

CHAPTER 11

Streets, Sidewalks and Public Places

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ARTICLE 1

General Provisions

Sec. 11-1-10. Right-of-way, sidewalk and sidewalk area defined; obstructions.

(a) A *right-of-way* is defined by this Code as a strip of land acquired by reservation, dedication, fenced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses. The *sidewalk* is defined by this Code as the paved, surfaced or leveled area, paralleling and usually separated from street, used as a pedestrian walkway. The *sidewalk area* is defined by this Code as that portion of the right-of-way that lies between the right-of-way line and the curb line, regardless of whether the sidewalk exists. It shall be unlawful for any person to place upon any sidewalk or sidewalk area:

(1) Any motor vehicle except a motor vehicle parked in an access driveway in such manner as to leave the sidewalk completely unobstructed.

(2) Any sign or obstruction of any kind or nature, except that, subject to the restrictions and provisions of this Section, landscaping features that do not constitute a hazard to street traffic or to pedestrian and other sidewalk traffic may be temporarily placed in the sidewalk area.

(b) Any obstruction, tree, shrub or planting of any kind, trellis, lattice, decorative fencing, terrace or other landscaping feature or structure, or any other thing so placed or installed upon the sidewalk shall be removed by the owner of the adjacent premises whenever the City Manager shall determine that it is necessary that the same be done and orders that the same be removed, unless a Revocable Permit shall have previously been approved and issued for encroachments in the public right-of-way and upon the sidewalk by the City. If said obstruction shall not be removed by the owner within three (3) days or within such additional time, not to exceed thirty (30) days, as the City Manager shall allow and specify, the City Manager shall cause the removal thereof by the most expedient means available, using either such employees of the City or private persons or contractors as the City Manager shall determine.

(c) In the event that an obstruction is removed from the sidewalk or sidewalk area adjacent to any lot, block or parcel of land by order or direction of the City Manager pursuant to the provisions of Subsection (b) of this Section, the whole cost of such removal, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date any obstruction is removed, until paid. Such amount shall be due and payable to the City Manager within thirty (30) days after the mailing by the City Manager by registered mail or certified mail, to the owner of such lot, block or parcel of ground, notice of the assessment of such cost and requiring payment of the amount to the City.

(d) If any such assessment is not paid within such thirty-day period, the same may be certified by the City Manager to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with interest on the total sum thereof at the rate of ten percent (10%) per year from the date initially due until certified to the County Treasurer for collection, and with an additional ten-percent penalty upon the amount then due to defray the cost of collection. (Prior code 25-1

Sec. 11-1-20. Obstruction by ice and snow.

It shall be unlawful to place or deposit snow or ice or both snow and ice upon or against any fire hydrant and, except as provided in Section 11-1-40 below for snow removed from the sidewalks into the carriage way of the street, it shall be unlawful to remove snow or ice or both snow and ice from any private property

and place or deposit the same in or upon any part of a public street, sidewalk, parkway, right-of-way, easement or alleyway. (Prior code 25-1.1

Sec. 11-1-30. Sidewalk specifications; notice; sidewalk area.

(a) All sidewalks shall be of concrete and shall be set to line and grade determined by the City Manager. Aggregates shall be free of quicksand and other deleterious material and graded at proportions suitable to the City Manager. There shall not be less than six (6) sacks of cement in each cubic yard of concrete after being poured in the forms. Sidewalks shall be finished with a wood float and marked each five (5) feet. In no case will a troweled finish be allowed. Every twenty (20) feet there shall be left a three-fourths-inch expansion joint filled with suitable joint material. Sidewalks shall be full four (4) inches in thickness and a minimum of four (4) feet in width, subject to a greater width being ordered by the City Manager or his designee.

(b) No sidewalk or sidewalk area shall be constructed, widened, repaired or rebuilt in the City improved without notice to and under the supervision of the City Manager.

(c) The City Manager shall approve any improvements of a sidewalk area (other than the sidewalk itself as hereinabove previously provided) in the City which will fill in such sidewalk area in any manner inconsistent with the sidewalk specifications set forth above with any hard surface or inert material (i.e., concrete, asphalt, pavers or other landscaping material), including the type of material, finish, thickness and width of such improvements. (Prior code 25-2; Ord. 1110 §1, 2010)

Sec. 11-1-40. Removal of ice and snow.

(a) All persons are required to keep the sidewalks in front of and adjacent to the tenements and grounds occupied by them clear of ice, mud, dirt, rubbish and filth and after any fall of snow to cause the snow to be immediately removed from the sidewalk.

(b) It is unlawful and an offense for any owner of any lot, block or parcel of land within the City, or any tenant or agent in charge thereof to fail to remove ice, mud, dirt, rubbish, filth and snow from the sidewalk as provided in Subsection (a) of this Section. Any person violating the provisions of this Section shall be punished as provided in Section 1-4-10 of this Code.

(c) Further, in addition to liability for punishment pursuant to Subsection (b) of this Section, if any owner, tenant or agent in charge shall fail to remove ice, mud, dirt, rubbish, filth or snow from the sidewalk as required by this Section within twenty-four (24) hours after being notified in writing to do so by the Police Department or by the City Manager or his or her deputy (which notice may be served personally or by posting the same in a conspicuous place upon the premises), the City Manager, at any time thereafter, may cause any ice, mud, dirt, rubbish, filth and snow to be removed from the sidewalk by the most expedient means available, using either such employees of the City or private persons or contractors as the City Manager shall determine.

(d) In the event that any ice, mud, dirt, rubbish, filth and snow is removed from the sidewalk adjacent to any lot, block or parcel of land by order or direction of the City Manager pursuant to the provisions of Subsection (c) of this Section, the whole cost of such removal, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date any such ice, mud, dirt, rubbish, filth and snow is removed, until paid. Said amount shall be due and payable to the City Manager within thirty (30) days after mailing by the City Manager by registered mail or certified mail, to the owner of such lot, block or parcel of ground, notice of the assessment of such cost and requiring payment of the amount to the City.

(e) If any such assessment is not paid within such thirty-day period, the same may be certified by the City Manager to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with interest on the total sum thereof at the rate of ten percent (10%) per year from the date initially due until certified to the County Treasurer for collection, and with an additional ten-percent penalty upon the amount then due to defray the cost of collection. (Prior code 25-3; Ord. 1110 §1, 2010)

Sec. 11-1-50. Obstructions in gutters and ditches.

All persons are required to keep the gutters and ditches for drainage or irrigation that may extend along any highway between the center of such highways and the tenements and grounds occupied by them, clear of all obstructions to the free flow of water so that there shall be no overflow of water. (Prior code 25-4; Ord. 1110 §1, 2010)

Sec. 11-1-60. Compliance by agent of absentee owner with provisions.

In case the owner of any premises that are unoccupied shall be a nonresident of the City, or absent from the City, any responsible agent that has charge of such premises shall comply with the requirements of Sections 11-1-40 and 11-1-50 above. (Prior code 25-5; Ord. 1110 §1, 2010)

Sec. 11-1-70. Playing ball in streets.

It shall be unlawful for any person at any time to play any kind of games of ball or to throw, catch or bat any playing ball on any of the streets or alleys within the City. (Prior code 25-6; Ord. 1110 §1, 2010)

Sec. 11-1-80. Tenant nearest street to keep clear.

Where houses or other buildings are occupied by several tenants, it shall be the duty of the person occupying the tenement or store nearest the sidewalk, gutter, ditch or street to comply with the requirements of Sections 11-1-40 and 11-1-50 above, and where the basement of any house or other building shall reach below the level of the ground, for the purpose of this Section the second story shall be deemed nearest, and the basement or first story the nearest after the second story; provided that no tenant shall be required to keep clear any such sidewalks, gutters, streets or ditches for a greater number of feet than may be contiguous or opposite from any premises or any part of the premises actually occupied by him or her. (Prior code 25-7; Ord. 1110 §1, 2010)

Sec. 11-1-90. Owner's duty to keep clear.

Where any premises or part of premises are not occupied, to shall be the duty of the owner thereof to comply with the requirements of Sections 11-1-40 and 11-1-50 above so far as no other provisions are made in this Chapter. (Prior code 25-8; Ord. 1110 §1, 2010)

ARTICLE 2

Sidewalks, Curbs and Gutters

Sec. 11-2-10. Abutting property owner responsible.

All sidewalks in the City and the necessary grading for the same shall be constructed, widened, repaired and, when necessary, rebuilt by the owner of the property fronting or abutting on the same, at the expense of such owner. The necessary grading for sidewalks shall be deemed and included as a part of the construction of the sidewalks. (Prior code 17-45; Ord. 1110 §1, 2010)

Sec. 11-2-20. Obstruction prohibited.

No obstructions shall be erected, kept or maintained on any sidewalk (as defined in Section 11-1-10 of this Chapter) or any portion of the public right-of-way, except if a Revocable Permit shall have previously been approved and issued for encroachments in the public right-of-way and upon the sidewalk by the City. (Prior code 17-46; Ord. 1110 §1, 2010)

Sec. 11-2-30. Notice to City of construction.

No sidewalks or sidewalk areas shall be constructed, widened, repaired or rebuilt in the City without notice to and under the supervision of the City Manager, who shall be by the owner notified thereof. In case the same is not provided for by ordinance, the City Manager shall designate the width and grade upon which and how the same shall be constructed. (Prior code 17-47; Ord. 1110 §1, 2010)

Sec. 11-2-40. Resolution to construct.

Whenever it shall appear to the City Council, by petition or otherwise, that a sidewalk should be constructed, widened, repaired or replaced within the City, it may, by resolution, order the construction, widening, repair or reconstruction of the same by the owner of the property fronting on the same at the owner's expense. (Prior code 17-48; Ord. 1110 §1, 2010)

Sec. 11-2-50. Time limitation.

Whenever the City Council shall direct or order the construction, widening, repairing or reconstruction of any sidewalk by resolution as set out in Section 11-2-40 above, it shall state therein the period of time within which the owner shall construct, widen, repair or reconstruct such sidewalk, which period shall be not less than thirty (30) nor more than one hundred twenty (120) days from the date of the passage of such resolution. (Prior code 17-49; Ord. 1110 §1, 2010)

Sec. 11-2-60. Notice to owner.

The City Manager shall immediately notify all owners of property adjoining the sidewalk, their agents or person occupying or having charge of such property, in writing of the order of the City Council to construct, widen, repair or reconstruct the same, so stating therein the period of time within which the owner shall construct, widen, repair or reconstruct such sidewalk. The notice may be served upon the owner, agent or person having charge of such property, in case such property is occupied, either personally or by certified mail, or in case the owner, agent or person having charge of such property is absent or is unknown, such notice may be served by posting the same in a conspicuous place on such lot or premises and the posting of

such notice as above provided shall be deemed and held to complete the service of the same. (Prior code 17-50; Ord. 1110 §1, 2010)

Sec. 11-2-70. City action; lien on property.

If the property owner or owners or their agents or persons occupying or having charge of such property abutting the sidewalk to be constructed, widened, repaired or reconstructed shall not construct, widen, repair or reconstruct the same according to the requirements of the resolution of the City Council under Section 11-2-40 above within the time specified after the service of notice upon them under Section 11-2-60 above, the City Council may cause such sidewalk to be constructed, widened, repaired or reconstructed by the City Manager, and assess the costs thereof against the property fronting upon such sidewalk. The amount so assessed shall be the cost of construction, widening, repairing or reconstruction of such sidewalk adjacent to the property, and shall include the cost of service of notice and all expenses incurred as a result of these proceedings, interest at the rate of ten percent (10%) per year upon the costs to the City and the amount so assessed shall constitute a lien upon the property from the date of the commencement of the work until paid. (Prior code 17-51; Ord. 1110 §1, 2010)

Sec. 11-2-80. Apportionment of cost; notice; hearing.

The statement of the City Manager of the cost and expense of the sidewalk required to be constructed, widened, repaired or reconstructed, as apportioned by him or her, shall be accepted as correct; and in case such assessment shall not be paid within ten (10) days after making the same, the City Manager shall cause a notice of such assessment to be given to the owners and all other person interested in such property by publication in a newspaper published in the City for ten (10) days (once each week for three [3] successive weeks). Such notice shall state the amount assessed against each lot or other subdivision of property and designate a time and place when the City Council will hear any objections such owner or other person interested in such property shall make, and the City Council may correct and perfect any such assessment incorrectly or improperly made. (Prior code 17-52; Ord. 1110 §1, 2010)

Sec. 11-2-90. Default in payment of assessment.

If any assessment made under this Section is not paid within ten (10) days after the time fixed for hearing such objections, the City Manager shall certify such assessment to the County Treasurer, or other proper assessing officer then having possession of the tax list, to be placed by him or her upon such tax list for the current year, to be collected in the same manner as other taxes are collected, with ten-percent penalty thereon to defray the costs of collection and with interest on the total sum at the rate of ten percent (10%) per year from the date due until certified to the County Treasurer for collection. (Prior code 17-53; Ord. 1110 §1, 2010)

Sec. 11-2-100. Owner to repair sidewalk.

In addition to proceedings by the City Council specified in Section 11-2-40 of this Article, in all cases where a sidewalk, once constructed, shall have become broken, worn or defective, or the same, as constructed, does not conform to the specifications provided in this Code or by the ordinances of the City, the City Manager is authorized and directed to give written notification thereof to the owner, agent or person occupying or having charge of such property adjoining the sidewalk, served in the manner provided in Section 11-2-60 of this Article, and ordering the necessary repairs or reconstruction to be made within a time period stated in the notice; which shall be not less than thirty (30) and not more than ninety (90) days from the date of the notice. (Prior code 17-54; Ord. 1110 §1, 2010)

Sec. 11-2-110. City action; property lien.

If the property owner or owners or their agents or persons occupying or having charge of such property abutting the sidewalk to be repaired or reconstructed shall not repair or reconstruct the same according to the requirements of the notification and order of the City Manager, pursuant to Section 11-2-100 above, the City Manager may cause the sidewalk to be repaired or replaced by the most expedient means available, using either such employees of the City or private persons or contractors as the City Manager shall determine. The cost of any such repairs or reconstruction, the cost of service of notice, and all expense incurred as a result of these proceedings, and interest at the rate of ten percent (10%) per year upon the costs to the City, as apportioned by the City Manager, shall constitute a lien upon the property from the date of the commencement of the work and the same shall be established and assessed, perfected and certified to the County Treasurer and collected in the manner and according to the procedures specified in Sections 11-2-80 and 11-2-90 above. (Prior code 17-55; Ord. 1110 §1, 2010)

Sec. 11-2-120. Right to enforce lien.

If the City Council so elects, it may bring suit in any court of competent jurisdiction to enforce the lien and collect such assessment created by the failure of the owner of abutting property to construct, widen, repair or reconstruct a sidewalk when ordered to do so by the City Council under Section 11-2-60 of this Article. (Prior code 17-56; Ord. 1110 §1, 2010)

ARTICLE 3

Public Rights-of-Way

Sec. 11-3-10. Purpose.

The purpose of this Article is to provide principles, procedures and associated funding for the placement of structures and infrastructures, construction, excavation, encroachments and work activities within or upon any public right-of-way and to protect the integrity of the road system of the City. To achieve this purpose, it is necessary to require permits, to establish permit procedures and to fix and collect fees and charges. (Prior code 25-12; Ord. 1110 §1, 2010)

Sec. 11-3-20. Objectives.

There is a need to accommodate public and private entities' use of public rights-of-way for the location of equipment required for provision of public services; however, the City must ensure that the primary purpose of the right-of-way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. The use of the right-of-way corridors by others is secondary to the movement of such traffic. This Article is intended to strike a balance between the public need for efficient, safe transportation routes and the use of rights-of-way for location of equipment by public and private entities. This Article has several objectives:

- (1) To ensure that the public safety is maintained and that public inconvenience is minimized.
- (2) To protect the City's infrastructure investment by establishing repair standards for the pavement when work is accomplished.
- (3) To facilitate work within the right-of-way through the standardization of regulations and hardware placements.

- (4) To maintain an efficient permit process.
- (5) To conserve the limited physical capacity of the public rights-of-way held in public trust by the City.
- (6) To assure that the City can continue to fairly and responsibly protect the public health, safety and welfare. (Prior code 25-13; Ord. 1110 §1, 2010)

Sec. 11-3-30. Definitions.

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

City means the City of Fort Morgan, Colorado.

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, groundcover, 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 Article.

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

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

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

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.

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 structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose. (Prior code 25-14; Ord. 1110 §1, 2010)

Sec. 11-3-40. Police powers.

The permittee's rights hereunder are subject to the police powers of the City, which include the power to adopt and enforce ordinances, including amendments to this Article, 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 City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City reserves the right to exercise its police powers, notwithstanding anything in this Article and the permit to the contrary. Any conflict between the provisions of this Article or the permit and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter. (Prior code 25-15; Ord. 1110 §1, 2010)

Sec. 11-3-50. Permit required.

(a) No person, except an employee or official of the City or a person under contract with the City, 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 City as set forth in this Article, except as provided in Section 11-3-190 of this Article. 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 City.

(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 City Manager immediately 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 permittee may subcontract the work to be performed under a permit provided that the permittee shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required.

(d) The physical construction of public improvements in new developments within the City is the responsibility of the developer of the land. Ownership of those improvements remains with the developer of the land until acceptance by the City. Any person performing work on those improvements which are within a public way, but prior to acceptance by the City, shall obtain a permit from the City 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 City of those improvements. This financial obligation shall apply only to the work in the public way done by the permittee. (Prior code 25-16; Ord. 1110 §1, 2010)

Sec. 11-3-60. Permit application; permit contents.

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

(1) File a written application on forms furnished by the City that includes 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-or-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 and quantities of the construction improvements and excavations; and type of work proposed.

(2) Include a verified statement that the applicant and/or its contractor is not delinquent in payments due the City on prior work.

(3) Include a verified statement that the applicant and/or its contractor holds all permits or licenses (including required insurance, deposits, bonding and warranties) required to do the proposed work, if such licenses or permits are required under the laws of the United States, the State or the ordinances of the City.

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

(6) Include a verified statement that all orders issued by the City to the applicant and/or its contractor, requiring correction of deficiencies under previous permits issued under this Article 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 when the City determines such plans are necessary.

(9) Pay the fees prescribed by the City.

For the benefit of the City, each permit issued under this Article shall state the right-of-way permit number; the date of issuance and expiration of the permit; the name and address of the permittee and 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. (Prior code 25-17; Ord. 1110 §1, 2010)

Sec. 11-3-70. Permit fee.

Before a permit is issued pursuant to this Article, the applicant shall pay to the City Manager a permit fee, which shall be determined in accordance with a fee schedule adopted from time to time by the City Council by resolution. (Prior code 25-18; Ord. 1110 §1, 2010)

Sec. 11-3-80. Location of equipment.

(a) The City Manager shall assign specific corridors within the right-of-way or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the City

Manager expects will some day be located within the right-of-way. All construction, excavation or work for which permits are issued by the City Manager involving the installation or replacement of equipment or facilities in public rights-of-way shall designate the proper corridor for such equipment or facilities at issue.

(b) The City Manager may prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of applicants to occupy or use the right-of-way. In making such decisions, the City Manager shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's need for a particular service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment and facilities in the right-or-way and future City plans for public improvements and development projects which have been determined to be in the public interest. (Prior code 25-19; Ord. 1110 §1, 2010)

Sec. 11-3-90. Mapping.

Each permittee shall, within sixty (60) days from the date of the City's acceptance of the work undertaken in connection with the permit, provide to the City Manager "as built" maps indicating at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all equipment and facilities which relate to the permit and which are located in any right-of-way of the City. In addition, within sixty (60) days from the date of the City's acceptance of the work undertaken in connection with any permit, the permittee shall use its "best efforts" to provide to the City Manager "as built" maps, or to the extent "as built" maps are not available, other information that is available showing at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all existing equipment and facilities which the permittee owns or over which it has control, and which are located in any right-of-way of the City. This information shall be provided with the specificity and in the format requested by the City Manager for inclusion in the City's mapping system. (Prior code 25-20; Ord. 1110 §1, 2010)

Sec. 11-3-100. Insurance and indemnification.

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

(1) The contractor shall carry a comprehensive general liability policy, including broad form property damage, completed operations and contractual liability for limits not less than one million dollars (\$1,000,000.00) each occurrence for damages of bodily injury or death to one (1) or more persons; and one million dollars (\$1,000,000.00) each occurrence for damage to or destruction of property.

(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 specially added by endorsement to the hereinabove required liability policy.

Whenever any person has filed with the City Manager 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.

(b) 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 City harmless, defend and indemnify the City, its successors, assigns, officers, employees, agents and appointed and elected officials from and against all liability from damage and all claims or demands whatsoever in

nature, and reimburse the City 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 actions 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 and litigation; whether or not any act or omission complained of is authorized, allowed or prohibited by this Article and the City is the prevailing party, the permittee shall reimburse the City for all costs related hereto, including reasonable attorney's fees. The permittee shall not be obligated to hold harmless or indemnify the City for claims or demands to the extent that they are due solely to the negligence or any intentional and/or willful acts of the City or any of its officers, employees or agents. (Prior code 25-21; Ord. 1110 §1, 2010)

Sec. 11-3-110. Performance bond.

(a) Before any permit required by this Article shall be issued to an applicant, the applicant shall file with the City Manager a bond or letter of credit in favor of the City in an amount equal to the total cost of construction, including labor and materials, or five thousand dollars (\$5,000.00), whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one (1) surety upon whom service of process may be had in the State. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of City ordinances and of the rules and regulations of the Department of Public Works and upon payment of all judgments and costs rendered against the applicant for any violation of City ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of work done pursuant to the permit issued under the provisions of this Article. Action on the bond or letter of credit may be brought by any person so aggrieved as beneficiary. The bond or letter of credit must be approved by the City Manager as to form and as to the responsibility of the surety thereon prior to the issuance of the permit provided for in this Article. However, the City Manager may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets located in the State to satisfy any claims intended to be protected against the security required by this Section.

(b) A letter of responsibility will be accepted in lieu of a performance bond or letter of credit from all public utilities, all cable television companies and all water and sanitation districts operating within the City.

(c) The performance bond or letter of credit shall remain in force and effect for a minimum of three (3) years after completion and acceptance of the street cut, excavation or lane closure. (Prior code 25-22; Ord. 1110 §1, 2010)

Sec. 11-3-120. 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 City and warrants and guarantees all work done by him or her for a period of three (3) years after the date of acceptance, and agrees to maintain the same upon demand and to make all necessary repairs during the three-year period. This warranty shall include 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 Article or the ordinances of the City.

The three-year warranty period shall run from the date of the City's acceptance of the work. If repairs are required during the three-year warranty period, those repairs shall be warranted until the end of the initial three-year period starting with the date of initial acceptance.

(c) At any time prior to completion of the three-year warranty period, the City may notify the permittee of any required repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the City to be an imminent danger to the public health, safety and welfare. Nonemergency repairs shall be completed within thirty (30) days after notice. (Prior code 25-23; Ord. 1110 §1, 2010)

Sec. 11-3-130. Inspections.

Two (2) inspections of the work to be performed shall take place. First, the permittee shall notify the City immediately after completion of work operations, and acceptance will be made if all work meets City and permit standards. Second, approximately thirty (30) days prior to the expiration of the three-year guarantee, the City shall perform an inspection of the completed work. If the work is still satisfactory, the performance bond or letter of credit for individual permit holders shall be returned less any amounts needed to complete work not done by the permittee. (Prior code 25-24; Ord. 1110 §1, 2010)

Sec. 11-3-140. Public safety and nuisance.

Any 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 City may make any repair necessary to eliminate any hazards or nuisances or work not performed as directed. Any such work performed by the City 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 City may, in addition to taking other collection remedies, seek reimbursement through the performance bond or letter of credit. Furthermore, the permittee shall be barred from performing any work in the public right-of-way, and under no circumstances will the City issue any further permits of any kind to said permittee, until such time that all outstanding charges have been paid in full. (Prior code 25-26; Ord. 1110 §1, 2010)

Sec. 11-3-150. Time of completion.

All work covered by the permit shall be completed by the date stated in the application. Permits shall be void if work has not commenced six (6) months after issuance. Performance bonds or letters of credit deposited as security for individual permits shall be returned if a permit is voided for failure to commence the work. (Prior code 25-26; Ord. 1110 §1, 2010)

Sec. 11-3-160. Traffic control.

(a) When it is necessary to obstruct traffic, a detour plan shall be submitted to the City prior to starting construction. No permit will be issued until the detour plan is approved by the City. No permittee shall interrupt access to and from private property, block emergency vehicles or 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 of and obtain approval from the City Manager. 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 City Manager.

(c) Unless approved by the City Manager, 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 7:30 a.m. to 8:30 a.m. or 4:30 p.m. to 5:30 p.m. without the approval of the City Manager.

(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 flare or kerosene lanterns are not allowed as means of illumination.

(e) Part VI of the Manual on Uniform Traffic Control Devices shall be used a guide for all maintenance and construction signage. The permittee shall illustrate on the permit the warning and control devices proposed for use. At the direction of the City Manager, such warning and control devices shall be increased, decreased or modified. (Prior code 25-27; Ord. 1110 §1, 2010)

Sec. 11-3-170. Minimizing the impacts of work in rights-of-way.

(a) 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, telecommunications 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 of commencing the work. 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) 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 9:00 p.m. and 6:00 a.m., nor at any time on Sunday, except with the written permission of the City Manager, or in case of an emergency.

(c) 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 street without specific approval of the City Manager.

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

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

(f) 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 City Manager, shall repair such surfaces. Failure to do so will result in the use of the permittee's performance/warranty guarantee by the City to repair any damage.

(g) 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) 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) 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 City Manager. Any monuments, hubs and points disturbed will be replaced by a Colorado registered land surveyor at the permittee's expense.

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

(k) Each permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk as prescribed by the City Manager.

(l) Each permittee shall clear all snow and ice hazards from public sidewalks at the work site by noon following a snowfall. (Prior code 25-28; Ord. 1110 §1, 2010)

Sec. 11-3-180. Standards for repairs.

The permittee shall be fully responsible for the cost and actual performance of all work it performs 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 City. These standards shall apply to all work in the public way unless otherwise indicated in the permit. (Prior code 25-29; Ord. 1110 §1, 2010)

Sec. 11-3-190. Relocation of facilities.

If at any time the City requests the permittee to relocate its facilities, in order to allow the City 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, repair, constructing or maintaining of any street or rights-of-way, or by reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement by the City 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 City shall notify the permittee, at least one hundred eighty (180) days in advance, except in the case of emergencies, of the City's intention to perform or have such work performed. The permittee shall thereupon, at no cost to the City, 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 City 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 City or other public agencies or special district may perform such work at the permittee's expense, and the permittee shall reimburse the City 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. (Prior code 25-30; Ord. 1110 §1, 2010)

Sec. 11-3-200. 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, telephone, electric, cable and other telecommunications facilities. Repairs on other facilities in the public way may also be administratively classified as an emergency by the City Manager. The person doing the work shall apply to the City for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the City Police and Fire Department. (Prior code 25-31; Ord. 1110 §1, 2010)

Sec. 11-3-210. Revocation of permits.

(a) Any permit issued hereunder may be revoked or suspended by the City Manager, after notice to the permittee for:

- (1) Violation of any condition of the permit or of any provision of this Article.
- (2) Violation of any provision of any other City ordinance 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 City Manager, 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 City Manager 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 Article or any other ordinance of the City. (Prior code 25-32; Ord. 1110 §1, 2010)

Sec. 11-3-220. Abandoned and unusable equipment and facilities.

The permittee, or subsequent owner of equipment or facilities installed pursuant to a permit granted under this Article, who is determined to have discontinued its operations must either:

- (1) Provide information satisfactory to the City Manager that the permittee's or owner's obligations for its equipment in the right-of-way under this Article have been lawfully assumed by another entity; or
- (2) Submit to the City Manager a proposal and instruments for transferring ownership of its equipment or facilities to the City. If a person proceeds under this Subsection, the City may, at its option:
 - a. Purchase the equipment;
 - b. Require the permittee or owner, at its own expense, to remove the equipment; or
 - c. Require the permittee or owner to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment or facilities.

Equipment or facilities of a permittee or owner who fails to comply with Subsection (2) above which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned equipment or facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity. Any permittee or owner who has unusable equipment or facilities in any public right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the City Manager. (Prior code 25-33; Ord. 1110 §1, 2010)

Sec. 11-3-230. Appeals procedure.

Any decision rendered by the City Manager may be appealed within thirty (30) days by the permittee to the City Council in accordance with any rules and procedures established by that body. (Prior code 25-34; Ord. 1110 §1, 2010)

Sec. 11-3-240. 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 Article, 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 or officers or agents, shall be punished by a fine in accordance with the provisions of Section 1-4-10 of this Code. (Prior code 25-35; Ord. 1110 §1, 2010)

ARTICLE 4

Local Improvements

Division 1 General Provisions

Sec. 11-4-10. Definition.

The term *real estate or property* shall be held to mean all lands, whether platted or unplatted, regardless of lot or land lines. It shall also include in its meaning the franchises of any railroad whose tracks lie either lengthwise or crosswise within any street improved under this Chapter. (Prior code 17-1; Ord. 1110 §1, 2010)

Sec. 11-4-20. Description of property.

Lots, plots, blocks and other subdivisions may be designated in accordance with any recorded plat thereof. Unplatted lands may be described by any definite description thereof and franchises by the name of the corporation owning the same. (Prior code 17-2; Ord. 1110 §1, 2010)

Sec. 11-4-30. Make improvements; assess cost.

The City shall have the power to make local improvements and to assess the cost thereof wholly or in part upon the property especially benefited. (Prior code 17-3; Ord. 1110 §1, 2010)

Sec. 11-4-40. Authority; manner of proceeding generally.

(a) All public improvements shall be constructed in accordance with the Charter and ordinances of the City, which such provisions are hereby declared to supersede the laws of the State in any respect in conflict therewith.

(b) In carrying out the provisions of this Chapter, the City Council shall act by resolution or motion, in all cases, except that the cost of all improvements shall be assessed by ordinance. (Prior code 17-4; Ord. 1110 §1, 2010)

Sec. 11-4-50. Power to order improvements.

The City Council may, subject to the provisions of this Article, order the grading, curbing, guttering, paving, draining and construction of necessary culverts, crosswalks and sewers, or any one (1) or more of these improvements and the construction or reconstruction of sidewalks upon any street or alley in the City or any combination of such improvements, including storm sewers; and the City Council may thereafter do such further grading as may be necessary in paving or otherwise improving the same area. (Prior code 17-5; Ord. 1110 §1, 2010)

Sec. 11-4-60. Information on improvement required.

The City Council shall adopt full details and specifications for all local improvements, determine the number of installments, the time in which the cost shall be paid, the rate of interest on unpaid installments and the district of land to be assessed for the improvements, and shall cause the City Manager to make an estimate of the cost of such improvements, exclusive of the per centum for cost of collection and other

incidentals and of interest to the time the first installment comes due and a map of the district to be assessed, from which map the approximate share of the total cost that will be assessed upon each piece of real estate in the district may be readily ascertained. No improvement shall be made at a cost exceeding the total estimate of the City Manager. (Prior code 17-6; Ord. 1110 §1, 2010)

Sec. 11-4-70. Publication of improvement details.

The City Council shall, by advertisement for two (2) weeks in a newspaper of general circulation published in the City, give notice to the owners of real estate in the district and to all persons interested generally of the following information:

- (1) The kind or kinds of improvement proposed, without mentioning minor details or incidentals.
- (2) The number of installments and time in which the cost of the improvement will be payable.
- (3) The rate of interest on unpaid installments.
- (4) The extent of the district to be assessed by boundaries or other brief description.
- (5) The probable cost as shown by the estimate of the City Manager.

(6) The maximum share of the total estimate per front foot, or per square foot on ordinary lots, specifying the size where to assessment is made according to area, that will be assessed upon any lot or lands in the district. In case the assessment shall be made otherwise than per front foot or per square foot, the maximum share to be assessed upon any lot or lands in the district, or to any person, shall be stated according to the method of assessment adopted in the district.

(7) The time, not less than thirty (30) days after the first publication, when the City Council will consider the ordering of the proposed improvements and hear all complaints and objections that may be made in writing concerning the proposed improvements, by the owner of any real estate to be assessed or any persons interested.

(8) That the map and estimate and all proceedings of the City Council in the premises are on file, and can be seen and examined, at the office of the City Manager, during business hours, at any time within the period of thirty (30) days by any person interested. (Prior code 17-7; Ord. 1110 §1, 2010)

Sec. 11-4-80. Petition by property owners generally.

If the owners of a majority of the real estate to be assessed, or the owners of a majority of the frontage to be assessed, shall petition for paving or other improvement, and name the character of improvement and the kind and character of materials to be used therein, then the improvement may be ordered; provided that the City Council shall deem such proposed improvement good and sufficient for the particular locality and that no petition or specification shall name any material from any specified locality, quarry or kiln or of any particular name, make, brand or source. However, in case some article or material specified shall be the only material or article of that nature fitted for the purpose proposed and shall be best suited for the proposed improvement, then and in that case such article or material may be specified, but such specification shall not be binding upon the City Council if in the opinion of the City Council it should not, for any reason, be used. (Prior code 17-8; Ord. 1110 §1, 2010)

Sec. 11-4-90. Acknowledgement in petition.

The petition for improvements as set out in the preceding Section shall be subscribed and acknowledged in the manner prescribed by law for acknowledgment of deeds of conveyance of real estate, by the owners or their duly authorized agents by power of attorney, or it shall be acknowledged in like manner by a majority of the frontage of the real estate to be assessed for the improvement. (Prior code 17-9; Ord. 1110 §1, 2010)

Sec. 11-4-100. Withdrawal of names.

No petitioner for improvements as set out in Section 11-4-80 above, his or her heirs or assigns, shall be permitted to withdraw his or her name from a petition after the same has been filed with the City Council, unless the City Council fails to order such improvements upon such petition within nine (9) months from the time the petition is so filed. All requests for withdrawal must be subscribed and acknowledged in the manner prescribed for the signing of the petition by the preceding Section. (Prior code 17-10; Ord. 1110 §1, 2010)

Sec. 11-4-110. Railways excluded.

Railway trackage shall not be considered or computed as assessable frontage in determining the sufficiency of petitions as provided in the preceding Section. (Prior code 17-11; Ord. 1110 §1, 2010)

Sec. 11-4-120. Maximum cost.

Every petition for improvements as set out in Section 11-4-80 of this Article shall state the maximum cost per front foot or other unit for assessment, exclusive of interest and cost of collection for the entire improvement when completed, and the amount so named shall not be exceeded. (Prior code 17-12; Ord. 1110 §1, 2010)

Sec. 11-4-130. Action by Council on petition.

All matters contained in the petition, except the naming of the kind of improvement as set out in Section 11-4-80 of this Article, and of the maximum cost as set out in the preceding Section, may be disregarded by the City Council, and any one (1) or more of the other improvements mentioned in Section 11-4-80 may be added by the City Council, if the maximum cost is not exceeded. (Prior code 17-13; Ord. 1110 §1, 2010)

Sec. 11-4-140. Specifications for materials.

In all specifications for materials to be used in public improvements of every kind, the City Council shall establish a standard of purity, strength and quality to be demonstrated by physical and chemical tests within the limits of reasonable variations, and any and all materials proposed for use shall be approved by the City Council. (Prior code 17-14; Ord. 1110 §1, 2010)

Sec. 11-4-150. Modification of proceedings.

All the proceedings by the City Council regarding all local improvements may be modified, confirmed or rescinded by the City Council at any time prior to the adoption of the resolution authorizing the improvement; provided that no substantial change in the district, map, details, specifications or estimate shall be made by the City Council after the first publication of the notice to property owners as required by Section 11-4-70 of this Article. (Prior code 17-15; Ord. 1110 §1, 2010)

Sec. 11-4-160. Credit for prior improvements.

If at the time of the adoption of the resolution of City Council authorized by Section 11-4-40 of this Article authorizing improvements for any district, any piece of real estate in the district has the whole or any part of the proposed improvements already completed, conforming or approximately conforming to the general plan, the City Council may adopt the same, in whole or in part, or make the necessary changes to make the same conform to the general plan, and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting such existing improvements. (Prior code 17-16; Ord. 1110 §1, 2010)

Sec. 11-4-170. Entire street width to be improved.

Whenever any grading or paving district shall be created under Section 11-4-50 of this Article, the City Council shall include in the area to be paved or graded the entire width of street from curb to curb, including the portion of the street occupied by or required for franchise obligations, to be paved by or chargeable or assessable to any railway company whose railroad runs through or across any street in the district. (Prior code 17-17; Ord. 1110 §1, 2010)

Sec. 11-4-180. Utility connection required prior to paving.

Before paving a street in any district in accordance with this Article, the City Council may order the owners of the abutting real estate to connect, in such manner as the City Council may direct, their premises with the water mains or with any other commodity in the street or alley, adjoining their premises and upon default of the owners for thirty (30) days after such order to make such connection, the City may make or cause to be made such connection at such distance, under such regulations and in accordance with such specifications, as may be prescribed by the City Council, and the whole cost of such connection shall be assessed against the premises with which the connection is made. The proceedings shall be as required in this Article, the cost shall be assessed and collected in the same manner as is provided in Sections 11-4-310 to 11-4-530 of this Article, and upon default in the payment of any assessment, the real estate may be held as provided in Section 11-4-520. (Prior code 17-18; Ord. 1110 §1, 2010)

Sec. 11-4-190. Sale of bonds generally.

All local improvements shall be paid for in cash out of the proceeds derived from the sale of the public improvement bonds of the City, of such date and in such form as will be prescribed by the City Council, the bond bearing the name of the district improved and payable to bearer in a sufficient period of years to cover the period of payments, but subject to call as provided for in Section 11-4-210 below in convenient denominations of not more than one thousand dollars (\$1,000.00) each. All such bonds shall be issued by the City Council in sufficient amount to provide funds to pay for the local improvements, expenses, necessary interest before the first assessment can be collected and rights-of-way contemplated by this Article, and the City Manager shall preserve a record of the same in suitable book kept for that purpose. The bonds shall be subscribed by the Mayor, attested by the City Manager, under the seal of the City and registered by the City Manager, the bonds to be payable only out of the moneys collected on account of the assessments made for the improvements respectively, and all moneys collected on account of the assessments for any improvement shall be applied to the total payment of the bonds, and the City Council shall, at public or private sale, upon such terms and conditions as it may determine, sell sufficient of the bonds to raise the funds required to carry out the provisions of this Chapter. (Prior code 17-19; Ord. 1110 §1, 2010)

Sec. 11-4-200. Sale of bonds; form; interest rate; place payable.

All bonds issued to pay for local improvements shall bear interest at the rate of not more than ten percent (10%) per annum, as ordered by the City Council, payable annually or semiannually as the City Council shall determine; the interest to be evidenced by coupons, attested by facsimile of the signatures of the Mayor and the City Manager. All such bonds, principal and interest shall be payable at the City, but if the City Council so orders they may also be payable at a bank or trust company to be designated by the City Council, and in all such cases the bonds and coupons shall recite the place of payment and when payable; and the City Manager is hereby authorized to remit the funds necessary for their payment with exchange, to the institution so designated, always assuring himself or herself that such institution is then perfectly solvent. (Prior code 17-20; Ord. 1110 §1, 2010)

Sec. 11-4-210. Redemption.

Whenever considered prudent by the City Manager, he or she may, and whenever funds may be in his or her hands to the credit of any improvement district, exceeding six (6) months' interest on the unpaid principal, he or she shall, by advertisement for one (1) week, in some newspaper of general circulation published in the City, call in a suitable number of the bonds of such district for payment. At the expiration of thirty (30) days from the first publication of the notice, the interest on the bonds so called shall cease. The notice shall specify the bonds so called by numbers and all bonds shall be paid in their numerical order. The holder of any bonds may at any time furnish his or her post office address to the City Manager, and in such case, a copy of the advertisement shall be mailed by the City Manager to the holder of the bonds called, at his or her address, on the first day of publication. (Prior code 17-21; Ord. 1110 §1, 2010)

*Division 2
Assessments*

Sec. 11-4-310. Method generally.

The cost of any local improvement, except as otherwise provided in this Article, shall be assessed upon all assessable property in the improvement district in accordance with benefits, to be determined by the City Council by one (1) of the following methods:

- (1) In the same proportion that the frontage of each lot or tract of land bears to the frontage of all the lots and lands improved. The sides of corner lots which abut on the street improved are regarded as frontage.
- (2) In the same proportion that the area of each lot or parcel of land in the district bears to the area of all assessable land in the district.
- (3) The real property adjacent to the street improved to be divided into from two (2) to six (6) parallel zones, each zone to be assessed with such proportion or percentage of benefits as may be determined by the City Council. (Prior code 17-22; Ord. 1110 §1, 2010)

Sec. 11-4-320. Intersections.

In case of the improvements of any street or alley, except as otherwise provided in this Article, the cost of the improvement in each street intersection or street and alley intersection, except the share to be paved by street or other railway companies, shall be assessed upon all the frontage on the street or alley improved, and

on the intersecting streets or alleys within one-half (½) block in each direction from such intersection in proportion to the frontage of each piece of real estate on the street or alley improved, or on any intersecting or alley within one-half (½) block. (Prior code 17-23; Ord. 1110 §1, 2010)

Sec. 11-4-330. Odd-shaped property.

When any real estate is "V" shaped or of irregular form, the City Council may make such readjustment or change in the assessment worked out under Sections 11-4-310 and 11-4-320 above thereon as to it may seem equitable and just, or may refuse to make any such adjustment or change. (Prior code 17-24; Ord. 1110 §1, 2010)

Sec. 11-4-340. Railroads.

The City Council shall charge to, assess and collect that proportion as provided in this Article of the cost of the improvement set out in the preceding Section from a railroad company or companies which occupy or are required by franchise to pave the streets to which improvements are to be made in case of abutting property. The City Council shall issue bonds, which shall be issued and made payable in like manner as bonds issued for the improvement to be assessed against the real estate to be specially benefited. In the meaning of this Section, in the absence of a franchise obligation to grade or pave, a railway shall be held to occupy and shall be liable for the grading and paving of that part of the street lying between the rails of each track and two (2) feet outside of each rail, and every railway company, whether street railway or otherwise, shall be assessed for the cost of the paving and grading of any part or parts of any street or alley occupied by or required by franchise obligation to be paved by it, and the assessment levied for the cost of the improvements chargeable to a railway company shall be a first and prior lien against the entire franchise and property of the company within the district and also without the district but within the limits of the City, subject to general taxes only. All the terms, conditions and provisions of this Article relative to the collection of the amounts chargeable against assessed frontage or other unit for assessment, shall be applicable in the enforcement and collection of assessment against such railway company, and the property of such railway company shall, in case of default in payment of such assessment, be sold as in cases of default in payment of general taxes levied thereon. (Prior code 17-25; Ord. 1110 §1, 2010)

Sec. 11-4-350. Statement by Council.

Upon the completion of any local improvement, or in the case of sewers, upon completion of any part or parts thereof, which afford complete drainage for any part or parts of the district, and which have been accepted by the City Council, or whenever the total cost of any such improvement, or any such part or parts of any sewer can be definitely ascertained, the City Council shall prepare a statement showing the whole cost of the improvement or such parts thereof, including not to exceed six percent (6%) additional for costs of collection and other incidentals and including interest to the next succeeding date upon which general taxes or the first installment thereof are by the laws of this State made payable. The statement shall apportion the whole cost upon each lot or tract of land to be assessed as provided in this Article, and shall cause the same to be certified to the Mayor and filed in the office of the City Manager. (Prior code 17-26; Ord. 1110 §1, 2010)

Sec. 11-4-360. Notice of hearing.

The City Manager shall publish once each week for three (3) consecutive weeks in a newspaper of general circulation published in the City notifying the owners of the real estate to be assessed and all persons interested, generally and without naming such owners or persons, that improvements have been or are about to be completed and accepted, specifying the whole cost of the improvements and the share so apportioned to

each lot or tract of land or person. Said notice shall also specify that any complaints or objections that may be made in writing by such owners or persons to the City Council, and filed with the City Manager, on or before a date specified in the notice (which date shall be no earlier than the fourth day after the last publication of said notice) will be heard and determined by the City Council at its first regular meeting after the last day for filing objections and before the passage of any ordinance assessing the cost of the improvements. (Prior code 17-27; Ord. 1110 §1, 2010)

Sec. 11-4-370. Hearing modification.

At the meeting specified in the notice given of assessment of the costs of local improvement under the preceding Section or any adjournment thereof, the City Council shall hear and determine all such complaints and objections. The City Council may thereupon make such modifications and changes as to it may seem equitable and just or may confirm the first apportionment. The City Council shall thereupon, by ordinance, assess the cost of the improvements against all the real estate in the improvement district and against such persons respectively, in the proportions as set out in Section 11-4-310 above. (Prior code 17-28; Ord. 1110 §1, 2010)

Sec. 11-4-380. Constitutes a lien; amendment.

All assessments made pursuant to this Article, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall, from the date of the final publication of the assessing ordinance, constitute a perpetual lien on a parity with the tax lien for general state, county, city, town or school taxes, and no sale of such property to enforce any general state, county, town or school tax or other lien shall extinguish the perpetual lien of such assessments. As to any subdivisions of any land assessed in pursuance of this act, the assessment shall in each case be a lien upon all the subdivisions in proportion to their respective areas. No delays, mistakes, errors or irregularities in any act or proceeding authorized by this Article shall prejudice or invalidate any final assessment, but the same may be remedied by subsequent amending acts or proceedings, as the case may require, and when so remedied, the lien shall take effect as of the date of the original act or proceeding. (Prior code 17-29; Ord. 1110 §1, 2010)

Sec. 11-4-390. Action when court sets aside.

If in any court of competent jurisdiction any final assessment made in pursuance of this Article be set aside, then the ordering authority may, upon notice as required in the making of an original assessment, make a new assessment in accordance with the provisions of this Article. (Prior code 17-30; Ord. 1110 §1, 2010)

Sec. 11-4-400. Assessment rolls prepared.

The City Manager shall, from the statement required by Section 11-4-350 above and the assessing ordinance required by Section 17-28, prepare a local assessment roll, in book form, showing in suitable columns each piece of real estate assessed, the total amount of the assessment, the amounts of each installment of principal and interest, if in pursuance of Section 11-4-470 of this Article the same is payable in installments and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount or of any installment or penalty. (Prior code 17-31; Ord. 1110 §1, 2010)

Sec. 11-4-410. Delivered for collection.

After the lapse of thirty (30) days from the final publication of the assessment ordinance required by Section 17-28, the City Manager will deliver the assessment rolls required by the preceding Section to the County Treasurer for collection. The assessment rolls shall be certified by the City Manager under the seal

of the City, with his or her warrant for the collection of the same. The City Manager shall charge the amount of the assessment roll to the County Treasurer, who shall receipt to the City Manager for the same. (Prior code 17-32; Ord. 1110 §1, 2010)

Sec. 11-4-420. Duties of collector; errors.

The County Assessor shall provide in the assessment roll of general taxes a column wherein the County Treasurer may make memoranda of special assessments made under Section 11-4-400 above. The County Treasurer shall make suitable memoranda in such column showing any unpaid special assessments levied before the receipt of the assessment roll, upon the property referred to in such memoranda. On request for the amount of the taxes against any property, the County Treasurer shall include in his or her statement special assessments. No error, failure, neglect or default on the part of the County Assessor or the County Treasurer in complying with the provisions of this Section shall invalidate any tax or assessment or affect the lien thereof. (Prior code 17-33; Ord. 1110 §1, 2010)

Sec. 11-4-430. Receipt of payment.

The County Treasurer shall receive payments of all assessments against any real estate appearing on the assessment roll prepared under Section 11-4-400 above and delivered to him or her for collection under Section 11-4-420 above with interest. (Prior code 17-34; Ord. 1110 §1, 2010)

Sec. 11-4-440. Payment of part interest.

The owner of any divided or undivided interest may pay his or her share of any assessment levied under this Article. (Prior code 17-35; Ord. 1110 §1, 2010)

Sec. 11-4-450. Accounting for collections.

All collections made by the County Treasurer upon the assessment roll prepared under Section 11-4-400 above and delivered for collection under Section 11-4-410 above in any calendar month shall be accounted for to the City Manager on or before the tenth day of the next succeeding calendar month with separate statements of all such collections for each improvement. (Prior code 17-36; Ord. 1110 §1, 2010)

Sec. 11-4-460. When payable.

All assessments made pursuant to this Article shall be due and payable within thirty (30) days after the final publication of the assessing ordinance, as required by Section 11-4-70 of this Article, without demand. (Prior code 17-37; Ord. 1110 §1, 2010)

Sec. 11-4-470. Election for installment payments.

All assessments made pursuant to this Article may, at the election of the owners, be paid in installments with interest, as provided in the following Section. Failure to pay the whole assessment within the period of thirty (30) days shall be conclusively considered an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively considered as consenting to improvement payments, and such election shall be conclusively held and considered as a waiver of any and all rights to question the power or jurisdiction of the City to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings or the validity or correctness of the assessment. (Prior code 17-38; Ord. 1110 §1, 2010)

Sec. 11-4-480. Method of payment; interest.

In case of election to pay in installments as provided in the preceding Section, the assessments in all cases shall be payable in not less than two (2) or more than twenty (20) annual installments of principal, with interest in all cases on the unpaid principal, payable annually at a rate not exceeding ten percent (10%) per annum. The number of installments, the period of payment and the rate of interest may be determined by the City Council. (Prior code 17-39; Ord. 1110 §1, 2010)

Sec. 11-4-490. Time payable.

All installment payments elected under Section 11-4-470 above of assessments, both of principal and interest, shall be payable at such times as may be determined in and by the assessing ordinance. (Prior code 17-40; Ord. 1110 §1, 2010)

Sec. 11-4-500. Acceleration; right to redeem.

Failure to pay any installment payment elected under Section 11-4-470 above when due, either of principal or interest, shall cause the whole of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent (1%) per month, or fraction of a month, until the day of sale as provided in Section 11-4-530 below. At any time prior to the day of sale the owner may pay the amount of all delinquent installments with interest at one percent (1%) per month, or fraction of a month as aforesaid, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay installments in the same manner as if the default had not been suffered. (Prior code 17-41; Ord. 1110 §1, 2010)

Sec. 11-4-510. Unpaid principal and interest paid.

(a) The owner of any piece of real estate not in default as to any installment payment elected under Section 11-4-470 above may at any time pay the whole unpaid principal with the interest accrued.

(b) Payments may be made to the City Manager at any time within thirty (30) days after the final publication of the assessing ordinance required by Section 11-4-370 of this Article. The payments will include an allowance for the per centum added for cost of collection and other incidentals, and for the interest from the date of payment to the time the first installment comes due. (Prior code 17-42; Ord. 1110 §1, 2010)

Sec. 11-4-520. Sales of property in default generally.

In case of default in the payment of any installment elected under Section 11-4-470 of this Article of principal or interest when due, the County Treasurer shall advertise and sell any and all real estate concerning which such default is suffered, for the payment of the whole of the unpaid assessments thereon. The sale and advertisements shall be made at the same time or times, in the same manner, under all the same conditions and penalties and with the same effect as are provided by general laws for the sale of real estate in default of payment of general taxes. (Prior code 17-43; Ord. 1110 §1, 2010)

Sec. 11-4-530. Purchase and resale.

At any sale by the County Treasurer of any real estate in the City, for the purpose of paying any special assessments for local improvements which are in default, the City Manager may purchase any such real estate without paying for the same in cash, and shall receive a certificate of purchase in the name of the City; such certificates shall be received and credited at their face value, with all interest and penalties accrued, to

the City Manager on account of the assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the City Manager at their face value, with all interest and penalties accrued, and by him or her assigned in the name of the City and the proceeds credited to the fund created by ordinance for the payment of such assessments respectively; such assessments shall be made without recourse upon the City in any event, and the sale and assignment shall operate as a lien in favor of the City and of the holders of such certificates, as is provided by law in the case of sales of real estate for default in payment of general taxes. (Prior code 17-44; Ord. 1110 §1, 2010)

ARTICLE 5

Lot Numbering

Sec. 11-5-10. System generally.

In numbering the buildings upon the streets of the City, twenty-five (25) feet shall be allowed for each number on streets running any direction. However, where there are two (2) houses within such twenty-five (25) feet on streets running east from Main Street, the number of the house on the east shall have added the figure one-half ($\frac{1}{2}$); on streets west of Main Street running west, the number of the house on the west shall have added the figure one-half ($\frac{1}{2}$); and on streets running north and south, the number of the house on the north shall have added the figure one-half ($\frac{1}{2}$). On streets running easterly and westerly, the even numbers shall be on the south side of the street and the odd numbers on the north side. On streets running northerly and southerly, the even numbers shall be on the east side of the street and the odd numbers of the west side. Main Street shall be used as the base in numbering the buildings on the streets running easterly and westerly therefrom, and the Burlington and Colorado Railroad right-of-way upon the south side of the City shall be used as the base in numbering the buildings upon the streets running northerly and southerly. The point of beginning upon streets running north and south shall be the first row of blocks north of the railway right-of-way, which numbers shall start at 101 in what is known as Howard's Addition and shall correspond therewith upon the blocks east and west, the first row of blocks including the number one hundred (100) up to two hundred (200), the second row including the number two hundred (200) up to three hundred (300), and so on north. The same rule shall apply from Main Street east and west, the first blocks east of Main Street being the numbers one hundred (100) to two hundred (200) east, the second two hundred (200) up to three hundred (300) and so on, the distinction being by the dividing line of Main Street, the first number being on the first twenty-five (25) feet from Main Street and so on. The same numbers shall be an equal distance on each side of Main Street, the one being designated east and the other west, and so on throughout the City. Each block on streets running north and south shall be one hundred (100) more in number than the block south. The first twenty-five (25) feet on the south side of each block shall be the starting point for the same number, even in what is known as Howard's Addition. (Prior code 25-9; Ord. 1110 §1, 2010)

Sec. 11-5-20. Numbers supplied by owner.

All buildings within the City shall be by the owners thereof supplied with suitable numbers thereon in a plain and legible manner in harmony with the provisions of this Article as to such numbers. (Prior code 25-10; Ord. 1110 §1, 2010)

Sec. 11-5-30. Penalty.

Each person neglecting or refusing to furnish and place numbers on any building now constructed or within sixty (60) days from its completion on any building hereafter constructed in the City, or any person

tearing down, taking off or in any way injuring any such numbers placed on any buildings within the City, shall be guilty of a misdemeanor. (Prior code 25-11; Ord. 1110 §1, 2010)

ARTICLE 6

Cable Distribution System

Sec. 11-6-10. Permit required.

The construction, installation, maintenance, use and operation of any commercial system (hereinafter designated cable distribution system) for conducting and distributing television picture and sound signals by wire, conduit or cable upon payment of money or other consideration from a user or subscriber from such system shall be unlawful within the City unless a permit for such purpose shall have been first obtained from the City Council. (Prior code 23A-1; Ord. 1110 §1, 2010)

Sec. 11-6-20. Use of public ways.

The public streets, alleys, sidewalks or other public ways of the City shall not be used for the purpose of transmitting or conducting television picture or sound signals by cable, conduit or wire; and it shall be unlawful to construct, operate or maintain in, upon, along, across, above, over or under any street, alley, sidewalk or public way, any conduit, cable, pole or wire or any other equipment or apparatus for such purposes; nor shall any conduits, cables, poles or wires or any other equipment or apparatus now existing in the public streets, alleys, sidewalks or other public ways, be so used, unless a permit for such purpose and to so do shall have been first obtained from the City Council. (Prior code 23A-2; Ord. 1110 §1, 2010)

Sec. 11-6-30. Revocation of permit; disposition of property.

Any such right, permit or privilege mentioned in Sections 11-6-10 and 11-6-20 above shall be granted upon such terms and conditions as is hereinafter provided and upon such additional terms as may be determined by the City Council at the time of granting such permit, and the same shall be subject to revocation by the City Council, at its pleasure and discretion at any time. In the event of such revocation or other termination of such permit, the City shall have the right to purchase all the property of any permittee used under and in connection with its permit, together with all goodwill, rights and appurtenances of the permittee, at the fair market value at the time of purchase. In the event of such revocation or termination of such permit and the City does not elect to purchase the permittee's property, the permittee shall, at the request of the City, at its own expense and within a reasonable time as determined by the City Council, remove any poles, wires, cable and related appurtenances constructed or installed and shall leave the streets and public ways in as good condition as they were prior to such installations. (Prior code 23A-3; Ord. 1110 §1, 2010)

Sec. 11-6-40. Nonexclusive rights.

Any right granted a permittee under the provisions of this Chapter to use the streets and public ways of the City and conduct its business in the City shall be nonexclusive and the City shall reserve the right to grant a similar use or uses in such streets and public ways and authorize additional cable system business in the City. (Prior code 23A-4; Ord. 1110 §1, 2010)

Sec. 11-6-50. Construction.

Any poles, wires, cable, lines, vaults, conductors, installations or facilities which are, at any time hereafter, to be constructed or installed in the City shall be so constructed or installed only at such locations and in such manner as approved by the City or its authorized representative. In those areas of the City where public utility lines are underground or thereafter may be placed underground, the permittee shall likewise construct, install and operate all its lines, cables and other facilities underground. Any streets or sidewalks damaged or disturbed in the construction or operation of a permittee's poles, cables and other installations shall be promptly repaired and restored by the permittee at its expense and to the satisfaction of the City. If the City elects to change the grade of any street or public way, to vacate or otherwise alter the same, the permittee shall relocate its poles and other installations at its expense. (Prior code 23A-5; Ord. 1110 §1, 2010)

Sec. 11-6-60. Availability of service.

A designated permittee's system and its services shall be made available in every part of the City except in those areas, if any, where it appears that there are not sufficient potential users to make the installation and operation of the system economically feasible; provided that the City Council, upon complaint that service is not furnished, may determine whether or not it is feasible and proper to furnish such service in the area wherein requested. If the City Council determines that it is so feasible in any area, the designated permittee shall forthwith supply its services to such area. A permittee shall maintain an office in the City and provide a maintenance and repair service readily available through telephone or other means in the City to its subscribers. A permittee shall not discriminate between persons or areas and its service shall be equally available. (Prior code 23A-6; Ord. 1110 §1, 2010)

Sec. 11-6-70. Pay T.V. not authorized.

Nothing in this Chapter or any permit granted under the provisions of this Chapter shall be construed to authorize services presently known as Pay T.V. (Prior code 23A-7; Ord. 1110 §1, 2010)

Sec. 11-6-80. Rates and charges.

The charges made by the permittee for its services, including installation, repair, removal and monthly service charges, shall be uniform for the same or similar services and shall be according to rates approved by the City Council. No rate shall be increased or decreased without approval of the City Council to so do. (Prior code 23A-8; Ord. 1110 §1, 2010)

Sec. 11-6-90. Noninterference with direct broadcast.

The permittee shall operate its system so as not to interfere with the direct broadcast or reception of other signals, whether television, radio, telephone or telegraph signals. In the delivery of programs the permittee shall not delete the commercials of the program sponsor, nor shall it interrupt any programs or parts thereof and substitute commercials or advertisements for those of such program sponsor. (Prior code 23A-9; Ord. 1110 §1, 2010)

Sec. 11-6-100. Permit nontransferable.

Any permit or privileges provided for in this Chapter shall be personal to the permittee and it cannot be sold, transferred, leased, assigned and disposed of, in whole or in part, either by voluntary or involuntary proceedings, without the consent of the City Council expressed by resolution of the City Council upon such

conditions as it may prescribe, except such consent shall not be unreasonably withheld. (Prior code 23A-10; Ord. 1110 §1, 2010)

Sec. 11-6-110. Performance bond required.

Any such permittee shall, concurrently with acceptance of a permit provided for in this Chapter, obtain at its expense and file with the City Manager a corporate surety bond, by a company approved, by, and in form approved by, the City, in the amount of twenty-five thousand dollars (\$25,000.00) renewable annually or deposit with the City cash or United States bonds in the amount of twenty-five thousand dollars (\$25,000.00), the permittee to receive all interest therefrom and conditioned upon and for the faithful performance by the permittee of all of the conditions in and requirements and obligations imposed upon the permittee by the provisions of this Chapter and the permit granted and for compliance with all the provisions thereof. The bond shall contain a provision that thirty (30) days' written notice of intention not to renew or to cancel, or of other material change, shall be given to the City. (Prior code 23A-11; Ord. 1110 §1, 2010)

Sec. 11-6-120. Indemnification of City; insurance.

Any permittee shall, at its own expense, defend all suits that may be brought against the City on account of the operations and business of the permittee or the construction or operation of its system and infringement of copyrights, patents or like violations and shall keep harmless the City from any and all liability, damages, judgments, costs and expenses of every kind growing out of or connected with such business and installation or operation of the system, and the permittee as further assurance to the City shall, during the existence of the permit granted the permittee under this Chapter, furnish the City with proper evidence of liability insurance coverage with an approved company insuring both the permittee and City against claims, demands or losses for injury to persons or damage to property resulting from or connected with the construction, operation or maintenance of the system and business within the City. The insurance shall have limitations in not less than three hundred thousand dollars (\$300,000.00) for injury or damages occurring to one (1) person in one (1) occurrence and not less than five hundred thousand dollars (\$500,000.00) for injury or damages occurring to more than one (1) person in the same occurrence and not less than one hundred thousand dollars (\$100,000.00) for damage to property in one (1) occurrence. (Prior code 23A-12; Ord. 1110 §1, 2010)

Sec. 11-6-130. Installation without permit unlawful.

Installation, operation or maintenance of a cable distribution system within the City without first obtaining a permit therefor as herein provided, shall be unlawful and shall subject the violator to the penalty hereinafter provided. (Prior code 23A-13; Ord. 1110 §1, 2010)

Sec. 11-6-140. Penalties; remedies.

(a) Any person, whether as principal, agent, employee or otherwise, violating the provisions of this Chapter shall, upon conviction thereof, be punished by fine in accordance with the provisions of Section 1-4-10 of this Code.

(b) Each day of any violation shall be deemed a separate offense.

(c) The remedy provided herein shall be cumulative and not exclusive and shall be in addition to any other remedy provided by law, including, without limitation, that of injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any condition or facilities or equipment constituting the violation. (Prior code 23A-14; Ord. 1110 §1, 2010)

Sec. 11-6-150. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall remain in full force and effect; and to this end the provisions of this Chapter are hereby declared to be severable. (Prior code 23A-15; Ord. 1110 §1, 2010)

ARTICLE 7

Cemetery Regulations

Division 1

Burials and Disinterments

Sec. 11-7-10. Burial or deposit of remains unlawful; exceptions.

(a) It shall be unlawful to bury, inter, inhume or deposit any uncremated human body or human remains in any vault or place in the City except within established cemeteries owned and controlled by the City. Further, except as provided in Subsection (b) of this Section, it shall be unlawful to bury, inter, inhume or deposit, keep or place any human crematory ashes or cinerary remains in any grave, vault, crypt, sepulcher, niche, cinerarium or columbarium in the City except within the established cemeteries owned and controlled by the City.

(b) The City Council may, by special permit, approve the establishment and use of a privately owned columbaria or cineraria for the interment or deposit and keeping of human ashes; provided that any such permit, by agreement, by trust indenture or otherwise, shall appropriately assure the care and maintenance of the property dedicated to such purpose as well as to provide for the perpetual care of the cinerary remains deposited therein, and for their removal to the City cemetery or other lawful place, in case of the abandonment of any such columbarium or cinerarium. (Prior code 8-1; Ord. 1110 §1, 2010)

Sec. 11-7-20. Permit required for transportation.

No dead body of any person shall be taken from the City for burial by any undertaker or other person until a permit for the removal and burial of such body shall have been granted by the Health Department. Upon the receipt of a report of death, the Health Department shall make a record thereof and issue a permit for the removal from the City or the burial of the body of such deceased person and deliver the same to the undertaker or other person having charge of the burial of the body. (Prior code 8-2; Ord. 1110 §1, 2010)

Sec. 11-7-30. Permit required for burial.

No sexton or other person having charge or control of any cemetery, burying place, tomb or vault, under the jurisdiction of the City, shall bury the dead body of any person without having a permit to do so. (Prior code 8-3; Ord. 1110 §1, 2010)

Sec. 11-7-40. Permit required for disinterment.

No person shall take up or remove the body of any dead person from its place of original interment nor take up or remove such body from one (1) grave or vault to another within any cemetery or burial place

within the jurisdiction of the City without a permit from the Health Commissioner to do so. (Prior code 8-4; Ord. 1110 §1, 2010)

Sec. 11-7-50. Regulations for disinterment.

In all cases in which a permit has been obtained from the City for such disinterment, the same shall be performed under the rules, regulations and precautions of the State Board of Health. (Prior code 8-5; Ord. 1110 §1, 2010)

Sec. 11-7-60. Permit required for import into City.

No undertaker or other person nor any common carrier or person engaged as expressman or public cartman shall receive from any railroad company, express company or other corporation or person engaged as a common carrier or in the conveyance of passengers, freight or merchandise, any dead human body brought from any place outside of the City, unless there shall be presented with such dead body a permit or certificate from the board of health of the place where the death occurred. Such permit or certificate shall contain the name and age of the deceased, the date, hour, place and cause of death, and the name of the physician or coroner certifying to such death. If such death shall have been caused by any infectious or contagious disease, or if such body shall be in an offensive condition or in a condition dangerous to the health of the community, such body shall not be received by any such person unless in addition to such permit or certificate, there shall be produced the permission of the Health Commissioner for the bringing into the City of such body. The permit or certificate from the foreign board of health shall be immediately presented to and filed with the Health Department, upon which a permit for the burial of such body shall be issued. (Prior code 8-6; Ord. 1110 §1, 2010)

*Division 2
Riverside Cemetery*

Sec. 11-7-110. Sale of lots.

It shall be the duty of the City Manager to keep an accurate record of all sales of lots in the cemetery, showing the name of the purchaser, with the number of the lot purchased in a book provided by the City for that purpose. When any person shall purchase a lot, the City Clerk shall, upon the payment of the price therefor, give to the purchaser a certificate of purchase attaching thereto the City seal. All money received from the sale of the lots shall be forthwith paid into the City Treasury. (Prior code 8-7; Ord. 1110 §1, 2010)

Sec. 11-7-120. Lots maintained by City.

All cemetery lots and parts of lots, other than lots and parts of lots in Division 1, sold in the municipal cemetery, shall be for all time maintained, at City expense, in a clean, neat and sightly condition by the City. (Prior code 8-8; Ord. 1110 §1, 2010)

Sec. 11-7-130. Lot maintenance part of contract.

All certificates of purchase of municipal cemetery lots sold on and after May 1, 1914, shall contain a copy of Section 11-7-120 above, which Section shall be deemed, taken and held to be a contract on the part of the City as a part of the consideration for the purchase of the lots, to forever maintain all lots so sold in the cemetery in the manner prescribed by Section 11-7-120, and shall be taken and held to be a covenant on the

part of the City running with the lots or property sold to the purchaser thereof, and to his or her heirs and assigns, forever. (Prior code 8-9; Ord. 1110 §1, 2010)