

ORDINANCE NO. 3.286.2, Series of 2014

**TITLE: A BILL FOR AN ORDINANCE TO ADD A NEW SUBSECTION 13.07.130(j) TO THE PARKER MUNICIPAL CODE CONCERNING PLAT NOTE FOR MULTI-FAMILY DEVELOPMENT PLATS**

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

**Section 1.** The Parker Municipal Code is amended by the addition thereto of a new Subsection 13.07.130(j) to read as follows:

**13.07.130 Certifications.**

(j) Town Council will use this plat note for multi-family minor development plats, at the request of the Applicant:

THE TOWN COUNCIL OF THE TOWN OF PARKER HEREBY ESTABLISHES THE FOLLOWING LEGISLATIVE CONDITION TO THE APPROVAL OF THIS MINOR DEVELOPMENT PLAT TO PROMOTE THE PROMPT, EFFICIENT AND COST EFFECTIVE RESOLUTION OF DISPUTES PERTAINING TO THE DEVELOPMENT OF THE PROPERTY AS A MULTI-FAMILY PROJECT, EXCLUDING ANY PROPERTY OWNED BY THE TOWN (THE "PROPERTY"), FOR THE PURPOSE OF ENCOURAGING AND FOSTERING THE DEVELOPMENT OF AFFORDABLE HOUSING IN THE TOWN AND THE CONSTRUCTION OF OWNER-OCCUPIED MULTI-FAMILY DEVELOPMENTS IN THE TOWN.

AS A LEGISLATIVE CONDITION TO THE TOWN COUNCILS APPROVAL OF THIS MINOR DEVELOPMENT PLAT THE FOLLOWING CLAIMS INVOLVING THE PROPERTY SHALL BE SUBMITTED TO BINDING ARBITRATION IN LIEU OF SUBMITTING ANY SUCH CLAIM TO A COURT OF LAW:

ANY AND ALL CLAIMS (1) THAT ARE BETWEEN ANY TWO OR MORE OF THE FOLLOWING PERSONS OR ENTITIES: (A) ANY OWNER OF ANY PORTION OF THE PROPERTY, (B) ANY COMMON INTEREST COMMUNITY ASSOCIATION CREATED WITH RESPECT TO THE PROPERTY, (C) THE SUBDIVIDER, DEVELOPER OR ANYONE CLAIMING UNDER OR THROUGH ANY SUCH PERSONS, (D) ANY PARTY THAT CONSTRUCTS OR DESIGNS ANY PORTION OF ANY RESIDENTIAL DWELLING UNITS UPON THE PROPERTY, AND (E) ANY CONSTRUCTION PROFESSIONAL AS DEFINED IN THE CONSTRUCTION DEFECT ACTION REFORM ACT, C.R.S. § 13-80-802.5, *ET SEQ.*, AS AMENDED ("CADARA"), AND (2) THAT PERTAINS TO ANY OF (A) THE PROPERTY, (B) ANY DWELLING UNIT OR

OTHER IMPROVEMENTS CONSTRUCTED ON THE PROPERTY OR COMMON AREA DEVELOPMENT STRUCTURE, (C) THE COMMON INTEREST COMMUNITY TO BE CREATED FOR THE PROPERTY OR ANY PORTION THEREOF, OR (D) THE DECLARATION OR OTHER DOCUMENTS GOVERNING SUCH COMMUNITY.

THE LEGISLATIVE CONDITION SHALL NOT PRECLUDE ANY OF THE PERSONS OR ENTITIES DESCRIBED ABOVE FROM ENDEAVORING TO RESOLVE ANY SUCH CLAIM(S) THROUGH EITHER NEGOTIATION OR MEDIATION BEFORE SUBMITTING SUCH CLAIM TO BINDING ARBITRATION. ADDITIONALLY, THE PROPERTY MAY ALSO BE SUBJECT TO A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS THAT MAY IMPLEMENT AND EXPAND UPON THE REQUIREMENTS OF THIS PLAT NOTE AND THAT MAY EXEMPT CERTAIN CLAIMS FROM THE REQUIREMENT THAT SUCH CLAIMS MUST BE SUBMITTED TO BINDING ARBITRATION, INCLUDING CLAIMS BROUGHT TO FORECLOSE LIENS FILED AS A PART OF THE CONSTRUCTION PROCESS, CLAIMS BROUGHT BY A COMMON INTEREST COMMUNITY ASSOCIATION TO RECOVER UNPAID ASSESSMENTS PAYABLE TO SUCH ASSOCIATION OR TO OBTAIN A TEMPORARY RESTRAINING ORDER OR INJUNCTION FROM A COURT OF LAW PROHIBITING A VIOLATION OF SUCH COVENANTS, CONDITIONS AND RESTRICTIONS; PROVIDED, HOWEVER, THAT ANY SUBSEQUENT AMENDMENT OR CHANGE TO SUCH DECLARATION OF COVENANTS, CONDITIONS OR RESTRICTION SHALL NOT ELIMINATE THE REQUIREMENT THAT THE CLAIMS DESCRIBED IN THIS PLAT NOTE, INCLUDING CONSTRUCTION DEFECT CLAIMS, AS MORE PARTICULARLY DEFINED BY THE CADARA, SHALL BE SUBMITTED TO BINDING ARBITRATION IN LIEU OF SUBMITTING ANY SUCH CLAIM TO A JUDICIAL PROCEEDING.

FOR PURPOSES OF THIS PLAT NOTE, BINDING ARBITRATION SHALL MEAN SUBMISSION OF ANY CLAIM DESCRIBED ABOVE BE SUBMITTED TO A SINGLE ARBITRATOR WHO MUST BE, AT A MINIMUM, A RETIRED COLORADO STATE DISTRICT COURT JUDGE OR FEDERAL DISTRICT COURT JUDGE OR THROUGH THE USE OF SUCH ORGANIZATION THAT SUCH RETIRED JUDGE MAY BE A MEMBER OF, INCLUDING SUCH ORGANIZATIONS AS THE JUDICIAL ARBITER GROUP OR ITS SUCCESSORS. IN SUCH ARBITRATION, THE COSTS AND EXPENSES OF ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES AND SHALL BE CONDUCTED UTILIZING SUCH RULES OF PROCEDURE AS THE ARBITRATOR MAY REASONABLY ADOPT TO PROMOTE THE EFFICIENT AND ECONOMICAL RESOLUTION OF ANY SUCH CLAIM.

ALL FUTURE PURCHASERS OF ANY INTEREST IN THE PROPERTY ARE DEEMED TO HAVE ACCEPTED AND AGREED TO


THE TERMS AND CONDITIONS OF THIS PLAT NOTE, WHICH IS RECORDED IN THE DOUGLAS COUNTY CLERK AND RECORDERS OFFICE AND IS DEEMED TO BE A COVENANT RUNNING WITH THE PROPERTY.

**Section 2. Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

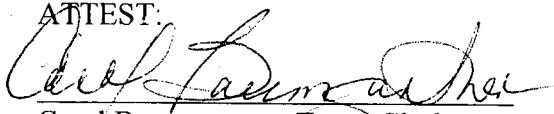
**Section 3. Severability.** If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

**Section 4.** This Ordinance shall become effective ten (10) days after final publication.


INTRODUCED AND PASSED ON FIRST READING this 20<sup>th</sup> day of October, 2014.

  
Mike Waid, Mayor

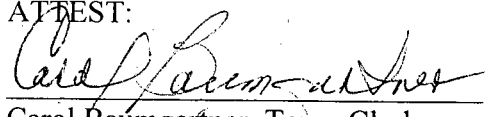
ATTEST:

  
Carol Baumgartner, Town Clerk

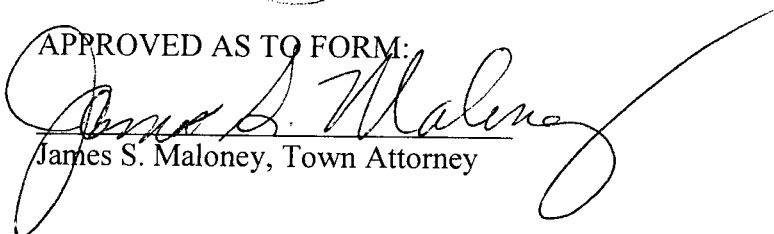
ADOPTED ON SECOND AND FINAL READING this 3<sup>rd</sup> day of November, 2014.

  
Mike Waid, Mayor

ATTEST:

  
Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

  
James S. Maloney, Town Attorney