
SPECIAL DISTRICT SERVICE PLANS



COLORADO

Department of Local Affairs

Division of Local Government

Division of Local Government

Department of Local Affairs

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INTRODUCTION

The following information is intended as general guidance for review of service plans of special districts organized pursuant to Title 32-Article 1 of the Colorado Revised Statutes. This is not a complete review of the Special District Act, and is not to be construed as legal advice. Any person considering the organization and ongoing responsibilities of a special district, and those who have responsibility to approve service plans of such districts, should obtain competent legal counsel. All statutory citations refer to the Colorado Revised Statutes as amended through 2016.

For more information or for more DOLA technical assistance publications, see the department's web site at www.colorado.gov/dola and click on Local Government (top), then Local Government Services, followed by Research and Publications.

See also "Formation and Statutory Responsibilities" of Colorado Title 32, Article 1, Special Districts published by the Division of Local Government for more information on the entire organization process.

WHERE TO START

All special districts in Colorado organized under C.R.S. Title 32, Article 1. have been required since 1965 to file a service plan with the board(s) of county commissioners of the county or counties in which the district is proposed to commence the review process. Upon review, the board has the authority to:

- Approve the service plan "without condition or modification":
- Disapprove the service plan; or
- "Conditionally approve the service plan subject to submission of additional information relating to or the modification of the proposed service plan". (C.R.S. 32-1-203)

A similar approval process applies when a district is organized wholly within the boundaries of a municipality or municipalities. In this case, the governing body of the municipality is the approving authority. (C.R.S. 32-1-204.5)

This publication provides additional information to be utilized by those who are involved in the approval process, whether they are petitioners, elected officials, appointed planning commissioners, or staff. It elaborates on what may be required in a service plan and what criteria may be used to evaluate the adequacy of a service plan for a special district.

Since the 1960s the trend with special district legislation has been to allow general purpose local governments to exert greater control over the formation

and operation of special districts. The service plan approval process is the key to exercising that control.

The legislative declaration found in Article 1 of Title 32 refers to "the coordination and orderly creation of special districts" and "the logical extension of special district services throughout the state." It further declares that the review procedures in Part 2 (the "Control Act") are created to "prevent unnecessary proliferation and fragmentation of local government and to avoid excessive diffusion of local tax sources." Additional reasons include "the elimination of the overlapping services provided by local governments" and efforts to "reduce duplication, overlapping and fragmentation of the functions and facilities of special districts."

EXCEPTIONS & ADDITIONAL INFORMATION

Special districts formed before 1985 that do not have an approved service plan on file can file a "Statement of Purpose" with the county commissioners or municipal governing boards, as well as with the Division of Local Government. (C.R.S. 32-1-208) in place of the service plan.

All Title 32-Article 1 special districts existing as of August 7, 2013, and new districts created thereafter are required to file a disclosure document and boundary map with the appropriate county clerk(s), which states the district's general powers (C.R.S. 32-1-104.8).

These requirements add an additional level of transparency for interested existing and prospective taxpayers.

COMPLIANCE WITH, MODIFICATION OF, AND ENFORCEMENT OF SERVICE PLANS

Service plans create binding agreements between the special district and the approving authority. "Upon final approval by the court for the organization of the special district, the facilities, services, and financial arrangements of the special district shall conform so far as practicable to the approved service plan" (C.R.S. 32-1-207(1)).

Once organized, "material modifications of the service plan ... may be made by the governing body of such special district only by petition to and approval by the board of county commissioners," following the same process as required for approval of the original service plan. (C.R.S 32-1-207(2)(a)) It is clear that the legislative intent was to require a similar process for approval of a material modification of service plans for districts wholly within municipalities by the municipal governing board.

"Material modifications" are "changes of a basic or essential nature, including any addition to the types of services provided by the special district, and shall not be required for changes of a mechanical type necessary only for the

execution of the original service plan or for the changes in the boundary of the special district." (C.R.S. 32-1-207(2)(a))

If a special district seeks to provide water or sanitary service extraterritorially in an unincorporated county that has not approved the district's service plan, it must meet the requirements of C.R.S. 32-1-207(b-d).

Material departures not so approved can be enjoined by the court, upon its own motion, or the motion of the board of county commissioners, municipal governing board, or "any interested party"¹, as defined in C.R.S. 32-1-207(3)(a).

Someone wishing to challenge an action of a special district as an unapproved material departure must do so within 45 days of the published notification by the district that it intends to undertake the activity. (C.R.S. 32-1-207(3)(b))

Annual Report

Boards of county commissioners or municipal governing boards may request the filing of an annual report of any special district wholly or partially within their boundaries. This report must be made available to the Division of Local Government and to all "interested parties" as defined in C.R.S. 32-1-207(3)(c)(d).

A governing board requesting an annual report should provide some guidelines and rationale for the request because the statute does not specify annual report contents. Information about any major changes in the financial status of the district may constitute a reasonable request. For example, any increased tax burden on municipal or county residents might influence decisions by municipalities, counties, or school districts. Boundary changes, which are specifically excluded from the definition of "material modification" of a service plan, constitute another activity that may reasonably be requested in an annual report. Intergovernmental agreements, changes in district policies, personnel changes, and other events that affect a district's operations are issues a governing board might also have an interest in.

As a matter of policy, consistency in annual reports, both in what information is requested and who is required to make submissions, seems reasonable and desirable.

SERVICE PLAN - STATUTORY REQUIREMENTS

Service plans must contain² the following minimum requirements per C.R.S. 32-1-202(2)). These requirements include:

¹ Defined as local governments within 3 miles of the district that levy ad valorem taxes (§32-1-204, C.R.S).

² Note that not all of these may be applicable depending on the type and complexity of the district being proposed.

- a) A description of the proposed services;
- b) A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207 or 29-1-302, C.R.S. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners or the governing body of the municipality of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan.
- c) A preliminary engineering or architectural survey showing how the proposed services are to be provided;
- d) A map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district;
- e) A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to section 32-1-204 (1);
- f) A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;
- g) A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan;
- h) Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met;
- i) Such additional information as the board of county commissioners may require by resolution on which to base its findings pursuant to section 32-1-203;
- j) For a mental health care service district, any additional information required by section 32-17-107 (2) that is not otherwise required by paragraphs (a) to (i) of this subsection (2);
- k) For a health assurance district, any additional information required by section 32-19-106 (2) that is not otherwise required by paragraphs (a) to (i) of this subsection (2).

It is incumbent upon those providing the service plan to provide sufficient information on the above issues so that the approving authorities can render a decision. That decision is, by statute, based upon satisfaction of specific criteria (C.R.S. 32-1-203). Disapproval of a service plan is mandatory in cases where it is not satisfactorily established that ((203)(2)):

- a) There is sufficient existing or projected need for organized service in the area to be serviced by the proposed special district;
- b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs;
- c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries;
- d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness, if any, on a reasonable basis.

There are other circumstances upon which the approval authority may disapprove the service plan. (C.R.S. 32-1-203(2.5)) This option exists where it is not satisfactorily established that:

- a) Adequate service is not, or will not be, available to the area through the county, other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
- b) The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party³ under C.R.S. 32-1-204(1);
- c) The proposal is in substantial compliance with a master plan adopted pursuant to C.R.S. 30-28-106;
- d) The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area;
- e) The creation of the proposed special district will be in the best interests of the area proposed to be served.

The service plan requirements and criteria for approving are not very specific. The approving authority is required to employ judgment in deciding upon the adequacy of the information provided and in determining if a specific criterion is adequately met. For example, what constitutes "a general description of the facilities to be constructed and the standards of such construction"? What is "sufficient existing and projected need for organized service"?

³ Defined as local governments within 3 miles of the district that levy ad valorem taxes (§32-1-204, C.R.S).

Thus, the applicable statutes give considerable flexibility to the approving authority in making these decisions. The flexibility of the statutes allows the degree of specificity required in a service plan to commensurate to the services, and does not impose an unnecessary financial or administrative burden where this would be counterproductive. For example, the services of a small rural fire protection district could be quite simple, while those of a large multi-service metropolitan district could be, by comparison, quite complex.

This flexibility might be interpreted as ambiguous by the proponents of a proposed district. Upon reading the statutory requirements they may find themselves wondering just how much and what kind of information is required of them.

Are the services of a financial planning consultant required, or could a citizen's group proposing a service district adequately do a financial plan themselves? How far into the future should "projected need" be evaluated? The answers to such questions vary with the circumstances including: geographic location, the type of service, and district's original and potential size.

A municipality or county that is experiencing growth in special districts should consider developing guidelines for service plans that enumerate and perhaps augment statutory requirements. While these guidelines could be informally provided by staff, there are advantages to employing a more formal approach.

Explicit requirements for, and standardization of, the review process provide the following advantages:

- The district's proponents will know ahead of time what the "rules" are. It will be easier to know what level of detail is expected, and how much effort to expend on a service plan.
- There may be special circumstances or issues in a particular area (e.g., groundwater contamination, a large proposed project) that the approving authority may wish to have the proponents address.
- Staff review of the plan can be streamlined.
- The approving authority runs less risk of accusations of favoritism or arbitrariness in cases where a service plan is disapproved, or where more information is demanded of the proponent.

In addition to the content of the service plan, the process of plan approval can benefit from explicit, detailed guidelines. The statutes outline a required process for review and approval, but do not inform a proponent about how the service plan approval is linked to other internal governmental functions, such as zoning approval.

The next two sections will provide suggested approaches to developing guidelines on the required content of and the approval process for special

district service plans. Many of the suggestions were derived from the work of the El Paso County's Special District and Bond Financing Office. This report also resulted from discussions with planning staff of other local governments, notably Adams and Douglas Counties.

SERVICE PLAN INFORMATION REQUIREMENTS AND CRITERIA

THE FOLLOWING GUIDELINES ARE NOT TO BE CONSTRUED AS BEING NECESSARY TO ALL SERVICE PLANS.

The level of detail required in a plan will vary with local circumstances. The Department of Local Affairs suggests that a county or municipal governing board review the following guidelines, and employ only those that appear appropriate to local conditions and to the services to be provided. Unnecessarily complex or burdensome requirements can be as detrimental to the approval process as those that are too vague or ambiguous.

Statement of Policies

If a county or municipality has policies requiring or encouraging certain types of approaches to service provision or development, these should be made explicit and be provided as prefatory information to service plan guidelines. Some counties, for example, encourage urban-type growth only in existing urban service areas. Regional management and operation of certain services or facilities (e.g., for water or sewer) is another policy-related issue that may be addressed. A policy encouraging multipurpose rather than single purpose districts, if one exists, should be made explicit, as well as the rationale for the policy. Other policy considerations might relate to the sequencing of approvals (e.g., Planned Unit Development Rezoning) which will be addressed in the next section.

The rationale for making policies as explicit as possible is to provide the district proponent with as much information as early as possible so that the service plan can be tailored to the policies and regulations of the approving authority.

Organization/Format

The review process can be expedited by providing information on how the service plan information is to be presented. A table of contents and summary for a complex, lengthy service plan can aid in review.

One organizational scheme could require the service plan be presented in sections, one for each of the nine statutory requirements. (See pages 3-4.)

It may be necessary to duplicate information from one section to another. Options are to allow cross-referencing, or to require each section to be self-contained and self-explanatory.

Maps may be required to be of a certain scale, to be printed on a particular type of paper, or to be referenced to an official map. These requirements should be made explicit.

The number of copies of the plan to be submitted should also be specified.

A listing of persons or organizations, such as engineers, legal counsel and, financial analysts who contributed to the service plan may be required, along with contact information for the contributors.

The proposed district name should not duplicate or be similar to an existing entity in the area. This could cause confusion or errors in governmental functions for other jurisdictions as well as residents of the district. The district name must consist of the chosen name preceding one of the following phrases: (C.R.S. 32-1-301(2)(a))

- Fire protection district
- Health services district
- Ambulance district
- Sanitation district
- Park and recreation district
- Water and sanitation district
- Water district
- Metropolitan district
- Tunnel district
- Mental health care service district
- Health assurance district

Metropolitan districts must provide two or more of the following services: (C.R.S. 32-1-103(10))

- Fire protection
- Mosquito control
- Parks and recreation
- Safety protections
- Sanitation
- Solid waste disposal facilities or collection and transportation of solid waste
- Street improvement
- Television relay and translation

- Transportation
- Water

Specific Statutory Requirements

In this section, specific suggestions are offered for requirements that elaborate on the statutory requirements. These suggestions may not be necessary to all service plans. Many are primarily relevant to large metropolitan districts that will provide a full range of services. Many of the requirements derive from the uncertainties inherent in raw land development, particularly with regard to scheduling of build-out, phasing of financing, and similar development-related issues. It is not suggested that all service plans should address all of these requirements. Requirements should reflect the minimum information necessary to render a sound decision on the proposed district while meeting all statutory requirements.

Summary

Services - "A description of the proposed services". (C.R.S. 32-1-202(2)(a))

- Reasonableness of the assumptions in the service plan;
- Reasonableness of proposed mill levy⁴;
- Impact of proposed debt in relation to overlapping debt;
- Additional burden of debt on present or future property owners;
- Ability of school district to accommodate physical and fiscal impacts of district development;

The impacts on school districts are issues that traditionally are negotiated between the school district and the developer at the development approval stage. While there may be no clear statutory authority to deny approval of a service plan solely on the basis of adverse impacts on a school district, it would be prudent to anticipate possible negative impacts and to coordinate planning efforts of the county or municipality with those affected school districts.

- Finding that adequate service is not, or will not be, available in the area through existing local governments (county, municipal, existing special districts) within a reasonable time and on a comparable basis (C.R.S. 32-1-203(2.5)(a));
- Compliance with county or municipal master plan; (C.R.S. 32-1-203(2.5)(c))
- Finding that the creation of the district will be in the best interests of the area to be served (C.R.S. 32-1-203(2.5)(e));

⁴Some jurisdictions have required a maximum (capped) mill levy for metropolitan districts; The cap may be required for the total mill levy or for only the debt portion of the total mill levy.

- The criteria used to determine when and if certain services are to be supplied or not supplied, if a multi purpose metropolitan district is proposed.
- A map of the proposed special district boundaries. (C.R.S. 32-1-202(2)(d))

The map might include the surrounding area within a reasonable distance (e.g., three miles) and be accompanied by a list of services provided by municipalities and special districts shown on the map. A legal description of the property in the district should accompany the map.

Financial Analysis

Financial plan - "A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to C.R.S. 32-1-207 or 29-1-302. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years for which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners or the governing body of the municipality of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan." (C.R.S. 32-1-202(2)(b))

The statutory requirement for one year's projected operating revenues is a minimum requirement. A long-term capital improvement program (CIP) might be required. A five-year time horizon is common in a CIP.

Alternative finance mechanisms such as sub-districts (§32-1-1101(1)(f)) and improvement districts (§32-1-1101.7) may also be considered.

Criteria and guidelines for financial data should be specified. For example, there are alternate methods of presenting dollar figures. Use of current year dollars throughout the analysis is one method. Alternatively, inflation can be factored into both costs and revenues. In either case consistency in - and explicitness of - methods is important.

Estimated Cost - "A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district. (C.R.S. 32-1-202(2)(f))

- Maximum bonded indebtedness and justification
- Types of financing to be used and sources of revenue to be used to repay debt

- The bonding process deserves special scrutiny. Phasing of bonding might be encouraged or required. Phasing provides for an increased ability to meet debt obligations if development does not occur as rapidly as projected. Also, the overall debt within a county from all bonding entities can affect the bond rating. Phasing coordination could be accomplished by a county if information on phasing is required.
 - The interest rates, issuing costs, and other financial data used in calculation should be provided by a reliable, identified source, such as an investment banking firm. Similarly, projected rates and charges should be based upon realistic analyses prepared by qualified sources.
- Evidence of commitment from a qualified lender or investment banking firm
 - It may not be possible to get a binding commitment from a lender prior to the closing of a bond issue. However, some indication of intent by a lender to sell bonds (unless circumstances change significantly) would provide some assurance of the feasibility of the district.
- Itemized breakdown of all costs to be incurred and allocation of costs (developer/applicant, district, private parties).
- Items that will be purchased or leased from developer/applicant (e.g., land, rights-of-way, water rights, etc.).
 - Any dealings between the developer/applicant and the district subsequent to approval of the district must be disclosed through the district's public activities and, where appropriate, the filing of conflict-of-interest disclosure forms with the Secretary of State (C.R.S. 24-18-110). However, a well-planned district should be able to provide some evidence of such anticipated dealings, although such plans might not be considered binding.
- Background financial information on the developer/applicant and financial relationships between owner, developer/applicant and district.
- Evidence that the proposed district is capable of providing economical service to the area within its boundaries. (C.R.S. 32-1-203(2)(c))
- Evidence that the area to be included in the district has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis. (C.R.S. 32-1-203(2)(d)) Information on sources of such information should be required.

- This could be based on build-out projections and forecasts of demographic and economic indicators such as population, employment, and income.
- Plans to mitigate any shortfalls in a district's ability to meet financial obligations.
- History of property tax payment on all properties to be included in the district.
- Existing or pending financial difficulties of the applicant, including insolvency, bankruptcy, or foreclosure proceedings.
- Standards upon which cost estimates are based (e.g., county transportation department, State Health Department, etc.). Estimates should be costs at time of construction.

Development Analysis

Engineering Survey - A preliminary engineering survey should show how the proposed services are to be provided (C.R.S. 32-1-202(2)(c)). It should also provide evidence that the proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries. (C.R.S. 32-1-203(2)(c))

Population and Valuation - An estimate of the population and valuation for assessment of the proposed special district. (C.R.S. 32-1-202(d))

- Evidence that there is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district. (C.R.S. 32-1-203(2)(a))

Evidence of final land use approvals, such as zoning or subdivision, may be necessary but not sufficient conditions for approval. A market analysis to demonstrate projected demand and need for services may be required. Forecasts of the district's build-out projections and of demographic and economic indicators such as population, income, and employment may be required, as well as analysis of the effects of competing. Information on sources should be required.

- Provide evidence that the existing service in the area to be served by the proposed special district is inadequate for present and projected needs. (C.R.S. 32-1-203(2)(b))

One way to systematically establish need for proposed services is to conduct a survey of existing services by providing an inventory of existing governmental entities within a reasonable proximity (e.g., three miles) of the proposed district.

This should address opportunities for including within existing districts and the potential for intergovernmental contracts.

- Summaries of land use approvals such as sketch plans, master plan, PUD or zoning approvals may be required.

Facilities - "A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to C.R.S. 32-1-204(1)." (C.R.S. 32-1-202(2)(e))

The facility and service standards must be compatible with those of each county within which the district is to be located and each municipality that is an interested party⁵. (C.R.S. 32-1-203(2.5)(b))

Intergovernmental Agreements

IGA's - "A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision and, if the form of contract is available, it shall be attached to the service plan." (C.R.S. 32-1-202(2)(g))

Intergovernmental agreements often are negotiated between special districts and counties, municipalities, and other special districts. These intergovernmental agreements might address issues such as:

- Police, fire and emergency services
- Wastewater treatment and collection
- Water acquisition, treatment and delivery
- Transportation systems
- Road and drainage systems
- Recreation facilities, parks and open space
- Multiple jurisdiction project management for infrastructure finance and construction
- Use of subdistricts and improvement districts

In cases where metropolitan districts are used as a development tool, but where services eventually will be provided by a municipality, annexation agreements may be negotiated as part of the service plan approval process.

⁵ Defined as local governments within 3 miles of the district that levy ad valorem taxes (§32-1-204, C.R.S).

An additional requirement might be evidence of good faith efforts to secure services from municipalities and existing special districts within a reasonable distance (e.g., three miles) that supply service proposed in the service plan.

Other Requirements

Hearings and Specific Conditions - "Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in C.R.S. 32-1-203, if applicable, is met. (C.R.S. 32-1-202(2)(h))

This section can deal with specific conditions that are unique to a particular area, or with unusual circumstances. Water and wastewater services in particular might require extra scrutiny. Examples of such water and wastewater related issues are:

- Provide evidence that the proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area (C.R.S. 32-1-203(2.5)(d));
- Plans for water acquisition and water system development, specifically addressing water rights issues;
- Status of required state and/or local reviews of wastewater treatment;
- Information on water and wastewater tap fees, user fees, availability of service fees, plant investment fees, and other charges.

Compliance

Additional information - "Such additional information as the board of county commissioners may require by resolution on which to base its findings pursuant to C.R.S. 32-1-203." (C.R.S. 32-1-202(2)(i))

These last two statutory requirements (Items h and i) give the county or municipal governing board broad power to establish requirements for service plan approval that exceed those specifically cited in the statutes. The requirement that these be enacted by resolution formalizes the request, and makes the demands for information uniform for all applicants.

Certain reporting requirements might be cited here, if this is deemed desirable. Examples are:

- Submission of an annual report, as described in C.R.S. 32-1-207(3)(c) and (3)(d);
- A sunset clause to address dissolution of the district in the event that development activity ceases or the district fails to provide services;
- Such a sunset clause should make reference to statutorily prescribed dissolution procedures, and any such dissolution procedures would have to be carried out accordingly.

- Specificity regarding what is to be considered a "material modification," as described in C.R.S. 32-1-207(2);
- Information about the district's policies for inclusion, including criteria to be employed in extending services.

SUBMITTAL AND REVIEW PROCESS

The process of reviewing special district service plans can be facilitated by clearly communicating the steps the applicant must go through to achieve approval. Some of the procedural requirements are established by statute; while others may reflect the policies of the approving authority.

In many cases, a county or municipality will have procedural policies for land use approvals, such as zoning, planned unit development, and building permit approvals in place. If the service plan approval requires any of these permitting approvals, the service plan approval process should be coordinated with the permit approval process. By doing so, both applicant and approving authority will find the process less confusing and time-consuming than if the required approval processes are separate.

As with the content of the service plan, the approval process can range from fairly simple to rather complex, depending upon the nature of the proposed services, the location of the proposed district, and the regulatory environment of the approving authority.

THE FOLLOWING PROCEDURAL GUIDELINES ARE NOT TO BE CONSIDERED PRESCRIPTIVE.

In many cases, certain procedures apply primarily to multipurpose metropolitan districts providing urban service, often involving the development of raw land. Not all be appropriate for the approval of single purpose or fairly small special districts. The local government considering these guidelines should strive for the most procedurally simple approval process that meets its obligation to provide a thorough service plan review.

Summary Sheet(s)

A summary sheet(s) should be prepared that outlines, in chronological order, the various steps in the review process. This can be useful for both the applicant and staff in tracking the application process.

Review Team

It may be advisable to create a review team for special district service plans, particularly if an entity routinely reviews service plan submittals.

The review team should contain representatives from all relevant review and approval agencies. In larger entities with complex structural or functional organization, the review team might consist of representatives from:

- Planning department
- Public works department
- Attorney's office
- Treasurer's office/finance department
- Land use department
- Clerk and recorder's office
- Assessor's office
- Park and recreation department

In cases where representatives of several agencies are involved, designation of a lead agency is necessary.

It may also be desirable to include representatives on the review team of other interested jurisdictions. These partners could be made official review team members or could serve ex officio in an advisory capacity. Jurisdictions or organizations that might be included are:

- Regional planning agency or council of governments
- Regional water quality management agency
- Neighboring counties, municipalities or special districts
- School districts
- HOA or other citizens groups

The role of a review team and its authority should be clearly spelled out. The statutes define those jurisdictions that are "interested parties" to such procedures while other parties may also have an interest in the formation of the district. Inclusion of all interested jurisdictions and agencies in the service plan review process is central to good comprehensive planning and should be encouraged.

Sequencing of Review and Approvals

Special district service plans typically go through at least a two stage review and approval process. Formal public hearings will be required before the planning commission and again before the approval authority. The summary sheet should indicate the publication and notification periods associated with these hearings.

There may be other informal reviews, such as before the review team or planning staff. Where these reviews fit chronologically into the overall approval process should be made explicit.

For a particularly large or complex proposed district that will require a considerable amount of information, a pre-application conference with appropriate staff could help the applicant become better familiar with what is expected.

Relation to Land Use Actions

If a proposed district requires land use actions, the relationship between these actions and service plan approval should be made explicit.

One approach is to proceed with preliminary land use approvals, then to initiate service plan approval, then to receive final land use action.

For example, sketch plan approval for a subdivision or a preliminary PUD approval might be required as a condition for initiation of a service plan approval. The service plan would then need to be seen through to final approval prior to final subdivision or zoning approvals.

Care must be given especially to coordinating service plan approvals with the establishment of "vested property rights." The point at which such vesting occurs will depend in large part upon the planning process developed by each approval authority.

The actual sequencing will be a matter of policy of the governing board, and should be made explicit, along with the rationale. Considerable savings to a district proponent in service plan preparation might be achieved if initial zoning or subdivision review make it clear that the proposed district is inconsistent with the master plan or other land use policies. Similarly, staff review time is not wasted on proposed districts that cannot secure needed land use approvals.

CONCLUSION

Ultimately, a decision on approval of a special district service plan is based upon the approval authority's judgment as to how the district promotes the public welfare, and its commitment to good government. This paper provides guidelines to help make that decision process objective and rational.

SPECIAL DISTRICT SERVICE PLAN CHECKLIST

- _____ 1. Preparation of Service Plan.
 - (a) Required contents 32-1-202(2), C.R.S.
 - i. Description of proposed services.
 - ii. Financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207 or 29-1-302. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued.
 - iii. Preliminary engineering or architectural survey showing how the proposed services are to be provided.
 - iv. Map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district.
 - v. General description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties.
 - vi. General description of the estimated cost of acquiring land, engineering services, legal services, administrative service, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district.
 - vii. Description of any arrangement of proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision and, if the contract form to be used is available, it shall be attached to the service plan.
 - viii. Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met.
 - ix. Additional information as the board of county commissioners may require by resolution on which to base its findings, pursuant to section 32-1-203.
- _____ 2. Service Plan Submitted to Board of County Commissioners.

- (a) Filed with the County Clerk and Recorder at least ten (10) days prior to a regular meeting.
 - (b) Filed at the same time with the Division of Local Government.
 - (c) Filed at the same time with the State Auditor.
 - (d) Board of County Commissioners sets processing fee in an amount not to exceed \$500. Fee may be waived by Board of County Commissioners.
- _____ 3. Report by County Clerk and Recorder on behalf of the Board of County Commissioners filed with the Division of Local Government in the Department of Local Affairs on form DLG-60.
- _____ 4. Copy of Service Plan submitted by Board of County Commissioners to County Planning Commission or Regional Planning Commission if such commissions exist.
- _____ 5. At next regular meeting after filing Service Plan the Board of County Commissioners sets a date for public hearing on the Service Plan within thirty (30) days.
- _____ 6. Notice of date, time, and location of the public hearing is given by Board of County Commissioners to the Division of Local Government.
- _____ 7. Notice of date, time, and location of the public hearing is given by the Board of County Commissioners to the Petitioners.
- _____ 8. Notice of date, time, and location of the public hearing is given by the Board of County Commissioners to the governing body of any existing municipality or special district that has boundaries within three (3) miles of the proposed special district boundaries.
- _____ 9. Notice of date, time, and location of the public hearing is published by the Board of County Commissioners, the first of which shall be at least twenty (20) days prior to the date scheduled for hearing.
- _____ 10. Petitioners send letter notification of the public hearing to property owners within district.
- (a) Use County Assessor records.
 - (b) Mailing not less than twenty (20) or more than thirty (30) days prior to public hearing date.
 - (c) Required contents:
 - i. Date, time location and purpose of hearing.
 - ii. Reference to type of special district.
 - iii. Maximum mill levy, if any, or that there is no maximum.

- iv. Procedures for filing of a petition for exclusion.
- ___ 11. Board of County Commissioners reviews Service Plan.
- ___ 12. Hearing held by Board of County Commissioners.
- ___ 13. Board of County Commissioners by Resolution approves or disapproves Service Plan within twenty (20) days after hearing.
- ___ 14. Petition of organization of Special District filed with District Court.
 - (a) The name must consist one of the following phrases:
 - 1. Fire protection district
 - 2. Health Services district
 - 3. Ambulance district
 - 4. Sanitation district
 - 5. Park and recreation district
 - 6. Water and sanitation district
 - 7. Water district
 - 8. Metropolitan district
 - 9. Tunnel district
 - 10. Mental health district
 - 11. Health assurance district
 - (b) A general description of the facilities and improvements to be constructed, installed or purchased;
 - (c) Statement as to whether the proposed district lies wholly or partly within another special district or municipality;
 - (d) Estimated cost of the proposed facilities and improvements;
 - (e) Estimated property tax revenues for the first budget year;
 - (f) General description of the boundaries with such certainty as to enable a property owner to determine whether or not his property is within the district;
 - (g) General description of the boundaries of director districts, if selected by the petitioners to have director districts. The districts need to have as nearly as possible the same number of eligible electors that shall be represented on the board;
 - (h) Request for the organization of the district;
 - (i) Request for the submission to the electors of the district at the organizational election of any questions permitted to be submitted at such election.
- ___ 15. Bond filed by Petitioners in an amount established by the Court.
- ___ 16. Order by Court fixing place and time for hearing on Petition.
 - (a) Date not less than twenty (20) nor more than forty (40) days after filing Petition.

- ___ 17. Notice published by Clerk of the Court, including:
 - (a) Pendency of the Petition.
 - (b) Purposes and boundaries of the Special District.
 - (c) Time and place of hearing.
 - (d) General description of the land contained within the boundaries of the proposed Special District.
 - (e) Information explaining methods and procedures of the filing of a petition for exclusion of territory.

- ___ 18. Copies of Notice mailed to Board of County Commissioners and all other interested parties within a three (3) mile radius.

- ___ 19. Hearing on Petition in District Court.

- ___ 20. Court orders election.

- ___ 21. Court designates election official, generally the County Clerk and Recorder.

- ___ 22. Designated Election Official sets date for election.
 - (a) Not less than ten (10) days after publication of the required election notice.

- ___ 23. Questions for ballot include:
 - (a) For or against the organization.
 - (b) Election of five (5) directors.
 - i. Two to serve until next regular election.
 - ii. Three to serve until second regular election.
 - iii. Four-year terms thereafter.
 - (c) Mill levy?
 - (d) Debt?
 - (e) Term limit waiver?

- ___ 24. Election results certified to District Court and the Division of Local Government.

- ___ 25. District Court enters order establishing Special District if election successful.

- ___ 26. Special District transmits certified copies of the findings and the order of the District Court organizing the Special District to the Clerk and Recorder and the Division of Local Government.

- ___ 27. Clerk and Recorder records certified copy.

- _____ 28. Special District delivers copy of approved Service Plan to Clerk and Recorder who retains the Service Plan as a public record for public inspection.
- _____ 29. Special District delivers a copy of the approved Service Plan to the Division of Local Government.
- _____ 30. Special District files map with County Assessor no later than May 1 of the year in which mill levy is to begin. A current, updated map must be filed with the county assessor, clerk & recorder, and division by January 1 of each year.