



# COUNTY OF ELBERT

## COMMUNITY & DEVELOPMENT SERVICES OFFICE

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**7 MARCH 2013**

**[Staff Report]**

## **Workshop – Elbert County Planning Commission & Board of County Commissioners scheduled for 14 MARCH 2013**

**From: Community & Development Services**

**Subject: Elbert County Special District Service Regulations**

### **Summary:**

It is the Intent of these regulations to provide a path to process applications for creating, consolidating, and modifying Special Districts. The path shall include 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.

There are four separate items included with this staff report:

- 1. Staff Report**
- 2. Proposed Regulations:** Part II, Section 26, SPECIAL DISTRICT SERVICE PLANS.
- 3. Information Requirements:** provide guidance for special service district plans provide to comply with Colorado statutory / Elbert County requirements. **Attachment 1** describes parameters for illustrating Financial information.
- 4. Recommendations:** The Recommendations are choosing Professionals & obtaining agreements on fees prior to accepting any applications. The Professionals are to present their findings / comments at the Public Hearings and be available to answer questions.
  - a. **Identify** the Professionals / Professional companies and
  - b. **Establish agreements** with them for review of Special District Service Plans and

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c. **Determine appropriate Fees** that may be expected.

- i. **Sufficient** for the Pre-application review and additional review of the formal application to confirm that any mitigating actions have been included in the formal application.
- ii. **Collected** from the Applicant upon submission of the Pre-application information for review.
- iii. **Deposited** to an account from which payment will be made to the Professionals / Professional companies via a billing following receipt by CDS of their review.
- iv. **Elbert County may withhold final approval** of a Special Service District until an applicant has deposited sufficient funds to account for any shortages that may occur.
- v. **Remaining balance:** Returned to the Applicant following final action by the Board of County Commissioners.

**PERTINANT DATA:**

Counties are the local governing body responsible for approving Special Districts within their county boundaries. Colorado Statutes provide an approval pathway for Counties to process Special Service District Applications. The State Statute time-table for formal Special District approval is constraining such that Counties are unable to adequately assess the impact upon the health, safety, and welfare of its citizens within the illustrated timeframe.

Some Counties have adopted a pre-application process for research, referral and mitigation of local concerns. The proposed Elbert County Regulations are intended to allow Elbert County adequate time to review and identify Service District Plan impact characteristics and deal effectively and appropriately with the Application information as to its impact upon the health, safety, and welfare of Elbert County citizens.

**B. 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 items to be submitted as part of the service plan for the creation of a district.

## C. GENERAL REQUIREMENTS

The **GENERAL REQUIREMENTS** are proposed to address mitigating the Constraints imposed by the timeframe as described by State Statute, for addressing formal Service District applications. The Applicant is responsible to discuss with Community & Development Services, how to best accommodate impact to their project.

Timeframe Constraints identified within the State Statutes approval pathway.

- Definition of “days,”
- Weekly newspaper publication times,
- Planning Commission regular monthly meeting times,
- Board of County Commissioner regular meeting times,
- Incomplete applications,
- Lack of information review time.
  - Staff review of a Service District Plan,
  - Referral review by professionals and agencies,
  - Preparing and providing information to the
    - Planning Commission for recommendation and
    - The Board of County Commissioners to make an informed decision that is appropriate for the health, safety, and welfare of Elbert County citizens.

### Mitigation

1. A Service Plan Pre-submittal 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 following approval of the associated Rezone / Subdivision.
2. The timeline for completing Service District review and approval / disapproval shall be measured in “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. The 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. Without the desired detail, the Applicant risks a negative recommendation. 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 Applicant's 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 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 satisfactorily 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:**

Refer to Regulation – These questions relate to different times during a review process.

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

Prior to submittal of a draft service plan, Applicants shall contact Community & Development Services regarding the proposed Pre-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 applicable 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].

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 CDS.

- a. CDS Pre-application file copies for a Special District Service Plan, data to be included, reference:
    - Part II, Section \_\_26\_\_ 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 and
  - Attend the Planning Commission and Board of County Commissioner's public hearings to present their findings.

## 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:

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, shall still be included with an explanation of why it does not pertain. Formal submittal requires the following: Refer to Regulation.

### 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 – Refer to Regulation**

#### **Public Notice:**

#### **Newspaper**

#### **Written Notice**

#### **Planning Commission Hearing**

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. 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.
- 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.