



A GUIDE TO
COLORADO
**SPECIAL
DISTRICTS**

Produced by the
Special District Association of Colorado
303-863-1733 | www.sdaco.org

January 2024





Sue Blair
SDA Board President



Special District Association of Colorado
Supporting Community-Based Government

On behalf of the Special District Association of Colorado, it is my pleasure to present you with this brief description of special districts in Colorado. I hope it will be a valuable resource when you need information about special districts.

Special districts, as units of local government, fill a vital role in providing fire and rescue services; water and wastewater treatment and delivery; park and recreation amenities; hospitals; libraries; and cemeteries in many of the communities within Colorado. There are currently 3,661 such districts in the state, of which 2,616 are members of the Special District Association of Colorado (SDA).

SDA was established in 1975 to provide better communication, research, legislative input, administrative support, and training opportunities for member districts. SDA exists to help special districts serve the public in the most efficient and economical manner possible. SDA is an effective lobbying and educational organization that strives to serve the needs of special districts and help special district officials fulfill their duties and responsibilities.

In addition to district members, SDA also has 263 associate members. These knowledgeable professionals provide information and services for the operation and development of special districts in Colorado. SDA associate members include attorneys, management companies, accountants, investment advisors, engineers, and other consultants.

SDA has become increasingly more important as the membership has grown and the operation of special districts has become more complex.

If you need more information, please contact SDA's Chief Executive Officer, Ann Terry, at 303-863-1733. We are ready to help in any way possible.

Best wishes,

Sue Blair

Sue Blair
SDA Board President

Serving Special Districts Across the State



Ann Terry
Chief Executive Officer

SDA has a long and rich history! It is very exciting to see our membership continuing to increase each year and to find new ways to help districts from all corners of the state.

Much like when it was founded over 45 years ago, the goals of the organization continue to include providing membership training, policy development, and lobbying for special districts across Colorado. Training and educational opportunities continue to be developed and expanded, and new membership benefits have been added. Webinars are offered on a regular basis on a variety of topics, providing the chance for members from around the state to participate. In addition, we offer annual regional workshops in over 10 venues across Colorado for district Board members as well as district managers and staff. We also produce and distribute 10 issues of our newsletter each year. The newsletter is full of important information for districts as well as articles on a variety of different topics such as relevant projects and stories which highlight districts around the entire state. The ever-popular Leadership Academy was introduced in 2012, and over 560 Fellows have graduated from this exciting yearlong program.

In addition, relationships continue to grow between SDA and the other local government associations, such as the Colorado Municipal League; Colorado Counties, Inc.; the Colorado Association of School Boards; and Counties & Commissioners Acting Together. SDA also maintains a strong collaborative partnership with the Colorado Special Districts Property and Liability Pool, Colorado State Fire Chiefs, and Colorado Professional Fire Fighters. SDA also works with Water Education Colorado, Colorado Water Congress, and the Colorado Water Conservation Board, among others.

We strive to continually offer resources and support to our members so that they can in turn provide the best possible services for the citizens they serve.

Please call us if you have any questions or if there is any additional information we can provide.

Sincerely,

Ann Terry
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A Guide to **Special Districts**

Overview

Special districts date back to the early mining camps in Colorado. As the camps grew, the residents sought mechanisms to join together to provide certain essential services such as fire protection and sewer service. Special districts of one form or another have been utilized since that time.

Colorado special districts have been instrumental in providing public infrastructure to meet the growing needs of the state's population in the face of rising demands on cities and counties to keep up with the ever-increasing need for urban services.

Although special districts already existed, the legal structure was recognized by an authorizing act of the Colorado General Assembly in 1949 recognizing special districts as a form of local government created to provide infrastructure services in unincorporated or rural areas of the state. The General Assembly declared that special local government service districts could be created to provide necessary and desired services within designated boundaries.

In 1981, the General Assembly recodified all the statutory provisions relating to various types of special districts in what is referred to as the Special District Act. The Special District Act constitutes Article 1 of Title 32 of the Colorado Revised Statutes (C.R.S.), which is the general source of most of the statutory authorization, as well as limitations, upon the formation and operation of special districts.

Special districts organized pursuant to Title 32 are political subdivisions of the State of Colorado organized for specific functions. As such, their activities are subject to strict statutory guidelines.

Types of Districts

Colorado statute authorizes the formation of numerous different types of districts.

The services which a district is authorized to provide, the procedure to form the district, the district's funding sources, and the district's governing body are all determined by the statutory provisions pertaining to the type of district involved.

Title 32, Article 1 Special Districts

The Special District Act (Title 32, Article 1, C.R.S.) contains the legal framework for many types of special districts, including:

- » Ambulance Districts
- » Fire Protection Districts (may also provide ambulance and emergency medical and rescue services)
- » Health Service Districts
- » Metropolitan Districts
- » Park and Recreation Districts
- » Sanitation Districts
- » Water Districts
- » Water and Sanitation Districts
- » Health Assurance Districts
- » Mental Health Care Service Districts
- » Tunnel Districts
- » Forest Improvement Districts
- » Colorado New Energy Improvement Districts
- » Early Childhood Development Service Districts
- » Front Range Passenger Rail District

Other Common Types of Districts Not Governed by the Special District Act

- » Business Improvement Districts¹
- » Cemetery Districts²
- » Conservation Districts (soil)³
- » Downtown Development Authorities⁴
- » Federal Mineral Lease Districts⁵
- » Irrigation Districts⁶
- » Library Districts⁷

- » Local Improvement Districts⁸
- » Pest Control Districts⁹
- » Public Improvement Districts¹⁰
- » Regional Transportation Authorities¹¹
- » Special Improvement Districts¹²
- » Water Conservancy Districts¹³
- » Water Conservation Districts¹⁴

People often confuse non-Title 32 districts with the special districts that are created pursuant to the Special District Act. For example, special improvement districts are formed by municipalities, and local improvement districts are formed by counties, usually to provide a particular amenity (e.g., sidewalks or curbs and gutters) in a localized area. The costs of the improvements are then assessed directly against the benefited property owners. The Board of County Commissioners or the City/Town Council serves as the governing body of the improvement district, and the district dissolves as soon as any debt issued by the county or municipality on behalf of the district is paid off. These types of improvement districts do not have the political autonomy or ongoing existence that a Title 32 special district has.

Business improvement districts, downtown development authorities, and urban renewal authorities are formed as adjunct entities by municipalities.

Cemetery districts, library districts, pest control districts, and weed control districts are formed by counties.

Irrigation districts, water conservancy districts, and water conservation districts are formed and governed by landowners.

All of these types of districts are governed by specific statutes and procedures distinct from the Special District Act (Title 32).

Note: Please see page 18 for a list of the types of districts which are eligible for SDA membership.

1 Title 31, Article 25, Part 12, C.R.S.
2 Title 30, Article 20, Part 8, C.R.S.
3 Title 35, Article 70, Part 1, C.R.S.
4 Title 31, Article 25, Part 8, C.R.S.
5 Title 30, Article 20, Part 13, C.R.S.

6 Title 37, Article 41, C.R.S.
7 Title 24, Article 90, Part 1, C.R.S.
8 Title 30, Article 20, Part 6, C.R.S.
9 Title 35, Article 5, C.R.S.
10 Title 30, Article 20, Part 5, C.R.S.

11 Title 43, Article 4, Part 6, C.R.S.
12 Title 31, Article 25, Part 5, C.R.S.
13 Title 37, Article 45, C.R.S.
14 Title 37, Article 46-48 and 50, C.R.S.



Formation and Governance of a Title 32 Special District

Service Plan Approval

The formation of a special district begins with the development of a service plan. The service plan includes:

- » A description of the area to be included within the proposed district. A special district does not need to conform to city or county boundaries. Its boundaries can be drawn to include the area to be developed, served, or which covers a community of interest. It can serve less than a full county or city, or it can overlap a city and county or more than one city or county, with the consent of the overlapping cities and counties.
- » A description of the proposed facilities and services to be provided.
- » A financial plan including estimated costs of facilities and proposed indebtedness.
- » Engineering and architectural information regarding facilities and services, and a description of any inter-governmental agreements by which the district's purposes are to be implemented.



The service plan must be submitted for approval by the Board of County Commissioners (BOCC) of each county within which any portion of the district is located and the City Council of each municipality within which any portion is located.

The BOCC or City Council(s) must provide public notice and hold a public hearing concerning the approval of any service plan.

Following the public hearing, the BOCC or City Council(s) can vote to approve the service plan; to request amendments or clarifications to the service plan; or to deny approval of the service plan. The approving entity can require whatever level of detail they wish to be included in the service plan. The approving entity can also require exclusion of property before approval.

District Court Approval

Once the service plan is approved, a petition is filed with the District Court in the county in which the district is located. The petition must be signed by not less than 30% or 200 of the taxpaying electors of the district, whichever is smaller. The petition must include information describing the type of district (e.g., water and sanitation district, fire protection district, metropolitan district, etc.); descriptions of the facilities and services to be provided; estimated costs of the facilities; estimated property taxes to be collected in the first year; and a request for the organization of the district.

The Court will review the petition and the service plan for legal sufficiency and will notice and hold a public hearing on the petition. Those who wish to have their property excluded from the district may request exclusion by the Court.

If the Court finds that the petition complies with the applicable statutes, it orders the question of the organization of the district to be presented to the residents and property owners within the proposed district boundaries for a vote.

Organizational Election

The organizational election includes organization of the district and selection of the initial Board of Directors of the district. The organizational election may also include authorization of a property tax mill levy and the authorization of bonds. Any election that includes tax or bond authorization must be conducted in conformity with the TABOR Amendment.

If the election passes, the Court will certify the election and issue an order declaring the district be organized as a separate political subdivision of the state. The order creating the district is recorded in the real property records of the county or counties in which the district is located.

Governing Body and Procedures

Once formed, a special district is governed by an elected Board of Directors, in whom rests the authority to manage, control, and supervise all the business and affairs of the special district. The Board is comprised of either five or seven members, most typically five. The special district Board has autonomous authority for governing the district within the scope of the district's powers, just as the City Council has for the governance of a municipality.

The original Board members are elected to staggered four-year terms, so that either two or three members of the Board come up for election every two years. Following legislation that was passed in 2018 and beginning in 2023, special district Board elections are held, by statute, on the first Tuesday after the first Monday of May in odd-numbered years (prior to this legislation, special district Board elections were held in even-numbered years).

Special district Board members are subject to term limits and may not serve more than two consecutive four-year terms, unless the voters in the district have voted to add additional four-year terms or eliminate term limits for the district.

Special districts are subject to the same requirements as other local governments regarding open records, open meetings, conflicts of interest, and other ethical requirements. Each district is subject to Colorado's Local Government Budget Law and Local Government Audit Law, setting forth the requirements of budgeting, accounting, and reporting. The district must hold a public hearing before adopting its annual budget, and a copy of the budget must be filed with the Division of Local Government (please see page 14 for additional information).

Each district is required to have a certified public audit on an annual basis, unless they are exempt pursuant to the requirement by the State Auditor as allowed by statutes. The audit is to be filed with the State Auditor's Office, the BOCC of the county having jurisdiction over the district's service plan, and a copy is kept on file for access by the public (please see page 14 for additional information).

Powers Retained by Cities and Counties

Even though a special district may be created to provide the financing mechanism for public infrastructure and services, special districts do not have any "land use" powers, such as planning, zoning, or subdivision approval. This leaves the key land use decisions with the city or county, which can assure that the developments are consistent with land use plans.



Elections

Election Dates

Following legislation that was passed in 2018 and beginning in 2023, regular special district Board elections are held on the first Tuesday following the first Monday of May in odd-numbered years. Prior to this legislation, special district Board elections were held in even-numbered years. To accomplish this change, the 2020 and 2022 elections established a one-time three-year term for Board members. Beginning in 2023, terms reverted to alternating elections for four-year terms.

Special district elections are conducted pursuant to state statute. The regular special district biennial election may be canceled if there are no more candidates than Board seats available.

All tax and debt issues of special districts are subject to the election provisions of the TABOR Amendment, and thus may only be held on the November general election date, the November off-year election date, or the district's biennial Board election date, as allowed by TABOR. Ballot issue elections (mill levy or debt authorization) must be conducted either as part of a coordinated election or in accordance with the Colorado Local Government Election Code.



Qualifications to Vote and Serve

An "eligible elector" for purposes of a special district election is a person who is a registered elector in Colorado, and who either (i) resides within the district, or (ii) owns (or whose spouse owns) taxable real or personal property within the district.

Candidates for special district Board members must be eligible electors of the district. Board members are prohibited from being employed by the district and are allowed compensation not to exceed \$100 per Board meeting attended, up to a maximum of \$2,400 per year.

Growth of Special Districts

Special districts have proven to be increasingly popular tools in providing services to identified geographic areas. In 1995, there were 875 Title 32 special districts. Today there are approximately 2,991 such districts. Nearly all of this phenomenal growth in recent years is accounted for by the formation of new metropolitan districts.



Metropolitan (Metro) Districts

A metro district is a type of special district that provides at least two different types of services. Therefore, instead of forming a district for each separate function, a metropolitan district is formed which can provide all the necessary services. For example, the East Valley Metropolitan District provides water, wastewater, and trash collection services.

Since the use of metro districts was so effective in the founding of the community of Highlands Ranch, metro districts have been used very successfully to finance the public infrastructure necessary for residential as well as commercial and mixed-use developments. For a number of years, metro districts were primarily utilized in the formation of developments in unincorporated county areas, where there was not access to municipal services and infrastructure. That gradually changed as municipalities found metro districts to be valuable tools in financing, installation, and maintenance of infrastructure within municipal boundaries.

In the years between 2000 and 2004, the number of metro districts in the seven-county Denver metropolitan area more than doubled, growing from 190 to 390. Statewide, the number of metro districts increased from 294 to 653 during the same time period. As of December 2023, this number had grown to 2,358 metro districts.

This growth mirrors Colorado's rapid population growth and increased home building within the past decade.

The decision to allow growth is made through the county or city's land use approval process. The district then facilitates the financing, construction, and operation of the public improvements and services needed for that approved growth.

The move toward increased reliance upon metro districts was spurred on by the strictures placed upon cities by the TABOR Amendment. Cities have been able to facilitate growth by allowing, and even encouraging, the development of metro districts to provide vital infrastructure without requiring the city to seek voter approval for tax increases and bonding authority, and the expenditures and revenue of the development do not cause the city to run afoul of the revenue and spending limits of the TABOR Amendment.

Another critical benefit of special districts is that if a city or county needs to increase a mill levy or authorize bonds to support a new subdivision or development, the election to authorize such actions must be conducted citywide, or countywide, and the increased taxes and bonded debt is imposed citywide or countywide as well. Much like school districts, cities and counties have had little success in getting residents or businesses who already have their infrastructure in place in developed areas to tax themselves to pay for the infrastructure in a new development. By forming a special district, however, the vote is taken only within the area of the development, and the taxes and debt service will come from that area, without burdening the rest of the city.

Some will argue that the costs of the public improvements should be borne by the developer, not the homeowners. Somebody must pay for the infrastructure, and it will inevitably be the homeowner, regardless of the means. And surprisingly, every other means will likely be more costly to the homeowner than would a metro district.



The infrastructure costs of development will, in today's conditions, amount to tens of thousands of dollars per home in the development. In a metro district, those costs are paid by proceeds of the bonds (debt) issued by the district, and the debt is paid by the mill levy enacted at the beginning of the formation of the district. Generally, the valuation of the property will be very low in the beginning, but as infrastructure is installed and homes and business facilities are built and sold, the value increases accordingly, and the revenue generated by the mill levy increases as well. Bonds are sold based on the expectation of this increase in mill levy revenue.



The cost of the infrastructure to the homeowner is thus paid over the term of the bonds, usually 20 years, in the form of property tax, rather than being added to the initial cost of the home. This property tax is deductible on the federal and state taxes of the property owner, whereas such is not the case with any other means of financing these infrastructure costs.

If, on the other hand, the developer has to borrow the money to install the infrastructure, that cost will be added to the cost of each house as it is sold, raising the purchase price accordingly. The developer will reduce their indebtedness by paying the proportional share of their debt to the lender as each house is sold. Some argue that by not having to pay the property tax the buyer would have more money to buy more house. In reality, the buyer would get the same house, but would pay a lot more for it in the up-front purchase price.

Developing within a city or county is not a freebie either. There the homebuilder will likely be required to pay impact fees, tap fees, land dedications, and other costs, which will probably be as much as if the homebuilder borrowed the money. These costs to the homebuilder will be added to the purchase price of the house. The buyer will pay, one way or another, either now or later. The metro district model clearly benefits the homebuyer.

Over the last few years, changes to the law have been adopted to enhance transparency of metro districts to consumers and the public. For instance, at the time the contract to buy a home is executed, purchasers of new homes in a metro district after January 1, 2022 will receive from the seller of the house certain information or statements relating to the finances of the metro district, including information about the debt obligations of the district and an estimate of property taxes applicable to the property at the time of the sale. The changes in 2021 improved upon the information that is currently available in the tax certificate at the time of purchase. In addition, by statute, every contract to purchase a home has a warning, printed in large type, in-

forming the purchaser that the property may be in a special district and subject to property taxes. Reputable realtors can, and many do, explain this fact to buyers before they sign a contract, but if a buyer wants the house, they will frequently ignore or not understand the effect of this warning.

The 2021 change to the law also requires a metro district to establish, maintain, and annually update an official website in a form that is readily accessible to the public that contains relevant information about the district, adding new statutory requirements regarding the annual report to be filed by a special district, and, among other things, supplementing the type of information to be included in the annual report.

Additional legislative changes to metro district laws in 2023 improved upon the transparency of metro districts. Under the 2023 law:

- » Mill levy AND debt limit caps to service plans must be imposed by cities and counties prior to approval of a service plan. This will allow residents and property owners to rely on information that mill levies will not exceed a certain level and that the overall debt is limited.
- » Metro district Boards are now required to host an annual town hall meeting for community residents. The meeting must include a Board presentation on the status of the public infrastructure projects within the district; the status of any outstanding debt and bonds; and a review of the unaudited financial statements showing year-to-date revenues and expenditures. The public must be provided with an opportunity to ask questions about the metro district as well as the public comment period that is required during the annual budget meeting.
- » A new requirement is that any debt issued to a director must receive a statement from a registered municipal advisor that certifies the interest rate of the debt is the same or lower than rates issued on the public market.

- » Finally, a new disclosure to potential buyers of a resale home in a metro district will occur early in the process. The new disclosure expands upon the 2021 disclosure for new homes in a metro district by requiring disclosure to a purchaser of a resale home in a metro district with the metro district website which includes the metro district's service plan; mill levy and debt limitations; budget; audit; election information; and contact information for directors, all of which is important information to make an informed purchase.

The metro district form of local government is a vital tool to meet the needs of a growing Colorado, and it will continue to grow and undergo changes to respond to the needs of the communities that are served.

Reasons for Organizing a Title 32 Special District

There are several important reasons for organizing a Title 32 special district:

- » A special district provides needed infrastructure and services to a specific area, with the cost being borne by the property owners and residents of the

area, rather than spread over the entire area of the general purpose government (city or county), as would be required if the city or county provides the infrastructure or service in the area.

- » Services can be provided to growing areas without impacting the budget or reserves of the city or county.
- » There may be no other viable alternative for providing and operating the necessary public facilities due to remoteness or isolation of location.
- » A special district provides a way of financing the infrastructure up front, with the costs being repaid as development occurs and property values increase.
- » The district is able to finance infrastructure and public facilities through the use of tax-exempt municipal bonds. Unlike HOA fees, the taxes used to repay these bonds are usually deductible for the property owner.
- » The structure of a Title 32 special district provides greater flexibility and autonomy than would a local assessment district, such as a municipal special improvement district or a county local improvement district.



Consumer Protections Provided in State Statute

Transparency Notice

Prior to January 15 of each year, every district must prepare and distribute a Notice to Electors called the Transparency Notice. This notice contains significant information about the district, such as its officers; its manager or other contact person; the regular schedule of dates, times, and place of Board meetings; current mill levy and total ad valorem tax revenue received by the district in the previous year; the date of the next regular election of Board members; the procedure and schedule for eligible electors to submit self-nomination forms; websites where district election results will be posted; and the procedure for an eligible elector to be placed on the “permanent absentee voter” list.

The Transparency Notice must be distributed in one or more of these ways:

- » Mailing the notice to each household where one or more eligible electors lives;

- » Including it in a newsletter, billing insert, letter, voter information card or other election notice, or other mailing sent directly to eligible electors;
- » Posting it on the district’s website if there is a link to the district website on the Division of Local Government (DLG) website;
- » If the district is a member of a statewide association (such as SDA), by posting it on the association’s website; or
- » For small districts in small counties, by posting it in three places within the district and at the office of the County Clerk and Recorder.

In addition, the Transparency Notice must be filed with the Board of County Commissioners, the County Assessor, Treasurer, and the County Clerk and Recorder of each county within which the district has territory, and with the governing body of any municipality in which the district has territory.





Information Recorded on Property Records

Every special district must record a public disclosure document and a map of the district with the County Clerk and Recorder of each county in which the district is located that provides the following information:

- » The name of the district;
- » The powers of the district, as authorized by statute and the district service plan;
- » A statement describing the district's service plan and that a copy of the service plan is available from the Division of Local Government;
- » The following statement, *verbatim*:

[Name of the District] is authorized by Title 32 of the Colorado Revised Statutes to use a number of methods to raise revenues for capital needs and general operations costs. These methods, subject to the limitations imposed by Section 20 of Article X of the Colorado Constitution, include issuing debt, levying taxes, and imposing fees and charges. Information concerning directors, management, meetings, elections, and current taxes are provided annually in the Notice to Electors described in Section 32-1-809(1), Colorado Revised Statutes, which can be found at the District office, on the District's website, on file at the Division of Local Government in the State Department of Local Affairs, or on file at the office of the Clerk and Recorder of each county in which the special district is located.

By filing this disclosure, it appears on the title of every property in the district, can be accessed by any party, and will automatically be included in the title documents for the property. This disclosure information is also available to the public at the office of the County Clerk and Recorder.

County Property Tax Statement

Each county issues an annual statement of property taxes due for each property in the county. The statement includes the total property tax on the property for the year, and lists each taxing entity, along with the mill levy and amount due from each property. This statement is a public record and can be obtained by anyone at any time for any property. The statement is also available on properties for sale and is part of closing documents on the purchase of property. Any person interested in a property can obtain this information, and most realtors have it available as they are showing properties.

Annual Budget

A district must adopt an annual budget prior to certifying the district's mill levy. §§29-1-103(1) and 29-1-108(2), C.R.S. Adoption of the budget must be considered at a public hearing. §29-1-108(1), C.R.S.

Prior to adopting its annual budget, the Board shall publish notice of the following, one time in a newspaper of general circulation: (i) the date, time, and place of a budget hearing; (ii) that the budget is open for public inspection and the location where the budget can be reviewed; and (iii) that interested parties may file objections any time prior to final adoption. §29-1-106(1), C.R.S. If the district's proposed budget is \$50,000 or less, however, such notice shall be posted in three public places within the district in lieu of publication. §29-1-106(3), C.R.S.

A certified copy of the adopted budget, which includes the resolution to adopt the budget, set the mill levy rate(s), and appropriate funds; and the budget message must be filed with the Division of Local Government no later than 30 days following the beginning of the fiscal year of the budget (i.e. no later than January 30). §29-1-113, C.R.S. The budget is a public record and can be obtained by anyone at the district office or at the Department of Local Affairs.

Mandatory Annual Financial Audit

Unless the district is exempt, the Board shall cause to be made an annual audit of the financial statements of the district as of the end of each fiscal year or more frequently if determined by the Board. §29-1-603, C.R.S.

The audit report must be filed with the State Auditor within 30 days after the report is received by the district. §29-1-606, C.R.S. If the district has authorized but unissued general obligation debt as of the end of the fiscal year, it must send a copy of the audit report or a copy of its application for exemption from audit to the BOCC for each county in which the district is located or to the governing body of any municipality that approved the service plan.

If neither the district's revenues nor expenditures exceed \$750,000 for the fiscal year, an audit exemption may be sought. To obtain an audit exemption, the district must file an application with the State Auditor within three months of the close of the fiscal year (by March 31). The application for exemption must include complete and accurate financial information. §29-1-604(3), C.R.S.

The annual audit report is a public document and can be obtained from the office of the State Auditor or from the district office.

Colorado Open Meetings Act

Every district is subject to the Open Meetings Act. All official action of the Board must be discussed and adopted by the Board, acting as a body, in a public meeting.

Board Meetings

The district's business is conducted in meetings of the Board of Directors, which the public must be given notice of and allowed to attend, with some very limited exceptions.



Calling the Meeting

Designation of Time and Place

The Board must designate and post the time and place for all Board meetings and designate a place to post the required 24-hour notices of the meetings. *§32-1-903(1)-(2), C.R.S.; §24-6-402(2)(c), C.R.S.* In 2021, a legislative change modernized and updated what qualifies as a “meeting” and “location” for purposes of special district Board meetings. This modification establishes consistent special district Board meeting requirements to give districts the ability (electronic and virtual) to adapt to current conditions during a public health emergency as well as to developing conditions thereafter. The 2021 change in the law also validated special district Board meetings that were held virtually before the law was adopted.

Notice to Public

» **Electronic Notice:**

Following a legislative change in 2019, a district shall be deemed to have given full and timely notice of a public meeting if the district posts the notice, with specific agenda information if available, no less than 24 hours prior to holding the meeting on a public website of the district. The notice must be accessible at no charge to the public. The district shall, to the extent feasible, make the notices searchable by type of meeting, date, and time of meeting, agenda contents, and any other category deemed appropriate by the district, and shall consider linking the notices to any appropriate social media accounts of the district. A district that provides notice on a website shall provide the

address of the website to the Department of Local Affairs. A district that posts notices on a public website may in its discretion also post a notice by any other means but is not required to do so. If a district is unable to post a notice on a public website pursuant to this section, the district shall post its meeting notices in compliance with the paragraph below regarding non-electronic 24-hour notice requirements. *§24-6-402(2)(c)(III); C.R.S.*

» **24-Hour Notice (Non-Electronic):**

In addition to any other means of full and timely notice, a district shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the district no less than 24 hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the district’s first regular meeting of each calendar year. The 24-hour notice must include specific agenda information when possible. *§24-6-402(2)(c)(I), C.R.S.* (Note: This 24-hour posting can be utilized in addition to or in place of posting on a public website. However, this posting of notice is not required if the district posts its meeting notices on its website). *§24-6-402(2)(c)(III), C.R.S.*

» Special notice must be included in the notice of the decision to undertake any of the following acts: *§32-1-903(3), C.R.S.*

- ◇ Making a final determination to issue or refund general obligation indebtedness;
- ◇ Consolidating the district;



- ◇ Dissolving the district;
- ◇ Filing a plan for adjustment of debt under federal bankruptcy law;
- ◇ Entering a private contract with a Director; or
- ◇ Not making a scheduled bond payment

Requested Notice

The district must keep a list of all persons requesting notice of all meetings or of meetings when certain specified policies will be discussed and provide reasonable advance notice to such persons. Once a person has requested individualized notice, they are to be included on the list for two years. What constitutes “reasonable” notice is left to the discretion of the district. Inadvertent failure to provide notice to a listed person will not invalidate the meeting or actions taken at such meeting. *§24-6-402(7), C.R.S.*

Change of Regular Meeting and Scheduling of Special Meetings

When the time, date, or location of a regularly scheduled meeting is changed, or when a special meeting is scheduled, notice of the meeting time, date, or place must be posted in one of the ways discussed above. *§32-1-903(2), C.R.S.*

Colorado Open Records Act

The “Open Records Act,” *§24-72-201, et seq., C.R.S.*, applies to almost all levels of Colorado governmental entities, including special districts, and requires records to be available to the public, although it takes into account the burdens that

may be placed on local governments to respond to requests for public records and incorporates a reasonableness standard for the time and cost of producing the materials.

Public Right of Access

Colorado statutes have established as public policy that all public records should be open for inspection by any person at reasonable times, except as provided by law. *§24-72-201, C.R.S.*

“Public records” is broadly defined to include most documentation maintained by the district and the correspondence of elected officials, including email. *§24-72-202(6), C.R.S.*

The person requesting inspection is entitled to copies or printouts of the district’s public records.

The Colorado Open Records Act (CORA) has extensive provisions related to fees that can be charged for research and retrieval and copying of records; transmission of records; response time for responding to requests; exceptions that are not subject to the Act; denial of access to records; and violations of provisions of the Act.

Willful or knowing violation of the public right of access is a criminal misdemeanor, punishable by a maximum \$100 fine and 90 days’ imprisonment in the county jail. *§24-72-206, C.R.S.*

Broadening the Scope of Special Districts

Builders and developers have not been the only ones to discover the merits of special districts. Over the past several years, special interest groups representing a variety of constituencies have brought forth legislative proposals to add new powers for special districts, including new types of special districts. These have included such things as health assurance districts, mental health care districts, and forest rehabilitation and management districts. Interest has also been expressed in broadening special district powers to include animal control and water brokering.

Why Now?

Population is growing so dramatically in many areas of Colorado that the city and county resources are being stretched, and cities and counties are working with special districts as a means of installing the infrastructure to support the growth.

Partially due to TABOR restrictions, and the realization that the city or county still holds the cards in land use decisions, they are becoming much more willing to work with special districts. In rapidly growing areas, many cit-

ies are forming cooperative relationships with developers and the special districts that are being formed. Cities and counties are becoming strong proponents, but also more realistic in adopting development standards for special districts that mesh with the standards of the city or county.

Growth Without Straining the Infrastructure

Much of the future development will occur within cities, either as infill or as cities annex property and provide the service infrastructure to support the development. There may be some new municipal incorporations, and existing cities will reap major population growth. Even so, it is likely that the metro district model, either in unincorporated areas or as adjuncts to city facilities within cities, will be a continuing model of growth, both in number and in size.

As a means of financing, metro districts have unique advantages and are proving to be remarkably advantageous to developers, and the savings reaped through tax-exempt financing and stretching out infrastructure costs result in dramatic cost savings and benefits to homebuyers and property owners.



Number of Active Special Districts by Type, 2020-2023

Type of District	2020*	2021*	2022*	2023*
Ambulance Districts	11	11	11	11
Fire Protection Districts	254	253	250	249
Health Service (Hospital) Districts	40	40	40	40
Metropolitan Districts	1,971	2,089	2,235	2,358
Park and Recreation Districts	55	55	55	56
Sanitation Districts	67	67	67	67
Water Districts	77	76	75	76
Water and Sanitation Districts	121	121	120	120
Regional Transportation District (RTD)	1	1	1	1
Denver Metropolitan Major League Baseball Stadium District	1	1	1	1
Metropolitan Football Stadium District	1	1	1	1
Health Assurance Districts	0	0	0	0
Mental Health Care Service Districts	0	0	0	0
Forest Improvement Districts	0	0	0	0

**As reported by the Department of Local Affairs website*

Other Common Types of Districts Authorized Elsewhere than Title 32

Type of District	2020*	2021*	2022*	2023*
Business Improvement Districts	69	73	75	81
Cemetery Districts	81	81	81	81
Conservation Districts (soil)	76	75	74	74
Downtown Development Authorities	16	17	17	18
Irrigation Districts (irrigation drainage)	16	16	16	16
Library Districts	57	56	57	57
Local Improvement Districts	50	49	49	51
Pest Control Districts	15	15	15	15
Public Improvement Districts	96	97	97	97
Regional Transportation Authorities	6	6	7	7
Special Improvement Districts	40	33	33	33
Urban Renewal Authorities	65	65	65	69
Water Conservancy Districts	54	54	54	54

**As reported by the Department of Local Affairs website*

Districts Eligible for SDA Membership as Set Forth in Section 3.01 of the SDA Bylaws

Statutory Authority	Type of District
Title 32 (all Articles)	Ambulance, Fire Protection, Forest Improvement, Health Assurance, Health Service, Mental Health Care Services, Metropolitan, Park and Recreation, Sanitation, Tunnel, Water and Sanitation, Water Districts; also the special statutory districts including, but not limited to, RTD, SCFD, the Football and Baseball Stadium Districts, the Colorado New Energy Improvement Districts, Early Childhood Development Service Districts, and the Front Range Passenger Rail District
Title 24, Article 90	Library Districts
Title 29, Article 1, Part 2	Intergovernmental Entities, provided at least one special district is included in the Intergovernmental Entity
Title 30, Article 20, Part 8	County Cemetery Districts
Title 30, Article 20, Part 13	Federal Mineral Lease Districts
Title 31, Article 25, Part 1	Urban Renewal Authorities
Title 31, Article 25, Part 8	Downtown Development Authorities
Title 31, Article 25, Part 12	Business Improvement Districts
Title 35, Article 5, Part 1	County Pest Control Districts
Title 35, Article 70	Conservation Districts (soil conservation)
Title 37, Articles 1-8	Conservancy Districts (flood control)
Title 37, Articles 20-33	Drainage Districts
Title 37, Articles 40-48	Water Conservation Districts, Water Conservancy Districts, Irrigation Districts
Title 37, Article 90	Ground Water Management Districts
Title 43, Article 4, Part 6	Regional Transportation Authorities



SDA Board of Directors

An eleven-member Board of Directors elected by member districts governs the Association, establishes Association policy, and provides direction to the SDA staff. All Board members of the Association must also be on the Board of a special district, and not more than two SDA Board members may be from any one type of district. Furthermore, at least one SDA Board member must come from each of the five geographical areas of Colorado.

Sue Blair, President
Independence Metropolitan District No. 4

Bill Simmons, Vice President
Eagle River Fire Protection District

Ronda Lobato, Secretary/Treasurer
Costilla County Conservancy District

Ross Blackmer
Thompson Crossing Metropolitan District Nos. 3 and 5

Jim Borland
Fort Collins-Loveland Water District

Kent Bosch
Upper Thompson Sanitation District

Bill Clayton
West Metro Fire Protection District

Dick Cleveland
Eagle River Water and Sanitation District

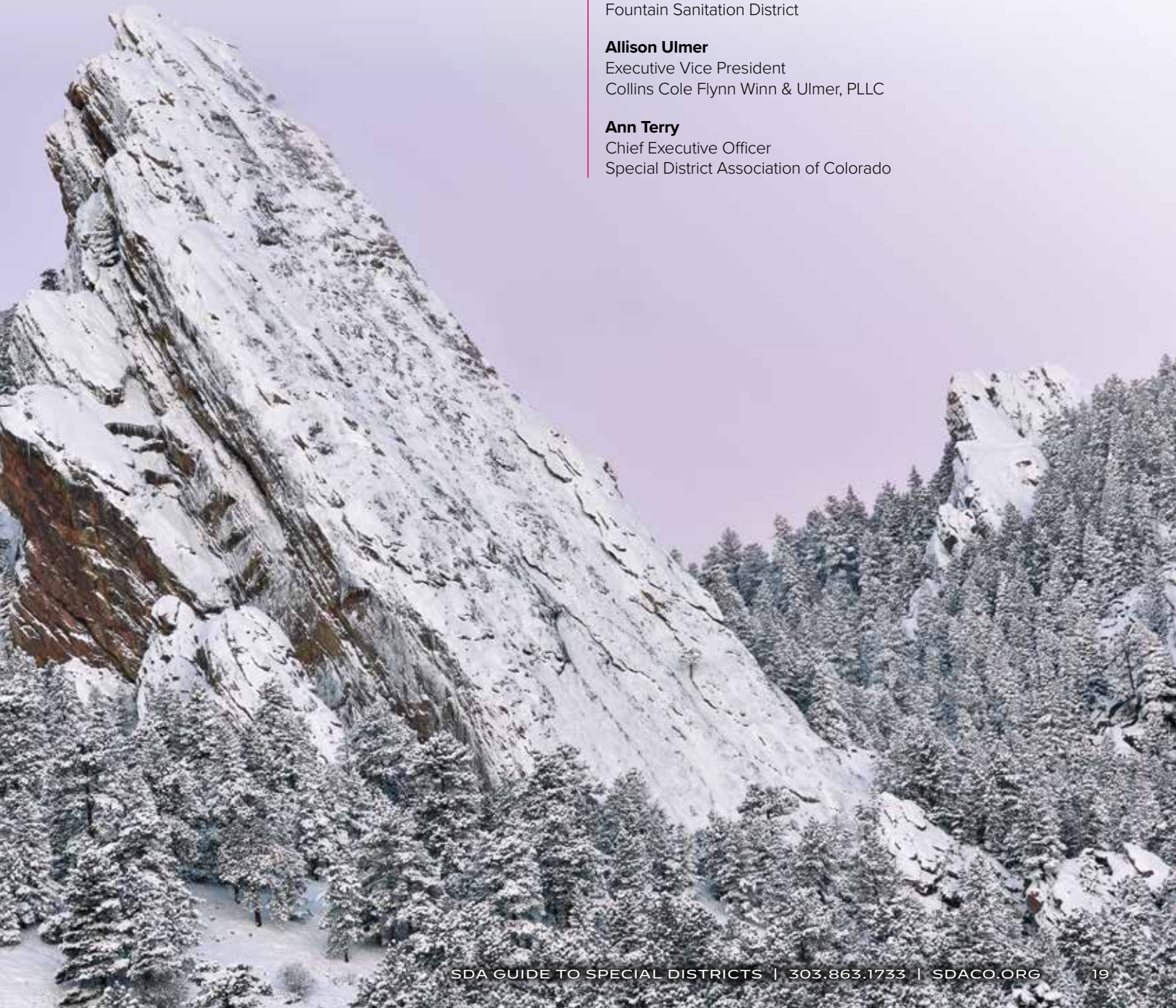
Jodi Docheff
Kremmling Memorial Hospital District

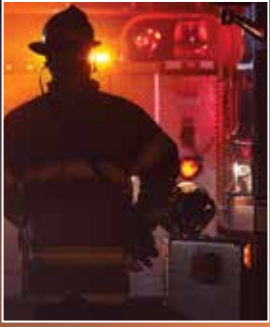
Jim Kullhem
Prospect Recreation and Park District

Phil Thomas
Fountain Sanitation District

Allison Ulmer
Executive Vice President
Collins Cole Flynn Winn & Ulmer, PLLC

Ann Terry
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