



DISTRICT CHARACTERISTICS (WITHIN THE CITY AND COUNTY OF DENVER)

BACKGROUND

For many years the City and County of Denver has used its charter-mandated Local Improvement District (LID) process to construct neighborhood improvements: chiefly streets, sidewalks and alleys. In addition, the City and County of Denver has used its charter-mandated Local Maintenance District (LMD) process to operate, maintain, repair, and replace a variety of streetscape improvements. Commercial areas such as Downtown Denver and Cherry Creek North have established Title 31 Business Improvement Districts (BID) to provide services unique to the commercial nature of these districts. The City has also approved the formation of Title 31 General Improvement Districts (GID) for the developers of the Southwest Commons commercial project and the Gateway Village project in Northeast Denver. Recently the City has approved a number of Metropolitan Districts (also called Special Districts or "Title 32" Districts) requested by developers.

LOCAL IMPROVEMENT DISTRICTS

Local Improvement Districts are authorized and prescribed by Sections 7.6.1-7.6.20 of the City and County of Denver Charter. These charter provisions appear to have been drawn primarily to allow the construction of improvements by petition of area property holders. For more limited purposes, the Manager of Public Works may unilaterally initiate an LID. Such districts have primarily been used to make improvements in already-developed areas. Important characteristics include:

1. Legal authority: Denver City Charter.
2. How initiated: By petition of property owners of at least 35 percent of area property, or for more limited purposes, by Manager of Public Works (Owners of 35 percent of property in a petition-initiated district may petition for remonstrance to stop improvements).
3. Powers: To construct (but not to acquire) public improvements. No operational authority.
4. Construction of improvements; All contracts to be awarded by mayor subject to City contracting procedures.
5. Cost apportionment: Assessed in proportion to benefits received. Benefits must exceed costs.
6. Cost recovery: By special assessment senior to all except property tax liens. Custom requires assessments be paid in full when property sold.
7. Board of Directors: No governing board. Improvement construction supervised by Manager of Public Works. No ongoing authority of subsequent improvements or financings without creation of new district. Developer would have very little control. No new governmental authority created.
8. Debt issuance: Inflexible requirement for public sale of debt. Term bond structure not to exceed 15 years required (no new debt can be issued unless a new district is created). Difficult, if not impossible, to refund debt.
9. Dissolution: Extinguished with repayment of indebtedness.

LOCAL MAINTENANCE DISTRICTS

Local Maintenance Districts are authorized and prescribed by Sections 7.7.1-7.7.19 of the City and County of Denver Charter. These charter provisions appear to have been drawn primarily to allow the maintenance of improvements by petition of area property holders. For more limited purposes, the Manager of Public Works may unilaterally initiate an LMD. Such districts have primarily been used to maintain improvements in already-developed areas. Important characteristics include:

1. Legal authority: Denver City Charter.
2. How initiated: By petition of property owners of at least 35 percent of area property, or for more limited purposes, by Manager of Public Works (Owners of 50 percent of property in an initiated district may petition for remonstrance to stop the district).
3. Powers: To maintain public improvements.
4. Maintenance of improvements;
5. Cost apportionment: Assessed in proportion to benefits received. Benefits must exceed costs.
6. Cost recovery: By annual assessment to all benefitted property.
7. Board of Directors: Five member board appointed by the Mayor. No new governmental authority created.
8. Debt issuance: Not applicable
9. Dissolution: Extinguished by ordinance.

BUSINESS IMPROVEMENT DISTRICTS

Business Improvement Districts are authorized by Sections 31-25-1201 through 31-25-1228 of the Colorado Revised Statutes. BID's are initiated by petition of owners of at least 50% of the assessed valuation and at least 50% of the district's land. BID's have been used to construct and maintain public improvements in established commercial areas and to provide other business services. A municipality's governing body sits as ex-officio board of directors for the district, but may appoint a Board of Directors . Characteristics of BID's include:

1. Legal authority: Colorado Revised Statutes
2. How initiated: By petition of owners of at least 50% of the assessed valuation and at least 50% of the district's land. Creating ordinance required. Powers may be circumscribed in creating ordinance or by separate agreement.
3. Powers: To have the management, control, and supervision of all the business and affairs of the district and of the acquisition, construction, financing, installation, and operation of district improvements and the financing and operation of district services therein; Can acquire previously constructed improvements May levy ad valorem taxes and special assessments. Has operational authority.
4. Construction: Must advertise and bid. No compunction to select lowest bid.
5. Cost apportionment: Equal mill levy on all real property or special assessments.
6. Cost recovery: Through levy of ad valorem tax or special assessments. Additional levy does not have to be paid off on sale of property.
7. Board of Directors: Board of Directors approved by City Council. Must meet at least once a year as board to adopt budget, audit etc. New governmental authority and overlapping debt created.

8. Debt issuance: Vote required for issuance of general obligation ad valorem debt. No requirement for public sale of debt. No specific structuring requirements. Debt refundable.
9. Dissolution: District has perpetual life. Can only be extinguished by ordinance and then only when debt retired.

GENERAL IMPROVEMENT DISTRICTS

General Improvement Districts (also called Municipal Public Improvement Districts) are authorized by Sections 31-25-601 through 31-25-633 of the Colorado Revised Statutes. GID's are initiated by petition of a majority of registered electors of a city who own real property in the proposed district. While GID's have been used to construct public improvements in established neighborhoods and to build and operate parking districts, they have primarily been used to build public infrastructure on raw land intended for commercial or residential development. A municipality's governing body sits as ex-officio board of directors for the district. Characteristics of GID's include:

1. Legal authority: Colorado Revised Statutes
2. How initiated: By petition of a majority of registered electors of a municipality owning real property in the proposed district. Creating ordinance required. Powers may be circumscribed in creating ordinance or by separate agreement.
3. Powers: To acquire, install, construct and operate any public improvements except electric or gas systems. Can acquire previously constructed improvements. Can have condemnation power. May levy ad valorem taxes. Has operational authority.
4. Construction: Must advertise and bid. No compunction to select lowest bid.
5. Cost apportionment: Equal mill levy on all real property.
6. Cost recovery: Through levy of ad valorem tax. Additional levy does not have to be paid off on sale of property. Also has power to levy fees, tolls and charges.
7. Board of Directors: City Council is ex-officio board of directors. Must meet at least once a year as board to adopt budget, audit etc. Can appoint and pay staff (which could be City staff for Denver GIDs.) Can construct subsequent set of improvements and issue subsequent debt. Developer has limited control. New governmental authority and overlapping debt created.
8. Debt issuance: Vote required for issuance of general obligation ad valorem debt. No requirement for public sale of debt. No specific structuring requirements. Maximum term of debt not to exceed 20 years. Debt refundable.
9. Dissolution: District has perpetual life. Can only be extinguished by ordinance and then only when debt retired.

METROPOLITAN DISTRICTS

Title 32 of the Colorado Revised Statutes authorizes the creation of special districts. The title specifically authorizes the creation of ambulance, water, sanitation, water and sanitation, fire protection, parks and recreation and metropolitan districts. Special districts are defined as "quasi-municipal corporations" and there has been a history of competition between special districts and cities in Colorado. We concern ourselves here with Metropolitan Districts (C.R.S. 32-1-101 through 32-1-1605). Metro Districts have substantially greater powers and autonomy than do LID's or GID's. Developers have often preferred to use Metropolitan Districts to construct public improvements in new developments because they

have been able to exercise a greater degree of control. Metro Districts have an independent governing body (a board of directors).

Salient characteristics include:

1. Legal authority: Colorado Revised Statutes (Metro Districts are independent political subdivisions of the state).
2. How initiated: Preparation of service plan. Resolution adopting plan by City Council, petition signed by at least 20% or 200 of taxpaying electors, public hearing, approval by district electors. Powers may theoretically be circumscribed by service plan. Enforceability of service plan not yet determined by courts.
3. Powers: To provide two or more of the following services: fire protection, mosquito control, parks and recreation, safety protection, sanitation, street improvement, television relay and translation, transportation and water. To impose fees and charges, to issue general obligation bonds (with election) and revenue bonds; to operate and maintain improvements (no statutory debt limitation); to levy and collect ad valorem taxes. Has operational and maintenance authority.
4. Construction: Can construct and acquire improvements. Developer control through board.
5. Cost apportionment: Through levy of ad valorem taxes and/or rates, fees and charges. Additional levy does not have to be paid off at time of sale.
6. Board of Directors: Has own five person board of directors elected by qualified electors.
7. Debt Issuance: Vote required for issuance of general obligation (ad valorem) debt. No requirement for public sale of debt. No specific structuring requirement. Maximum term of debt not to exceed 20 years. Refundable.
8. Dissolution: District has perpetual life. Can only be extinguished by ordinance and then only when debt retired.