

CHAPTER 3

Districts

Article I

Metropolitan Districts

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ARTICLE I

Metropolitan Districts

Sec. 3-1-10. Purpose.

Title 32, C.R.S. provides for municipalities to review service plans proposed for formation of new metropolitan districts located wholly within the boundaries of the Town. The policy of the Town is to reduce the proliferation of local governments and to prevent double taxation by overlapping governmental entities. The Town also recognizes that there are times when formation of a metropolitan district or a general improvement district may be appropriate to finance public improvements. The procedures are adopted to prevent problems which can occur by formation of additional governmental entities, including having indebtedness of districts affect the credit rating of the Town; preserve the financial integrity of the Town; minimize excessive tax burdens on properties within the Town; eliminate duplication of government services providers; and ensure that new districts do not dilute the control over governmental services by representatives elected by voters within the Town. These procedures are general in nature and may be considered when reviewing a proposed service plan along with any other information that the Board of Trustees deems appropriate. (Ord. O-2 §1, 2004; Ord. O-7 §1, 2010)

Sec. 3-1-20. Service plan review guidelines.

This Article establishes general rules for review of metropolitan district service plans. The Town recognizes that differing market conditions may result in variations in the financial plans of a district applicant. Therefore, when a service plan is submitted to the Town that deviates from the specific procedures and requirements contained in this Article, the applicant shall include with its application a detailed written explanation of the reasons for the deviation and provide evidence in support thereof in the form of applicable reports, financial data, studies and other relevant documentation. (Ord. O-2 §1, 2004; Ord. O-7 §1, 2010)

Sec. 3-1-30. Service plan submittal requirements.

(a) The applicant shall file the proposed service plan or proposed amendment to an approved service plan with the Town Clerk.

(b) At the time of such filing, the applicant shall pay a fee to the Town for review of the proposed service plan or proposed amendment to an approved service plan as established by resolution of the Board of Trustees.

(c) At the time of such filing, the applicant shall make a deposit with the Town for the payment of the fees for the Town Attorney and the Town's financial advisor, bond counsel, Town Engineer and any other consultant the Town deems necessary. (Ord. O-2 §1, 2004; Ord. O-7 §1, 2010)

Sec. 3-1-40. Service plan contents.

In addition to the applicable requirements of state law, the proposed service plan shall:

- (1) Specify the name of the district;

(2) Include a complete resume of each developer of property within the proposed district, including history of the entity, biographical information on principals or officers and references for principals or officers and current audited financial statements;

(3) Identify the boundaries of the proposed district with a legal description and maps of its service area;

(4) Provide facts sufficient to determine that it would be impracticable for the land within the district to be included within an existing or new general improvement district;

(5) Provide a description of the facilities and services to be provided. Facilities for potable water treatment and storage, sanitary sewage treatment, nonpotable water and sewer lines not less than twelve (12) inches in diameter, nonpotable water storage and distribution facilities, storm drainage facilities, collector and arterial roadways, community parks and recreation facilities, together with necessary appurtenant facilities, may be financed by the special district, but may only be constructed to be connected to the existing facilities provided by the Town. No such facilities may be constructed separately from the existing facilities of the Town.

(6) Require that all facilities financed by the district will be dedicated to the Town unless the Town determines otherwise.

(7) Provide cost estimates of all facilities, prepared by an independent engineer.

(8) Provide that all land and easements customarily dedicated by the developer to public entities, such as the Town, the county, the school district or other public entities, will be dedicated directly to such entities and will not be purchased by the district for dedication to such entities.

(9) Provide that all facilities constructed by the district comply with Town engineering standards and be subject to review, monitoring and inspection by the Town.

(10) Provide detailed construction phasing showing completion of water, sanitary sewer, storm drainage and road improvements.

(11) Provide an independent absorption and feasibility study supporting the ability of the district to discharge its proposed indebtedness on a reasonable basis.

(12) Provide a draft intergovernmental agreement between the proposed district and the Town which requires:

a. The approval of the Board of Trustees of any future change of the boundaries of the district; issuance, refinancing or prepayment of bonds or other multi-year financial obligations; payments to developers; construction of facilities to be connected to existing Town facilities; and extension of district facilities outside of the boundaries of the district;

b. Payment for water rights necessary to serve the property;

c. Submission of annual reports;

d. Provisions for dissolution of the district; and

e. Procedures for the powers of the district to be eliminated from the service plan and performed by the Town unless otherwise requested by the Town, such elimination of powers to occur in the event the district is not dissolved as provided in the service plan. (Ord. O-2 §1, 2004; Ord. O-7 §1, 2010)

Sec. 3-1-50. Financial requirements.

The proposed service plan shall:

(1) Describe the security for all bonds or other financial obligations of the district, specify a mill levy not to exceed twenty-five (25) mills for debt service including reimbursement to credit enhancers and prohibit the pledge or encumbrance of district assets.

(2) Specify the maximum principal amount of bonds, excluding refunding bonds, to be issued by the district, the maximum net effective interest rate on such bonds not to exceed nine percent (9%) per annum, the maximum discount on such bonds and the maximum term of such bonds not to extend beyond twenty-five (25) years from the date of issuance of the district's first bonds.

(3) Include the texts of the initial ballot questions to be submitted to electors of the district.

(4) Require a fairness opinion by an independent financial advisor as to the interest rate on any bonds or other financial obligations sold in any transaction not involving a public offering of such bonds or other financial obligations.

(5) Prohibit the issuance of bonds or the incurrence of other financial obligations to which ad valorem property taxes are pledged having a principal amount that, when added to the principal amount of all other such outstanding bonds or other financial obligations, exceeds twenty-five percent (25%) of the valuation for assessment of all taxable property in the district except for:

a. Such bonds or other financial obligations if the principal amount thereof at any time outstanding does not exceed one million dollars (\$1,000,000.00);

b. Such bonds or other financial obligations sold in transactions not involving a public offering to "accredited investors" or "qualified institutional buyers" whose credentials as such are appropriately evidenced by customary documentation;

c. Such bonds or other financial obligations that are rated "investment grade" by one (1) or more nationally recognized rating agencies or are guaranteed as to the timely payment of principal and interest by financial institutions, the obligations of which are so rated;

d. Such bonds or other financial obligations issued or incurred for the purpose of refinancing such bonds or other financial obligations; and

e. Such bonds or other financial obligations issued to the developer.

(6) Prohibit acceleration of the principal of any bonds or other financial obligations of the district except credit-enhanced bonds or other obligations.

(7) Prohibit the creation of TABOR enterprises and 63-20 corporations without the prior written consent of the Board of Trustees.

(8) Set forth a bond marketing schedule and plan, including proposed exemptions from registration under Section 11-59-110, C.R.S., and require that a copy of the Notice of Claim of Exemption filed with the Colorado Securities Commissioner also be filed with the Town.

(9) Set forth schedules showing the sources and uses of the proceeds of all bonds or other financial obligations of the district.

(10) Set forth a detailed cash flow analysis prepared by an independent financial advisor showing for each year, beginning with the year in which the district is organized and ending in the year in which the district indebtedness is retired, the valuations for assessment of all taxable property in the district, mill levies, ad valorem tax receipts, utility fees, other revenues, debt service, operation and maintenance expenses and annual and cumulative surpluses.

(11) Require that the district furnish to the Town, prior to the issuance of any bonds or the incurrence of any other financial obligations, an opinion of the district's bond counsel that the district has complied with all of the requirements of the approved service plan relating to bonds or other financial obligations or that the district submit all financing documents to the Town Attorney for approval.

(12) Require the district to file promptly with the Town the following documents:

- a. Audited financial statements;
- b. Budgets;
- c. Architectural plans;
- d. Bid documents and construction contracts;
- e. Intergovernmental agreements;
- f. Ballot questions;
- g. Resolutions authorizing bonds or other financial obligations;
- h. Financing documents; and
- i. Credit agreements.

(13) Prohibit the district from applying for Conservation Trust Funds, Great Outdoor Colorado Funds and other grant moneys for which the Town is eligible to apply without the prior written consent of the Board of Trustees. (Ord. O-2 §1, 2004; Ord. O-7 §1, 2010)

Sec. 3-1-60. Approval of service plan.

The Planning Commission and Board of Trustees shall review the submittal for compliance with this Article and other applicable law. (Ord. O-2 §1, 2004; Ord. O-7, §1, 2010)