

CHAPTER 11

Streets, Sidewalks and Public Property

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ARTICLE 1**Excavation****Sec. 11-1. Permit required.**

It is unlawful for any person to make, construct, reconstruct or alter any opening, excavation, tunnel, sidewalk, curb, gutter, driveway or street, or to perform any work of any kind within any public property, easement or right-of-way in the city unless such person first obtains a permit for the performance of such work as provided in this article. (Ord. 409 §19, 1991; Ord. 476 §1, 1996)

Sec. 11-2. Application for permit; fee.

(a) Any person desiring to perform any work of the kind described in Section 11-1 may apply for a permit by submitting the following to the city clerk:

(1) Written application on a form provided by the city clerk, providing all the information requested on such form.

(2) A nonrefundable application fee, to cover city costs of review, administration and inspections in connection with the permit, payable to the city, in an amount as set forth by resolution of the city council.

(3) Scaled engineering plans, specifications and sketches showing the location, depth, extent, nature and required street or roadway closures related to the proposed work in sufficient detail to permit the city to determine the relationship of the proposed work to existing and proposed facilities within the affected property, easements or rights-of-way and whether the proposed work complies with the engineering regulations, construction specifications and design standards of the city. The city engineer may require additional submissions during the engineering review provided in Section 11-3, and the application shall be deemed suspended until such submissions are made.

(4) Certificate of insurance in a form acceptable to the city insuring against all claims for damages which may arise out of the performance of work under the permit showing that the applicant has general liability, third party property damage and motor vehicle liability insurance providing coverage of not less than the sum of one hundred fifty thousand dollars (\$150,000.00) per person and not less than the sum of six hundred thousand dollars (\$600,000.00) per occurrence.

(b) No application shall be deemed made until all submissions set forth above have been made to the satisfaction of the city. (Ord. 409 §20, 1991; Ord. 476 §1, 1996)

Sec. 11-3. Engineering review.

When the applicant has filed all required submissions, the city engineer shall review and approve or disapprove the application in writing, stating the reasons for disapproval if the application is disapproved. All permits shall be issued according to the provisions of this article and shall be subject to such rules, regulations and directions, and limitations regarding the time to be required for the work and the manner in which the work is to be performed as the city engineer may prescribe. (Ord. 476 §1, 1996)

Sec. 11-4. Performance of work.

(a) No work of any kind described in Section 11-1 shall be commenced until the permit therefor has been issued.

(b) All work performed under any permit issued pursuant to this article shall conform to any and all engineering regulations, construction specifications and design standards adopted from time to time by resolution of the city council, to all applicable ordinances of the city, to any and all additional conditions and requirements established by the city and set forth on the permit, and to all laws, rules and regulations of any and all governmental entities or agencies having jurisdiction.

(c) The permittee shall notify the city clerk at least forty-eight (48) hours before commencing any work subject to this article.

(d) The permittee shall determine, initiate, maintain and supervise all measures necessary to protect the public during construction. Such safety measures for excavation in public rights-of-way shall conform at a minimum to the current edition of the Model Traffic Code for Colorado Municipalities in effect in the city.

(e) Trees, bushes and other vegetation or landscaping shall be disturbed only to the extent reasonably required for safety and to accomplish the permitted work.

(f) After any excavation has been made, the permittee shall restore the general surface of the ground as nearly as may reasonably be done to the grade and condition it was in immediately before excavation. The excavation shall be backfilled using controlled low slump material (flowfill, shrinkcrete or equivalent). All controlled low slump material (CLSM) must have a maximum twenty-eight-day strength of sixty (60) psi. Topsoil and sod, if any, shall be replaced in cultivated and landscaped areas, and any excess earth resulting from the excavation shall be removed at the sole expense of the permittee. The provisions of this subsection may be altered by specific conditions attached to or made part of the permit, but in no event shall any permittee be obligated to replace or restore improvements in unpaved or unsurfaced portions of any public right-of-way except existing sod and the surface of existing driveways and sidewalks, if any.

(g) For a period of one (1) year from the date work is completed and accepted by the city, the permittee shall be obligated to make, at the permittee's sole expense, any repairs, including those resulting from settling or subsidence, to the general surface of the ground, specifically including street or sidewalk surfacing, in the area where the excavation was made.

(h) No excavation shall be undercut or have a greater width at the bottom than at the top. One-half (½) of a street, alley or other public right-of-way shall remain untouched for the accommodation of traffic until the other one-half (½) is restored for safe use. All excavations shall be made in such a way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic. (Ord. 476 §1, 1996)

Sec. 11-5. Performance bond.

(a) Before any permit under this article shall be issued, the permittee shall provide the city with a cash deposit, surety bond or other form of guarantee acceptable to the city to insure that the excavation

and surface restoration are made in full compliance with the provisions of this article and the terms and conditions of the permit. The amount thereof shall be sufficient to cover estimated closing and restoration expenses as estimated by the city engineer or two thousand dollars (\$2,000.00), whichever is greater. In the discretion of the city council, a letter of responsibility may be accepted in lieu of such deposit or bond from any public utility company, special district or school district.

(b) The bond or deposit will remain in full force and effect for a period of one (1) year after completion and acceptance of the work by the city. (Ord. 476 §1, 1996)

Sec. 11-6. Notice of work.

If the excavation will affect the use of properties abutting or adjoining the project or other utility installations in the area of the excavation, the permittee shall notify affected property owners and occupants and the owners of such utility facilities of the proposed work not less than forty-eight (48) hours before the commencement thereof. (Ord. 476 §1, 1996)

Sec. 11-7. Permit duration.

Each permit application shall state the starting date and estimated completion date of the work. The permit shall be valid only for the time specified in the permit. If the work is not completed during such period, the permittee may apply to the city for an additional permit or an extension, which may be granted by the city if the requirements of this article are satisfied. (Ord. 476 §1, 1996)

Sec. 11-8. Assignment of permits.

No permit issued pursuant to this article shall be assignable or transferable, either as to permittee or location of excavation, but nothing herein shall prevent a permittee from subcontracting the work to be performed under such permit. (Ord. 476 §1, 1996)

Sec. 11-9. Suspension or revocation of permit; stop orders.

(a) Any permit issued under this article may be revoked or suspended by the city, upon notice to the permittee, for any of the following causes:

(1) Violation of any condition of the permit or any provision of this article.

(2) Violation of any provision of any other standard, specification, rule, ordinance or law of any governmental authority having jurisdiction.

(b) A suspension or revocation of a permit or any stop order issued by the city shall take effect immediately upon the entry thereof by the city and notice to the person performing the work. A stop order may be issued and directed to any person doing or causing any work to be done without a permit, in violation of this article, of the terms and conditions of the permit or whenever the city suspends or revokes a permit. (Ord. 476 §1, 1996)

Sec. 11-10. Cure of defects.

(a) If the city finds that a violation of this article or any term or condition of the permit has occurred, it shall give written notice thereof to the permittee and to the surety on the bond, if any. Such

notice shall describe the curative work to be done, the estimated cost thereof and the period of time deemed by the city reasonably necessary for correction or completion of the work.

(b) If the permittee fails within a reasonable time following such notice to cure the violation stated in the notice, the city may correct the defects or perform the work and charge the permittee for all costs incurred in connection therewith, including the city engineering, legal and administrative expenses, and the permittee shall be liable for such costs, and the city may take action on any performance bond. (Ord. 476 §1, 1996)

Sec. 11-11. Emergency.

(a) Any person owning or operating utility facilities in any public right-of-way may proceed with work upon such facilities without a permit when emergency circumstances require the work to be done immediately in order to prevent serious harm or risk thereof to persons or property.

(b) Any person commencing emergency work in any public way under this section shall give immediate notice thereof to the city engineer, to law enforcement authorities of the city having jurisdiction over traffic and to the owners of any other utility facilities affected by the emergency condition or the proposed work.

(c) Any person commencing emergency work under this section shall apply for a permit for such work on the first regular business day on which city offices are open for business after such work is commenced. (Ord. 476 §1, 1996)

Sec. 11-12. Relocation of underground facilities.

By accepting any permit issued under this article, the permittee agrees that he or she will remove or relocate, at the permittee's sole cost and expense, any installations of facilities of whatever kind constructed or installed by him or her under such permit in any public right-of-way or easement upon reasonable advance notice and demand by the city, when such removal or relocation is determined by the city to be necessary because of the installation or construction of any street improvement, storm drainage facilities, water facilities or other public facilities by the city. If the permittee fails to remove or relocate such facilities as required herein, the city may do so and assess and charge the costs thereof, including its legal, engineering and administrative fees, to the permittee. (Ord. 476 §1, 1996)

Sec. 11-13. Hold harmless.

Every permittee acting under a permit issued pursuant to this article shall be responsible to anyone for any injury to persons or property by reason of the work done under the permit. The permittee shall indemnify, defend and hold the city, its officers, employees and agents harmless from any and all costs, expenses, damages, claims and other liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The acceptance of any permit issued under this article shall constitute such an agreement by the permittee, whether or not the same is expressed in the permit. The permittee shall be responsible for adequately protecting the work, the surrounding property and the public and shall adequately safeguard the work regardless of whether any specific requirements in connection with the work are made by the city engineer. (Ord. 476 §1, 1996)

Sec. 11-14. Liability of city.

(a) This article shall not be construed to impose upon the city or any official, employee or consultant thereof, including the city engineer, any liability or responsibility for damages to any person injured or property damaged by or by reason of the performance of any work subject to this article under a permit issued pursuant hereto.

(b) The inspections, testing and review to be performed hereunder by the city, its officials, employees and consultants are for the sole and exclusive benefit of the city. No liability shall attach to the city, its officials, employees or consultants, including the city engineer, by reason of any inspections, testing or review authorized hereunder or by reason of the issuance of any permit or the approval of any work pursuant to this article. (Ord. 476 §1, 1996)

Sec. 11-15. Enforcement and administration.

(a) The city engineer and such other person or persons as designated from time to time by the city council shall have authority to act for and on behalf of the city in any matter affecting the administration or enforcement of this article.

(b) Any person who disputes the suspension or revocation of an excavation permit may appeal the decision in writing to the city council within ten (10) days of the effective date of the order, directive or decision. (Ord. 476 §1, 1996)

Secs. 11-16—11-29. Reserved.

ARTICLE 2

Work in the Public Right-of-Way

Sec. 11-30. Obstruction prohibited.

(a) Except as otherwise provided in this code, it is unlawful for any person other than an officer or employee of the city in the course of his or her employment to obstruct any street, alley, sidewalk or other public right-of-way with any debris, lumber, sand, gravel, dirt, abandoned or wrecked automobiles, trees or shrubs or other material or substance without first obtaining a permit as provided in this article, or to undertake such an activity in any manner that does not comply with the permit issued therefor.

(b) Except as otherwise provided in this code, it is unlawful for any person other than an officer or employee of the city in the course of his or her employment to obstruct, close, barricade or otherwise restrict access to or impede the normal traffic flow upon any street, alley, sidewalk or other public right-of-way without first obtaining a permit therefor as provided in this article, or to undertake such an activity in any manner which does not comply with the permit issued therefor.

(c) Each day that such an unlawful obstruction is permitted to exist shall constitute a separate and distinct violation.

(d) This section shall not be deemed to prohibit or require a permit for traffic control undertaken by persons at the scene of a motor vehicle accident or in the case of an emergency, defined as a serious and

unforeseen happening or situation endangering life, health or property, which needs prompt attention. All such persons acting under this subsection shall comply with the instructions of the chief of police and other authorized city and emergency services personnel. (Ord. 606 §1, 2002)

Sec. 11-31. Permit.

(a) A permit to undertake an activity prohibited by Section 11-30 of this code may be requested from the city pursuant to the following procedures and criteria:

(1) Any person desiring a permit shall make application therefor to the city clerk upon forms furnished for that purpose. The application shall be submitted at least ten (10) working days, not including holidays or weekends, before the time the applicant proposes to obstruct any street, alley, sidewalk or other public right-of-way, which for purposes of this section are collectively referred to as the *right-of-way*. The application shall be accompanied by a nonrefundable permit fee as established from time to time by resolution of the city council. There shall also be submitted with the application a traffic control plan that provides safe methods for movement of pedestrians and motorists through the area of the proposed activity. The plan shall list the dates and hours of the proposed activity; the proposed method of closure or control over the right-of-way; the names and contact information of the persons proposed to perform the closure or traffic control work; and such additional information as the city may require. The plan shall be accompanied by a map showing the portion of the right-of-way to be obstructed, closed or restricted and the exact location of any barricades or other traffic control devices.

(2) Within three (3) working days after receipt of a complete permit application, application fee, street closure plan and additional information as may be required by the city, the city shall approve or disapprove the request upon its review of whether the application and proposed activity are in compliance with the requirements and criteria of this section. The applicant shall be notified in writing of the reasons for denial of an application.

(3) If a permit is approved, the permit holder shall post notice of any permitted street closures and traffic restrictions at locations within the rights-of-way at least three (3) working days prior to the commencement date of the closure. Notice of the street closure shall also be provided by the city to entities on the city's street closure notice distribution list, as on file with the city and updated from time to time.

(b) A permit may be issued under this section only if the applicant demonstrates that all of the following criteria and requirements are and will be met with regard to the proposed activity:

(1) The proposed closure is necessary in connection with construction, alteration, repair or other activity on the adjoining property.

(2) The proposed obstruction, closure or control within the right-of-way is the least intrusive alternative and is limited to as short a time as is reasonably possible.

(3) The proposed obstruction, closure or control within the right-of-way can be undertaken in a manner protective of the public health, safety and welfare.

(4) The proposed closure of or control over the right-of-way is consistent with applicable requirements of the Manual on Uniform Traffic Control Devices.

(5) If the proposed closure of or control over the right-of-way is for work associated with new or existing oil and gas wells or facilities, the work requires the use of workover truck, rig or similar equipment that must be stood up for the work and which, when stood up, has a height of seventy-five (75) feet or more.

(6) If the proposed closure of or control over the right-of-way is for work associated with new or existing oil and gas wells or facilities, the area to be covered by the proposed permit is within a 150-foot radius of the wellhead.

(7) The proposed activity does not include the placement or storage upon the right-of-way of any equipment or other personal property in excess of ten thousand (10,000) pounds.

(c) A current permit issued under this section shall be kept at the site at all times while the activity permitted thereunder is in progress and shall be exhibited upon request of any police officer or authorized representative of the city.

(d) The following conditions shall be observed with regard to all activities permitted within the right-of-way under this section:

(1) The activity shall be conducted in a manner as to not unduly impede vehicle, pedestrian or other traffic in the right-of-way. The activity shall be conducted in compliance with the city-approved traffic control plan. The plan shall be site-specific and shall include the name and emergency phone numbers of the permit holder and the permit holder's designated traffic control supervisor. The permit holder shall employ flag persons as required in the plan, and such persons shall be trained and certified in flagging operations. Any traffic control devices shall be consistent with the Manual on Uniform Traffic Control Devices unless otherwise approved in the traffic control plan.

(2) The permit holder shall coordinate all activities in the right-of-way with appropriate fire, ambulance, police and transit authorities, and with the holders of any franchise or other authorization to undertake activity within the right-of-way.

(3) The permit holder shall be responsible for furnishing, erecting and maintaining traffic control devices and facilities required by the traffic control plan throughout the life of the permit. All barricades and other devices shall be approved and maintained under the traffic control plan and shall include adequate lighting if maintained at night.

(4) Traffic control devices other than those that generally inform the public of an obstruction ahead that face oncoming traffic shall be turned away from oncoming traffic or otherwise masked from view during any period in which the obstruction is not present within the right-of-way. Signs that are specific in nature, such as "Flagman Ahead" signs, "Road Closed" signs and other signs, which in the opinion of the chief of police are inappropriate for display during hours when the obstruction is not in place or the activity is not underway are subject to confiscation by the city and may be released only after payment of a fifteen-dollar redemption fee for each sign.

(5) No permit holder shall interrupt access to and from private property of a person other than the permit holder; and no permit holder shall block emergency vehicles, access to fire hydrants, fire stations, fire escapes, water valves or any other vital equipment unless permission is obtained from the owner thereof.

(6) All rights-of-way shall be thoroughly cleared and cleaned of all obstructions no later than the date of expiration of the permit.

(e) The permit holder and its agents, employees and contractors, and any other person under the permit holder's direction or control, shall comply with all directions of the chief of police respecting the placement of obstructions and conduct of activities within the right-of-way.

(f) By acceptance of a permit under this section, the permit holder agrees to indemnify and save harmless the city, its officers, employees and agents, against and from all liability, claims, damages, losses and expenses, including but not limited to, attorneys' fees, arising out of, resulting from or in any way connected with any negligent act or omission or other fault of the permit holder, its officers, directors, agents, employees and contractors in the exercise or performance of activities permitted under such permit or within the right-of-way.

(g) A permit may be revoked or suspended by the city after notice to the permit holder or persons conducting activity under the permit or within the area covered by such permit. Suspension or revocation shall take effect immediately upon notice, and the only activity permitted thereafter will be that required to open the right-of-way. A permit may be revoked or suspended for:

(1) Violation of any condition of the permit or any provision of this section;

(2) Violation of any provision of any other ordinance of the city or state law relating to the activity subject to the permit; or

(3) The existence of any condition or the doing of any act that constitutes or causes a condition endangering life or serious damage to persons or property.

(h) Applications for renewal of a permit issued pursuant to this Article shall be made to the city clerk upon forms furnished for that purpose. If it appears the permit holder has complied with any conditions of the permit and the provisions of this section, the city clerk shall renew the permit without further investigation or review. If renewal of the permit is denied, the city clerk shall notify the permit holder in writing of the reasons for denial. (Ord. 606 §1, 2002)

Sec. 11-32. Exceptions.

(a) No permit shall be required for work performed by the owner, tenant, lessee or other occupant of a residential dwelling unit in the street, alley, sidewalk or other right-of-way adjacent to his or her own property, which requires or results in:

(1) The partial obstruction of a street for a time period not to exceed four (4) hours; or

(2) The partial or complete obstruction of a sidewalk or alley for a time period not to exceed twenty-four (24) hours.

(b) For the purposes of this section, *partial obstruction* means sufficient street, alley, sidewalk or other right-of-way width remains so that it is still passable by motor vehicles and other common users, and *complete obstruction* means the street, alley, sidewalk or other right-of-way has been rendered impassible or passage has been rendered unreasonably inconvenient or hazardous. (Ord. 606 §1, 2002)

Secs. 11-33—11-49. Reserved.

ARTICLE 3

Community or Neighborhood Events

Sec. 11-50. Permit for street closure.

The city administrator, or the administrator's designee, is authorized to issue permits allowing closure of streets or portions of streets temporarily for no more than twenty-four (24) hours for community or neighborhood events, if the administrator or designee finds that the public safety and convenience would not be thereby adversely affected and subject to such conditions as the administrator or designee deems reasonable and necessary to protect the public health, safety and welfare. The city administrator is further authorized to implement such rules and application requirements as deemed necessary for the thorough and expedient review of such permit applications. (Ord. 606 §2, 2002)

Secs. 11-51—11-59. Reserved.

ARTICLE 4

Sidewalks

Sec. 11-60. Snow Removal.

It is unlawful for any owner, occupant or manager of any lot, tract or parcel of land within the city to allow any snow or ice to accumulate or remain upon any sidewalk or walkway alongside or adjacent to such property, including those on or within any public right-of-way and public or private tracts and outlots, for longer than forty-eight (48) hours from the time of the last accumulation of such snow and ice. For purposes of this section, *sidewalk* means any paved or concrete surface that provides for pedestrian circulation within the city. (Ord. 687 §1, 2007)

Secs. 11-61—11-70. Reserved.