

PART 8
DOWNTOWN DEVELOPMENT AUTHORITIES

31-25-801. Legislative declaration.

(1) The general assembly declares that the organization of downtown development authorities having the purposes and powers provided in this part 8 will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; will halt or prevent deterioration of property values or structures within central business districts, will halt or prevent the growth of blighted areas within such districts, and will assist municipalities in the development and redevelopment of such districts and in the overall planning to restore or provide for the continuance of the health thereof; and will be of especial benefit to the property within the boundaries of any authority created pursuant to the provisions of this part 8.

(2) The general assembly determines, finds, and declares that because of a number of atypical factors and special conditions concerning downtown development unique to each locality, the rule of strict construction shall have no application to this part 8, but it shall be liberally construed to effect the purposes and objects for which it is intended.

Source: L. 76: Entire part added, p. 701, § 1, effective April 26. L. 77: (1) amended, p. 1472, § 1, effective June 19. L. 81: (1) amended, p. 1517, § 2, effective July 1.

ANNOTATION

Law reviews. For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law 2527 (1982). For article, "Economic Development Incentives for Colorado Municipalities", see 19 Colo. Law. 239 (1990).

31-25-802. Definitions.

As used in this part 8, unless the context otherwise requires:

(1) "Authority" means a downtown development authority created pursuant to the provisions of this part 8 in any municipality of this state and any successor to its functions, authority, rights, and obligations.

(1.5) "Blighted area" means an area within the central business district which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, unusual topography, defective or unusual conditions of title rendering the title nonmarketable, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the central business district, retards the provision

of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(2) "Board" means the board of the authority.

(3) "Central business district" means the area in a municipality which is and traditionally has been the location of the principal business, commercial, financial, service, and governmental center, zoned and used accordingly.

(3.5) "Development project" or "project" means undertakings and activities of an authority or municipality as authorized in this part 8 in a plan of development area for the development or redevelopment of said area in accordance with a plan of development.

(4) "Director" means the chief executive officer of the authority.

(4.5) "District" means the authority or the area within which the authority may exercise its powers.

(5) "Downtown" means a specifically defined area of the municipality in the central business district, established by the governing body of the municipality pursuant to this part 8.

(5.5) "Governing body" means the city council, town council, board of trustees, or other governing board of any municipality of this state.

(6) "Landowner" means the owner in fee of any undivided interest in real property or any improvement permanently affixed thereto within the district. As used in this part 8, "owner in fee" includes a contract purchaser obligated to pay general taxes, an heir, and a devisee under a will admitted to probate and does not include a contract seller of property with respect to which the contract purchaser is deemed to be the owner in fee for purposes of this subsection (6).

(6.2) "Lessee" means the holder of a leasehold interest in real property within the district. As used in this part 8, "leasehold interest" does not include a license or mere contract right to use real property within the district.

(6.4) "Planning board" means the agency designated by the governing body of the municipality which is chiefly responsible for planning in the municipality; and, if no separate agency exists, "planning board" means the governing body of the municipality.

(6.6) "Plan of development" means a plan, as it exists from time to time, for the development or redevelopment of a downtown development area, including all properly approved amendments thereto.

(6.8) "Plan of development area" means an area in the central business district which the board and the governing body designate as appropriate for a development project.

(7) "Public body" means the state of Colorado or any municipality, quasi-municipal corporation, board, commission, authority, or other political subdivision or public corporate body of the state.

(8) "Public facility" includes but is not limited to any streets, parks, plazas, parking facilities, playgrounds, pedestrian malls, rights-of-way, structures, waterways, bridges, lakes, ponds, canals, utility lines or pipes, and buildings, including access routes to any of the foregoing, designed for use by the public generally or used by any public agency with or without charge, whether or not the same is revenue-producing.

(9) "Qualified elector" means a resident, a landowner, or a lessee as said terms are defined in this section. Any landowner or lessee which is not a natural person may vote only if it designates by some official action a representative thereof to cast its ballot. This subsection (9) shall not be construed so as to permit any qualified elector to cast more than one vote, even though any person qualified or lawfully designated may be entitled to cast the vote of more than one qualified elector.

(10) "Resident" means one who is a citizen of the United States and a resident of the state of Colorado, eighteen years of age or older, who makes his primary dwelling place within the district.

Source: L. 76: Entire part added, p. 701, § 1, effective April 26. L. 77: (3.5), (4.5), (5.5), (6.2), (6.4), (6.6), and (6.8) added and (6), (9), and (10) amended, p. 1472, § 2, effective June 19. L. 81: (1.5) added and (3.5) and (6.4) amended, p. 1518, § 3, effective July 1. L. 2009: (6.4), (6.6), (6.8), and (7) amended, (SB 09-292), ch. 369, p. 1978, § 108, effective August 5.

Editor's note: Subsections (6.4), (6.6), (6.8), and (7) were amended in a 2009 act that was passed without a safety clause. The act establishes an effective date of August 5, 2009, for these provisions. The act, or portions thereof, may not take effect if the people exercise their right to petition under article V, section 1 (3) of the state constitution. For further explanation concerning the effective date, see page ix of this volume.

31-25-803. Powers of governing body.

The governing body of every municipality in this state may create and establish a downtown development authority, pursuant to the provisions of this part 8, which authority shall have all the powers provided in this part 8 that are authorized by the ordinance, or any amendment thereto, authorizing such authority and which, when established, shall be a body corporate and capable of being a party to suits, proceedings, and contracts, the same as municipalities in this state. Any such authority may be dissolved by ordinance of the governing body, if there is no outstanding indebtedness of the authority or if adequate provision for the payment of such indebtedness has been provided.

Source: L. 76: Entire part added, p. 702, § 1, effective April 26.

31-25-804. Organizational procedure - election.

(1) When the governing body of a municipality determines it is necessary to establish a downtown development authority for the public health, safety, prosperity, security, and welfare and to carry out the purposes of an authority as stated in section 31-25-801, it shall by ordinance submit, at the next regular election or at a special election called for that purpose, the question of the establishment of a downtown development authority. In the ordinance submitting said question, the governing body shall state the boundaries of the downtown development district within which the authority shall exercise its powers and may provide for submission to the voters of any local government matters arising under section 20 of article X of the state constitution, as defined in section 1-41-103 (4), C.R.S. If any such matters are to be submitted to the voters, the election shall be conducted at the time and in the manner required by section 20 of article X of the state constitution. If a majority of the qualified electors voting at the election vote for the establishment of a downtown development authority, the authority shall be established pursuant to the provisions of this part 8.

(2) Any ordinance creating a downtown development authority shall provide that any ordinance or resolution by which bonds are issued pursuant to this part 8 shall specify the maximum net effective interest rate of such bonds.

Source: L. 76: Entire part added, p. 702, § 1, effective April 26. L. 77: Entire section amended, p. 1473, § 3, effective June 19. L. 81: (1) amended, p. 1518, § 4, effective July 1. L. 94: (1) amended, p. 1193, § 96, effective July 1.

ANNOTATION

Law reviews. For article, "Economic Development Incentives for Colorado Municipalities", see 19 Colo. Law. 239 (1990).

31-25-805. Board - membership - term of office.

(1) The affairs of the authority shall be under the direct supervision and control of a board consisting of not less than five nor more than eleven members appointed by the governing body. A majority of the members appointed shall reside or own property in the downtown development district.

(2) The board shall be constituted as follows:

(a) At least one member shall be a member of the governing body, appointed to serve at the pleasure of the governing body.

(b) Two members shall be appointed for terms expiring June 30 of the year following the date of the ordinance adopted by the governing body establishing the authority.

(c) Two members shall be appointed for terms expiring June 30 of the second year following the date of the ordinance adopted by the governing body establishing the authority.

(d) Two members, if the board consists of seven or more members, shall be appointed for terms expiring June 30 of the third year following the date of the ordinance adopted by the governing body establishing the authority.

(e) All other members shall be appointed for terms expiring June 30 of the fourth year following the date of the ordinance adopted by the governing body establishing the authority.

(3) A member shall hold office until his successor has been appointed and qualified. After the terms of the initial members of the board have expired, the terms of all members (except any member who is a member of the governing body) shall expire four years from the expiration date of the terms of their predecessors. Appointments to fill vacancies shall be for the unexpired term. In any municipality in which the charter provides that the appointive authority is the mayor, the mayor shall make appointments to the board.

Source: L. 76: Entire part added, p. 703, § 1, effective April 26.

31-25-806. Board membership - qualifications - nominations - rules - removal.

(1) Each appointed member of the board, except any member from the governing body, shall reside, be a business lessee, or own real property in the downtown development district within the municipality in which the authority is located. A manager, as that term is defined in section 7-90-102, C.R.S., an agent, or an employee of an entity, as that term is defined in section 7-90-102, C.R.S., having its place of business in the downtown development district shall be eligible for appointment to the board. No officer or employee of the municipality where the authority is located, other than any appointee from the governing body, shall be eligible for appointment to the board. Within thirty days after the occurrence of a vacancy, the governing body, except as provided in section 31-25-805 (3), shall appoint a successor.

(2) Before assuming the duties of the office, each appointed member shall qualify by taking and subscribing to the oath of office required of officials of the municipality.

(3) The board shall adopt and promulgate rules governing its procedure, including election of officers, and said rules shall be filed in the office of the clerk. The board shall hold regular meetings in the manner provided in the rules of the board. Special meetings may be held when called in the manner provided in the rules of the board. All meetings of the board shall be open to the public except those dealing with land acquisition or sales, personnel matters, or legal matters. Members of the board shall serve without compensation, but they may be reimbursed for actual and necessary expenses.

(4) After notice and an opportunity to be heard, an appointed member of the board may be removed for cause by the governing body.

Source: L. 76: Entire part added, p. 703, § 1, effective April 26. L. 2009: (1) amended, (HB 09-1248), ch. 252, p. 1136, § 22, effective May 14.

Editor's note: Section 26 of chapter 252, Session Laws of Colorado 2009, provides that the act amending subsection (1) applies to acts occurring on or after May 14, 2009.

31-25-807. Powers - duties.

(1) The board, subject to the provisions of this part 8 and subject to other applicable provisions of law, shall have all powers customarily vested in the board of directors of a corporation. It shall exercise supervisory control over the activities of the director and the staff of the authority in carrying out the functions authorized by this part 8.

(2) In addition to the powers granted by subsection (1) of this section, the board may:

(a) Appoint and remove a director and other staff members, who shall be employed upon recommendation of the director, and prescribe their duties and fix their compensation which shall be paid from funds available to the authority;

(b) At the request of the governing body, prepare an analysis of economic changes taking place in the central business district of the municipality;

(c) Study and analyze the impact of metropolitan growth upon the central business district;

(d) Plan and propose, within the downtown development area, plans of development for public facilities and other improvements to public or private property of all kinds, including removal, site preparation, renovation, repair, remodeling, reconstruction, or other changes in existing buildings which may be necessary or appropriate to the execution of any such plan which in the opinion of the board will aid and improve the downtown development area;

(e) To implement, as provided in this part 8, any plan of development, whether economic or physical, in the downtown development area as is necessary to carry out its functions;

(f) In cooperation with the planning board and the planning department of the municipality, develop long-range plans designed to carry out the purposes of the authority as stated in section 31-25-801 and to promote the economic growth of the district and may take such steps as may be necessary to persuade property owners and business proprietors to implement such plans to the fullest extent possible;

(g) Retain and fix the compensation of legal counsel to advise the board in the proper performance of its duties;

(h) Make and enter into all contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(3) (a) Notwithstanding any law to the contrary and subject to the provisions of subparagraph (IV) of this paragraph (a), any such plan of development as originally adopted by the board or as later modified pursuant to this part 8 may, after approval by the governing body of the municipality, contain a provision that taxes, if any, levied after the effective date of the approval of such plan of development by said governing body upon taxable property within the boundaries of the plan of development area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of any public body shall be divided for a period not to exceed thirty years or such longer period as provided for in subparagraph (IV) of this paragraph (a) after the effective date of approval by said governing body of such a provision, as follows:

(I) That portion of the taxes which are produced by the levy at the rate fixed each year by or for each such public body upon the valuation for assessment of taxable property within the boundaries of the plan of development area last certified prior to the effective date of approval by said governing body of the plan, or, as to an area later added to the boundaries of the plan of development area, the effective date of the modification of the plan, or that portion of municipal sales taxes collected within the boundaries of said development area in the twelve-month period ending on the last day of the month prior to the effective date of approval of said plan, or both such portions, shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

(II) That portion of said property taxes or all or any portion of said sales taxes, or both, in excess of such amount shall be allocated to and, when collected, paid into a special fund of the municipality for the payment of the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the municipality for financing or refinancing, in whole or in part, a development project within the boundaries of the plan of development area. Any excess municipal sales tax collection not allocated pursuant to this subparagraph (II) shall be paid into the funds of the municipality. Unless and until the total valuation for assessment of the taxable property within the boundaries of the plan of development area exceeds the base valuation for assessment of the taxable property within such boundaries, as provided in subparagraph (I) of this paragraph (a), all of the taxes levied upon the taxable property in such boundary area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in the plan of development area exceed the base year municipal sales tax collections in such area, as provided in subparagraph (I) of this paragraph (a), all such sales tax collections shall be paid into the funds of the municipality. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, and including any refunding securities therefor, have been

paid, all taxes upon the taxable property or the total municipal sales tax collections, or both, in such boundary area shall be paid into the funds of the respective public bodies.

(III) In calculating and making payments as described in subparagraph (II) of this paragraph (a), the county treasurer may offset the authority's pro rata portion of any property taxes that are paid to the authority under the terms of subparagraph (II) of this paragraph (a) and that are subsequently refunded to the taxpayer against any subsequent payments due to the authority for the plan of development area. The authority shall make adequate provision for the return of overpayments in the event that there are not sufficient property taxes due to the authority to offset the authority's pro rata portion of the refunds. The authority may establish a reserve fund for this purpose or enter into an intergovernmental agreement with the governing body of the municipality that established the authority in which the municipality assumes responsibility for the return of the overpayments. The provisions of this subparagraph (III) shall not apply to a city and county.

(IV) (A) During the final ten years of the thirty-year period during which a portion of the property taxes or sales taxes, or both, may be allocated to and, when collected, paid into the special fund of the municipality in accordance with the requirements of subparagraph (II) of this paragraph (a), the governing body may by ordinance extend the period during which property taxes shall be allocated for one additional extension of twenty years, which extension shall commence upon the expiration of the original thirty-year period, if on the first day of the twenty-year extension period the established base year for the allocation of property taxes pursuant to subparagraph (II) of this paragraph (a) is advanced forward by ten years and, subsequent to the completion of the first ten years of the twenty-year extension, the base year is advanced forward by one year for each additional year through the completion of the twenty-year extension. The governing body may also by ordinance extend the period during which sales taxes shall be allocated for one additional extension of twenty years with no change to the established sales tax base year. Notwithstanding any other provision of this subparagraph (IV), any extension authorized pursuant to this subparagraph (IV) may only be considered by the governing body during the final ten years of the original thirty-year period.

(B) In connection with an extension implemented pursuant to sub-subparagraph (A) of this subparagraph (IV), on an annual basis fifty percent of the property taxes levied, or such greater amount as may be set forth in an agreement negotiated by the municipality and the respective public bodies, and allocated in accordance with the requirements of subparagraph (II) of this paragraph (a) shall be paid into the special fund of the municipality and the balance of such taxes shall be paid into the funds of the other public bodies by or for which such taxes are collected. Not later than August 1 of each calendar year, the governing body shall certify to the county assessor an itemized list of the property tax distribution percentages attributable to the special fund of the municipality pursuant to this sub-subparagraph (B) from the mill levies to be certified by each public body. When certifying values to taxing entities pursuant to sections 39-1-111 (5), 39-5-121 (2), and 39-5-128, C.R.S., the assessor shall certify only the percentage of increment

value attributable to the special fund pursuant to this sub-subparagraph (B) as certified by the governing body.

(b) The special fund described in subparagraph (II) of paragraph (a) of this subsection (3) and the tax moneys paid into such fund may be irrevocably pledged by the municipality for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, or indebtedness if the question of issuing such bonds or otherwise providing for such loans, advances, or indebtedness and the question of any such intended pledge are first submitted for approval to the qualified electors of the district at a special election to be held for that purpose. Any such election required by this paragraph (b) shall be called by resolution of the board adopted at a regular or special meeting thereof and approved by the governing body by a vote of a majority of the members thereof at least thirty days prior to such election. Except with respect to the qualifications of electors, such election together with all attendant preparations therefor and proceedings thereafter shall be held and conducted in the manner prescribed by law for the holding and conducting of other regular or special elections in the municipality. This irrevocable pledge shall not extend to any taxes that are placed in a reserve fund to be returned to the county for refunds of overpayments by taxpayers; except that this limitation on the extension of the irrevocable pledge shall not apply to a city and county.

(c) As used in this subsection (3), "taxes" shall include, but not be limited to, all levies authorized to be made on an ad valorem basis upon real and personal property or municipal sales taxes; but nothing in this subsection (3) shall be construed to require any public body to levy taxes.

(d) In the case of such plan of development areas, school districts which include all or any part of such plan of development area shall be permitted to participate in an advisory capacity with respect to the inclusion in a plan of development of the provision provided for by this subsection (3).

(e) In the event there is a general reassessment of taxable property valuations in any county including all or part of the plan of development area subject to division of valuation for assessment under paragraph (a) of this subsection (3) or a change in the sales tax percentage levied in any municipality including all or part of the downtown development area subject to division of sales taxes under paragraph (a) of this subsection (3), the portions of valuations for assessment or sales taxes under both subparagraphs (I) and (II) of paragraph (a) of this subsection (3) shall be proportionately adjusted in accordance with such reassessment or change.

(f) The manner and method by which the requirements of subparagraph (IV) of paragraph (a) of this subsection (3) are to be implemented by the county assessors shall be contained in such manuals, appraisal procedures, and instructions, as applicable, that the property tax administrator is authorized to prepare and publish pursuant to section 39-2-109 (1) (e), C.R.S.

(4) (a) An authority shall not actually undertake a development project for a plan of development area unless the governing body, by resolution, has first approved the plan of development which applies to such development project.

(b) Prior to its approval of a plan of development, the governing body shall submit such plan to the planning board of the municipality, if any, for review and recommendations. The planning board shall submit its written recommendations with respect to the proposed plan of development to the governing body within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning board or, if no recommendations are received within said thirty days, without such recommendations, the governing body may proceed with the hearing on the proposed plan of development prescribed by paragraph (c) of this subsection (4).

(c) The governing body shall hold a public hearing on a plan of development or substantial modification of an approved plan of development after public notice thereof by publication once by one publication during the week immediately preceding the hearing in a newspaper having a general circulation in the municipality. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the plan of development area covered by the plan, and shall outline the general scope of the development project under consideration.

(d) Following such hearing, the governing body may approve a plan of development if it finds that there is a need to take corrective measures in order to halt or prevent deterioration of property values or structures within the plan of development area or to halt or prevent the growth of blighted areas therein, or any combination thereof, and if it further finds that the plan will afford maximum opportunity, consistent with the sound needs and plans of the municipality as a whole, for the development or redevelopment of the plan of development area by the authority and by private enterprise.

Source: L. 76: Entire part added, p. 704, § 1, effective April 26. L. 77: (3) and (4) added, p. 1474, § 4, effective June 19. L. 81: (2)(d), (2)(f), (3)(a), (3)(c), (3)(e), and (4)(d) amended, p. 1518, § 5, effective July 1. L. 82: (3)(a)(II) amended, p. 627, § 36, effective April 2. L. 2002: IP(3)(a) amended, p. 1943, § 1, effective August 7. L. 2008: IP(3)(a) amended and (3)(a)(IV) and (3)(f) added, pp. 974, 975, §§ 1, 2, effective August 5; (3)(a)(III) added and (3)(b) amended, p. 1246, §§ 3, 4, effective August 5.

31-25-808. Additional and supplemental powers.

(1) In addition and supplemental to the other powers granted by this part 8, the authority shall have all powers, except as limited in the ordinance or any amendments thereto, establishing such authority, necessary or convenient to carry out and effectuate the purposes and provisions of this part 8, including but not limited to the following powers:

(a) To acquire by purchase, lease, license, option, gift, grant, devise, or otherwise any property or any interest therein;

(b) In connection with public facilities, to improve land and to construct, reconstruct, equip, improve, maintain, repair, and operate buildings and other improvements, whether on land of the authority or otherwise;

(c) To lease or sublease as lessor any property owned or leased by it or under its control on such terms and conditions as may be established by the board for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the plan of development;

(d) To sell or otherwise dispose of property of the authority or any interest therein, subject to such covenants, conditions, and restrictions as it may deem necessary or desirable to carry out the purposes and objectives of the authority for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the plan of development;

(e) To fix, charge, and collect fees, rates, tolls, rents, and charges for the use of any property of the authority or any property under its control and to pledge any such revenues in support of any bonds or other obligations of the authority;

(f) To cooperate with the municipality in which the authority is located and any other governmental agency or other public body and to enter into contracts with any such agency or body;

(g) To make to or receive from the municipality or the county in which the authority is located conveyances, leasehold interests, grants, contributions, loans, and any other rights and privileges;

(h) (I) To invest any funds of the authority not required for immediate disbursement in property or in securities in which public bodies may invest funds subject to their control pursuant to part 6 of article 75 of title 24, C.R.S., and to redeem any bonds it has issued at the redemption price established therein or to purchase such bonds at less than the redemption price, all such bonds so redeemed or purchased to be cancelled;

(II) To deposit any funds not required for immediate disbursement in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the funds of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(i) To borrow money on such terms and conditions as the board may approve and to issue bills, notes, bonds, or other evidence of indebtedness therefor and to pledge and hypothecate any property or revenue in support of any such debt;

(j) To demolish and remove buildings and improvements located on, and to install, construct, or reconstruct improvements and facilities, including public facilities, on or

about, any land owned by an authority or a municipality, in preparation for conveyance to purchasers or lessees, or otherwise.

(2) Any sale or letting of property by the authority shall be at not less than its fair value (as determined by the authority and the governing body) for uses in accordance with the plan of development. In determining the fair value of real property for such uses, an authority shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee; and the objectives of such plan.

Source: L. 76: Entire part added, p. 705, § 1, effective April 26. L. 77: (1)(c) amended, p. 1476, § 5, effective June 19. L. 79: (1)(h) amended, p. 1619, § 22, effective June 8. L. 81: (1)(b) to (1)(d) amended and (1)(j) and (2) added, pp. 1520, 1521, §§ 6, 7, effective July 1. L. 89: (1)(h)(I) amended, p. 1116, § 28, effective July 1.

31-25-809. Authorization of bonds.

(1) By ordinance adopted by the governing body at a regular or special meeting, by a vote of a majority of the members of the governing body, the municipality may issue bonds, payable solely from revenues or from taxes pledged pursuant to section 31-25-807 (3) (b) or from both such revenues and taxes, to pay all or any part of the cost of any project or for furthering any purpose of this part 8.

(2) The governing body, in determining such costs, may include all costs and estimated costs of the issuance of said bonds; all engineering, inspection, fiscal, and legal expenses; any discount on the sale of the bonds; the cost of any financial, professional, or other expert advice; contingencies; any administrative, operating, or other expenses of the municipality incurred pursuant to the issuance of such bonds, as may be determined by the governing body; all such other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of any development project or for furthering any purpose of this part 8; sufficient provision of reserves for working capital, operation, or maintenance or replacement expense or for payment or security of principal or interest on any bonds during or after an acquisition or improvement and equipment as the governing body may determine; and reimbursements to any governmental agency or instrumentality for any moneys expended pursuant to agreement on any project or for furthering any purpose of this part 8.

(3) In each such project financed by the proceeds of bonds issued under this part 8, the governing body shall determine the costs of, and may budget a percentage therefrom for, operation and administration of the total cost of the actual project.

(4) The proceeds of the bonds may be expended by the municipality or, with the consent of the municipality, by the authority as agent for, and on behalf of, the municipality. If the proceeds of the bonds are applied for the acquisition of real or personal properties, the governing body may:

(a) Retain title to such properties in its own name and lease or grant licenses or privileges in such properties to the authority in order that the authority may, as principal or agent, exercise its powers with respect to such properties; or

(b) Convey title to such properties to the authority for such consideration and subject to such terms and conditions as the governing body may prescribe without regard to any restriction, limitation, or condition otherwise imposed by statute on the sale or disposition of such properties by a municipality.

Source: L. 76: Entire part added, p. 705, § 1, effective April 26. L. 77: Entire section amended, p. 1476, § 6, effective July 1. L. 81: (4) added, p. 1521, § 8, effective July 1.

31-25-810. Bond provisions.

(1) Bonds issued pursuant to this part 8 shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually or annually, and evidenced by one or two sets of coupons, if any, executed with the facsimile or manually executed signature of any official of the municipality; except that the first coupon appertaining to any bond may evidence interest not in excess of one year. The ordinance authorizing the issuance of such bonds shall specify the maximum net effective interest rate. Such bonds may be issued as term or serial bonds, in one or more series, may bear such date, may mature at such time not exceeding twenty years' duration, may be in such denomination or denominations, may be payable in such medium of payment at such place or places within or without the state (including but not limited to the office of any county treasurer in which the municipality is located wholly or in part), may carry such registration privileges, may be subject to such terms of prior redemption in advance of maturity in such order or by lot or otherwise at such time with or without a premium, may be executed in such manner, may bear such privileges for reissuance in the same or other denomination, may be so reissued, without modification of maturities and interest rates, and may be in such form, either bearer coupon or registered, with such recitals, terms, covenants, conditions, and other details as may be provided by the governing body, subject to the provisions of this part 8.

(2) (a) The governing body may provide for preferential security for any bonds, both principal and interest, to be issued pursuant to this part 8 to the extent deemed feasible and desirable by such governing body over any bonds that may be issued thereafter.

(b) Said bonds may be sold at, above, or below the principal amounts thereof, but they may not be sold at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized.

(c) Said bonds may be sold at public or private sale as determined by the governing body to be in the best interest of the issuer.

(3) Bonds may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both; and, where interest accruing on the bonds is not represented by interest coupons, the bonds may provide for the endorsing of payments of interest thereon.

(4) Subject to the payment provisions of this part 8, said bonds, any interest coupons attached thereto, and any temporary bonds shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the governing body may otherwise provide; and each holder of each such security, by accepting such security, shall be conclusively deemed to have agreed that such security, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of article 8 of title 4, C.R.S.

(5) Notwithstanding any other provision of law, the governing body in any proceedings authorizing bonds pursuant to this part 8:

(a) May provide for the initial issuance of one or more bonds, referred to in this subsection (5) as "bond", aggregating the amount of the entire issue;

(b) May make such provision for installment payments of the principal amount of any such bond as it may consider desirable;

(c) May provide for the making of any such bond, payable to bearer or otherwise, registrable as to principal or as to both principal and interest and, where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bonds;

(d) May further make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both.

(6) If lost or completely destroyed, any security authorized by this part 8 may be reissued in the form and tenor of the lost or destroyed security upon the owner furnishing, to the satisfaction of the governing body, proof of ownership; proof of loss or destruction; a surety bond in twice the face amount of the security, including any unmatured coupons appertaining thereto; and payment of the cost of preparing and issuing the new security.

(7) Any officer authorized to execute any bond, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed, with a facsimile signature in lieu of his manual signature, any bond authorized in this part 8, if such a filing is not a condition of execution with a facsimile signature of any interest coupon, and if at least one signature required or permitted to be placed on each such bond, excluding any interest coupon, is manually subscribed. An officer's facsimile signature shall have the same legal effect as his manual signature.

Source: L. 76: Entire part added, p. 706, § 1, effective April 26. L. 77: (1) amended, p. 1476, § 7, effective June 19.

31-25-811. Refunding bonds.

(1) By ordinance adopted by the governing body at a regular or special meeting, by vote of a majority of the members of the governing body, any bonds issued under this part 8 may be refunded by the municipality without an election, subject to the provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise relating thereto.

(2) Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in this part 8 for the sale of other bonds.

(3) No bonds may be refunded under this part 8 unless the holders thereof voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds within said period of time. No maturity of any bonds refunded may be extended over fifteen years. The rate of interest on such refunding bonds shall be determined by the authority. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, except to the extent any interest on the bonds refunded in arrears or about to become due is capitalized with the proceeds of the refunding bonds. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds refunded so long as provision is duly and sufficiently made for their payment.

(4) The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow or in trust to be applied to the payment of the bonds refunded upon their presentation therefor. Any proceeds held in escrow or in trust, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such proceeds and investments in escrow or in trust, together with any interest or other gain to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent or trustee payable therefrom to pay the bonds refunded as they become due at their respective maturities or due at designated prior redemption dates upon which the authority shall be obligated to call the refunded bonds for prior redemption.

(5) The relevant provisions pertaining to bonds generally shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the bond resolution, trust indenture, taxes, and revenues, and other aspects of the bonds.

Source: L. 76: Entire part added, p. 707, § 1, effective April 26. L. 77: (1) amended, p. 1477, § 8, effective June 19. L. 89: (4) amended, p. 1116, § 29, effective July 1.

31-25-812. Tax exemption.

The bonds and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

Source: L. 76: Entire part added, p. 708, § 1, effective April 26.

31-25-813. No municipal liability on bonds.

Bonds issued pursuant to this part 8 shall not constitute an indebtedness of the municipality within the meaning of any constitutional or statutory limitations. Each bond issued pursuant to this part 8 shall recite in substance that said bond, including interest thereon, is payable solely from the revenues or special funds pledged to the payment thereof and that said bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitations.

Source: L. 76: Entire part added, p. 708, § 1, effective April 26. L. 77: Entire section amended, p. 1477, § 9, effective June 19.

31-25-813.5. Limitation of actions.

After the expiration of thirty days from the effective date of any ordinance or resolution authorizing the issuance of bonds pursuant to this part 8, all actions or suits attacking its findings, determinations, or contents or challenging the validity of the bonds shall be perpetually barred.

Source: L. 77: Entire section added, p. 1477, § 10, effective June 19.

31-25-814. Remedies of bondholders.

(1) Subject to any contractual limitations binding upon the holders of any issue of bonds or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds or trustee therefor has the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(a) By an action in the nature of mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the municipality and to require and compel the governing body to perform its duties and obligations under this part 8 and its covenants and agreements with the bondholders;

(b) By action or suit in equity to require the governing body to account as if they were the trustees of an express trust;

(c) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(d) To bring suit upon the bonds.

(2) No right or remedy conferred by this part 8 upon any holder of bonds or any trustee therefor is intended to be exclusive of any other right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this part 8 or by any other law.

Source: L. 76: Entire part added, p. 708, § 1, effective April 26. L. 77: (1)(a) and (1)(b) amended, p. 1478, § 11, effective June 19.

31-25-815. Employees - duties - compensation.

(1) The board shall employ and fix the compensation, subject to the approval of the governing body, of the following, who shall serve at the pleasure of the board:

(a) A director, who shall be a person of good moral character and possessed of a reputation for integrity, responsibility, and business ability. No member of the board shall be eligible to hold the position of director. Before entering upon the duties of his office, the director shall take and subscribe to the oath of office and furnish a bond as required by the board. He shall be the chief executive officer of the authority. Subject to the approval of the board and directed by it when necessary, he shall have general supervision over and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this part 8. He shall attend all meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. In the absence or disability of the director, the board may designate a qualified person to perform the duties of the office as acting director. The director shall furnish the board with such information or reports governing the operation of the authority as the board may from time to time require.

(b) A treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. He shall perform such other duties as may be delegated to him by the board.

(c) A secretary, who shall maintain custody of the official seal and of all records, books, documents, or other papers not required to be maintained by the treasurer. He shall attend all meetings of the board and keep a record of all its proceedings. He shall perform such other duties as may be delegated to him by the board.

(d) Upon recommendation of the director, such clerical, technical, and professional assistants, including but not limited to persons in the fields of engineering, planning, and

economic research, as shall, in the opinion of the board, be necessary to provide for the efficient performance of the functions of the board.

(2) Any provision of this section and section 31-25-807 to the contrary notwithstanding and subject to any limitations in the ordinance creating the authority or in any amendments thereto, the board may by resolution establish alternate administrative provisions relating to the administrative organization and structure of the authority and responsibilities of board members, officers, and employees.

Source: L. 76: Entire part added, p. 709, § 1, effective April 26.

31-25-816. Funding - budget.

(1) The authority shall adopt a budget for each fiscal year, shall maintain accounts, and shall cause an annual audit to be made pertaining to the fiscal affairs of the authority. Administrative review of the proposed budget shall be in accordance with the policies of each municipality, prior to submission of the proposed budget to the governing body for approval.

(2) The operations of the authority shall be principally financed from the following sources and such other sources as may be approved by the governing body:

(a) Donations to the authority for the performance of its functions;

(b) Proceeds of an ad valorem tax, not exceeding five mills on the valuation for assessment of property in the downtown development area designated by the governing body;

(c) Moneys borrowed and to be repaid from other funds received under the authority of this part 8.

Source: L. 76: Entire part added, p. 710, § 1, effective April 26.

31-25-817. Ad valorem tax.

The governing body may impose and levy an ad valorem tax on all real and personal property in the downtown development district not exceeding five mills on the valuation for assessment of such property for the purposes set forth in section 31-25-807, nondebt funded expenditures allowed under section 31-25-808 (1) (a) and (1) (b), and budgeted operations of the authority. This levy shall be in addition to the regular ad valorem taxes and special assessments for improvements imposed by the governing body. The tax collector shall transmit funds so collected to the appropriate officer of the municipality responsible for the handling of the public money who shall deposit same in the municipal treasury to the credit of the authority. Such funds shall be used for no purpose other than those purposes authorized by this part 8 and upon approval of the board, pursuant to vouchers signed by the designated officer of the authority. The funds of the authority

shall be secured as other public funds are secured. Other moneys received by the authority shall forthwith be deposited in the municipal treasury to the credit of the authority, subject to disbursement as authorized by this part 8.

Source: L. 76: Entire part added, p. 710, § 1, effective April 26.

31-25-818. Assessments.

The governing body shall have the power to assess against the funds of the authority for the use and benefit of the general fund of the municipality a reasonable pro rata share of such funds for the cost of handling and auditing, which assessment when made shall be paid annually by the board pursuant to an appropriate item in its budget.

Source: L. 76: Entire part added, p. 710, § 1, effective April 26.

31-25-819. Conflict of interest.

No board member nor any employee of the board shall vote or otherwise participate in any matter in which he has a specific financial interest, defined as a matter in which the member or employee would receive a benefit or incur a cost substantially greater than other property owners within the district. When such interest appears, it is the duty of the board member or employee to make such interest known, and he shall thenceforth refrain from voting on or otherwise participating in the particular transaction involving such interest. Willful violation of the provisions of this section constitutes malfeasance on the part of a member of the board and is grounds for instant dismissal of any employee. The governing body may by ordinance provide for automatic forfeiture of office by a board member for violation of this section.

Source: L. 76: Entire part added, p. 710, § 1, effective April 26.

31-25-820. Construction.

All powers conferred upon municipalities by this part 8 are and shall be cumulative and in addition to those conferred by any other general or special law or municipal charter or ordinance and shall be liberally construed to effectuate the purposes of this part 8. This part 8 is an alternative method of accomplishing its purposes independent of and in addition to any other powers conferred upon municipalities electing to exercise the authority granted by this part 8.

Source: L. 76: Entire part added, p. 711, § 1, effective April 26.

31-25-821. Property subject to debt.

Subject to section 31-25-807, all real and personal property located within the district shall continue to be subject to ad valorem taxes levied by the municipality to pay the

principal and interest on all existing general obligation debts of the municipality and any future debts which may be authorized by law.

Source: L. 76: Entire part added, p. 711, § 1, effective April 26. L. 77: Entire section amended, p. 1478, § 12, effective June 19.

31-25-822. Inclusion of additional property.

Subsequent to the organization of an authority, additional property may be included in the district. Proceedings for inclusion shall be initiated by petition to the board of the authority signed by the owner or owners in fee of each parcel of land adjacent to the existing district sought to be included. Any such petition shall include evidence satisfactory to the board concerning title to the property and an accurate legal description thereof. If the board approves said application, it shall then submit the same to the governing body of the municipality. If the governing body also approves said application, it shall then, at a regular or special meeting by amendment to the ordinance treating the authority, redescribe the district so as to include the additional property as described in the petition. From the effective date of said amendment such additional property shall be included within the district and shall be subject to any taxes thereafter imposed by the municipality for the use and benefit of the authority.

Source: L. 77: Entire section added, p. 1478, § 13, effective June 19.