

Gregory's Discovery of Gold Opened New Era In Colorado

A man who may be called one of the makers of Colorado was John Hamilton Gregory, who discovered gold in January, 1859, in what is now Gilpin county. The life story of this daring pioneer is worth telling. A county or town of the state should be named in his honor. A statue is out of the question because we have no photograph of him. He died long ago.

Hollister, in his book, "The Mines of Colorado," uses very strong language concerning Gregory and his discovery, but it was called for because he was a public benefactor. Says Hollister: "The discovery of the lode called after himself by John H. Gregory would seem to rank among the great events whereby the race at large have profited." The story of the first prospecting

blazing faggots would scare wild animals attracted by the smell of fresh meat. Solitude had its charm for this resourceful prospector as it did for Old Bill Williams. There were no bridges over creeks and rivers in those days and Gregory had the problem of getting across; he trudged up the steep slope until the stream narrowed down and he could step to the other bank, or he could toss a log over the rushing brook. All the while he was on the lookout for gravel that glittered with flakes of gold. Week after week passed and he made no rich strikes altho he prospected in almost every valley he came to.

Was Experienced Miner

Gregory was an experienced miner and knew where to look for traces of gold. Working gradually

2018-2019 Byron Hanke Fellowship Research: Colorado Special Districts and Community Associations

by Stephanie Serra

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FOUNDATION FOR COMMUNITY ASSOCIATION RESEARCH



UNIVERSITY of
DENVER

DANIELS COLLEGE OF BUSINESS
Franklin L. Burns School of Real
Estate & Construction Management



THE FOUNDATION FOR COMMUNITY ASSOCIATION RESEARCH AND MISSION AND PURPOSE

The Foundation for Community Association Research (FCAR) is a nonprofit 501(c)(3) organization devoted to common interest community research, development, and scholarship. Incorporated in 1975, the Foundation supports and conducts research in the community association industry.

FCAR provides authoritative research and analysis on community association trends, issues and operations. Their mission is to inspire successful and sustainable communities. They sponsor needs-driven research that informs and enlightens all community association stakeholders—community association residents, homeowner volunteer leaders, community managers and other professional service providers, legislators, regulators and the media. As a part of their mission FCAR awards its Byron Hanke Fellowship to selected graduate students to implement research projects related to the development, management and governance of common interest communities and their community associations.

ON THE COVER

Image Sources:

Overlay of two images: 1) Ebert, F. (2014, March 10). Colorado Territory Map [Digital image]. Retrieved July 30, 2019, from <http://www.mappingthenation.com/blog/mapping-early-colorado-and-the-university-of-denver/>. The first official map of the Colorado Territory, made in 1862, and commissioned by William Gilpin, the first territorial governor, and 2) Gregory's Discovery of Gold Opened New Era in Colorado. (1943, February 11). The Steamboat Pilot (Steamboat, CO), p. 6. Colorado Historic Newspapers Collection. Colorado State Library. Retrieved July 31, 2019, from <https://www.coloradohistoricnewspapers.org>.

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1.0 BACKGROUND

The [Foundation for Community Association Research \(FCAR\)](#) supports the [Community Associations Institute \(CAI\)](#) by conducting and sponsoring community association research and promoting education for association homeowner volunteer leaders and industry professionals. As a part of FCAR's research activities, graduate study is encouraged and funded via the [Byron Hanke Fellowship](#). The Hanke Fellowship's objective is to encourage research projects related to the development, management and governance of community associations. There are three primary types of community associations: condominiums, cooperatives and planned communities (also known as homeowner associations, or HOAs, and common interest communities, or CICs).

For the 2018-2019 academic year, Stephanie Serra, a master's student in the University of Denver Real Estate and the Build Environment department, has been awarded the Byron Hanke Fellowship with the general objective to analyze the relationship between community associations and certain state and local government activities that impact associations. Of particular interest to FCAR and its members is how special districts in Colorado are used in development planning, funding, and ongoing management of existing and new association developments.

2.0 SCOPE

FCAR periodically publishes common-interest community related reports, surveys, policy statements, and educational materials to benefit the homeowners, industry professionals, real estate developers, and the general public. This Hanke Fellowship Report by Stephanie Serra presents research findings concerning special districts in Colorado that will be made publically available by FCAR via publication and presentation.

3.0 RESEARCH QUESTION

DO COMMUNITY ASSOCIATIONS
AND SPECIAL DISTRICTS
FUNCTIONALLY OVERLAP IN THE
STATE OF COLORADO?

4.0 OBJECTIVES

1

Explore how the governance of counties and municipalities effect the formation and management of community associations and special districts.

2

Outline the similarities and differences of how community associations and special districts function including formation, management, and raising revenues for infrastructure like [roads](#), [water supply](#), [sewer](#), [electrical delivery](#), and [telecommunications](#).

3

Discuss how developers and hybrid special district/Community Association managers direct the functional overlap in planning and on-going management of community association infrastructure.

4

Establish if community associations and special districts coordinate risk management and insurance issues.

5.0 INTRODUCTION

Historically, Coloradans have valued self-determination and property rights with a strong preference towards local control. From the state's inception to the interwar years, an economic bust cycle occurred that mirrored the fortunes of the core oil and coal industries. Support for growth, property rights, and local control competed with appeals to preserve Colorado's natural beauty and limit development. As the state grew and evolved, citizens developed a general desire to restrict government on a state and regional level which served to inhibit coherent land use policy. This had some adverse effects since the locations in state that attracted the highest growth either had local governments which were not prepared to handle extensive development or had no existing governance to deal with high growth. Additionally, many municipalities were constrained by local politics and citizen sentiment which created gaps in land use policy whereby developers could create their own vision of the planning process. They did this by taking advantage of existing mechanisms outside of common local governance to finance infrastructure and public services necessary to underpin growth using special districts which has an accepted history in Colorado (see [Gregory Diggings](#)). Under these circumstances the use of special districts, and especially metropolitan districts, gained increasing acceptance in Colorado as a means of facilitating the growth of new communities.

In post-World War II, veterans stationed at local bases moved their families to Colorado creating a boom cycle in the state's economy. During this time, local Colorado municipalities were unable to keep up with the suburban housing shortage caused by the influx of newcomers. While the population of Denver, and the state overall, grew over 50% from 1940 to 1960, the five counties surrounding Denver – Adams, Arapahoe, Boulder, Douglas, and Jefferson – exploded by 250% (**Figure 1**). Developers found opportunity in satisfying the high housing demand by building out suburbs on the unincorporated land found in these Denver Metro area counties while local governments viewed this growth as a means to increase municipal tax revenues.

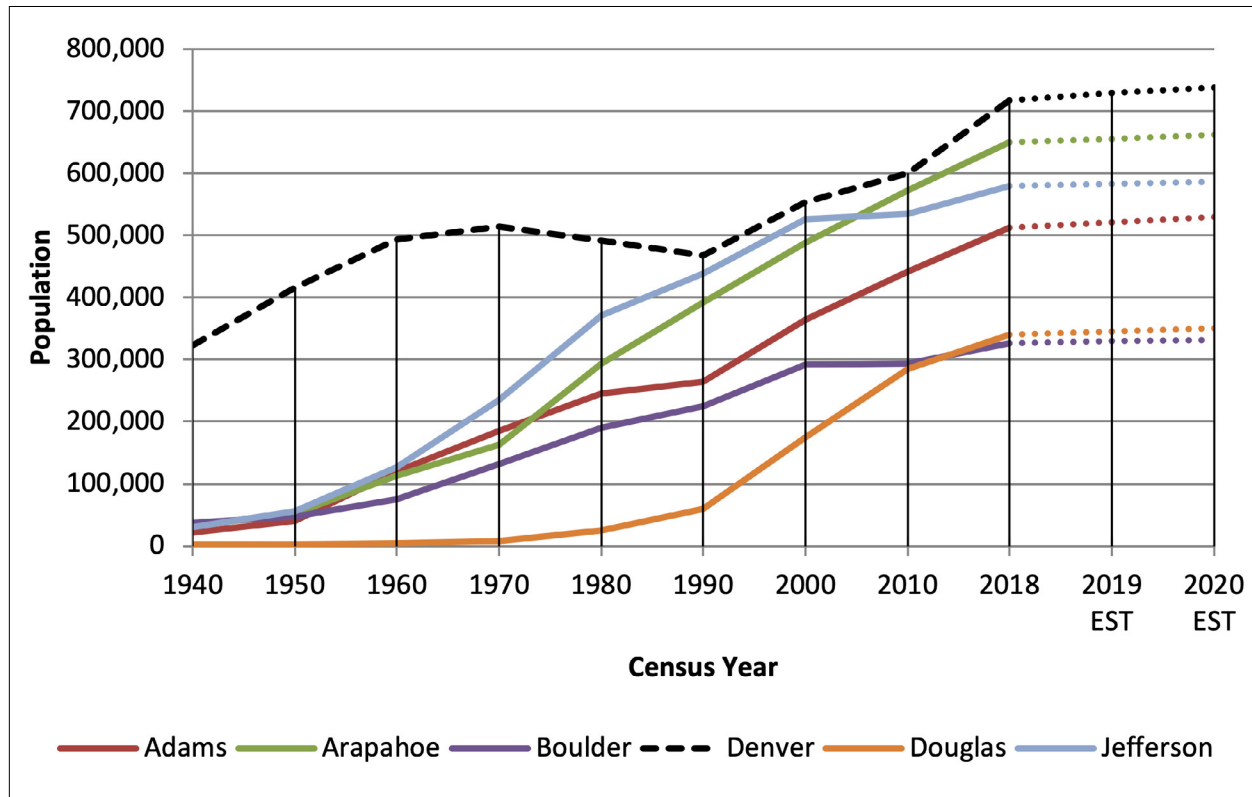


Image 1: Reed, W.H. (1879). Gregory Gulch, Central City, Colorado [Digital image]. [Stephen H. Hart Research Center at History Colorado](#). Accession # PH.PROP.4491, Scan #10034058



Image 2: Baldwin, M. (2008, January 12). Gregory Diggings - Virtual Gilpin (County) [Digital image]. Retrieved July 30, 2019, from http://www.gilpintram.com/mountain_city.html

Figure 1: Population Trend by County, Denver Metropolitan Area, 1940 to 2020 (Estimated)



Source: [United States Census Bureau](#) and [Colorado Demography Office](#)

HISTORICALLY, COLORADANS HAVE VALUED SELF-DETERMINATION AND PROPERTY RIGHTS WITH A STRONG PREFERENCE TOWARDS LOCAL CONTROL.

With the growing population, developers actively sought ways to influence municipal planning and they encountered receptive local governments competing for growth and revenue. Developers took advantage of the limited coordination between state and local governments created by voter preference for small government by fostering the land use planning process through their developments. This was accomplished by proposing the establishment of special districts on unincorporated lands to build infrastructure for future development that could later be annexed by the municipality for tax revenue. In this way, developers directly influenced how and where Colorado metropolitan areas expanded to accommodate a growing population and economy by also playing the role of urban planner.

6.0 BACKGROUND OF COLORADO SPECIAL DISTRICTS

In Colorado, the initial structure of special districts was created in reaction to exponential growth in mining claims during the [Colorado Gold Rush of 1859](#). Near the mountain towns of Black Hawk and Central City, the first recorded special district, [Gregory Diggings](#), was formed to manage mining claims, boundaries, and water rights. Soon after, the formation, administration, and funding approach established by the Gregory Diggings Special District was replicated to govern agricultural areas as well as water and sanitation services in other areas of the soon-to-be Colorado Territory. The pace and growth of metropolitan districts can be attributed to multiple factors including the need for municipalities to use them as a regional planning tool to support local growth when Colorado law prevents them from raising property taxes to pay for development.

The growth in population post-World War II, and subsequent increase in demand for housing and public services in urban and in unincorporated areas, led to the passage of several additional Colorado special district laws. This additional regulation provided for water and sanitation services in addition to expanding public services in fire protection, parks and recreation, hospitals, and sewage through the 1960's. As the formation of special districts accelerated all previously established laws were re-codified and streamlined to follow one set of governing regulations under the Colorado special district act. As of 1981 special districts are defined by [Colorado Revised Statute \(CRS\) Title 32, Article 1](#) as a quasi-municipal corporations and state recognized political subdivisions which provide a specified municipal service or services. The

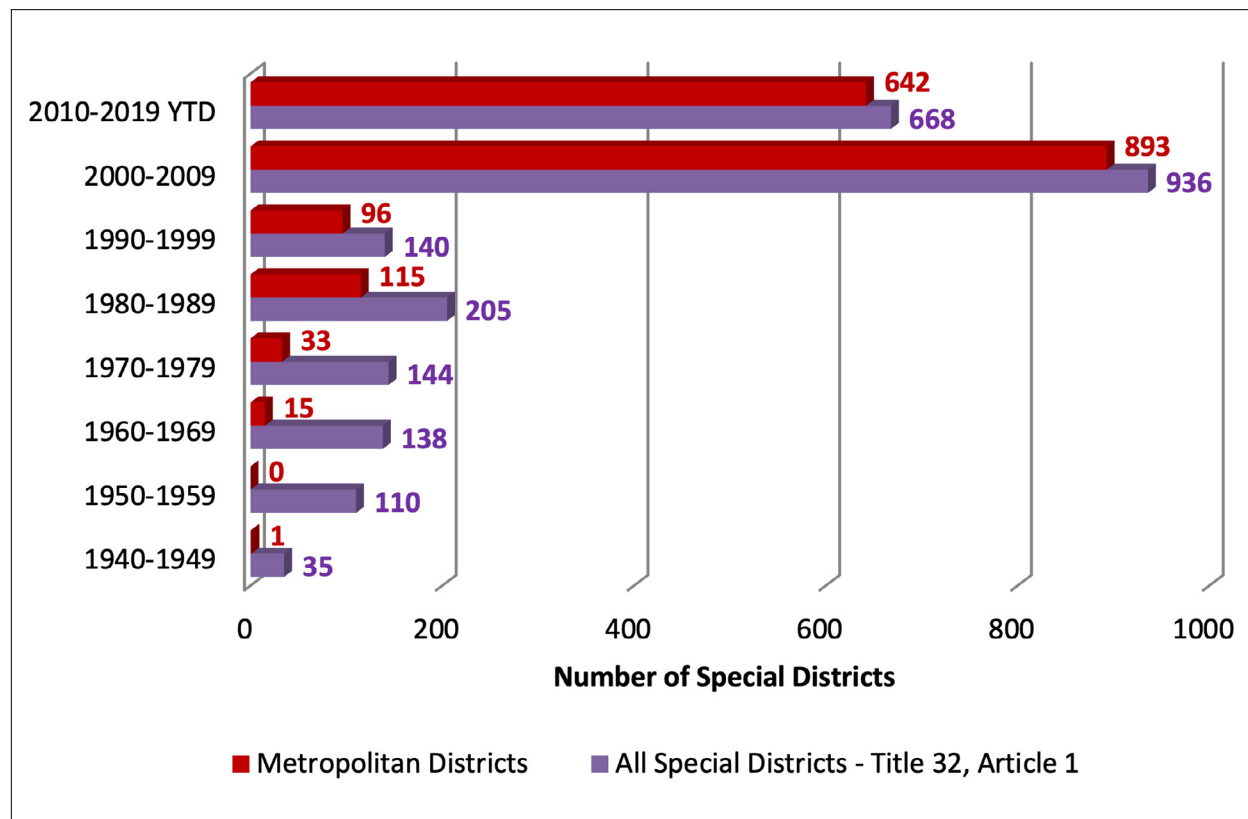
Table 1: Breakdown of Active Colorado Title 32, Article 1 Special Districts

Code	Description	Statutory Authority	Count
6	Metropolitan Districts	32-1-103	1,796
8	Fire Protection Districts	32-1-103	254
12	Water & Sanitation Districts	32-1-103	124
11	Water Districts	32-1-103	78
10	Sanitation Districts	32-1-103	68
7	Park & Recreation Districts	32-1-103	55
9	Health Service Districts (Hospital)	32-1-103	40
45	Ambulance Districts	32-1-103	11
Total Active Title 32, Article 1 Districts:			2,426

Source: [Colorado Department of Local Affairs](#), Accessed July 18, 2019

most common Title 32 Special Districts in Colorado are primarily metropolitan districts followed by fire protection, water & sanitation, water, sanitation, park and recreation, and health service (**Table 1**).

Figure 2: Colorado Metropolitan Districts vs. All Special Districts Trend, 1940 to 2019 YTD

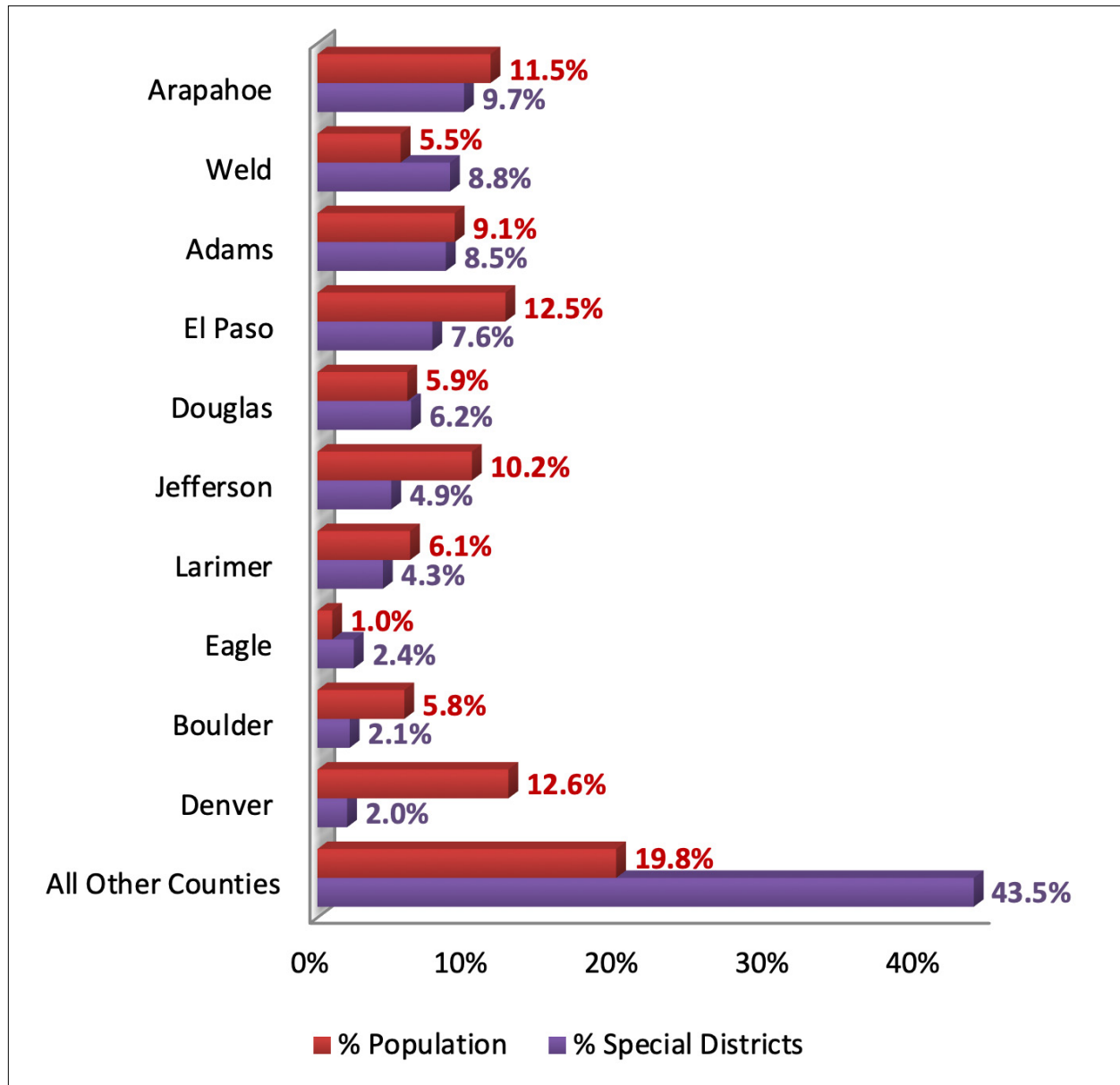


Source: Colorado Department of Local Affairs, Accessed May 24, 2019

Metropolitan districts are the most commonly created special districts due to their ability to provide more than one service including water, sanitation, fire protection, mosquito control, and parks and recreation. Among U.S. states, Colorado has experienced one of the highest metropolitan district growth rates since the 1960's with accelerated implementation since 2000 (**Figure 2**). The pace and growth of metropolitan districts have more to do with reliance on them as a substitution for general purpose government because of a lack of effective regional planning.

Nearly 60% of special districts are located in counties where 80% of the Colorado population lives (**Figure 3**). The majority of special districts are formed in 9 of the 10 largest counties (Adams, Arapahoe, Boulder, Denver, Douglas, Eagle, El Paso, Jefferson, Larimer, and Weld) and 7 of the 10 fastest growing counties with populations above 50,000 in Colorado (Adams, Arapahoe, Douglas, Eagle, El Paso, Larimer, and Weld).

Figure 3: Top 10 Colorado Counties With Special Districts and Share of 2018 Population %



Source: 2018 Population Data – Colorado State Demography Office and Colorado Department of Local Affairs, Accessed May 28, 2019

7.0 COMPARING COLORADO SPECIAL DISTRICTS AND COMMON INTEREST COMMUNITIES

As community planners and developers sought to supply housing and related development in the post-World War II period, they utilized community associations as another tool in land use planning. In Colorado, the first effort to legally organize common ownership living occurred when the [Colorado Condominium Ownership Act \(COA\)](#) was first codified in 1963. Primarily, the COA recognized condominium ownership as mortgageable real estate and specified the required contents of condominium declarations and bylaws for governance purposes.

After the COA was amended several times, a new law was passed in 1991 to modify and supersede most of the COA by enactment of the [Colorado Common Interest Ownership Act \(CCIOA\)](#). The CCIOA not only addressed condominium communities, but also the regulations related to planned communities and housing cooperatives. It expanded the general powers and duties of a CIC including budgetary procedures, auditing, disclosures, and governance policies such as procedures for meetings and voting, conveyance of the common elements, insurance requirements, and maintenance of association records.

When planning for infrastructure and public services in a new development knowledge of the practical applications of a CIC compared to a special district is a critical decision making tool for developers. Each are governed by distinctly separate laws and function autonomously even when they serve the same property owner. Only special districts operate as a governmental entity with the power to assess property taxes, fees and charges for service in addition to the power to condemn property for public purposes. By contrast, a CIC is a private, non-taxing entity generally responsible for CIC covenant enforcement and common area operations and maintenance. The structure and underlying characteristics unique to special districts and CICs influence how municipal urban planners and developers underwrite area growth (see Appendix **Table A1**: Colorado Special Districts vs. Common Interest Communities).

8.0 COLORADO SPECIAL DISTRICTS AND THE TAXPAYER'S BILL OF RIGHTS (TABOR)

In 1992, Colorado passed the country's most restrictive tax and expenditure limit laws (TEs) via a constitutional amendment called the [Taxpayer's Bill of Rights](#) which restricted the growth of government at all levels including state, city, county, school district, and special district. In practice, TABOR limits the amount of tax revenue all levels of governments can collect and spend without voter approval which adversely affects the government's ability to unilaterally adjust tax rates to pay for a growing populace and services. The main directives of TABOR are summarized below and are further outlined in [Appendix Table A2: Provisions of TABOR](#).

1. TABOR requires that any change in tax policy at the state and local level be approved in advance by eligible voters.
2. TABOR requires that any increase in tax rates, mill levies and debt limits at the state and local level be approved in advance by eligible voters.
3. State government revenue growth is limited to the population growth rate plus the inflation rate while local government and special district revenue growth is limited to the real property value growth rate plus the inflation rate. Any revenue collected in excess of those formulas must be returned to taxpayers as a refund or temporary tax credit unless voters approve of government retention of the excess funds.
4. TABOR limits budget and revenue spending growth rates to the population growth rate plus the inflation rate.
5. TABOR prohibits raising revenue via implementation of real estate transfer taxes, local income taxes, and state property taxes thus limiting the type of revenue proposal that can be submitted for voter approval.

Under TABOR cities and counties have had difficulty obtaining broad voter approval to raise tax revenue to pay for additional infrastructure and public services needed to support population growth. However, voters have demonstrated a greater willingness to approve revenue proposals to pay for, and maintain, infrastructure and public services through the establishment of metropolitan districts. In this way voter approval for new development is only required from eligible voters who live in, or own, property within the new metropolitan district boundaries, not all city or county voters, thus support is more likely from those who directly benefit. The greater likelihood of raising funds for infrastructure and public services through the formation of metropolitan districts has motivated city planners and local officials in Colorado to actively use them as a development and growth management tool.

9.0 FUNCTIONAL OVERLAP IN PLANNING AND MANAGEMENT

9.1 New Development Planning Process

Upon entering the 2000's, Colorado municipalities generally phased out of directly building new communities in unincorporated lands or infill due to the challenges they faced in creating and sustaining revenue sources to fund such projects. As laws like TABOR made it more difficult to raise taxes or take on debt due to required voter approval, the responsibility of structuring entities to fund new infrastructure and public services further shifted to developers. However, the municipalities did not cede their right to dictate whether they would require the formation of a special district, a CIC, or both within the scope of a development. Selection of one or both by the developer and municipality would depend on the development property type, scale, and amount of infrastructure and public services needed.

For larger developments a special district, and more specifically a metropolitan district, may be necessary due to the expense of land acquisition and installation of necessary infrastructure to build a community. Typically, such expense would not be approved by a broad range of voters and could not be absorbed by the developer and still have a financially viable project. Under these circumstances, assistance from bonds secured by a special district allows for the infrastructure cost to be spread out over a period of years among all property owners who directly benefit from the improved property. Without the shared periodic payment of debt service, the developers would have to add the full share cost of infrastructure improvements directly into the property purchase price, thus escalating prices higher than affordable levels for many buyers.

In cases of attached condominiums and townhouses, or smaller detached single family residence communities, some developers state that establishment of a CIC without a special district may be more financially feasible for multiple reasons. First, it may be more feasible for the developer to temporarily carry the initial acquisition and infrastructure costs, then later pass those costs on to purchasers via the sales price and future CIC assessments. Additionally, the cost to form a special district is more than a CIC by itself because of the additional attorney involvement, structuring the bond offerings, and personnel time investment required thus making CICs without special districts more feasible for smaller projects. Independent of developers, some municipalities are more likely to require the establishment of CICs instead of special districts for new development due to more residents conceptually understanding what a CIC is and how it functions.

9.2 Functional Overlap

After interviewing several professionals familiar with special districts and CICs such as developers, attorneys, community association managers and special district managers the distinction was made that while special districts and CICs are legally different entities, they may functionally overlap in the planning and on-going maintenance of infrastructure. In one scenario, a developer acquired an obsolete development, demolished existing buildings, and used the infill land to create master plan development serviced by a metropolitan district. Portions of the development were then subdivided and sold to secondary developers with different specialties in various property types desired in the master plan development such as multi-family, retail centers, and office. As a part of the sale, the secondary developers agreed to open space easements at their property line and public right-of-way in the form of curbs and gutters which conform to the master plan street scape design. While the secondary developers initially paid for the private and public right-of-way adjacent to their respective properties, upon completion of construction, the metropolitan district took over maintenance of all such spaces for the sake of continuity, consistency, and conformity throughout the entire master plan development.

If the secondary developer constructs multi-family structures or single family residences using a CIC, within the development's boundaries many of the same maintenance services would be required as with the metropolitan district. In both the metropolitan district and CIC landscaping and snow removal must be managed while infrastructure for water flow within water, sewer, and storm water lines must be properly maintained. Under these circumstances, opportunities arise for functional overlap between metropolitan districts and CICs for on-going maintenance and management. First, the CIC member owners may choose to hire the same vendors for maintenance and repair of landscape, irrigation, sidewalks, and site lighting as the metropolitan district. In doing so they may achieve better pricing and service continuity across property lines for the contracted services. Second, the CIC member owners may also choose to hire the special district manager to also act as their Community Association manager. In order for this to happen, the special district manager also must also be licensed as a Community Association manager in the state of Colorado. By default, through this single "hybrid" special district and Community Association manager continuity of service and economy of scale on joint matters may become more achievable.

9.3 Developer Incentives for Special Districts

A few developers have reported that if given a choice of using a special district or a CIC for a new development, there are a few considerations which may incentivize the developer to select a special district over a CIC. One primary issue concerns construction defects are managed between the property owners and developers

post-construction and sale. In particular, if a CIC is formed, then the property owners have the option to file construction defect litigation without first consulting with the developer. Under a special district, the developer is more protected from lawsuits because the property owners must first attempt to resolve any alleged construction defects with the developer prior to litigating. Given the rise in construction defect litigation overall, and the costs associated with the management of such lawsuits, many developers believe that special districts may be the only cost-effective choice to make the numbers work for a new development.

Another benefit of a special district that developers like to point out, and is widely unknown, pertains to Section 164 of the Internal Revenue Code which outlines allowable deductions of state and local taxes (SALT) for federal income tax purposes. More specifically, real estate-related taxes paid at a state or local level for a primary residence, second home, or land are allowable federal deductions as long as the property is only used for personal use. This means that property owners have the option of deducting the property taxes paid to the special district on their federal tax returns. In contrast, CIC assessments paid by property owners are generally not recognized as deductible expenses by the IRS.

10.0 INSURANCE AND RISK MANAGEMENT

In Colorado there are few examples of risk management coordination between special districts and CICs when an insurable event occurs even if it simultaneously affects multiple entities. Insurance policies explicitly define both the insured parties and insured perils thus negating involvement of others not named as the insured parties. Should a single event occur that causes damage to structures and infrastructure owned by different entities, then each party would have to consider filing a separate claim with their respective insurance carrier. Coverage would only be provided if the insured party has purchased coverage for the damage property caused an insured peril.

In one known risk management case, a CIC-owned pool required major repair, but was non-insurable and the statute of limitations for a construction defects claim had passed. For the subject community all constituents of the metropolitan district happened to also be members of the CIC. If the cost of repair were passed on to the CIC members as a special assessment the total amount needed up front would be too high for the CIC members to pay. Instead, repair funds were raised through the metropolitan district by voter approval in order to spread out payment not only across all property owners, but also over a longer period of time making the project more affordable.

11.0 CONCLUSION

History demonstrates that Colorado's tendency towards limited government and local control influenced the use of special districts as a mechanism to fund growth-inspired infrastructure and public services. Over time the adoption of private CICs became another project planning tool utilized by developers. As Colorado voters enacted the nation's strictest tax and expenditure laws known as the TABOR amendment, the use of metropolitan districts accelerated as a more acceptable method of supplying general governmental services to area taxpayers instead of by local municipalities. While special districts and CICs legally are independent entities, they may functionally overlap in their maintenance and management activities. In cases where new developments occur, CIC property owners may elect to hire the same maintenance vendors and use the special district manager as the CICs manager to oversee their community functions in order to facilitate improved continuity of services, maintain cost savings, and provide more effective overall management. In the area of risk management and insurance, coordination between special districts and CICs is unlikely for insurable events as each must file separate claims with their respective insurance carriers. For non-insured or underinsured events, special cases may exist demonstrating cooperation between special districts and CICs if both entities are responsible for the same property.

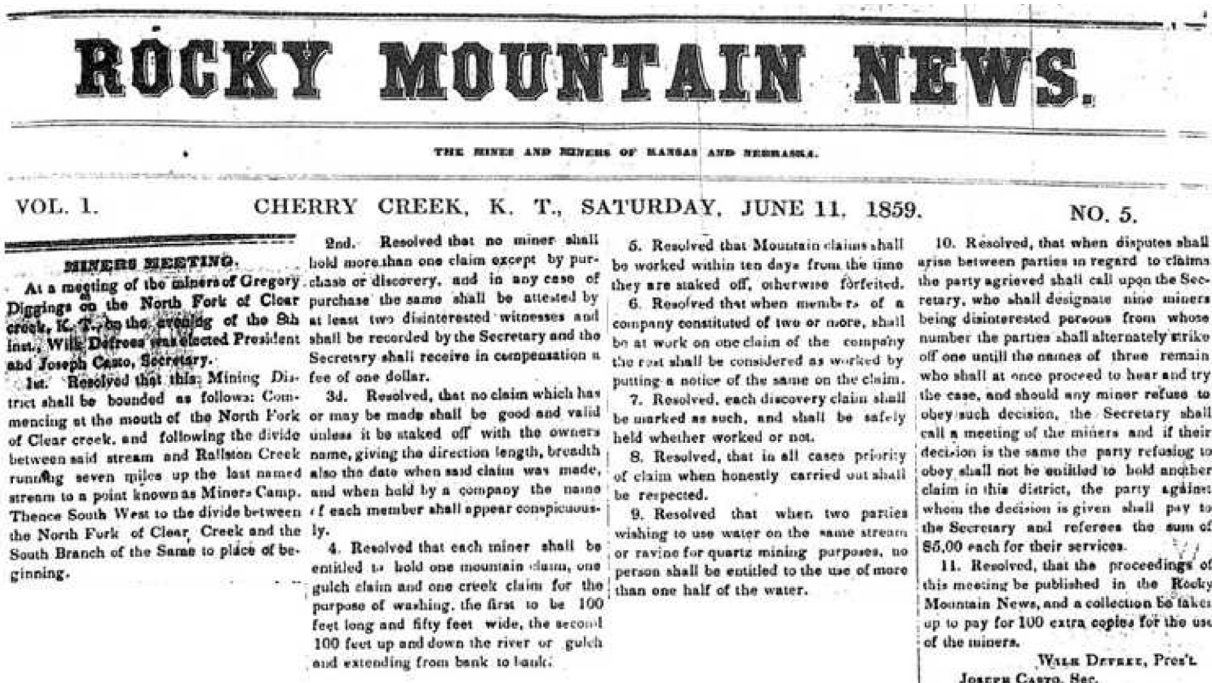


Image 3: Casto, J., Miners Meeting (1859, June 11). Rocky Mountain News (Denver, CO), p. 2. Colorado Historic Newspapers Collection. Colorado State Library.

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13.0 APPENDIX

Table A1: Colorado Special Districts vs. Common Interest Communities

	SPECIAL DISTRICTS	COMMON INTEREST COMMUNITIES
Colorado Revised Statutes	Title 32, Article 1	38-33.3-302
Purpose	Provide infrastructure and public services that municipalities do not.	Maintain community common areas and structures shared by all residents.
	Financing conduit for infrastructure in new or existing developments.	Covenant control to preserve property values.
Status	Quasi-governmental corporations and political subdivisions.	Generally organized at the state level as nonprofit corporations, but can also be not-for-profit corporations, for-profit corporations, and limited liability companies.
	Not subject to income taxes as a governmental entity.	Generally exempt from state income taxes, but must file annual corporate returns to the Colorado Department of Revenue and IRS where federal taxes may apply.
Governing Documents	Service Plan outlines services provided, financial plan, and district boundaries.	Articles of Incorporation creates the HOA and outlines operational power and authority.
	Declaration Document exists when a district contractually agrees to provide covenant enforcement and architectural review services in accordance with a CIC's Declaration Document.	Declaration Document creates the CIC attached to the land mandating that all property owners are automatically members.
	No Bylaws.	Bylaws establish how the CIC affairs are managed and regulated.
	Bylaws to govern local elective officials, policies, and procedures.	Bylaws establish how the CIC affairs are managed and regulated.

	SPECIAL DISTRICTS	COMMON INTEREST COMMUNITIES
Powers	Levy taxes and assess fees, rates, charges, and penalties.	Charge assessments, late fees, interest, and penalties.
	Oversees construction and ongoing maintenance of improvements.	Common area maintenance; covenant, rule, and architectural enforcement.
Revenue Generation	Assess mill levy tax and issue special assessment bonds. Homeowner payments are tax deductible.	Charge regular and special assessments, take out loans, sale of property by owners' approval. Homeowner assessments are not tax deductible.
Common Areas	Public property owned, operated, and maintained by the District for all residents and property owners within District boundaries.	Private property owned, operated, and maintained by the CIC exclusively for members.
Board Elections	Director elections held in May of even-numbered years.	Under developer control until a set number of units sold and new board members are elected annually from owner pool.
	Debt/TABOR elections held in November of any year and May of even numbered years for voter approval of any property tax increases.	Adoptions of new rules and amendments to existing documents subject to owner vote.
Tax and Budget Approvals	Simple majority of the votes cast to raise property taxes wins.	Board-approved budgets automatically ratified unless vetoed by 50% of owners.
	Some Districts have gained permanent voter approval to raise and lower property tax rates so no additional voter approval is required per TABOR.	
Collections	County Treasurer collects the District's property tax and transfers funds to the District.	The community collects funds from all revenue sources.
	When property taxes are not paid Districts file a lien against the property for the amount owed.	The community initiates collection actions when assessments are unpaid.

	SPECIAL DISTRICTS	COMMON INTEREST COMMUNITIES
Collections	The District's tax liens are superior to the CIC "super" lien.	After extended non-payment super liens may be filed against the property or foreclosure actions initiated.
Board Qualifications	Must be a registered Colorado voter.	Governing documents define qualifications.
	Own property within the District, reside in the District, or have a contract in place that obligates payment of taxes.	Must own a property in community and be current in assessments at minimum.
Meetings	Subject to open meeting laws and all meetings must have a quorum or minimum of 3 board directors.	Open to all homeowners or their representatives with exceptions for executive sessions.
	Minimum one meeting per year for adoption of budget and annual matters.	Owner meetings must occur at least once a year.
	All notices, agendas, minutes, and disclosures must be publicly posted.	No statutorily required meeting notices to members.
	The public must be allowed to comment during meeting.	Open to the owners, not the public, and they must be allowed comment prior to a Board vote.
Reserves	No state-mandated reserves. Capital project funds for larger projects are separate from the general fund and may be added to the long-term reserve study.	Must adopt investment of reserve funds procedures, when a reserve study is prepared, and how work recommended will be funded.
Records	Colorado Open Records Act provides for public requests of most District documents.	Owners can request to inspect specific Association records.
Local Government Compliance	Annual filings submitted to Department of Local Affairs – Division of Local Government, Secretary of State – Elections and Voting Division, Office of the State Auditor , County Board of Commissioners, County Treasurer, and County Assessor.	Annual registration with Department of Regulatory Agencies (DORA) , annual report filed with Secretary of State , and disclosures annually on Association website.

	SPECIAL DISTRICTS	COMMON INTEREST COMMUNITIES
Management	No licensing required.	Community Association Managers licensed by the DORA – Division of Real Estate with continuing education requirements.
	Knowledge of compliance filings, meeting notice requirements, financing & bond issues, governmental election process, and TABOR issues necessary.	Knowledge of DORA Association registration & compliance, legalities of collections & covenant enforcement, and provisions of Colorado Common Interest Ownership Act (CCIOA) and Colorado Revised Nonprofit Corporation Act .
Colorado Governmental Immunity Act	Governmental immunity limiting claims under state laws, not federal, towards District's Board, management, their actions, and courts.	Potential immunity under the Colorado Volunteer Service Act if CIC is a nonprofit state corporations and board members serve as uncompensated volunteers.
Fannie Mae Appraisal Considerations	Report if property is located in a "special assessment district", amount of ongoing special assessments, and note if any district financial difficulties exist which adversely affect property value or marketability. (B4-1.4-09, Special Assessment or Community Facilities Districts Appraisal Requirements (04/15/2014))	For condo projects analyze the marketability and appeal of both the individual unit and project overall including location of the unit, project amenities, and amount of HOA fees. (B4-1.4-03, Condo Appraisal Requirements (04/15/2014))
	Report if property is located in a "community facilities district", current value of tax assessment lien attached to title, and note if the assessment lien adversely affects property marketability. (B4-1.4-09, Special Assessment or Community Facilities Districts Appraisal Requirements (04/15/2014))	For planned unit development (PUD) projects the appraisal must follow Fannie Mae Chapter B4-2.3-01, Eligibility Requirements for Units in PUD Projects (06/05/2018) .

Adapted. Content of [Selling Guide: Fannie Mae Single Family](#) from Fannie Mae (2019), [How Special Districts and HOAs Interact](#) from [White Bear Ankele Tanaka & Waldron](#) (2017), and [HOAs vs. Metropolitan Districts](#) from Wolfersberger LLC (2019).

Table A2: Provisions of TABOR

LIMITATIONS	SPECIFIC PROVISIONS
Voter Approval	Any New Taxes Tax Rate Increase Increase in the Assessment Extension of an Expiring Tax Any Tax Policy Changes that increase a Net Tax Revenue Creation of Financial Obligations Changes in Revenue and Spending Changes in Debt Use of the Surplus
Revenue Limits	Limit the Maximum Annual Percent Change <ol style="list-style-type: none"> 1. State Inflation Rate + Percentage Change in Population 2. Local (including Special Districts) Inflation Rate + Percentage Change in the Valuation of Real Property in the Jurisdiction 3. School Districts Inflation Rate + Percent Change in Student Enrollment Revenue Limit on General and Cash Fund
Spending Limit	Prohibit Measures to Weaken Existing Spending Limitations
Prohibit Taxes	New or Increased Real Estate Transfer Tax Local Income Tax State Real Estate Property Tax
Emergency Reserve	3% of Fiscal Year Spending for Non-Economic Emergency
TABOR Surplus	Refund the Surplus

Note. Reprinted from The effects of artificial constraints on local autonomy: Consequences of TABOR on local structure, finance, and public choice, by Lee, J., & Mullins, D. R. from Doctoral dissertation, American University 2015 (UMI No. 3711114).

Figure A1: Reprint with all original formatting and spelling errors of the meeting minutes forming the first special district of Colorado which occurred on June 8, 1859 and established, "The Laws and Regulations of The Miners of Gregory Diggings District.

At a meeting of the miners of Gregory Diggings on the North Fork of Clear creek, K.T., on the evening of the 8th inst., Wilk Defrees was elected President and Joseph Castro, Secretary.

1. Resolved that this Mining District shall be bounded as follows: Commencing at the mouth of the North Fork of Clear creek, and following the divide between said stream and Rallston Creek running seven miles up the last named stream to a point known as Miners Camp. Thence South West to the Divide between the North Fork of Clear Creek and the South Branch of the Same to a place of beginning.
2. Resolved that no miner shall hold more than one claim except by purchase or discovery, and in any case of purchase the same shall be attested by at least two disinterested witnesses and shall be recorded by the Secretary and the Secretary shall receive in compensation a fee of one dollar.
3. Resolved, that no claim which has or may be made shall be good and valid unless it be staked off with the owner's name, giving the direction, length, breadth also the date when said claim was made, and when held by a company the name of each member shall appear conspicuously.
4. Resolved that each miner shall be entitled to hold one mountain claim, one gulch claim and one creek claim for the purpose of washing, the first to be 100 feet long and fifty feet wide, the second 100 feet up and down the river or gulch and extending from bank to bank.
5. Resolved that Mountain claims shall be worked within ten days from the time they are staked off, otherwise forfeited.
6. Resolved that when members of a company constituted of two or more, shall be at work on one claim of the company the rest shall be considered as worked by putting notice of the same on the claim.
7. Resolved, each discovery claim shall be marked as such, and shall be safely held whether worked or not.
8. Resolved, that in all cases priority of claim when honestly carried out shall be respected.
9. Resolved, that when two parties wishing to use water on the same stream or ravine for quartz mining purposes, no person shall be entitled to the use of more than one half of the water.
10. Resolved, that when disputes shall arise between parties in regard to claims the party agrieved shall call upon the Secretary who shall designate nine miners being disinterested persons from whose number the parties shall alternately strike off one untill the names of three remain who shall at once proceed to hear and try the case, and should any miner refuse to obey such decision, the Secretary shall call a meeting of the miners and if their decision is the same the party refusing to obey shall not be entitled to hold another claim in this district, the party against whom the decision is given shall pay to the Secretary and referees the sum of \$5.00 each for their services.
11. Resolved, that the proceedings of this meeting be published in the Rocky Mountain News, and a collection be taken up to pay for 100 extra copies for the use of the miners.

Joseph Castro, Sec.

Wilk Defree, Pres't"

14.0 GLOSSARY

COMMUNITY ASSOCIATION MANAGER – “implement(s) the decisions of the board of directors in running the day-to-day operations of the association... must have a good understanding of the principles of human resources, contracting, accounting, psychology, insurance, physical plant maintenance, education, government relations, board management, construction, and law.” (<http://kingsmanagement.com/cam.html>, 2015).

CONSTRUCTION DEFECT – “a deficiency in the design or construction of a building or structure resulting from a failure to design or construct in a reasonably workmanlike manner, and/or in accordance with a buyer’s reasonable expectation” (<https://www.irmi.com/term/insurance-definitions/construction-defect>, 2019).

GREGORY DIGGINS – “It was John H. Gregory of Georgia who revived the (Colorado) Pikes Peak Gold Rush when, on May 6, 1859, he discovered the first lode gold in the area that would later come to be known as the “Gregory Diggings.” It was Gregory’s discovery that inaugurated the expansion and permanent development of Colorado. Gregory’s rich gold strike led to the formation, on June 8, 1859, of the first mining district in the new gold rush region of the Rocky Mountains, aptly dubbed the “Gregory Mining District.” (<https://themtneer.com/2015/07/black-hawk-historic-mining-properties>, 2015)

INFILL – “vacant parcels within previously built areas... already served by public infrastructure, such as transportation, water, wastewater, and other utilities.” (<https://www.completecommunitiesde.org/planning/landuse/what-is-infill>, 2019).

INSURED PERIL – “an event that can cause damage or loss to a property but is covered by an insurance policy that pays for the loss or damage if it occurs.” (<https://www.insuranceopedia.com/definition/2437/insured-peril>, 2019).

MASTER PLAN DEVELOPMENT – “a plan that shows an overall development concept that includes urban design, landscaping, infrastructure, service provision, circulation, present and future land use and built form.” (<https://www.reference.com/education/master-plan-5c6df9f53b18033f>, 2019).

MILL LEVY – “the assessed property tax rate used by local governments and other jurisdictions to raise revenue in order to cover annual expenses” (<https://www.investopedia.com/terms/m/mill-levy.asp>, 2019).

PUBLIC RIGHT-OF-WAY – “A public right of way is a public right to travel unhindered over a piece of land, even if that land is privately owned. Generally, this term is in reference to sidewalks and streets that are located on city or town property. However, even if the public right of way is on such public property, any landowner adjacent to the right of way may have a responsibility to keep the public right of way safe for travel by pedestrians.” (<https://www.wisegeek.com/what-is-a-public-right-of-way.htm#didyouknowout>, 2019).

SPECIAL DISTRICT – “a quasi-municipal corporation and political subdivision of the State of Colorado formed to provide necessary public services that the county or municipality cannot otherwise provide. It is essentially a tax-exempt financing mechanism used for the installation, operation and maintenance of public infrastructure.” (<https://specialdistrictlaw.com/frequently-asked-questions-about-special-districts>, 2019)

SPECIAL DISTRICT BONDS – “tax-exempt bonds to finance public improvements within a specified geographical area, or district... The bonds are repaid from the special taxes, assessments, and/or an ad valorem property tax imposed on the land within the district”, (<https://www.nahb.org/en/research/~media/2B48470239CA435E816317B5FEC6344D.ashx>, 2014).

SPECIAL DISTRICT MANAGER – assists and advises in district formation and service plan processes, completes all required statutory filings pursuant to Colorado Revised Statutes, prepares and files annual budgets, manages construction and maintenance contractors and costs. (<https://sdmsi.com/our-services/district-management>, 2019).

TAX AND EXPENDITURE LIMITS – “Tax and expenditure limits (TELs) restrict the growth of government revenues or spending by either capping them at fixed-dollar amounts or limiting their growth rate to match increases in population, inflation, personal income, or some combination of those factors.” (<https://www.taxpolicycenter.org/briefing-book/what-are-tax-and-expenditure-limits>, 2019).