

## City and County Metro District Abuse Guide Summary and Detail

### City County Executive Summary:

1. Pause until state reform efforts are addressed by the legislature.
2. Require for every new application a verifiable (with original documentation) statement that there is a statutory need - that metro district financing (two loans and two sets of interest) is more cost efficient than the traditional financing (paying for the infrastructure cost - \$30,000 per lot is the industry standard - through the cost of the lot.
3. Require for every new application a verifiable statement with original documentation of the cost of the land, the cost of the infrastructure and the price of the developed lot. If the cost of the land and the cost of the infrastructure is less than the price of the developed lot, then there is no need for a metro district.
4. Require that no bonds may issue until the board is 100% actual residents unaffiliated with the developer and that the debt authorization in the Service Plan is 50% of the proposed cost of the infrastructure. If they need more money they can apply for a modification to the service plan, showing with verifiable documentation why they need more money.
5. Have a city/county retained or employed financial advisor assist with any financial analysis; not a developer retained advisor.
6. Require that no debt or expenses may be authorized which is greater than a total - for all metro district debt or expenses, including operation and maintenance - of 35 mills.
7. Require monthly disclosure (or weekly during the actual construction phase for the infrastructure) of all financial transactions of the district, until the district is 100% residents with no affiliations with the developer.

All these can be required in the service plan.

## What Can Cities and Counties Do - Stop the Abuse

1. Require Meaningful Disclosures with the Service Plan Application:
  - a. Verifiable documentation of cost of the land
  - b. Verifiable documentation of cost of infrastructure (note industry average \$30,000 per lot)
  - c. Verifiable documentation of cost of lots to builders (or developer if they are also building some or all of the homes)
  
2. Expressly prohibit metro districts where the cost of the lot to builders already includes the cost of the infrastructure. If the cost of the lot is more than the pro-rata cost of the land to the developer, then there is a presumption that it includes repayment already for the cost of the infrastructure. If the cost of the developed lot already includes the cost of the infrastructure (industry average of \$30,000 which includes profit to the developer), there is no need for a metro district.
  
3. Require Review and Approval of:
  - a. Ballot Issues
    - (1) prohibit ballot issue provisions which impose debt and debt repayment authorizations without vote of residents (actual qualified electors who will buy the homes, live in the community and pay the taxes)
    - (2) Limit the amount of any debt authorization to one half of the cost of the infrastructure
    - (3) eliminate any interest rate authorization
    - (4) ensure term limits for directors
  
  - b. Agreements
    - (1) require all agreements to be approved by council until board of directors is 100% actual residents with no affiliation to the developer
    - (2) expressly prohibit agreements where district agrees to pay debts of developer or district agrees to pay debts of another district unless voted upon by actual residents
    - (3) expressly prohibit agreements establishing any governing body other than the board of directors for the actual resident taxpayer districts
  
4. Prohibit any District from Issuing Bond Debt of any kind without approval after public hearing by the council or board of commissioners until the district board is 100% actual tax paying residents with no affiliation to the developer.

5. Service Agreement - Expressly . . .

- a. Provide that the boundaries and purpose are limited and any change must be approved by the city/county.
- b. Provide that the debt shall be limited to a specific number and that number must be equal to the cost of the verifiably documented cost of the infrastructure
- c. Prohibit any mill levy higher than 35 mills total for all metro district taxes
- d. Prohibit any cost sharing agreements and debt payment agreements with other districts unless approved at an election by the actual resident taxpayers.
- e. Prohibit the creation of any governing body other than the board of directors for the actual tax paying resident district(s).
- f. Require weekly reports to the city or county of verifiable expenditures and income related to the construction of infrastructure which will be open to inspection by the public
- g. Require monthly review of status of the finances of the district by the city council until the district board is 100% actual resident taxpayers
- h. Provide that the city/county may at any time and for any reason require the developer/district to show cause why the conditional approval of the service plan should not be revoked where the continued operation of the district is no longer in the best interests of the community
- i. Provide that any and all approvals for the creation of a metropolitan district shall be conditioned upon approval of the financial management of the district until the district boards are 100% actual resident taxpayers with no affiliation with the developer
- j. Provide that every potential homebuyer shall receive the prescribed disclosure at the time they first inquire about the home, at the time they make an offer and at the closing
- k. Provide that every notice of a board of director meeting shall include a self nomination form and instructions that any resident may at any time self-nominate to serve on the board of directors. The instructions shall also state that once a resident self-nominates for a position, the board of directors must call for an election within 30 days and that the current board members who are not actual tax paying residents are immediately disqualified from serving on the board and voting on matters that come before the board.

**Here are highlights of the statutory tools to provide checks and balance on metro districts:**

**The City contributes to the content of the Service Plan and must approve the content of the Service Plan. There is no limitation on the frequency and extent of checks and balances the city can write into the service plan, including weekly financial reports until the board is 100% resident and prohibiting bonds from being issued without a public hearing and vote of council.**

**That approval for a metro district may be “conditional” which allows the City to continue to oversee and hold the developer accountable for the implementation of the Service Plan, especially during the first several years when the developer board of directors is making all the decisions - before the resident voter base is established and before residents are running the District Boards.**

**There is no limit to the nature of the additional information to be reviewed and no time limit for the conditional approval**

**Statutes:**

**CRS 32-1-204.5 (1)** No special district shall be organized if its boundaries are wholly contained within the boundaries of a municipality or municipalities, **except upon adoption of a resolution of approval by the governing body of each municipality.** The information required and criteria applicable to such approval shall be the information required and criteria set forth in sections **32-1-202 (2)** and **32-1-203 (2)**. With reference to the review of any service plan, the governing body of each municipality has the following authority:

- (a)** To approve without condition or modification, the service plan submitted;
- (b)** To disapprove the service plan submitted;
- (c)** **To conditionally approve the service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan.**

**CRS 32-1-202 (2)** The service plan shall contain the following:

- (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) and (k) omitted as not relevant (health service districts)

**CRS 32-1-203 (2)** The board of county commissioners **shall disapprove** the service plan **unless evidence satisfactory to the board** of each of the following is presented:

- (a) There is sufficient **existing and 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 on a reasonable basis**.

(2.5) The board of county commissioners **may disapprove** the service plan if **evidence satisfactory to the board of any of the following, at the discretion of the board, is not presented:**

- (a) **Adequate service is not, or will not be, available to the area through the county or 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 party under section 32-1-204 (1).

**(c)** The proposal is in substantial compliance with a master plan adopted pursuant to section 30-28-106, C.R.S.

**(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.**

**(3)** The board of county commissioners **may conditionally approve the service plan** of a proposed special district upon satisfactory evidence that it does not comply with one or more of the criteria enumerated in subsection (2) of this section. **Final approval shall be contingent upon modification of the service plan to include such changes or additional information as shall be specifically stated in the findings of the board of county commissioners.**

**There must be a public hearing before approval is granted. CRS 32-1-204.**

**The City must approve any material changes to the Service Plan. There must be a public hearing before any changes are approved. CRS 32-1-207.**

**The developer must submit annual reports to the City for at least the first five years and thereafter, if requested. CRS 32-1-207 (3)(c) and (d)**

**The City is not limited in the nature of information it may require the applicant to submit in the annual report. CRS 32-1-207 (3)(c)**

**The annual reviews may be (should be) held as part of a public meeting with notice to the public. CRS 32-1-207 (3)(c)**

**CRS 32-1-207 (3) (c) . . . .** If a special district files an annual report pursuant to this paragraph (c), **such report shall include but shall not be limited to** information on the progress of the special district in the implementation of the service plan. The board of county commissioners or the governing body of the municipality **may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting. The City may require a hearing every five years after debt is issued on the status of implementing the Service Plan with particular attention to the burden of the financial debt repayment upon the residents:**

**CRS 32-1-1101.5 (2)**

**II) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of the special district's general obligation debt and that such implementation will place property owners at risk for excessive tax burdens to support the servicing of such debt. If the board of county commissioners or the governing body of the municipality makes such a finding, **it shall deny a continuation of the authority of the board of the special district to issue any remaining authorized general obligation debt****