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The role of special districts supporting housing solutions

The 1859 Gold Rush brought settlers to Colorado in search of gold, the promise of land and a new way of life. What began as gold boom camps matured into industrial towns, the first large settlements that proved to be important examples for the urbanization of Colorado. The rapid population growth led to the creation of the Colorado Territory in 1861 and to the establishment of the state of Colorado in 1876. The statutes that allowed for the creation of special entities to finance the water, drainage and road improvements that served these first large settlements were a part of the law of the Colorado Territory and, upon its establishment, the state of Colorado, and were the genesis of the current special district statutes.

To this day, the influx of people to Colorado continues to bring challenges to cities and counties throughout the state as they plan for community infrastructure and resources to serve the growing population. Persistent questions include: Where will people live? How will they receive the services they need? How will new housing be constructed and maintained if it requires the extension or expansion



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of existing water, sewer and road systems? Who will build, pay for and maintain these improvements? From 1861 to today, the policy of the state, the counties and the cities is that new development must pay its own way. Consistent with this philosophy, special districts finance public improvements with bonds issued to pay these costs. These bonds are repaid over time by the homeowners and other property owners in the development that triggered the need for the public improvements.

The population of Colorado grew from nearly 2.21 million in 1970 to 2.89 million in 1980 according to the U.S. Census Bureau. Again, in response to the growing demand for services the state Legislature adopted Article 1 of Title 32 of the Colorado Revised Statutes in 1981, known as the Special District Act. The Special District Act combined and updated the



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provisions relating to the organization and powers of special districts, including provisions relating to organization, control, inclusion and exclusion of land, consolidation, dissolution and elections, into one title within the statutes.

It is under the Special District Act that all metropolitan districts are now organized and operate. A metropolitan district, a type of special district, provides at least two municipal services such as water, sewer, street, transportation, and parks and recreation services. According to Colorado's Department of Local Affairs, there are 2,965 special districts in the state, of which 2,331 are metropolitan districts.

The population of Colorado grew to 5.89 million in 2022, and the projected housing unit shortage is currently over 100,000. The need for metropolitan districts to continue to support cities and counties and


the expansion and extension of public improvements is as important as at any other time in Colorado's history.

The authority to regulate and approve land use lies with the city or county where the property is located. Through a public hearing process the city or county makes a final determination as to the allowable land use. Through review and approval of the development in the city or county process, the requirements are set for what public infrastructure will be required to support the approved development. The same city or county that approves the land use will also approve the organization of a metropolitan district to provide the required public infrastructure, such as on-site and off-site streets, water and sewer improvements, and public amenities, such as trails, bike paths, parks and recreation centers. Once formed, it is the responsibility of the metropolitan district to provide the financing, construction, operation and maintenance of the public improvements needed as each phase of the development is initiated and then completed.

■ **Benefits of metropolitan districts cooperating with**

other governments. It is sometimes necessary to combine numerous sources of revenue to assure financial feasibility for an infrastructure project that is needed and desired by several local governments. Special districts, including metropolitan districts, as governmental entities, are constitutionally and statutorily permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments by entering into intergovernmental agreements. These intergovernmental agreements achieve efficiencies in the financing of installation, and operations and maintenance, of public improvements through mutual cooperation of the participating governments. In many cases, these intergovernmental agreements are the only way to finance the needed public improvements as no one governmental entity could afford to finance these improvements on its own.

The regional improvements along E-470 and 64th Avenue in Aurora are a recent example of metropolitan districts working with other local governments to improve and pay for necessary


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infrastructure upgrades needed for a growing population. Colorado International Center Metropolitan Districts Nos. 6-11, HM Metropolitan District No. 2, and Velocity Metropolitan District Nos. 4-6 each serve properties that collectively form three development areas located generally south of the Denver International Airport, just east of E-470 and to the west of Jackson Gap Street. These development areas include existing, planned, and anticipated development in the form of residential, industrial, office, retail and hotel uses. These districts formed an authority by intergovernmental agreement so they could coordinate the sharing of revenue that was specifically identified for regional improvements. The authority then entered into intergovernmental agreements with Adams County, Aurora and the E-470 Public Highway Authority to improve roadway connectivity by financing and constructing improvements to east 64th Avenue consisting of the widening of the 64th Avenue Bridge over E-470 and the extension of 64th Avenue from E-470 to Jackson Gap Street. Once completed, the bridge widening and arterial road extension will provide critically needed traffic carrying capacity and connectivity to Denver International

Airport, the Gaylord Rockies Resort and Convention Center and E-470, and it will support the development of businesses and residential communities located in the region made possible by the sharing of revenues from all of these governments acting together.

■ **Oversight and transparency.** As political subdivisions of the state, metropolitan districts are required to submit filings to various state agencies throughout the year. Metropolitan districts are required to hold meetings following the posting of notice pursuant to the Colorado Open Meetings Law; keep minutes and other records that are open for inspection by members of the public pursuant to the Colorado Open Records Act; hold elections for its governing board of directors pursuant to the Colorado Local Government Election Code; adopt annual budgets, pursuant to the Colorado Local Government Budget Law; and submit to annual financial audits pursuant to the Colorado Local Government Audit Law. See C.R.S. Sections 32-1-903 (annual meeting), 32-1-104.5 (district website), and 1-13.5-501 (call for nominations).

The most recent changes to the statutes that apply directly to special districts and metropolitan districts focus on legislating

best practices, and increasing transparency and accountability. Metropolitan districts, with residents, that were organized after Jan. 1, 2000, are now required to hold annual town hall meetings at which they are to present information on construction projects and financial information and are to address questions raised by their residents. These districts are also required to have a website that contains the names, terms and contact information for the board members and district manager, the current budget, the most recent audit, the annual report, the schedule and location of regular meetings, certified election results and a current boundary map. As a part of the election process for districts organized after Jan. 1, 2000, there is a requirement that notices of the call for nominations for candidates for elections for board of director positions be made by publication, mailing, inclusion in newsletter or billing statements or by posting on the district website and to e-mail the call for nominations to the email address provided by the county clerk and recorder for all registered electors of the district, and for registered electors for which email addresses are not provided, to hard copy mail the call for nominations.

There have also been changes

to the statutes that apply to the sellers of residential property within metropolitan districts. In 2016, state statutes were revised to require purchase and sale agreements for the sale of a home to contain a disclosure regarding special taxing districts. The disclosure states that special taxing districts may be subject to general obligation indebtedness that is paid by revenues from annual tax levies on the taxable property within such districts. The disclosure also states the buyer should investigate the special taxing districts in which the property is located by contacting the county treasurer and reviewing the Certificate of Taxes due for the property. The complete required disclosure language can be found at C.R.S. Section 38-35.7-101.

In 2022 the statutes were further revised to require a homebuilder, at or prior to the time of execution of a purchase and sale agreement with a first purchaser of a newly built home within the boundaries of a metropolitan district, to provide either a paper copy, electronic copy or website page link to the district's service plan and notice to electors. A statement in writing is required to disclose the maximum debt authorization, maximum debt mill levy, information on the operating mill levy, and an esti-

mate of the district's property taxes and other property taxes, in addition to other information. The complete required disclosure can be found at C.R.S. Section 38-35.7-110.

In 2023 the statutes were revised again to require that beginning in 2024, any seller of residential real property that is located within a metropolitan district organized on or after Jan. 1, 2000, shall provide the purchaser of the property with the metropolitan district's official website information on the Colorado Real Estate Commission approved seller's form or other concurrent writing. See C.R.S. Section 38-35.7-111 for the full requirement.

■ **The future of metropolitan districts.** There are many different causes of the current housing shortfall, therefore, many different solutions will be required to reduce and eventually eliminate the shortfall.

The need to assure the ability of metropolitan districts and other special districts to continue to fund the public improvements needed for all housing products, including affordable and attainable housing in Colorado, is essential to meeting this challenge. ▲

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