

TITLE 10

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CHAPTER 10.01

Streets and Sidewalks

10.01.010 Alteration of street improvements.

(a) It is unlawful for any person, firm, corporation or local entity other than the Town to construct, reconstruct, repair, alter, remove or grade any sidewalk, curb-walk, curb-cut, gutter, driveway or street on the public streets of the Town, except when:

(1) Such construction, reconstruction, repair, alteration, removal or grading is authorized by an official permit issued by the Department of Public Works;

(2) Such construction, reconstruction, repair, alteration, removal or grading is performed in compliance with the provisions and conditions of such official permit and the applicable provisions of the street specifications adopted by the Town; and

(3) Such construction, reconstruction, repair, alteration, removal or grading passes an inspection by the Department of Public Works or a designated official relative to compliance with the permit and street specifications adopted by the Town.

(b) An application for a permit under this Chapter shall file with the Department of Public Works an application showing and providing:

(1) Name and address of the owner or agent in charge of the property abutting the proposed work area;

(2) Name and address of the party performing the work;

(3) Location of the work area;

(4) Attached plans showing details of the proposed alteration;

(5) Estimated cost of the alteration;

(6) Such other information as the Department of Public Works finds reasonably necessary to the determination of whether a permit should be issued under this Chapter; and

(7) A reasonable inspection fee as established by the Department of Public Works or its designed official.

(c) Any person, firm, corporation or local entity required to obtain a permit under this Section shall be responsible for the repair and maintenance of the work performed by it pursuant to the permit for a period of one (1) year commencing from the date of completion of the work. Should the holder of the permit fail to perform any such repair or maintenance, or fail to complete the work, the Town may perform the necessary repair or maintenance or complete the work; in which case the holder of the permit shall be responsible financially for the actual cost thereof, including five percent (5%) for inspection, a minimum fee of fifty dollars (\$50.00) and other incidental costs in connection therewith,

and for all costs incurred by the Town in collecting such costs, including attorney fees and court costs. In the alternative, the Town may proceed against any bond required by Subsection (d) below.

(d) The following bonds shall accompany an application for a permit hereunder:

(1) In cases where the estimated cost of the project exceeds five thousand dollars (\$5,000.00), the Department of Public Works shall require a maintenance and construction bond to be filed with the application for a permit hereunder in an amount equal to one-half (1/2) of the estimated cost of the project, and conditioned that such work shall be performed and completed in compliance with the provisions and conditions of the permit and the applicable provisions of the Town street specifications, and that the work performed will be repaired and maintained for a period of one (1) year commencing from the date of completion of the work.

(2) The Department of Public Works shall have the authority to require an applicant hereunder to file a bond conditioned to protect and save harmless the Town from all claims for damages or injury to other persons by reason of the work performed.

(3) Agencies of the Town will be exempt from posting any bond.

(e) All operations for which a permit is granted hereunder shall be under the direction and supervision of the Department of Public Works.

(f) It is unlawful for any person, firm or corporation to install, construct or affix in or upon any gutter in the Town any structure, fixture or appliance which impedes, obstructs or prevents the flow of storm drainage through such gutter, without first obtaining the written authorization of the Department of Public Works.

(g) Violations of the provisions of this Section shall be punishable by a fine of not more than four hundred ninety-nine dollars (\$499.00). (Ord. 5.32.1 §§1, 2, 1993; Ord. 5.30.1 §18, 1993; Ord. 5.32 §1, 1990)

10.01.020 Removal of snow and ice from sidewalks.

(a) Every person, partnership, corporation, joint stock company or syndicate in charge or control of any building or lot of land within the Town fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from so much of such sidewalk as is in front of or abuts on such building or lot of land, within forty-eight (48) hours after the cessation of any fall of snow, sleet or freezing rain.

(b) In the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within forty-eight (48) hours after the cessation of any fall of snow, sleet or freezing rain, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe, and shall then, as soon thereafter as weather permits, cause such sidewalk to be thoroughly cleaned.

(c) As used in this Section, the term *sidewalk* means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(d) Violation; penalty. Violations of this Section shall be punished upon conviction as follows:

(1) For a first violation, a fine of twenty-five dollars (\$25.00);

(2) For a second violation in any twelve-month period, a fine of fifty dollars (\$50.00);

(3) For a third violation in any twelve-month period and for each subsequent violation during such twelve-month period, a fine of one hundred dollars (\$100.00). (Ord. 5.32 §§2, 3, 1990)

10.01.030 Notice and removal; nuisance.

(a) The existence of snow and ice on sidewalks in the Town in violation of the provisions of Section 10.01.020 above is declared to be a public nuisance.

(b) Whenever an officer charged with the duty of enforcing this Chapter has knowledge of conditions in violation of Section 10.01.020 above, but no person can be found in or upon the building or lot of land fronting or abutting on the sidewalk upon which such conditions exist, such conditions constituting a nuisance may be abated without notice under the provisions of the Town nuisance ordinance (Chapter 6.01 of this Code), at the expense of the owner of such building or lot of land.

(c) Whenever any condition constituting a nuisance under the provisions of this Section is found in existence more than twenty-four hours after delivery of any notice or notification thereof to a person or entity charged with its removal, such nuisance may be abated without notice under the provisions of Chapter 6.01, at the expense of the person or entity charged with removal of snow and ice. (Ord. 5.32 §4, 1990)

10.01.040 Deposit of snow and ice in public roadway.

(a) In business, commercial, light industrial and industrial zones in the Town, it is unlawful to remove any snow and ice from any parking lot, public sidewalk, private walk, private road or private driveway and deposit or dump the same upon or into a public street, road or highway.

(b) Violation; penalty. Violations of this Section shall be punishable by a fine of not more than four hundred ninety-nine dollars (\$499.00). (Ord. 5.30.1 §19, 1993; Ord. 5.32 §§5, 6, 1990)

10.01.050 Sidewalk maintenance.

(a) Every person, partnership, corporation, joint stock company or syndicate in charge or control of any building or lot of land within the Town fronting or abutting on a paved sidewalk located within state highway right-of-way, whether owner, tenant, occupant or otherwise, shall maintain such sidewalk as it is in front of or abuts such building or lot of land in good condition and free from any hazard.

(b) In the event failure to comply with the provisions of this Chapter results in personal injury, the person or entity responsible for compliance shall be liable for any resulting injuries. Any civil liability for injuries caused by the failure to remove snow or ice, or otherwise the failure to maintain a paved sidewalk free from hazard, shall be imposed upon the person or entity responsible for compliance, and not upon the Town. (Ord. 5.32.2 §1, 1996)

10.01.060 Solicitation on or near street or highway.

(a) The purpose of this Section is to prevent dangers to persons and property, to prevent delays and to avoid interference with the traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(b) It shall be unlawful for any person to solicit employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection:

(1) Causes the person performing the activity to enter onto the traveled portion of a street or highway.

(2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.

(3) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

(c) It shall be unlawful for any person to solicit or attempt to solicit employment, business or contributions of any kind from the occupant of any vehicle on any highway included in the interstate system, including any entrance to or exit from such highway.

(d) For purposes of this Section, the *traveled portion of the street or highway* shall mean that portion of the road normally used by moving motor vehicle traffic. (Ord. 5.32.3 §1, 1998)

10.01.070 Parking of vehicles on public streets within subdivisions.

(a) No developer, homeowners' association, architectural control committee or other similar individual or organization shall be authorized to enact regulations or restrictive covenants which purport to prohibit the parking of vehicles on any street within a subdivision which has been dedicated to and accepted by the Town as a public street. As with other public streets within the Town, the Town shall have the exclusive authority to regulate parking on public streets within a subdivision.

(b) This Section shall not apply to previously enacted regulations or restrictive covenants which prohibit the parking of vehicles on any public street within a subdivision, as those regulations or restrictive covenants exist on the effective date of the ordinance codified in this Section. No existing regulation or restrictive covenant may be amended to prohibit the parking of vehicles on any public

street within a subdivision after the effective date of the ordinance codified in this Section. (Ord. 5.55 §1, 2001)

CHAPTER 10.02

Roadway Design and Construction Criteria

10.02.010 Reserved.

10.02.020 Adoption of standards by reference.

(a) The Town of Parker, Colorado Roadway Design and Construction Criteria, as revised May 2001 ("Standards") and prepared by the Town, is hereby adopted by reference as if set forth herein.

(b) The technical methodology may be amended from time to time by the Public Works Director in order to meet the Standards set forth herein. The Public Works Director may also adopt rules and regulations that are in conformity with this Chapter.

(c) The Public Works Director may require the applicant of any permit issued, or required to be issued, under this Chapter to comply with any reasonable criteria, conditions, limitations or standards necessary to avoid or minimize any detrimental effects or impacts, either direct or indirect, which may result from any proposed improvement, public or otherwise.

(d) The Public Works Director may deny the application for any permit required to be issued under this Chapter where the proposed project poses any detrimental impact to the health, safety and welfare of the Town, its residents and visitors. (Ord. 4.07.4 §1, 2001; Ord. 4.07.3 §1, 1997; Ord. 4.07.2 §1, 1995; Ord. 4.07.1 §1, 1994)

10.02.030 Compliance with standards.

The standards shall govern all public improvements within the Town boundaries or public improvements used as an integral part of a public improvement that serves the Town. Also, all public improvements shall comply with the current zoning regulations, subdivision improvement agreement, the construction plans and specification and all other standards currently used by the Town. Water and sanitation districts are not Town agencies and the developer must contact the appropriate district to review all development plans. (Ord. 4.07.1 §1, 1994)

10.02.040 Appointment of Designated Town Authority.

The Public Works Director shall appoint the Designated Town Authority ("DTA"). The DTA shall be an observer for the Town on the project. The DTA shall protect the Town's interests and verify that the work of the developer or contractor complies with the terms of the development agreement, the approved plans and the Town standards. The DTA's responsibilities may include field observation and testing. (Ord. 4.07.1 §1, 1994)

10.02.050 Probationary period.

(a) The probationary acceptance period will begin when all of the following have been complied with:

- (1) All necessary repairs and replacements of materials or workmanship required by the DTA have been completed to the satisfaction of the Town;
- (2) The as-constructed drawings in paper and electronic format and the stamp testing reports have been received; and
- (3) The DTA has given a written recommendation for probationary acceptance to the Public Works Director and the Public Works Director has accepted the recommendation.

The probationary acceptance period will begin on the date of the written notice to the developer from the Public Works Department.

(b) Not sooner than two (2) months before the end of the probationary acceptance period, the developer will make a written request for inspection. The DTA will make a determination of the need for any repairs or replacement of materials or workmanship. No public improvement will be finally accepted by the Town until the following have been complied with:

- (1) The one-year probationary acceptance period has elapsed;
- (2) All repairs and replacement of materials or workmanship required by the DTA have been completed to the satisfaction of the Town;
- (3) The fees owed to the Town are paid; and
- (4) The DTA has made a written recommendation for final acceptance to the Public Works Director and the Public Works Director has accepted the recommendation.

(c) Neither approval by the Town nor any provision of the Standards will relieve the developer of the responsibility for the negligent use of faulty materials or negligent workmanship. Prior to final approval by the Town of any public improvements, the developer shall sign an affidavit of compliance which provides that the public improvements were constructed according to Town standards and provides that the developer is responsible for negligent use of faulty materials or negligent workmanship that is discovered after the warranty period.

- (1) In the event the Town discovers the negligent use of faulty materials or negligent workmanship after the warranty period expires, the Town may send written notice of the Town's intention to stop work on the project, which includes the planned development area, and the reasons thereof, to the developer, or its successor. Unless satisfactory arrangements for corrective action are made, the work on the entire project will be stopped, including the issuance of building permits, certificates of occupancy and the processing of plats, seven (7) days after serving written notice on the developer or its successor. In the event satisfactory arrangements are not made after the notice period, the Town may, at its sole discretion, correct the conditions created by the negligent use of faulty materials or negligent workmanship at the expense of the developer or its

successor. The developer or its successor will be liable to the Town for all costs related to such corrective work.

(2) In the event the Town discovers the negligent use of faulty materials or negligent workmanship after work on the entire project is complete, the Town shall have a cause of action against the developer and/or the responsible contractor. (Ord. 4.07.3 §2, 1997; Ord. 4.07.1 §1, 1994)

10.02.060 Surety.

Surety arrangements are required for any work or project performed within the Town and must comply with Title 13 of this Code. After the surety is arranged, if the developer fails to complete the public improvements as specified in the approved plan, the surety and the developer shall be liable for the costs of the public improvements. (Ord. 4.07.1 §1, 1994)

10.02.070 Certification of tax lien.

(a) After the surety is arranged, if the developer fails to complete the public improvements as specified in the approved plan, and either the surety is insufficient to complete the public improvements or the Town is unable to collect from the surety, the Town may certify the cost for the public improvements as a tax in accordance with Section 31-20-105, C.R.S. (1986 Repl. Vol.). The tax shall date from the recording of the final plat.

(b) The tax imposed by this Chapter is a first and prior lien upon the goods, stock-in-trade and business fixtures in which the taxpayer has an ownership interest except for goods that have been purchased in the ordinary course of business by retail purchasers and such lien takes priority over other liens or claims of whatsoever kind or nature on such property.

(c) The tax imposed by this Chapter is a first and prior lien on the real and personal property of the taxpayer and such lien takes priority over other liens or claims of whatsoever kind or nature on such property.

(d) Whenever the business or property of any taxpayer is placed in receivership, bankruptcy, seized under distraint for nonpayment of property taxes or an assignment is made for the benefit of creditors, all taxes imposed by this Title and for which the taxpayer is in any way liable under this Title are a prior and preferred claim against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any taxpayer subject to the provisions of this Title under process or order of any court without first ascertaining from the Finance Director the amount of any taxes due and payable under this Chapter. If there are any such taxes due, owing or unpaid, it is the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before paying any moneys to judgment creditors or other claimants, except that the officer may pay costs of the proceedings and other pre-existing liens or claims taking lawful precedence over the Town's claims.

(e) If any tax certified pursuant to this Chapter is not paid within five (5) days after it is certified, the Finance Director may issue a notice, setting forth the name of the taxpayer, the amount of the tax, the date of its accrual and the fact that the Town claims a first and prior lien therefor on the real and personal property of the taxpayer. The notice of lien shall be made on forms prescribed by the

Finance Director and verified by the Finance Director, and may be filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or personal property or with any person in possession of any personal property or rights to property belonging to the taxpayer.

(f) The Finance Director shall release any lien as shown on the records of the county clerk and recorder as herein provided, upon payment of all taxes, penalties and interest covered thereby, in the same manner as mortgages and judgments are released. (Ord. 4.07.1 §1, 1994)

10.02.080 Enforced work stoppage for violation.

(a) In the event that any of the provisions of the approved plans or other applicable criteria of the Town are violated by the developer or by any of his or her contractors or subcontractors, the Town may serve written notice of the Town's intention to stop work on the project and the reasons therefor to the developer, the contractor and any surety. Unless the violations cease and satisfactory arrangements for correction are made, the work will be stopped forty-eight (48) hours after serving written notice. In the event of any such termination, the Town will immediately serve notice to the developer, the contractor and any surety. The surety will have the right to take over and finish the project, provided that if the surety does not begin work within thirty (30) days from the mailing date of the notice, the Town may, at its sole discretion, take over the work and finish it at the expense of the developer and contractor. The developer, contractor and the surety will be liable to the Town for all the costs caused by termination of the work.

(b) It may become necessary for the Town to immediately stop work on a project to protect the health, safety and welfare of the citizens of the Town. Such instances may include, but are not limited to, creation of a public safety hazard, lack of required permits, inadequate traffic control or obstructing an emergency access. The Town or any representative of the Town, including the DTA, has the authority to stop the work immediately after serving the contractor with written notice. The contractor will not resume work without written approval from the Town. (Ord. 4.07.1 §1, 1994)

CHAPTER 10.03

Denver Grid System

10.03.010 Adopted.

The Town does hereby adopt, for addressing purposes, the Denver addressing grid. (Ord. 3.19 §1, 1983)

10.03.020 Use required.

The Denver grid addressing system shall be utilized for all new developments within the Town which seek building permits after the effective date of the ordinance codified in this Chapter. (Ord. 3.19 §2, 1983)

10.03.030 Uniform renumbering.

The Town Council may require a uniform renumbering for addressing purposes of all buildings and residences within the Town to conform with the Denver addressing grid system. (Ord. 3.19 §3, 1983)

CHAPTER 10.04

Burial of Utilities

10.04.010 Required.

All telephone lines, cable television lines, electrical distribution lines and other like utility services shall be placed underground. Any person installing such utility services shall be responsible for complying with the requirements of this Section, and he or she shall make the necessary arrangements including any construction or installation charges with each of the serving utilities for the installation of such facilities and shall be subject to all applicable laws and regulations for the construction of the same. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities may be placed aboveground; electric transmission and distribution feeder lines and communication long distance trunk and feeder lines and necessary appurtenances thereto may be placed aboveground. Such facilities shall be placed within easements or public rights-of-way provided for particular facilities. The provisions of this Section shall not apply to existing facilities or subdivisions platted prior to the adoption of these regulations. (Ord. 8.12.2 §1, 1994; Ord. 8.12.1 §2, 1994; Ord. 4.14.1 §1, 1990; Ord. 4.14 §1, 1983)

10.04.020 Variances.

In the event of severe hardship, an applicant may apply to the Town Council for a variance to this Chapter. The matter will be set for a public hearing and notice of the hearing shall be sent by first class U.S. mail, a minimum of seven (7) days prior to the public hearing, to all land owners within five hundred (500) feet of the property requesting the above-ground utility line. The Town Council may consider as grounds for a variance geological or natural hardship, but will not consider financial hardship, unless it is extreme and to not grant the variance would be blatantly unreasonable. Self-inflicted hardship shall not be a ground for variance. (Ord. 8.12.2 §2, 1994; Ord. 8.12.1 §2, 1994; Ord. 4.14 §2, 1983)

CHAPTER 10.05

Special Improvement Districts

10.05.010 Authority; purpose.

This Chapter is adopted pursuant to Article XII of the Home Rule Charter (the "Charter") of the Town of Parker (the "Town") to prescribe procedures with respect to local or special improvement districts ("improvement districts"). (Ord. 13.01 §1, 1984)

10.05.020 Statutes superseded.

Part 5 of Article 25, Chapter 31, C.R.S., and all other statutes or portions of statutes relating to the creation of improvement districts or the levying of assessments for improvements are hereby superseded. (Ord. 13.01 §2, 1984)

10.05.030 Improvements; assessment units.

The improvements for which the Town Council of the Town (the "Council") may create improvement districts may consist of any public works or improvements of every character which confer special benefits on property within the improvement district in addition to the general benefits conferred on the Town at large. Improvement districts may be created for the purchase, other acquisition, repair, restoration or maintenance of existing works or improvements, or for the construction, installation or other acquisition of new or additional improvements or any combination thereof. More than one (1) kind of improvement may be combined in one (1) improvement district, and improvement districts may consist of noncontiguous territory. The Council may provide for an improvement district to consist of more than one (1) assessment unit if the Council determines that, due to differences in cost, character, nature or location of the improvements, the costs can be more equitably assessed by means of separate assessment units within the improvement district. (Ord. 13.01 §3, 1984)

10.05.040 Creation by petition.

The creation of an improvement district may be initiated by the Council or by petition of the property owners to be affected thereby as provided by the Charter and by Section 10.05.050 below. Where improvements initiated by the Council and petitioned for in one (1) or more petitions are substantially the same, such improvements may all be included in one (1) improvement district. (Ord. 13.01 §4, 1984)

10.05.050 Petition procedures.

In case of an improvement district initiated by petition of property owners, the petition shall be subscribed by the owners of not less than fifty percent (50%) of the area to be assessed in the proposed improvement district; provided that such majority shall include not less than fifty percent (50%) of the assessed valuation of the real property in the proposed improvement district. Upon receiving such petition, the Council shall adopt a resolution which shall generally describe the nature and location of the improvement or improvements to be made without mentioning minor details and which describes the area to be included within the improvement district (by boundaries or other brief description) and directs the engineer or engineering firm employed or designated by the Council to prepare and present to the Council preliminary plans and specifications, a cost estimate and a map of the improvement district as in the case of Council-initiated improvements. The Council may require that a bond, or other financial security acceptable to the Town be posted with the Town Clerk by the petitioners to cover administrative and other costs incurred by the Town in processing and creating the improvement district. Thereafter, the procedures shall be the same as in the case of improvement districts initiated by the Council. (Ord. 13.01 §5, 1984)

10.05.060 Creation by Council action; engineering materials.

In case of an improvement district initiated by the Council, the Council shall direct the engineer or engineering firm employed or designated by the Council to prepare and present to the Council the following:

- (1) Preliminary plans and specifications of such improvement or improvements;
- (2) An estimate of the probable total cost of such improvement, which may include the cost of constructing or otherwise acquiring, installing, repairing, restoring and maintaining the improvement, and engineering, legal and advertising costs, collection costs, interest during construction and until interest on any installment payments of assessments is expected to be received by the Town, and any other incidental costs; and
- (3) A map of the improvement district which is to be assessed for the cost of the improvement or improvements. (Ord. 13.01 §6, 1984)

10.05.070 Creation by Council action; resolution calling hearing.

Upon such materials being presented to the Council, the Council shall adopt a resolution calling a public hearing on the creation of the improvement district and giving notice of such hearing. Such resolution shall generally describe the nature and location of the improvement or improvements to be made, without mentioning minor details, and describe the area to be included within the improvement district by boundaries or other brief description. Such resolution shall describe:

- (1) The extent of the improvement district to be assessed (by boundaries or other brief description) and the assessment units, if any;
- (2) The kind of improvement or improvements proposed (without mentioning minor details);
- (3) The probable total cost, including incidentals, as shown by the estimate of the engineer, which estimate shall not constitute a limitation upon the cost of the project nor for any other purpose;
- (4) The proportion of the cost of the improvement to be paid by the Town and not by assessment, if any;
- (5) The basis of assessment; and
- (6) The date, time and place of the public hearing on the creation of the improvement district. (Ord. 13.01 §7, 1984)

10.05.080 Notice of hearing on creation.

Notice of the public hearing on the creation of the improvement district shall be given by publishing the resolution calling the hearing one (1) time in a newspaper of general circulation in the Town. The Town Clerk shall, by certified mail, send a copy of such resolution to the last known address of each last known owner within the improvement district whose property will be assessed for the cost of the improvements, such addresses and owners being those appearing on the real property

assessment rolls for general (ad valorem) taxes of Douglas County, Colorado, wherein the property is located. Any such list of names and addresses appertaining to any improvement district may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. The resolution shall be published and mailed at least ten (10) days prior to the public hearing. (Ord. 13.01 §8, 1984)

10.05.090 Public hearing on creation; protests.

At the public hearing the Council shall consider protests submitted by owners of property within the improvement district as to the creation of the improvement district or other matters set forth in the resolution calling the hearing. Protests must be in writing and must be received by the Town Clerk no later than the close of business on the Friday before the public hearing. Protests must include the name and address of the protesting property owner, a reasonable description of the property to which the protest relates and a statement of the reasons for the protest. If such protests are so timely filed, signed by the owners of a majority of all property benefited and constituting the basis of assessment as determined by the Council, the improvements therein shall not be made. Otherwise the Council may, in its sole discretion, after the public hearing, either adopt an ordinance creating the improvement district, with such modifications or deletions as the Council may deem appropriate, or abandon the proceedings. (Ord. 13.01 §9, 1984)

10.05.100 Additional plans and specifications; changes.

After the improvement district has been created, the Town shall direct the engineer to prepare such additional plans and specifications as may be necessary to provide greater detail or to reflect any modifications made by the Council after the public hearing. The Town shall have the right to make additional minor changes in time, plans and materials entering into the work at any time before its completion. (Ord. 13.01 §10, 1984)

10.05.110 Performance or contracting of work.

Except to the extent otherwise required by law, the Town can either perform the work for the improvements itself or let a contract for such work by means of competitive bids, requests for proposals, negotiation or such other means as the Council may find to be in the public interest. Contracts for improvement districts may be combined with contracts for other Town work. (Ord. 13.01 §11, 1984)

10.05.120 Basis for assessments.

Whenever any improvement district is created, the cost of the improvements shall be assessed against the tracts or parcels of land included within the improvement district specially benefited thereby, but not including any tract or parcel owned by the United States of America or any agency, instrumentality or corporation thereof, or any streets or public highways. Such special assessments may be apportioned on any equitable basis, as may be determined by the Council, sufficient to cover the portion of the total cost of the improvement to be defrayed by special assessments. (Ord. 13.01 §12, 1984)

10.05.130 Assessments against public property.

When the Town, County, school district or any other political subdivision (other than the United States of America or any agency, instrumentality or corporation thereof) owns any tract of land not used as a street or public highway, which if owned by a private person would be liable to assessment for benefits to pay for any improvements mentioned in this Chapter, an assessment shall be made against the land as though the land were the property of a private person. If the assessment is not paid as provided in the assessing ordinance, suit may be brought in the district court to enforce the collection of the assessment and judgment may be rendered against such political subdivision, but no such land shall be sold under any such judgment. (Ord. 13.01 §13, 1984)

10.05.140 Equitable adjustments.

When any property is "V" shaped or of any irregular form, or whenever the Council determines that an adjustment is required in order to make the assessment proportionate to the benefit, the Council may, upon the recommendation of the engineer, make such allowance in the assessment on such property as seems equitable or just, so that the assessment there against shall be in proportion to the special benefits thereby derived, if such were not the case in the absence of such an adjustment. (Ord. 13.01 §14, 1984)

10.05.150 Preparation of assessment roll.

(a) At such time as the estimated costs of the improvements are, in the judgment of the Council, reasonably ascertainable, the engineer shall, on direction of the Council, prepare a statement showing the total estimated cost of the improvement or of any such part or parts thereof, including all incidental costs.

(b) The engineer also shall prepare an assessment roll, which shall contain, among other things:

(1) The names of the last known owners of the property to be assessed, or, if not known, a statement to the effect that the name is unknown;

(2) A description of each tract or parcel of land to be assessed; and

(3) The amount of the assessment thereon.

(c) The Council shall order the engineer to certify, and he or she shall certify, the assessment roll to the Council by filing the same in the office of the Town Clerk when the roll is so prepared. (Ord. 13.01 §15, 1984)

10.05.160 Resolution calling hearing on assessment roll.

When the assessment roll is so certified and filed, the Council shall adopt a resolution calling a public hearing on the assessment roll and giving notice of such hearing. Such resolution shall state:

(1) That such assessment roll is on file in the Town Clerk's office;

(2) The date of filing the same;

- (3) The basis of assessment; and
- (4) The date, time and place of the public hearing. (Ord. 13.01 §16, 1984)

10.05.170 Notice of hearing on assessment roll.

Notice of the public hearing on the assessment roll shall be given by publishing the resolution calling the hearing one (1) time in a newspaper of general circulation in the Town. The Town Clerk shall, by registered or certified mail, send a copy of such resolution to the last known address of each last known owner of land within the improvement district whose property will be assessed for the cost of the improvements, such addresses and owners being those appearing on the real property assessment rolls for general (ad valorem) taxes of Douglas County, Colorado, wherein said property is located. Any such list of names and addresses appertaining to any improvement district may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. The resolution shall be published and mailed at least ten (10) days prior to the public hearing. (Ord. 13.01 §17, 1984)

10.05.180 Public hearing on assessment roll; protests; assessment ordinance.

At the public hearing on the assessment roll, the Council shall consider protests submitted by owners of property to be assessed, as to the amounts of such assessments. Protests must be in writing and must be received by the Town Clerk no later than the close of business on the Friday before the public hearing. Protests must include the name and address of the protesting property owner, a reasonable description of the property to which the protest relates, and a statement of the reasons for the protest. After such hearing, the Council shall adopt an ordinance levying the assessments, with such modifications as the Council may deem appropriate, if any. Such ordinance shall be a final determination of the regularity, validity and correctness of the proceedings relating to the assessment roll, of each assessment contained therein and of the amount of each assessment levied on each tract and parcel of land. The determination by the Council shall be conclusive upon the owners of the property assessed. (Ord. 13.01 §18, 1984)

10.05.190 Assessment liens.

All assessments made in pursuance of this Chapter shall be a lien in the several amounts assessed against each tract or parcel of land from the effective date of the assessing ordinance and shall have priority over all other liens except general tax liens, prior assessment liens and possibly certain liens in favor of the United States of America or any agency, instrumentality or corporation thereof. (Ord. 13.01 §19, 1984)

10.05.200 Finality of assessments; apportionment.

Except as hereinafter provided, the assessments when made and apportioned and adopted by the Council as provided in this Chapter shall be final. The Council may, in the ordinance levying the assessments, provide either (1) that assessments shall not thereafter be apportioned as to subsequent subdivisions of assessed tracts, and the entire tract so assessed shall remain liable for the entire assessment on the tract; or (2) that assessments may thereafter be apportioned as to subsequent subdivisions of assessed tracts, on a basis determined in the ordinance levying the assessments. (Ord. 13.01 §20, 1984)

10.05.210 Remedies for defective assessments.

No delays, mistakes, errors, defects or irregularities in any act or proceedings authorized by this Chapter shall prejudice or invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings as the case may require, and when so remedied, the same shall take effect as of the date of the original act or proceeding. (Ord. 13.01 §21, 1984)

10.05.220 Terms of assessment payments.

Assessments shall be due and payable, without interest and without demand, within thirty (30) days after the effective date of the assessment ordinance. If the assessment ordinance so provides, the assessments may, at the election of the property owner, be paid in installments, with interest. If installment payments are so provided for, failure to pay the whole assessment within such period of thirty (30) days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid. All persons so electing to pay in installments shall be conclusively considered and held as consenting to the improvements, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power or jurisdiction of the Town to construct or otherwise acquire the improvements, the quality of work, the regularity or sufficiency of the proceedings or the validity or correctness of the assessment. The owner of any piece of property may at any time pay the whole unpaid principal with the interest accrued to the next interest payment date, together with penalties, if any. Subject to the foregoing provisions, all installments both of principal and interest shall be payable at such times as may be determined in and by the assessment ordinance. (Ord. 13.01 §22, 1984)

10.05.230 Interest on installment payments.

In case of such election by a property owner to pay in installments, the assessment shall be payable with interest on the unpaid principal payable at such times as may be provided by the assessment ordinance at a rate at least equal to the highest interest rate borne by any bonds theretofore issued in connection with the improvement district. (Ord. 13.01 §23, 1984)

10.05.240 Cash payment of assessments; notice.

Payments may be made to the Town Treasurer at any time within thirty (30) days after the effective date of the assessing ordinance, without penalty or the payment of interest. The Town Treasurer shall give notice by publication in a newspaper of general circulation in the Town at least once, at least twenty (20) days before the end of such thirty-day period, of the place of payment and the time for it to close. At the expiration of such thirty-day period, the Town Treasurer shall prepare or cause to be prepared a permanent assessment roll reflecting amounts remaining due in installments, if any. (Ord. 13.01 §24, 1984)

10.05.250 Installment payments of assessments; collection.

Assessment installment payments may be made payable at the office of the Town Treasurer or at the office of the County Treasurer as provided in the assessment ordinance. If assessment installment payments are to be paid to the County Treasurer, the Town Treasurer shall certify and deliver the final assessment roll to the County Treasurer with his or her warrant for the collection of the

remaining assessments. If the assessment roll is so certified and delivered to the County Treasurer for collection, the County Treasurer shall receive payment of all assessments appearing upon the assessment roll, with interest; and in case of default in the payment of any installment of principal or interest when due, the County Treasurer shall advertise and sell any and all property concerning which such default is suffered, for the payment of the whole of the unpaid assessment thereon, with interest and penalties. All collections made by the County Treasurer upon the assessment roll in any calendar month shall be accounted for and paid over to the Town Treasurer on or before the tenth day of the next succeeding calendar month with a separate statement for all such collections for each improvement district. (Ord. 13.01 §25, 1984)

10.05.260 Penalties.

The assessment ordinance may provide such penalties for delinquent payments of any installments as it may deem appropriate, including, without limitation, acceleration of principal, penalty interest and payment of the costs of collection. (Ord. 13.01 §26, 1984)

10.05.270 Compulsory connections.

Before commencing work in any improvement district pursuant to this Chapter, the Council may order the owners of the abutting real estate to connect their several premises with the gas or water mains or sewer lines, or with any other utilities in the street in front of their several premises. On default of the owners for thirty (30) days after the order to make such connections, the Council may contract for and make such connections at the distance, under such regulations and in accordance with such specifications as may be prescribed by the Council. The whole cost of each connection shall be assessed against the premises with which the connection is made. Any number of such connections may be included in one (1) contract but the cost shall be paid upon the completion of the work, in one (1) sum, and shall not be subject to remonstrance. Upon default in the payment of any such assessment, the Town may enforce such assessment, or cause the County Treasurer to enforce such assessment, in the same manner as any other assessment levied pursuant to this Chapter. (Ord. 13.01 §27, 1984)

10.05.280 Special assessment bonds.

For the purpose of paying all or such portion of the cost of any improvement constructed under the provisions of this ordinance as may be assessed against the property specially benefited, special assessment bonds of the Town may be issued of such date and in such form as may be prescribed by ordinance of the Council, and payable within a sufficient period of years after date to cover the period of assessment payments, but subject to call with or without premium. Special assessment bonds may be issued at any time after an improvement district is created, either before or after assessments are levied, based on the then current estimates of the cost of the improvements. Except as hereinafter provided, the bonds shall be payable out of the moneys collected on account of the assessments made for the improvements. All moneys collected from such assessments for any improvements shall be applied to the payment of the bonds issued until payment in full is made of all the bonds, both principal and interest, except entire that the Town may reimburse itself for moneys advanced to pay bonds or interest thereon, from moneys subsequently received from assessments and not then needed to maintain or restore current payments of interest and annual payments of principal on the bonds. The bonds may be used in payment of the cost of improvements as herein specified, or the Council, in

its discretion, may sell the bonds at public or private sale, at, above or below par, to pay such costs in cash. The bonds shall bear interest as may be fixed by the Council. (Ord. 13.01 §28, 1984)

10.05.290 Redemption of bonds.

Whenever on any interest payment date there will be available funds derived from the assessment payments pledged to such bonds, it shall be the duty of the Town Treasurer to call in and pay a suitable number of the bonds outstanding by giving notice as prescribed in the ordinance authorizing the bonds. (Ord. 13.01 §29, 1984)

10.05.300 Additional security for bonds.

The Council, in the ordinance authorizing the issue of special assessment bonds, may provide for the mill levies and bond payment authorized by Section 12.4 of the Charter and make covenants in regard thereto. (Ord. 13.01 §30, 1984)

10.05.310 Waivers.

Any procedure or right granted in this Chapter to any property owner may be waived by such owner in writing. (Ord. 13.01 §31, 1984)

10.05.320 Actual receipt of mailed notice not required.

Whenever the Town Clerk has certified that any notice was mailed as required in this Chapter, the fact that the person to whom it was addressed did not receive it shall not in any manner invalidate or affect the proceedings herein provided for. (Ord. 13.01 §32, 1984)

10.05.330 Limitation of actions.

No action or proceeding, at law or in equity, to review any acts or proceedings or to question the validity or enjoin the performance of any act relating to improvement districts (including, without limitation, the creation of any improvement district, the ordering of the improvements, the issuance or payment of any bonds, or the levy or collection of any assessments), or for any other relief against any acts or proceedings done or had relating to improvement districts, whether based upon irregularities or jurisdictional defects, shall be maintained unless commenced within thirty (30) days after the performance of the act or the passage of the resolution or ordinance complained of, or else it shall be thereafter perpetually barred. (Ord. 13.01 §33, 1984)

CHAPTER 10.06

**Manual on Uniform Traffic Control
Devices for Streets and Highways**

10.06.010 Title.

The provision of this Chapter shall be known and cited as the Town of Parker Manual on Uniform Traffic Control Devices for Streets and Highways ordinance. (Ord 5.33 §1, 1991)

10.06.020 *Manual on Uniform Traffic Control Devices for Streets and Highways* adopted.

The *Manual on Uniform Traffic Control Devices for Streets and Highways*, as published by the U.S. Department of Transportation, Federal Highway Administration, 2009 Edition, is hereby adopted by reference and incorporated into this Chapter as though fully set forth herein. Except as otherwise provided hereafter, such code is adopted in full, including the outline of contents, index and appendices contained therein. (Ord. 5.33.3 §1, 2010; Ord. 5.33.2 §1, 2005; Ord. 5.33.1 §1, 2001; Ord 5.33 §1, 1991)

10.06.030 *Jurisdiction defined.*

Whenever the word *jurisdiction* is used in the *Manual on Uniform Traffic Control Devices for Streets and Highways*, it shall be held to mean that area included within the corporate limits of the Town or any area hereafter annexed to the Town. (Ord 5.33 §1, 1991)

10.06.040 *Colorado Supplement to the Federal Manual on Uniform Traffic Control Devices, 2003* adopted.

The Colorado Supplement to the Federal Manual on Uniform Traffic Control Devices, 2003, as adopted by the Transportation Commission of Colorado, effective September 14, 2004, is hereby adopted by reference and incorporated into this Chapter as though fully set forth herein. (Ord. 5.67 §1, 2006)

CHAPTER 10.07

Adopt a Street Program

10.07.010 *Findings of fact.*

The Town finds that the creation of an "Adopt a Street" program will foster civic pride, help beautify the Town and encourage greater participation in the Town's affairs. Moreover, the Adopt a Street program will enable volunteer groups to perform a useful community service while receiving community recognition for the group's efforts. (Ord. 4.47 §1, 1993)

10.07.020 *Adopt a Street program created.*

An Adopt a Street program is hereby created within the Town, whereby civic-minded volunteer groups can contribute to the Town's effort of maintaining litter-free streets and roadways. The Town may post signs at the end of the Adopt a Street section identifying the group that will maintain the street or roadway. (Ord. 4.47 §1, 1993)

10.07.030 *Designation and establishment of Adopt a Street.*

The Public Works Director or his or her designee will work with the volunteer groups to establish street sections within the Town which shall be "adopted" by the volunteer groups. The Public Works Director or his or her designee will be responsible for the operation of the Adopt a Street program. (Ord. 4.47 §1, 1993)

10.07.040 Safety regulation requirements.

All Adopt a Street volunteers shall be required to wear orange safety vests and shall observe safety regulations provided by the Town. Distribution of safety regulations to individual volunteer members shall be the responsibility of the volunteer group. (Ord. 4.47 §1, 1993)

10.07.050 Agreement and release.

Prior to participating in the program, all volunteer groups shall execute an agreement setting forth the obligations of both the Town and the volunteer groups relative to the Adopt a Street program. As a condition of participation, all volunteers who participate in the Adopt a Street program shall execute a release of liability document in a form provided by the Town, absolving the Town from liability for harm arising out of participation in the program. (Ord. 4.47 §1, 1993)

10.07.060 Services provided by the Town.

The Town shall furnish orange safety vests for each participant, as well as the trash bags needed for roadside trash removal. The Town shall arrange for the removal of full trash bags on a specified day. (Ord. 4.47 §1, 1993)

CHAPTER 10.08

Community Events

10.08.010 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

Block party means the gathering of any group of ten (10) or more persons in the public right-of-way in any residential neighborhood for the purposes of holding a picnic, party, celebration or other event for which the safety of the participants can be protected by the placement of barricades or other street-closure apparatus.

Community event means the gathering or planned gathering of any group of ten (10) or more persons in or upon any public right-of-way, public facility or privately owned property where such event is likely to impact the normal flow of pedestrian or vehicular traffic on a public right-of-way. Community events shall include, but not be limited to, such events as block parties, parades or rallies.

Parade means any march or procession consisting of people, animals or vehicles, or any combination thereof, except funeral processions and motorcades of the United States Armed Services, Colorado Armed Forces, Town police and South Metro Fire Rescue Authority, upon any public street, highway, sidewalk, alley or public right-of-way which does not comply with normal and usual traffic regulations or controls.

Person means every natural person, firm, partnership, association or corporation.

Rally means the gathering of any group of ten (10) or more natural persons in a single location on a public street, sidewalk, alley, right-of-way or park for the purpose of expressing speech

protected by the First Amendment of the United States Constitution. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §1, 1997; Ord. 5.43 §1, 1995)

10.08.020 Permits required.

It shall be unlawful for any person to conduct a community event or to knowingly participate in any community event unless and until a permit to conduct such community event has been obtained from the Town Administrator or designee. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §2, 1997; Ord. 5.43 §1, 1995)

10.08.030 Parade for commercial purposes prohibited.

No permit shall be issued authorizing the conduct of a parade which the Town Administrator or designee finds is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise or event, and is designed to be held purely for private profit. A school, governmental agency, civic or social organization, or other similar entity, is the only entity which shall be considered for a community event permit for a parade. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §3, 1997; Ord. 5.43 §1, 1995)

10.08.040 Interference with community event.

No person shall knowingly join or participate in any community event conducted under a permit in violation of any of the terms of said permit, nor knowingly join or participate in any community event without the consent or over the objection of the permittee, nor in any manner that interferes with or obstructs its progress or conduct. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §4, 1997; Ord. 5.43 §1, 1995)

10.08.050 Application for permit.

The Town Council may approve the form of the application for community events by resolution. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §5, 1997; Ord. 5.43 §1, 1995)

10.08.060 Issuance or denial of community event permit application.

(a) The Town Administrator or designee is authorized to issue a community event permit subject to the applicant's written agreement to comply with the terms of such permit and this Chapter, unless the Town Administrator or designee finds the following:

(1) The time, route or size of the community event will disrupt to an unreasonable extent the movement of other traffic;

(2) The community event is of a size or nature that requires the diversion of so great a number of police officers of the Town to properly police the line of movement and the area contiguous thereto that allowing the community event would deny reasonable police protection to the Town; or

(3) Such community event will interfere with another community event for which a permit has previously been issued.

(b) Standards for denial. The Town Administrator or designee shall deny an application for a community event permit under this Chapter and notify the applicant of such denial if the Town Administrator or designee determines the following:

(1) The Town Administrator or designee makes any finding contrary to the findings required to be made for the issuance of a permit set forth in Subsection (a) above;

(2) The information contained in the application is found to be false or nonexistent in any substantive or material detail;

(3) The applicant refuses to agree to abide by or comply with all conditions of the permit or this Chapter;

(4) The applicant refuses or is not able to satisfy the requirements of this Chapter or the terms and conditions of the form of application approved by the Town Council; or

(5) Previous termination or violation of a community event permit by the applicant. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §6, 1997; Ord. 5.43 §1, 1995)

10.08.070 Contents of permit.

(a) In each community event permit issued, the Town Administrator or designee shall specify:

(1) The type of community event approved;

(2) The assembly area and time therefor;

(3) The starting time;

(4) The route or description of the location of the community event;

(5) The disbanding time; and

(6) Such other requirements as are found by the Town, South Metro Fire Rescue Authority, Tri-County Health or other agencies as deemed necessary during the review of the community event application.

(b) All conditions of the community event permit shall be complied with so far as reasonably practicable. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §7, 1997; Ord. 5.43 §1, 1995)

10.08.080 Appeal procedure.

Upon denial by the Town Administrator or designee of a community event application made pursuant to Subsection 10.08.060(a) of this Chapter, the applicant may file a written notice of appeal from the determination of the Town Administrator or designee with the Town Clerk within five (5) days thereafter. Such appeal shall be heard before the Town Council at its next meeting. Upon such appeal, the Town Council may reverse, affirm or modify in any regard the determination of the Town Administrator or designee. Pursuit of an appeal under this Section is a prerequisite to seeking judicial relief. Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §8, 1997; Ord. 5.43 §1, 1995)

10.08.090 Officials to receive notice.

Immediately upon the granting of a permit for a community event, the Town Administrator or designee shall send a copy thereof to the following persons:

- (1) The Town Council;
- (2) The Fire Chief for the South Metro Fire Rescue Authority;
- (3) The Chief of Police;
- (4) The Public Works Director;
- (5) The Town Clerk; and
- (6) The Parker Community Affairs Director. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §9, 1997; Ord. 5.43 §1, 1995)

10.08.100 Revocation of permit and reinstatement.

Any permit for a community event issued pursuant to this Chapter may be summarily revoked by the Town Administrator or designee at any time when, by reason of disaster, public calamity, riot or other emergency, the Town Administrator or designee determines that the safety of the public or property requires such revocation. Notice of such revocation shall be delivered in writing to the permittee by personal service or by certified mail, return receipt requested. Any permit revoked pursuant to this Section may be reinstated if the basis for the revocation no longer exists. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §10, 1997; Ord. 5.43 §1, 1995)

10.08.110 Responsibilities of community event sponsor.

The sponsor of the application for the community event shall be responsible to coordinate with the Police Department and the Public Works Department for the barricading or blocking of the right-of-way, where applicable, to prevent the travel of motor vehicles through the community event site. The applicant shall comply with the terms of any community event permit issued by the Town. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §12, 1997; Ord. 5.43 §1, 1995)

10.08.120 Penalties.

- (a) A violation of the provisions of this Chapter shall be punishable as follows:
 - (1) By a fine of not more than nine hundred ninety-nine dollars (\$999.00);
 - (2) Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate offense;
 - (3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or equity.

(b) The Police Department or Neighborhood Services Division shall be responsible for the enforcement of the approved community event permit and all conditions. Should the conditions set forth by South Metro Fire Rescue Authority be found to be in violation, South Metro Fire Rescue Authority shall notify the Police Department or Neighborhood Services Division for enforcement of penalties as noted in Subsection (a) above. (Ord. 5.43.2 §1, 2010; Ord. 5.43.1 §13, 1997; Ord. 5.43 §1, 1995)

CHAPTER 10.09

Public Rights-of-Way Construction, Excavation and Work

10.09.010 Definitions.

For the purpose of this Chapter, the following words shall have the following meanings:

Director means the Director of Public Works of the Town, or another authorized representative of the Town as designated by the Director of Public Works.

Fence means any artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected to enclose, partition, beautify, mark or screen areas of land.

Infrastructure means any public facility, system or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets and sidewalks, and public safety equipment.

Landscaping means materials including, without limitation, grass, ground cover, shrubs, vines, hedges or trees and nonliving natural materials commonly used in landscape development, as well as attendant irrigation systems.

Permittee means the holder of a valid permit issued pursuant to this Chapter.

Person means any person, firm, partnership, special, metropolitan or general district, association, corporation, company or organization of any kind.

Public right-of-way or *right-of-way* or *public way* means any public street, way, place, alley, sidewalk, easement, park, square, plaza and Town-owned right-of-way or any other public property owned or controlled by the Town and dedicated to public use.

Specifications means engineering regulations, construction specifications and design standards adopted by the Town.

Structure means anything constructed or erected with a fixed location below, on or above grade including, without limitation, foundations, fences, retaining walls, awnings, balconies and canopies.

Town means the Town of Parker, Colorado.

Utility provider means any utility provider that has underground or aboveground facilities situate in the Town.

Work means any labor performed on, or any use or storage of equipment or materials in the public rights-of-way, including, but not limited to, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, street lights and traffic signal devices. It shall also mean construction, maintenance and repair of all underground and aboveground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire or any other similar structure located above or below the surface of any public way, and installation of overhead poles used for any purpose. (Ord. 4.53.1 §1, 1997; Ord. 4.53 §1, 1997)

10.09.020 Police powers.

The permittee's rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce ordinances, including amendments to this Chapter, necessary to the safety, health and welfare of the public. The permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this Chapter and the permit to the contrary. Any conflict between the provisions of this Chapter or the permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter. (Ord. 4.53 §1, 1997)

10.09.030 Permit required.

(a) No person, except an employee or official of the Town or a person under contract with the Town, shall undertake or permit to be undertaken any construction, excavation or work in the public right-of-way without first obtaining a permit from the Town as set forth in this Chapter, except as provided in Section 10.09.180 of this Chapter. Each permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the Town.

(b) No permittee shall perform construction, excavation or work in an area larger or at a location different than that specified in the permit or permit application. But if, when construction, excavation or work is commenced under an approved permit, it becomes necessary to perform construction, excavation or work in a larger or different area than originally requested under the application, the permittee shall notify the Director immediately upon discovery of the need to do additional work and within twenty-four (24) hours shall file a supplementary application for the additional construction, excavation or work.

(c) Permits shall not be transferable or assignable, and work shall not be performed in any place other than that specified in the permit. The applicant may subcontract the work to be performed under a permit, provided that the holder of the permit shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required.

(d) In the Town of Parker, the physical construction of public improvements in new developments is the responsibility of the developer of the land. Ownership of those improvements

remains with the developer of the land until written acceptance by the Town. Any person performing work on those improvements which are within a public way, but prior to acceptance by the Town, shall obtain a permit from the Town and permission from the owner of the improvements in the public way. The permittee shall be financially responsible to the owner of the improvements to carry out all remedial work necessary to receive acceptance by the Town of those improvements. This financial obligation shall apply only to the work in the public way done by the permittee. (Ord. 4.53 §1, 1997)

10.09.040 Permit application; permit contents.

An applicant for a permit to allow construction, excavation or work in the public right-of-way under this Section shall:

(1) File a written application on forms furnished by the Town that include the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor licensed to perform work in the public right-of-way; the exact location of the proposed construction, excavation or work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or work; the purpose of the proposed construction, excavation or work; the dates for beginning and ending the proposed construction, excavation or work; the measurements, quantities, itemization and total cost, including labor and materials, of the construction improvements and excavations; and type of work proposed.

(2) Include evidence that the applicant or its contractor is not delinquent in payments due the Town on prior work.

(3) Include evidence of all permits or licenses (including required insurance, deposits, bonding and warranties) required to do the proposed work, if licenses or permits are required under the laws of the United States, the State or the ordinances of the Town.

(4) Provide a satisfactory plan of work showing protection of the subject property and adjacent properties when the Town determines such protection is necessary.

(5) Provide a satisfactory plan for the protection of shade and ornamental trees and the restoration of turf when the Town determines that damage may occur to such trees or turf.

(6) Include evidence that all orders issued by the Town to the applicant, requiring the applicant to correct deficiencies under previous permits issued under this Chapter, have been satisfied.

(7) Include with the application, engineering construction drawings or site plans for the proposed construction, excavation or work.

(8) Include with the application a satisfactory traffic control and erosion protection plan for the proposed construction, excavation or work.

(9) Pay the fees prescribed by this Chapter.

(10) Provide any other information requested by the Director, depending on the nature and scope of the work involved.

For the benefit of the Town, each permit issued under this Section should state the right-of-way permit number; the date of issue and expiration of the permit; the name and address of the permittee; the name and address of the developer, contractor or subcontractor licensed to perform work under the permit; the location, nature and purpose of the proposed construction, excavation or work permitted; any conditions of approval (including, but not limited to, inspection, testing, certification and provision of as-built drawings); the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the permit; references for the engineering construction drawings or site plans; references to any supplemental permits (wetland, floodplain development, state highway access or utility, revocable right-of-way and water and sewer utility permits, etc.) required; and the amount of fees and deposits paid, and bonds filed by the permittee. (Ord. 4.53 §1, 1997)

10.09.050 Permit fee.

Before a permit is issued pursuant to this Chapter, the applicant shall pay to the Director a permit fee, which shall be determined in accordance with a fee schedule adopted by the Town Council by resolution. (Ord. 4.53 §1, 1997)

10.09.060 Utility providers.

Utility providers shall be subject to all regulations, procedures and fees imposed by this Chapter. (Ord. 4.53.1 §2, 1997; Ord. 4.53 §1, 1997)

10.09.070 Insurance and indemnification.

(a) Prior to the granting of any permit, the Director shall require the filing of an insurance policy or certificate with coverage as follows:

(1) The property owner shall be insured against personal injury and property damage by insurers acceptable to the Town, but in no event less than the coverages described as follows:

a. Workers' compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work, and employer's liability insurance with minimum limits of five hundred thousand dollars (\$500,000.00) each accident, five hundred thousand dollars (\$500,000.00) disease - policy limit and five hundred thousand dollars (\$500,000.00) disease - each employee. Evidence of qualified self-insured status may be substituted for the workers' compensation requirements of this Section.

b. General liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.

c. Comprehensive automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) each occurrence and one million dollars (\$1,000,000.00) aggregate with respect to each of the applicant's owned, hired and nonowned vehicles assigned to or used in performance of the work. The policy shall contain a severability of interests provision. If the applicant has no owned automobiles, the requirements of this Subparagraph shall be met by each employee of the applicant performing work.

d. The policy required by Subparagraph b. above shall be endorsed to include the Town and the Town's officers, employees and consultants as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by the applicant. The applicant shall be solely responsible for any deductible losses under any policy required above.

e. The certificate of insurance provided for the Town shall be completed by the applicant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by the Town prior to issuance of the permit. No other form of certificate shall be used. The certificate shall identify this Section and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days' prior written notice has been given to the Town. The completed certificate of insurance shall be sent to:

Town of Parker
Attn: Risk Management
20120 East Mainstreet
Parker, Colorado 80138

The insurance shall not be released until the Public Works Department has completed its final inspection and given final approval of the work.

(2) Special hazards coverage, such as, but not limited to, property damage as a result of explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, shall all be specifically added by endorsement to the hereinabove required liability policies.

(b) Whenever any person has filed with the Director evidence of insurance as required, any additional or subsequent license holder in the employ of said initial person shall not be required to deposit or file any additional evidence of insurance.

(c) Each permittee shall construct, maintain and operate its facilities in a manner which provides protection against injury or damage to persons or property. The permittee for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall save the Town harmless, defend and indemnify the Town, its successors, assigns, officers, employees, agents and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the Town for all its reasonable expenses, as incurred, arising out of the installation and operation of the permittee's system within the streets and rights-of-way, including, but not limited to, the action of the permittee, its employees, agents, contractors, related entities, successors and assigns or the securing of and the exercise by the permittee of the

permit rights granted in the permit, including any third-party claims, administrative hearings, actions for copyright infringement and litigation; whether or not any act or omission complained of is authorized, allowed or prohibited by this Chapter. The terms of each contract awarded by the permittee for activities pursuant to a permit shall contain indemnity provisions whereby the contractor shall indemnify the Town to the same extent as described above. The permittee shall have the right to defend the Town with regard to all damages and penalties arising in any way out of the exercise of any rights in the permit. If at any time, however, the Town elects to defend itself with regard to such matters, the permittee shall pay all actual expenses incurred by the Town related to its defense. In the event the Town institutes litigation against the permittee for a breach of the permit or for an interpretation of this Chapter and the Town is the prevailing party, the permittee shall reimburse the Town for all costs related thereto, including reasonable attorneys' fees. The permittee shall not be obligated to hold harmless or indemnify the Town for claims or demands to the extent that they are due solely to the gross negligence or any intentional and/or willful acts of the Town or any of its officers, employees or agents. (Ord. 4.53.4 §1, 2004; Ord. 4.53 §1, 1997)

10.09.080 Warranty guarantee.

(a) Each permittee, before being issued a permit, shall provide the Town, at the permittee's expense, a performance/warranty guarantee. This guarantee shall be in the form of cash or an irrevocable letter of credit; provided, however, that no letter of credit shall be required for projects involving a construction cost of two thousand dollars (\$2,000.00) or less.

(b) The guarantee shall be in an amount equal to one hundred percent (100%) of the Town's estimate of the cost of restoration. The cost of restoration shall include, without limitation, the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The irrevocable letter of credit shall run for a period of time of at least two (2) years beyond the anticipated acceptance date of the work identified in the permit. Such guarantees shall be extended if requested by the Town.

(c) The Town may waive the performance/ warranty guarantee requirements for any owner of a single-family residence desiring to repair their driveway or sidewalk, provided the owner performs the work personally and upon satisfactory evidence to the Town that the applicant is competent to perform the work.

(d) Notwithstanding anything to the contrary contained in this Section, any contractor performing work pursuant to a contract directly with the Town shall adhere to the performance payment requirements set forth in the contract documents. (Ord. 4.53.1 §3, 1997; Ord. 4.53 §1, 1997)

10.09.090 Purpose of performance/warranty guarantee.

(a) Any warranty made hereunder shall serve as security for the performance of work necessary to repair the public right-of-way if the permittee fails to make the necessary repairs or to complete the work under the permit.

(b) The permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the Town and warrants and guarantees all work done by him or her for a period of two (2) years after the date of acceptance, and agrees to maintain

upon demand and to make all necessary repairs during the two-year period. This warranty shall include, but not be limited to, all repairs and actions needed as a result of:

- (1) Defects in workmanship.
- (2) Settling of fills or excavations.
- (3) Any unauthorized deviations from the approved plans and specifications.
- (4) Failure to barricade.
- (5) Failure to clean up during and after performance of the work.
- (6) Any other violation of this Chapter or the ordinances of the Town.

(c) The two-year warranty period shall run from the date of the Town's acceptance of the work. If repairs are required during the two-year warranty period, those repairs need only be warranted until the end of the initial two-year period starting with the date of initial acceptance. It is not necessary that a new two-year warranty be provided for subsequent repairs after initial acceptance. It shall be the responsibility of the permittee to obtain written notification from the Town of final acceptance at the completion of the two-year warranty period.

(d) At any time prior to completion of the two-year warranty period, the Town may notify the permittee of any needed repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the Town to be an imminent danger to the public health, safety and welfare. Nonemergency repairs shall be completed within thirty (30) days after notice. (Ord. 4.53 §1, 1997)

10.09.100 Inspections.

The permittee shall notify the Town immediately before commencement of the work. The Town then reserves the right to inspect the work at any time during construction and/or excavation. In addition, after completion of work operations, an inspection shall occur, and acceptance will be made if all work meets Town and permit standards. Further, approximately thirty (30) days prior to the expiration of the two-year guarantee, the Town shall perform an additional inspection of the completed work. The permittee shall be responsible for notifying the Town of the need for the final inspection approximately thirty (30) days prior to the completion of the two-year period. If the work is still satisfactory, the cash or letter of credit for individual permit holders shall be returned, less any amounts needed to complete work not done by permittee. (Ord. 4.53 §1, 1997)

10.09.110 Public safety and nuisance.

A person who obtains a permit for construction, excavation or work in the public right-of-way shall maintain a safe work area, free of nuisance conditions. The Town may make any repair necessary to eliminate any hazards or nuisances or work not performed as directed. Any such work performed by the Town shall be completed and billed to the permittee at overtime rates. The permittee shall pay all such charges within thirty (30) days of the statement date. If the permittee fails to pay such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. Furthermore, the permittee

shall be barred from performing any work in the public right-of-way, and under no circumstances will the Town issue any further permits of any kind to said permittee, until such time that all outstanding charges have been paid in full. (Ord. 4.53 §1, 1997)

10.09.120 Time of completion.

(a) All work covered by the permit shall be completed by the date stated on the application. Permits shall be void if work has not been completed sixty (60) days after issuance. However, a permit may be extended for a period no longer than thirty (30) days upon application submitted to the Public Works Department prior to the expiration of the sixty-day period of the permit. If the sixty-day period expires and the permit is therefore void, a new permit application must be filed to complete any remaining work.

(b) Letters of credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit. (Ord. 4.53.1 §4, 1997; Ord. 4.53 §1, 1997)

10.09.130 Traffic control.

(a) When it is necessary to obstruct traffic, a detour plan shall be submitted to the Town prior to starting construction. No permit will be issued until the plan is approved by the Town. No permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures or any other vital equipment, unless permission is obtained in writing from the owner of that facility, equipment or property. If a street closing is desired, the applicant will request the assistance and obtain approval of the Director. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance and transit organizations.

(b) When necessary for public safety, the permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the Director.

(c) Unless approved by the Director, the permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the Director.

(d) Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights. Oil flares or kerosene lanterns are not allowed as means of illumination.

(e) Part VI of the Manual on Uniform Traffic Control Devices shall be used as a guide for all maintenance and construction signing. The permittee shall illustrate on the permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be increased, decreased or modified. (Ord. 4.53 §1, 1997)

10.09.140 Minimizing the impacts of work in the rights-of-way.

(a) Relocation and protection of utilities. Before any permittee begins excavation in any public way, he or she shall contact the Utility Notification Center of Colorado and make inquiries of all ditch companies, utility companies, districts, municipal departments and all other agencies that might have facilities in the area of work to determine possible conflicts.

The permittee shall contact the Utility Notification Center of Colorado and request field locations of all facilities in the area at least forty-eight (48) hours in advance. Field locations shall be marked prior to commencing work. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

(b) Noise, dust, debris, hours of work. Each permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust and unsightly debris. No work shall be done between the hours of 8:00 p.m. and 7:00 a.m. nor at any time on Sunday, except with the written permission of the Director, or in case of an emergency.

(c) Trash and construction materials. Each permittee shall maintain the work site so that:

(1) Trash and construction materials are contained so that they are not blown off of the construction site.

(2) Trash is removed from a construction site often enough so that it does not become a health, fire or safety hazard.

(3) Trash dumpsters and storage or construction trailers are not placed in the right-of-way without specific approval of the Director.

(d) Deposit of dirt and material on roadways. Each permittee shall comply with the requirements to eliminate the tracking of mud or debris upon any street or sidewalk as prescribed by the Town. Equipment and trucks used during construction, excavation or work activity shall be cleaned of mud and debris prior to leaving any work site.

(e) Protection of trees and landscaping. Each permittee shall protect trees, landscape and landscape features as required by the Town. All protective measures shall be provided at the expense of the permittee.

(f) Protection of paved surfaces from equipment damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved surfaces, unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, upon order of the Director, shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the Town to repair any damage.

(g) Protection of property. Each permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his or her own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

(h) Clean up. As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock and other debris. All clean up operations shall be done at the expense of the permittee.

(i) Preservation of monuments. Each permittee shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the Director. Any monuments, hubs and points disturbed will be replaced by a Colorado registered land surveyor at the permittee's expense.

(j) Parking. Each permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not impacted.

(k) Unobstructed walkway. Each permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk in conformance with Town regulations.

(l) Snow and ice. Each permittee shall clear all snow and ice hazards from public sidewalks at the work site by noon following a snowfall in conformance with Town regulations. (Ord. 4.53 §1, 1997)

10.09.150 Standards for repairs.

(a) The permittee shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with any and all engineering regulations, construction specifications and design standards adopted by the Town. These standards shall apply to all work in the public way unless otherwise indicated in the permit.

(b) All restoration shall result in a work site condition equal to or better than that which existed prior to construction. In addition to the regulations, specifications and standards referred to in Subsection (a) above, and in addition to the specifications contained in Standard Detail No. 13 in the Town of Parker Construction Criteria Manual, the following provisions shall apply to work in the public rights-of-way of the Town.

(1) Arterials, collectors or concrete local roads shall be subject to the following minimum requirements:

a. If a utility trench crosses an arterial, collector or concrete local road, no open roadway cuts shall be allowed.

b. Crossings of an arterial, collector or concrete local road shall be accomplished by jacking or boring, and the cables, conduit or pipes shall be encased in sleeves or casing pipe.

c. With the written permission of the Director, open street cuts on asphalt roads may be permitted. The details of the open cut, including the backfill process and traffic control, shall be agreed to by the Director prior to commencement of the work. Such street cuts under local roads or under gravel roads shall be filled with flowable fill of a Class C concrete.

d. Flowable fill shall be placed in the trench against undisturbed material at both sides and at the bottom of the trench in a manner that shall prevent floating or shifting of the pipe and voids in, or segregation of, the concrete.

e. Foreign material that falls into the trench prior to or during the placing of the concrete shall be removed immediately.

f. If necessary, earth plugs shall be constructed and compacted at the ends of the planned concrete backfill to contain the concrete within the trench.

g. Existing pavement shall be cut on all sides of the trench.

h. The entire excavation shall be tack coated with CSS-1h emulsified asphalt diluted with one (1) part water; a six (6) inch or existing pavement thickness (whichever is greater) asphalt concrete patch, meeting the requirements of hot bituminous pavement, Grade E, shall be placed in lifts not to exceed three (3) inches and then compacted.

i. The Public Works Director or his or her representative, in his or her sole discretion, may determine that a thicker patch than that specified above is required.

j. Saw cuts that extend beyond the patch into existing asphalt shall be seated.

k. Steel traffic plates may be required for traffic loads over utility trenches when conditions do not allow quick set to concrete flowfill; the determination of the necessity of traffic plates shall be determined at the time the permit required under this Chapter is obtained.

(2) Concrete roads, sidewalks, driveways, curbs and gutters and other structures shall be subject to the following minimum requirements:

a. In addition to the provisions of this Paragraph, any excavation that cuts a sidewalk, driveway, curb and gutter or other structure shall be backfilled in the same manner as described for the backfilling of arterial, collector or concrete local roads.

b. A neat saw cut shall be made one (1) foot back from each side of the excavation; however, on sidewalks the pavement shall be removed back to the nearest contraction or expansion joint.

c. All broken or spalled concrete or structure material shall be removed and the surface shall be replaced using concrete in accordance with the design standards.

d. All concrete road surface cuts, if granted by special permission of the Town, shall be full panel (or stone) replacement; the replacement panel shall be doweled to adjoining panels with three-quarter-inch by eighteen-inch epoxy-coated steel reinforcing bars on twelve-inch centers.

e. Portland cement concrete shall be placed to a thickness of six (6) inches or the thickness of the removed pavement, whichever is greater.

f. Steel traffic plates may be required for traffic loads over utility trenches when conditions do not allow quick set to concrete flowfill; the determination of the necessity of traffic plates shall be determined at the time the permit required under this Chapter is obtained.

(3) Gravel roads and shoulders shall be subject to the following minimum requirements:

a. Where the original surface was crushed rock or gravel for the wearing surface and foundation material, Class 6 aggregate base course shall be used as replacement material.

b. The Class 6 aggregate base course shall be placed to a compacted thickness minimum of eight (8) inches or the thickness of the removed material plus two (2) inches, whichever is greater.

c. In the area from the right-of-way line to the edge of the pavement, all trenches shall be backfilled with excavated material and compacted to ninety-five percent (95%) standard compaction, or to the density of the existing ground, whichever is greater.

(c) In addition to the provisions of Section 10.09.080 of this Chapter, it is hereby specified that settlement of backfill or replaced pavement over trenches within a two-year period commencing from the date of completion of the work shall be considered the result of improper or inadequate compaction. Deficiencies shall include, but will not be limited to, pavement, vegetation or structures damaged by settlement. (Ord. 4.53 §1, 1997)

10.09.160 Construction and restoration standards for newly constructed or overlaid streets.

(a) No person shall excavate an area in the pavement of any public street or alley for a period of five (5) years from the completion of construction or resurfacing except in compliance with the provisions of this Section.

(b) Application. Any application for a permit to excavate in a public street or alley, subject to the requirements of this Section, shall contain the following information:

(1) A detailed and dimensional engineering plan that identifies and accurately represents the Town blocks, rights-of-way or property that will be impacted by the proposed excavation, as well as the side streets at the ends of the Town blocks. The following information shall also be included on the plan:

(2) The street width or alley width, including curb and gutter over the total length of each Town block, that will be impacted by the proposed excavation.

(3) The location, width, length and depth of the proposed excavation.

(4) The total area of existing street or alley pavement in each individual Town block that will be impacted by the proposed excavation.

(5) A written statement addressing the criteria for approval.

(c) Criteria for approval. No permit for excavation in the right-of-way of new streets shall be approved unless the Director finds that all of the following criteria have been met:

(1) Boring or jacking under the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.

(2) Alternative utility alignments that do not involve excavating the street or alley found to be impracticable.

(3) The proposed excavation cannot reasonably be delayed until after the five-year deferment period has lapsed.

(d) Alternative for excavation in right-of-way of new street. In the event that the Director determines that one (1) or more of the criteria contained in Subsection (c) above are not met and denies the application for a permit for excavation in the right-of-way of a new street, an application may be filed for an alternative permit for excavation. No alternative permit for excavation shall be approved unless the Director finds that all of the following criteria have been met:

(1) The method used to calculate the area of street or alley pavement with reduced useful life (the "Area") shall be the alternative for excavation in the right-of-way of a new street contained within the Town of Parker Roadway Design and Construction Criteria described in Section 10.02.020 of this Title. The fee for future increased maintenance costs to be paid by the applicant shall be the Area multiplied by the Town's current permitting fees.

(2) The Town is provided a financial guarantee in the form of an irrevocable letter of credit or cash arrangement approved by the Town Attorney to warrant the excavation and restoration of the street and/or alley that is the subject of the alternative for excavation within the right-of-way of a new street (the "Warranty Security"). The amount of the Warranty Security shall be determined by the Public Works Director. The Warranty Security shall be posted with the Town for the remainder of the initial five (5) years of life for the roadway.

(e) Exemptions for emergency operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property or the restoration of customer utility service. Persons with prior authorization from the Town to perform emergency maintenance operations within the public right-of-way shall be exempted from this Section. Any person commencing operations under the laws of this Section shall submit detailed engineering plans and remediation plans no later than five (5) working days after initiating the emergency maintenance operation.

(f) Construction and restoration standards for newly constructed or overlaid streets and alleys in which a permit for excavation is approved under Subsection (c) above. The streets shall be repaired so as to not reduce the useful life of the pavement in accordance with design and construction standards adopted by the Town. If the total area of the proposed excavation exceeds fifteen percent (15%) of the total area of pavement within a block or involves a trench in excess of one hundred fifty (150) feet in length, the applicant shall remediate the damage caused to the pavement. Remediation will consist of a curb to curb profile and overlay, a center line to curb profile and overlay or a lane line to curb profile and overlay, whichever is necessary, in order not to decrease

the average life expectancy of the street or alley surface. (Ord. 4.53.3 §§1—4, 2002; Ord. 4.53.2 §1, 2000; Ord. 4.53 §1, 1997)

10.09.170 Relocation of facilities.

If at any time the Town requests the permittee to relocate its facilities in order to allow the Town to make any public use of streets or rights-of-way, or if at any time it shall become necessary because of a change in the grade or for any other purpose by reason of the improving, repairing, constructing or maintaining of any street or right-of-way, or by reason of traffic conditions, public safety or by reason of installation of any type of structure or public improvement by the Town or other public agency or special district, and any general program for the undergrounding of such facilities, to move or change the permittee's facilities within or adjacent to streets or rights-of-way in any manner, either temporarily or permanently, the Town shall notify the permittee, at least ninety (90) days in advance, except in the case of emergencies, of the Town's intention to perform or have such work performed. The permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date the Town has notified the permittee that it intends to commence its work or immediately in the case of emergencies. Upon the permittee's failure to accomplish such work, the Town or other public agencies or special district may perform such work at the permittee's expense, and the permittee shall reimburse the Town or other agency within thirty (30) days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by the permittee at the permittee's expense. (Ord. 4.53 §1, 1997)

10.09.180 Emergency procedures.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. *Emergency work* is defined to mean any work necessary to restore water, sewer, gas, phone, electric and cable facilities. Repairs on other facilities in the public way may also be administratively classified as emergency by the Director. The person doing the work shall apply to the Town for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the Public Works Department, the Police Department and appropriate fire protection agencies. (Ord. 4.53 §1, 1997)

10.09.190 Revocation of permits.

- (a) Any permit may be revoked or suspended by the Director, after notice to the permittee for:
 - (1) Violation of any condition of the permit or of any provision of this Chapter.
 - (2) Violation of any provision of any other ordinance of the Town or state law relating to the work.
 - (3) Existence of any condition or performance of any act which does constitute or cause a condition endangering life or damage to property.

(b) A suspension or revocation by the Director, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(c) A stop work order may be issued by the Director to any person or persons doing or causing any work to be done in the public way without a permit, or in violation of any provision of this Chapter, or any other ordinance of the Town.

(d) Any suspension or revocation or stop work order may be appealed by the permittee to the Director by filing a written notice of appeal within ten (10) days of the action. (Ord. 4.53 §1, 1997)

10.09.200 Appeals procedure.

Any decision rendered by the Director may be appealed within thirty (30) days by the permittee to the Board of Adjustment and Appeals. (Ord. 4.53 §1, 1997)

10.09.210 Penalty.

If any person, firm or corporation, including, but not limited to, the officers and agents of a corporation responsible for its actions or inaction, and the partners of a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this Chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted, and, upon conviction of any such violation, such person, firm or corporation, including, but not limited to, such partners, officers or agents, shall be punished as provided in Section 1.02.060 of this Code for each such violation. (Ord. 4.53 §1, 1997)

CHAPTER 10.10

Construction Specifications and Design Considerations for Parks, Trails and Streetscapes

10.10.010 Adoption of standards by reference.

(a) The Town of Parker, Colorado, Construction Specifications and Design Considerations for Parks, Trails and Streetscapes dated August, 2004, and amended on August 21, 2006, and August 18, 2008 ("Standards"), and prepared by the Department of Public Works are hereby adopted by reference as if set forth herein. Copies of those Standards are on file with the Public Works Department, may be inspected by any person and are available for sale between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

(b) The technical methodology may be amended from time to time by the Public Works Director in order to meet the Standards set forth herein. The Public Works Director may also adopt rules and regulations that are in conformity with this Chapter.

(c) The Public Works Director may require the applicant of any permit issued, or required to be issued, under this Chapter to comply with any reasonable criteria, conditions, limitations or standards necessary to avoid or minimize any detrimental effects or impacts, either direct or indirect, which may result from any proposed improvement, public or otherwise.

(d) The Public Works Director may deny the application for any permit required to be issued under this Chapter where the proposed project poses any detrimental impact to the health, safety and welfare of the Town, its residents and visitors. (Ord. 4.52.3 §1, 2008; Ord. 4.52.2 §1, 2006; Ord. 4.52.1 §2, 2004; Ord. 4.52 §1, 1997)

CHAPTER 10.11

Special Districts

10.11.010 Legislative declaration.

(a) Special districts ("Districts") organized under Title 32, Article 1, C.R.S. (the "Special District Act"), under appropriate circumstances, provide an economic alternative to the development of municipal infrastructure at the expense and risk of the Town. The Town has previously authorized numerous Districts within its corporate limits for the sole purpose of development of infrastructure within their respective service areas. In the past, the Town has restricted the authority and autonomy of the Districts through its approving resolutions and intergovernmental agreements.

(b) The intent of this Chapter is to impose conditions, restrictions and requirements on the development by existing Districts of additional public improvements and the issuance of debt, in order to preserve the financial integrity of the Town and the health, safety, prosperity, security and general welfare of all of the residents and citizens of the Town. The Special District Act and the existing intergovernmental agreements between the Town and the Districts in certain respects do not adequately address the local concerns and interests of the Town in regulating the Districts' development of public improvements and incurrence of debt to finance such development, both of which ultimately have a direct financial consequence to the Town. It is necessary and advisable to specify the events and conditions which, under the Special District Act, likely constitute material modifications to an approved district service plan, in the context of the particular business and legal relationship between the Town and Districts. The provisions of this Chapter are also intended to provide procedures for the processing and review of proposals for formation of new Districts, and to define the restrictions and limitations which may be imposed by the Town as a condition to the approval of such Districts consistent with the policy and intent of this Chapter.

(c) The adoption of this Chapter is necessary, requisite and proper for the government and administration of local and municipal matters under the Town's home rule powers granted by Article XX of the Colorado Constitution. The Town Council specifically finds that the determination of whether to use districts to provide for the development of public improvements and incurring of debt to finance such public improvements is purely a matter of local concern for the Town to make. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.020 Definitions.

As used in this Chapter, the following terms, phrases and words shall have the following meanings:

Board means the Board of Directors of a District.

Debt means bonds or other obligations for the payment of which a District has promised to impose an ad valorem property tax mill levy.

District means a special district organized under the Special District Act whose service plan is to be approved by the Town under applicable state law and any existing District that is located wholly within the corporate limits of the Town as of the effective date of this Chapter.

Petitioners means those persons proposing a service plan or an amendment to an approved service plan.

Public Improvements means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act to serve the inhabitants and taxpayers of a District as determined by a District's Board of Directors. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.030 Reservation and construction.

The Town reserves all the powers and authority granted to municipalities by the Special District Act. The provisions of this Chapter shall be construed and applied to supplement the applicable provisions of the Special District Act and, to the extent provided herein, supersede the Special District Act pursuant to the home rule powers granted by Article XX of the Colorado Constitution. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.040 Required annual report.

Not later than September 1 of each calendar year, each District shall file an annual report (the "annual report") with the Town Clerk, the requirements of which may be waived in whole or in part by the Town Council, if such reporting requirements place an undue hardship on such District. The annual report shall reflect activity and financial events of the District through the preceding December 31 (the "report year"). The annual report shall include the following:

- (1) A narrative summary of the progress of the District in implementing its service plan for the report year;
- (2) Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the report year, including a statement of financial condition (i.e., balance sheet) as of December 31 of the report year and the statement of operations (i.e., revenues and expenditures) for the report year;
- (3) Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the District in development of public improvements in the report year, as well as any capital improvements or projects proposed to be undertaken in the five (5) years following the report year;
- (4) Unless disclosed within a separate schedule to the financial statements, 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;

- (5) The District's budget for the calendar year in which the annual report is submitted;
- (6) A summary of residential and commercial development in the District for the report year;
- (7) A summary of all fees, charges and assessments imposed by the District as of January 1 of the report year;
- (8) Certification of the Board that no action, event or condition enumerated in Section 10.11.060 below has occurred in the report year or certification that such event has occurred but that an amendment to the service plan that allows such event has been approved by the Town Council; and
- (9) The name, business address and telephone number of each member of the Board and its chief administrative officer and general counsel, together with the date, place and time of the regular meetings of the Board. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.050 Review of annual report.

Annually, on a date established by resolution of the Town Council, the Town Council at a regular public meeting may review the annual reports received from each District. In the event the annual report is not timely received by the Town Clerk, notice of such default shall be given by certified mail, in accordance with Section 10.11.040 above, to the Board of such District, at its last known address. The failure of the District to file the annual report within forty-five (45) days of the mailing of such default notice by the Town Clerk shall empower the Town Council to impose the sanctions authorized in Section 10.11.220 of this Chapter. The remedies provided for noncompliance with the filing of the annual report shall be supplementary to any remedy authorized by the Special District Act. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.060 Material modification.

The occurrence of any of the following actions, events or conditions, subsequent to the date of approval of the service plan or most recent amendment thereto, shall constitute material modifications requiring a service plan amendment:

- (1) Default in the payment of principal or interest of any debt which:
 - a. Persists for a period of one hundred twenty (120) days or more;
 - b. The defaulted payment aggregates the greater of fifty thousand dollars (\$50,000.00) or ten percent (10%) of the outstanding principal balance of debt; and
 - c. The creditors have not agreed in writing with the District to forbear from pursuit of legal remedies.

(2) The failure of the District to develop, cause to be developed or consent to the development by others of any Public Improvements proposed in its service plan when necessary to service approved development within the District.

(3) Failure of the District to realize at least seventy-five percent (75%) of the development revenues (including developer contributions, loans or advances) projected in the financial portion of the service plan during the three-year period ending with the report year, where *development revenue* is defined as fees, exactions and charges imposed by the District on residential and commercial development, excluding taxes, provided that the disparity between projected and realized revenue exceeds fifty thousand dollars (\$50,000.00).

(4) The development of any Public Improvements in excess of one hundred thousand dollars (\$100,000.00) in cost, which is not either identified in the service plan or authorized by the Town in the course of a separate development approval, excluding bona fide cost projection miscalculations; and state- or federally mandated improvements, particularly water or sanitation facilities.

(5) The occurrence of any event or condition which is defined under the service plan or intergovernmental agreement as necessitating a service plan amendment.

(6) The material default by the District under any intergovernmental agreement with the Town.

(7) Any of the events or conditions enumerated in Section 32-1-207(2), C.R.S., as amended. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.070 Determination of applicability.

Should the District dispute that one (1) or more of the occurrences enumerated in Section 10.11.060 above is a material modification, the District may request a hearing before the Town Council after consultation with Town staff. After hearing and receipt of any relevant information presented by the District and the recommendation of Town staff, the Town Council shall make a finding as to whether such occurrence constitutes a material modification. In the event it is found that a material modification has taken place, the District shall submit its request for an amendment in accordance with this Chapter, unless waived by the Town Council. Upon a finding that no material modification has taken place, the District shall be relieved from obtaining an amendment. The Town Council may, however, require a later amendment if the change or deviation, on a cumulative basis, subsequently becomes material. In making its determination, the Town Council shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the Town. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.080 Service plan amendment.

(a) Except as otherwise provided in the approved service plan and except when the Town Council has determined that no material modification has occurred pursuant to Section 10.11.070 above within ninety (90) days of the occurrence of an action, event or condition enumerated in Section 10.11.060 above, the Board shall forward an appropriate petition to the Town Council for approval requesting a service plan amendment. The petition for amendment shall include:

(1) Any information or documentation required under the applicable provisions of the Special District Act;

(2) Any material changes since the service plan was last reviewed and approved by the Town Council to any of the information, assumptions or projections furnished in conjunction with the petition for approval of organization of a District or contained in the service plan;

(3) A detailed explanation of the activity, events or conditions which resulted in the material modification, including what action was taken or alternatives considered, if any, by the District to avoid the action, event or condition;

(4) The impact of the material modification on the District's ability to develop the public improvements necessary to meet its capital development plan;

(5) The effect of the material modification on the District's ability to retire as scheduled its debt and its ability to issue and market additional debt, if any;

(6) A current financial plan for the District reflecting development absorption rates anticipated within the District's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules and a projection of anticipated capital outlays;

(7) The financial impact of the modification on existing residents of the District;

(8) An updated five-year capital improvements plan; and

(9) What alternatives or options are available to the District if the requested amendment is not approved.

(b) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The amendment shall be processed and reviewed in the same manner as prescribed by this Chapter for an initial service plan, except that the submittal requirements of this Section shall be substituted for those of Section 10.11.050 above, and the application fee shall be two hundred fifty dollars (\$250.00). This Section shall not impair the right of the Town to bring an action in the district court to enjoin the activities of the District pursuant to Section 32-1-207(3)(b), C.R.S., as amended. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.090 Partial exemption.

If any District has not undertaken development of Public Improvements or issued any Debt, it may apply to the Town Council for an exemption from compliance with this Chapter for a period of time not to exceed two (2) years. The Town Council may grant an exemption if the Board submits a resolution to the Town Council stating that, upon issuance of the exemption, the District's authorization under the service plan and the intergovernmental agreement with the Town to undertake development of Public Improvements or issue any Debt is temporarily suspended. With issuance of the partial exemption, the District shall be excluded from compliance with this Chapter, except that

the District annually, not later than September 1, shall submit financial statements from the previous year and the budget for the current year. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.100 Required service plan amendments.

After the effective date of this Chapter, all service plan amendments and amendments to statement of purpose shall comply with this Chapter. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.110 Review of financing.

A District shall not issue any Debt that is not consistent with the service plan previously approved by the Town, without first submitting the proposed financing to the Town for review and comment. The submission shall include the dollar amount of the issue, the estimated interest rate and other financing costs, the type of revenues pledged to repayment, including amount of the mill levy pledged, and a description of the credit enhancements, together with any preliminary official statement or other prospectus for the Debt. The submission shall be accompanied by a certification of the Board that the proposed Debt is authorized by and in compliance with the service plan for the District. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.120 Service plan consideration.

Sections 10.11.130 through 10.11.190 below shall govern the processing, review and consideration of service plans for new Districts, or service plan amendments for existing Districts. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.130 Presubmittal meeting.

Petitioners shall initiate a service plan proposal by meeting with a designated Town staff representative to discuss the procedures and requirements for a service plan. The Town representative shall explain the administrative process and provide information to assist petitioners in the orderly processing of the proposed service plan. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.140 Filing of proposed service plan.

(a) Petitioners shall file a proposed service plan and fifteen (15) additional copies with the Town Clerk. The proposed service plan shall substantially comply with the format of any model service plan which is maintained on file with the Town Clerk. The proposed service plan shall also include, as an exhibit, an intergovernmental agreement between the proposed district and the Town which shall substantially comply with the format of any intergovernmental agreement which is maintained on file with the Town Clerk.

(b) The application and processing fee for a service plan shall be seven thousand five hundred dollars (\$7,500.00), provided that, if the Town Council determines that special review of the service plan or amendment is required, the Town Council may impose an additional fee to reimburse the Town for reasonable direct costs related to such special review. The Town Council may waive all or any portion of the application and processing fee for smaller Districts initiated by the Town's existing residents or businesses. The Town will reimburse any portion of the application and processing fee that is not expended by the Town.

(c) A copy of the proposed petition to be filed with the district court must be included with the proposed service plan filed with the Town. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.150 Service plan contents.

The proposed service plan shall include the following:

(1) The information required under Section 32-1-202(2), C.R.S.

(2) A map of the proposed District boundaries with a legal description, or lot and block description.

(3) An itemization of any costs which petitioners expect to be assumed by the Town for the construction of Public Improvements.

(4) Proof of ownership for all properties within the District.

(5) A copy of any and all proposed, contractual and/or operations documents which would affect or be executed by the proposed District, including the form of any intergovernmental agreement between the District and the Town.

(6) A capital plan including the following:

a. A description of the type of Public Improvements to be developed by the District;

b. An estimate of the cost of the Public Improvements; and

c. A pro forma capital expenditure plan correlating expenditures with development.

(7) A financial plan including the following:

a. The total amount of Debt planned for the five-year period commencing with the formation of the District;

b. All proposed sources of revenue and projected District expenses, as well as the assumptions upon which they are based, for at least a ten-year period from the date of the District formation;

c. The dollar amount of any anticipated financing, including capitalized interest, costs of issuance, estimated maximum rates and discounts, and any expenses related to the organization and initial operation of the District;

d. A detailed repayment plan covering the life of any financing, including the frequency and amounts expected to be collected from all sources;

e. The amount of any reserve fund and the expected level of annual debt service coverage which will be maintained for any financing;

f. The total authorized debt for the District;

g. The provisions regarding any credit enhancement, if any, for the proposed financing, including, but not limited to, letters of credit and insurance; and

h. A list and written explanation of potential risks of the financing.

(8) A map or maps showing the locations of the Public Improvements identified in the capital plan.

(9) The intergovernmental agreement required by Subsection 10.11.140(a) of this Chapter.

(10) Such other information contained in the model service plan or as may reasonably be deemed necessary or appropriate by the Town. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.160 Administrative review.

The Town shall have ninety (90) days from the date the service plan is filed to complete its preliminary review. Once a review has been completed, a comprehensive analysis shall be made in written report form to the Town Council. The report shall evaluate the service plan and incorporate comments of the Town staff as well as any consultants. The report shall set forth the recommendations made in accordance with the review criteria contained in Section 10.11.180 below. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.170 Public hearing.

Upon completion of the administrative report, the Town shall schedule a public hearing at a regular Town Council meeting. Public notice shall be accomplished in accordance with the requirements of Section 32-1-204, C.R.S., as amended. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.180 Hearing and determination.

(a) The hearing held by the Town Council shall be open to the public. Any testimony or evidence which, in the discretion of the Town Council, is relevant to the organization of the District shall be considered.

(b) After consideration of the service plan, reports and any evidence and testimony accepted or taken at the public hearing, the Town Council shall approve without condition, approve with condition or disapprove the proposed service plan or amendment, applying the following criteria:

(1) Whether there is a sufficient existing and projected need for organized service in the area to be serviced by the proposed District;

(2) Whether the existing service in the area to be served by the proposed District is inadequate for present and projected needs;

(3) Whether the proposed District is capable of providing economical and sufficient service to the area within its proposed boundaries;

(4) Whether the area to be included in the proposed District has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis;

(5) Whether adequate service is not or will not be available to the area through the Town or other existing quasi-municipal corporations, including existing Districts, within a reasonable time and on a comparable basis;

(6) Whether the facility and service standards of the proposed District are compatible with the facility and service standards of the Town;

(7) Whether the proposal is in substantial compliance with the Town's Master Plan;

(8) Whether the proposal is in substantial compliance with the county, regional or state long-range water quality management plans for the area;

(9) Whether the creation of the District will be in the best interests of the area proposed to be served;

(10) Whether the creation of the District will be in the best interests of the residents or future residents of the area proposed to be served;

(11) Whether the proposed service plan is in substantial compliance with this Chapter; and

(12) Whether the creation of the District will foster urban development that is remote from or incapable of being integrated with existing urban areas, or place a burden on the Town or adjacent jurisdictions to provide urban services to residents of the proposed District. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.190 Written determination.

Within twenty (20) days after the public hearing, the Town Council shall adopt a resolution regarding the proposed service plan or amendment. If the service plan is approved, a resolution of approval shall be adopted. If the service plan is disapproved, a resolution for such disapproval shall be adopted, including the reason(s) for such disapproval. If the service plan is conditionally approved, the amendments to be made in, or additional information relating to, the service plan, together with the reasons for such amendments or additional information, shall be set forth in writing, and the hearing shall be continued until such amendments or additional information are incorporated in the service plan. Upon the incorporation of such amendments or additional information in the proposed service plan, the Town Council shall adopt a resolution of approval. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.200 Appeal.

The Town Council resolution shall document the Town Council's final determination for the purpose of any appeal to the district court. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.210 Capital facilities.

Districts are prohibited from developing or constructing any Public Improvements unless such Public Improvements are authorized under the service plan and intergovernmental agreement, and any applicable Town ordinances. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.220 Sanctions.

Should any District fail to comply with any applicable provision of this Chapter, the Town Council by resolution may impose one (1) or more of the following sanctions, as it deems appropriate:

- (1) Exercise any applicable remedy under the Special District Act;
- (2) Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the District's development or construction of Public Improvements;
- (3) Exercise any legal remedy under the terms of any intergovernmental agreement under which the District is in default; or
- (4) Exercise any other legal remedy, including seeking injunctive relief against the District, to ensure compliance with the provisions of this Chapter. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

10.11.230 Application to pending service plans and amendments.

This Chapter shall govern the processing, review and consideration of service plans for new Districts, or those existing Districts, required to submit service plans or service plan amendments which have not received approval prior to the effective date of this Chapter. (Ord. 13.107 §1, 2005; Ord. 13.106 §1, 2000)

CHAPTER 10.12

Vacation of Town Streets and Rights-of-Way

10.12.010 Authority; legislative purpose.

(a) Authority. The Town, as a home rule municipality organized under Article XX of the Colorado Constitution, and pursuant to Section 43-2-303, C.R.S., has the authority to adopt this Chapter.

(b) Legislative purpose. The Town Council finds and determines that it is essential that the Town develop its own roadway vacation procedures and provide a mechanism for acquiring remainders created by Town acquisitions for public projects in order to provide increased flexibility to the Town in developing its systems of streets, roadways and other public projects in conjunction with the orderly development of the Town. (Ord. 4.57 §1, 2000)

10.12.020 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

Owner includes any person, firm, partnership, association or corporation.

Roadway means and includes any platted or designated public street, alley, lane, parkway, avenue, road or other public way of the Town, whether or not it has been used as such, and including ways used or designated for vehicular or nonvehicular traffic. (Ord. 4.57 §1, 2000)

10.12.030 Method of vacation.

Vacation of a roadway or any part thereof in the Town shall be effectuated by ordinance. (Ord. 4.57 §1, 2000)

10.12.040 Vesting of title upon vacation as a matter of law.

Except as provided in Section 10.12.050 below, title to a roadway which is vacated by the Town shall vest, subject to the same encumbrances, liens, limitations, restrictions and estates as the land to which it accrues as follows:

(1) In the event that a roadway which constitutes the exterior boundary of a subdivision or other tract of land is vacated, title to said roadway shall vest in the owners of the land abutting the vacated roadway to the same extent that the land included within the roadway, at the time the roadway was acquired for public use, was a part of the subdivided land or was a part of the adjacent land.

(2) In the event that less than the entire width of a roadway is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.

(3) In the event that a roadway bounded by straight lines is vacated, title to the roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway, except as provided in Paragraphs (1) and (2) above. In the event that the boundary lines of abutting lands do not intersect said roadway at a right angle, the land included within such roadway shall vest as provided in Paragraph (4) below.

(4) In all instances not specifically provided for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his or her land, or any part thereof, is nearest in proximity. (Ord. 4.57 §1, 2000)

10.12.050 Legislative determination of vesting of title upon vacation.

The Town Council is authorized to vest title in a vacated roadway in a manner differently than the manner set forth in Section 10.12.040 above, if the Town Council determines that vesting of a vacated roadway to a particular owner is necessary in order to promote the orderly development of the street system of the Town. The Town may condition the vesting of title to a vacated roadway in a manner it determines to be in the best interests of the citizens of the Town. (Ord. 4.57 §1, 2000)

10.12.060 Recordation of vacation ordinance.

The Town shall record any ordinance vacating a roadway; provided, however, failure to record an ordinance vacating a roadway shall not have any bearing on the effectiveness of the vacation nor on the vesting of title pursuant to the ordinance. (Ord. 4.57 §1, 2000)

10.12.070 Acquisition of real property remainders related to public projects.

Whenever a part or parcel of land is to be taken for public purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, the Town may acquire by purchase or condemnation the whole parcel. The Town may also sell or lease the remainder of said parcel or may exchange the same for other property needed for public purposes. (Ord. 4.57 §1, 2000)