



POLICY STATEMENT:
ESTABLISHING STATUTORY DISTRICTS IN DENVER

The magnitude of local and regional infrastructure needed in the City’s new development areas and in redevelopment areas requires that a broad range of financing tools be available to developers. This policy statement addresses the criteria under which the City will consider applications for proposed C.R.S. Title 31 and 32 Districts (“Statutory Districts”). Compliance with these criteria shall not obligate the City to approve formation of a Statutory District. The letter of intent and the Service Plan will be subject to approval by the City in both form and substance. The criteria are intended to serve as guidelines for the review of letters of intent and Service Plans.

This policy statement has three sections:

- 1. Process for applying including fees charged**
 - 2. The City’s decision-making criteria**
 - 3. Service Plan requirements**
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I. Process and Fees

Any proposed Statutory District will be considered in relation to the best interests of the City. Such interests include using the most appropriate financing mechanism for the type and magnitude of the improvements to be financed and appropriate governance mechanism. If through the review process, a Statutory District is determined to be the most appropriate mechanism, the process, criteria, and requirements provided herein will apply, unless otherwise waived by the City.

A. Letter of intent to form a Statutory District

The applicant shall submit a letter of intent containing the following information in summary form. This letter will be used to make a preliminary determination about the appropriateness of a Statutory District and must be submitted prior to preparation of a draft Service Plan. Approval of the concept does not assure approval of the Service Plan.

1. Type of Statutory District being sought and reasons for selection (it should be noted that the City favors General Improvement Districts (GID) and if another district type is selected, explanation must be made regarding the decision not to form a GID);

2. Description of district area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development scenario (land uses by type and intensity and general urban design character);
3. A clear justification of the reasons for a Statutory District and explanation of why other forms of financing cannot be used;
4. Analysis of the possibility for inclusion in or consolidation or any proposed relationships with adjoining or overlapping districts; and,
5. Summary of needed infrastructure, services and facilities:
 - a. Development scenario;
 - b. Needed local and regional infrastructure and facilities for such development;
 - c. Regional and local infrastructure, facilities, and services the district is to provide;
 - d. Estimated construction costs;
 - e. General description of phasing of construction based on development projections;
 - f. Overview of the sources and uses of funds; and,
 - g. Overview of ongoing operating and maintenance costs for infrastructure, facilities, and services.
6. Description of any City requirements or criteria that the proposer plans to request a waiver for.
7. Proposed timeline for District creation.
8. Description of what regulatory development process documents have been submitted or approved.

Submit ten copies of the letter of intent and associated documents to:

Districts Management Office
Public Works Department
201 West Colfax, Dept. 509
Denver, Colorado 80202

B. Review Process

1. The District Advisory Committee (DAC) is a City committee that advises the Mayor, City Council and other policy-makers about district issues. The DAC includes representatives of the departments of Community Planning and Development, Law, Revenue, Public Works and Budget and Management, as well as other agencies as needed.
2. The DAC will review the letter of intent utilizing these criteria for making recommendations to the Mayor, City Council, and other policy-makers on whether or not to proceed with the formation of a Statutory District.

3. If the policy-makers approve the District concept as established in the letter of intent, the DAC will direct the applicant to proceed with preparation of a draft service plan for submittal. Conceptual approval does not assure approval of the service plan.

C. Service Plan

1. If the concept for the Statutory District as contained in the letter of intent is approved, the applicant shall submit a draft Service Plan to the Districts Management Office.
2. The draft Service Plan will be reviewed by the DAC for compliance with the criteria and requirements contained herein. The DAC will discuss with appropriate policy-makers issues that arise during this drafting period to have such issues resolved.
3. The final Service Plan will be forwarded to City Council for action through the standard City and statutory processes.

D. Fees

No request to create a Special District shall proceed until the fees set forth herein are provided for. All checks are to be made payable to Manager of Revenue and sent to the Public Works Special District Office per instructions in Denver's District Policy Statement.

1. Letter of Intent: A Letter of Intent is to be submitted to the City's District Office and a \$5,000 fee shall be paid at the time of submittal of the Letter.
2. Application Fee:
 - a. If a development involves the creation of a Metropolitan District, the application fee for Districts planning to issue less than \$20 million or less in debt over the life of the Special District is \$10,000 payable upon submittal of draft Service Plan. For a Metropolitan District planning to issue over \$20 million in debt over the life of the Special District, an application fee of \$30,000 shall be paid upon submittal of the draft Service Plan.
 - b. If a development requires the creation of multiple Metropolitan Districts, a \$30,000 fee shall be paid for the Control District, and a \$10,000 fee for each related Service District shall be paid upon submittal of draft Service Plan(s).
 - c. For General Improvement Districts (Title 31 Districts), \$10,000 shall be paid upon submittal of draft ordinance.
3. Annual Fee: Each Special District shall pay an Annual Fee for the purpose of on-going monitoring of each Special District. This Annual Fee shall be set by the Manager of Revenue based upon the complexity and amount of work the City will incur for the annual review and monitoring of each Special District. The minimum Annual Fee shall be \$3,000 and the maximum shall be \$15,000. The Annual Fee shall be set forth in the

Service Plan. The Annual Fee shall be payable annually by June 30th of each year. The Annual Fee may be modified by the Manager of Revenue for any reason, including, but not limited to, needed amendments to the Service Plan, inclusion and exclusions and other matters involving City action.

4. **Bond Issuance Fees:** Bond Issuance Fees will be negotiated by the Manager of Revenue for each financing transaction undertaken by a Special District, based upon the complexity and intricacy of the financing. The Bond Issuance Fee shall be determined by the Manager of Revenue prior to each bond issuance. The minimum fee shall be \$5,000 and the maximum fee shall be \$15,000, payable at closing of the transaction. In addition, all City consulting, legal, and other costs incurred by the City for the review of the associated bond documents shall be paid within 30 days of receipt of the invoice, regardless of whether the transaction closed.
5. **Other Expenses:** The applicant for a Special District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the City in the process of reviewing the draft Service Plan prior to adoption, documents related to a bond issue and other such fees and expenses as may be necessary to interface with such Special District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.
6. **Treasurer Fee:** The City Treasurer shall withhold a one percent fee for tax collection in accordance with Colorado Revised Statutes.

E. Criteria for Setting Bond Issuance and Annual Fees

Criteria to be considered in setting the Bond Issuance Fee include, but are not limited to, the size of the financing, the repayment structure and term, the equity of the developer, the City's liability as the result of the proposed transaction, and the security of the pledge revenues and collateral.

Criteria to be considered in setting or changing the Annual Fee include, but are not limited to, infrastructure construction and phasing, ultimate build-out size of the Special District, relationships with other districts, other types of public financing involved, inclusion and exclusion requirements, needed amendments to the Service Plan, and anticipated nature of City involvement for the year.

II. Criteria for Evaluating Proposed Statutory Districts

A. Public Benefit

Formation of a Statutory District bestows certain benefits on the district's proponents and creates a long-term partnership between the City and the District. As such, the City expects the District to provide broad public benefit. Components of public benefit to be considered include:

1. Resulting development that is in conformance with the Denver Comprehensive Plan and all applicable supplements;
2. Provision of and/or contribution to needed regional and sub-regional infrastructure;
3. Sustainable design including multimodal transportation, water conserving landscape design, thoughtful development phasing, green building design, and formation of and participation in transportation management programs;
4. Mixed-use development that includes a variety of housing types and prices, a range of employment opportunities, retail and consumer services, and civic amenities; and,
5. High quality site and building design, including street connectivity, multimodal street design, durable construction materials, and pedestrian-friendly building design.

B. Evaluation Criteria

These criteria provide thresholds for consideration. Compliance with these criteria is expected; however, alternative approaches may be considered with justification.

1. Where practicable, inclusion in or consolidation with an adjoining district may be required as an alternative to the formation of a new district.
2. Districts should not include land that is already included within the boundaries of another Statutory District without express provision in an adopted service plan. In such cases, the relationship with the existing districts must be addressed in the Service Plan.
3. A District smaller than 160 acres of land will ordinarily not be considered. A smaller size may be considered for substantial infill sites where the redevelopment is of special benefit to the City.
4. A District planning to have less than \$7 million in obligations will not be considered.
5. A District planning to levy more than 50 mills of tax in all special districts combined will not be considered.
6. There must be a demonstrated need for a district financing structure based on the sources and uses of funds and other financial information provided in the letter of intent.
7. There must be a demonstrated public benefit directly attributable to the District.

III. Service Plan Requirements

In addition to statutory requirements, a Service Plan memorializes the understandings between the District and the City, as well as the considerations that compelled the City to authorize the

formation of the district. The Service Plan for the proposed District shall contain and will be reviewed for compliance with the following policies and requirements.

A. District Description

1. Type of Statutory District;
2. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development scenario (land uses by type and intensity and general urban design character);
3. Describe the public benefit of this District now and in the future;
4. Description of proposed development including general distribution of land uses and densities and phasing of development;
5. Justification of the formation of this District as a financing mechanism and why other forms of financing cannot be used;
6. If the District boundaries coincide with another Statutory District, an explanation of the relationship between the districts;
7. Itemization and description all needed infrastructure (both regional and local), services and facilities in the District's area;
8. Regional and local infrastructure, facilities, and services the District is to provide;
9. Estimated construction costs of such infrastructure;
10. General description of phasing of construction based on development projections and phasing;
11. Provide the following financial plan information:
 - a. Proforma financial overview of total costs and total revenues from all revenue sources;
 - b. Anticipated schedule of indebtedness and detailed repayment schedules for each obligation, which ties to the proforma financial overview of the project sources and a description of each bond issue (or other debt instrument) including expected interest rate and costs of issuance;
 - c. Documentation of contingency plans, credit enhancements, or other techniques to mitigate unanticipated revenue shortfalls affecting the repayment of debt;

- d. A substantively final form of all ballot questions related to seeking debt authorization as required by TABOR;
 - e. A financial feasibility and market feasibility study including development projections based upon market research and expenditure schedules matched to revenue forecasts by source;
 - f. Comparison of projected valuation and development with recognized local forecasts (DRCOG, state, etc.) including market shares and absorption percentages;
 - g. Anticipated maximum or fixed maximum mill levy required to meet debt service and operational and maintenance expenses of the District;
 - h. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area;
 - i. Comparison of the mill levies of similar taxing entities in the Denver metro area;
 - j. Proposed operating budgets for the District's first three years of existence;
 - k. Other forms of public financing and assistance being sought; and,
 - l. Analysis of impact of the development project on City services.
12. Description of the ultimate ownership and provision for the ongoing operating and maintenance costs for infrastructure, facilities, and services.
13. Description of an inclusion/exclusion process as appropriate.

B. Requirements and Expectations

- 1. Ongoing services of the District shall be restricted to services not provided by the City. The District shall not provide the following services: fire protection and other public safety services, operation of traffic control devices, or television relay and translation. Any provided services shall meet all applicable local, state, or federal requirements.
- 2. Districts shall not include land included within the boundaries of another Special District without express provision in an adopted service plan. In such cases, the relationship with the existing statutory district must be addressed in the service plan.
- 3. All debt issued by the District for which a pledged tax is pledged to pay the debt service shall meet the requirements of all applicable statutes, except that:
 - a. Any general obligation bonds issued by the District shall together with all other outstanding unlimited tax general obligation bonds previously issued, be equal to or

less than the greater of (i) fifty percent (50%) of the District's assessed valuation for non-residential properties or (ii) twenty-five percent (25%) of the District's assessed valuation for all property within the District, except to the extent that such debt complies with the provisions of C.R.S. 32-1-1101(6)(a)(IV); provided further, however, that in order to qualify under the exception provided in C.R.S. 32-1-1101(6)(a)(IV), any such debt shall be issued only to an "accredited investor," as that term is defined by Rule 501 under Regulation D promulgated under the Securities Exchange Act of 1934, notwithstanding anything to the contrary in C.R.S. 32-1-1101(6)(a)(IV).

- b. No uninsured bonds shall be issued which contain provisions permitting acceleration of the bonds upon default unless approved in writing by the Manager of Revenue.
 - c. If variable rate bonds are issued by the district a debt service reserve equal to five (5%) percent of the current outstanding principal balance will be funded at issuance and maintained throughout the life of the bonds.
 - d. Bonds will be issued with maturity dates of thirty (30) years or less and the first maturity will be within three (3) years of the bond issuance.
 - e. The District shall not participate in or approve the creation of any corporation, authority, or other entity to act upon its behalf or to obtain financing through such an entity without the written consent of the City.
 - f. Bonds will be structured to obtain competitive rates. Interest rates on the bonds shall be market rate comparable to other similar issues.
 - ~~g.~~ Interest rates on bonds sold to District developers or other related parties shall not be in excess of current market rates for similar debt instruments, and shall be currently callable at the option of the issuer after three (3) years.
 - ~~h.~~ The service plan shall require that the district comply with all applicable SEC and IRS regulations.
4. The facilities and services of the proposed District shall meet the facility and service standards of the City and the District and landowners within the District shall dedicate, when appropriate, such public improvements to the City for the use and benefit of the City's and District's taxpayers at no cost to the City.
 5. Land, easements or improvements to be conveyed or dedicated to the City shall be conveyed in accordance with all City standards at no cost to the City.
 6. The District shall not apply for Conservation Trust Funds, Great Outdoors Colorado funds, or other funds available from or through governmental or nonprofit entities that the City is eligible to apply for without the consent of the City.

7. The District shall not have the power to acquire property by eminent domain without the consent of City Council.
8. The District shall not pledge as security any land, assets or funds to be transferred to the City.
9. The District shall comply with the applicable provisions of the City's prevailing wage and small and disadvantaged business policies.
10. The District shall comply with the City's Public Art Program, as set forth in Section 20-85, DRMC.
11. District shall be dissolved the earlier of 30 years, payment of all obligations, development activity ceases, or the District fails to provide any services, unless a different date is justified.
12. District shall provide copies of drafts of all proposed enabling controlling, contractual, and/or operations documents affecting the District including an outline of the terms of requisite intergovernmental agreements.
13. The District shall be subject to City zoning, subdivision, building codes, and all other applicable City ordinances and regulations.
14. The District shall pay all fees and expenses as provided in the Service Plan.
15. The Service Plan shall state that the facilities and services of the District are solely the District's responsibility to provide and that if the cost of providing such facilities or services is greater than the District's financing capacity, the City has no obligation to finance or provide such facilities or services.
16. All bond documents shall be submitted in substantially final form for review by the City and County of Denver's Manager of Revenue's Debt Administration Office fifteen (15) days prior to the bond sale date to determine if such bonds are being issued in accordance with the Service Plan and any related Intergovernmental Agreement. The District shall notify the City of its intention to incur a financial obligation. Prior to entering into such a financial obligation, the District shall provide an opinion of a bond counsel (which firm is listed in the Red Book) opining that the final offering documents are in conformance with the applicable provisions of the Service Plan and all applicable laws and rules.
17. The District shall inform the Manager of Revenue within three days after a debt service payment date if such payment is not paid-in-full by the District.
18. No new money obligations (namely bonds and certificated leases) shall be incurred in the event the District has previously undertaken to do a refunding of outstanding obligations for the purpose of avoiding a default (as evidenced by comparing the average life of the refunding obligations to those obligations be refunded) without either obtaining prior

consent of the Manager of Revenue after providing evidence satisfactory to the Manager of Revenue that (i) the District is then capable of discharging its debts or (ii) such refunding obligations themselves are no longer outstanding, not withstanding anything in the Service Plan to the contrary.

C. Disclosure and Reporting Requirements

Disclosure of the existence of the District to property owners and potential property owners within the District is important and the following actions to be taken by each District shall be included in the Service Plan.

1. At least annually following the formation of the District, the District shall notify by mail every property owner in the District of the existence of the District and of the next scheduled meeting of the Board of the District. Such meeting shall occur at least 30 days and not more than 60 days following the date of the mailing. Such notification shall include names and addresses of the Board of Directors and officers, the address, telephone and fax numbers, and e-mail address of the District, and shall include reference to the existence of a District file maintained by the City as described below.
2. The District shall provide the following information to the City's Manager of Revenue and the Districts Office (addresses provided below) on an annual basis, and the District shall create and maintain a file for public review of the following information.
 - a. Annual district budget;
 - b. Annual construction schedules and work and capital improvement program for 1 year and 6 years;
 - c. Annual audited financial statements of the District, including percent of budget for operation and maintenance;
 - d. Total debt authorized and total debt issued and future debt issuances;
 - e. Names and terms of board of directors and officers;
 - f. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters;
 - g. Current intergovernmental agreements, if changed;
 - h. All current contracts for services or construction;
 - i. Current documentation of credit enhancements;
 - j. Official statements of current outstanding bonded indebtedness, if not already received by the City; and,

- k. Current approved Service Plan, if changed; and,
 - l. District Office contact information.
 - m. Any change in proposed development assumptions that impacts the financial projections.
3. In addition to material modifications identified in state statute, the following shall be considered significant changes to the Service Plan, thereby requiring approval by the City:
- a. Exclusion or inclusion of property without Service Plan and Statute required approvals;
 - b. Change in the maximum mill levy;
 - c. Consolidation with any other district;
 - d. Change in any of the services or facilities to be provided;
 - e. Change in the dissolution date;
 - f. Change in revenue source for bonded indebtedness;
 - g. Failure to provide annual reports or other required information or to pay required fees and expenses;
 - h. Formation of separate corporations, authorities, or other entities;
 - i. Change to any bond ratings or the failure of credit enhancement techniques;
 - j. Incurrence of debt in any amount or type or at any time not authorized by the Service Plan; and**
 - k. Any change in proposed development assumptions that impacts the financial projections.**

Submittal Instructions

Bond Documents. Submit two copies of bond documents, as described in B.16, to
Debt Administration Office
Manager of Revenue
144 West Colfax, Dept. 209
Denver, Colorado 80202

Annual Financial Information. Submit one copy each of the annual financial information, as described in C.2, to:

Debt Administration Office, Manager of Revenue (see address above)

and

Districts Management Office, Public Works Department (see address below)

All other documents. Submit letters of intent, draft service plans, and all other documents (with the required number of copies) to:

Districts Management Office
Public Works Department
201 West Colfax, Dept. 509
Denver, Colorado 80202
720-865-3025

Electronic submittal may be available for some draft documents. Please confirm with the Districts Management Office.

Further Information. For additional information please contact the Districts Management Office at the address or telephone number shown above.