

**TOWN OF SILT
ORDINANCE NO. 10
SERIES OF 2020**

**AN ORDINANCE ADOPTING A NEW TITLE 18 OF THE
SILT MUNICIPAL CODE REGARDING SPECIAL DISTRICTS**

WHEREAS, the Town of Silt is a home rule municipality with all powers and authority as provided by law: and

WHEREAS, pursuant to Article I, Section 1-2 of the Town’s Home Rule Charter, the Town has all power of local self-government and home rule and all power possible for a home rule municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Article IX, Section 9-1 of the Town’s Home Rule Charter, the Town has the power to approve special district service plans and to adopt policies regarding the establishing of any special district, and the cost of constructing, installing or acquiring public, local or municipal improvements may be assessed in whole or in part upon the property benefitted by such improvements; and

WHEREAS, the Board has adopted various master plans, including the Silt Comprehensive Plan 2017 (the “Comp Plan”), the Transportation Master Plan, the 2019 Water/Wastewater/Irrigation Master Plan, and the CDOT/Town Access Management Plan, as the same may be amended from time to time (collectively, the Master Plans”); and

WHEREAS, the Comp Plan identifies Silt’s ultimate goal of “*becoming a progressive, sustainable town that embraces the positive aspects of directed growth with capitalizing on a western, rural legacy of self-sufficiency and strong community connections*” the (“Comp Plan Goal”); and

WHEREAS, the Comp Plan identifies the following core elements (the “Comp Plan Elements”) as economic development, public services/infrastructure/transportation, land use and growth of the town, housing, image and design, community involvement & services, resources and environment; and open space, recreation, trails and tourism; and

WHEREAS, the Board supports a broad spectrum of practices to enable the efficient and cost-effective development of land when development is consistent with the Comp Plan Elements and Goal and goals of the Master Plans; and

WHEREAS, Title 32 of the Colorado Revised Statutes permits the organization of a variety of governmental districts, including metropolitan districts (“Metro Districts”) to finance, construct and operate certain public improvements and services to serve the residents and businesses in those districts; and

WHEREAS, pursuant to §32-1-203(1), C.R.S., organization of a metropolitan district wholly within the boundaries of the Town requires approval of the Service Plan by the Board, including a finding that the proposal is in “substantial compliance” with the Town’s master plan; and

WHEREAS, the Board hereby finds and determines that a metropolitan district which is associated with a development project that furthers the objectives of the Master Plans is in “substantial compliance” with the Master Plans, and may provide extraordinary public benefits, either directly through the metropolitan district or indirectly by providing public services and facilities that would otherwise be the responsibility of the developer, thus allowing the developer to provide the extraordinary public benefit; and

WHEREAS, the Town wishes to adopt a policy for the consideration and approval of metropolitan district service plans when the development project for which metropolitan district formation is sought is consistent with the Town’s strategic priorities, will result in a demonstrated extraordinary public benefit, and formation of the metropolitan district to provide public services and facilities is needed for the development project to provide the extraordinary public benefit; and

WHEREAS, the Town gave proper and timely published and/or posted notice of the dates and times of the public hearings at which the Board considered this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, AS FOLLOWS:

Section 1. Findings and Intent. The above and foregoing Recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees of the Town of Silt.

Section 2. Amendment of Municipal Code. A new Title 18 of the Silt Municipal Code is hereby adopted in its entirety to read as set forth in Exhibit A, attached hereto and incorporated herein.

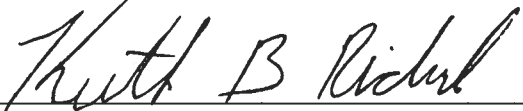
Section 3. Public Inspection. Copies of this ordinance and the Silt Municipal Code are available for public inspection at the office of the Silt Town Clerk.

Section 4. Severability. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

INTRODUCED, READ AND APPROVED ON FIRST READING at a public hearing this 11th day of May, 2020 at 7:00 P.M. in the municipal building of the Town of Silt, Colorado.

PASSED AND APPROVED ON SECOND READING, ADOPTED AND ORDERED PUBLISHED BY TITLE following a public hearing this 26th day of May, 2020.

TOWN OF SILT



Mayor Keith B. Richel

Attest:



Town Clerk Sheila M. McIntyre



TITLE 18 - SPECIAL DISTRICTS

Chapter 18.01 - Metropolitan Districts

Sections:

- 18.01.010 – Policy Statement
- 18.01.020 – Objectives and Statements
- 18.01.030 – Evaluation Criteria.
- 18.01.040 – Strategic Priorities
- 18.01.050 – Additional Public Benefit Considerations.
- 18.01.060 – Application Process
- 18.01-070 – Service Plans
- 18.01.080 – District Structure
- 18.01.090 – Dissolution of the District
- 18.01.100 – Default of District
- 18.01.110 – Material Modification of Service Plan
- 18.01.120 – Annual Report
- 18.01.130 – Fees
- 18.01.140 – Town Consent
- 18.01.150 – Intergovernmental Agreement

18.01.010 - Policy Statement

The policy set forth in this Chapter 18.01 (the “Policy”) establishes the criteria, guidelines and procedures to be followed by the Board of Trustees (the “Town Board”) and Town staff in considering, reviewing and approving or disapproving of service plans of Title 32 metropolitan districts, including any amendments thereof; and by applicants in submitting to the Town service plans for the organization of metropolitan districts or amendments to those plans.

18.01.020 - Objectives and Statements

A. A district, when properly structured, can enhance the quality of development in the Town. The Town will consider proposed service plans when formation of the district would provide extraordinary public benefits which could not be practically provided by the Town or an existing public entity within a reasonable time and on a comparable basis. It is not the intent of the Town to allow creation of multiple entities which result in the provision of competing or duplicative services or infrastructure.

B. This policy is intended as a guide only. The approval of a service plan is at the sole discretion of the Board of Trustees, which may reject, approve, or conditionally

approve service plans on a case-by-case basis. Nothing in this Title is intended, nor shall it be construed, to limit the discretion of the Town Board which retains full discretion and authority regarding the terms and limitations on all district service plans.

18.01.030 - Evaluation Criteria.

To provide the Town Board with information and an assessment consistent with this Policy, staff will review and report on district proposals in the following areas:

A. Statutory Compliance. All district proposals must comply with Title 32, C.R.S.

B. Financial Assessment. All district proposals are required to submit a financial plan to the Town for review. The Town will evaluate a district's debt capacity and servicing ability utilizing the financial plan and any other relevant information. Additionally, should a district desire to utilize funding for basic infrastructure improvements, staff will assess the value of the benefit against the public benefits received in exchange.

C. Policy Evaluation. All proposals will be evaluated by Town staff against this Policy, the Town's Model Service Plan, and the priorities and public benefits set forth in Sections 18.01.040 and 18.01.050 of this Chapter, with any areas of difference being identified, evaluated and reported to the Town Board.

18.01.040 - Strategic Priorities

Formation of a district shall advance the Town's strategic priorities. The Town's strategic priorities are articulated in the Town's Comprehensive Plan and such other master plans involving public infrastructure and services that are adopted by the Town, including but not limited to the Transportation Master Plan, the 2019 Water/Wastewater/Irrigation Master Plan, and the CDOT/Town Access Management Plan as the same may be amended from time to time (collectively the "Town Plans"). The applicant shall demonstrate that the development project for which district formation is sought is consistent with the Town's strategic priorities and will result in a demonstrated extraordinary public benefit, and formation of the district to provide public services and facilities is needed for the development project to provide the extraordinary public benefit. A district which is associated with a development project that furthers the objectives of the Town Plans can be seen as providing extraordinary public benefit, either directly through the district or indirectly by providing public services and facilities that would otherwise be the responsibility of the developer, thus allowing the developer to provide the extraordinary public benefit. An applicant for a district must address, either in the Letter of Interest, and/or service plan or cover letter, how the district and/or

associated development project will impact the following specific Town Plan objectives and elements:

A. Furthering the ultimate goal of the Town’s Comprehensive Plan of becoming a progressive, sustainable town that embraces the positive aspects of directed growth with capitalizing on a western, rural legacy of self-sufficiency and strong community connections; and

B. Furthering, or at a minimum not hindering, the following elements of the Comprehensive Plan (as such may be amended from time to time):

1. **Economic Development – Encourage economic development which is vital to the survival of the Town.** Actions which further this Plan element include:

(i) Attract economic development by offering tax incentives, partnerships and/or other infrastructure reducing measures;

(ii) Promoting a viable aesthetic downtown;

(iii) Infill and redevelopment of the downtown area with the intent of revitalizing the area as a pedestrian-oriented center for government, service, financial and entertainment facilities; and

(iv) Diversification of the employment base to accommodate job-generating developments; development of outdoor recreational activities and ecological tourism.

2. **Public Services/Infrastructure/Transportation – Requiring development to pay its own way to create safe thoroughfares and solid infrastructure.** Actions which further this Plan element include:

(i) Leverage existing public facilities and infrastructure and grow efficiently through best management practices, utilizing existing infrastructure, where possible;

(ii) Expand growth tiers based on the ability to provide affordable infrastructure and public services;

(iii) Promote a multi-agency relationship to address the impact to the Town streets, including the existing I-70 interchange, from county traffic, taking into account the importance of multi-modal links and alternatives to driving;

(iv) Design streets and walkways to function as attractive public spaces for pedestrian safety, offering alternative routes, comfort and ease of walking as well as providing safe, efficient routes for vehicles;

(v) Encourage neighborhood street layouts that tie one neighborhood to the next;

(vi) Create a corridor implementation plan to enhance the community's gateways and leverage highway frontage;

(vii) Locate economic development in appropriate and viable locations;

(viii) Encourage new businesses and retain existing businesses that provide needed local services and municipal revenues;

(ix) Establish partnerships with public and private entities to benefit the community; and

(x) Develop fair and equitable cost sharing or reimbursement policies between property owners for situations in which the installations of public facilities directly benefit an adjacent property or properties.

3. Land Use and Growth of the Town – Encouraging sustainable growth that allows the Town to continue to provide services to all citizens and adds infrastructure only at the pace in which the Town can maintain it. Actions which further this Plan element include:

(i) Promote a viable aesthetic downtown to encourage economic development of retail and service businesses;

(ii) Encourage/support land uses that help to expand/strengthen the downtown area;

(iii) Promote compact development patterns by encouraging infill and new development within the Tier 1 Primary Growth Area.

(iv) Encourage annexations that meet the following criteria: a) adjacent to the Town limits, b) within Tier 1, c) provides economic benefits to the Town, d) efficient provision of public facilities and services; and

(v) Ensure that new development proposals provide a balance of land uses and adhere to the land use designates depicted on the Town's "Future Land Use Plan".

4. Housing – Creating a base of residential units both for a sense of community and economic growth. Actions which further this Plan element include:

- (i) Encourage medium to high-density land uses within existing neighborhoods to achieve increased density, reinvestment incentives, retain character and downtown “feel”;
- (ii) Strive for a diverse, integrated housing supply that is affordable and accessible to all citizens within all residential zone districts;
- (iii) Encourage residential development where it can be adequately served by Town infrastructure in a cost-effective, efficient manner;
- (iv) Evaluate new development with respect to the magnitude, scale and diversity of project type so that no one project or combination of projects overtakes the character of the existing community; and
- (v) Promote compact developments towards the Town center and cluster development in rural residential areas via expedited approval processes.

5. Image and Design – Promotion of the Town as a vibrant health community. Actions which further this Plan element include:

- (i) Promote cohesive, integrated development patterns from the Town’s core, establishing close-knit neighborhoods that foster community interaction while encouraging growth where infrastructure exists;
- (ii) Create a welcoming identity by improving the appearance of major streets, gateways, downtown and the Town as a whole;
- (iii) Design streetscapes for major streets that enhance the Town’s appearance, create a consistent image throughout the Town, and provide an appealing environment for visitors and residents;
- (iv) Improve the edge conditions along the I-70 and State Highway 6 corridors to present an attractive public image for the Town; and
- (v) Develop and maintain gateway entries that announce the Town of Silt to visitors and residents at highly visible, appropriate locations.

6. Community Involvement & Services – Public input in the approval of a district is important. Actions which further this Plan element include:

(i) Develop and maintain a high level of community engagement by encouraging citizen leadership and participation in Town government and other local organizations;

(ii) Encourage community-wide public art, such as murals, installations, and sculpture, throughout the Town and at public buildings, to contribute to the Town's identity and image;

(iii) Foster public awareness in a timely and highly visible manner about meetings, decision-making, and issues of particular importance to the community; provide access to meeting notices and agenda through a variety of venues, such as the newspaper, radio, physical postings, e-mail, community centers, and the Town website; and

(iv) Utilize citizen leadership to promote and carry out the vision of the Comprehensive Plan, thus maintaining a high level of community ownership over the Plan; encourage citizens from diverse age groups and backgrounds to become involved.

7. Resources and Environment – Conservation and energy savings achieved through compact development that reduces vehicle trips. Actions which further this Plan element include:

(i) Defer development in highly sensitive land areas, preserving land area as wildlife habitat and open space amenities;

(ii) Promote the Town as a green community that harnesses local, sustainable energy loops, widely employing emerging technologies in solar, wind, and river power;

(iii) Explore ways to reduce automobile dependence through compact development; increase options for local employment, including live/work, telecommuting, and encouraging home-based businesses; and the use of alternative fuels and public transit;

(iv) Protect natural resources and citizens' health and safety by mitigating air, water, light and noise pollution;

(v) Protect the Town's unique natural setting and resources by considering the needs of both the human and natural environment; and

(vi) Require new development to preserve, minimize, and/or mitigate impacts of development on significant natural features, wildlife habitat and corridors, and important view sheds.

8. Open Space, Recreation, Trails and Tourism – Natural areas, trails and recreation facilities can create economic development opportunities in the form of tourism. Actions which further this Plan element include:

- (i) Continue to enhance the Silt River Preserve as a means of protecting the critical wildlife habitat and decrease erosion on the property;
- (ii) Preserve the important riparian zone adjacent to the Colorado River by discouraging development within one-hundred feet of the river’s edge;
- (iii) Develop a regionally-integrated trail system that can safely accommodate a variety of recreational activities;
- (iv) Extend pedestrian and bicycle connections from existing trails and recreation systems to all neighborhoods and to the downtown area; and
- (v) Encourage new development to design and incorporate open space area/parks, recreational opportunities and quality pedestrian connections as amenities to new residents and the public.

18.01.050 - Additional Public Benefit Considerations.

A. In the absence of special circumstances, district formation is not permitted where the future assessed valuation of all property within the district at full build-out is projected to be less than five million dollars (\$5,000,000), adjusted annually beginning in 2021 based on the Consumer Price Index for the Mountain-Plains statistical region as prepared by the U.S. Bureau of Labor Statistics.

B. The costs of Public Improvements (defined in Section 18.01.070.J) are to be paid from taxes and not from fees.

18.01.060 - Application Process.

A. Process Overview. The application process is designed to provide early feedback to an applicant, adequate time for a comprehensive staff review, and the appropriate steps and meeting opportunities with decision makers. Applicants are encouraged to submit proposals well in advance of election deadlines.

B. Letter of Interest. Applicant will provide Town with a Letter of Interest and pre-application fee (refer to Section 18.01.130). The Letter of Interest shall contain the following:

- 1. Summary narrative of the proposed development and district proposal.

2. Sketch plan showing: property location and boundaries; surrounding land uses; proposed use(s); proposed improvements (buildings, landscaping, parking/drive areas, water treatment/detention, drainage); existing natural features (water bodies, wetlands, large trees, wildlife, canals, irrigation ditches); utility line locations (if known); and photographs (helpful but not required).

3. Clear justification for why a district is needed.

4. Explanation of extraordinary public benefits, making specific reference to this Policy, the Town Plans, and other relevant Town documents.

5. District proposal and service plan specifics, including: district powers and purpose; district infrastructure and costs; mill levy rate (both debt and, operations and maintenance); term of district; forecasted period of build-out; proposed timeline for formation; and current development status of project.

C. Staff Response to Letter of Interest. Staff will provide a written response to a Letter of Interest within thirty (30) days of receipt and payment of the pre-application fee.

D. Preliminary Staff Meeting with Applicant (Optional). Based on an initial review of the Letter of Interest, staff may meet with the applicant to discuss the district proposal, potential extraordinary public benefits, relevant provisions of the Town Plans for the application to address, initial staff feedback, the evaluation process, fees, and other application elements.

E. Formal Application and Service Plan Submittal. Upon taking account of staff input, applicant may submit a formal application for consideration, including the service plan and a cover letter in which the applicant shall highlight any substantive provisions that deviate from this Policy and the Model Service Plan. The formal application and application fees must be received by the Town no later than the third Tuesday of December in the preceding year for a May election or the third Tuesday of May for a November election. The Town cannot commit to timely processing of applications submitted after these dates for their respective elections and approval of a service plan in time to meet certain election deadlines is not guaranteed even when submitted by these deadlines.

F. Formal Staff Review. Town staff will review the application materials along with any follow-up documentation that is requested in order to assess the application according to this Policy other appropriate Town policies, and state law. Applicants should plan sufficient time in the application process for several rounds of feedback and review from Town staff.

G. Town Board Work Session Meeting (optional). Based on the magnitude and complexity of the development project and district proposal, staff may recommend a work session with the Town Board.

H. Public Meeting Notice. Notice of the public meeting at which the Board will consider the service plan may be provided in accordance with Section 16.16 of the Town Code and, if provided, the applicant should submit an affidavit of mailing, including the lists of all property owners notified, along with the publisher's affidavit of publication, to Town staff prior to the meeting date. The mailed and published notices should include the following information:

1. A description of the general nature of the Public Improvements and services to be provided by the district;
2. A description of the real property to be included in the district and in any proposed future inclusion area, with such property being described by street address, lot and block, metes and bounds if not subdivided, or such other method that reasonably appraises owners that their property will or could be included in the district's boundaries;
3. A statement of the maximum amount of property tax mill levy that can be imposed on property in the district under the proposed service plan;
4. A statement that property owners desiring to have the Town Board consider excluding their properties from the district must file a written petition for exclusion with the Town Clerk no later than ten (10) days before the scheduled meeting date in accordance with Section 32-1-203(3.5) of the Colorado Revised Statutes;
5. A statement that a copy of the proposed service plan can be reviewed in the Town Clerk's Office; and
6. The date, time and location of the public meeting at which the Town Board will consider the service plan.

I. Public Comment. At a regular or special meeting, the Town Board will consider a resolution approving the proposed service plan. The public will have an opportunity at the meeting to submit public comments on the proposed service plan in accordance with any applicable procedures of the Town Board and applicable state law.

J. Legislative Action. The consideration of a service plan to allow the organization of a district is policy determination to be made by the Town Board based on its consideration of the best interests of the Town as a whole, the current and future residents of the proposed district, and the ability of the district to provide extraordinary public benefits and to further the goals of the Town's Plans.

18.01.070 - Service Plans.

A. Model Service Plan.

1. The Town Board may, by resolution, adopt and from time to time amend, a Model Service Plan consistent with this Policy.

2. All service plans submitted to the Town should follow the basic outline, form, sequence and structure of the Model Service Plan. Service plans should duplicate the language contained in the Model Service Plan and explanation and justification provided for any material departures. Notwithstanding the preceding, any service plan approved by the Town shall be deemed to be in compliance with all Town requirements.

B. Compliance with Applicable Law. Any service plan submitted to the Town for approval must comply with all state, federal and local laws and ordinances, including the Special District Act.

C. Eminent Domain NOT Authorized. The service plan shall contain language that prohibits the District from exercising the power of eminent domain without approval of the Town Board.

D. Limitations on Operations and Maintenance.

1. A district is permitted to collect a mill levy in an amount as specified in subsection 18.01.070.E., to fund customary administrative expenses incurred in operating the district, such as accounting and legal expenses and other costs of complying with applicable reporting requirements (the “Operations and Maintenance Mill Levy”). District service plans shall generally call for dissolution of the district upon payment of the debt associated with the Public Improvements for which it is formed, and will not be approved for ongoing district operations and maintenance of Public Improvements or services. Where it can be demonstrated that it is in the best interest of the Town and the existing or future residents and taxpayers of the district, the district, on an ongoing basis, may operate and maintain Public Improvements and services and impose an Operations and Maintenance Mill levy as set forth in the service plan approval.

2. To avoid duplication of entities and economic inefficiency, overlapping owners associations and districts are discouraged. When the boundaries of a district overlap with the boundaries of an owner’s association, during any year or portion of a year, when the declarant of the association is a developer, homebuilder, or other entity and not the residents, consent of the Town is required prior to the levy and collection of an Operations and Maintenance Mill Levy by the district for operating or maintaining any Public Improvements or services, other than routine administration of the governance of the district.

E. Maximum Mill Levy.

1. The service plan shall set forth a maximum debt mill levy that may be imposed by the district (“Debt Mill Levy”), taking into consideration the costs of the Public Improvements to be paid for with property tax revenues used to service debt and the anticipated assessed valuation; however, in no event shall the Debt Mill Levy exceed 50 mills, subject to adjustment as provided in subsection 18.01.070.E.3 and any required offset for an Operations and Maintenance Mill Levy. The Debt Mill Levy shall be imposed for a term not greater than 40 years from the date of its first imposition in any amount, and notwithstanding any provision set forth in Section 18.01.070.F.

2. For districts that are authorized to impose an Operations and Maintenance Mill Levy, such shall be limited to no more than ten (10) mills, subject to adjustment as provided in subsection 18.01.070.E.3.

3. The aggregate of any Debt Mill Levy and any Operations and Maintenance Mill Levy shall not exceed fifty (50) mills (the “Maximum Mill Levy”), subject to adjustment as provided in 18.01.070.E.3.

4. Increased Debt, Operations and Maintenance, and Maximum Mill Levies may be considered for districts that are predominately commercial in use, at the sole discretion of the Town Board.

5. The Maximum Mill Levy may be adjusted from the base year of the district as provided for in the Model Service Plan, so that to the extent possible, the actual tax revenues generated by the district’s mill levy, as adjusted, for changes occurring after the base year, are neither diminished nor enhanced as a result of the changes. Unless otherwise provided in the approved service plan, the base year shall be the first year in which a district imposes the Maximum Mill Levy.

F. Debt Term Limit. Generally, district debt is to be issued and taxes are to be imposed within five (5) years of a Court Order organizing the district. District debt, payable from property taxes, shall be for a term no more than the useful life of the Public Improvements that are funded by such debt, and in no event more than 30 years, such term to be calculated from the date of completion of installation of the Public Improvements and their acceptance by the Town or other governmental entity for ownership or maintenance. Such debt term limit may be extended if a majority of the district’s board of directors are residents of the district and have voted in favor of refunding a part or all of the debt, and such refunding is for one or more of the purposes authorized in Section 11-56-104, C.R.S. and is authorized by law. Notwithstanding any provision of this subsection F., payment of district debt from the Debt Mill Levy shall be subject to the limitations set forth in Subsection 18.01.070, E.1. Funding of Public Improvements for purposes of this subsection F shall include direct payment of the costs

of the Public Improvements or reimbursement by the district of the costs to the Developer or other entity who initially paid the costs.

G. Developer Advances. The service plan shall address any costs anticipated to be incurred by a developer and to be repaid by the district for the Public Improvements and/or operational costs, either in the form of direct payments by the Developer for such costs, or by means of advances by the Developer to the district (all of which are considered “Developer Advances”). Developer Advances shall count against the Total Debt Limit (as defined in subsection 18.01.070.I) and may be reimbursed by the district from debt, contractual reimbursement agreement(s) and/or any revenue source available by law and permitted by the service plan. Developer Advances shall not be subject to compound interest. Developer Advances will be considered subordinate to any general obligation bonds of the district. The interest rate on Developer Advances shall not exceed the current Bond Buyer 20-Bond GO Index plus 4%, or a maximum of 12%, whichever is the lesser.

H. District Fees. Fees and charges imposed and collected by a district are generally prohibited. The service plan shall identify with specificity any proposed fee categories (i.e. impact fees, development fees, service fees, capital improvement fees, etc.) and proposed uses of revenues from such fees or other charges. Unless approved in the service plan, fees and charges will require written consent of the Town Board prior to implementation.

I. Financial Plan. The service plan must include debt and operating financial projections prepared by an investment banking firm or financial advisor qualified to make such projections. The financial firm must be listed in the Bond Buyers Marketplace or, in the Town’s sole discretion, other recognized publication as a provider of financial projections. The Financial Plan must include debt issuance and service schedules and calculations establishing the District’s projected maximum debt capacity (the “Total Debt Limitation”) based on assumptions of: (i) Projected Interest Rate on the debt to be issued; (ii) Projected Assessed Valuation of the property within the District; and (iii) Projected Rate of Absorption of the assessed valuation within the District. These assumptions must use market-based, market comparable valuation and absorption data and may use an annual inflation rate of two percent (2%) or the Consumer Price Index for the preceding 12-month period for the Mountain-Plains statistical region as prepared by the U.S. Bureau of Labor Statistics, whichever is lesser. The Financial Plan must also include foreseeable administrative, operational and maintenance costs.

J. Public Improvements and Estimated Costs.

1. Every service plan must include, in addition to all materials, plans and reports required by Title 32, C.R.S., a summary of public improvements to be constructed and/or installed by the district (the “Public Improvements”). Due to its preliminary nature, the service plan must indicate that the Town’s approval of the Public

Improvements shall not bind the Town, its boards and commissions, or the Town Board in any way relating to the review and consideration of land use applications within the district. The service plan must contain a description of these Public Improvements which includes, at a minimum:

(i) A map or maps, and construction drawings of such a scale, detail and size as required by the Town Administrator, providing an illustration of Public Improvements proposed to be built, acquired or financed by the district;

(ii) A written narrative and description of the Public Improvements; and

(iii) A general description of the District's proposed role with regard to the same.

2. The warranty and security requirements set forth in Section 16.04.350 of the Town Code shall apply to all Public Improvements.

K. Extraterritorial Service Agreement. The service plan must describe any planned extraterritorial service. Any extraterritorial service by the district that is not described in the service plan will require prior approval of Town Board.

L. Service Plan Amendments. In the event a district seeks a material modification or other amendment to its service plan, the letter of intent, application, public meeting and notice procedures set forth in Section 18.01.060 shall be followed.

18.01.080 - District Structure.

It is the intent of the Town that citizen/resident control of districts be encouraged to occur as early as possible. For that reason, multiple-district structures are not permitted.

18.01.090 - Dissolution of the District.

A. Perpetual districts shall not be allowed except in cases where ongoing operation and maintenance of Public Improvements is required and permitted by the service plan. Except where ongoing operations and maintenance has been authorized, the district's board of directors will take all action as required to dissolve the district as soon as practical upon the payment of all debt and obligations and the completion of district development activity.

B. If, within five (5) years from the date of approval of a service plan, the Town and district have not entered into an intergovernmental agreement as required by Section 18.01.150 of the Code, the Town may opt to pursue the remedies available to it under C.R.S. Section 32-1-701(3) in order to compel the district to dissolve in a prompt

and orderly manner. In such event: (i) the limited purposes and powers of the district, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the board of directors of the district will be deemed to have agreed with the Town regarding its dissolution without an election pursuant to C.R.S. §32-1-704(3)(b); (iii) the district shall take no action to contest or impede the dissolution of the district and shall affirmatively and diligently cooperate in securing the final dissolution of the district, and (iv) subject to the statutory requirements of the Special District Act, the district shall thereupon dissolve.

18.01.100 - Default of District.

A. An “Event of Default” by the District shall include:

1. Failing or defaulting in the performance of any obligation that has been agreed to between the district and the Town, which obligation has been identified by the Town as a material obligation, and such default continues after delivery of notice from the Town.

2. A court of competent jurisdiction has made a final determination that a district has defaulted on any of its financial obligations, and such determination is not subject to further appellate review.

3. Failure to timely file a responsive Annual Report required by Section 18.01.120.

B. In the Event of Default, the district shall be precluded from issuing additional debt, except to refund or refinance a financial obligation for the purpose of avoiding or curing a default without receiving written permission from the Town Board following a public meeting on the matter.

18.01.110 - Material Modification of Service Plan.

A. In the event of a material modification of the service plan, the Town and the electors of the district shall be entitled to exercise their respective rights pursuant to §32-1-207, C.R.S. Actions expressly authorized in the service plan, changes in quantities of facilities or equipment, timing or phasing of Public Improvements, collection of fees or charges following written consent of the Town Board, and immaterial cost differences are not material modifications of the service plan. Departures from the service plan that constitute a material modification include, without limitation:

1. Actions or failures to act that create greater financial risk or burden;

2. Performance of a service or function or acquisition of a major facility that is not closely related to a service, function or facility authorized in the service plan;

3. Failure to perform a service or function or to acquire a facility required by the service plan;
4. Collection of any fees or charges without the written consent of the Town Board; and
5. The taking of any action that requires consent of the Town without the Town's consent given in the manner required pursuant to Section 18.01.140.

B. In the event the required Annual Report required by Section 18.01.120 is not timely filed with the Town or is not fully responsive, in addition to being an Event of Default, the Town may provide notice to the district's board of directors at its last-known address. The failure of the district to file a responsive annual report within 45 days of the mailing of such notice by the Town Clerk may constitute a material modification of the service plan, at the discretion of the Town.

18.01.120 - Annual Report.

All districts must file an Annual Report no later than September 1 of each year with the Town Clerk for the year ending the preceding December 31, the requirements of which may be waived in whole or in part by the Town Administrator. Unless waived by the Town Administrator, the Annual Report shall include the following:

- A. A narrative summary of the progress of the district in implementing its service plan for the report year.
- B. The audited financial statement of the district for the report year, including a statement of financial condition as of December 31 of the report year and the statement of operations, except when exemption from audit has been reported has been granted.
- C. A summary of the capital expenditures incurred by the district in development of improvements in the report year.
- D. A summary of the financial obligations of the district at the end of the report year, including the amount of outstanding indebtedness, the amount and terms of any new district indebtedness or long-term obligations issued in the report year, the amount of payment or retirement of existing indebtedness of the district in the report year, the total assessed valuation of all taxable properties within the district as of January 1 of the report year, and the current mill levy of the district pledged to debt retirement in the report year.
- E. Any other information deemed relevant by the Town Board or deemed reasonably necessary by the Town Administrator.

18.01.130 - Fees.

No request to approve a district service plan shall proceed until the fees set forth herein are paid.

A. Letter of Intent Submittal Fee: At the time of submittal of the Letter of Intent, the applicant shall pay a non-refundable fee in the amount established by the Town Board by Resolution.

B. Application Fee: An applicant shall submit, along with an application and a draft service plan (based on the Model Service Plan), a nonrefundable fee in the amount established by the Town Board by Resolution, along with a deposit in the same amount towards the reasonable consultant, legal, and other external fees and expenses incurred by the Town to review the draft service plan.

C. Annual Fee: Each district shall pay an annual fee for the Town's on-going monitoring of the district. This annual fee shall be in the amount established by the Town Board by Resolution and due and payable by January 1 of each year.

D. Service Plan Amendment Fee: A non-refundable service plan amendment fee in the amount established by the Town Board by Resolution, along with a deposit in the same amount towards the Town's outside review expenses shall be paid at the time of submittal of the application and draft amended service plan.

E. External Review Expenses: An applicant shall pay all of the Town's outside expenses associated with review of a proposed service plan, service plan amendment, or any matter required under this Policy or an approved service plan, including enforcement of conditions or requirements associated with an existing service plan. If deposits paid are insufficient to cover all the Town's expenses associated with external review, the applicant shall pay all such reasonable expenses prior to the Town's approval becoming effective. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

18.01.140 - Town Consent.

Any consent of the Town required under to this Policy shall be given, if at all, by a Resolution of the Town Board. Failure of the Town to respond to a notice provided pursuant to Section 32-1-207(3)(b), C.R.S., within 45 days shall be deemed to be disapproval by the Town.

18.01.150 - Intergovernmental Agreement

A district shall enter into an intergovernmental agreement with the Town that addresses such details, terms and conditions as the Town and district deem necessary in connection with the construction and funding of any Public Improvements, including the

posting of security and warranty periods necessary to meet the requirements of Section 18.01.070.J, herein. Execution of the intergovernmental agreement is a precondition to a district issuing any debt or imposing any fees or levying of taxes. In addition, failure of a district to enter into the intergovernmental agreement as required herein shall constitute a material modification of the service plan and may result in dissolution per Section 18.01.090.B.