

CHAPTER 11 Streets, Sidewalks and Public Property

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ARTICLE III Roadway Design and Construction Standards

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Sec. 11-3-10. ~~Adoption; amendments.~~Adoption by reference: Roadway Design and Construction Standards.

~~The Douglas County Roadway Design and Construction Standards, as amended in April, 1994 (the "Standards"), are hereby adopted by the City, with the following exceptions:~~

- ~~(1) Where the term *Douglas County* or *County* is found, the term *City of Lone Tree* or *City* shall be substituted; for example, where the term *County Engineer* is used, the term *City Engineer* shall be substituted.~~
- ~~(2) Where the term *Board of County Commissioners* is found, the term *City Council* shall be substituted, unless the context refers to a specific action taken by the Douglas County Board of County Commissioners in its adoption and administration of the Standards.~~
- ~~(3) Where the term *Department of Public Works, Road and Bridge Division, Engineering Division, or Inspection Department* is used, the term *City Engineer* shall be substituted.~~
- ~~(4) Section 1.2 of the Standards, "Jurisdiction," is not adopted.~~

(a) The Douglas County Roadway Design and Construction Standards, as amended, revised and updated from time to time, is hereby adopted by reference and incorporated into this Article as though fully set forth herein as the City of Lone Tree Roadway Design and Construction Standards. Except as otherwise provided, this code is adopted in full.

(b) One (1) copy of the Douglas County Roadway Design and Construction Standards, as amended by this Chapter, shall be on file in the office of the City Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. This

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code, as adopted and amended, shall be available for sale to the public at the City offices, at a price reflecting the cost to the City.

[Section 11-3-20 is repealed and replaced by the following:

(Ord. 97-1 Art. 3.1)

Sec. 11-3-20. Jurisdiction.

The Standards shall apply to all land within the boundaries of the City.

(Ord. 97-1 Art. 3.2)

Sec. 11-3-20. Amendments.

The Douglas County Roadway Design and Construction Standards is amended as follows:

(1) The following terms, when used in the codes being adopted, shall have the following meanings:

Authority means the City Council of the City of Lone Tree.

Jurisdiction means the City of Lone Tree.

(2) Where the term *Douglas County* or *County* or *unincorporated area of Douglas County* or *unincorporated Douglas County* is found, the term *City of Lone Tree* or *City* shall be substituted; for example, where the term *County Engineer* is used, the term *Director of Public Works* or *his/her designated representative* shall be substituted.

(3) Where the term *Board of County Commissioners* is found, the term *City Council* shall be substituted, unless the context refers to a specific action previously taken by the Douglas County Board of County Commissioners.

(4) Where the term *Department of Public Works, Road and Bridge Division, Engineering Division* or *Inspection Department* is used, whether standing alone or modified by *Douglas County* or *County*, the term *Public Works Department* shall be substituted.

(5) Where the term *Director of Engineering Service, Engineer, or Inspector* is used, whether standing alone or modified by *Douglas County* or *County*, the term *Director of Public Works* or *his/her designated representative* shall be substituted.

(6) Where the term *Planning* or *Building* is used, whether standing alone or modified by *Division, Douglas County, or County*, the term *City of Lone Tree Community Development* shall be substituted.

(7) Where the *Douglas County Roadway Design and Construction Standards* reference sections of the *Douglas County Storm Drainage Design and Technical Criteria ("Drainage Manual")*, those references shall be interpreted to apply to the applicable sections of the current version of the *Drainage Manual*.

(8) Where the term *Blueline Copies* is used relative to plans submittals, the current industry standard for paper copy prints may be submitted.

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- (9) Where reference is made to one or more of the following, the applicable City of Lone Tree forms (where available), as published on the City Website, shall be substituted: *Submittal Form; Certification Notes; Acceptance Block; Required Notes; Forms.*
- (10) Where the term *Douglas County Board of Commissioners* is used in the Douglas County Code in reference to approval for temporary road or lane closures, the term *Director of Public Works or his/her designated representative* shall be inserted.
- (11) Section 2.1.6.3 of the Douglas County Code shall be revised to substitute the word “*typical*” in place of “*maximum*”.
- (12) Section 2.2.1 of the Douglas County Code is amended to note that the initial approval period will be 24 months maximum, or less if so stated in other adopted Codes or standards relative to the specified plans, reports or documents.
- (13) Section 2.3.8 of the Douglas County Code (Erosion and Sedimentation Control Plans) shall be amended to reference the City of Lone Tree adopted Grading, Erosion and Sediment Control (GESC) regulations.
- (14) Chapter 9 of the Douglas County Code shall amended as necessary to comply with and incorporate the City of Lone Tree Asphalt Pavement Patchback (ST-01) and/or Concrete Pavement Patchback (ST-02) details, as published on the City Website.
- (15) Chapter 10 (Permit Procedures and Suretying Requirements) of the Douglas County Code shall be amended as necessary to incorporate the following: City of Lone Tree Public Works, current address and phone number; Right of Way/Construction Permit Fee is as currently adopted and published by the City.
- (16) Sections 10.1.12 and 10.12 (*Licensing*) of the Douglas County Code is not adopted.
- (17) Where the term *Surety* is used (e.g. Section 10.4.1 of the Douglas County Code), the terms *Company (Corporate)* or *Cashier’s Check or Irrevocable Letter of Credit* shall be substituted.
- (18) Section 15.4 (Alternate Standards) of the Douglas County Code shall be amended by deletion of the remainder of the last paragraph of the section, starting with “A County Engineering Inspector will not inspect”.

Sec. 11-3-30. Stop work orders.

Any person, corporation, quasi-governmental agency, special district, mutual company, electric, gas or communication utility corporation, who, without first having obtained a permit and/or who having made a cut in a public right-of-way which has settled, has failed or which has not been repaired in conformance with established City standards, shall be subject to a "Stop Work Order" issued by the City whereupon that person, corporation or utility shall, except for emergency repair work, discontinue all work within public rights-of-way within the City until such time as the required repair has been satisfactorily completed. No further permits will be issued until the repair has been made, and/or the City reimbursed for its expenses. The City may, on its own initiative, make required repairs and bill the responsible contractor. Minimum charge shall be a three-hundred-dollar administrative charge, plus costs for labor, materials and equipment on a portal-to-portal basis.

(Ord. 97-1 Art. 3.3)

Sec. 11-3-40. Purpose.

Pursuant to Section 31-16-205, C.R.S., the following description of the Standards is provided: The purpose of the ~~Douglas County~~ Roadway Design and Construction Standards, ~~as amended in April, 1994, (the "Standards")~~, is to provide minimum design and technical criteria for the analysis and design of roadway facilities. These standards include submittal procedures for drawings and specifications, submittal requirements for construction plans, design and technical criteria for roadways, pavement, bridges and major drainage structures, criteria for record drawings, roadway inspection and testing procedures, construction guidelines, trench backfill/compaction guidelines, permit procedures and ~~bonds/suretying~~ requirements for contractors, acceptance procedures and requirements, utility locations, access requirements and criteria, cost estimating for public improvements, and policies concerning private roads. ~~The Standards were promulgated by the Douglas County Board of County Commissioners, 101 Third Street, Castle Rock, Colorado 80104.~~

Sec. 11-3-50. Violations; penalties.

Any person, firm or corporation violating any of the provisions of this Article or any code incorporated herein shall be deemed guilty of a misdemeanor, and any such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued or permitted. Upon conviction of any such violations, such person, firm or corporation shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of, any violation of any provisions of the Codes adopted herein.

ARTICLE IV Building Materials

Sec. 11-4-10. Temporary storage or staging of building materials on public streets and sidewalks.
(AMENDMENTS PROPOSED)

Sec. 11-4-20. Enforcement.

Sec. 11-4-30. Violations; penalties. (AMENDMENTS PROPOSED)

Sec. 11-4-10. Temporary storage or staging of building materials on public streets and sidewalks.

- (a) No person may place, locate, deposit, store or stage home improvement, construction or landscaping materials or other tangible property intended to be used on residential property for home improvement, construction or landscaping purposes ("building materials") on a public street, as defined in Section 16-36-20 of this Code, or a public sidewalk without first obtaining a permit from the City.
- (b) A person may submit to the City an application for a permit to temporarily store or stage building materials on a public street or sidewalk. The application shall:
 - (1) State the names of the owner and, if different from the owner, the occupant of the residence to which the building materials will be delivered.
 - (2) State the address of the residence to which the building materials will be delivered.
 - (3) Describe in detail the item or items to be stored or staged on the public street or sidewalk, the purpose for which the item or items will be stored or staged, and the area, including approximate dimensions, of the public street or sidewalk that will be occupied by the item or items; and
 - (4) State the length of time needed to store or stage the item or items.
- (c) The ~~City Manager~~Director of Public Works or his or her designee shall review the application and may issue a permit, subject to conditions, intended to decrease any risk that the building materials may pose or to ensure that traffic or other lawful passage is not impeded on the public street or sidewalk. Conditions may include, but are not limited to, a time limit for storing or staging the building materials

on the public street or sidewalk, a requirement that the applicant install applicable erosion control devices and traffic control as per plans approved by the City, and a requirement that the applicant clean up and restore the storage or staging area after the building materials are removed.

Sec. 11-4-30. Violations; penalties.

A violation of any provision of this Article shall be punishable by a fine of not more than five hundred dollars (\$500.00) per day per violation, plus court and administrative costs, as applicable. Each violation shall be deemed a separate offense for purposes of assessing a fine. In addition, the City may cause the removal of building materials, from a public street or ~~sidewalk, that~~sidewalk that are located or stored in violation of this Article and the costs of such removal shall be imposed upon the owner of the building materials.

ARTICLE VI Street and Pedestrian Lighting

Sec. 11-6-10. Purpose. (AMENDMENTS PROPOSED)

Sec. 11-6-20. Acceptable Streetlights. (AMENDMENTS PROPOSED)

Sec. 11-6-30. Locations. (AMENDMENTS PROPOSED)

Sec. 11-6-10. Purpose.

- (a) Purpose. The purpose of this Article is to ensure that street and pedestrian lighting installed in the City rights-of-way is designed to complement the surrounding area while promoting and protection the public health, safety, and welfare by assisting motorists and by providing improved illumination.

Sec. 11-6-20. Acceptable Streetlights.

- (a) All newly installed street and pedestrian lights shall meet the currently approved City of Lone Tree street lighting design standards. All lights shall be on a separately metered system.
- (b) At the completion of construction, the person or entity responsible for constructing street and pedestrian lights shall apply to the City for inspection and acceptance of the installed lights. After any discrepancies have been resolved, the City shall accept the installed lights in the right of way for ownership and maintenance.

Sec. 11-6-30. Locations.

- (a) No street light shall project into any roadway so as to obstruct or inhibit traffic.
- (b) Street and pedestrian lights shall be installed in areas outside of sidewalks, unless absolutely necessary and as approved by the City prior to construction. In the case where any street or pedestrian light is allowed to be located on a sidewalk, it shall be designed and installed in such a manner as to not obstruct the passage of pedestrians and shall comply with the Americans with Disabilities Act, as amended.
- (c) All new or replacement street or pedestrian lights shall be installed with underground electrical service.

ARTICLE VII Public Rights of Way (AMENDMENTS PROPOSED IN ALL SECTIONS)

Division 1

Sec. 11-7-10. Purpose.

Sec. 11-7-20. Definitions.

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[Sec. 11-7-10. - Purpose.](#)

- [\(a\) Purpose. The purpose of this Article is to establish principles, standards and procedures for the placement of facilities, construction, excavation, encroachments and work activities within, under or upon any public right-of-way and to protect the integrity of the City's street system.](#)
- [\(b\) Objectives. In the interests of the general welfare, public and private uses of public rights-of-way should be accommodated; however, the City must ensure that the primary purpose of the public right-of-way, passage of pedestrian and vehicular traffic, is protected. The use of the public rights-of-way by private users is secondary to these public objectives. This Article's objectives are to:](#)
 - [\(1\) Minimize public inconvenience.](#)
 - [\(2\) Protect the City's infrastructure investment by establishing repair standards for the pavement, facilities and property in the public rights-of-way.](#)
 - [\(3\) Standardize regulations and thereby facilitate work within the rights-of-way.](#)
 - [\(4\) Maintain an efficient permit process.](#)

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- (5) Conserve and fairly apportion the limited physical capacity of public rights-of-way held in public trust by the City.
- (6) Establish a public policy for enabling the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.
- (7) Promote cooperation among permittees and the City in the occupation of the public rights-of-way, and work therein, in order to eliminate duplication of facilities that is wasteful, unnecessary or unsightly; lower the permittees' and the City's costs of providing services to the public; and minimize street cuts.
- (8) Protect the public health, safety and welfare.

Sec. 11-7-20. - Definitions.

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

Access structure means any structure providing access to facilities in the public right-of-way.

Approved alignment means the designed horizontal and vertical alignment of facilities to be installed in the public right-of-way which is approved by the City at the time the permit is issued, plus any alignment variance tolerances set forth in the Construction and Excavation Standards and any alignment variances approved by the City in accordance with the Construction and Excavation Standards.

Construction and Excavation Standards means the document entitled *Construction and Excavation Standards for Work in Public Rights-of-Way*, as adopted by resolution of the City Council and amended from time to time.

Contractor means a person, partnership, corporation or other legal entity which undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, excavate or add to any improvements or facilities in the public right-of-way, or that requires work, workers or equipment to be in the public right-of-way in the process of performing the above-named activities.

Developer means the person, partnership, corporation or other legal entity improving a parcel of land within the City and being legally responsible to the City for the construction of infrastructure within a subdivision or as a condition of a building permit.

Emergency means any event which may threaten public health or safety, or that results in an interruption in the provision of service, including but not limited to damaged or leaking water or gas conduit systems, damaged, obstructed or leaking sewer or storm drain conduit systems and damaged electrical and communications facilities.

Excavate or excavation means to dig into or in any way remove or penetrate any part of a public right-of-way, including trenchless excavation such as boring, tunneling and jacking.

Facilities means any pipe, conduit, wire, cable, amplifier, transformer, fiber optic cable, antenna, pole, streetlight, duct, fixture, appurtenance or other like equipment used in connection with transmitting, receiving, distributing, offering and providing utility and other services, whether above or below ground.

Infrastructure means any public facility, system or improvement, including water and sewer mains and appurtenances, storm drains and structures, streets, alleys, traffic signal poles and appurtenances, conduits, signs, landscape improvements, sidewalks and public safety equipment.

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Landscaping means grass, ground cover, shrubs, vines, hedges, trees and nonliving natural materials commonly used in landscape development, as well as attendant irrigation systems.

Major installation means work in the public right-of-way involving an excavation exceeding five hundred (500) feet in length.

Permit means an authorization for use of the public rights-of-way granted pursuant to this Division.

Permittee means the holder of a valid permit issued pursuant to this Division.

Public right-of-way means any public street, way, place, alley, sidewalk, easement, park, square, median, parkway, boulevard or plaza that is dedicated to public use.

Routine maintenance means maintenance of facilities or landscaping in the public right-of-way which does not involve excavation, installation of new facilities, lane closures, sidewalk closures or damage to any portion of the public right-of-way.

Work means any labor performed within a public right-of-way or any use or storage of equipment or materials within a public right-of-way, including but not limited to excavation; construction of streets, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, streetlights and traffic signal devices; construction, maintenance and repair of all underground facilities, such as pipes, conduit, ducts, tunnels, manholes, vaults, cable, wire or any other similar structure; maintenance of facilities and installation of overhead poles used for any purpose. Notwithstanding the foregoing, work shall not include routine maintenance.

Sec. 11-7-30. - Authority.

- (a) A permittee's rights hereunder shall at all times be subject to the authority of the City, which includes the power to adopt and enforce ordinances, including amendments to this Division, necessary for the safety, health and welfare of the public.
- (b) The City reserves the right to exercise its authority, notwithstanding any provision in this Division or any permit to the contrary. Any conflict between the provisions of any permit and any other present or future lawful exercise of the City's police power shall be resolved in favor of the latter.

Sec. 11-7-40. - Developer ownership of infrastructure.

The construction of infrastructure in new developments is the responsibility of the developer. Once a public right-of-way has been dedicated to the City, all work in that public right-of-way, including the installation of new infrastructure by a developer, shall be subject to this Chapter.

Sec. 11-7-50. - Permit required.

- (a) No person except an employee or official of the City or a person exempted by contract with the City shall undertake or permit to be undertaken any work in a public right-of-way without first obtaining a permit from the City as set forth in this Division. Copies of the permit and associated documents shall be maintained on the work site and available for inspection upon request by any officer or employee of the City.
- (b) No permittee shall perform work in an area larger or at a location different, or for a longer period of time than that specified in the permit. If, after work is commenced under an approved permit, it becomes necessary to perform work in a larger or different area or for a longer period of time

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than what the permit specifies, the permittee shall notify the City immediately and shall file a supplementary application for the additional work within twenty-four (24) hours.

- (c) Permits shall not be transferable or assignable without the prior written approval of the City.
- (d) Any person conducting any work within the public right-of-way without having first obtained the required permit shall immediately cease all activity and obtain a permit before work may be resumed, except for emergency operations.

Sec. 11-7-60. - Permit application.

- (a) An applicant for a public right-of-way permit shall file a written application on a form furnished by the City, which includes the following information:
 - (1) The date of application.
 - (2) The name, address and telephone number of the applicant and any contractor or subcontractor which will perform any of the work.
 - (3) A plan showing the work site, the public right-of-way boundaries, all infrastructure in the area and all landscaping in the area.
 - (4) The purpose of the proposed work.
 - (5) A traffic control plan in accordance with the Construction and Excavation Standards.
 - (6) The dates for beginning and ending the proposed work, proposed hours of work and the number of actual work days required to complete the project.
- (b) The applicable permit fees shall accompany the application when submitted.
- (c) For any work in the public right-of-way which includes excavation, in addition to the information required by Subsection (a) hereof, the application shall include the following information:
 - (1) An itemization of the total cost of construction, including labor and materials but excluding the cost of any facilities being installed.
 - (2) Copies of all permits (including required insurance, deposits, letters of credit, and warranties) required to do the proposed work, whether required by federal or state law or City resolution, ordinance or regulation.
- (d) In addition to the information required by Subsections (a) and (c) hereof, an applicant for a public right-of-way permit for a major installation shall submit the following information:
 - (1) Field-verified locates of all existing facilities required to be located by the Construction and Excavation Standards, which locates shall be compiled and submitted according to the Construction and Excavation Standards.
 - (2) Engineering construction drawings or site plans for the proposed work in a format acceptable to the City and signed by a professional engineer licensed in the State, except that an applicant expressly exempt from the signature requirement pursuant to Section 12-25-103, C.R.S., need not include the signature of a licensed professional engineer.
- (e) An applicant shall update a permit application within ten (10) days after any material change occurs.
- (f) Applicants may apply jointly for permits to work in public rights-of-way at the same time and place. Applicants who apply jointly for permits may share in the payment of the permit fees. Applicants must agree among themselves as to the portion each shall pay, and if no agreement is reached, payment in full shall be required of all applicants.
- (g) The applicant for a public right-of-way permit shall be the contractor performing the work
- (h) By signing an application, the applicant is certifying to the City that the applicant is in compliance with all other permits issued by the City and that the applicant is not delinquent in any payment due to the City for prior work. This certification shall not apply to outstanding claims which are honestly and reasonably disputed by the applicant, if the applicant and the City are negotiating in good faith to resolve the dispute.

Sec. 11-7-70. - Blanket maintenance permits.

- (a) A public right-of-way permit shall not be required for routine maintenance in the public right-of-way, as the term *routine maintenance* is defined in Section 11-3-20. However, other maintenance operations within the public right-of-way which involve traffic lane closures or sidewalk closures shall require a public right-of-way permit. To expedite the process for ongoing maintenance operations, owners of facilities within the public right-of-way may, at their sole option and in the alternative to obtaining individual public right-of-way permits, obtain a blanket maintenance permit pursuant to this Section.
- (b) A blanket maintenance permit shall be valid from the date of issuance of the permit through December 31 of the same year. Under no circumstances shall a blanket maintenance permit be valid for more than one (1) year.
- (c) A blanket maintenance permit shall not, under any circumstances, authorize any pavement disturbance or installation of new facilities. Notwithstanding the foregoing, existing facilities may be removed and replaced with new facilities, if no excavation or pavement disturbance is required.
- (d) Any person seeking a blanket maintenance permit shall file an application on a form provided by the City which includes the following information:
 - (1) The date of application.
 - (2) The name, address and telephone number of the applicant.
 - (3) A general description of the maintenance operations.
 - (4) Any location of maintenance operations known at the time of application.
 - (5) Traffic control plans as required by this Section and the Construction and Excavation Standards.
- (e) The applicable permit fee as set by the Construction and Excavation Standards shall accompany the application when submitted.
- (f) Blanket maintenance permits shall be subject to applicable provisions of the Construction and Excavation Standards.

Sec. 11-7-80. - Permit fees.

- (a) Before a public right-of-way permit is issued, the applicant shall pay to the City a permit fee, which shall be determined in accordance with the fee schedule contained in the Construction and Excavation Standards. Permit fees shall be reasonably related to the costs of managing the public rights-of-way. These costs include, but are not limited to, the costs of issuing right-of-way permits, verifying right-of-way occupation, mapping right-of-way occupation, inspecting work, administering this Division and, if applicable, costs relating to restoration of the public right-of-way to remedy degradation of that public right-of-way caused by the permittee.
- (b) Restoration fees.
 - (1) Restoration fees shall only be charged to the applicant if the applicant chooses not to perform the required restoration of the public right-of-way to the City's standards, making the City responsible for performing the required restoration. The applicant shall decide at the time of application whether the applicant will perform the required restoration, and the applicant's decision shall be final.
 - (2) No restoration fees shall be required for a public right-of-way permit which does not include excavation.
 - (3) Restoration fees collected by the City shall be placed in a separate account for general street maintenance and construction.
 - (4) Restoration fees may be waived in the City's discretion when additional circumstances exist which would make restoration unnecessary, such as poor street quality or proposed street resurfacing or construction by the City. These circumstances are outlined in more detail in the section of the Construction and Excavation Standards addressing permit fees.

Sec. 11-7-90. - Insurance.

- (a) Unless otherwise specified in a franchise agreement or maintenance or license agreement between a permittee and the City, prior to the granting of any permit, the 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, underground property damage hazard, commonly known as XCU, 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.
 - (2) Workers compensation insurance as required by state law.
- (b) The permittee shall file with the City proof of such insurance coverage in a form satisfactory to the City.
- (c) Upon prior written approval of the City, a permittee may provide self-insurance with the minimum coverage limits set forth in Paragraphs (a)(1) and (a)(2) hereof.

Sec. 11-7-100. - Indemnification.

- (a) Each permittee, for himself or herself and his or her related entities, agents, employees, subcontractors and the agents and employees of said subcontractors shall hold the City harmless and defend and indemnify the City, its successors, assigns, officers, employees, agents and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature and reimburse the City for all its reasonable expenses, including reasonable attorney fees and costs, as incurred, arising out of any work or activity in the public right-of-way, including but not limited to the actions or omissions of the permittee, its employees, representatives, agents, contractors, related entities, successors and assigns or the securing of and the exercise by the permittee of any rights granted in the permit, including any third-party claims, administrative hearings and litigation, whether or not any act or omission complained of is authorized, allowed or prohibited by this Division or other applicable law. A permittee shall not be obligated to hold harmless or indemnify the City for claims or demands to the extent that they are due to the negligence or willful and wanton acts of the City or any of its officers, employees or agents.
- (b) Following the receipt of written notification of any claim, the permittee shall have the right to defend the City with regard to all third-party actions, damages and penalties arising in any way out of the exercise of any rights in the permit. If at any time, however, a permittee refuses to defend the City, and the City elects to defend itself with regard to such matters, the permittee shall pay all expenses incurred by the City related to its defense, including reasonable attorney fees and costs.
- (c) If a permittee is a public entity, the indemnification requirements of this Section shall be subject to the provisions of the Colorado Governmental Immunity Act.
- (d) If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the permittee and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.
- (e) If any provision of this Section conflicts with any provision of a valid, effective median maintenance agreement between a special district and the City, the conflicting provision of this Section shall not apply to the special district, and the special district shall instead honor the provision of the median maintenance agreement.

Sec. 11-7-110. - Letters of credit and other City accepted sureties.

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- (a) Before a public right-of-way permit is issued, the applicant shall file with the City surety, (allowable sureties include a company (corporate) check, cashier's check or irrevocable letter of credit), in favor of the City in an amount equal to the total cost of construction, including labor and materials but excluding the cost of any facilities being installed, or five thousand dollars (\$5,000.00), whichever is greater. The surety shall be executed by the applicant as principal and by at least one (1) surety upon whom service of process may be had in the State. The surety shall be conditioned upon the applicant fully complying with all provisions of City ordinances, resolutions and regulations and upon payment of all judgments and costs rendered against the applicant for any violation of any City resolution, regulation or ordinances or state law arising out of any negligent or wrongful acts of the applicant in the performance of work pursuant to the permit.
- (b) The City may bring an action on the surety on its own behalf or on behalf of any person so aggrieved as beneficiary.
- (c) The letter of credit shall be approved by the City prior to the issuance of the permit. The City may waive the requirements of any such letter of credit upon finding that the applicant has financial stability and assets located in the State to satisfy any claims intended to be protected against by the security required by this Section.
- (d) A letter of responsibility, in a form acceptable to the City, shall be accepted from special districts and governmental agencies in lieu of a surety.
- (e) A blanket surety of sufficient amount to cover all proposed work during the upcoming year may be filed with the City on an annual basis in lieu of the project-specific performance sureties or letters of credit required by Subsection (a) hereof. The form and amount of the blanket surety shall be subject to the prior review and approval of the City. Should the blanket surety be deemed insufficient by the City based on the work to date, the City may require additional, project-specific performance sureties or letters of credit pursuant to Subsection (a) hereof.
- (f) The performance surety, blanket surety, letter of credit or letter of responsibility shall remain in force and effect for a minimum of two (2) years after completion and acceptance of the street cut, excavation or lane closure.
- (g) If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the applicant and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.
- (h) If any provision of this Section conflicts with any provision of a valid, effective maintenance agreement between a special district and the City, the conflicting provision of this Section shall not apply to the special district, and the special district shall instead honor the provision of the median maintenance agreement.

Sec. 11-7-120. - Warranty.

- (a) A permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the City and in accordance with this Division and the Construction and Excavation Standards and warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance.
- (b) Under the warranty, the permittee shall, at its own expense, repair or replace, at the discretion of the City, any portion of the work that fails, is defective, is unsound or is unsatisfactory because of but not limited to design, engineering, materials or workmanship.
- (c) The warranty period shall begin on the date of the City's probationary acceptance of the work. If repairs are required during the warranty period, those repairs need only be warranted until the end of the initial two-year period starting with the date of probationary acceptance.
- (d) At any time prior to completion of the warranty period, the City may notify the permittee in writing of any needed repairs. If the defects are determined by the City to be an imminent danger to the public health, safety and welfare, the permittee shall begin repairs within twenty-four (24) hours of receipt of the written notice and continue the repairs until completion. Nonemergency repairs shall be completed within thirty (30) days after notice.

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- (e) The warranty shall cover only those areas of work performed by the permittee which provided the warranty and not directly impacted by the work of any other permittee or the City. If a portion of work warranted by a permittee is subsequently impacted by work of another permittee, another user of the right-of-way or the City during the warranty period, the other permittee or the City, as applicable, shall assume responsibility for repair to the subsequently impacted portion of the public right-of-way.

Sec. 11-7-130. - Inspections.

- (a) At a minimum, the following four (4) inspections shall take place:
- (1) Preconstruction inspection. The permittee shall request that the City conduct a preconstruction inspection, to determine any necessary conditions for the permit.
 - (2) Completed work inspection. The permittee shall notify the City immediately after completion of work. The City shall inspect the work within twenty-one (21) days of the permittee's notification. Probationary acceptance shall be made if all work complies with this Division, the Construction and Excavation Standards and any other applicable City regulation, ordinance or resolution. Written notice of probationary acceptance shall be sent to permittee listed on the permit application.
 - (3) Warranty inspection. Approximately thirty (30) days prior to the expiration of the two-year warranty period, the City shall conduct a final inspection of the work. If the work is still satisfactory, the letter of credit shall be returned or allowed to expire, and the City shall issue a notice of final acceptance.
 - (4) Utility marking inspection. The City shall conduct a utility marking inspection pursuant to Division 2 of this Chapter.
- (b) Upon review of the application for a permit, the City shall determine how many additional inspections, if any, may be required. Required inspections shall be listed on the permit. For a permit which does not include excavation, the City may waive any or all of the above-listed inspections.

Sec. 11-7-140. - Time of completion.

- (a) All work covered by the permit shall be completed within the time period stated on the permit, unless an extension has been granted by the City in writing; in which case, all work shall be completed within the time period stated in the written extension. An extension may be assessed a charge and additional fees.
- (b) Permits shall be void if work has not commenced within thirty (30) days after issuance, unless an extension has been granted by the City in writing. The permittee shall submit a written request for such extension, and the City shall either grant or deny the request within five (5) days of receipt of the request.

Sec. 11-7-150. - Locate information.

- (a) Any person owning facilities in the public right-of-way shall provide field locate information to the City and any other permittee with a valid public right-of-way permit which authorizes locate pothole excavation or other excavation work. Within seven (7) days of receipt of a written request from the City or such a permittee, the facility owner shall field locate facilities in the public right-of-way in which the work will be performed.
- (b) For major installations, a permittee shall obtain a public right-of-way permit to locate other existing facilities as provided in the Construction and Excavation Standards. The location of such facilities shall be field-verified in a manner approved by the City.

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(c) Before beginning excavation in any public right-of-way, a permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by Section 9-1.5-102, et seq., C.R.S., make inquiries of all ditch companies, utility companies, districts, local governments and all other agencies that might have facilities in the area of work to determine possible conflicts. The permittee shall contact the UNCC and request field locates of all facilities in the area pursuant to UNCC requirements. Field locates shall be marked prior to commencing work.

Sec. 11-7-160. - Newly resurfaced and constructed streets.

- (a) For newly resurfaced and constructed streets, no excavation in the pavement shall be permitted within two (2) years of the completion of the resurfacing or construction.
- (b) The City shall publish once, in a newspaper of general circulation in the City each year, a list of those streets that will be resurfaced or constructed in that year. The list shall also be published on the City's website.
- (c) Exemption. In rare circumstances, the City may grant an exemption from this Section in accordance with the following procedures:
- (1) A request for exemption shall be in writing on a form acceptable to the City and shall contain the following information, at a minimum:
- a. A detailed and dimensional engineering plan that identifies and accurately represents all public rights-of-way and other property that will be impacted by the proposed work and the method of construction.
 - b. The location, width, length and depth of the proposed excavation.
 - c. A statement as to how any of the criteria set forth in Paragraph (c)(2) hereof apply to the proposed work.
- (2) Criteria for approval. In determining whether an exemption should be granted, the City shall consider the following criteria:
- a. Whether alternative utility alignments that do not involve excavating in the street are available.
 - b. Whether the proposed excavation can reasonably be delayed until after the two-year period has elapsed.
 - c. Whether duct, conduit or other facilities are reasonably available from another user of the public right-of-way.
 - d. Whether the proposed work involves joint trenching or joint use and the number of users to share in the trenching or use.
 - e. Whether the proposed work is to be by horizontal boring, tunneling or open trenching.
 - f. Whether applicable law requires the applicant to provide service to a particular customer and whether denial of the exemption would prevent the applicant from providing such service.
 - g. Whether the purpose of the proposed work is to provide service to a particular building or a customer within a building who has requested such service and whether denial of the exemption would prevent the applicant from providing such service.
 - h. Whether the work is limited to locate potholing to provide locate information.
- (d) Exemptions for emergency operations. Emergency operations in newly resurfaced or constructed streets shall be permitted.

Sec. 11-7-170. - Reimbursement of City costs.

- (a) The City may make any repairs necessary to eliminate any imminent danger to the public health or safety without notice to any permittee, at the responsible permittee's expense.
- (b) For any work not performed by a permittee as directed by the City, but not constituting imminent danger to the public health or safety, the City shall provide written notice to the permittee, ordering

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that the work be corrected within ten (10) days of the date of the notice. If the work is not corrected within the ten-day period, the City may correct the work at the permittee's expense.

- (c) Costs of any work performed by the City pursuant to this Section shall be billed to the permittee. The permittee shall also be responsible for any direct costs incurred by the City. The permittee shall pay all such charges within thirty (30) days of the statement date. If the permittee fails to pay such charges within the prescribed time period, the City may, in addition to taking other collection remedies, seek reimbursement through the surety. Furthermore, the permittee may be barred from performing any work in the public right-of-way, and under no circumstances will the City issue any further permits of any kind to said permittee, until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the permittee and being negotiated in good faith with the City) have been paid in full.

Sec. 11-7-180. - Landscaping.

- (a) All hardscape and landscaping installed within the City right of way shall be the responsibility of the adjacent homeowners' association, property association, or special district. The City shall only be responsible for the maintenance and repair of streets, curbs, gutters, approved street lights, and sidewalks.
- (b) Maintenance of landscaping within the right of way for all properties with the exception of single-family detached shall adhere to Section 16-2-210.
- (c) Single-family detached properties and platted subdivisions shall adhere to the requirements in this section.
- (d) Any roadway pavers installed within the City right of way shall be the responsibility of the homeowners' association or special district that installed the pavers. The City will require execution of a maintenance or license agreement which will establish responsibility of the pavers.

Sec. 11-7-190. - Penalties.

- (a) If any contractor or permittee is found guilty of or pleads guilty to a violation of this Division, he or she shall be punished as provided in Chapter 1, Article 4. Each and every day or portion thereof during which a violation is committed, continues or is permitted shall be deemed a separate offense.
- (b) In addition to or in lieu of the penalties set forth in Subsection (a) hereof, the City may impose the following monetary penalties:
- (1) For any occupancy of a travel lane or any portion thereof beyond the time periods or days set forth in the traffic control plan approved by the City:
- a. In arterial and collector streets during the hours of 6:30 a.m. through 8:30 a.m. and 3:30 p.m. through 6:00 p.m., Monday through Friday: one hundred dollars (\$100.00) for each fifteen (15) minutes, or portion thereof, for a maximum of three thousand dollars (\$3,000.00) per day.
- b. In arterial and collector streets during any time other than the times specified in Subparagraph (b)(1)a. hereof, or in local streets at any time: fifty dollars (\$50.00) for each fifteen (15) minutes, or portion thereof, for a maximum of one thousand five hundred dollars (\$1,500.00) per day.
- (2) For commencing work without a valid permit: five hundred dollars (\$500.00), plus twice the applicable permit fee.
- (3) For facilities installed outside of the approved alignment: ten dollars (\$10.00) per linear foot. This penalty shall not be imposed if the facilities are removed or relocated to comply with the approved alignment or the facilities are abandoned per City approval or the alternate alignment is approved by the City.
- (4) For any other violation of a permit: two hundred fifty dollars (\$250.00) per violation, with no maximum amount.

(c) The penalties set forth in this Section shall not be the City's exclusive remedy for violations of this Division and shall not preclude the City from bringing a civil action to enforce any provision of a public right-of-way permit or to collect damages or recover costs associated with any use of the public rights-of-way. Furthermore, the enforcement of one (1) penalty shall not preclude the City from enforcing any other penalty.

Division 2 - Utility Markings

Sec. 11-7-210. - Definitions.

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

Permittee means the holder of a valid permit issued pursuant to this Division.

Public right-of-way means any public street, way, place, alley, sidewalk, easement, park, square, median, parkway, boulevard or plaza that is dedicated to public use.

Utility marking means a mark made of colored or metallic paint or similar material or utilizing any adhesive material of whatever description or a flag or similar removable device or item used by a public utility or its agent in a public right-of-way to mark the existing or future location of pipelines, cables, poles, wires or other similar features.

Sec. 11-7-220. - Removal of utility markings required.

All utility markings shall be fully and completely removed or camouflaged from public rights-of-way utilizing a method that is least destructive to the existing improvements, and which method has been approved by the City. The removal shall occur no later than forty-five (45) days after completion of the work. The right-of-way permittee or other persons (not under a City permit) that originally caused the utility markings to be placed shall be solely responsible for removal of the utility marking.

Sec. 11-7-230. - Penalty.

Any person who is convicted of a violation of this Division shall, upon conviction, be punished by a fine not to exceed the maximum fine allowed under Chapter 1 of this Code. Each day such violation is committed or continues shall constitute a separate offense. As an additional means of enforcement, and not as an alternative to or substitute for prosecution for violation of this Division, the City may remove or eradicate any utility markings which are not removed pursuant to this Division and bill the party responsible for such removal the full cost incurred by the City to effect such removal. Any such costs incurred shall be immediately due and payable, and failure to pay such costs in full within thirty (30) days of billing therefor by the City shall subject the responsible party to interest on the unpaid balance at the rate of twelve percent (12%) per annum, compounded monthly. Any requests for future permits by such permittee shall be denied until all unpaid balances are paid in full.