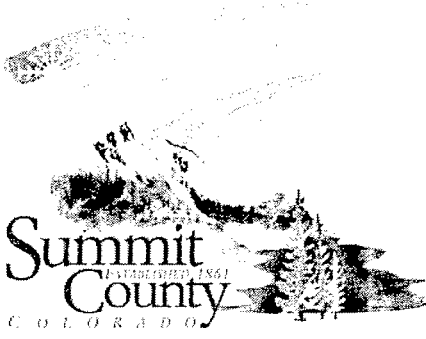


Local (Special) Improvement Districts

Presented By
Bob Hullinghorst
Boulder County Treasurer



ENGINEERING DEPARTMENT

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PETITION FOR A LOCAL IMPROVEMENT DISTRICT

TO: Board of County Commissioners
Summit County, Colorado
Box 68
Breckenridge, CO 80424

FROM: Homeowners of _____

RE: A Local Improvement District to _____

We, the undersigned, who are owners of real property in Summit County, Colorado do hereby petition the Honorable Board of County Commissioners of the County of Summit, State of Colorado, for the formation of a local improvement district pursuant to CRS 30-20-601, et seq. Such improvement district is for the purpose of _____ at an estimated cost as shown on the attached sheet.

Do not sign this petition unless you are an owner of real property benefiting from the project and requesting to be assessed costs for the improvements. An owner is a person holding fee title to real property. You are an "owner" if you hold a contract to purchase real property, which obligates you to pay general taxes on that property. In that instance, the seller may not sign the petition. CRS 30-20-602(3) and 603(3).

Do not sign Mr. and Mrs. - sign individually. Do not sign this petition unless you have read all of the text.

LEGAL DESCRIPTION OF PROPERTY _____

YOUR NAME(S) _____

YOUR SIGNATURE(S) _____

DATE OF SIGNING _____

30-20-601. Power to make local improvements.

Except as otherwise provided in this part 6, any county in this state may construct any of the local improvements mentioned in this part 6 and fund such improvements by assessing the cost thereof, wholly or in part, upon the property especially benefited by such improvements or, for the funding of improvements authorized by section 30-20-603 (1) (a), (1) (a.5), and (1) (c), by imposing a sales tax throughout the district or by utilizing a combination of such assessments and tax. The improvements shall be authorized by resolution duly adopted and shall be constructed under the direction of the county engineer or other officer having similar duties or under the direction of the board in accordance with plans and specifications adopted by the board.

Source: L. 73: p. 483, § 1. **C.R.S. 1963:** § 36-30-1. **L. 87:** Entire section amended, p. 1210, § 1, effective May 7. **L. 99:** Entire section amended, p. 515, § 11, effective April 30. **L. 2000:** Entire section amended, p. 1989, § 1, effective August 2.

ANNOTATION

Am. Jur.2d. See 70C Am. Jur.2d, Special or Local Assessments, §§ 5, 7, 9, 106.

C.J.S. See 20 C.J.S., Counties, §§ 71, 72.

Applied in *Wheeler v. Baker*, 636 P.2d 1326 (Colo. App. 1981).

30-20-601.5. Legislative declaration - inclusion of energy efficiency and renewable energy production projects in local improvement districts.

(1) The general assembly finds, determines, and declares that:

(a) The production and efficient use of energy will continue to play a central role in the future of this state and the nation as a whole; and

(b) The development, production, and efficient use of renewable energy will advance the security, economic well-being, and public and environmental health of this state, as well as contributing to the energy independence of our nation.

(2) The general assembly further finds, determines, and declares that the inclusion of energy efficiency and renewable energy production projects for residential and commercial use in local improvement districts, and powers conferred under this part 6, as well as the expenditures of public moneys made pursuant to this article, will serve a valid public purpose and that the enactment of this part 6 is expressly declared to be in the public interest.

Source: L. 2008: Entire section added, p. 1294, § 8, effective May 27.

30-20-603. Improvements and funding authorized - how instituted - conditions.

(1) (a) A district may be formed in accordance with the requirements of this part 6 for the purpose of constructing, installing, acquiring, or funding, in whole or in part, any public improvement, so long as the county that forms the district is authorized to provide such improvement or provide for such funding under the county's home rule charter, if any, or the laws of this state. Public improvements or the funding thereof shall not include any facility identified in section 30-20-101 (8) or (9). No such district shall provide the same improvement as an existing special district within the territory of such existing special district unless the existing special district consents. The improvements authorized by this part 6 may consist, without limitation, of constructing, grading, paving, pouring, curbing, guttering, lining, or otherwise improving the whole or any part of any street or providing street lighting, drainage facilities, or service improvements, in the unincorporated area of a county or wholly or partly within the boundaries of any municipality within the county if such municipality consents by ordinance to such improvements. If improvements within a municipality are so included in a county improvement district by municipal consent, the county shall have full authority to construct or acquire such improvements, to assess property within such municipality benefited by such improvements, and to enforce and collect such assessments, in the manner provided in this part 6. The improvements authorized by this part 6 may include, without limitation, the construction of sidewalks adjacent to any such streets or maintenance roads adjacent to any such drainage facilities. Prior to the establishment of any improvement district for the purpose of providing street lighting, arrangements, by contract or otherwise, must be established under which the owners of property included within such district shall be responsible for the maintenance and operation of such street lighting improvement. The costs of maintenance and operation of such street lighting improvements shall not be paid from the county general fund. Drainage facilities shall not be provided in any area which is within an existing drainage district organized or created pursuant to law without the approval of such district. The term "service" as used in this paragraph (a) includes the services provided by a public utility as defined in section 40-1-103, C.R.S., as well as advanced service as defined in section 29-27-102 (1), C.R.S., cable television service as defined in section 29-27-102 (2), C.R.S., telecommunications service as defined in section 40-15-102 (29), C.R.S., geothermal heat suppliers as defined in section 40-40-103, C.R.S., and information service as defined in 47 U.S.C. sec. 153 (20), or any successor section.

(a.5) In a district formed prior to December 31, 2002, by a city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and in which a sales tax is levied pursuant to section 30-20-604.5, the improvements may also consist of the provision of transportation services, vehicles, equipment, parking, and improvements in the district. Transportation services may be provided by the district in an area within the regional transportation district as described in section 32-9-106.1, C.R.S., if the regional transportation district consents to the provision of such services.

(b) Additionally, the improvements authorized by this part 6 may consist of constructing, installing, or otherwise improving the whole or any part of any system for the transmission or distribution of water or for the collection or transmission of sewage, or both such systems.

(c) If any improvement or transportation services authorized by this subsection (1) are funded by sales tax, the tax may also be used for the operation and maintenance of such improvement or services and for the production and distribution of informational products and materials.

(d) The improvements authorized by this part 6 may include the construction, maintenance, and operation of safety measures that are necessary to allow the county to restrict the sounding of locomotive horns at highway-rail grade crossings in compliance with 49 U.S.C. sec. 20153, as amended, and the applicable rules of the

federal railroad administration. The district shall construct, maintain, and operate the safety measures in accordance with the provisions of section 40-4-106, C.R.S., and the standards of safety prescribed by the public utilities commission pursuant to section 40-29-110, C.R.S.

(e) The improvements authorized by this part 6 may include, where specified or generally provided for in the resolution of the board approving the district, any renewable energy improvement or energy efficiency improvement to any residential or commercial property within the district.

(f) Any district formed pursuant to this part 6 and the county that forms the district shall implement the funding authorized by this part 6 for service improvements as defined in paragraph (a) of this subsection (1) in a nondiscriminatory and technologically and competitively neutral manner.

(g) Any public utility or telecommunications service improvement funded by a district established pursuant to this part 6 shall be constructed only by or in agreement with a public utility or telecommunications service provider duly authorized by the public utilities commission, as applicable, to provide service, facilities, plants, or systems in the area in which the public utility or telecommunications service improvement is to be constructed and shall be owned, operated, and maintained by such public utility or telecommunications service provider. All other service improvements as defined in paragraph (a) of this subsection (1) funded pursuant to this part 6 shall be constructed by or in agreement with the service provider and owned and operated by the service provider. No district formed pursuant to this part 6, nor the county that forms the district, shall use the authority set forth herein to provide, directly or indirectly, any services as defined in paragraph (a) of this subsection (1). No district formed pursuant to this part 6, nor the county that forms the district, shall have any right, title, or interest in any service improvement as defined in paragraph (a) of this subsection (1) funded by a district established pursuant to this part 6.

(h) Nothing in this part 6 shall extend, diminish, or otherwise alter the jurisdiction of the public utilities commission created in section 40-2-101, C.R.S.

(2) (a) The board may declare by resolution any local improvement district authorized by this part 6 and may by resolution order the improvements authorized by subsection (3) of this section; except that, if written protests are submitted prior to the hearing referred to in subsection (6) of this section by the owners of property within the proposed district or assessment unit, which property, based upon the proposed method of assessment, would bear more than one-half of the total proposed assessments within the district or the assessment unit, the board shall not proceed with such local improvement district or assessment unit based on the preliminary order so protested. Such protests shall not prevent the board from adopting a subsequent preliminary order for such improvements, subject to notice, hearing, and protest as provided in this part 6.

(b) If the district is initiated by resolution of the board of county commissioners, the commissioners shall, in addition to the notice provided for in subsection (6) of this section, make reasonable attempts to deliver or mail to each address within the district a brief written synopsis of the proposed improvements no less than ten days before the hearing. This shall not be interpreted to mean that insufficient notice has been given if any property owner claims not to have received the notice, provided that the commissioners have made a bona fide effort to comply.

(3) (a) Except as to improvements initiated by the board as authorized by subsection (2) of this section, no improvement shall be ordered under this part 6 unless a petition for the same is first presented, subscribed by the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed, and, except as specified in this section, nothing in this part 6 shall restrict the right of such owners from securing any particular kind or variety of improvements petitioned for. In any case where a proposed improvement district includes two or more assessment units, the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed in each assessment unit shall petition as specified in this part 6. In any case where a proposed improvement district formed prior to December 31, 2002,

plans to provide transportation services and improvements pursuant to paragraph (a.5) of subsection (1) of this section and to levy a sales tax pursuant to section 30-20-604.5 to fund such services and improvements, the owners of the taxable real and personal property within the proposed improvement district having a valuation for assessment of not less than fifty percent of the valuation for assessment of all real or personal property within the district shall sign the petition presented to the board.

(b) If the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed shall petition for any particular kind of improvement and for any particular materials to be used in the same, the improvement must be ordered in accordance with the petition, and the materials so designated shall be used, except as otherwise provided in this section.

(c) If the material petitioned for by the owners of property to be assessed for more than one-half of the entire costs estimated by the board to be assessed is one that does not encourage competition, it shall be the right of the petitioners to state in the petition the maximum price per square yard, or linear foot, or per unit at which the improvement is desired, and no contract shall be let for any such improvement at a price exceeding the maximum price fixed in said petition, excluding the cost of engineering, collection, inspection, incidentals, and interest.

(4) The board shall encourage competition, by advertising for and receiving bids for such construction, and, so far as possible within the limits of the petition, shall describe all materials by standard or quality in the specifications.

(5) Before contracting for or ordering any work to be constructed whether initiated by the board or by petition, a preliminary order shall be made by the board, adopting preliminary plans and specifications for the same, definitely describing the materials to be used, or stating that one of several specified materials shall be chosen, determining the number of installments and time in which the cost of the improvement shall be payable, if any, and the property, if any, to be assessed for the same, as provided in this part 6, and requiring an estimate of the cost to be made by the county engineer or any similar officer or employee, together with a map of the district in which the improvement is to be made, and a schedule showing the approximate amounts, if any, to be assessed upon the several lots or parcels of property within the district. The cost estimates and approximate amounts to be assessed shall be formulated in good faith on the basis of the best information available to the board but shall not be binding.

(6) The county clerk and recorder shall give notice, by advertisement once in a newspaper of general circulation in such county, to the owners of any property to be assessed of:

(a) The kind of improvements proposed;

(b) The number of installments;

(c) The time in which the cost will be payable;

(d) Repealed.

(e) The extent of the district to be improved;

(f) The probable cost per front foot or other unit basis which, in the judgment of the board, reflects the benefits which accrue to the properties to be assessed, as shown by the estimates of the engineer;

(g) The time, not less than thirty days after the publication, when a resolution authorizing the improvements will be considered;

(h) That said map and estimate and schedule showing the approximate amounts to be assessed and all

resolutions and proceedings are on file and may be seen and examined by any person interested at the office of the county clerk and recorder or other designated place at any time within said period of thirty days; and

(i) That all complaints and objections that may be made in writing concerning the proposed improvement by the owners of any real estate to be assessed will be heard and determined by the board before final action thereon.

(7) The finding by resolution of the board that said improvements were duly ordered after notice duly given and after hearing duly held and that such proposal was properly initiated by the said board or that a petition was presented and that the petition was subscribed by the required number of owners shall be conclusive of the facts so stated in every court or other tribunal.

(8) Any resolution or order in the premises may be modified, confirmed, or rescinded at any time prior to the passage of the resolution authorizing the improvements.

(9) The specifications for paving may include sidewalks, curbs, gutters, and grading, and sufficient culverts, sewers, or drains necessary to carry off the surface waters across or along the line of the street improved, and such other incidentals to paving as, in the judgment of the board, may be required. The specifications may also provide that bidders shall agree to enter into contract to do the work and maintain the same in good repair for a period of five years; and the contract may be entered into in accordance therewith.

(10) If, before any such improvements are made, any piece of real estate to be assessed already has an improvement conforming to the general plan or satisfactory to the board, an allowance therefor may be made to the owner, and such allowance may be deducted from the owner's assessment and from the contract price.

(11) Any other provision of this part 6 notwithstanding, the board may initiate an improvement district for the purpose of acquiring existing improvements of a character authorized by this part 6, in which case the provisions of section 30-20-601 concerning construction under the direction of county officers and the provisions of subsections (4) and (5) of this section concerning competitive bidding and preliminary plans and specifications shall not apply.

(11.5) (a) Any other provision of this part 6 notwithstanding, the board may initiate an improvement district for the purpose of encouraging, accommodating, and financing improvements of a character authorized by paragraph (e) of subsection (1) of this section. Any such district shall include only property for which the owner has executed a contract or agreement consenting to the inclusion of such property within the district, and such consent may occur subsequent to the adoption of the resolution of the board forming the district. The contract or agreement shall note the existence of any first priority mortgage or deed of trust on the property, the identity of the record holder thereof, and the penalty for default provided in section 30-20-615 clearly stating that default, like the penalties that exist for default on any mortgage or any other special assessment, may result in the loss of the applicant's home. Within thirty days of a person's submission of an application to the district, the board shall provide written notice to the record holder of any first priority mortgage or deed of trust on the real property that the person is participating in the district. The inclusion of such property within the district subsequent to the adoption of the resolution of the board forming the district may be made by the adoption of a supplemental or amending resolution of the board. For districts formed for the purpose of encouraging, accommodating, and financing renewable energy improvements or energy efficiency improvements, subsections (4), (5), and (6) of this section concerning competitive bidding, preliminary plans and specifications, and notice, section ~~30-20-601~~ concerning construction under the direction of county officers, section 30-20-622 concerning contracts for construction, and section 30-20-623 concerning contract provisions do not apply. For such districts, the owner of property within a district may arrange improvements that qualify pursuant to the resolution of the board authorizing improvements for the district and may obtain financing for said improvements from the district through the process set forth in the resolution forming the district.

(b) (1) Districts formed for the purposes authorized in paragraph (e) of subsection (1) of this section may cross

county boundaries and include properties in multiple counties, whether such counties are contiguous or noncontiguous, if the boards of county commissioners of the affected counties have entered into an intergovernmental agreement or memorandum of understanding regarding the sharing of incremental costs attributable to the district's crossing of county boundaries, with such costs becoming part of the total assessment allocated to each participating landowner.

(II) For any district that may include properties in other counties, the board shall notify the boards of county commissioners and the county treasurers of such counties, at least ten days in advance of the public meeting at which it will be discussed, of the potential inclusion of such properties. The originating board shall consider comments sent by such boards of county commissioners or county treasurers concerning the potential addition of properties from their counties if the comments have been received by the date of the public meeting.

(III) If a municipality that has territory in multiple counties, one of which has created a district for the purposes authorized in paragraph (e) of subsection (1) of this section, desires to consent to the inclusion within such district of any of the properties within its entire incorporated boundary, the municipality shall expressly state in its ordinance granting consent that any property located in the municipality, irrespective of the county in which such property is located, may be included in the district.

(12) The board is authorized to enter into contracts and agreements with any owner of property within the district or any other person concerning the construction or acquisition of improvements, the assessment of the cost thereof, the waiver or limitation of legal rights, or any other matter concerning the district.

(13) At or about the time of the adoption by the board of any resolution creating a district, a copy of such resolution shall be provided to the county assessor, the county treasurer, and the division of local government in the department of local affairs. The board shall make a good faith attempt to comply with this subsection (13), but failure to comply shall not affect or impair the organization of any district, the construction or acquisition of improvements therein, the levying and collection of assessments, or any other matter pursuant to the provisions of this part 6.

Source: L. 73: p. 484, § 1. C.R.S. 1963: § 36-30-3. L. 79: (1) amended, p. 1150, § 1, effective April 25. L. 83: (1) amended, p. 1235, § 1, effective March 22; (1) amended, p. 1245, § 3, effective July 1. L. 85: (1)(a), (2)(a), (5), and (6)(f) amended, (6)(d) repealed, and (11) added, pp. 1071, 1077, §§ 1, 14, effective May 24. L. 86: (2) (a), (3), (5), (6)(f), (6)(i), (7), and (9) to (11) amended and (12) added, p. 1052, § 17, effective July 1. L. 87: (5) and IP(6) amended, p. 1211, § 3, effective May 7. L. 90: (13) added, p. 1471, § 1, effective October 1. L. 99: (1)(c) added, p. 516, § 13, effective April 30. L. 2000: (1)(c) and (3)(a) amended and (1)(a.5) added, p. 1990, § 3, effective August 2. L. 2002: (1)(c) amended, p. 335, § 2, effective April 19; (1)(a) amended, p. 269, § 7, effective August 7. L. 2006: (1)(d) added, p. 347, § 2, effective August 7. L. 2007: (1)(a.5) amended, p. 833, § 2, effective May 14. L. 2008: (1)(e) and (11.5) added, p. 1296, §§ 10, 11, effective May 27. L. 2009: (1)(a) amended and (1)(f), (1)(g), and (1)(h) added, (HB 09-1217), ch. 251, p. 1125, § 1, effective August 5. L. 2010: (11.5) amended, (SB 10-100), ch. 207, p. 900, § 2, effective May 5.

Editor's note: (1) Amendments to subsection (1) by House Bill 83-1163 and House Bill 83-1033 were harmonized.

(2) Section 9 of chapter 207, Session Laws of Colorado 2010, provides that the act amending subsection (11.5) applies to conduct occurring on or after May 5, 2010.

ANNOTATION

Am. Jur.2d. See 70C Am. Jur.2d, Special or Local Assessments, §§ 37-42, 44-49.

C.J.S. See 20 C.J.S., Counties, §§ 71, 72.

