowa Code § 357B.5.

¹¹³ Iowa Code § 357B.5.

¹¹⁴ See *Faught v. Clear Lake Sanitary District*, 2007 WL 4191956, at *2 (Iowa App., Nov. 29, 2007) (unpublished opinion) (citing *Wertz v. City of Ottumwa*, 201 Iowa 947, 951, 208 N.W. 511, 513 (Iowa 1926) (holding that "a failure to provide for notice and hearing on the question of annexation does not render the statute unconstitutional")).

¹¹⁵ Iowa Code § 357C.12; see also Iowa Code § 357D.14, 357E.13, 357F.14.

¹¹⁶ Iowa Code §§ 357C.12, 357D.14, 357E.13, 357F.14.

¹¹⁷ Iowa Code §§ 357C.12, 357D.14, 357E.13, 357F.14.

¹¹⁸ *Yohn v. Bd. of Directors*, 672 N.W.2d 716, 718 (Iowa 2003).

¹¹⁹ Iowa Code § 357.30.

¹²⁰ Iowa Code § 357A.14(1).

¹²¹ Iowa Code § 357A.16.

¹²² Iowa Code § 357A.16.



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only upon the action of a local government entity within that district that controls such property.¹²³

Property within a real estate improvement district may be detached in one of two ways: either action by a majority of the board of trustees following completion of specified notice, hearing, and opposition petition requirements¹²⁴ or action by an owner of a discrete tract of land within the district that meets specified criteria for detachment.¹²⁵

III. Special Districts Under the Code of Iowa

A. Code Chapter 357 — Benefited Water Districts

A benefited water district provides a public water supply to an area where current water supply needs are unmet. A benefited water district may provide a domestic water supply, a water supply for fire protection, or a water supply for other uses. Code Chapter 357 does not, however, apply to a benefited water district located wholly within the corporate limits of a city. Code Section 357.1B allows for the creation of a combined water and sanitary district.¹²⁶

B. Code Chapter 357A — Rural Water Districts

A rural water district may encompass an area in a county or in two or more adjacent counties for the purpose of providing an adequate supply of water for residents of the area who are not served by the water mains of any city water system. The operation of a rural water district may include the management or administration of the works, facilities, or waterways which are necessary for the collection, disposal, or treatment of wastewater or sewage.

C. Code Chapter 357B — Benefited Fire Districts

A benefited fire district provides fire protection services to a specified area and may purchase, own, rent, or maintain fire apparatus or equipment and provide housing for such apparatus or equipment. A benefited fire district established under Code Chapter 357B prior to July 1, 1975, provides fire protection within its boundaries until it is dissolved as provided in Code Section 357B.5. A benefited fire district cannot be established and the territorial boundaries of an established benefited fire district be enlarged after June 30, 1975, except as provided in Code Section 357B.7, which provides for dissolution upon the petition of 35 percent of the property taxpayers within the district.

D. Code Chapter 357C — Street Lighting Districts

A street lighting district provides street lighting services to an area of a county with a population in excess of 250,000 persons. A street lighting district may include all or

¹²³ Iowa Code § 357B.18 ("The trustees of a township, after notice and a public hearing, may withdraw the township or part of the township from a benefited fire district.").

¹²⁴ Iowa Code § 358C.22(1). If a petition opposing the resolution is signed by property owners representing a majority of the area of real estate within the district and presented to the board of trustees on or prior to the hearing date, the board of trustees shall not adopt the resolution to detach the property. Iowa Code § 358C.22(1).

¹²⁵ Iowa Code § 358C.22(2) (requiring such property to be unconnected to the main area of the district, consist of an area of 25 acres or more, be undeveloped and predominantly devoted to agricultural uses, have no improvements or obligations placed upon it by the district, and receive no current services from the district).

¹²⁶ Sanitary districts are otherwise governed by Code Chapter 358.

portions of the unincorporated areas of one township and any unincorporated areas of adjoining townships or portions thereof. A street lighting district may contain only such area in which the benefits derived from such street lighting are ratably spread between those people and families to be served.

E. Code Chapter 357D — Law Enforcement Districts

A law enforcement district provides law enforcement services to a specified area that has a demonstrated need for such services. A law enforcement district may purchase material, employ peace officers and other personnel, and may perform all other acts necessary to properly maintain and operate the district. A law enforcement district may not include property assessed as agricultural land, centrally assessed property, or manufacturing personal and real property. The owners of centrally assessed property or manufacturing property have the option to be included in the district.

F. Code Chapter 357E — Recreational Lake and Water Quality Districts

Under Code Chapter 357E, a district may take the form of a benefited recreational lake district, a water quality district, or a combined district. A district may construct, reconstruct, repair, maintain, or operate a dam or other recreational facilities or structures to create or maintain an artificial or natural lake or impoundment and may promote and improve water quality. Code Chapter 357E provides that "recreation" includes things such as public sports, games, pastimes, diversions, and amusement, on land or water and including community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks, lakes, and golf courses, and the acquisition of real estate for them. Additionally, "water quality activities" include but are not limited to public information dissemination, creation or maintenance of grass waterways or wetlands, dredging, bank stabilization, water treatment, water monitoring, watershed protection, activities on lands outside the district which affect water quality within the district, and any other activity which will improve water quality of a stream, river, or lake.

G. Code Chapter 357F — Emergency Medical Services Districts

Emergency medical services districts may purchase or rent emergency medical services apparatus, equipment, or material, employ emergency medical service and other personnel, and may perform all other acts necessary to properly maintain and operate the district. Such a district may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships, but may not include property assessed as agricultural land, or centrally assessed property. A district may contract with any other city or county or public or private agency under Code Chapter 28E for the purpose of providing emergency medical services under this Code chapter.

H. Code Chapter 357G — City Emergency Medical Services Districts

City emergency medical services districts provide emergency medical services to all of the incorporated area of a city except property assessed as agricultural land, or centrally assessed property. The area must be shown to have a need for such services. City emergency medical services districts may purchase or rent emergency medical services apparatus, equipment, or material, employ emergency medical service and other



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personnel, and may perform all other acts necessary to properly maintain and operate the district. The district may contract with any other city or county or public or private agency under Code Chapter 28E for the purpose of providing emergency medical services under this Code chapter.

I. Code Chapter 357H — Rural Improvement Zones

The board of supervisors of a county with less than 20,000 residents, based upon the 2000 certified federal census, and with a private lake development, is required to designate an area surrounding the lake, if it is an unincorporated area of the county, as a rural improvement zone upon receipt of a petition and a determination that the area is in need of improvements. "Improvements" include dredging, installation of erosion control measures, land acquisition, and related improvements, including soil conservation practices. A rural improvement zone raises revenue through incremental property taxes.

J. Code Chapter 357I — Benefited Secondary Road Services Districts

A benefited secondary road services district is limited to property within a residential subdivision that was in existence prior to January 1, 2007, and that has received county road services pursuant to an agreement between the county and residents of the subdivision prior to July 1, 2008. The district may contract only with the county to provide road services including road paving, reconstruction, or maintenance, according to the county's standards for such services, on roads within the district and on any road outside the district that provides a direct route between the subdivision comprising the district and the nearest paved street or highway, other than certain specified roads. The district may certify for levy an annual tax, but the amount of revenue collected from the tax is not included in the calculation of property tax revenues transferred to the secondary road fund annually.

K. Code Chapter 357J — Emergency Response Districts

Code Chapter 357J authorizes a county having a population of at least 16,925 but not more than 16,950 to establish an emergency response district. The Code chapter provides a county the opportunity to participate in a pilot project having a new governance structure to facilitate the delivery and funding of fire protection service and emergency medical service to residents of the county. Establishment of the district is initiated by motion of the board of supervisors. A plan for an emergency response district, however, must also be approved by the state fire marshal. The boundary lines of a district may include any incorporated or unincorporated areas within a county. The emergency response district is governed by a commission composed of a member of the board of supervisors, the sheriff, and the mayor from each city within the district.

L. Code Chapter 358 — Sanitary Districts

Code Chapter 358 authorizes the creation of a sanitary district if an area of territory is so situated that the construction, maintenance, and operation of a trunk sewer system and of a plant or plants for the treatment of sewage and the maintenance of one or more outlets for the drainage of it, after having been so treated, will be conducive to the public health, comfort, convenience, or welfare. A sanitary district may consist of contiguous or noncontiguous territory. The authority of a sanitary district includes the power to provide for

the disposal of the sewage of the district, including the sewage and drainage of any city or village within the boundaries of the district, to establish and operate one or more facilities of such capacity and character as may be required for the treatment, carrying off, and disposal of the sewage and industrial wastes and other incidental drainage of the district, and to impose special assessments and connection fees.

M. Code Chapter 358C — Real Estate Improvement Districts

Real estate improvement districts are an economic development tool intended to assist developers and communities in increasing the availability of housing in Iowa communities by providing public improvements and infrastructure, including water, sewer, and roads. The boundary lines of a real estate improvement district may include any incorporated or unincorporated areas within a county. A "public improvement" includes, among other specified purposes, the principal structures, works, component parts, and accessories of utility connections, sewers, waterworks, emergency warning systems, pedestrian underpasses or overpasses, flood protection, public waterways, public parks, playgrounds, recreational facilities, street lighting fixtures and facilities, traffic control devices and facilities, public roads, streets, and alleys.

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