

CHAPTER 11

Streets, Sidewalks and Public Property

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ARTICLE I

Sidewalks

Division 1 General Provisions

Sec. 11-1-10. Sidewalks declared nuisance.

A sidewalk having an offset, being either a raise or a depression in excess of three-quarters ($\frac{3}{4}$) inch, or being in disrepair, cracked or defective, is hereby declared to be a nuisance. Objects or obstructions upon sidewalks are declared to be a nuisance. (Prior code 11.08.010)

Sec. 11-1-20. Failure to repair defective sidewalks or remove obstructions.

Any owner or occupant of any lot, block or parcel of ground who shall fail to repair, remove or correct the defective sidewalk along such property within twenty (20) days after service of notice upon him or her by the City shall be deemed guilty of maintaining a nuisance. Any owner or occupant of any lot, block or parcel of ground who shall fail to remove any object or obstruction from the sidewalk along such property shall be deemed guilty of maintaining a nuisance. (Prior code 11.08.020)

Sec. 11-1-30. Accumulation of snow or ice.

The accumulation of snow or ice upon any sidewalk for longer than twelve (12) hours is a Class C municipal offense. (Prior code 11.08.030; Ord. 4 §1, 2005)

Sec. 11-1-40. Snow and ice removal from sidewalks.

The owner, occupant or agent of the owner of any building, property or vacant lot in the City shall maintain the sidewalk, parking and curbs; i.e., the area from the property line to the gutter, adjoining said building, property or vacant lot, in a clean condition; and shall remove and clear away, or cause to be removed and cleared away, snow and ice from adjoining sidewalks within twenty-four (24) hours after every snowfall. Any person who fails to do so, after having been given notice, either in person, in writing or by telephone by the City, and having been given twenty-four (24) hours within which to comply, shall be deemed guilty of a misdemeanor and shall be punished as provided in Section 1-4-20 of this Code. (Prior code 11.08.040; Ord. 4 §1, 2005)

Sec. 11-1-50. Construction permit for sidewalks and streets.

It shall be unlawful for any person to begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb cut, driveway or street in the City, without first obtaining a permit from the City. The fees for the permit shall be the same fees as are charged in connection with building permits. (Prior code 11.12.010)

Sec. 11-1-60. Standards and specifications.

The work shall be completed according to the standards and specifications of the City for public work of like character. On failure of the person to comply with such standards and specifications, the City Inspector shall have the right to require the removal of any and all unsatisfactory work. On failure of the

person to comply with the requirements of the City Inspector, such person shall be deemed guilty of a violation of this Article. (Prior code 11.12.020; Ord. 4 §1, 2005)

Sec. 11-1-70. Permit for disturbing public ground.

It shall be unlawful for any person to move, disturb or take any earth, stone or other material from any public street, alley, park or other public ground, or to cut or disturb any curb or sidewalk, without first having obtained a permit from the City as provided in Section 11-1-50 above. (Prior code 11.12.030)

Sec. 11-1-80. Destroying property prohibited.

No person shall willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City. In addition, no person shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug, topographical survey monument or any other personal property erected or placed by the City. (Prior code 11.12.040; Ord. 4 §1, 2005)

Sec. 11-1-90. Interfering prohibited.

Any person who, by menace, profane language, language or conduct, threatens, quarrels with, disturbs, interrupts or interferes with any officer or employee of the City in the discharge of his or her work or duties shall be deemed guilty of a violation of this Article. (Prior code 11.12.050; Ord. 4 §1, 2005)

*Division 2
Newsrack Regulations*

Sec. 11-1-210. Newsracks regulated.

It shall be unlawful to place or maintain a newsrack on property owned by the City or on other publicly owned sidewalks or areas without complying with the provisions of this Article. (Ord. 2 §2, 2007)

Sec. 11-1-220. Definitions.

Whenever the following words or phrases are used in this Article, they shall have the following meanings:

DDA means the Rifle Downtown Development Authority.

Newsrack means any outdoor self-service or coin-operated container, rack or structure used or maintained for the distribution of newspapers, news periodicals or other printed materials. (Ord. 2 §2, 2007)

Sec. 11-1-230. Newsracks allowed only in specified areas.

(a) Newsracks on City-owned property or on publicly owned sidewalks shall be lawful within the area of the DDA boundary, as it is defined and amended by ordinance from time to time, at the following three (3) locations and in the size and color specified herein:

- (1) Post Office: Southeast corner of Railroad Avenue and East 4th Street;
- (2) Moose Lodge: Southwest corner of East Avenue and East 3rd Street; and
- (3) Library: East 2nd Street along sidewalk on south side of street.

(b) Outside the DDA, those existing newsracks that conform to the provisions of this Division may remain in their present locations subject to other relevant provisions of this Chapter. (Ord. 2 §2, 2007)

Sec. 11-1-240. Newsracks within the DDA.

Anyone desiring to use, operate, place or maintain newsracks on City-owned property or publicly-owned sidewalks located in the City's DDA shall provide, at his or her expense, an adequate number of modular racks with pedestals to house his or her publications. All such newsracks shall be of a style and color approved by resolution of the City Council, as may be amended from time to time, upon the recommendation of the DDA. The DDA shall have the first opportunity, at its expense, to install, maintain and manage permitted newsracks. All other newsracks located outside the DDA and on City-owned property or publicly owned sidewalks may continue without restriction. (Ord. 2 §2, 2007)

Sec. 11-1-250. Maintenance of newsracks.

Anyone using, operating, placing or maintaining a newsrack on City-owned property or publicly owned sidewalks shall be responsible for the maintenance and upkeep of his or her respective racks. Such maintenance shall include, but not be limited to, painting and keeping the newsrack reasonably free of graffiti, disposing of trash and debris in the vicinity of the newsrack, working operation and adequate anchorage. In addition, newsracks should be kept clear of any advertising on the outside of the newsrack, other than that advertising which identifies the paper in the rack. Failure to adequately maintain any newsrack resulting in failure to comply with the aesthetic intentions and goals of this Division shall subject the affected newsrack to removal by the City pursuant to the provisions of this Division. In the event that a newsrack becomes unreasonably covered with graffiti, the City reserves the right to repaint the newsrack and bill the permittee for the cost of repainting. (Ord. 2 §2, 2007)

Sec. 11-1-260. Permit required.

An annual permit is required from the City before a user can place and maintain a newsrack on City property. Permit fees shall be determined by resolution of the City Council, as may be amended from time to time by resolution. (Ord. 2 §2, 2007)

Sec. 11-1-270. Hold harmless.

Anyone owning, maintaining, placing, using or leasing a newsrack on City-owned property or publicly owned sidewalks shall indemnify, defend and hold the City and its officers and employees harmless for any loss or damage, including attorneys' fees, arising out of the use, placement, maintenance or leasing of such newsrack. (Ord. 2 §2, 2007)

Sec. 11-1-280. Insurance Requirements.

Anyone owning, placing, leasing, using or maintaining a newsrack on City-owned property or publicly owned sidewalks shall maintain liability insurance with a company insuring against all liability that the

owner, lessor or user of the newsrack may incur by virtue of the placement, care, use, operation and existence of the newsrack. Such insurance shall be one hundred twenty-five percent (125%) of the limits of the Colorado Governmental Immunity Act to protect the City from any and all liability associated therewith and the cost of defense. The insurance shall name the City as an additional insured and shall not be cancelable without thirty (30) days prior written notice to the City. Evidence of insurance or evidence of sufficient assets, as the case may be, shall be provided to the Planning and Development Director on an annual basis. Failure to comply with this provision will subject the newsrack to immediate removal by the City. (Ord. 2 §2, 2007)

Sec. 11-1-290. Location restrictions.

(a) Newsracks may be located in groups of no more than fourteen (14) in one (1) location in the public right of way.

(b) No newsrack shall be located adjacent to any mailbox, post, pole, water feature, art or monument or adjacent to or within any raised planter, except when pedestrian circulation space between such items and a newsrack is not needed and sufficient space for maintenance of such items and newsracks is provided.

(c) No newsrack shall be placed in such a manner that it unsafely:

(1) Impedes or interferes with the reasonable use of a crosswalk, display window or building entrance.

(2) Impedes or interferes with the reasonable use of any bench, trash receptacle, bicycle rack, driveway, alley or bus shelter.

(3) Interferes with the reasonable use of any fire hydrant, traffic signal box or other emergency facility.

(4) Impairs or interferes with pedestrian traffic.

(5) Interferes with or impairs the vision of operators of vehicles at street intersections.

(6) Reduces the clear, unimpeded sidewalk width to:

a. Ten (10) feet on sidewalks over twelve (12) feet in width; or

b. Less than three quarters ($\frac{3}{4}$) of the width of the sidewalk on sidewalks less than twelve (12) feet, with a four-foot minimum.

In determining an unimpeded sidewalk, features such as fire hydrants or similar structures shall be considered. (Ord. 2 §2, 2007)

Sec. 11-1-300. Location changes.

So long as the provisions of this Division are complied with, newsracks may be allowed at additional locations within the DDA upon the approval of the City Council by resolution and after considering the safety and aesthetic aspects of such new location outlined herein. (Ord. 2 §2, 2007)

Sec. 11-1-310. Rights granted.

The approval of any location for use as a newsrack shall not be construed as granting the user any right or interest to or in the property owned by the City. The rights granted by this Division are merely a license to use the property for permitted purposes, subject to the provisions of this Division. (Ord. 2 §2, 2007)

Sec. 11-1-320. Anchorage of newsracks.

Newsracks shall be anchored with bolts to the sidewalk at the respective sites. Newsracks may not be anchored to trees, posts or poles with chains, rope, cable or otherwise. The permittee shall be responsible for any damage or repairs caused or necessitated by the removal or installation of any newsrack to bring the site to its original condition, ordinary wear and tear excepted. (Ord. 2 §2, 2007)

Sec. 11-1-330. Display of certain matter prohibited.

Publications offered for sale or distribution from newsracks placed or maintained on or projecting over the public right of way shall not be displayed or exhibited in a manner that exposes to public view from the street or sidewalk any of the following:

- (1) Any statements or words describing explicit sexual acts, sexual organs or excrement where such statements or words have as their purpose or effect sexual arousal, gratification or affront.
- (2) Any picture or illustration of a person's genitals, pubic hair, perineum, anus or anal region where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront.
- (3) Any picture or illustration depicting explicit sexual acts or violence where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront.
- (4) Any publication or material that exposes to public view any visual material that is obscene; obscene is to be determined by the following standard:
 - a. The average person, applying contemporary standards, would find that the publication or material, when considered as a whole, appeals to the prurient interest;
 - b. The publication or material depicts, describes or represents, in a patently offensive manner, sexual behavior; and
 - c. The publication or material, when considered as a whole, lacks serious literary, artistic, political or scientific value. (Ord. 2 §2, 2007)

Sec. 11-1-340. Emergency newsrack removal.

(a) Removal. In the event that it is determined by the City that the location or operation of the newsrack constitutes an immediate physical threat to public life, safety or health, the newsrack may be removed by the City immediately without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expressions of the material distributed by the newsrack.

(b) Notice and hearing. In the event of such an emergency removal, the City shall immediately contact the newsrack's owner or user, if known, and inform the representative of the removal and reasons therefor. If requested by the representative, the City shall hold an immediate hearing before the Planning and Development Director or his or her designee to determine whether or not the removed newsrack constituted an immediate threat to the public's life, safety and health. In the event that no immediate hearing is requested by the newsrack's owner or user, a hearing as provided above shall be held.

(c) Appeal. Any decision or order may be appealed to the Board of Adjustments and Appeals. Any appeal shall be filed in writing within ten (10) days after the decision of the Planning and Development Director or his or her designee and shall specify the basis for the appeal. The Board of Adjustments and Appeals shall consider the appeal based on the written submissions only. (Ord. 2 §2, 2007)

Sec. 11-1-350. Unauthorized newsracks.

(a) Notice. If at any time it is determined by the City that a newsrack is not in compliance with the requirements of this Article, a "Notice of Intent to Remove" shall be issued, in writing, and affixed to the affected newsrack. Such notice will state the violation or violations that constitute the basis of the proposed removal. The notice shall contain the date, time and place for the hearing to be held before removal.

(b) Hearing. The hearing shall be held not less than ten (10) days after the date of service of the notice. Prior to the hearing the newsrack owner or user may file a written response to the notice specifically setting forth the reason or reasons the newsrack should not be removed. At the hearing, the Planning and Development Director or his or her designee shall determine whether the newsrack complies with the provisions of this Division. In the event the Planning and Development Director or his or her designee determines the newsrack is not in compliance with this Division, the newsrack shall be removed by the owner or user within ten (10) days of such determination at the hearing. If the newsrack is not removed as required, the City may consider the newsrack abandoned, remove the newsrack and impound it. The owner of any impounded newsrack shall be responsible for the expense of removal and storage of such newsrack. If the owner fails to reclaim the impounded newsrack and pay the expenses of removal and storage within thirty (30) days after impoundment, the newsrack may be deemed unclaimed property and may be disposed of in the same manner as other unclaimed or surplus City property.

(c) Appeal. Any decision or order may be appealed to the Board of Adjustments and Appeals. Any appeal shall be filed in writing within ten (10) days after the decision of the Planning and Development Director or his or her designee and shall specify the basis for the appeal. The Board of Adjustments and Appeals shall consider the appeal based on the written submissions only. (Ord. 2 §2, 2007)

Sec. 11-1-360. Noncomplying designs within the DDA.

Newsracks located or to be located in the DDA must comply with the provisions of this Division no later than April 30, 2007. (Ord. 2 §2, 2007)

Sec. 11-1-370. Future removal or relocation of newsracks.

In the event that, at some future date, the City determines a need to reduce the number of newsracks in a given location, priority rights to remain at the said location will be granted in order of seniority of permit, based on the earliest date a newsrack permit was granted for a given newsrack at that location.

After all users of newsracks at that location are given notice of the need to reduce the total number of newsracks at said location and given ten (10) days to elect to relocate, the City will determine which newsracks will be relocated and will relocate newsracks according to date of first permit granted, with newsracks belonging to users with the most recently granted permits required to relocate first. (Ord. 2 §2, 2007)

ARTICLE II

Encroachment Permits

Sec. 11-2-10. Uses prohibited without encroachment permit.

(a) No person shall conduct any activity or enterprise that involves placement of a cart, unrolled blank booth, sign, table, structural improvement associated with landscaping, stage or other structure or equipment in the public right-of-way without a valid encroachment permit issued under this Article, unless specifically permitted and provided for in this Code, such as newsracks.

(b) No person shall install or construct any structure, awning, sign, balcony, occupied colonnade or stoop over or upon the public right-of-way without a valid encroachment permit issued under this Article.

(c) Landscaping within the public right-of-way shall not be a violation of this Article; provided, however, that no vested right to continue such landscaping shall arise and said landscaping shall comply with other requirements and provisions of this Code.

(d) The penalty for failing to comply with this Article shall be as set forth in Chapter 1, Article IV of this Code. (Ord. 1 §2, 2009)

Sec. 11-2-20. Encroachment permit required.

(a) Any person who wishes to encroach over or upon the public right-of-way shall apply for and obtain an encroachment permit from the City Manager according to the application process established by the City Manager. Encroachment permits shall be revocable and may be subject to a term as determined by the City Manager to ensure that the encroachment remains appropriate for its setting and compliant with the terms of the permit. Encroachment permits shall provide, and it shall be agreed by the person requesting the permit, that any such improvements which either exist upon or are placed upon City property shall be placed there at the sufferance of the City and shall be removed by the property owner responsible for the improvements upon receipt of a written notice from the City to remove the improvements in the time frame set forth in the notice. All encroachments shall maintain a minimum sidewalk clearance as required by the City and comply with all building codes as applicable, and permits shall contain such restrictions as the City Manager deems appropriate. All encroachment permits shall be kept on the premises.

(b) The City Manager may establish review guidelines and application submittal requirements and may also impose conditions on any permit to ensure that permitted encroachments comply with this Code and enhance the proposed location.

(c) The construction of any permitted encroachment shall be completed within the time period established by the permit, which shall in no event exceed one (1) year, or the permit will automatically expire.

(d) The City Manager may impose a reasonable fee for an application for an encroachment permit to cover the City's costs associated with processing and monitoring such permit, which fee may be amended from time to time.

(e) Once an application is deemed complete, the City Manager shall render a decision on the permit application within fifteen (15) business days unless the application is referred to the Planning Commission and/or the City Council; in which case, the application shall be placed on the next available agenda.

(f) The City Manager may require proof of authority from any person purporting to sign an application for the use of any person or entity other than the signator.

(g) The City Manager has the discretion to forward any and all encroachment permit applications for review and approval by the Planning Commission and/or City Council.

(h) Whenever any permittee desires to change the use or location of the encroachment authorized by the permit, the permittee shall follow the review and approval process required of a new applicant. (Ord. 1 §2, 2009)

Sec. 11-2-30. Mandatory insurance.

(a) All permittees shall provide proof of adequate insurance to the City Manager before a permit may be issued and shall maintain during the period of the permit comprehensive general public liability and property damage insurance naming the City, its officers, employees and agents as insureds in an amount equal to the limits under the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., plus the costs of defense, provided that the insurance is primary insurance and that no other insurance maintained by the City will be called upon to contribute to loss covered by the policy and providing for thirty (30) days' notice of cancellation or material change to the City. All insurance policies maintained pursuant to this Article shall contain the following endorsement:

It is hereby understood and agreed that this insurance policy may not be cancelled by the surety until thirty (30) days have expired after notice to the City of Rifle by certified mail of the proposed cancellation or decision not to renew.

(b) The City Manager may waive the mandatory insurance requirement for encroachments of a minor nature or short duration of time.

(c) The City Manager has discretion to increase insurance limits for major encroachments. (Ord. 1 §2, 2009)

Sec. 11-2-40. Indemnification.

The holder of an encroachment permit issued under this Article shall indemnify and hold harmless the City, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use. (Ord. 1 §2, 2009)

Sec. 11-2-50. Outdoor dining encroachment permit.

In addition to the provisions described above, applications for all outdoor dining encroachment permits shall state the exact dimensions of the proposed encroachment and the distances from the encroachment to existing structures, such as benches, tree grates, etc., as well as existing signs and lights. Encroachments may extend into the public right-of-way a distance that allows five (5) feet of unobstructed sidewalk measured from the curb or building frontage; provided, however, that at all times pedestrians must have access to a minimum of five (5) feet of unobstructed sidewalk as a thoroughfare between permitted outdoor dining encroachments. In addition, if alcohol is served, all provisions of the City's Liquor Code must be followed. (Ord. 1 §2, 2009)

Sec. 11-2-60. General requirements.

(a) A permittee is responsible for maintaining the area within and in proximity to the permitted location in a neat, clean and hazard-free condition, including, without limitation, disposing all trash off-site.

(b) The City Manager may deny an encroachment permit if the proposed use does not benefit the City, would constitute a physical hazard to the public health, safety or welfare or would violate any law. (Ord. 1 §2, 2009)

Sec. 11-2-70. Transfer of encroachment permits.

An encroachment permit is not automatically transferable or assignable. The City Manager may review a request to transfer or assign a temporary encroachment permit as a new application. (Ord. 1 §2, 2009)

Sec. 11-2-80. Termination of encroachment permits.

(a) Any permit issued hereunder may be revoked by the City Manager for a violation of this Article or a breach of a condition in the permit. Notice to the City of cancellation or material change to any insurance policy in which the City is named as an insured may result in the immediate revocation of the encroachment permit.

(b) Upon revocation or expiration of any permit, the permittee shall remove all structures or improvements from the permit area and restore the area to its condition existing prior to issuance of the permit. In the event that a permittee fails to timely remove a structure or improvement from the permitted area, or if any encroachment exists without a valid permit, the City may remove the same and assess the cost thereof against the permittee and the permittee's abutting property, if any, for collection in the same manner as for real property taxes. (Ord. 1 §2, 2009)

Sec. 11-2-90. No waiver.

The City relies upon, and does not waive or intend to waive by any provision of an encroachment permit, the monetary limitations, as may be amended from time to time, or any other rights, immunities and protections provided the City by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other law or limitation otherwise available to the City, its officers or its employees. (Ord. 1 §2, 2009)

ARTICLE III

Surveys

Sec. 11-3-10. Datum established.

A horizontal plane of reference is hereby made and established in the City, to which all grades hereafter established or fixed by the City Council for public improvements shall refer. The plane shall be known as City datum and shall be established at an elevation of five thousand three hundred forty-five and sixty-one hundredths-(5,345.61) feet above sea level, and is a bench mark on the east side of the First National Bank within the City. (Prior code 11.04.010; Ord. 4 §1, 2005)

Sec. 11-3-20. Bench marks established.

The elevation of all other objects described and designated on the plans and profiles of street grades for the City, prepared by William C. Lacey, civil engineer, adopted by the City Council at a meeting held on December 10, 1906, and now on file in the office of the City Clerk, which elevations are thereon given in feet and decimals of a foot above sea level as herein established, are hereby adopted for the use of the City to be used in the carrying out of any improvements. Such objects shall be known as City bench marks. (Prior code 11.04.020; Ord. 4 §1, 2005)

Sec. 11-3-30. Grades established.

There is hereby established a system of grades for the City in the following manner: The centerlines of the streets in the City shall be fixed in elevation above sea level as established herein, by determining the elevation of such lines in feet and tenths of a foot above sea level at the intersection of the centerlines of all crossing streets, and of the centerlines produced to an intersection of such abutting streets or alleys as may be necessary, and such other and further defined points in the centerlines of the streets of the City as may be desirable. Such centerlines shall be straight lines connecting such defined established points. (Prior code 11.04.030)

Sec. 11-3-40. Streets and sidewalks to conform to grades.

The crown of the street when improved, and top line of the curb when set, shall coincide with such centerlines so established, except on White River Avenue, Munro Avenue, Main Street and Front Street, in which case the sidewalks shall be established as provided on plans and profiles in the office of the City Clerk. The sidewalks on all streets shall rise toward the lot line from the curb line so established at the rate of three-fourths ($\frac{3}{4}$) inch vertically for every three (3) feet in width. (Prior code 11.04.040)

Sec. 11-3-50. Centerline established.

(a) For the purpose of establishing the centerline as above described, the following points of the centerlines of the streets are hereby established at the following heights above sea level, in feet and tenths of a foot:

AVENUES

	White River		East Avenue	
	East	West	East	West
Front Street	—	—	5,326.8	5,326.8
Main Street	5,356.0	5,354.0	5,338.8	5,338.8
Third Street	5,358.8	5,356.8	5,342.6	5,342.6
Fourth Street	5,366.8	5,364.8	5,347.8	5,347.8
Fifth Street	5,379.8	5,377.8	5,354.8	5,354.8
Sixth Street	—	—	5,370.0	5,370.0

	Railroad		West Avenue	
	East	West	East	West
Front Street	5,315.8	5,315.8	5,315.2	—
Main Street	5,332.4	5,332.4	5,321.6	5,321.6
Third Street	5,340.8	5,340.8	5,336.0	5,336.0
Fourth Street	5,345.6	5,345.6	5,339.4	5,339.4
Fifth Street	5,349.4	5,349.4	5,343.8	5,343.8
Sixth Street	5,367.0	5,367.0	—	—

	Centerline of Munro Avenue	Clarkson Avenue	
		South	North
Front Street	5409.0	5448.4	5448.4
Main Street	5420.2	5457.0	5459.0
Third Street	5415.0	5462.0	—
Fourth Street	5417.0	—	—

(b) In addition to the heights established in the foregoing table, the following list of heights is also hereby established in the centerline of the streets and alleys enumerated and at the points defined, the elevations above sea level being given in feet and tenths of a foot.

- (1) Elevation of Railroad siding at East Avenue crossing is 5,312.8 feet.
- (2) Elevation of Railroad siding at Railroad Avenue crossing is 5,311.4 feet.
- (3) Elevation at intersection of Third Street and west line of City is 5,330.8 feet.
- (4) Elevation at intersection of Fourth Street and west line of City is 5,332.8 feet.
- (5) Elevation at intersection of Fifth Street and west line of City is 5,332.8 feet.
- (6) Elevation of Main Street 70 feet east of east line of White River Avenue is 5,364.0 feet.
- (7) Elevation of Main Street west line of Munro Avenue is 5,413.0 feet.

- (8) Elevation of Main Street 60 feet east of east line of Munro Avenue is 5,441.0 feet.
- (9) Elevation of Main Street 210 feet east of east line of Munro Avenue is 5,456.0 feet.
- (10) Elevation of Third Street 70 feet east of east line of White River Avenue is 5,366 feet.
- (11) Elevation of Third Street 170 feet east of east line of White River Avenue is 5,380.6 feet.
- (12) Elevation of Third Street on the west line of Munro Avenue is 5,408.5 feet.
- (13) Elevation of Third Street on the east line of Munro Avenue is 5,423.2 feet.
- (14) Elevation of Third Street 110 feet east of the east line of Munro Avenue is 5,443.0 feet.
- (15) Elevation 210 feet east of the east line of Munro Avenue is 5,456.0 feet.
- (16) Elevation of Front Street on the east line of Munro Avenue is 5,414.0 feet.
- (17) Elevation of Front Street 110 feet east of the east line of Munro Avenue is 5,430.0 feet.
- (18) Elevation of Munro Avenue on the centerline of alley between Front and Main Streets is 5,422.0 feet. (Prior code 11.04.050; Ord. 4 §1, 2005)

Sec. 11-3-60. Adoption of official map.

The "official survey and grade map of the City of Rifle, Garfield County, Colorado" made by W. H. Trumbor, civil engineer of Glenwood Springs, Colorado, and bearing the date of August 1, 1908, is hereby approved and adopted as the official map of the City. (Prior code 11.04.060)

Sec. 11-3-70. Base of surveys.

The base of surveys for all streets, alley lines, lots and blocks shall be from the survey monuments or center now established at the intersection of:

- (1) The centerline of Fifth Street with the centerlines of West Avenue, Railroad Avenue, East Avenue and White River Avenue.
- (2) The centerline of Fourth Street with the centerlines of Railroad Avenue and East Avenue.
- (3) The centerline of Third Street with the centerlines of West Avenue, Railroad Avenue, East Avenue and White River Avenue.
- (4) The centerline of Main Street with the centerlines of Railroad Avenue and East Avenue. (Prior code 11.04.070)

Sec. 11-3-80. Centerlines of streets established.

The centerlines of the streets and avenues are hereby established by and from the survey monuments or centers on those streets and avenues. All lots fronting on all streets and avenues shall be surveyed from

and at right angles to the centerlines, the proper sizes and distances to be as shown on the official map and in the manner hereinafter mentioned. The centerlines of all streets and avenues not so established by survey monuments or centers shall be parallel to or at right angles to the centerlines of the streets and avenues so established at the distances as the same are shown on the official map. (Prior code 11.04.080)

Sec. 11-3-90. Survey of lots.

(a) All lots fronting on Fifth Street west of West Avenue shall be surveyed from the survey monument or center at the intersection of Fifth Street and West Avenue. All lots fronting on Fifth Street between West Avenue and Railroad Avenue shall be surveyed from the monument at the intersection of Fifth Street and Railroad Avenue. All lots fronting on Fifth Street between Railroad Avenue and White River Avenue shall be surveyed from the monument at the intersection of Fifth Street and East Avenue. All lots fronting on Fifth Street east of White River Avenue shall be surveyed from the monument at the intersection of Fifth Street and White River Avenue.

(b) All lots fronting on Fourth Street and west of Railroad Avenue shall be surveyed from the monument at the intersection of Fourth Street and Railroad Avenue. All lots fronting on Fourth Street east of Railroad Avenue shall be surveyed from the monument at the intersection of Fourth Street and East Avenue.

(c) All lots fronting on Third Street and west of West Avenue shall be surveyed from the monument at the intersection of Third Street and West Avenue. All lots fronting on Third Street between West Avenue and Railroad Avenue shall be surveyed from the monument at the intersection of Third Street and Railroad Avenue. All lots fronting on Third Street between Railroad Avenue and White River Avenue shall be surveyed from the monument at the intersection of Third Street and East Avenue. All lots fronting on Third Street east of White River Avenue shall be surveyed from the monument at the intersection of Third Street and White River Avenue.

(d) All lots fronting on Main Street west of Railroad Avenue shall be surveyed from the monument at the intersection of Main Street and Railroad Avenue. All lots fronting on Main Street east of Railroad Avenue shall be surveyed from the monument at the intersection of Main Street and East Avenue.

(e) All lots and property fronting on Railroad Avenue north of Fifth Street shall be surveyed from the monument at the intersection of Fifth Street and Railroad Avenue. All lots and property fronting on East Avenue north of Fifth Street shall be surveyed from the monument at the intersection of Fifth Street and East Avenue.

(f) All of the above surveys shall be done in accordance with measurements as shown on the official map or plat. (Prior code 11.04.090; Ord. 4 §1, 2005)

Sec. 11-3-100. Grade elevations.

The grade elevations as shown on the official map shall be the established grade for those points; and, where the same are not shown on the map, the grades shall remain as the same are now established by Section 11-3-30 above. (Prior code 11.04.100)

Sec. 11-3-110. Sidewalk grade elevations.

On Third, Fourth and Fifth Streets, the sidewalk grade elevation at the property line shall be two-tenths (0.2) of a foot above the grade elevation of the centerline of the street except where otherwise shown on the official map; and the grades between all established grade points shall be in a uniform straight line between each two (2) grade points so mentioned or established except where otherwise expressly mentioned. (Prior code 11.04.110)

Sec. 11-3-120. Descending grade from property line to sidewalk.

All sidewalks shall have a descending grade from the property line to the curb of one-fourth ($\frac{1}{4}$) inch to the foot. (Prior code 11.04.120)

Sec. 11-3-130. Gutter requirements.

The bottom of the gutter shall be fourteen (14) inches below the top of the curb wherever curbing is constructed; and the slope from the outer edge of the gutters to the centerline of the street shall be a true curve. (Prior code 11.04.130)

Sec. 11-3-140. Base of surveys in Fravert Addition.

The base of surveys for all street and alley lines and for lots and blocks in the Fravert Addition, including the Johnson Subdivision of the Fravert Addition shall be from the survey monuments now placed for the centerlines of the streets as follows:

(1) All lots fronting on Josephine Place shall be surveyed from the survey monument in the intersection of Railroad Avenue and Josephine Place described as follows:

a. Said monument is located north $0^{\circ}37'$ west 1,438.5 feet and 30 feet east from the intersection of the centerlines of Fifth Street and Railroad Avenue.

b. The other monument in the centerline of Josephine Place is located north $0^{\circ}37'$ west 1,438.5 and 352.5 feet east from the intersection of the centerlines of Fifth Street and Railroad Avenue.

(2) All lots fronting on Hoffmeister Street shall be surveyed from the survey monument in the intersection of Railroad Avenue and Hoffmeister Street described as follows:

a. Said monument is located north $0^{\circ}37'$ west 1,950.7 feet and 30 feet east from the intersection of the centerlines of Railroad Avenue and Fifth Street.

b. The other monument is located north $0^{\circ}37'$ west 1,950.7 feet and east 267.7 feet from the intersection of the centerlines of Railroad Avenue and Fifth Street.

(3) All lots fronting on Wilson Street shall be surveyed from the survey monument in the intersection of Railroad Avenue and Wilson Street described as follows:

a. Said monument is located north $0^{\circ}37'$ west 2,266.7 feet and 30 feet east from the intersection of the centerlines of Railroad Avenue and Fifth Street.

b. The other monument is located north $0^{\circ}37'$ west 2,266.7 feet and 404.1 feet east from the intersection of the centerlines of Railroad Avenue and Fifth Street.

(4) All lots fronting on Howard Street shall be surveyed from the survey monument in the intersection of Railroad Avenue and Hoffmeister Street described as follows:

a. Said monument is located north $0^{\circ}37'$ west 2,572.7 feet and 30 feet east from the intersection of the centerline of Fifth Street and Railroad Avenue.

b. The other monument in the center of Howard Street is located north $0^{\circ}37'$ west 2,572.7 feet and east 383.67 feet from the centerline of Fifth Street and Railroad Avenue. (Prior code 11.04.140)

Sec. 11-3-150. Establishment of centerlines of streets in Fravert Addition.

The centerlines of the streets of the Fravert Addition, including the Johnson Subdivision of the Fravert Addition, are hereby established by and from the survey monuments on the centerlines in those streets; and all lots fronting on all the streets herein described shall be surveyed from and at right angles to the centerlines the proper size and distance as are shown on the official survey and grade map of the City. The survey monuments herein described are iron pins set in concrete and are located as described in Section 11-3-140 above. (Prior code 11.04.150)

Sec. 11-3-160. Base of surveys in Cliff View Addition and East View Addition.

The base of surveys for all street and alley lines and for lots and blocks in the Cliff View Addition and the East View Addition shall be from the survey monuments now in place for the centerlines of the streets and located as follows:

(1) The survey monuments and elevations for East View Addition are:

a. The monument at Fifth Street and Munro Avenue is located north 55.5 feet and north $89^{\circ}26'$ east, 360 feet from the south quarter corner of Section 9, Township 6 South, Range 93 West, 6th P.M. The elevation of said monument is 5,404.02 feet.

b. The monument at Fifth Street and Clarkson Avenue is located north 55.5 feet and north $89^{\circ}26'$ east, 720 feet from the south quarter corner of Section 9, Township 6 South, Range 93 West, 6th P.M. The elevation of said monument is 5,455.13 feet.

c. The monument at Fourth Street and Munro Avenue is located south 290.5 feet and north $89^{\circ}26'$ east, 360 feet from the south quarter corner of Section 9, Township 6 South, Range 93 West of the 6th P.M. The elevation of said monument is 5,402.25 feet.

d. The monument at Fourth Street and Clarkson Avenue is located south 290.5 feet and north $89^{\circ}26'$ east, 720 feet from the south quarter corner, Section 9, Township 6 South, Range 93 West of the 6th P.M. The elevation of said monument is 5,463.2 feet.

(2) The survey monuments and elevations in Cliff View Addition are:

a. The monument at White River Avenue and Ninth Street is located north 1574.2 feet from the south quarter corner of Section 9, Township 6 South, Range 93 West of the 6th P.M. The elevation of said monument is 5,378.92 feet.

b. The monument at Munro Avenue and Ninth Street is located north 1574.2 feet and north 87°30' east, 360.3 feet from south quarter corner of Section 9, Township 6 South, Range 93 West of the 6th P.M. The elevation of said monument is 5,398.64 feet.

c. The monument at Munro Avenue and Tenth Street is located north 1921.23 feet, east 360 feet from the south quarter corner of Section 9, Township 6 South, Range 93 West of the 6th P.M. The elevation of said monument is 5,416.74 feet.

d. The other monument in the center of Tenth Street is located 230 feet west of the monument described in the foregoing Subparagraph c above. The elevation of said monument is 5,398.18 feet. (Prior code 11.04.160)

Sec. 11-3-170. Establishment of centerlines of streets in Cliff View and East View Additions.

The centerlines of the streets and avenues in the Cliff View and the East View Additions are hereby established by and from the survey monuments on the centerlines in those streets and avenues; and all of the lots in said additions shall be surveyed from and at right angles to the centerlines and the proper size and distances as are shown on plat of Cliff View Addition recorded in Document Number 156270 and East View Addition recorded as Document Number 164013 in the County Recorder's office. The monuments are iron pins set in concrete and located as described in this Article. (Prior code 11.04.170)

Sec. 11-3-180. Sidewalk and curb construction in Cliff View Addition.

All sidewalks and curbs constructed in the Cliff View Addition and the East View Addition shall be four and one-half (4.5) feet wide, including curb, and be located in the street or avenue; and the side line of the sidewalk, which is the greater distance from the centerline of the street or avenue, shall be adjacent to and contiguous with the property line. (Prior code 11.04.180)

ARTICLE IV

Excavations

*Division 1
Excavation Permits*

Sec. 11-4-10. Purpose.

The purpose of this Article is to safeguard life, limb, property and the public welfare by regulating the opening and excavating of the public right-of-way or of public places and the property thereto, and providing for the use and maintenance of the same. (Prior code 11.20.010)

Sec. 11-4-20. Title.

This Article shall be known as the "Right-of-Way Use and Excavation Ordinance of the City of Rifle, Colorado." (Prior code 11.20.020)

Sec. 11-4-30. Definitions.

Unless the context requires otherwise, the following terms shall have the meanings given them as follows:

Adjacent property means the property abutting the public right-of-way or public place.

Applicant means any person who makes application for a permit.

Banner means any material stretched over or across the public right-of-way or public place.

Blanket permit means an annual right-of-way use and excavation permit issued to qualified entities in lieu of the permit required by Section 11-4-40 of this Article.

Emergency means any unforeseen circumstances or occurrence which constitutes a clear and immediate danger to persons or property.

Excavation means any opening in the surface of a public place or in property, except an opening into a structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to such public place.

Improved public place means any public place which contains overhead or underground utilities or a driving or walking surface.

Permit means a right-of-way use and excavation permit required by this Article.

Public place means any public street, way, place, alley, sidewalk, park or any other similar public property owned or controlled by the City and dedicated for public use, and the space above and beneath the surface of the same.

Public street means the entire space between the right-of-way boundary lines.

Public utility means any person subject to the jurisdiction of the Public Utilities Commission, or any person providing gas, electricity, water, telephone or other utility product or services under a franchise granted by the City.

Specifications means those standards and specifications which may from time to time be adopted or amended by resolution of the City Council.

Use means and includes to construct, store, erect, place upon or maintain, or operate in, over or under any public place any banner, marquee, awning, swinging scaffold or other structure or material, machinery or tools used or to be used in connection with the erection, alteration, repair or painting of any building; to use or occupy any public place for the storage or placement of any material, equipment or thing; to operate any cleated or tracked vehicle in any public place; to allow any vehicle

to be in or upon any public place other than that portion used as a roadway; to remove, injure or destroy any tree, plant or shrub in any public place; or to construct, reconstruct, maintain or remove any sidewalk or crosswalk, pavement, sewers, water main or grading, except when permitted by ordinance to do any work in, or erect any structure under, along or over any public place. (Prior code 11.20.030; Ord. 4 §1, 2005)

Sec. 11-4-40. Permit required for legal use and excavation of public right-of-way.

(a) No person shall use any public place for private purpose, or to perform any excavation, perform any construction or fill any excavation in any public street, right-of-way or other public place in the City without first obtaining a permit to do so from the City.

(b) No person shall construct or install any street, street improvements, curb, gutter or sidewalk in or upon any public street, right-of-way or other public place in the City except as provided by this Article and in compliance with the standards and specifications.

(c) A separate permit shall be required for each location at which work is performed.

(d) The permit shall be kept on the site of the work being performed and shall be presented upon request to any authorized representative of the City.

(e) Any person using or excavating in a public place or in property adjacent to a public place without having first obtained a permit shall have all operations suspended, shall obtain a permit applicable to that use or excavation and shall pay twice the usual fee.

(f) Any person who qualifies as an applicant for a right-of-way use and excavation permit to do work as provided by Section 11-5-50 below may perform excavation in a public place or in property adjacent to a public place relating to an emergency without first obtaining a permit. However, such person must notify the City Manager and obtain a permit on the first working day thereafter. Should such person fail to make this notification and obtain the required permit, the matter shall be dealt with as provided in Subsection (e) above.

(g) Any person using a blanket permit as described in Section 11-4-130 below shall notify the City Manager prior to performing work in or on property adjacent to a public place and, in the event of an emergency, shall notify the City as provided in Subsection (e) above. (Prior code 11.20.040)

Sec. 11-4-50. Qualifications of applicant.

(a) Only those persons licensed by the City as excavation or drain-laying contractors shall be eligible to apply for a right-of-way use and excavation permit. Applicants must furnish proof to the satisfaction of the City, evidencing qualifications and experience necessary to accomplish the work for which the permit is sought. The City for good and sufficient reason may refuse to allow the applicant a right-of-way use and excavation permit, or the City may refuse to allow the applicant to perform any part of the work for which the permit is sought.

(b) This requirement does not apply to public utilities, the City or persons under subcontract to such entities. (Prior code 11.20.050)

Sec. 11-4-60. Application for permit.

(a) Application for a permit shall be made to the City on forms provided by the City. The application shall state the name and address of the principal place of business of the applicant and such further information as may be required for the administration and enforcement of this Article, including, when excavations are to be made:

(1) The location, description and dimensions of the excavation work to be performed;

(2) The approximate time which will be required to complete all work, including backfilling of any excavation and removal of all materials, equipment and debris from the site, removal of all obstructions and restoration of the surface as required by this Article; and

(3) The approximate size of any excavation to be made and the purpose of such excavation.

(b) The City may require that the application be accompanied by such plans as deemed necessary to permit the City Manager to determine compliance with City specifications or to determine the relationship of the job to existing or proposed facilities within the public right-of-way.

(c) Every permit shall state a time within which the work is to be completed. An extension of the time may be granted by the City Manager for good and sufficient reasons.

(d) The City may require the performance of special conditions as may be necessary to protect public health and safety or to assure compliance with the regulations and ordinances of the City.

(e) The City shall approve or disapprove an application within a reasonable time. Plans should be submitted at least fourteen (14) days prior to the need for a permit.

(f) The City may refuse to grant a permit if:

(1) The application is incomplete and the deficiencies therein have not been remedied after reasonable notice to the applicant;

(2) The work for which the application for the permit is made is unnecessary, improper or in violation of the applicable ordinances, rules or regulations; or

(3) The applicant is in default of the provisions or conditions of any other outstanding permit without good cause.

(g) At the discretion of the City Manager, a permit may be issued for more than one (1) excavation or category of work, provided that:

(1) All of the work will be performed by one (1) person;

(2) All of the work will be performed at one (1) location or near vicinity;

(3) All of the work will be performed in one (1) continuous operation without interruption or delay; and

(4) All work is similar to each location or all categories of work are integral to the final product. (Prior code 11.20.060)

Sec. 11-4-70. Certificate of insurance.

(a) Every applicant, before being granted a permit under the provisions of this Article, shall furnish the City with proof of insurance to cover liability for injuries, death or property damage occurring as a result of the work at the site for which the permit is issued.

(b) The proof of insurance that the applicant furnishes must be in such form as is approved by the City with an insurance company licensed to do business in the State.

(c) Ten (10) days' written notice shall be given to the City prior to any policy changes or cancellations.

(d) Such proof of insurance shall be specified for all operations of the permittee and for all his or her vehicles to be used in the course of his or her operations in the City.

(e) The limits of insurance coverage shall be no less than that specified in Section 18-14-20 of this Code.

(f) Public utilities are exempted from the requirements of this Section. (Prior code 11.20.070)

Sec. 11-4-80. Deposit or security bond required.

(a) Every applicant, before being issued a permit under this Article, shall furnish to the City a cash deposit in an amount which shall be determined by the City Manager but shall not exceed five hundred dollars (\$500.00), conditioned upon the permittee's faithful performance of all the rules, regulations, conditions and requirements of this Article and any additional requirements of the City Manager, unless the applicant has in effect the security bond provided in Subsection (b) below, or is otherwise exempt.

(b) In lieu of the cash deposit required by Subsection (a) above, the applicant may furnish to the City a security bond in an amount to be determined by the City Manager, but not less than one thousand dollars (\$1,000.00), issued for a period of one (1) year by a surety company licensed to do business in the State. Said surety bond may be maintained with the City on a continuing basis if it is renewed annually; and a separate deposit for each permit shall not be required.

(c) The surety bond required may be waived by the City Manager for governmental entities or public utilities.

(d) The holder of a blanket permit shall be exempt from the requirements of Subsection (a) or (b) above unless default has occurred in the performance of the indemnification agreement required by Section 11-4-140 of this Article for issuance of the blanket permit.

(e) Upon notice to the applicant, for reasonable cause, the City may at any time increase or reduce the amount of the required security or waive the same as conditions warrant. (Prior code 11.20.080)

Sec. 11-4-90. Permit fees.

(a) Applicants shall pay the required fee to the City before the issuance of any permit under the provisions of this Article for administrative, inspection and replacement costs incurred by the City for excavation or other work.

(b) In addition, the applicant must post adequate security for repairs.

(c) The permit fees shall be as set forth in Appendix A to this Code, and shall be open to public inspection during business hours. (Prior code 11.20.090; Ord. 4 §1, 2005)

Sec. 11-4-100. Issuance of permit.

The application, together with such other papers as may be attached thereto, when approved and signed by the City Manager, shall constitute the permit. (Prior code 11.20.100)

Sec. 11-4-110. Assignment of permit.

Permits shall not be transferable or assignable. Nothing contained in this Article shall prevent a permittee or blanket permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this Article. (Prior code 11.20.110)

Sec. 11-4-120. Records.

(a) The City Manager shall keep a record of all applications made for permits and of the permits so issued.

(b) It shall be the duty of every person to furnish to the City Manager, upon request, such plans, specifications, sketches and any other information the City Manager deems necessary regarding the location in any public place or in property adjacent to any public place of any pipe, conduit or other structure installed, maintained or utilized by such person. (Prior code 11.20.120; Ord. 4 §1, 2005)

Sec. 11-4-130. Issuance of blanket permit.

(a) The City Manager may issue a blanket permit only to any of the following:

(1) A public utility;

(2) A municipal utility; or

(3) A person holding a franchise from the City which has facilities installed in public streets, rights-of-ways and other public places.

(b) Every blanket permit shall expire one (1) year after the date of issue, unless a shorter period is stated in the permit or unless the permit is granted to a franchised public utility, in which event the permit shall extend for the term of the franchise.

(c) The application for a blanket permit shall contain such information as the City Manager shall require for purposes of implementation and enforcement of the provisions of this Article.

(d) The City, in issuing any blanket permit, may impose reasonable conditions based upon the requirements of the permittee for the protection of the public health, safety and welfare.

(e) Except as specifically provided in this Article, the blanket permit provided for by this Section shall not exempt or relieve the permittee or the agents or employees of the permittee from any of the requirements or provisions of this Article.

(f) The permit fee shall be waived for blanket permit holders; however, a separate permit shall be required for each and every project undertaken by a blanket permit holder.

(g) It is unlawful for the holder of any blanket permit, or any person acting on behalf of such permittee, to perform any work within or adjacent to a public place without notifying the City Manager of the location and extent of such work.

(h) The notification required by Subsection (g) above shall be made prior to the commencement of work, except that in any emergency, notification shall be made as described in Section 11-4-40(f) above. (Prior code 11.20.130)

Sec. 11-4-140. Indemnification agreement.

(a) An indemnification agreement shall be required before the issuance of any blanket permit.

(b) The applicant for any blanket permit shall have on file with the City a written agreement providing that the permittee shall:

(1) Provide and maintain the liability insurance coverage required by Section 11-4-70 above;

(2) Indemnify and hold harmless the City against any failure of the permittee to perform to completion and acceptance by inspection any work done under the permit, or any failure of the permittee to restore or maintain any public place after completion of such work. (Prior code 11.20.140)

Sec. 11-4-150. Corrective measures.

(a) The City Manager, upon discovery of any defect in materials or workmanship for which a right-of-way use and excavation permit is issued, shall:

(1) In the event of any emergency, order City personnel or a private contractor to do such work as may be necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the permittee to restore or maintain the public street, highway or right-of-way pursuant to the provisions and conditions of his or her permit; or

(2) In other cases, give notice to the permittee and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than fourteen (14) calendar days, within which such defects are to be repaired.

a. Such period of time may be extended by the City Manager upon application, for cause show.

b. In the event of failure of the permittee to perform the required repairs within the period provided by such notice, the City personnel or a private contractor on order of the City shall make such repairs as may be necessary.

(b) The City shall recover any and all costs of work performed by the City personnel or private contractor, including the cost of labor, equipment, materials, attorney's fees and an additional twenty percent (20%) which shall cover administrative costs at the expense of the permittee by applying any deposit, bond or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the permittee by legal action or otherwise.

(c) The City Manager, upon discovery of any defect in the work for which a right-of-way use and excavation permit was issued and which is not corrected to the satisfaction of the City Manager by the permittee, shall disqualify said permittee from performing either part of or all of the work for which the permit was originally issued. (Prior code 11.20.150)

Division 2
Excavation Regulations

Sec. 11-4-210. Protective measures and routing of traffic.

(a) It shall be the duty of every person excavating or engaging in any other construction on any right-of-way to place and maintain barricades and warning devices to warn the general public of such construction or excavation.

(b) Such barriers, warning signs and lights shall conform to the City specifications. Warning lights shall be electrical markers or flashers. The City Manager, upon discovery of any default on the permittee's part to maintain warning lights and barricades at the scene of the work, shall have the authority to obtain the necessary lights and barricades and charge the permittee as provided in Section 11-4-150 above.

(c) The permittee shall take appropriate measures to assure that, during the performance of the construction work, normal traffic conditions shall be maintained at all times as nearly as possible. If the work to be performed will disrupt the normal flow of traffic, the City Manager may require barricades and traffic control plans from the permittee prior to the performances of the work. Crossings at intersections shall be kept open to traffic unless prior written approval is given.

(d) When traffic conditions permit, the City Manager may, in writing, permit the closing of streets and alleys to all traffic for a period of time to be prescribed by the City Manager. The City Manager may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

(e) Warning signs shall be placed far enough in advance of a construction operation to alert traffic of such construction in a timely manner, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the City Manager. (Prior code 11.20.160)

Sec. 11-4-220. Removal of barricades and other protective devices unlawful.

It is unlawful to damage, displace, remove or interfere with any barricade, temporary fence, warning light or any other safety device which is lawfully placed around or about any hole, cut, drain ditch or any other excavation or construction work in any street, alley, sidewalk or other public place belonging to the City. (Prior code 11.20.170)

Sec. 11-4-230. Protection of traffic.

(a) No traffic regulating, warning, directional or street name signs shall be removed from the area of the work or relocated therein unless so indicated on the plans or unless so ordered by the City Manager. The costs for removing or replacing such signs shall be borne by the permittee.

(b) The permittee shall maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections and safe crossings for pedestrians at intervals of not more than three hundred (300) feet. (Prior code 11.20.180)

Sec. 11-4-240. Clearance for vital structures.

(a) The work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures or any other equipment.

(b) If a public facility, such as a fire hydrant, a fire escape or any other equipment vital to the public safety, must be put out of service in order to complete work for which the permit was issued, the permittee shall either place a sack over said facility or hang a sign over said facility to indicate that it is out of service. The permittee must notify any potentially concerned persons of his or her act, including but not limited to the Fire Department, the Police Department, and other public utilities. (Prior code 11.20.190)

Sec. 11-4-250. Protection and relocation of utilities.

(a) Relocation of an existing utility shall be performed by its owner.

(b) No facility owned by the City shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee.

(c) The cost of moving privately owned facilities shall be borne by the permittee unless the permittee makes other arrangements with the person owning such facility.

(d) The permittee shall contract with the facility owners for proper support and protection of all facilities or apparatus which may be in any way affected by any work of the permittee.

(e) The permittee shall secure approval of the method of support and protection from the owner of the facility.

(f) In case any pipes, conduits, poles, wires or other apparatus is damaged, the permittee shall promptly notify the owner of such damage.

(g) For the purpose of determining damage, pipe coatings or other encasements or devices are to be considered as part of such facilities.

(h) All damaged facilities shall be repaired by the agency or person owning them, and the expense of such repairs shall be paid by the permittee.

(i) The permittee shall be liable for all consequential damage to facilities and for any resulting damage or injury to anyone because of such facility damage.

(j) The permittee shall inform himself or herself as to the existence and location of all underground facilities, and shall protect such facilities against damage.

(k) The permittee shall notify all utility owners at least twenty-four (24) hours before work is to begin. (Prior code 11.20.200)

Sec. 11-4-260. Protection of adjacent property.

(a) The permittee shall at all times, at his or her own expense, preserve and protect from injury any adjacent property by providing proper foundations and by taking other measures suitable for the purpose of preventing damage to any adjacent property.

(b) When for the protection of property it is necessary to enter upon such property for the purpose of taking appropriate protective measures, the permittee shall obtain written permission from the owner of such property to enter thereupon, and the City Manager shall take whatever action he or she deems necessary.

(c) 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 progress of his or her excavation work, and the permittee shall be responsible for all damage to public or private property or highways resulting from his or her failure to properly protect or carry out said work.

(d) Whenever it may be necessary for the permittee to trench through any lawn area, such area shall be reseeded, fertilized or resodded.

(e) All construction and maintenance work shall be performed in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.

(f) The permittee shall not remove, even temporarily, any trees, shrubs or sprinkler systems which exist in public rights-of-way without first obtaining the approval of the City Manager.

(g) Every permittee shall:

(1) Inform himself or her of the location of any pipeline or underground utility line in or near the area where the excavation is to be conducted;

(2) Plan the excavation to avoid or minimize interference or damage to pipelines or underground utility lines in or near the excavation area;

(3) Provide reasonable advance notice of the commencement, extent and duration of the excavation work to the owners of the pipelines or underground utility lines in and near the excavation area, so that such owners may locate and mark the location of pipelines and underground utility lines in the excavation area;

(4) Maintain at least clearance of eighteen (18) inches between any nonexposed pipeline or underground utility line and the cutting edge or point of any mechanical excavating equipment utilized in such excavation;

(5) Provide such support for existing pipelines and underground utility lines in or near the excavation area as may be reasonably necessary to prevent damage to such pipelines and underground utility lines; and

(6) Backfill all excavations in a manner and with materials as may be necessary to prevent damage to and provide reliable support during and following backfilling activities for preexisting pipelines and underground utility lines in or near the excavation area, and/or underground utility lines which may have been damaged or dislocated during the excavation work. (Prior code 11.20.210; Ord. 4 §1, 2005)

Sec. 11-4-270. Abandonment of substructures.

Whenever a substructure is abandoned, except for the abandonment of service lines and mains, the person owning, using, controlling or having an interest in the same shall, within thirty (30) days after such abandonment, file with the City Manager a statement in writing giving in detail the exact location of the substructure so abandoned. Unless otherwise provided by law, the City may, at any time thereafter, require such person to remove the substructure at his or her expense, or reimburse the City for the costs of removal. (Prior code 11.20.220)

Sec. 11-4-280. Care of excavated material.

(a) All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner so as not to endanger those working in the trench, so as not to endanger pedestrians or other traffic and so as to assure that minimal inconvenience is created to those using streets and adjoining property.

(b) Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the excavation, the permittee may be required to haul the excavated material away from the site.

(c) It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for disposing of all excavated materials.

(d) All trench and tunnel excavations and construction shall conform to the safety requirements in effect at the time of the work being performed for placing of shoring, bracing and ladders in excavations.

(e) Whenever necessary, tow boards or bins may be required to prevent the spreading of dirt and other excavated materials into traffic lanes.

(f) Excavated material shall not be used as a barricade.

(g) Materials being used in the work or equipment being used for the work shall not be used as barricades. (Prior code 11.20.230; Ord. 4 §1, 2005)

Sec. 11-4-290. Maximum length of trenching operation.

(a) At no time shall more than one thousand (1,000) feet of trench be under construction in any one (1) job site unless the street is temporarily resurfaced with cold mix. Backfilling of trenches within two hundred (200) feet of the open hole shall be required.

(b) A trenching operation includes all work between the point of excavation and the point where the trench has been resurfaced and reopened to traffic.

(c) When the permittee or contractor has entirely separate and complete crews, each of which is capable of doing the entire job in their area, two (2) or more trenching operations consisting of a maximum of one thousand (1,000) linear feet of construction per area may be permitted.

(d) Trenches covered with temporary cold mix surfacing will be considered as open to traffic. (Prior code 11.20.240)

Sec. 11-4-300. Cleanup.

(a) As excavation or construction work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work.

(b) All cleanup operations at the location of such excavation or construction shall be completed at the expense of the permittee to the satisfaction of the City Manager.

(c) If the permittee fails to comply with the provisions of Subsection (b) above after receiving twenty-four (24) hours' written notice by the City Manager to comply, the City may do such work as is required, and the cost shall be paid by the permittee. (Prior code 11.20.250; Ord. 4 §1, 2005)

Sec. 11-4-310. Spilled loads.

(a) The owner or operator of any vehicle which has spilled, dropped, dumped or in any manner deposited any matter upon a public place shall cause the public place to be cleaned.

(b) Should the owner or operator fail to respond to a request to clean the spilled load, the City may do such work as is required, and the owner of the vehicle, contractor or person in charge shall be required to pay the cost of the cleanup operation, as provided in Section 11-4-150(b). (Prior code 11.20.260)

Sec. 11-4-320. Protection of watercourses.

(a) The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb for at least one (1) foot in width from the face of such curb at the gutter line.

(b) Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and maintained at all times.

(c) The permittee shall clean all drainage structures of all surplus water, muck, silt or other runoff or debris pumped from excavations or resulting from naturally occurring stormwater and shall be responsible for damage resulting from his or her failure to do so. (Prior code 11.20.270)

Sec. 11-4-330. Breaking through pavement.

(a) Heavy-duty pavement breakers may be prohibited by the City Manager when the use endangers existing substructures or other property.

(b) All cuts through pavement, curb, gutters, sidewalks or drainage pans shall be made with approved cutting tools. All cuts shall be vertical and neat.

(c) When a jackhammer cut is used, pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench. All cuts shall be parallel or perpendicular to the street. The cuts shall be of a constant width and length, either rectangular or in a square.

(d) Unstable pavement shall be removed over cave-ins and over breaks and the subgrade treated as the main grade for determining the depth of pavement to be replaced.

(e) Cutouts outside of the trench line must be normal or parallel to the trench line.

(f) Sections of sidewalk, curb and gutter and drainage cross pans shall be removed to the nearest score line or joint. Saw cutting of concrete may be required when the nature of the job or condition of the street warrants. When required, the depth of the cut shall be no less than one (1) inch.

(g) The permittee shall not be required to repair pavement, sidewalk or curb and gutter existing prior to excavations unless the permittee's cut results in small floating sections that may be unstable, in which case:

(1) The permittee must remove such section and repair such area as well as the area of excavation;
or

(2) The permittee shall remove and rebuild the curb and gutter or sidewalk.

(h) Unless otherwise specified, such improvements shall be replaced or reconstructed as nearly in the original location as is reasonably possible.

(i) Boring, jacking, tunneling or other methods to prevent cutting of new pavement or because of severe weather conditions may be required.

(j) Construction equipment stabilizers and tractor treads shall be protected by means of boards, timbers or pads so as not to damage asphalt or concrete.

(k) Damage resulting from failure to protect such asphalt or concrete will result in replacement of the damaged area in accordance with applicable sections contained in this Article. (Prior code 11.20.280)

Sec. 11-4-340. Backfilling.

(a) All excavation in public streets or highways or in utility easements shall be backfilled in accordance with the standards and specifications furnished in the City. Compaction of backfill for all trenches shall be ninety-five percent (95%) relative compaction.

(b) Backfilling shall be performed only by those permittees approved by the Director of Public Works. The City Manager may demand proof of experience and qualifications on the part of the permittee before allowing the permittee to backfill any excavation or trench.

(c) The City Manager may require soil tests to be made by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics, at the expense of the permittee, whenever, in his or her opinion, backfill for any excavation is not being adequately accompanied. The costs for such tests shall be paid for by the permittee.

(d) The permittee shall remove from the site of the work and from public property all excess soil and material which is:

- (1) Not suitable for backfilling; or
- (2) Not used in backfilling.

(e) The City Manager shall inspect every such excavation during and after backfilling for compliance with the provisions of this Section and all applicable street specifications, regulations and ordinances of the City.

(f) Whenever the backfilling or any excavation is disapproved by the City Manager, the permittee shall, within the time provided by order of the City Manager, complete or correct such backfilling and obtain written approval thereof by the City Manager.

(g) In the event a permittee fails to comply with the requirements of this Section, the City Manager may refuse to permit such applicant to thereafter engage in trenching or excavation work in any public place. The City Manager is authorized and empowered to suspend, cancel or withdraw the permit issued by him or her for the performance of any work which is not being done in accordance with this Article or to the reasonable satisfaction of the City Manager.

(h) Acceptance or approval of excavation work or backfilling by the City Manager does not prevent the City from asserting a claim against the permittee for incomplete or defective work if discovered within three (3) years from the completion of the excavation work or backfilling. The presence of any City employee during the performance of the work does not relieve the permittee of his or her responsibilities under this Article. (Prior code 11.20.290; Ord. 4 §1, 2005)

Sec. 11-4-350. Restoration of surface.

(a) Upon completion of the backfilling of any excavation, the permittee must notify the City Manager. Permanent resurfacing shall be done by a person experienced in resurfacing work. The City Manager may demand proof of experience and qualifications of the person before allowing said person to restore the surface.

(1) During the winter months when hot bituminous asphalt is not readily available, the top surface of the backfill shall be covered by the permittee with a minimum of two (2) inches of cold mix.

(2) All temporary surfacing material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough to be safe for pedestrian travel as well as vehicular traffic.

(3) The permittee shall maintain temporary paving for a period not exceeding ninety (90) days after all backfilling is completed unless additional time is required by the City Manager, and shall keep such fill safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving by the permittee, except that, if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian or vehicular traffic, the permittee shall maintain barriers and flashing lights when required.

(b) The City Manager, at his or her discretion, may allow the permittee to perform the permanent resurfacing of the excavation under the following conditions:

(1) The qualifications of the permittee have been approved by the City Manager as to adequate equipment, personnel and knowledge of backfilling and surfacing methods;

(2) When such resurfacing is done in accordance with specifications; and

(3) When all work by the permittee is inspected and approved by the City Manager.

In the event permission is granted, the requirement that the permittee make a temporary patch may be waived; provided that permanent resurfacing shall be completed within fourteen (14) calendar days after backfilling has been completed.

(c) When permits are issued for work of arterials, collectors, the downtown area or other important streets as may be designated by the City Manager, such streets shall be temporarily patched at the end of each working day and opened to traffic, unless other procedures are approved in advance by the City Manager. (Prior code 11.20.300; Ord. 4 §1, 2005)

Sec. 11-4-360. Concrete mixing and placing.

(a) Any work performed under the permit involving concrete mixing and placing shall be done in accordance with the standards and specifications furnished in the "Standard Specifications for Road and Bridge Construction, 1976 Edition," published by the Colorado Department of Transportation.

(b) Prior to placement of concrete, the supporting native earth or gravel shall be compacted by means of mechanical tampers to ensure against settlement. (Prior code 11.20.310; Ord. 4 §1, 2005)

Sec. 11-4-370. Prompt completion of work.

After any construction is commenced under this Article, the permittee shall prosecute with diligence and expedition all construction work covered by the right-of-way use and excavation permit and shall promptly complete such work and restore the street to its original condition, or as nearly as may be practicable, so as not to obstruct the public place or travel of same any more time than is reasonably necessary. If the excavation has not been restored to the original conditions within five (5) days after

completion and testing of backfill, the City will complete the required work and charge the permittee for all costs incurred to complete such work at the designated City rates for each work item entailed. (Prior code 11.20.320)

Sec. 11-4-380. Urgent work.

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City Manager shall have full power to order, at the time the permit is granted, that a full crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day so that the work may be timely completed. (Prior code 11.20.330)

Sec. 11-4-390. Noise, dust and debris.

(a) Each permittee shall conduct and carry out construction and excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property.

(b) The permittee shall take appropriate measures to reduce to the fullest extent practicable, in the performance of the construction and excavation work, noise, dust and unsightly debris, and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the City Manager, or in case of any emergency, any tool, appliance or equipment producing noise which disturbs the peace of occupants of the neighboring property. (Prior code 11.20.340)

Sec. 11-4-400. Preservation of monuments.

(a) Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, a precise survey reference point or a permanent survey bench mark within the City shall not be removed, disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City Manager to do so.

(b) Permission to remove or disturb such monuments, reference points or bench marks shall only be granted on conditions that the person applying for such permission shall employ a land surveyor registered in the State to reset said reference points or bench marks in their exact original location; and said surveyor shall file all records required by state statutes. (Prior code 11.20.350; Ord. 4 §1, 2005)

Sec. 11-4-410. Inspections.

(a) The City Manager shall make such inspections as are necessary for the enforcement of this Article.

(b) The City Manager shall have the authority to promulgate and cause to be enforced such regulations as may be reasonably necessary to enforce and carry out the intent of this Article. (Prior code 11.20.360)

Sec. 11-4-420. Consecutive improvements.

Applicants should attempt to keep themselves informed of proposed street or sidewalk improvements in order that facilities may be installed prior to the making of such improvements. (Prior code 11.20.370)

Sec. 11-4-430. Excavations and fills in adjacent property.

(a) It is unlawful to leave any excavation or fill within four (4) feet of any public place without adequate barricades and warning devices to protect the public, or to fail to maintain the lateral support of any public place or of a fill adjacent to such public places.

(b) It is unlawful to excavate or fill in excess of four (4) feet, measured vertically, on private property within any area between the vertical prolongation of the margin of any improved public place and a one-hundred-percent slope line (forty-five [45] degrees from a horizontal line) from the existing elevation of the margin of the traveled surface of an improved public place to the proposed elevation of the private property, without first obtaining a permit to do so; and no work shall commence toward such excavation or fill until a permit therefor has been issued by the City Manager.

(c) An applicant for a permit provided for by this Section shall post or cause the owner or contractor to post with the City the security required by Section 11-4-80 and the proof of insurance required by Section 11-4-70, and shall further agree to abide by all applicable provisions of this Article and such further requirements which the City Manager may reasonably require.

(d) The filing of an application for a permit provided for by this Article or the making of an excavation or fill described in this Section shall constitute consent by the applicant, contractor and property owner for the City Manager to enter upon the property at reasonable times and to inspect and investigate the soil conditions, the progress of said excavation or fill or any facts and circumstances related to said application, permit or excavation or fill.

(e) If the safety or stability of a public place may be jeopardized by an excavation or fill described in this Section, the City Manager may require special plans, specifications and proposed methods of construction to be submitted for his or her approval prior to issuing the permit provided for by this Section.

(f) Approval of the plans shall not relieve the contractor making such excavation or fill of responsibility for satisfactory results and shall not reduce or affect the liability of said contractor for damages, expenses or costs which may result from said excavation or fill, the failure of shoring or the contractor's methods of operation. (Prior code 11.20.380)

Sec. 11-4-440. Special permit procedures for excavations and fills in adjacent property.

(a) Applicants for permits provided for by Section 11-4-80 above shall adhere to the following procedures in lieu of those provided for by Section 11-4-60 above.

(b) Plans, specifications and methods of construction required by the Director of Public Works shall be submitted in triplicate.

(c) Shoring plans submitted shall be designed by and bear the seal of a professional engineer licensed in the State.

(d) All shoring systems, including the members, their connections and support, shall be designed to carry the loads imposed on them and details shall be shown on the plans.

(e) Allowable stresses, including allowances for short-term loading, for timber, steel or concrete shall be based on the Building Code of the City.

(f) Soil investigations and reports may be required for all excavations described in Section 11-4-430 above so that appropriate pressures may be established. The City Manager may require investigations whenever specific conditions existing at the site of such excavation reveal an unstable soil structure, or whenever circumstances indicate that the excavation may impair the lateral support of any public place or any adjacent City property or that such further investigation will supply information necessary to properly evaluate the application for said permit or shoring plans submitted. When highway traffic can come within a horizontal distance from the top of the shoring equal to one-half (1/2) of its height, the pressure shall be equal to not less than two (2) feet of earth.

(g) The City Manager shall take such actions as he or she deems necessary to protect the public, adjacent streets or street utilities, or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns and other actions reasonably necessary to decrease the possibility or extent of each movement, or regarded as necessary safety precautions; and the owner and/or contractor shall be liable to the City for the costs thereof. (Prior code 11.20.390; Ord. 4 §1, 2005)

Sec. 11-4-450. Building operations in public places.

If it is necessary to use public property or right-of-way to erect, raze, repair or alter a building, the following specifications shall be complied with by the owner of the building or his or her agent:

(1) An application shall be filed with the City for use of street or walk as deemed necessary for building operations. Said application shall also specify the period of time the applicant desires to use the specified area. The City Manager will investigate the area adjacent to the place of such building construction, demolition or repair as to the traffic carried by the roadway and walks, and as to the inconvenience and hazard to the public. This application shall be accompanied by a plan of the definite limits of areas desired for use and is to be confined to and abutting the property to be improved; provided that, upon written permission of other adjacent property owners filed with said application and approved by the City Manager, said street use may extend beyond the limits of the improvement. Such used of walk or street area abutting a resident property, except on arterial streets or highways, shall be limited to the use of the street area between the sidewalk and curb and, where necessary, that area adjacent to the outside of the curb, generally occupied by a parked automobile. On arterial streets, the use of street area is to be limited to the area authorized by the City Manager. Upon completion of investigation of street use as applied for, the City Manager may direct that a permit be granted, said permit to be subject to the applicant furnishing public liability to protect the City from any claims for damages to persons or injury to public utilities or any other cause. The City Manager may revise such plans and application and confine the use of the street to the area as he or she finds to be of the greatest safety for the public. The City Manager may alter conditions of said permit at any time he or she finds that such use may cause damage to persons or things or to any improvements of the City.

(2) No materials, fence or shed shall obstruct the approach to any fire hydrant, manhole, catch basin, inlet, vault, valve box or other public utility or traffic facility which is within any area being used by a permittee. No obstruction shall be placed so that there will be any interference with the passage of water in the gutter.

(3) Earth taken from excavations and rubbish from buildings shall not be stored on the sidewalk or any other street area, but shall be removed on a day-to-day basis as rapidly as produced. Where such materials are dry and apt to produce dust when handled, they shall be kept sufficiently moist to prevent the wind from blowing them about.

(4) It is unlawful to mix mortar or concrete in a public place unless confined to a tight box or mixing board. In no case shall mixers or boxes be washed so that the water will run into the street unless free of all sand, cement or any similar material.

(5) Any damage done to sidewalk, pavement, sewers, drain inlets or any other public facility shall be repaired as directed by the City Manager as he or she deems necessary. The owner, agent or contractor shall restore and repair such damages as required and under the inspection of the City Manager.

(6) Where excavations are to be made in any area adjacent to a street area, the owner, agent or contractor making such excavation shall maintain the lateral support of said street area. Where excavations have been made in the street area or a cave-in or slide of earth has occurred extending into a public place due to excavation on private property, the City Manager shall restore the street area at the expense of said owner, agent or contractor who shall be liable therefor; or, if the City Manager so directs, the owner, agent or contractor shall make such backfill and restoration under the inspection of the City Manager. The City shall collect the cost of any such work done or inspection made from the permit bond supplied by the owner, agent or contractor and/or by civil action in the manner provided by law.

(7) Whenever an excavation is to be made adjacent to a public place or in any case wherein materials are to be moved across a public sidewalk or curb or a portion thereof not set aside as a driveway, and the adjacent street area is not being used under permit while building, the owner, agent or contractor shall secure a permit to drive over the walk and/or curb and deposit a permit or security bond as provided in this Article.

(8) In the use of street area or driving over walks and curbs, the contractor is required to keep such walk and pavement reasonably clean, properly protected with planks during working hours, and safe for public travel. Upon failure to do so, the City Manager may place such planking and cause such cleanup to be made, and the cost thereof shall be collected as provided in Section 11-4-150 of this Article. Any charges so made may be deducted from the contractor's permit bond on file. (Prior code 11.20.400; Ord. 4 §1, 2005)

Sec. 11-4-460. Scaffolding.

(a) It is unlawful for any person to erect, hang, build or maintain any scaffolding over any public place without a building permit from the City Manager to erect such scaffolding. However, a general permit for the use of said public place while building or remodeling a structure shall carry with it the right for such scaffolding.

(b) It is unlawful for anyone to use any scaffold or staging unless it has sufficient strength to support the weight to be placed upon it and unless it has sufficient width to prevent persons and materials from falling from it. Tarpaulins and scaffolds shall be braced and anchored to the building so that they will not fall, be blown about or collapse. (Prior code 11.20.410; Ord. 4 §1, 2005)

Sec. 11-4-470. Revocation of permit.

- (a) The City Manager may revoke or suspend any permit provided for in this Article whenever:
- (1) The permittee requests such revocation or suspension;
 - (2) The work does not proceed in accordance with the plans as approved, or is not in compliance with the requirements of this Article, the City Building Code or other City ordinances or applicable rules and regulations;
 - (3) Entry upon the property for the purposes of investigation and inspection has been denied;
 - (4) The permittee has made a misrepresentation of a material fact in applying for said permit;
 - (5) The progress of the work indicates that the plan is or will be inadequate to protect the public, adjoining property, street, utilities in the street or excavation, or the fill endangers or will endanger the public, adjoining property, street or utilities in the street;
 - (6) The permit has not been used within one (1) year of the time allowed by extensions; or
 - (7) The related building permit has expired without renewal or has been revoked or canceled.
- (b) Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized or directed by the City Manager. (Prior code 11.20.420)

ARTICLE V

Road and Bridge Specifications

Sec. 11-5-10. Adoption by reference.

Pursuant to the authority contained in Title 31, Article 16, Part 2, C.R.S., there is adopted as the standard specifications for road and bridge construction, by reference thereto, the *Standard Specifications for Road and Bridge Construction*, 1976 Edition, published by the State of Colorado, Division of Highways, Denver, Colorado, referred to in this Article as "Standard Specifications," all to have the same force and effect as if set forth in this Article in every particular. The subject matter of the Standard Specifications relates to specifications for the construction, design, location and quality of materials of all roads and bridges hereinafter constructed within the City. (Prior code 11.16.010; Ord. 4 §1, 2005)

Sec. 11-5-20. Copy on file.

At least one (1) certified copy of the Standard Specifications is on file in the office of the City Clerk and may be inspected during regular business hours. Copies will also be made available for distribution and sale to the public at a reasonable price. (Prior code 11.16.020; Ord. 4 §1, 2005)

Sec. 11-5-30. Applicability.

This Article shall apply to all roads, bridges, sidewalks and other appurtenant structures which are, or are to become, public rights-of-way, within the City, from and after the effective date of the initial ordinance codified in this Article. (Prior code 11.16.030)

Sec. 11-5-40. Sections deleted.

The following sections of the Standard Specifications, being inapplicable to the City, are deleted: Sections 102, 103, 104, 108 and 109. (Prior code 11.16.040; Ord. 4 §1, 2005)

Sec. 11-5-50. Definitions and terms.

The following amendments are made to the definitions contained within the Standard Specifications:

(1) Section 101.14. *Contractor* includes not only the general contractor, but also the person obligated to the City for the performance of work, including a subdivider or developer.

(2) Section 101.17. *Department* shall be interpreted to mean the City Council, City of Rifle, Colorado.

(3) Section 101.18. *Division* shall mean the City of Rifle.

(4) Section 101.19. *Engineer* shall mean the City Manager, the Director of Public Works or his or her designated representative.

(5) Section 101.52. *State* shall mean the City of Rifle, Colorado, where applicable. (Prior code 11.16.050; Ord. 4 §1, 2005)

Sec. 11-5-60. Inspection of work.

(a) Section 105 of the Standard Specifications is deleted. All materials and each part or detail of the work shall be subject to inspection by the City Engineer. The City Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the subdivider as is required to make a complete and detailed inspection. If the City Engineer requests it, the subdivider, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the subdivider shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing and replacing of the covering or making good of the parts removed will be paid for by the City; however, should the work so exposed or examined prove unacceptable, the uncovering or removing and replacing of covering or making good the parts removed will be at the subdivider's expense.

(b) All work which does not conform to the specifications will be considered as unacceptable. Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work shall be removed and replaced in an acceptable manner. Upon failure on the part of the subdivider to remove and replace defective materials or unacceptable work or materials, the City Engineer shall have authority to cause unacceptable work to be remedied or removed and replaced and to collect the cost from the developer, subdivider or contractor as elsewhere provided in this Code. (Prior code 11.16.060; Ord. 4 §1, 2005)

Sec. 11-5-70. Control of materials.

Section 106 of the Standard Specifications is deleted and replaced with the following:

"All testing is the responsibility of the subdivider, and two copies of each passing test must be submitted to the engineer before preliminary acceptance of any portion of the work. In cases of any conflicts of meaning between the Standard Specifications and these specifications, the supplements and amendments listed below shall govern. Unless otherwise designated, when AASHTO, ASTM or other specifications or methods are cited, the reference shall be to the latest edition as revised or updated and issued prior to the date of contracting the work.

"Required Quality Control Tests

<i>"Item</i>	<i>Type of Test</i>	<i>Test Frequency</i>
Compaction	Most – Den. Curve	1 per soil type
	In-Place Density	1 per 2,000 l.f. of roadway or fraction thereof
Aggregate Base Course	Gradation	1 per 1,000 tons or fraction thereof on each class
	Moist – Den. Curve	1 per source
	In-Place Density	1 per 1,000 tons or fraction thereof
Hot Bituminous Pavement	Asphalt Content	1 per 1,000 tons or fraction thereof
	Gradation	Aggregate – 1 per 1,000 tons or fraction thereof of mix produced
	In-Place Density	1 per 1,000 tons or fraction thereof of mix placed
Concrete Sidewalks	Compressive Strength	One set (4) cylinders per 2,000 l.f. or fraction thereof of concrete placed
	Slump and Air Content	One per set of cylinders and as often as needed for quality control
Concrete Curb & Gutter	Compressive Strength	One set (4) cylinders per 2,000 l.f. of curb and gutter or fraction thereof
	Slump and Air Content	One per set of cylinders and as often as needed for quality control"

(Prior code 11.16.070)

Sec. 11-5-80. Preliminary street acceptance.

(a) Upon completion of street construction, the subdivider shall notify the City Engineer and request inspection. The City Engineer shall inspect all street improvements and shall notify the subdivider by mail of nonacceptance.

(b) Until such time as the developer has written acceptance for full maintenance of the streets, the developer is responsible for all maintenance and repairs to street improvements except for street sweeping and snow removal. (Prior code 11.16.080)

Sec. 11-5-90. Final street acceptance.

(a) One (1) year following preliminary acceptance, the City Engineer shall inspect all street improvements for final acceptance.

(b) If the street improvements are not acceptable, the reasons for nonacceptance shall be stated and corrective measures shall be outlined in the letter of notification.

(c) If the street improvements are acceptable, the City shall assume full maintenance responsibility of the streets. (Prior code 11.16.090)

Sec. 11-5-100. Street signs.

(a) The City shall provide all materials, labor and equipment for all traffic control and street signing. The subdivider shall reimburse the City for the materials and labor.

(b) For all labor and foremen in direct charge of the operation, the City shall receive the rate of wage currently being paid each employee used in the erection of said signs, for each and every hour that said labor and foremen are actually engaged in such work. An amount equal to twenty-five percent (25%) of the sum of the above will be paid to the City to cover overhead, insurance and fringe benefits.

(c) For materials used, the City shall be paid the actual cost of such materials, including transportation charges paid by the City. (Prior code 11.16.100; Ord. 4 §1, 2005)

Sec. 11-5-110. Concrete sidewalks.

Concrete shall conform to Section 601.02 of the Standard Specifications for Class "B" concrete. Sidewalks shall be a minimum of four (4) feet wide and a minimum of four (4) inches thick except at driveways. Driveways shall be a minimum of six (6) inches thick. Sidewalks and driveways shall be underlaid with a minimum of six (6) inches of aggregate base course, Class "6" compacted to a minimum of ninety-five percent (95%) relative compaction as determined by AASHTO T180. Sidewalk construction shall conform to Section 608 of the Standard Specifications. (Prior code 11.16.110)

Sec. 11-5-120. Street structural sections.

The structural section of all streets, including surface and base course, shall be designed in accordance with the procedures set forth in the "Roadway Design Manual" of Colorado Department of Highways or "Asphalt Institute Thickness Design Manual" (MS-1). Two (2) copies of design calculations shall be submitted to the City Engineer. (Prior code 11.16.120)

Sec. 11-5-130. Drainage.

A drainage study shall be done by the developer. Stormwater calculations for the proposed development and contributory areas shall be made for both ten-year and one-hundred-year storms. The intensity of one (1) inch per hour and one and seven-tenths (1.7) inches per hour shall be used for calculation of the ten-year and one-hundred-year storms respectively. Drainage systems shall be designed to carry the twenty-five-year storm without damage to property within the development or property downstream from the development. (Prior code 11.16.130)

Sec. 11-5-140. Street lights.

Street lights shall be provided by the developer or the electric utility and paid for by the developer. The developer shall be responsible for coordination with the electric utility for engineering of street light plans. The City shall approve final street light designs. (Prior code 11.16.140)

Sec. 11-5-150. Street widths.

The widths of subarterial, collector and residential streets shall conform to the provisions contained in the Public Works Manual. (Prior code 11.16.150; Ord. 4 §1, 2005)

Sec. 11-5-160. Street layout.

(a) Street layout shall conform to this Code. Cul-de-sacs shall have a right-of-way radius of fifty-five (55) feet.

(b) Street right-of-way radii at street intersections of local residential streets shall be a minimum of fifteen (15) feet. Minimum flow line radii on curb returns shall be twenty (20) feet on local residential streets. Radii for all other types of streets shall be as approved by the City Engineer. Approval shall be based upon the expected types of vehicle usage, traffic volumes and traffic patterns. (Prior code 11.16.160)

Sec. 11-5-170. Drainage cross-pans.

Cross-pans shall be a minimum of six (6) feet wide and six (6) inches thick on local residential streets. They shall be a minimum of eight (8) feet wide and eight (8) inches thick on collector streets. Bed course material shall be "Class 6." Construction requirements shall conform to Section 608 of the Standard Specifications. (Prior code 11.16.170)

ARTICLE VI

Public Parks and Recreation Areas

Sec. 11-6-10. Definitions, applicability and scope.

(a) The provisions of this Article shall apply to any park or recreation site owned or operated, or hereafter owned or operated, by the City, whether within or without the City limits. This Article also applies to any park, recreation site or rest area located within the City limits owned or operated by any other public entity, if enforcement of City regulations is requested by the other public entity. This Article applies to all persons entering, using or visiting such recreation site, rest area or park.

(b) The term *camping equipment*, as the same appears in this Article, includes not only a tent or vehicle used to accommodate the camper, but also the vehicles used for transport, and any associated camping paraphernalia. (Prior code 13.26.010)

Sec. 11-6-20. Sanitation.

(a) The following acts are prohibited at any recreation area, recreation site or park:

(1) Failing to dispose of all garbage, including paper, cans, bottles, waste materials and rubbish, by removal from the site or area, or by disposal at places provided by the City for rubbish removal.

(2) Draining or dumping refuse or waste from any trailer or other vehicle except in places or receptacles provided for such uses.

(3) Cleaning food, or washing clothes or articles of household use or eviscerating fish or game at any water faucets, rest rooms or water hydrants, or in any creeks, streams or rivers.

(4) Polluting or contaminating water supplies or water used for human consumption, or any creeks, streams or rivers.

(5) Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any rest room facility or any other public structure, or depositing any bottles, cans, cloths, rags, metal, wood, stone or other damaging substance in any of the fixtures in such stations or structures.

(6) Using refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property.

(b) A violation of this Section constitutes a noncriminal park infraction and not a petty offense, with the exception of a violation of Subsection (a)(4) above, which is a Class A municipal offense. (Prior code 13.26.020; Ord. 13 §3, 2004)

Sec. 11-6-30. Public behavior and preservation of public property and resources.

(a) The following acts are prohibited within any park, recreation area or recreation site:

(1) Any act forbidden by any other section of Chapter 10 of this Code.

(2) Inciting or participating in riots, or indulging in boisterous, abusive, threatening or indecent conduct.

(3) Destroying, defacing or removing any natural feature or plant.

(4) Destroying, injuring, defacing, removing or disturbing in any manner any public building, sign, equipment, marker or other structure or property.

(5) Selling or offering for sale any merchandise without the prior written consent of the City Manager.

(6) Distributing any handbills or circulars or posting, placing or erecting any bills, notices, paper or advertising devices or matter of any kind without the prior written permission of the City Manager.

(7) Discharging firearms, firecrackers, rockets or any other fireworks, firing paintball guns, CO₂ cartridges or air-pressure-fired weapons, such as BB guns or pellet guns, bow and arrows, crossbows, blowguns, slingshots or any other device which propels a projectile of any kind.

(8) Operating or using any audio devices, including radios, televisions or musical instruments, or any other noise-producing devices such as an electrical generating plant, in such a manner and at such times as to disturb other persons using the recreation area or park.

(9) Operating or using public address systems, whether fixed or portable, except with the prior written permission of the City Manager.

(10) Installing any other aerial or special radio, telephone or television equipment unless previously approved by the City Manager in writing.

(b) A violation of this Section constitutes a noncriminal park infraction, and not a petty offense, with the exception of a violation of Subsection (a)(2) or (a)(7) above, which is a Class A municipal offense. (Prior code 13.26.030; Ord. 13 §4, 2004)

Sec. 11-6-40. Occupancy of recreation areas.

(a) The following acts are prohibited within any recreation area, recreation site or park:

(1) Occupying a recreation site for other than primarily recreational purposes.

(2) Entering or using a site or portion of a site closed to public use, as established by notices which shall be posted in such locations as will reasonably bring them to the attention of the public.

(3) Occupying a site with camping equipment which is prohibited by the City Manager. Notices establishing limitations on the kind or type of camping equipment, as well as the amount of equipment and number of vehicles allowed, shall be posted in such locations as will reasonably bring them to the attention of the public.

(4) Building a fire outside of stoves, grills, fireplaces or fire rings provided for such purposes, leaving unattended any fire, failing to extinguish a fire when leaving the park, or allowing burning wood or other fuel sources to extend beyond the confines of fire rings.

(5) Camping overnight in places restricted to day use only.

(6) Failing to remove camping equipment or to clean rubbish and trash before departure.

(7) Pitching tents or parking trailers or other camping equipment except in places specifically provided for such purposes.

(8) Camping overnight within a campground for a longer period than fourteen (14) days in any thirty-day period.

(9) Leaving a camping unit unoccupied during the first night after camping equipment has been set up, or leaving unattended camping equipment for more than twenty-four (24) hours, without written permission of the City Manager. Unattended camping equipment which is not removed within the prescribed time limit is subject to impoundment and removal by City authorities.

(10) Failing to maintain quiet in campgrounds between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(11) Entering or remaining in campgrounds during darkness, except for those persons who occupy the campground for camping purposes or other person visiting those campers.

(12) Bringing a dog, cat or other animal into the recreation area, recreation site or park unless it is crated, caged or upon a leash not longer than six (6) feet, or otherwise under physical restrictive control at all times.

(13) Bringing a dog into any recreation area, recreation site or park located within the City limits, except into an area specifically set apart and designated by signs for dog runs.

(14) Failing to display, at all times during the occupancy of a campsite, a receipt of payment of camping fees required by Appendix A attached to this Code. Camping fee receipts must be attached to the post provided at each campsite, for verification by the park ranger.

(b) A violation of this Section constitutes a noncriminal park infraction, and not a petty offense, with the exception of a violation of Subsection (a)(4) above, which is a Class A municipal offense. (Prior code 13.26.040; Ord. 13 §3, 2004; Ord. 4 §1, 2005)

Sec. 11-6-50. Regulation of vehicles.

The provisions of the Model Traffic Code, as adopted in Chapter 8 of this Code, shall apply within the limits of any recreation area, recreation site or park. In addition, the following acts shall be prohibited within any developed recreation area, recreation site or park:

(1) Driving motor vehicles in excess of twenty (20) miles per hour.

(2) Driving or parking any vehicle or trailer except in places developed for that purpose.

(3) Driving bicycles, motor bikes, motorcycles or other off-road vehicles off of established roadways or onto trails, unless such trails have been specifically marked for off-road vehicle use.

(4) Operating any motor vehicle or snowmobile in such a manner as will annoy or disturb other users of the park or recreation area.

(5) Operating any motor vehicle or snowmobile in any park or recreation area when the same has been closed to traffic. The City Manager or Chief of Police shall have the authority to close any park or recreation area for health or safety reasons at any time, and such closing shall become effective when signs giving notice thereof are erected at prominent locations within the park.

(6) Failing to affix a current daily or annual user pass to any motor vehicle entering Rifle Mountain Park, in the lower right-hand corner of the windshield of the vehicle, in such a position that the pass may be easily observed and identified. Passes that are not dated or have been altered are not valid and will be considered a violation as if no permit were displayed. (Prior code 13.26.050; Ord. 13 §4, 2004)

Sec. 11-6-60. Promulgation of rules and regulations.

The City Manager is authorized to promulgate the rules and regulations governing conduct and activities within all public recreation areas, recreation sites and parks which are subject to the jurisdiction

of the City, pursuant to Section 11-6-10. Such regulations shall be designed for the purpose of ensuring the public health, safety and welfare by providing for proper recreational use by all users of the City's public recreational sites and parks, and minimizing the ecological damage to such sites and parks and annoyance to other park and recreation site users. Such regulations may include, but shall not be limited to, restrictions on motorized vehicles; restrictions on the number and location of overnight camping facilities; restrictions on the hours of use; and other similar regulations. The City Manager shall promulgate such regulations by submitting them in written form to the City Council. If the City Council approves the regulations, they shall become effective when signs are in place within the public park, reasonably calculated to give notice to the public of such regulations. Unless otherwise designated as a criminal offense, a violation of any regulation duly promulgated and posted as required by this Article shall be considered a noncriminal park infraction and shall be punished as provided elsewhere in this Article. (Prior code 13.26.060)

Sec. 11-6-70. Fees and charges.

The City may assess fees or user charges for the use of any public park or public recreation facility. The amount of such fees shall be as established by resolution of the City Council and may be amended from time to time by resolution. Such fees shall be posted at City Hall in the Parks and Recreation Department. All fees and charges imposed by the authority granted within this Section shall be paid to the City Treasurer, in such manner as he or she shall prescribe. (Prior code 13.26.070; Ord. 4 §1, 2005; Ord. 43 §2, 2006)

Sec. 11-6-80. Park and recreation site hours and special event uses.

(a) Park and recreation site hours. No person shall be on park or recreation site property except during operating hours.

(b) Special event uses.

(1) The City Manager may approve special event use of any park or recreation site outside the hours of operation.

(2) Any scheduled City-sponsored events or programs are exempt from hour limitations.

(c) Requirements and penalties. Any person who uses the parks or who receives special event permission to use a park or recreation site outside operating hours is subject to the following restrictions:

(1) If park use is subject to a special events permit, event participants are required to vacate the premises within thirty (30) minutes following completion of the event.

(2) All park users are required to remove all personal items, belongings, litter and debris from the premises within thirty (30) minutes following completion of any event or park use, provided that all such personal items are removed prior to the closure of any park.

(3) Any violation of the provisions of this Section is a Class B municipal offense. (Prior code 13.26.090; Ord. 4 §1, 2005; Ord. 32 §2, 2007)

Sec. 11-6-90. Violations, penalties and procedures.

(a) It is unlawful for any person to knowingly commit any act prohibited by this Article. A violation of the following Sections is a noncriminal park infraction: Subsections 11-6-20(a)(1) through (3), (5) and (6); Subsections 11-6-30(a)(1), (3) through (6) and (8) through (10); and Subsections 11-6-40(a)(1) through (3) and (5) through (14). The right to a trial by jury and court-appointed counsel shall not apply at a hearing where the cited person is charged with a noncriminal park infraction. The Colorado Municipal Court Rules of Procedure shall apply to any hearing where the cited person is charged with a noncriminal park infraction, unless any of such rules are clearly inapplicable. Any person who is convicted of, who pleads guilty or nolo contendere or who enters into a plea agreement for a noncriminal park infraction shall be penalized by the imposition of a fine in an amount not less than five dollars (\$5.00) and not greater than one hundred dollars (\$100.00). The Municipal Judge shall promulgate a schedule of penalties for all noncriminal park infractions, which schedule shall be posted prominently in the office of the Municipal Court Clerk.

(b) A violation of Subsection 11-6-30(a)(2) or (7) is a Class A municipal offense. Violations of the provisions of the Model Traffic Code in a City park shall be classified and prosecuted as set forth in Chapter 8 of this Code. Other violations not classified constitute Class B municipal offenses. (Prior code 13.26.080)

ARTICLE VII

Cemetery Regulations

Sec. 11-7-10. Creation of cemetery.

There is hereby created a municipal cemetery under the name of Rose Hill Cemetery, consisting of land owned by the City or hereafter acquired to be used and sold for the burial and interment of bodies. The City has caused the Rose Hill Cemetery to be surveyed and mapped by Tom Walker, a registered land surveyor, and the map is hereby accepted and declared to be the official map and plat of the Rose Hill Cemetery. The Mayor and the City Clerk have been authorized and directed to sign the map on behalf of the City and thereafter cause the same to be recorded in the County Clerk and Recorder's office. A copy of the map shall be filed in the office of the City Clerk. (Prior code 18.04.010)

Sec. 11-7-20. Restrictions on additional area.

There is added to the Rose Hill Cemetery that property described as Blocks Forty-nine and Fifty on a map prepared by the Public Works Director, and this map is accepted and declared to be the official map and plat of Blocks Forty-nine and Fifty of the Rose Hill Cemetery. The Mayor and City Clerk have been authorized and directed to sign that map on behalf of the City and thereafter cause the same to be recorded in the County Clerk and Recorder's office. A copy has been filed with the office of the City Clerk. In addition to the other requirements of this Chapter, no grave marker or monument shall be placed or erected within Blocks Forty-nine and Fifty unless the same meets the size and composition requirements of the plan prepared by the Public Works Director, a copy of which shall be filed in the office of the City Clerk. (Prior code 18.04.015)

Sec. 11-7-30. Cemetery prices and charges.

(a) The price for the purchase of a gravesite, mausoleum crypt or columbarium niche in the Rose Hill Cemetery shall be as set forth in Appendix A to this Code.

(b) In addition to the purchase price for the grave space, the City Treasurer shall assess and collect a perpetual care fund assessment in the amount set forth in Appendix A to this Code.

(c) Those unable to pay for a grave space may be placed in the charity area, which is designated as Block 4 of the Rose Hill Cemetery.

(d) The charge for opening and closing a grave, mausoleum crypt or columbarium niche shall be as set forth in Appendix A to this Code, with an additional service charge for burials which are held on Saturdays, Sundays, holidays, Mondays or the day after a legal holiday before 1:00 p.m.

(e) The surcharge for weekend burials shall apply for each grave opened for funerals which are held on Saturdays, Sundays, holidays, Mondays or the day after a legal holiday before 1:00 p.m., or at any time when City employees are required to perform work on an overtime basis. Weekend burials will not be performed unless a burial permit is issued by the City Clerk before 1:00 p.m. the preceding Friday. (Prior code 18.04.020; Ord. 37 §8, 2002; Ord. 39 §5, 2003; Ord. 4 §1, 2005)

Sec. 11-7-40. Fairyland area established.

There is hereby established an area to be known as "Fairyland," which shall consist of Block Forty-eight and the south one-half of Block Forty-seven. The grave spaces in this area shall be sufficient size to accommodate a crypt up to, but not larger than, four (4) feet four (4) inches by one (1) foot eight and one-half (8½) inches. Only infants may be buried in "Fairyland." (Prior code 18.04.030)

Sec. 11-7-50. Rights, title and interest.

The rights, title and interest acquired by any person in and to any grave space in Rose Hill Cemetery shall be subject to the following conditions:

(1) No grave on any lot shall be opened except with the permission of and under the direction of the Sexton. On failure to pay for a grave section or lot, the body may be exhumed and placed in the charity area designated as Block 4.

(2) No burial of the remains of other than the immediate family of blood relationship of the owner of the lot shall be permitted until a signed written release is filed by the owner, his or her heirs or assignee in the office of the City Clerk.

(3) Grading and digging on the lots by persons other than employees of the grounds may be done under the direction of the Sexton.

(4) No lot or grave space shall be marked or defined by any fence, coping, railing, hedge or embankment, nor shall any lot be filled above the established grade.

(5) No lot or grave space shall be decorated by its owner or others with any trees, shrubs or other plants.

(6) No monument or marker shall be placed in the cemetery which is constructed of material other than granite, marble or bronze of varieties approved by the City, after the submission of samples by the producer. Certificates of conformance, with approved samples, shall be filed by the monument dealer guaranteeing the replacement by the producer if the monument shall show discoloration, deterioration, chipping, cracking or obliteration within twenty (20) years after erection resulting from causes beyond reasonable control of the City. All monuments and monument marker bases not in rough rock finish shall have rounded edges and corners having radii of not less than three-eighths ($\frac{3}{8}$) inch.

(7) No mausoleum or vault shall be erected except under special permit from the City in accordance with the approved regulations.

(8) The City shall have the right to remove from any lot or grave space any tree, shrub or other structure, which for any reason has become or shall become unsightly or detrimental to the cemetery. The City Council shall have the determination of such matters.

(9) The City shall have the right to exclude from any lot or grave space any monument, marker, structure, tree, plant or other object which conflicts with the rules and regulations of the cemetery, or which, in the opinion of the City Council, will be detrimental or injurious to general appearance of the cemetery.

(10) The City shall not be liable for any injury or damage to any monument, marker or other structure in the cemetery resulting from any cause beyond its reasonable control, and such rights, title and interest of the purchasers of grave sections or lots shall be subject to any and all of the rules, regulations and conditions herein contained or hereafter adopted by the City for the regulation and operation of the cemetery.

(11) Owners of lots are not allowed to resell their lot as a whole or in part without the consent of the City Council, and no transfer or assignment shall be valid unless the consent of the City Council is endorsed on the deed under the seal of the City. The City reserves the right to purchase any lot or grave space at and for the price paid for the lot or grave space at the time of the original sale of the same. (Prior code 18.04.040; Ord. 4 §1, 2005)

Sec. 11-7-60. Duties of Sexton.

The Sexton or person in charge of the Rose Hill Cemetery shall not inter or permit the interment or other disposition of any body in the cemetery unless the body is accompanied by a burial, removal or transit permit. The Sexton or person in charge of the cemetery shall endorse upon the permit the date of interment, the name of the cemetery and the lot, block and section number in which the interment was made over his or her signature and shall return all permits so endorsed to the City Clerk within ten (10) days from the date of the interment. He or she shall also keep a record of all interments made in the cemetery, stating the name of the deceased person, place of death, date of burial, the lot, block and section and grave number where interment was made, and the name and address of the undertaker, which record shall at all times be open to public inspection. (Prior code 18.04.050; Ord. 4 §1, 2005)

Sec. 11-7-70. Visitor regulations.

All persons are welcome to visit the cemetery during cemetery operating hours, which operating hours shall be 6:00 a.m. to 10:00 p.m. No person shall be on the cemetery property except during operating hours. Visitors shall be orderly at all times, shall not walk on flowerbeds, newly planted areas, gravestones or grave markers. Recreational activities are prohibited; provided however, that bicycling, jogging, roller skating and in-line skating shall be permitted if confined to paved or gravel roadways and established paths or trails. Littering is prohibited. Any violation of the provisions of this Section is a Class C municipal offense. (Prior code 18.04.060)

Sec. 11-7-80. Damaging property prohibited.

All persons are prohibited from damaging landscaping, breaking or injuring any tree, shrub or plant, or lounging on any individual lot or in any way damaging or defacing any monument, grave marker, structure or other property within the grounds. Any violation of the provisions of this Section is a Class B municipal offense. (Prior code 18.04.070; Ord. 4 §1, 2005)

Sec. 11-7-90. Disturbing the quiet prohibited.

Loud, boisterous talking and profane language are prohibited. No person will be permitted to disturb the quiet or good order of the place in any way, and the Sexton and other employees in the cemetery are instructed to see that proper decorum is maintained at all times; to prohibit the entrance of improper persons; and to exclude or remove all those who persistently disregard the rules of the City. (Prior code 18.04.080)

Sec. 11-7-100. Discharging firearms prohibited; dogs prohibited.

(a) All persons are prohibited from hunting or in any way disturbing the birds or fowls, or discharging any firearms, fireworks or other missiles within, or over any portion of the cemetery, or around the gates, fences or roads adjoining the same. This exclusion of firearms does not apply to military funerals or similar occasions.

(b) Dogs are strictly prohibited. (Prior code 18.04.090)

Sec. 11-7-110. Care of lawn and monuments.

The City shall provide perpetual care to grass and lawn upon all cemetery lots, grave spaces, parts of lots or parcels of land sold by it and where such care has been provided for in accordance with the terms and provisions of this Article. All owners of lots, graves or grave sections shall be responsible for the care and maintenance of all monuments, mausoleums and markers erected on their lots or grave spaces. (Prior code 18.04.100)

Sec. 11-7-120. Cost of perpetual care.

When any cemetery grave space is sold by the City, the regular purchase price shall include perpetual care in accordance with the intent of this Article, and fifty percent (50%) of the money received from the sale of any perpetual care grave space in the cemetery shall be deposited and placed in a perpetual care fund so that the same may, from time to time, be invested by the trustees of the fund as herein provided

and the income derived therefrom used for the perpetual care and maintenance of the grass and lawn located upon the grave space so purchased, all in accordance with the purpose and intent of this Article. (Prior code 18.04.110)

Sec. 11-7-130. Perpetual care of existing spaces.

The owners of lots, grave spaces, parts of lots or parcels of land in the Rose Hill Cemetery prior to the date of the enactment of the initial ordinance codified herein may purchase perpetual care upon the payment of the amount set forth in Appendix A to this Code, said money to be deposited in the Rose Hill Cemetery Perpetual Care Fund. (Prior code 18.04.120; Ord. 4 §1, 2005)

Sec. 11-7-140. Issuance of certificate.

Upon the sale of lots, grave spaces, parts of lots or parcels of land located within the Rose Hill Cemetery, or upon the purchase of perpetual care by owners of grave spaces or lots purchased prior to the enactment of the initial ordinance codified herein, the City Clerk shall issue a certificate or contract, subject to the conditions of this Article, and setting forth the amount of money so deposited and the purpose for which such deposit is made, together with the location of the lot, grave space, part of lot or parcel of land, which contract or certificate shall be signed by the Mayor and attested by the City Clerk, with the corporate seal affixed thereto and the instrument delivered to the person making the deposit. (Prior code 18.04.130; Ord. 4 §1, 2005)

Sec. 11-7-150. City Clerk to receive deposits and keep records.

The City Clerk is designated, as the proper representative of the City, to receive all deposits made in accordance with the provisions of this Article and to keep an accurate record thereof. (Prior code 18.04.140)

Sec. 11-7-160. Perpetual Trust Fund created.

There is hereby created and established a perpetual trust fund to be known under the name and style of "Rose Hill Cemetery Perpetual Care Fund," for the purpose of perpetual care of grave spaces in the cemetery. The general supervision, management and control of the fund shall be vested in the City Council. The City Treasurer shall be the custodian of the fund, and the fund shall be invested as directed by the City Council. (Prior code 18.04.150)

Sec. 11-7-170. Management of fund.

The City shall not be required or obliged to make any separate investment of each of the sums so deposited or paid for perpetual care, but the annual income or interest derived from the Rose Hill Cemetery Perpetual Care Fund shall be divided pro rata as the amount of each deposit is to the total amount so deposited and shall be used proportionately in the care of each of the lots, grave spaces, parts of lots or parcels of land, and the City shall be responsible only to exercise good faith and reasonable diligence in the management of the funds so deposited with it under the terms of this Article. (Prior code 18.04.160)

Sec. 11-7-180. Investment of funds.

All payments made and received for perpetual care of grave spaces shall be kept separate and apart from all other funds of the City, and shall constitute permanent trust funds for the purposes herein provided, to be known as the "Rose Hill Cemetery Perpetual Care Fund." The same shall be invested and reinvested in such bonds or accounts as the City Council may determine by resolution; provided, however, that no investment thereof shall be made except in the interest-bearing bonds of the United States, or the State, the general obligation bonds issued by any city or town of the State, or in securities in which estate funds may now be or may hereafter be invested under the laws of the State. The City Treasurer shall annually transfer the income from such investments to the cemetery fund to be used for perpetual care of grave spaces and lots, as provided in this Article. (Prior code 18.04.170)