

TOWN OF GYPSUM, COLORADO

ORDINANCE NO. 02 SERIES 2026

AN ORDINANCE ADOPTING A NEW TITLE 22 OF THE GYPSUM MUNICIPAL CODE REGARDING SPECIAL DISTRICTS

A. The Town of Gypsum (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town’s Home Rule Charter effective October 21, 1982.

B. Pursuant to Article I, Section 1.3 of the Town’s Charter, the Town has all power of local self-government and home rule power possible for a home rule municipality to have under the Constitution and laws of the State of Colorado.

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

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

E. The Town Council has adopted various master plans, including the 2017 Comprehensive Master Plan (the “Comprehensive Plan”), Eagle River Area Plan, Gypsum Parkway Corridor Enhancement Plan, Master Traffic Study, Recreational Growth – IK Bar Master Plan, and Three Mile Annexation Plan, as the same may be amended from time to time (collectively, the “Master Plans”).

F. The Comprehensive Plan identifies Gypsum’s ultimate goal as becoming an inclusive, authentic, and connected community that actively nurtures its durable economy while balancing all of its resources through sustainable management (the “Comprehensive Plan Goal”).

G. The Comprehensive Plan identifies the following core elements (the “Comprehensive Plan Elements”):

- Establishing a brand and identity;
- Ensuring public amenities and facilities are easily accessible for all residents;
- Creating a connected, walkable community;
- Fostering an enterprising atmosphere; and

- Respecting the Town's intimate relationship with its natural surroundings.

H. The Town Council supports a broad spectrum of practices to enable the efficient and cost-effective development of land when development is consistent with the Comprehensive Plan Elements and Comprehensive Plan Goals and goals of the Master Plans.

I. The Town Council hereby finds and determines that a Metro District which is associated with a development project that furthers the objectives of the Master Plans is in "substantial compliance" with the Master Plans, and may provide extraordinary public benefits, either directly through the Metro District or indirectly by providing public services and facilities that would otherwise be the responsibility of the developer, thus allowing the developer to provide the extraordinary public benefit.

J. The Town wishes to adopt a policy for the consideration and approval of Metro District service plans when the development project for which the Metro District formation is sought is consistent with the Town's strategic priorities, will result in a demonstrated extraordinary public benefit, and formation of the Metro District to provide public services and facilities is needed for the development project to provide the extraordinary public benefit.

K. This Ordinance establishes a framework for evaluating service plans and does not by itself approve any specific Metro District; each proposed district will require a separate application, review, hearing, and Town Council Action.

L. The Town Council finds and determines that adoption of this Ordinance promotes transparency, fiscal responsibility, and the public health, safety, and welfare of the Town.

M. The Town Council finds that adoption of this Ordinance is in the best interest of the Town, its residents, and the general public.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gypsum, Colorado that:

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

Section 2. Amendment of Municipal Code. A new Title 22 of the Gypsum Municipal Code is hereby adopted in its entirety to read as set forth in Exhibit A, attached hereto and incorporated herein.

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

Section 4. Public Hearing. A public hearing on this Ordinance shall be held on the 24th day of March 2026, at 7:00 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

Section 5. Effective Date. This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 24th day of March 2026, at 7:00 p.m., at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

Section 6. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

EXHIBIT A
GYPSUM MUNICIPAL CODE
TITLE 22
SPECIAL DISTRICTS
[ATTACHED]

Title 22 – Special Districts

CHAPTER 22.01 METROPOLITAN DISTRICTS

22.01.010 – Policy Statement

The policy set forth in this Chapter 22.01 (the “Policy”) establishes the criteria, guidelines and procedures to be followed by the Town Council and Town staff in considering, reviewing and approving or disapproving Title 32 metropolitan district service plans, including any amendments thereof; and by applicants when submitting to the Town service plans for the organization of metropolitan districts or amendments to those plans.

22.01.020 – Objectives and Standards

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

(2) This Policy is intended as a guide only. Approval of a service plan is at the Town Council’s sole discretion, which may reject, approve, or conditionally approve service plans on a case-by-case basis. Nothing in this Title is intended, nor shall it be construed, to limit the Town Council’s discretion, who retains full discretion and authority regarding the terms and limitations of all district service plans.

22.01.030 – Evaluation Criteria

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

- (1) All district proposals must comply with Title 32, C.R.S.
- (2) All district proposals are required to submit a financial plan to the Town for review. The Town will evaluate a district’s debt capacity and servicing ability utilizing the financial plan and any other relevant information. Additionally, should a district desire to use funding for basic infrastructure improvements, Town staff will assess the value of the benefit against the public benefits received in exchange.
- (3) All proposals will be evaluated by Town staff against this Policy, the Town’s Model Service Plan, and the priorities and public benefits set forth in Sections 22.01.040 and 22.01.050, with any areas of difference being identified, evaluated, and reported to the Town Council.

22.01.040 – Strategic Priorities

Forming a metropolitan district shall advance the Town's strategic priorities. The Town's strategic priorities are articulated in the Town's Comprehensive Plan and such other master plans involving public infrastructure and services that are adopted by the Town, including but not limited to the Comprehensive Master Plan, Eagle River Area Plan, Gypsum Parkway Corridor Enhancement Plan, Master Traffic Study, Recreational Growth – IK Bar Master Plan, and Three Mile Annexation Plan as the same may be amended from time to time (collectively the "Town Plans"). The applicant shall demonstrate that the development project for which district formation is sought is consistent with the Town's strategic priorities and will result in a demonstrated extraordinary public benefit, and formation of the district to provide public services and facilities is needed for the development project to provide the extraordinary public benefit. A district which is associated with a development project that furthers the objectives of the Town Plans can be seen as providing extraordinary public benefit, either directly through the district or indirectly by providing public services and facilities that would otherwise be the developer's responsibility, thus allowing the developer to provide the extraordinary public benefit. An applicant for a district must address, either in the Letter of Interest, and/or service plan or cover letter, how the district and/or associated development project will impact the following specific Town Plan objectives and elements:

(1) Furthering the ultimate goal of the Town's Comprehensive Plan of becoming an inclusive, authentic, and connected community that actively nurtures its durable economy while balancing all of its resources through sustainable management; and

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

(a) Establishes a brand and identity that builds upon the Town's historical economic beginning, settlement, and ever evolving role along the Western Slope and in the heart of the Colorado Rockies. Actions which further this plan element include:

(i) Creating a walkable town center of commercial, civic, and neighborhood nodes stitched together with a thread of multipurpose pathways and trails;

(ii) Promoting a central core of mixed-uses and businesses around the intersection of Valley Road and Highway 6 to foster an identifiable and walkable town center;

(iii) Enhancing the Town's connection with I-70 to reflect the Town's character and establish a more recognizable brand;

(iv) Building upon Old Town Gypsum's authenticity within all redevelopment areas;

(v) Creating a special place on the Eagle River that is publicly accessible and near a town center; and

(vi) Revitalizing older building stock, when appropriate, with cost-effective adaptive reuse strategies to respect the historical character and give underutilized structures new purpose.

(b) Ensures public amenities and facilities are easily accessible for all residents from every walk of life. Actions which further this plan element include:

(i) Offering a variety of housing types at differing price points to retain local housing affordability, broaden workforce housing choices, and diversify net densities;

(ii) Encouraging all households to be located within a quarter-mile walk of publicly accessible parks and open space;

(iii) Integrating school facilities and open space into surrounding neighborhoods;

(iv) Encouraging future improvement of all school and public facilities to facilitate stronger pedestrian and bicycle connections with adjacent subdivisions;

(v) Encouraging shared-use of school and public facilities to support and promote local cultural programs and organizations; and

(vi) Supporting family-based events that fit within the Town's overall personality as a community, such as sports tournaments and seasonal holiday programs.

(c) Creates a connected, walkable community to promote social engagement and healthy, active lifestyles. Actions which further this plan element include:

(i) Upgrading and expanding the existing road networks to better accommodate pedestrians and bicyclists;

(ii) Improving wayfinding for pedestrian, bicyclist, and vehicular connections throughout Town through appropriate levels of signage that give direction to all users;

(iii) Using remnant land as green linkages to support a complete and continuous pedestrian and bicycle network and conserve natural drainage systems and resources;

(iv) Introducing pedestrian and bicycle infrastructure and amenities, such as pedestrian lights and benches, bike lanes and racks, to increase safety and provide ADA accessibility;

(v) Optimizing space for parking on local streets and through management and partnership with private landowners to maximize development opportunities and minimize the impacts of parked cars;

(vi) Implementing trail improvements and connectivity identified in the 2016 trails plan; and

(vii) Transiting expansion work with ECO transit to introduce new stops and park and ride facilities.

(d) Fosters an enterprising atmosphere to bolster entrepreneurship and job creation. Actions which further this plan element include:

(i) Intensifying underutilized commercial areas with infill development to maximize existing infrastructure and create a critical mass of activity in the primary commercial locations;

(ii) Integrating a mix of additional uses in commercial areas to create more robust local economic hubs of commerce through shared goods and services;

(iii) Encouraging accommodations-based businesses like hotels and bed and breakfasts to locate in the Town;

(iv) Encouraging regional partners to develop training programs and institutions that promote trade skills and entrepreneurship, diversify post-secondary career options for young adults, and expand the region's workforce;

(v) Investing in broadband, fiber, and Wi-Fi infrastructure to expand the Town's capacity for local and regional businesses and residents;

(vi) Encouraging additional light manufacturing, construction trades, and similar light industrial uses in the industrial land use areas; and

(vii) Managing annexation strategically to weigh infrastructure and maintenance costs with tax revenue gains.

(e) Respects the Town's intimate relationship with its natural surroundings by promoting resource-conscious decisions that support clean and efficient energy use, stewardship of the land, and conservation for the enjoyment of future generations. Actions which further this plan element include:

(i) Exploring opportunities for developing public access points along the Eagle River to promote fishing, boating, and other water recreation activities;

(ii) Capitalizing on unique market offerings such as the motocross track and shooting range to help generate recreation-based revenue that supports the Town and local business community;

(iii) Cultivating partnerships with USFS/BLM to expand location recreation-based trail connections;

(iv) Anticipating future growth and seeking efficient design approaches to expand water capacity and minimize infrastructure costs;

(v) Identifying water conservation strategies to improve efficiency of the Town's existing water supply;

(vi) Protecting key drainage ways and surrounding wildlife habitat to minimize the encroachment of development;

(vii) Ensuring Town residents' safety through appropriate wildlife management to create safe edge conditions between the Town and the surrounding wilderness;

(viii) Exploring opportunities to expand the Town's waste management program to include recycling, reuse, and composting services;

(ix) Considering strategies for shared resources between local waste management, biomass plant operations, and regional wildlife management, using green waste/compost as a potential fuel source; and

(x) Exploring opportunities for new development to incorporate solar, wind, and/or geothermal power to reduce future dependence on the regional electric grid.

22.01.050 – Additional Public Benefit Considerations

(1) In the absence of special circumstances, district formation is not permitted where the future assessed valuation of all property within the district at full build-out is projected to be less than five million dollars (\$5,000,000), adjusted annually beginning in 2026 based on the Consumer Price Index for the Mountain-Plains statistical region as prepared by the U.S. Bureau of Labor Statistics.

(2) The costs of Public Improvements (defined in Section 22.01.070(10)) are to be paid from taxes and not from fees.

22.01.060 – Application Process

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

(2) Applicant will provide Town with a Letter of Interest and pre-application fee (refer to Section 22.01.130). The Letter of Interest shall contain the following:

(a) Summary narrative of the proposed development and district proposal.

(b) Sketch plan showing: property location and boundaries; surrounding land uses; proposed use(s); proposed improvements (buildings, landscaping, parking/drive areas, water treatment/detention, drainage); existing natural features (water bodies, wetlands, large

trees, wildlife, canals, irrigation ditches); utility line locations (if known); and photographs (helpful but not required).

(c) Clear justification for why a district is needed.

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

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

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

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

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

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

(7) Based on the magnitude and complexity of the development project and district proposal, Town staff may recommend a work session with the Town Council.

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

(a) A description of the general nature of the Public Improvements and services to be provided by the district;

(b) A description of the real property to be included in the district and in any proposed future inclusion area, with such property being described by street address, lot and block, metes and bounds if not subdivided, or such other method that reasonably appraises owners that their property will or could be included in the district's boundaries;

(c) A statement of the maximum amount of property tax mill levy that can be imposed on property in the district under the proposed service plan;

(d) A statement that property owners desiring for the Town Council to consider excluding their properties from the district must file a written petition for exclusion with the Town Clerk no later than ten (10) days before the scheduled meeting date in accordance with C.R.S. § 32-1-203(3.5);

(e) A statement that a copy of the proposed service plan can be reviewed in the Town Clerk's Office; and

(f) The date, time and location of the public meeting at which the Town Council will consider the service plan.

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

(10) Consideration of a service plan to allow the organization of a district is a policy determination made by the Town Council based on its consideration of the best interests of the Town as a whole, the current and future residents of the proposed district, and the ability of the district to provide extraordinary public benefits and further the goals of the Town's Plans.

22.01.070 – Service Plans

(1) The Town Council may, by resolution, adopt and from time to time amend, a Model Service Plan consistent with this Policy. All service plans submitted to the Town should follow the basic outline, form, sequence and structure of the Model Service Plan. Service plans should duplicate the language contained in the Model Service Plan and explain and justify any material departures. Notwithstanding the preceding, any service plan approved by the Town shall be deemed compliant with all Town requirements.

(2) Any service plan submitted to the Town for approval must comply with all state, federal, and local laws and ordinances, including the Special District Act.

(3) The service plan shall contain language that prohibits the District from exercising the power of eminent domain without Town Council approval.

(4) A district is permitted to collect a mill levy in an amount as specified in subsection 22.01.070(5), to fund customary administrative expenses incurred in operating the district, such as accounting and legal expenses and other costs of complying with applicable reporting requirements (the "Operations and Maintenance Mill Levy"). Where it can be

demonstrated that it is in the best interest of the Town and the existing or future residents and taxpayers of the district, the district, on an ongoing basis, may operate and maintain Public Improvements and services and impose an Operations and Maintenance Mill levy as set forth in the service plan approval.

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

(5) The service plan shall set forth a maximum debt mill levy that may be imposed by the district ("Debt Mill Levy"), taking into consideration the costs of the Public Improvements to be paid for with property tax revenues used to service debt and the anticipated assessed valuation; however, in no event shall the Debt Mill Levy exceed 50 mills, subject to adjustment as provided in subsection 22.01.070(5)(b) and any required offset for an Operations and Maintenance Mill Levy. The Debt Mill Levy shall be imposed for a term not greater than 30 years from the date of its first imposition in any amount, and notwithstanding any provision set forth in Section 22.01.070(6).

(a) For districts that are authorized to impose an Operations and Maintenance Mill Levy, such shall be limited to no more than twenty (20) mills, subject to adjustment as provided in subsection 22.01.070(5)(b).

(b) The aggregate of any Debt Mill Levy and any Operations and Maintenance Mill Levy shall not exceed fifty (50) mills (the "Maximum Mill Levy"), subject to adjustment as provided herein.

(c) Increased Debt, Operations and Maintenance, and Maximum Mill Levies may be considered for districts that are predominately commercial in use, at the Town Council's sole discretion.

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

(6) Generally, district debt is to be issued and taxes are to be imposed within five (5) years of a Court Order organizing the district. District debt, payable from property taxes, shall be for a term no more than the useful life of the Public Improvements that are funded by such debt, and in no event more than 30 years, such term to be calculated from the date of completion of installation of the Public Improvements and their acceptance by the Town or other governmental entity for ownership or maintenance. Such debt term limit may be extended if a

majority of the district's board of directors are residents of the district and have voted in favor of refunding a part or all the debt, and such refunding is for one or more of the purposes authorized in C.R.S. § 11-56-104 and is authorized by law. Notwithstanding any provision of this subsection, payment of district debt from the Debt Mill Levy shall be subject to the limitations set forth in Subsection 22.01.070(5). Funding of Public Improvements for purposes of this subsection shall include direct payment of the costs of the Public Improvements or reimbursement by the district of the costs to the Developer or other entity who initially paid the costs.

(7) The service plan shall address any costs anticipated to be incurred by a developer and to be repaid by the district for the Public Improvements and/or operational costs, either in the form of direct payments by the Developer for such costs, or by means of advances by the Developer to the district (all of which are considered "Developer Advances"). Developer Advances shall count against the Total Debt Limit (as defined in subsection 22.01.070(9)) and may be reimbursed by the district from debt, contractual reimbursement agreement(s), and/or any revenue source available by law and permitted by the service plan. Developer Advances shall not be subject to compound interest. Developer Advances will be considered subordinate to any district general obligation bonds. The interest rate on Developer Advances shall not exceed the current Bond Buyer 20-Bond GO Index plus 4%, or a maximum of 12%, whichever is the lesser.

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

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

(10) Every service plan must include, in addition to all materials, plans, and reports required by Title 32, C.R.S., a summary of public improvements to be constructed and/or installed by the district (the "Public Improvements"). Due to its preliminary nature, the service plan must indicate that the Town's approval of the Public Improvements shall not bind the Town, its boards and commissions, or the Town Council in any way relating to the review and consideration of land use applications within the district. The service plan must contain a description of these Public Improvements which includes, at a minimum:

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

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

(c) A general description of the District's proposed role regarding the same.

The warranty and security requirements set forth in Section 17.02.040 of the Town Code shall apply to all Public Improvements.

(11) The service plan must describe any planned extraterritorial service. Any extraterritorial service by the district not described in the service plan will require prior Town Council approval.

(12) In the event a district seeks a material modification or other amendment to its service plan, the letter of intent, application, public meeting and notice procedures set forth in Section 22.01.060 shall be followed.

22.01.080 – District Structure

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

22.01.090 – District Dissolution

(1) The district's board of directors will take all action as required to dissolve the district as soon as practical upon the completion of district development activity.

(2) If, within five (5) years from the date of approval of a service plan, the Town and district have not entered into an intergovernmental agreement as required by Section 22.01.150, the Town may opt to pursue the remedies available to it under C.R.S. § 32-1-701(3) to compel the district to dissolve in a prompt and orderly manner. In such event: (i) the limited purposes and powers of the district, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the district's board of directors will be deemed to have agreed with the Town regarding its dissolution without an election pursuant to C.R.S. § 32-1-704(3)(b); (iii) the district shall take no action to contest or impede the dissolution of the district and shall affirmatively and diligently cooperate in securing final district dissolution, and (iv) subject to the statutory requirements of the Special District Act, the district shall thereupon dissolve.

22.01.100 – District Default

(1) An "Event of Default" by the District shall include:

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

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

(c) Failure to timely file a responsive Annual Report required by Section 22.01.120.

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

22.01.110 – Material Modification of a Service Plan

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

- (a) Actions or failures to act that create greater financial risk or burden;
- (b) Performance of a service or function or acquisition of a major facility that is not closely related to a service, function or facility authorized in the service plan;
- (c) Failure to perform a service or function or to acquire a facility required by the service plan;
- (d) Collection of any fees or charges without the Town Council's written consent; and
- (e) Taking any action that requires the Town's consent without the Town's consent given in the manner required pursuant to Section 22.01.140.

(2) In the event the Annual Report required by Section 22.01.120 is not timely filed with the Town or is not fully responsive, in addition to being an Event of Default, the Town may provide notice to the district's board of directors at its last-known address. The failure of the district to file a responsive annual report within 45 days of the mailing of such notice by the Town Clerk may constitute a material modification of the service plan, at the Town's discretion.

22.01.120 – Annual Report

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

- (1) A narrative summary of the district's progress implementing its service plan for the report year.
- (2) The audited financial statement of the district for the report year, including a statement of financial condition as of December 31 of the report year and the statement of operations, except when exemption from audit has been granted.
- (3) A summary of the capital expenditures incurred by the district in development of improvements in the report year.
- (4) A summary of the district's financial obligations 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) Any other information deemed relevant by the Town Council or deemed reasonably necessary by the Town Manager.

22.01.130 – Fees

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

- (1) At the time of submittal of the Letter of Intent, the applicant shall pay a non-refundable letter of intent submittal fee in the amount established by the Town Council by Resolution.
- (2) An applicant shall submit, along with an application and a draft service plan (based on the Model Service Plan), a nonrefundable application fee in the amount established by the Town Council by Resolution, along with a deposit in the same amount towards the reasonable consultant, legal, and other external fees and expenses incurred by the Town to review the draft service plan.
- (3) Each district shall pay an annual fee for the Town's on-going monitoring of the district. This annual fee shall be in the amount established by the Town Council by Resolution and due and payable by January 1 of each year.
- (4) A non-refundable service plan amendment fee in the amount established by the Town Council by Resolution, along with a deposit in the same amount towards the Town's outside review expenses shall be paid at the time of submitting the application and draft amended service plan.
- (5) An applicant shall pay all the Town's outside expenses associated with review of a proposed service plan, service plan amendment, or any matter required under this Policy or an approved service plan, including enforcement of conditions or requirements associated with an existing service plan. If deposits paid are insufficient to cover all the Town's expenses

associated with external review, the applicant shall pay all such reasonable expenses prior to the Town's approval becoming effective. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

22.01.140 – Town Consent

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

22.01.150 – Intergovernmental Agreement

A district shall enter into an intergovernmental agreement with the Town addressing such details, terms, and conditions as the Town and district deem necessary in connection with the construction and funding of any Public Improvements, including the posting of security and warranty periods necessary to meet the requirements of Section 22.01.070(10). Execution of the intergovernmental agreement is a precondition to a district issuing any debt, imposing any fees, or levying taxes. In addition, failure of a district to enter into the intergovernmental agreement as required herein shall constitute a material modification of the service plan and may result in dissolution per Section 22.01.090(2).