

SPECIAL DISTRICTS IN COLORADO

What is a Special District? Why is this entity structure appealing to developers?

County and municipal governments are often constrained in their ability to provide infrastructure to new development. The Colorado Revised Statutes provide in Title 32 for the creation of a local governmental entity called a special district, which can fill in some of the gaps that may exist between the services counties and municipalities are able to provide and the services the residents of a special district may desire. There are many types of special districts in Colorado, including water and sanitation districts, school districts, park and recreation districts and metropolitan districts. Metropolitan districts combine many types of functions and can be organized to provide any two or more of the following services:

1. street improvements
2. water facilities and services
3. sanitation facilities and services
4. park and recreation facilities
5. traffic-related safety protection improvements
6. transportation facilities and services
7. television relay and transmission facilities and services
8. mosquito control facilities and services

The functions of a metropolitan district can include both the construction of improvements and the ongoing operation and maintenance of those improvements. Metropolitan districts must be publicly accountable, which means, among other things, that they must hold open meetings, give notice of all meetings, keep minutes and other records, hold elections for the governing board of directors, adopt annual budgets, and submit to annual financial audits.

Metropolitan districts are often established by developers to finance, through the issuance of tax-exempt bonds and/or the assessment of fees, the infrastructure necessary to support a new subdivision. Streets, water and sewer lines, and other utilities must be provided to an area, which, prior to the subdivision's development, may have been vacant land. After the infrastructure is in place, the developer builds homes in the district. New and ongoing development increases the assessed value of the property within the district's boundaries, and provides the tax base necessary to generate the revenue required to make payments on the outstanding bonds.

Revenue-Raising Power of a Special District

A metropolitan district has various financial powers given to it by Title 32, including the power to tax and/or assess fees for the services it provides and to issue tax-exempt bonds to help pay for public improvements. The eligible electors within the boundaries of the metropolitan district must first vote in an election to authorize the metropolitan district to incur any general obligation or revenue indebtedness. Once approved by the electors within the district, the bonds are sold to investors who must be repaid over time with interest. The money from the bonds is used by the metropolitan district to pay for necessary public infrastructure like streets and traffic signals, sidewalks and median landscaping, water and sewer treatment plants and lines, storm drainage facilities and parks and recreation facilities. The metropolitan district pays for bonds it issues by levying a property tax on all the property within the district boundaries or by assessing infrastructure, tap, or other fees, or through a combination of these methods.

The tax levy is the rate of tax applied to the assessed value of all the property within the district's boundaries. The "assessed value" of property is that portion of the total market value of property that can be assessed for property taxes. Currently in Colorado, 7.94% of residential market value is assessed for property taxes. The assessed value of a \$100,000 home, for example, would be 7.94% of \$100,000, or \$7,940. If the total assessed value of property within the boundaries of a metropolitan district was \$10,000,000, and the district's tax levy rate was 25 mills, then the district would collect \$250,000 in annual property tax revenue (25 mills x \$10,000,000 assessed value = \$250,000).

A metropolitan district can use other means to raise revenue, including assessing fees, rates, tolls and other charges for the services it provides, and the district can use those fees to pay for the public infrastructure costs. Until paid, these fees, rates, tolls and other charges constitute a perpetual lien upon the property served by the public improvements, which may be foreclosed upon in the same manner as a mechanic's lien. A metropolitan district can also issue revenue bonds that are repayable from the fees, rates, tolls and other charges.

Formation of a Special District

The following actions are required in order to form a Title 32 special district:

1. The organizer of the special district submits a Service Plan to the appropriate county or municipal governing body for approval. The Service Plan must include a description of the proposed services; a financial plan of how the proposed services are to be funded (i.e., through a mill levy, the imposition of fees, or both); engineering and architectural surveys showing the location of the public improvements; maps; and other relevant information concerning the proposed district.
2. A public hearing is held on the Service Plan following publication of notice of the hearing. The county or municipal governing body will approve or disapprove the Service Plan, with or without conditions.
3. After the Service Plan is approved by the county or municipal governing body, a petition for the organization of the district, signed by 30% or 200 of the taxpaying electors for the proposed district, is filed in the appropriate district court.
4. A court hearing is held with regard to the submitted petition, and if it appears that the petition has been signed by the requisite number of persons and otherwise complies with all statutory requirements, the court will direct that the question of the organization of the district be submitted to the eligible electors within the district boundaries at an election.
5. An organizational election is held either in May or in November. Only property owners (and their spouses) and residents within the boundaries of the district can vote in the election.
6. If a majority of the eligible electors of the district vote in favor of the district's organization, the court will order the district organized.