City of Thornton

Proposed Metropolitan District Changes

Stakeholder Webinar #2
January 28, 2021

City of Thornton staff

- Jeff Coder, Deputy City Manager
- Grant Penland, Planning Director
- Karen Widomski, Senior Policy Analyst
- Kimberly Newhart, Finance Director
- Rachel Walsh, Senior Financial Analyst
- Matt Court, Assistant City Attorney II

Presentation Overview

- Background
- Summary of changes and comments
- Next steps
- Additional questions and discussion

Background

Goal of Changes:

- Address City Council and homeowner concerns
- Changes intended for Residential Districts
- Balance needs of homeowners and developers

Process and Outreach to Date:

1st Draft – July 2020	2nd Draft – January 2021
• 1st draft of staff changes circulated for review and comment	• 2nd draft of staff changes circulated for review and comment
• 1st Stakeholder webinar – July 15, 2020	• 2nd Stakeholder webinar- January 28, 2021
• Consideration and incorporation of 1st stakeholder comments	• Consideration and incorporation of 2nd stakeholder comments

Changes Addressed

1. Residential versus Commercial Districts
2. Debt Mill Levy
3. Debt and Interest Rates
4. Operating Mill Levy
5. Fee Limitation
6. Growth Limitations
7. Community Engagement
8. Disclosure Requirements
9. Service Plan Compliance Remedies
10. Report Reimbursement Agreements
11. Approved Conceptual Site Plan Requirement
12. Regional Financing for Long-term Developments
13. City Website as Information Portal

Residential versus Commercial

Intent of Changes:

- Differentiate Residential Districts from Commercial Districts
  - Primary concerns regarding taxation of residents
  - Changes not targeted towards Commercial Districts

Current Requirements:

- No distinction between residential and commercial requirements

Proposed Changes:

- Define Residential Districts and Commercial Districts
- Stipulate that some regulations apply only to Residential Districts

Residential versus Commercial

Stakeholder Comments Received:

- As drafted, a functionally Commercial District with one residential tax parcel would be subject to all limitations of Residential Districts

- Detailed comment list can be downloaded at: https://www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Debt Mill Levy

Intent of Changes:

- Create parameters for unlimited Debt Mill Levy

Current Requirements:

- If Debt is > 50% of District's assessed valuation, Maximum Debt Mill Levy is 50 mills
- If Debt ≤ 50% of District's assessed valuation, District not subject Maximum Debt Mill Levy

Proposed Changes:

- Base assessment rate from date of service plan approval
- Once Debt is ≤ 50% of District's assessed valuation:
  - Prior to residents comprising a majority of the District Board, Board may request Council approval for Debt Mill Levy to become unlimited; and/or
  - Once majority of the Board are residents, the Board can vote for Debt Mill Levy to become unlimited

Debt Mill Levy

Stakeholder Comments Received:

- Modify definition of Residents
  - Add person who “lives” within District
  - Owner of model home should not be included

- Keep base assessment rate at 7.96% rather than rate at time of service plan approval
  - Maintains consistency among Districts for Gallagher adjustment
  - Not keeping 7.96% rate would result in existing districts having a higher Maximum Debt Mill Levy and competitive advantage over districts approved under the new model

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Debt and Interest Rates

Intent of Changes:

- Require itemization of costs justifying debt amount
- Ensure all financial obligations that residents pay back are considered Debt
- Obtain lowest interest rates on Debt

Current Requirements:

- Does not address loans or other obligations such as Developer Advances
- Debt must be issued at market rate but otherwise little restriction on rates
- Does not address refinancing
- Itemized public improvement costs not in Service Plan

Debt and Interest Rates

Proposed Changes:

- Expand definition of Debt
- Maximum net effective interest rate on Debt not to exceed 12%
- Simple per annum interest, not compounded interest
- Existing Debt should be considered for refinancing to lower rate if feasible
- Public improvements cost estimates added as exhibit to Service Plan

Debt and Interest Rates

Stakeholder Comments Received:

- Expanded “Debt” definition will result in requests for higher debt limitations in Service Plan
- Developer advance contracts (i.e., Operations and Capital Funding Agreements) are annual appropriation promises and do not meet the threshold of "Debt" as they are not multiple fiscal year obligations
- Privately Placed Debt should exclude loans from financial institutions registered with the Colorado Division of Banking. No benefit accrued to a District from obtaining an external certification of an interest rate on a loan issued by a "private" bank

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Debt and Interest Rates

Stakeholder Comments Received:

- Limit Developer Placed Debt to accrue only simple interest and allow Publicly Placed Debt to accrue compounding interest
- How are the following common financing terms affected by the simple interest requirement? (1) accreted interest and (2) capitalized interest
- Impacts of requiring simple interest, rather than compounding:
  - Limit early-stage borrowing
  - Increase borrowing costs
  - Eliminates investors ability to maintain rate of return
  - Need for structures other than current interest bonds (i.e. Convertible Capital Appreciation Bond)

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Debt and Interest Rates

Stakeholder Comments Received:

- Regarding Public Improvement Cost Estimate Exhibit:
  - Allow administrative approval to update Service Plan Exhibit for Public Improvements costs instead of requiring formal Service Plan amendment
  - Revise definition of "Public Improvements" to acknowledge that Public Improvement costs are initial estimates subject to modification:
    - Includes only public improvement portion of costs
    - Total project improvement costs will be significantly higher, will materially increase overall costs

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Operating Mill Levy

Intent of Changes:

- Limit taxes imposed on residential properties for ongoing operations and maintenance
- Specify what Operating Mill Levy can pay for

Current Requirements:

- No mill levy cap for ongoing operation and maintenance

Proposed Changes:

- Define what Operating Mill Levy can pay for
- Cap residential Maximum Operating Mill Levy at 10 mills unless:
  - Council approves higher mill levy per District request; and/or
  - Once the majority of the Board are comprised of residents, Board can vote to increase the Maximum Mill Levy

Operating Mill Levy

Stakeholder Comments Received:

- Add holiday lights, social events and retention ponds to eligible expenses
- What happens if residents are not interested in serving on the Board? Any option other than a formal service plan amendment?
- Districts need flexibility on the imposition of an o/m mill levy
- 10 mill limit will result in:
  - Inadequate funding, lack of amenities, only enough revenue to operate basic statutory functions
  - Need for HOA in addition to district
- If Operating Mill Levy cannot be imposed prior to approved CSP, district can't cover general operating costs in early stages, leading to increased developer advances costing district more over time

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Fee Limitation

Intent of Changes:

- Limit District's use of fees

Current Requirements:

- No restriction on imposing fees for operation and maintenance expenses

Proposed Changes:

- Operation and maintenance fees could not be imposed on residents unless and until a resident-majority Board vote to impose and collect fees

Fee Limitation

Stakeholder Comments Received:

- Must some or all Taxable Property in the District be owned or occupied by an End User before a District cannot impose and collect Fees?
  - Consider restriction on lot-by-lot basis
- Ability to impose penalties and charges is a necessary tool for Districts to ensure homeowner compliance, don't remove
- Essential that o/m fees be disclosed to perspective buyers from the onset
- Limiting both the Operating Mill Levy and ability to impose fees would have a devastating effect on the ability of a metropolitan district to perform the operations and maintenance services

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Growth Limitations

Intent of Changes:

- Ensure growth does not exceed City's water or wastewater capacity

Current Requirements:

- Acknowledgement that the City can implement growth limitations

Proposed Changes:

- Expand language to emphasize that:
  - The City may withhold, restrict, or condition the granting of building permits
  - The City does not guarantee water or wastewater capacity for proposed or future developments

7 Community Engagement

Intent of Changes:

- Ensure resident opportunity to participate in District Board meetings and remain apprised of District operations

Current Requirements:

- Compliance with Colorado Revised Statutes

Proposed Changes:

- District must provide information on a public website
- District must hold Board meetings within a five mile radius of the District Boundaries, or within the City limits
- For virtual District Board meetings, District must inform all residents how to participate

Community Engagement

Stakeholder Comments Received:

- What is the process and timeframe for notification for a virtual Board meeting?
- Clarify that meeting information can be posted on District website

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

8 Disclosure Requirements

Intent of Changes:

- Ensure homebuyers are informed about the financial impact of buying a home within a District

Current Requirements:

- District must use reasonable efforts to ensure disclosure of mill levy and fees

Proposed Changes:

- Disclosure must include detailed information
- Add disclosure form as exhibit to Service Plan which must be signed by homebuyer to acknowledge receipt
- District shall record disclosure notice at time of subdivision plat or prior to any building permits being issued

8 Disclosure Requirements

Stakeholder Comments Received:

- Disclosure Notice has inaccurate statement regarding taxes staying substantially the same despite changes to residential rates because Operating Mill Levy may increase or decrease resulting in change of taxes
- Based on new fee limitations, is it necessary to disclose fees on the Disclosure Notice?
- Unclear if the District is responsible for ensuring home buyers acknowledge disclosure at time of contract
  - District is not involved in the sales transaction
  - Instead, require district to provide information to developers or post information on website

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

9 Service Plan Compliance Remedies

Intent of Changes:

- Clarify Service Plan amendment requirements
- Clarify City remedies for material departures from Service Plan

Current Requirements:

- Model Service Plan has less detail than City Code regarding remedies

Proposed Changes:

- Amends “Service Plan Amendment Requirement” paragraph
- Adds new paragraph addressing City remedies for material departure from Service Plan in line with City Code

10 Report Reimbursement Agreements

Intent of Changes:

- Identify reimbursement agreements of the District for greater transparency

Current Requirements:

- Not currently required in Annual Report

Proposed Changes:

- District required to list pending or anticipated reimbursement agreements in Annual Report

Conceptual Site Plan (CSP) Requirement

Intent of Changes:

- Require development approval before District financial authority

Current Requirements:

- No codified requirement

Proposed Changes:

- Prior to CSP approval, District cannot issue debt or impose mill levies or fees
- District may still go through the organizational election
- Service Plan amendment required to specify debt and mill levy/fee authorizations once the CSP is approved

Conceptual Site Plan (CSP) Requirement

Stakeholder Comments Received:

- Will the CSP requirement language be added to the Service Plan?
- Requiring CSP approval prior to imposition of mill levies or fees would inhibit issuance of early-stage Debt and force developers to find alternative funding sources at higher interest rates
  - Instead, require that property need to be zoned prior to imposition of mill levy or fee, allowing bond market to determine proper time to issue early stage debt

www.thorntonco.gov/government/citydevelopment/Documents/january-2021-stakeholder-comments.pdf

Regional Financing for Long-term Developments

Intent of Changes:

- Prevent early phases and areas of a large development from bearing responsibility for financing all public improvements

Current Requirements:

- None

Proposed Changes:

- Large developments with long-term build-outs may be subject to specifying and limiting the improvements financed by different areas and phases of the project
- Not applicable to most developments

City Website Changes

Intent of Changes:

- Information resource for residents and homebuyers
- Accessible application information for Districts

Current Requirements:

- Current website only provides application information

Proposed Changes:

- Add FAQs and links to the Colorado Department of Local Affairs (DOLA) website
- Include map and list of all Districts in the City
- Provide current application information

Next Steps

- **Consideration of stakeholder feedback**:
  - Staff will review stakeholder comments and make revisions as appropriate

- **Council Planning Session – ~~February 16, 2021~~**
  Update: New anticipated date is March 2, 2021:
  - Staff will present proposed changes and stakeholder feedback
  - Council will give direction on proceeding with some or all of the changes

- **Public Hearing (March or April 2021):**
  - If directed, final changes will be presented at a public hearing
  - E-mail karen.widomski@thorntonco.gov if you need notice of public hearing

QUESTIONS AND DISCUSSION

- City of Thornton contact:

  Karen Widomski, Senior Policy Analyst
  Email: Karen.Widomski@thorntonco.gov
  Phone: 303.538.7342