

**ARAGO TOWNSHIP**  
**HUBBARD COUNTY, MINNESOTA**  
Resolution No. 209-1

**RESOLUTION REGARDING THE ADMINISTRATION AND  
PROCESSING OF SUBORDINATE SERVICE DISTRICT PETITIONS**

**WHEREAS**, the Board of Supervisors (“Town Board”) of Arago Township (“Town”) anticipates receiving petitions requesting the establishment of a subordinate service district pursuant to the Town Board’s authority under Minnesota Statutes, chapter 365A (“Act”) to provide certain services or construct certain improvements for the benefit of those within the proposed district;

**WHEREAS**, the Act empowers property owners to petition the Town for the establishment of a district regardless of their residency and imposes certain requirements on the sufficiency of such petitions;

**WHEREAS**, because the Act does not require an analysis of the estimated costs, necessity, cost-effectiveness or feasibility of the services or improvements to be provided within a proposed district prior to the establishment of the district, the Town Board determines it is in the best interests of the public to establish a policy addressing those concerns prior to the establishment of the proposed district, after which there is limited opportunity to reconsider the proposed district; and

**WHEREAS**, because the Act does not expressly prescribe how property owners are to be identified or counted for the purposes of determining the sufficiency of petitions brought under the Act, the Town Board determines it is in the best interests of the public to establish a policy to address such issues and the processing of petitions.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby adopts the following as its policy (“Policy”) for how it will process and act on petitions brought under the Act:

1. Establishment Petition. A petition requesting the establishment of a district under the Act shall comply, and will be processed in accordance, with the Act and the following:
  - (a) Requirements. Under Minnesota Statutes, section 365A.04, subdivision 1, a petition requesting the establishment of a subordinate service district must be “signed by at least 50 percent of the property owners in the part of the town proposed for the subordinate service district . . .” and the petition “must include the territorial boundaries of the proposed district and specify the kinds of services to be provided within the district.” A map of the area with a line drawn around the properties to be included in the proposed district must be submitted with the petition.
  - (b) Determining Sufficiency. The Town Board shall use the following in determining the sufficiency of a petition requesting the establishment of a district and shall reject as incomplete any petition it receives that the Town Board determines is not sufficient.

- (1) Identifying Property Owners. To determine whether a petition is signed by at least 50 percent of the property owners, the Town will identify all of those persons having fee title ownership of real property within the boundaries of the proposed district. The Town will rely on the County's records to identify property owners. For the purposes of this determination, and except as otherwise provided herein, those identified as fee title owners of a property will be counted as separate property owners. So, for example, if a husband and wife are both identified on a deed as owners, they will each be counted as property owners. The following persons shall be treated as the property owner in the following situations: when property is sold on a contract for deed, the contract for deed vendee shall be the property owner; when the seller of property retains a life estate, the holder of the life estate shall be the property owner; and when property is held in trust, the trustee shall be the property owner. Mortgagees, contract for deed vendors, renters, lessees, licensees, and easement holders shall not be considered property owners for the purposes of this determination.
  
- (2) Determining Percentage of Petitioners. Once the property owners of the properties within the proposed district are identified, the Town will determine if the petition was signed by at least 50 percent of the identified owners. This is a cumulative determination that is not based on the number of properties in which an owner may have an interest and regardless of whether multiple persons have an interest in a single property. For example, a single person that owns multiple properties will be counted as one property owner for the purposes of determining the sufficiency of a petition. Furthermore, if a property is owned by three owners, each will be counted as a property owner. Once the total number of property owners within the proposed district is identified, the number of property owners signing the establishment petition will be compared against the list of property owners to determine if at least 50 percent of them signed the petition.
  - i. Example 1: The proposed district contains 10 properties, 7 of which are owned by married couples (the husband and wife of each are listed as owners on the deed) and 3 of which are owned by the same single person. The petition is signed by 3 of the couples, so there is a total of 6 signatures on the petition. In such a case, the Town would find there are 15 property owners ( $7 \times 2 + 1 = 15$ ). The petition is not sufficient because the 6 owners who signed the petition do not constitute at least 50 percent of the property owners in the proposed district.
  
  - ii. Example 2: The proposed district contains 5 properties, 4 of which are owned by married couples (the husband and wife of each are listed as owners on the deed) and 1 of which is owned by 6 owners. The petition is signed by 2 of the couples and all 6 owners of the one property. In such a case, the Town would find there are 14 property owners ( $4 \times 2 + 6 = 14$ ). The petition is sufficient because the 10 property

owners that signed the petition constitute at least 50 percent of the property owners in the proposed district.

- (3) Authorization. The Clerk is authorized to undertake such activities as are reasonably needed to verify the signatures on a petition and to determine its sufficiency in accordance with the Act and the provisions of this Policy. The Clerk may direct any questions that are not readily answered by the Act or this policy to the Town Board for a decision. Once the Clerk has verified the signatures on the petition, he or she shall provide the Town a written notice of verification at its next regular meeting, which shall include an opinion as to the sufficiency of the petition. The Town Board will make the final determination on whether a petition is sufficient under the Act and this Policy.
2. Public Hearing. When a petition is found sufficient, the Town Board shall, within 30 days from the date of the meeting at which the notice of verification was presented, call and hold a public hearing on the petition in accordance with Minnesota Statutes, section 365A.04, subdivision 2.
3. Feasibility Report. Depending on the nature of the service being requested, the Town Board may determine to order the preparation of a feasibility report to better understand the feasibility of the proposed project and its potential costs. Such a report would typically be ordered prior to concluding the public hearing on the petition and it would advise the Town Board a preliminary way as to whether the services or project are cost-effective and feasible. The report will include the estimated cost of the services or project as proposed, but it must be understood the stated project cost is simply an estimate and does not include administrative or professional costs. The actual costs to be imposed on the properties in the district, if one is established, will not be known until the project is completed. In the event the Town determines to establish the proposed district, the costs of the feasibility report may be part of the costs charged against the district.

In the event the Town does not secure a feasibility report prior to the establishment of the requested district, the Town Board may make the establishment of the district contingent upon the Town subsequently securing a feasibility report and the Town Board's determination that the proposed services or project are cost-effective and feasible. The Town Board may provide notice and hold a meeting with the owners within the district to review the feasibility report before making the determination on whether to proceed with the services or project.

4. Establishment. The Town Board determines whether to establish the requested district either at the conclusion of the hearing or at a meeting occurring within 30 days of the conclusion of the hearing. If the Town Board determines to establish the district, it shall do so by resolution that identifies the special services to be provided within the district, the boundaries of the district, when the district begins, and such other matters as the Town Board determines are appropriate to set out in the resolution. In accordance with Minnesota Statutes, section 365A.04, subdivision 3, the Town Board may alter the boundaries of the district from those proposed in the petition. The Town will publish the resolution, or an approved summary, within 20 days of its adoption in accordance with Minnesota Statutes, section 365A.05. The

Town Board may adopt such additional resolutions as it determines is appropriate to establish rules and regulations for the district including, but not limited to, how the costs of the district will be distributed and collected from within the district.

5. Reverse Referendum Petition.

- (a) Requirements. If the Town Board adopts a resolution to establish a district, the owners within the district may submit a reverse referendum petition calling for a vote on the establishment of the district. Under Minnesota Statutes, section 365A.06, subdivision 1, such a petition must be “signed by at least 25 percent of the property owners within the territory of the proposed district . . .” and the petition must be submitted to the Town before the district goes into effect (which is at least 60 days after publication of the adoption of the resolution establishing the district).
- (b) Determining Sufficiency. The Town Board will determine the sufficiency of a reverse referendum petition based on the same list of property owners prepared to determine the sufficient of the establishment petition, except that the list shall be altered as needed to reflect any changes the Town Board made to the boundaries of the district. The percentage of petitioners will be determined in the same manner used to determine the sufficient of an establishment petition.
- (c) Election. Upon finding a reverse referendum petition is sufficient, the Town will conduct a special election on the question of whether to establish the district not less than 30 days, nor more than 90 days, after receipt of the petition as required by Minnesota Statutes, section 365A.06. The special election will be conducted, to the extent reasonably possible, in accordance with township election laws except that the eligible voters are limited to the identified property owners within the proposed district regardless of their residency. The Town Board may elect to conduct the election by mailed ballot as provided in Minnesota Statutes, section 204B.46.

6. Implementation of the District.

- (a) Timing. The Town Board will determine the timing for providing the special services within the districts it establishes.
- (b) Manner and Method. The Town Board shall determine the manner and method for providing the requested services to the districts it establishes.
- (c) Costs. The Town Board is authorized to recover all costs it incurs to process petitions, establish a district, and to provide the special services. Those costs include, but are not limited to, all professional costs (attorney, engineer, financial advisor, etc.), feasibility study costs, debt service costs, administrative costs, and any costs incurred to conduct a special election if necessary. The Town may finance all or a portion of the costs and it shall collect the costs from the properties within the

district as provided in Minnesota Statutes, section 365A.08 and as determined by the Town Board.

7. Miscellaneous.

- (a) Intent. The intent of this Policy is to provide for the uniform application of the Act to the petitions the Town receives. This Policy is to be interpreted in accordance with the Act and nothing herein is intended to establish procedures or policies that are contrary to the Act or other applicable law. This Policy does not address every issue that may arise and nothing herein shall be interpreted as limiting the Town Board's discretion to review and decide such issues as may arise with respect to the establishment and administration of districts.
  
- (b) Amendments. The Town Board may amend this Policy at any time by resolution.

Adopted this 12<sup>th</sup> day of November, 2019.

**BY THE TOWN BOARD**

  
Town Chairperson

Attest:   
Town Clerk

