

# PROPOSED REGULATIONS

## Part II, Section 26 SPECIAL DISTRICT SERVICE PLANS

### A. INTENT

It is the Intent of these regulations to provide a path to process applications for creating, consolidating, and modifying Special Districts. It is further intended that this process will provide adequate review time for identifying impact and dealing effectively and appropriately with the application information as to its impact upon the health, safety, and welfare of Elbert County citizens.

### B. APPLICABLE ELBERT COUNTY SPECIAL DISTRICT SERVICES

The organization of and amendments to special districts shall comply with C.R.S. 32-1-201 to 209 [The "Control Act."].

The Control Act sets forth the State's Criteria for the creation of a Special District.

A Special District is a quasi government organization that may be created to provide at least two of the following services to inhabitants within defined boundaries.

- ☐ Fire protection
- ☐ Mosquito control
- ☐ Park & recreation
- ☐ Safety protections
- ☐ Sanitation
- ☐ Street improvement
- ☐ Television relay & translation
- ☐ Transportation
- ☐ Water

Approval for Special Districts is accomplished through an application process conducted by the county within which the District will exist. Once approved by the county, the approval is reviewed by District Court and subject to a vote by the resident land owners within the proposed district boundaries.

These procedures along with Elbert County Regulations incorporate the requirements of Board of County Commissioners Resolution # \_\_\_\_\_ for creating, consolidation, or modification of Special Districts in Elbert County.

The process by which these service plans shall be reviewed is set forth in the following paragraphs.

### **C. GENERAL REQUIREMENTS**

1. A Pre-submittal Service District application may be accepted for an area where a Rezone / Subdivision action is underway, however, approval for service by a particular Service District shall not be approved until approval of the associated Rezone / Subdivision.
2. The timeline for completing Service District review and approval / disapproval shall be measured in Elbert County “working” days. Elbert County currently operates on a four day work week, Monday through Thursday.
3. A formal Service District application will not be accepted until the Pre-application Review Process is complete.
4. An Applicant may submit a written request to proceed with a formal application, bypassing the Pre-application Process or prior to satisfying all referral comments. Such action may reflect negatively on the application.
5. The **INFORMATION REQUIREMENTS for inclusion in Special Service District Plans together with Attachment 1** for Statutory / Elbert County Compliance are provided as a guideline when preparing pre-application and formal application information.
6. If / when an application is found to be incomplete, Community & Development Services shall inform the Applicant, return the Application, and restart the timeline clock only after a completed application has been received in writing.
7. Elbert County may request additional detail about the project. When additional detail is requested, the project timeline will be suspended and will not restart until the additional detail is received in writing.

8. It is the Applicants responsibility to Publish Notice of the Planning Commission and Board of County Commissioners' Hearings.
9. When a Planning Commission hearing has been continued / changed for any reason, the following shall apply: Not earlier than 10 days after the Planning Commission hearing, at the next regular meeting, the Board of County Commissioners shall set a hearing date. The hearing date shall not be more than 30 days following the Planning Commission hearing or as soon as possible thereafter.
10. Should a hearing be cancelled due to weather, lack of a quorum, etc. that hearing will be automatically re-scheduled to the following regularly meeting date.

## **D. GENERAL STANDARDS**

### **ADOPTION OF A SERVICE PLAN**

The Colorado Revised Statutes (CRS, 32-1-203), specify the responsibility and authority for the review of any service plan.

1. . . . With reference to the review of any service plan, the Board of County Commissioners 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.
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 areas 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, CRS.
  - 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 finding of the Board of County Commissioners.

### **Additional Questions:**

1. Has a service plan been timely filed with the Board of County Commissioners of each county with territory within the boundaries of the proposed special district?
2. Was the Service Plan reviewed through the Pre-application process?
  - a. Was the service plan accompanied by the required processing fee set by the BOCC?
    - i. Application fee
    - ii. Engineering review fee
    - iii. Financial professional review fee
    - iv. Water professional review fee
    - v. Legal review fee
    - vi. Any Special Meetings fee
    - vii. Mailing containers with unattached postage for mailing of Referral information.
  - b. Did the Applicant fail to satisfy any referral comments during the Pre-application or formal application process?
3. Does the service plan include all required information?

See: INFORMATION REQUIREMENTS FOR SPECIAL DISTRICT  
SERVICE PLANS – STATUTORY / ELBERT COUNTY COMPLIANCE
4. Has written notice of the date, time and location of the Planning Commission and Board of County Commissioners' public hearing on the service plan of the proposed special district been provided to the division of local government?
6. Was the required timeline for publishing notice of the Planning Commission and Board of County Commissioners' public Hearing been followed?
7. Were the hearings open to the public?
8. Was a record of the proceedings of the public hearings made?
9. Were all interested parties afforded an opportunity to be heard?

10. Does the Board of County Commissioners' wish to exclude territory from a proposed special district prior to the approval of the service plan?
11. Has a petition objecting to the service plan by the owners of taxable real and personal property, equaling more than 50% of the total valuation for assessment of all taxable real and personal property to be included in such district, been filed with the Board of County Commissioners' not later than 10 days before the hearing?
12. Has any person owning property in the proposed special district submitted a request to the Board of County Commissioners' to have his property excluded from the special district?
13. Is the special district partly or wholly within an existing special district that provides the same service?
14. If an overlapping special district is proposed, do the improvements or facilities duplicate or interfere with any others already constructed or planned to be constructed with the portion of the existing special district? If not, is the Board of County Commissioners' willing to approve, by resolution, the inclusion of such service as part of the service plan of the overlapping special district?

#### E. PRE-APPLICATION & COMMUNITY MEETINGS

Prior to submittal of a Service District Pre-application, Applicants shall contact Community & Development Services regarding the proposed application, to review concept of the plan, procedures, submittal requirements, and fees and obtain a Pre-application checklist. A Pre-application meeting will be scheduled not later than two weeks or as soon as possible thereafter, following submission of the completed Pre-application information and approved fee to CDS.

Following the Pre-application meeting, the Case manager shall provide notes of comments regarding the pre-application review within ten working days, [or as soon as possible thereafter], to the applicant.

The applicant shall then conduct a Community Meeting and invite, by certified mail, all property owners within the proposed Service District boundaries and all other property owners, to include water and mineral owners within one

fourth mile of the proposed Service District boundaries at least 14 days prior to the meeting.

Following the Community Meeting, the Applicant may address any identified issues and submit copies of the project information, reference Item F.

## F. PRE-APPLICATION SERVICE DISTRICT SUBMITTAL REQUIREMENTS

Submittal items are required by Community & Development Services, at least 8 weeks prior to the anticipated formal service plan submittal. The eight [ 8 ] weeks will commence when all information is stamped “received” and fees have been paid.

1. The applicant shall submit copies as requested by Community & Development Services.
  - a. Community & Development Services Pre-application file copies for a Special District Service Plan, data to be included, reference:
    - Part II, Section \_\_\_\_ SPECIAL DISTRICT SERVICE PLANS
    - “Information Requirements for Special Service District Plans for Statutory / Elbert County Compliance”.
    - Other documentation as requested.
  - b. Referral copies
    - Copies of Service plan, appendix, vicinity map & district site map,
    - Other documentation as requested,
    - Unsealed envelopes / mailing containers for Referral information,
    - Unfixed postage to cover cost of mailing Referral information
2. Fees: The Applicant shall be required to make a deposit with the County estimated to cover the cost of professional Services review as part of the Elbert County Review Committee:

## G. PRE-APPLICATION SERVICE DISTRICT REVIEW

Referral agencies shall include any service district within three miles of the proposed service district. The consultants and referral agencies will have 21 days to respond with comments to CDS in writing. A Referral Agency may

request an additional ten [10 ] days if need be. Comments that require a written response from the Applicant will be forwarded when received. Such written responses shall be submitted to CDS and forwarded to the referral party for verification of adequate mitigation.

1. Community & Development Services shall
  - Review for general completeness of information,
  - Distribute referral copies to Review Committee members and other referral entities for comments,
  - Review the Service District proposal for County impact and
  - Coordinate referral comments to Applicant.
2. The Pre-Application Service District Plan shall be reviewed by the Elbert County Review Committee as follows:
  - Community & Development Services
  - Finance professional
  - Engineering
  - Water consultant
  - Legal
  - Elbert County Water Advisory Committee
  - Other professionals and Referral agencies as may be deemed necessary.
3. Review Committee professionals shall be expected to review the information relative to their professional expertise and respond in writing to CDS about:
  - Completeness of information,
  - Validity of assumptions,
  - Being factually correct,
  - Identifying risks to Health, Safety, & Welfare of Elbert County and
  - Professional experience / opinion related to project feasibility for the greater good of Elbert County citizens.

## H. SERVICE DISTRICT PLAN FORMAL APPLICATION

The Applicant may proceed with submittal of a formal application following receipt of a letter from CDS indicating that the pre-submittal process is complete or that the Applicant has chosen to bypass the pre-submittal process.

### 1. Submittal requirements:

Last updated 9 January 2012, 21 February 2013  
Corrected version B  
January update beyond 9<sup>th</sup>  
January 31, 2013



The service plan shall be presented in Sections, one for each of the nine statutory requirements found in I – INFORMATION REQUIREMENTS FOR SPECIAL SERVICE DISTRICT PLANS for STATUTORY / ELBERT COUNTY COMPLIANCE, A – I, together with Appendices J. through O and Attachment 1. Each Section shall be self-contained and self-explanatory. If in the case of an amendment, a section that is not relevant, it shall still be included with an explanation of why it does not pertain. Formal submittal requires the following:

**Submittals:**

- a. One original of the service plan to the Elbert County Clerk's Office.
- b. One original and one copy of the Special Service District plan, to Community & Development Services plus a sufficient number of copies as requested for the Planning Commission, County Attorney, Board of County Commissioners, Elbert County Review Committee, and Referral Agencies.
- c. An application form provided by Community & Development Services that includes at least the following information about the Applicant, proposed District Board Members, all representatives, landowners within the proposed District boundaries:
  1. Name
  2. Address
  3. Phone #
  4. Pending litigation on any present / past development in which they are named,
- d. Disclosure letter
- e. Proof of ownership – copy of recorded deed and title policy
- f. Application Agreement Form
- g. Application fees – The costs of consultant and referral agency review are the responsibility of the applicant.
- h. Statement of property Taxes for the parcels involved.
- i. Copy of written comments and corresponding applicant responses from the pre-submittal review process.

- j. Green and White postal cards from certified mailing for community meeting, along with copy of letter, sign in sheet and applicants meeting notes.
- k. Proposed District Exhibit – All sheets shall be in 24” X 36” format. The following information and standards shall apply to the District Exhibit.
- A margin, at least 1” on all sides, except the left-hand margin shall be minimum of 2;”
  - The name of the District Exhibit, centered on the upper portion of each sheet;
  - The sheet number in the lower right hand corner of each sheet, [Sheet 1 of \_\_\_\_];
  - Case # \_\_\_\_\_ in the upper right corner of each sheet;
  - District Exhibit notes and information shall be included on the first sheet, with lettering being a minimum font size of 12 point. (Note: For referral processing purposes, the information may be prepared on 11” X 17” paper format provided all information remains easily legible).
  - Legal Description – A legal description of the property designated as a Section, Township, Range, centered below the District name;
  - Vicinity map – Locates the parcel in the county as it relates to a known location such as towns of Elizabeth, Kiowa, Simla or other easily identifiable relationship;
  - Names, addresses, and phone numbers of all owners, representative, and individual/firm preparing the document;
  - Site Plan – Shall include layout of proposed land use areas; non-buildable areas, hazard areas, flood plain, drainage, open space easements (indicate Reception # and Book Number and Page Number, if applicable), etc;
  - The following signature blocks shall be included on the first page of the District Exhibit.

### **Planning Commission**

This Service District was reviewed by and recommended for approval by the Elbert County Planning Commission on the \_\_\_\_ day of \_\_\_\_, year \_\_\_\_, AD.

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### **Board of County Commissioners**

This Service District was reviewed and approved by the Elbert County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_, year \_\_\_\_, A.D.

\_\_\_\_\_  
Chairman, Board of County Commissioners

### **Clerk and Recorder's Certificate**

I, hereby certify this Service District Exhibit was filed in my office on this \_\_\_\_ day of \_\_\_\_, year \_\_\_\_ A.D., at \_\_\_\_ A.M. / P.M. and was recorded at Reception Number \_\_\_\_.

\_\_\_\_\_  
County Clerk and Recorder

### **Owners' Certificate**

(Use the appropriate certificate for an individual owner, multiple owners, or corporation)

(Individual)

I, \_\_\_\_\_, as owner of the land affected by this Service District approval, accept and approve all conditions set forth herein.

Owner \_\_\_\_\_, Date \_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Printed name]

(Multiple Owners)

We, \_\_\_\_\_ and \_\_\_\_\_, etc. \_\_\_\_\_, as owners of the land affected by this Service District approval, accept and approve all conditions set forth herein.

Owner \_\_\_\_\_, Date \_\_\_\_\_  
[Signature]



## **2. Incomplete Submittal:**

- a. Community & Development Services shall inform an Applicant of the incomplete items in writing postmarked by the 5<sup>th</sup> working day following receipt of the Application by the Office of Clerk & Recorder. The application will be cancelled and a new complete application will need to be re-submitted to the Clerk & Recorder.
- b. If information is found to be lacking from an application following the 5<sup>th</sup> working day, **the application will be suspended and only restarted** after completed information has been provided.
- c. A lack of a notice of inadequacy does not preclude an applicant from having to submit additional information as required.

## **3. Hearing Process**

### **Public Notice:**

The applicant is responsible for all public notice as follows:

### **Newspaper**

- a. A notice shall be published in a daily or weekly newspaper of general circulation, printed or published at least in part in Elbert County, at least 20 days before the Planning Commission / Board of County Commissioners' public hearing. The notice shall include the date, time, location, purpose of the hearing and a general description of the land contained within the boundaries of the proposed special district and information outlining methods and procedures pursuant to C.R.S. 32-1-203 {3.5}m as amended, concerning the filing of a petition for exclusion of territory.
- b. In any instance where the initial Planning Commission hearing has been continued / changed such that the ensuing Board of County Commissioners' hearing would also require changing, the following shall apply: At least ten [10] days after the Planning Commission recommendation, the Board Of County Commissioners, at its next regular public meeting, shall set a date for a public hearing on the service plan. This public hearing date shall be within

thirty [30] days of the Planning Commission public hearing. [C.R.S. 32-1-202{1}, as amended] or as soon as possible thereafter.

- c. Should inclement weather or any “like” issue cause a hearing to be cancelled, the next “date certain” for the hearing would be the next regularly scheduled meeting date for the respective Planning Commission / Board of County Commissioners.
- d. It is recommended that the applicant provide Community & Development Services with a copy of the above draft notice and a list of the municipalities or special districts prior to mailing the notice.
- e. Publishers affidavit verifying newspaper publication shall be submitted to Community & Development Services at least five [5] working days prior to the Planning Commission hearing.

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#### NOTICE OF PUBLIC HEARING

##### Creation of Special Service District

“Notice is hereby given that on \_\_\_\_ [day of week] \_\_\_\_ [month] \_\_\_\_ year at \_\_\_\_ [time A.M./P.M.] or as soon as possible thereafter, a Planning Commission Hearing will be conducted and the Board of County Commissioner’s hearing is to be held on \_\_\_\_ [day of week] \_\_\_\_ [month] \_\_\_\_ year \_\_\_\_ [time A.M./P.M.] or as soon as possible thereafter. Hearings will be conducted in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado or at such other time and place as these hearings may be adjourned. Public Hearings will be heard upon the application on file with Elbert County Community & Development Services, 215 Comanche, Kiowa, Colorado, 303-621-3136, by \_\_\_\_\_ [name of applicant], for the creation of a Special Service District pursuant to the current Elbert County Zoning Regulations. The proposed district boundaries include all or part of Section \_\_\_\_ Township \_\_\_\_ South, Range \_\_\_\_ West in Elbert County Colorado.

Reason: \_\_\_\_\_

Project Name & Number: \_\_\_\_\_

Legal Description of Property: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Published in: \_\_\_\_\_

[Name of Newspaper]

Date of Publication: \_\_\_\_\_

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Publishers affidavit verifying the above publication shall be submitted to Community & Development Services at least five [5] working days prior to the Planning Commission hearing.

### **Written Notice**

#### **a. Existing surrounding Municipalities and Special Districts**

- 1] At least twenty [20] days prior to the Board's hearing, a written notice stating the date, time and location of the Planning Commission and Board of Commissioners public hearing shall be sent to the governing body of any existing municipality or special district which has levied an ad valorem tax within the next preceding tax year and which has boundaries within a radius of three miles of the proposed special district boundaries. [ C.R.S. 32-1-204 {1}, as amended].

#### **b. Property Owners**

- 1] Not less than twenty [20] days prior to the Planning Commission Hearing nor more than thirty [30] days or less than 20 days prior to the Board of County Commissioners hearing, a notice stating the date, time, location and purpose of the Board of Commissioners public hearing, a reference to the type of special district, maximum mill levy, if any, or stating that there is no maximum that may be imposed by the proposed special district, and procedures of the filing of a petition for exclusion pursuant to C.R.S. 32-1-203{3.5}, as amended, shall be sent by Certified Mail, Return Receipt Requested, to the owners of property within the proposed special district and within 1320 feet of the proposed district boundaries and to mineral right's owners and lessees and easement holders, as listed on the records of the County Assessor . [ C.R.S. 32-1-204{1.5}, as amended ].
- 2] If the applicant represents 100 percent of the landowners, no mailing is required. The applicant shall submit evidence of ownership in the form of a title commitment dated within thirty days of the formal submittal of the application to Community & Development Services.

- 3] At least fourteen [14] days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community & Development Services the following: The white postal receipts for Certified Mail mailed to the required property owners; a copy of the note mailed to said property owners; a list, in alphabetical order, of the property owners and a map illustrating the location and proximity of required property owners within and adjacent to the proposed district.
- 4] At least five [5] working days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community & Development Services, the green postal Domestic Return Receipts mailed to the required property owners within and adjacent to the proposed district.

#### **Planning Commission:**

Pursuant to C.R.S. 32-1-202{1}, as amended and Board Resolution # \_\_\_\_\_, the Planning Commission shall consider public testimony given at the public hearing and make its recommendation to the Board within thirty [30] days of formal submittal of the service plan, on whether the criteria set forth in C.R.S. 32-1-203{2}{a}-{b} and {2.5}, as amended, have been met unless the applicant consents to a continuance.

If scheduling of the Planning Commission hearing requires a Special meeting, the Applicant must agree to pay a fee to the County in advance of the meeting to cover mileage and overtime of time and a half for staff and the Planning Commission

Applicant may sign an agreement to delay the Planning Commission hearing until a regular meeting time to avoid cost of a Special meeting.

The Planning Commission hearing may be “continued” from the original scheduled date to a future “date certain” as may be necessary.

#### **Board of County Commissioners:**

- a. At least ten [10] days after the Planning Commission recommendation, the Board Of County Commissioners, at their next regular public meeting, shall set a date for a public hearing on the service plan. This public hearing date shall be within thirty



[30] days of the Planning Commission public hearing [C.R.S 32-1-202{1}, as amended] or as soon as possible thereafter.

- 1] If scheduling of the Board of County Commissioners' hearing within thirty days [30] of the Planning Commission public hearing requires a Special meeting, the Applicant must request the Special meeting of the Board of County Commissioners.
  - 2] If the Special Meeting is to be in the evening, Applicant must agree to pay a fee to the County in advance of the meeting to cover overtime equal to time and a half for staff.
  - 3] Applicant may sign an agreement to delay the Board of County Commissioners' hearing until a regular meeting time to avoid cost of a Special meeting.
- b. At least fourteen [14] days prior to the Board of County Commissioners' public hearing, the County requests the applicant to provide a draft copy of a Board resolution of approval on diskette or by e-mail, in the most current version of "Microsoft Word" as utilized by the County.
  - c. The Board of County Commissioners' may continue the public hearing for a period not to exceed thirty [30] days, and the applicant and the Board of County Commissioners may agree to continue the public hearing for a longer period. [C.R.S. 32-1-202{1}} and {3,5} as amended].
  - d. The Board of County Commissioners shall approve, disapprove, or conditionally approve the service plan, and may exclude territory from the proposed special district prior to approval of the service plan in accordance with the Control Act. [C.R.S. 32-1-203{1}, as amended].
  - e. Within twenty days after completion of the public hearing, the Board of County Commissioners shall advise the applicant in writing of its action on the proposed service plan in accordance with the requirements set forth in the Control Act. [C.R.S 32-1-204{4}, as amended].

#### **4. Post Board of County Commissioners Hearing:**

- a. If the organization of the special district is approved by the voters, Applicant shall transmit 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. [ See C.R.S. 32-1-306, as amended ] and three final copies of the service plan and the Order and Decree provided to Community & Development Services within 30 days of approval
- b. Clerk and Recorder shall record certified copy and retain a copy of the approved Service Plan as a public record of public inspection. Special District provides recording fee prior to recording.
- c. Special District shall file map of the District with County Assessor no later than May 1 of the year in which mill levy is to begin.