

Goforth Special Utility District
Board of Directors Policy: Eligibility and Election Information

Goforth Special Utility District (the “District”) is a political Subdivision of the State of Texas, specifically a conservation and reclamation district pursuant to Article XVI, Section 59 of the Texas State Constitution. Pursuant to Tex. Water Code § 65.101, the District shall be governed by a board of not less than five and not more than 11 directors. This policy regarding the Board of Directors is intended to clarify the eligibility requirements for directors and provide general information about elections.

Qualifications for Directors

To be qualified to serve as a director, a person must be: (1) at least 18 years old; (2) a resident citizen of Texas; and (3) either own land subject to taxation in the district, be a user of facilities of the district, or be a qualified voter of the district. *See* Tex. Water Code § 65.102.

Disqualifications of Directors

Certain individuals are prohibited by law to serve as director for the District. In these cases, even if the qualifications described above are satisfied, the individual may be determined to be disqualified to serve as a director. Specifically, pursuant to Tex. Water Code § 49.052, a person is disqualified from serving as a member of a board of a district that includes less than all the territory in at least one county if that person:

1. Is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, attorney, or other person providing professional services to the district;
2. Is an employee of any developer of property in the district or any director, manager, engineer, attorney, or other person providing professional services to the district or a developer of property in the district in connection with the district or property located in the district;
3. Is a developer of property in the district;
4. Is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district;
5. Is a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally or is a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence, establishing a commercial business within the district, or qualifying as a director; or

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6. During the term of office, fails to maintain the qualifications required by law to serve as a director.

For clarity, a “developer of property in the district” is further defined as “any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.” Tex. Water Code § 49.052(d).

Within sixty (60) days after the Board of Directors for the District determines a relationship or employment exists which constitutes a disqualification under the terms described above, it shall replace the person serving as a member of the Board of Directors with a person who would not be disqualified. Tex. Water Code § 49.052(b). Any person who willfully occupies an office as a member of the Board of Directors and exercises the powers and duties of that office when disqualified under the disqualification provisions described above is guilty of a misdemeanor and, on conviction, shall be fined not less than \$100 nor more than \$1,000. *See* Tex. Water Code § 49.052(c).

Nepotism Rules

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The individual is related to the public official within a degree described by Tex. Gov’t Code § 573.002; or
2. The public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Tex. Gov’t Code § 573.002. *See* Tex. Gov’t Code § 573.041.

For clarity, Tex. Gov’t Code § 573.002 states that these rules apply to relationships within the third degree by consanguinity or within the second degree by affinity.

Elections: General Information

The District follows the requirements of the election laws for the State of Texas as they are applicable to special utility districts. *See* Tex. Water Code § 49.101. Generally, an application for a place on the ballot must be filed not later than 5 p.m. of the 62nd day before the date of the election, but no earlier than the 30th day before the date of the filing deadline. *See* Tex. Election Code § 144.005(a). Then, a declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed. *See* Tex. Election Code § 146.054(a); Tex. Water Code § 49.101. If after the deadline for filing a declaration of write-in candidacy, a candidate is unopposed, the election official may certify that

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a candidate is unopposed. Tex. Election Code § 2.052. On receipt of the certification, the District's Board of Director shall by order or ordinance declare each unopposed candidate elected to office. Tex. Election Code § 2.053(a). If no election is to be held on election day by the District, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election. Tex. Election Code § 2.053(a).