

CHAPTER 11

Streets, Sidewalks and Public Places

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ARTICLE I

Sidewalks, Curbs and Gutters

Sec. 11-1-10. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Owner means the owner of any real property, the agent or the tenant of such owner or any person in charge or control of real property.

Parkway means the area between a sidewalk and the paved street, which may be landscaped or hard-surfaced, and includes drainage gullies.

Sidewalk means a hard-surfaced or improved walkway typically used for pedestrian traffic. (Ord. O-18 §1, 2000; Ord. O-5 §1, 2009)

Sec. 11-1-20. Removal of snow and ice.

(a) It is unlawful for an owner to allow snow, sleet, ice, dirt, debris or any other obstruction to remain on the sidewalk adjoining such land within the Town longer than twenty-four (24) hours from the time of the last accretion of such snow, sleet, ice, dirt, debris or other obstruction.

(b) No person shall deposit snow or ice on or against a fire hydrant or traffic control device or upon or adjacent to a sidewalk, parkway, street, roadway or loading area of a public transportation system or any designated emergency access lane, so as to interfere with the flow of pedestrian or vehicular traffic, obstruct the view of such traffic or obstruct or impede street or roadway drainage. (Ord. 96-O-4 §1, 1996; Ord. O-18 §§1, 2, 2000; Ord. O-5 §1, 2009)

Sec. 11-1-30. Sidewalk construction.

(a) Sidewalks shall be constructed in conformity to grade and to specifications as to materials and size as required by the Town.

(b) Sidewalks constructed adjacent to corner lots shall extend to the curb lines of the intersection streets.

(c) When the owners of a majority of the frontage of the lots or land adjacent to any street, alley or designated portion thereof in the Town petition the Board of Trustees in writing to require a sidewalk to be constructed along either or both sides of any portion of a street or alley, and when the Board of Trustees determines that such improvements are necessary, the Board of Trustees shall order that said improvements be made, describing the same and further stating that, if the same are not made and constructed by the owners within thirty (30) days from the effective date of the order, the Town will cause the same to be constructed and charge the costs thereof against the owners of the adjacent property and collect the costs thereof as provided by law.

(d) If a person fails to construct a sidewalk as ordered, the Town may construct the sidewalk. Upon the completion of the sidewalk and the acceptance of the same by the Town, the Town Clerk shall prepare a statement of costs, including the costs of inspection and the services of the Town

Engineer in properly locating the same, and apportion the costs so that each lot or parcel of land shall be charged for the construction of that portion of the sidewalk which is adjacent to or abutting on the lot or parcel of land. The Town Clerk shall, by advertisement for a period of thirty (30) days in a newspaper of general circulation published in the Town, notify the owners of property to be assessed that the improvements have been completed and accepted, specifying the property to be assessed, the amounts to be assessed and the names of the owners, and also designating a time and place at which the Board of Trustees shall hear objections and make corrections as it deems necessary and equitable. The Board of Trustees shall then finally determine the amount of such assessments and assess the costs of such improvements to the adjacent properties.

(e) If the assessments are not paid within thirty (30) days after having been finally determined by the Board of Trustees, the Town shall certify the assessments to the County Treasurer who shall collect the same as other taxes assessed against the property. (Ord. 96-O-4 §1, 1996; Ord. O-18 §1, 2000; Ord. O-5 §1, 2009)

Sec. 11-1-40. Maintenance.

(a) The adjacent property owner shall be responsible for maintenance of the sidewalk and parkway, including but not limited to cutting, trimming, watering and weeding landscaping and freeing debris from drainage gullies.

(b) If a sidewalk is so out of repair as to endanger the public, the Town Manager may order it repaired forthwith, and, except in cases of drainage onto sidewalks as provided in Subsections (c) and (d) below, if the repairs are not made by the deadline specified in the notice, the Town may repair the sidewalk and assess the costs against the adjacent property and its owner, and, if not paid within thirty (30) days, the Town may collect the costs by any legal means, including certifying the assessments to the County Treasurer who shall collect them as other taxes assessed against the property.

(c) It is unlawful for an owner to allow or cause any drainage that creates a health or safety risk to the public on or over a sidewalk or parkway. If a sidewalk or parkway has become dangerous due to drainage from nearby properties, the Town may provide a written notice to the owner of the property that is the source of the drainage or the person responsible for the drainage requiring the drainage to be mitigated at the expense of the responsible person or owner. The drainage shall be mitigated in one (1) of the following manners:

(1) The owner may apply for a permit from the Town to route the drainage into the sanitary sewer and have such work performed by a licensed plumber;

(2) The owner may apply for a Sidewalk Chase Construction Permit to install a sidewalk chase, if such installation is in conformance with all applicable provisions of this Code and regulations, including, without limitation, the Town's Roadway Design Criteria and Standards; or

(3) Any other lawful manner which eliminates the drainage over the sidewalk that is approved by the Town in advance.

(d) If the drainage is not mitigated by the deadline in the notice, the Town may repair the same by any reasonable means, the Town may assess the costs thereof against the persons or owners responsible, and, if not paid within thirty (30) days of written notice of assessment, the Town may

collect the costs by any legal means, including certifying the assessments to the County Treasurer, who shall collect the same as other taxes assessed against the property. (Ord. 96-O-4 §1, 1996; Ord. O-18 §§1, 3, 2000; Ord. O-6 §1, 2005; Ord. O-5 §1, 2009)

Sec. 11-1-50. Damage to sidewalks or parkways.

No person shall intentionally or recklessly damage a sidewalk or parkway. (Ord. 96-O-4 §1, 1996; Ord. O-18 §1, 2000; Ord. O-5 §1, 2009)

Sec. 11-1-60. Riding of animals and vehicles on public property.

No person shall ride or drive any motorcycle, vehicle (motorized or nonmotorized), horse, burro or other animal upon any sidewalk, parkway, public open space or other public lands not specifically designated for such animal or vehicular traffic. (Ord. 96-O-4 §1, 1996; Ord. O-18 §1, 2000; Ord. O-16 §1, 2001; Ord. O-5 §1, 2009)

Sec. 11-1-70. Disturbing Town monuments.

No person shall change, disturb, remove or alter any grade stakes or pins set by the Town. (Ord. O-5 §1, 2009)

ARTICLE II

Public Rights-of-Way

Sec. 11-2-10. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Excavation means any opening in the surface of a public right-of-way, except an opening into underground structures designed for repeated openings, such as manholes.

Facility means a pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material, structure, substructure or object which is or may be located in, on, along, across, under or over any public right-of-way.

Permit means a public right-of-way permit required by this Article.

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

SMD#1 means Superior Metropolitan District No. 1.

Substructure means any pipe, conduit, duct, tunnel, manhole, vault, buried cable, wire or any other similar structure located below the surface of any public right-of-way.

Utility means a private company or corporation or governmental entity engaged in providing a particular service to the general public. (Ord. O-5 §1, 2009)

Sec. 11-2-20. Town-owned property.

No provision of this Article shall be construed to limit or abridge the Town's right to control the use of Town-owned property, or to imply a right to enter Town-owned property without permission. (Ord. O-5 §1, 2009)

Sec. 11-2-30. Public right-of-way permit.

(a) It is unlawful to perform any construction, make any excavation or fill any excavation in a public right-of-way in the Town without first obtaining a permit to do so from the Town, except as otherwise provided in this Article.

(b) It is unlawful to construct or install any street, street improvement, curb, gutter, sidewalk or driveway in or upon a public right-of-way in the Town unless it is in compliance with the standard street specifications of the Town.

(c) A separate permit is required for each site.

(d) The permit shall be retained at the site location to which the permit is issued at all times until completion of the work unless specifically exempted by the Town. (Ord. O-5 §1, 2009)

Sec. 11-2-40. Permit application.

(a) Application for a public right-of-way permit shall include the following information:

(1) The name, address and principal place of business of the applicant and of the person or utility which will own, operate and maintain any facility to be installed;

(2) The location and description of the proposed work;

(3) The approximate size of any excavation;

(4) The approximate time required to complete all work, including backfilling of any excavation and removal of all materials, equipment and debris from the site and removal of all obstructions from the property;

(5) Drawings and specifications in a form satisfactory to the Town depicting, at a minimum:

a. The applicable public right-of-way and any intersecting streets, trails or sidewalks within three hundred (300) feet thereof;

b. The existing utilities;

c. The public right-of-way to the back of the curb;

d. The existing landscaping;

e. The existing irrigation and drainage facilities; and

f. Detail of the proposed trench;

(6) A schedule of proposed work; and

(7) Other information required by the Town to efficiently administer and enforce this Article.

(b) The Town shall require performance of such conditions stated in the permit as may be necessary to protect public health and safety and to assure compliance with the ordinances and regulations of the Town.

(c) The Town may deny any application for a permit for the following reasons:

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

(2) The work for which the permit is requested is unnecessary or in violation of Town ordinances, rules or regulations;

(3) The applicant is in default of any other outstanding permit of similar character without good cause;

(4) The applicant has failed to obtain required insurance or has failed to post required bonds or other guarantees of performance;

(5) The applicant has failed to pay the required permit fee;

(6) The applicant is not qualified by experience, training or education to engage in the activity authorized by the permit;

(7) The applicant has had a contractor license or permit revoked or suspended; or

(8) The Town has determined that the location of the facility will interfere with existing or proposed improvements in the public right-of-way to be affected. (Ord. 942 §4, 1992; Ord. O-8 §1, 2001; Ord. O-5 §1, 2009)

Sec. 11-2-50. Revocation of permit.

(a) The Town may revoke a public right-of-way permit if the permittee is found to have violated this Article, or in any of the following circumstances:

(1) The permittee violates any applicable Town ordinance;

(2) The permittee obtained a permit by fraud or misrepresentation;

(3) Revocation is necessary to maintain the public health, safety and welfare; or

(4) The permittee fails to maintain the required insurance, bond or other guarantees of performance during the course of the construction.

(b) The Town shall advise the permittee in writing of the grounds for revocation of the permit, and the permittee may appeal such revocation to the Board of Trustees by filing a written appeal with the Town Clerk, stating the reason why the permit should not have been revoked, within five (5) days of the revocation. (Ord. 942 §5, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-60. Term of permit.

The term of a permit issued under this Article shall be set forth in the permit. The Town may, for good cause shown, grant an extension of up to ninety (90) days. A new permit and associated fees shall be required if the permit and any extension period have expired and the work is not substantially complete. (Ord. 942 §6, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-70. Permittee responsibility.

The permittee shall be responsible for all work performed under the permit whether or not the permittee performs the work. All work performed under the permit shall be in accordance with applicable law, including the Town's Roadway Design Criteria and Standards.

(1) Utility lines shall be installed underground, including manholes, unless approved in writing by the Town prior to installation. Any facilities installed without the prior written approval of the Town may be removed by the Town at the cost of the installer, and the installer shall also be responsible for payment of all attorney fees, engineering fees and other costs, expenses and damages caused to the Town by the installation or removal of the nonpermitted facilities. When feasible, installation of facilities shall utilize a joint trench.

(2) The permittee is responsible for notification of all public utility companies and for determining the location of existing underground utilities prior to proceeding with construction. All work performed in the area of existing utilities shall be performed according to the requirements of the agencies responsible for such existing utilities. The permittee, at its own expense, shall protect all existing utilities and be responsible for their repair if they are damaged during construction.

(3) The permittee is responsible for notifying the appropriate entities, including but not limited to the Town, SMD#1 and fire, police and school districts, of all street closings and service interruptions, including water service, at least forty-eight (48) hours prior to the initiation of the interruption.

(4) All construction debris or mud tracked onto existing roadways shall be removed immediately. All disturbed areas, including landscaping, shall be restored to a condition substantially similar to their condition existing prior to the initiation of construction.

(5) Prior to the initiation of construction, the permittee shall provide proof to the Town that the permittee possesses all necessary agreements and easements with affected property owners for the installation of the utilities. Access to any adjacent property shall be maintained throughout the construction and warranty period.

(6) The Town shall be notified in writing five (5) working days prior to the initiation of any construction.

(7) The Town shall be notified in writing within forty-eight (48) hours after the completion of construction.

(8) The Town shall be notified in writing at least twenty-four (24) hours prior to any required inspection.

(9) Upon completion of construction, the permittee shall submit to the Town a written request for final inspection and initiation of the warranty period and shall supply as-built drawings sealed by the engineer of record of the completed facilities.

(10) The Town shall have the right to access the construction site at any time to inspect materials and workmanship and to inspect the installation to determine compliance with the permit, the general conditions of this Article, specifications adopted by the Town and all other ordinances or resolutions adopted by the Town. The Town shall have the right to stop work for violations of this Article. (Ord. 942 §7, 1992; Ord. O-8 §2, 2001; Ord. O-5 §1, 2009)

Sec. 11-2-80. Corrective measures.

(a) The Town, upon discovery of any defect in the work for which a public right-of-way permit is issued, may:

(1) If an imminent threat to public safety exists, complete such work to applicable standards.

(2) If no imminent threat to public safety exists, give written notice to the permittee and its sureties of the nature and location of such defects, including notice of a reasonable time within which such defects shall be repaired.

a. Such period of time may be extended by the Town for good cause shown.

b. If the permittee fails to perform the required repairs within the period provided by such notice, the Town may make such repairs itself.

(b) The Town shall recover all costs of work performed by its personnel or by a private contractor, including the cost of labor, equipment, materials and administrative costs, including attorney fees, at the expense of the permittee by applying any deposit, bond or other security in the Town's possession to payment thereof or by any other legal means. (Ord. 942 §9, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-90. Protective measures and routing of traffic.

(a) Every person excavating or engaging in any other construction in or on any public right-of-way shall place and maintain barricades and warning devices to warn the general public of such construction or excavation in conformance with the requirements of the Town and the Manual on Uniform Traffic Control Devices. No traffic-regulating, warning, directional or street name signs shall be removed or relocated from the area of the work unless so indicated on the plans or ordered by the Town. The cost for removing or replacing such signs shall be borne by the permittee.

(b) Traffic conditions shall be maintained as normal as possible at all times. Where feasible, 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. When traffic conditions permit, the Town may permit the closing of streets and alleys to all traffic. (Ord. 942 §10, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-100. Relocation of utilities.

(a) If the relocation of any facilities in the public right-of-way becomes necessary to allow the Town use of the public right-of-way, or because of the improvement, repair, construction or maintenance of any public right-of-way, or because of traffic conditions, public safety or installation of any type of public improvement by the Town or other public agency or special district, or if the Town implements any general program for the undergrounding of such facilities, the Town may require an owner to relocate facilities within or adjacent to public rights-of-way, either temporarily or permanently.

(b) Should the owner fail to perform the relocation, the Town may perform such relocation at the owner's expense, and the owner shall reimburse the Town for all related costs.

(c) Following relocation, the owner shall, at the owner's expense, restore all affected property to, at a minimum, the condition which existed prior to the work. (Ord. 942 §13, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-110. Abandonment of substructures.

(a) Notification. A facility owner that intends to discontinue use of a facility within the public right-of-way shall notify the Town in writing of the intent to discontinue use. Such notice shall describe the facility for which the use is to be discontinued, a date of discontinuance, which date shall not be less than fifteen (15) days from the date such notice is submitted to the Town, and the method of removal and restoration. The facility owner may not remove, destroy or permanently disable any such facilities without written approval of the Town. After written approval from the Town, the facility owner may commence removal and disposal of the facilities under conditions specified by the Town. The facility owner shall complete such removal and disposal within one hundred eighty (180) days, unless additional time is requested from and granted by the Town.

(b) Abandonment. Upon prior written approval of the Town, a facility owner may either:

(1) Abandon the facilities in place and immediately convey full title and ownership of such abandoned facilities to the Town; or

(2) Abandon the facilities in place but retain ownership and responsibility for all liabilities associated therewith.

(c) If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the facility owner and the Town, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 942 §14, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-120. Insurance.

(a) Each permittee shall carry and maintain in full effect at all times the following insurance coverage:

(1) Commercial general liability insurance, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard and underground property damage hazard, for limits not less than one million dollars (\$1,000,000.00) each occurrence for damages of bodily injury or death to one (1) or more persons; and five hundred thousand dollars (\$500,000.00) each occurrence for damage to or destruction of property; and

(2) Workers' compensation insurance as required by law.

(b) The permittee shall file with the Town proof of such insurance coverage in a form satisfactory to the Town.

(c) Public utilities operating under the supervision of the Public Utilities Commission, public utilities holding a franchise from the Town, Town departments and other governmental agencies are exempted from this Section. (Ord. 942 §16, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-130. Security.

(a) A deposit, bond or other security required by this Section shall be conditioned to guarantee performance of completion to all applicable standards and conditions stated in the permit.

(b) An application for a public right-of-way permit to install any public improvement, including any street, street improvements, curb, gutter or sidewalk, shall be accompanied by an irrevocable letter of credit in a form acceptable to the Town in an amount equal to one hundred ten percent (110%) of the estimated cost of the improvements. During the one-year warranty period, the security may, at the Town's sole discretion, be reduced to fifty percent (50%) of the estimated cost of the improvements constructed.

(c) Security shall not be required of the government of the United States, the State, any other neighboring community governments, public utilities operating within the terms of a franchise agreement with the Town and under the supervision of the Public Utilities Commission, the Town or SMD#1. (Ord. 942 §17, 1992; Ord. O-8 §4, 2001; Ord. O-5 §1, 2009)

Sec. 11-2-140. Preservation of monuments.

A 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 shall not be removed or disturbed without written permission in writing from the Town and payment of the associated costs. (Ord. 942 §19, 1992; Ord. O-5 §1, 2009)

Sec. 11-2-150. Use of public right-of-way.

(a) It is unlawful to place a permanent or temporary building, structure, fence or landscaping in a public right-of-way, except as follows:

(1) Owners of property adjoining a public right-of-way may install or plant landscaping, ornamental rocks or bark and driveway gravel in the unpaved portions of the public right-of-way.

(2) Trees, plants or shrubs may be planted in the public right-of-way if they do not exceed, or will not exceed at full growth, twenty-four (24) inches in height, and provided that they do not encroach upon or partially or totally obstruct any Town street, alley or sidewalk. The Town may remove landscaping in the public right-of-way at the Town's discretion. The Town may direct the party responsible for the installation of the landscaping. If the landscaping is not removed by said party, the Town may remove the landscaping and recover the cost by any lawful means, including assessing the cost of such removal against the adjoining property and collect the same in the manner allowed by state law.

(b) It is unlawful to obstruct a street, sidewalk, public right-of-way or other public property without first obtaining a permit from the Town. Such a permit may be issued for the purposes of conducting neighborhood parties, sporting events, social activities and other community functions. In the event of any damage to the street, sidewalk or other public right-of-way as a result of activities pursuant to the permit, the Town shall provide a written bill of costs to the applicant, and the applicant shall pay such costs within ten (10) days.

(1) Applications to close or obstruct streets, sidewalks, rights-of-way or other public property shall be available from Town Hall. Such applications shall be submitted to the Town at least fourteen (14) days prior to the requested closure or obstruction. The application shall contain the name, address and telephone number of the applicant, a statement of the reason for requesting the permit, a statement of the location and nature of the closure or obstruction, a traffic control plan to be approved by the Town and a statement as to the time of day or period of time for which the applicant is requesting the closure or obstruction.

(2) In addition to the other requirements of this Section, an application to obstruct a public right-of-way for a neighborhood party shall contain the following:

a. Evidence that all residents of the area in which the street will be partially obstructed have been notified of the application;

b. An acknowledgement that streets or other rights-of-way may not be completely closed for the purposes of block parties;

c. Evidence that the applicant has complied with other applicable provisions of this Code, including but not limited to obtaining permits for amplified music;

d. An acknowledgement that the applicant will place signs in the area of the neighborhood party for purposes of notifying motorists of the closure containing language provided by the Town; and

e. An agreement to indemnify and hold harmless the Town for any consequence arising out of the exercise of the privilege granted by the permit.

(3) A permit may be approved, approved with conditions or denied. The Town shall consider the following criteria in making such a determination:

- a. The presence or absence of other obstructions and closures on the same or nearby streets and the resulting consequences on pedestrian and traffic safety;
- b. The feasibility of conditioning the permit to low-traffic hours and requiring such obstruction or closure to be removed during other hours;
- c. The feasibility of reducing the size, nature or extent of such obstruction or closure as a condition of permit issuance;
- d. The feasibility of delaying the effective dates or times of the permit to create the least traffic disruptions or street hazards;
- f. The need for trained traffic control personnel;
- g. The number of requests for similar permits made by the applicant in the previous twelve-month period; and
- h. The extent to which the public health, safety and welfare risks related to the exercise of the permit outweigh the benefit that would result if the permit was issued as requested.

(4) In the event of conflict, requests by governmental agencies shall be accorded priority.

(5) An applicant aggrieved by the denial of a permit or conditions imposed upon a permit may appeal to the Board of Trustees.

(6) Permits shall contain instructions concerning the placement of necessary traffic-warning barriers. The permittee shall be responsible for placing and maintaining warning barriers. Other requirements may be required for the protection of life, property and general welfare, including a requirement that trained traffic control personnel direct traffic. The Town Manager may require a damage deposit or insurance as a condition of a permit. (Ord. 94-O-2 §1, 1994; Ord. O-10 §§1, 2, 2005; Ord. O-5 §1, 2009)

Sec. 11-2-160. Removal of weeds.

(a) The owner of a building or lot adjacent to a public right-of-way shall remove and clear away any weeds on the adjacent right-of-way, from the property line to that portion of the right-of-way upon which vehicles travel.

(b) For violations of Subsection (a) above hereof, the Town may issue a written notice to the owner of the property adjacent to the public right-of-way in question, giving the owner ten (10) days to abate the weeds. If the owner fails to abate the weeds by the deadline, the Town may remove the weeds from the public right-of-way and collect the costs by any means allowed by law, including assessing the cost to the property and certifying the assessments to the County Treasurer, who shall collect them as other taxes assessed against the property.

(c) For purposes of this Section, *weed accrual* means weeds that are permitted to grow to a height of more than eight (8) inches.

(d) Weeds shall be controlled by pulling, cutting, cutting and spraying or other suitable method of weed control. (Ord. 96-O-4 §1, 1996; Ord. O-5 §1, 2009)

Sec. 11-2-170. Dumpsters or roll-offs.

(a) A permit shall be obtained prior to the placement of Dumpsters or roll-offs in a public right-of-way.

(b) A permit may be issued if:

(1) The Dumpster or roll-off is being used temporarily for the storage of demolition or construction material;

(2) The Dumpster or roll-off does not block the traveled portion of the public right-of-way or any private driveway without the permission of the owner of the property served by the driveway;

(3) All demolition and construction material is placed in the Dumpster or roll-off;

(4) The Dumpster or roll-off is removed within twenty (20) days;

(5) The Dumpster or roll-off is appropriately marked with reflective materials, including reflective tape at least three (3) feet above the ground; and

(6) The location of the Dumpster or roll-off does not pose a safety hazard due to roadway or traffic conditions. (Ord. O-8 §3, 2006; Ord. O-5 §1, 2009)

ARTICLE III

Stormwater Requirements

Sec. 11-3-10. Purpose.

The purpose of this Article is to regulate nonstormwater discharges to the MS4, as required by federal and state law, to protect and enhance the water quality of watercourses, water bodies and wetlands in a manner consistent with the Clean Water Act. The objectives of this Article are:

(1) To regulate the introduction of pollutants to the MS4;

(2) To prohibit illicit connections and discharges to the MS4;

(3) To provide for inspection and monitoring procedures necessary to ensure compliance with this Article;

(4) To reduce pollutants in stormwater discharges from construction activity by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land;

(5) To require permanent stormwater runoff controls to be constructed along with development to prevent the deterioration of water quality; and

(6) To promote public awareness of the hazards involved in the improper discharge of pollutants into the MS4. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-20. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Best Management Practices (BMPs) means management practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters or stormwater conveyance systems, including treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

CDPHE means the Colorado Department of Public Health and Environment.

Clean Water Act means the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., as amended.

Disturbed area means that area of the land's surface disturbed by any work or activity upon the property by means, including but not limited to grading; excavating; stockpiling soil, fill or other materials; clearing; vegetation removal; removal or deposit of any rock, soil or other materials; or other activities which expose soil. *Disturbed area* does not include the tillage of land that is zoned for agricultural use.

EPA means the federal Environmental Protection Agency, or its successor.

Facility means any building, including a private home, structure, installation, process or activity, from which there is or may be a discharge of a pollutant.

Hazardous materials means any material, including any substance, waste or combination thereof, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety or property or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Illicit connections means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4, including but not limited to any conveyances which allow any non stormwater discharge, including sewage, process wastewater and wash water, to enter the MS4, and any connections to the MS4 from indoor drains, sump pumps and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved.

Illicit discharge means any direct or indirect release of pollutants into the MS4, except as exempted in this Article.

Industrial activity means activities subject to NPDES industrial permits, as defined in 40 C.F.R. § 122.26(b)(14).

Mobile washing operation means a commercial activity involving power washing, steam cleaning and any other method of mobile cosmetic cleaning of, by way of example, the following: vehicles, fabric, pets or exterior surfaces.

Municipal separate storm sewer system (MS4) means publicly owned facilities by which stormwater is collected and conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins and natural and human-made or human-altered drainage ditches, channels, lakes/reservoirs and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit or NPDES permit means a permit issued pursuant to Section 402 of the Clean Water Act, including permits issued by the State in compliance with the Clean Water Act.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Operator means the individual who has day-to-day supervision and control of activities occurring at the construction site and includes the owner, the developer, the general contractor or the agent of one (1) of these parties.

Owner means the person who owns a facility, development, part of a facility or land.

Pollutant means any sewage, sewage biosolids, garbage, chemical waste, biological material, solid waste, incinerator residue, ash, munitions, radioactive material, heat, rock, sand, cellar dirt and industrial and agricultural wastes, or any substances, contaminants or man-made or man-induced impairment of waters or alteration of the chemical, physical, biological or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life or property or which unreasonably interfere with the enjoyment of life or property.

Pollution means the presence in waters of pollutants.

Premises means any building, lot, parcel of land or portion of land, whether improved or unimproved, and includes adjacent sidewalks and parking strips.

Receiving water means any waters of the State that receive a stormwater discharge from the MS4, including all watercourses, even if they are usually dry, and irrigation ditches that receive municipal stormwater, including storm sewer systems owned by other entities.

Spill means any intentional or unintentional release of solid or liquid material which may cause pollution of the MS4 or waters of the State.

Stormwater means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Threatened discharge means a condition creating a substantial probability of harm, which makes it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or natural resources.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means a channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways, in which stormwater runoff and floodwater flow, either regularly or infrequently.

Waters of the State means any and all surface and subsurface waters that are contained in or flow in or through the State, including all watercourses, even if they are usually dry. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-30. Applicability.

This Article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by this Article. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-40. Administration.

The Town Manager shall administer, implement and enforce this Article. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-50. Illicit discharge prohibited; exemptions.

(a) Prohibited discharges. It is unlawful to discharge or cause to be discharged into the MS4 or watercourses any illicit discharge, including but not limited to the following:

(1) Chemicals, petroleum products, paint, varnishes, solvents, oil and grease and other automotive fluids, pesticides, herbicides and fertilizers or other toxic materials;

(2) Nonhazardous liquid, solid wastes and yard wastes;

(3) Hazardous materials, sewage, fecal coliform and pathogens, dissolved and particulate metals;

(4) Trash, refuse, rubbish, garbage, food wastes, pet wastes, litter, other discarded or abandoned objects, floatables and cleaning products;

(5) Landscaping materials, sediment, lawn clippings, leaves, branches or other landscaping and yard debris;

(6) Construction activities wastes and residues, including but not limited to painting, paving, concrete placement, sawcutting, material storage and earthwork;

(7) Wastes and residues that result from mobile washing operations, discharges from toilets, sinks, industrial processes, cooling systems, boilers, fabric cleaning, equipment cleaning, commercial vehicle cleaning and substances added to the storm drain to control root growth; or

(8) Any other material that is considered harmful to humans, animals or aquatic life and its habitat.

(b) Exemptions. The following discharges, when properly managed, are exempt from the prohibitions of this Article:

(1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, individual residential car washing, car washing fundraisers which are less than two (2) consecutive days in duration, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, less than five one-hundredths [0.05] ppm chlorine), fire-fighting activities, street sweeper wash water and any other water source not containing pollutants.

(2) Discharges approved by the authorized enforcement agency necessary to protect public health and safety, such as flows from fire-fighting.

(3) Dye testing, provided that the person undertaking such testing provides verbal notification to the authorized enforcement agency twenty-four (24) hours prior to the time of the test.

(4) Runoff of roadway anti-icing and de-icing agents, provided that they are applied according to BMPs.

(c) The prohibitions set forth in this Section shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted by the Town for any discharge into the storm drain system. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-60. Illicit connection prohibited.

It is unlawful to construct, use, maintain or continue the existence of illicit connections to the MS4, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-70. Threatened discharges.

It is unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into the MS4 or waters of the State. Pollutants that are no longer contained in a pipe, tank or other container are considered to be threatened discharges unless they are actively being cleaned up.

(1) Cleaning of paved surfaces required. The owner of any paved parking lot, street or drive shall clean the pavement as necessary to prevent an illicit discharge of pollutants. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article.

(2) Materials storage. Materials, including but not limited to stockpiles, used in construction and landscaping activities shall be stored to prevent the release of pollutants.

(3) Pesticides, herbicides and fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent release into the MS4. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-80. Best Management Practices.

The owner or operator of a commercial or industrial establishment or a disturbed area shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and nonstructural BMPs. Further, any person responsible for premises which are, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants into the MS4. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-90. Violations.

(a) When the Town Manager has reasonable cause to believe that a violation of this Article exists in or upon any premises, the Town Manager may request entry onto the premises at any reasonable time to determine if the owner or operator is complying with this Article. If the owner or occupant refuses entry after a request to enter has been made, the Town Manager may obtain a warrant from a court of competent jurisdiction.

(b) With consent of the property owner or a valid warrant, the Town Manager may set up such devices that are necessary to conduct an investigation of such discharges. The investigation may include, but is not limited to, the following: sampling of any discharge or process waters, the taking of photographs, interviewing staff on alleged violations and access to any and all facilities or areas within the premises that may have any effect on the discharge.

(c) If the violation constitutes an immediate danger to public health or safety, the Town Manager is authorized to enter upon the subject private property, without giving prior notice, but in compliance with applicable law, to take any and all measures necessary to abate the violation or restore the property.

(d) If the Town Manager determines that a violation of this Article exists, and that the nature of such violation is not such as to pose an immediate danger to the public health or public safety, the Town Manager shall serve written notice by certified mail on the current owner of the property on which the violation is occurring to abate the violation within twenty (20) days or have the violation abated by the Town. If such violation is not abated within twenty (20) days, the Town Manager may cause the violation to be abated. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

Sec. 11-3-100. Notification of spills.

As soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected illicit discharge, that person shall take all necessary steps to ensure the containment and cleanup of such discharge. If hazardous materials are discharged, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Town Manager in person or by phone no later than twenty-four (24) hours after the release and by written notification within five (5) days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (Ord. O-20 §1, 2004; Ord. O-5 §1, 2009)

ARTICLE IV

Town Open Space

Sec. 11-4-10. Use of Town open space.

(a) It is unlawful to access properties by, over or through open space and parks owned or maintained by the Town for the purpose of construction, the transport of any materials, landscaping or any other purpose associated with the improvement or maintenance of properties adjacent to or near Town open space and parks without first obtaining a permit from the Town Manager.

(b) It is unlawful to install, build, maintain or otherwise possess a gate between open space or parks maintained by the Town and adjacent properties without first obtaining a revocable gate permit from the Town Manager. The application for such permit shall be on forms provided by the Town. There is no fee for an open space gate permit. The permit may be revoked by the Town Manager for violations of this Code or the terms of the permit.

(c) It is unlawful to dump, deposit or otherwise place any material, including litter, landscape material, grass clippings or any other yard waste, on Town-owned open space.

(d) It is unlawful to plant any vegetation in Town-owned open space. (Ord. O-2 §1, 2005; Ord. O-5 §1, 2009)

Sec. 11-4-20. Access permit.

(a) Application for a permit for access over open space or parks owned or maintained by the Town shall be made to the Town Manager with the permit fee and a deposit of one thousand dollars (\$1,000.00). The Town Manager may waive the fee when the Town Manager determines that the proposed activity is in the public interest. The Town Manager may waive or reduce the deposit when the Town Manager determines that the risk of harm to Town open space is minimal based on the proposed activity.

(b) In the event of damage to the open space or park area from activities pursuant to the permit, such deposit shall be applied to the repair. If the cost of repair exceeds the deposit, the Town

Manager shall provide a written bill of costs to the applicant, which shall be paid within ten (10) days. If these additional costs are not paid within ten (10) days, they may be collected as allowed by law. If no damage occurs as a result of activities pursuant to the permit, the Town shall return the damage deposit to the permittee within thirty (30) days of the expiration of the permit. (Ord. O-2 §1, 2005; Ord. O-5 §1, 2009)