

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HOPPE
COUNCIL BILL NO. 09
ORDINANCE NO. 1689
SERIES 2020**

**TITLE: AN ORDINANCE AMENDING ARTICLES I, II AND III OF
CHAPTER 21 OF THE CODE OF LAWS OF THE CITY OF
WHEAT RIDGE CONCERNING STREETS AND SIDEWALKS**

WHEREAS, the City Council of the City of Wheat Ridge, Colorado has authority to enact ordinances for the protection of public health, safety and welfare; and

WHEREAS, exercising this authority, the Council has previously adopted Chapter 21 of the Code of Laws, entitled "Streets and Sidewalks," and in particular Articles I (In General, including definitions), Article II (Work on Public Ways), and Article III (Permits for Use of Right-of-Way); and

WHEREAS, the Council wishes to revise Articles I, II and III of Chapter 21 to update references, improve workability and incorporate recommendations from the Colorado Communications and Utility Alliance.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Articles I, II and III of Chapter 21 of the Wheat Ridge Code of Laws are hereby repealed and reenacted, to read in their entirety as follows:

ARTICLE I. – IN GENERAL

SEC. 21-1. – DEFINITIONS.

FOR THE PURPOSE OF THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS RESPECTIVELY ASCRIBED TO THEM BY THIS SECTION:

ABANDONED DUCTS OR CONDUITS ARE CONDUITS OR DUCTS OTHER THAN THOSE OCCUPIED BY PERMITTEE OR ANY PRIOR PERMITTEE, OR UNOCCUPIED DUCTS HELD BY PERMITTEE AS EMERGENCY USE SPARES, OR OTHER UNOCCUPIED DUCTS THAT PERMITTEE DOES NOT REASONABLY EXPECT TO USE WITHIN THREE (3) YEARS FROM THE DATE OF A REQUEST FOR USE.

APPLICANT MEANS ANY PERSON REQUIRED BY THIS CHAPTER TO MAKE APPLICATION FOR A PERMIT.

APPURTENANCES MEANS TRANSFORMERS, SWITCHING BOXES, GAS REGULATOR STATIONS, TERMINAL BOXES, METER CABINETS, PEDESTALS, JUNCTION BOXES, HANDHOLES SUBSTATIONS, SYSTEM AMPLIFIERS, POWER SUPPLIES, PUMP STATIONS, MANHOLES, VALVES AND VALVE HOUSINGS AND

OTHER DEVICES THAT ARE NECESSARY TO THE FUNCTION OF ELECTRIC, COMMUNICATIONS, CABLE TELEVISION, WATER, SEWER, STORM WATER, NATURAL GAS, BROADBAND, AND OTHER UTILITIES AND SERVICES.

CITY MEANS THE CITY OF WHEAT RIDGE.

CONTRACTOR MEANS AN INDIVIDUAL, PARTNERSHIP OR CORPORATION AS DEFINED IN SECTION 5-101 OF THE WHEAT RIDGE CODE OF LAWS.

DEPARTMENT MEANS THE DEPARTMENT OF PUBLIC WORKS.

DESIGN ENGINEER MEANS A PROFESSIONAL ENGINEER REGISTERED IN THE STATE OR AN INDIVIDUAL EXEMPTED FROM STATE REGISTRATION REQUIREMENTS PURSUANT TO C.R.S. § 12-25-103(1)(C), AND WHO IS EMPLOYED BY THE APPLICANT OR UNDER CONTRACT TO THE APPLICANT.

DEVELOPER MEANS THE PERSON, PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY WHO IS IMPROVING A PARCEL OF LAND WITHIN THE CITY/TOWN/COUNTY AND WHO IS LEGALLY RESPONSIBLE TO THE CITY/TOWN/COUNTY FOR THE CONSTRUCTION OF IMPROVEMENTS WITHIN THE CITY OR AS A CONDITION OF A BUILDING PERMIT OR OTHER LAND USE OR DEVELOPMENT AUTHORIZATION.

DIRECTOR MEANS THE DIRECTOR OF PUBLIC WORKS OR HIS/HER AUTHORIZED REPRESENTATIVE.

DISTRICT MEANS ANY METROPOLITAN, WATER AND/OR SANITATION DISTRICT FORMED UNDER TITLE 32, ARTICLE I, C.R.S., AS AMENDED.

DUCT OR *CONDUIT* MEANS A SINGLE ENCLOSED RACEWAY FOR CABLES, FIBER OPTICS OR OTHER WIRES.

EMERGENCY MEANS ANY EVENT WHICH MAY THREATEN PUBLIC HEALTH OR SAFETY, OR THAT RESULTS IN AN INTERRUPTION IN THE PROVISION OF SERVICES, INCLUDING, BUT NOT LIMITED TO, DAMAGED OR LEAKING WATER OR GAS CONDUIT SYSTEMS, DAMAGED, PLUGGED, OR LEAKING SEWER OR STORM DRAIN CONDUIT SYSTEMS, DAMAGED ELECTRICAL AND COMMUNICATIONS FACILITIES, AND ADVANCED NOTICE OF NEEDED REPAIRS IS IMPRACTICABLE UNDER THE CIRCUMSTANCES.

EMERGENCY WORK INCLUDES WORK REQUIRED TO RESTORE BROKEN OR PLUGGED WATER AND SEWER MAINS, WATER AND SEWER SERVICE LINES, GAS MAINS OR SERVICES, CUT OR DEFECTIVE TELEPHONE, ELECTRIC AND CABLE FACILITIES AND TRAFFIC SIGNAL CONTROL LINES OR OTHER SITUATIONS AS DETERMINED BY THE DIRECTOR.

EXCAVATE MEANS ANY WORK IN THE SURFACE OR SUBSURFACE OF THE RIGHTS OF WAY, INCLUDING, BUT NOT LIMITED TO OPENING THE RIGHTS OF WAY; INSTALLING, SERVICING, REPAIRING OR MODIFYING ANY FACILITY(IES) IN OR UNDER THE SURFACE OR SUBSURFACE OF THE RIGHTS OF WAY, AND RESTORING THE SURFACE AND SUBSURFACE OF THE RIGHTS OF WAY.

FACILITIES MEANS, INCLUDING, WITHOUT LIMITATION, ANY PIPES, CONDUITS, WIRES, CABLES, AMPLIFIERS, TRANSFORMERS, FIBER OPTIC LINES, ANTENNAE, POLES, STREET LIGHTS, DUCTS, FIXTURES AND APPURTENANCES AND OTHER LIKE EQUIPMENT USED IN CONNECTION WITH TRANSMITTING, RECEIVING, DISTRIBUTING, OFFERING, AND PROVIDING BROADBAND, UTILITY AND OTHER SERVICES.

FENCE MEANS ANY ARTIFICIALLY CONSTRUCTED BARRIER OF WOOD, MASONRY, STONE, WIRE, METAL, OR ANY OTHER MANUFACTURED MATERIAL OR COMBINATION OF MATERIALS ERECTED TO ENCLOSE PARTITION, BEAUTIFY, MARK, OR SCREEN AREAS OF LAND.

FLOWABLE BACKFILL MATERIAL SHALL CONTAIN THE FOLLOWING INGREDIENTS MEETING ASTM PROPERTIES AND BE MIXED IN THE FOLLOWING PROPORTIONS:

MIX PROPORTIONS	LBS/CY OF CONCRETE
<i>INGREDIENTS</i>	<i>TEST METHOD</i>
CEMENT	ASTM C-150 42 POUNDS
SAND	ASTM C-33 1845 POUNDS
1" AGGREGATE	ASTM C-33 1700 POUNDS
AIR ENTRAINMENT	ASTM C-260 5 OUNCES
WATER	ASTM C-94 39 GALLON

THE MAXIMUM DESIRABLE TWENTY-EIGHT-DAY COMPRESSIVE STRENGTH FOR THE FLOWFILL MATERIAL IS SIXTY (60) PSI TO ALLOW FOR A WORKABLE SUBGRADE FOR FUTURE WORK.

INFRASTRUCTURE MEANS ANY PUBLIC FACILITY, SYSTEM, OR IMPROVEMENT INCLUDING, WITHOUT LIMITATION, 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.

LANDSCAPING MEANS MATERIALS, INCLUDING WITHOUT LIMITATION, GRASS, GROUND COVER, SHRUBS, VINES, HEDGES, OR TREES AND NON-LIVING NATURAL MATERIALS COMMONLY USED IN LANDSCAPE DEVELOPMENT, AS WELL AS ATTENDANT IRRIGATION SYSTEMS.

OWNER MEANS ANY PERSON, INCLUDING THE CITY, WHO OWNS ANY FACILITIES THAT ARE OR ARE PROPOSED TO BE INSTALLED OR MAINTAINED IN THE RIGHTS OF WAY.

PERMIT MEANS ANY AUTHORIZATION FOR USE OF THE PUBLIC RIGHTS OF WAY GRANTED IN ACCORDANCE WITH THE TERMS OF THIS CODE, AND THE LAWS AND POLICIES OF THE CITY.

PERMITTEE MEANS THE HOLDER OF A VALID PERMIT.

PERSON(S) MEANS ANY PERSON, FIRM, PARTNERSHIP, SPECIAL, METROPOLITAN OR GENERAL DISTRICT ASSOCIATION, CORPORATION, MUNICIPALITY, COMPANY, OR ORGANIZATION OF ANY KIND.

PUBLIC RIGHTS OF WAY OR RIGHTS OF WAY OR PUBLIC WAY MEANS ANY PUBLIC STREET, WAY, PLACE, ALLEY, SIDEWALK, EASEMENT AND ANY CITY-OWNED RIGHT OF WAY DEDICATED TO PUBLIC USE. ANY EASEMENTS DEDICATED SOLELY FOR UTILITY PURPOSES SHALL NOT BE GOVERNED BY THE PROVISIONS OF THIS CHAPTER.

SPECIFICATIONS MEANS THE CURRENT EDITION OF THE "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION" AND THE M AND S STANDARDS OF THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, AS MAY BE AMENDED BY THE CITY OF WHEAT RIDGE.

STREET MEANS A DEDICATED PUBLIC RIGHT-OF-WAY WHICH SERVES, OR IS INTENDED TO SERVE, THE NEEDS OF RESIDENTIAL, INDUSTRIAL OR COMMERCIAL AREAS OF THE CITY.

ROUTINE MAINTENANCE MEANS MAINTENANCE OF FACILITIES OR LANDSCAPING IN THE PUBLIC RIGHTS OF WAY WHICH DOES NOT INVOLVE EXCAVATION, INSTALLATION OF NEW FACILITIES, LANE CLOSURES, SIDEWALK CLOSURES OR DAMAGE TO ANY PORTION OF THE PUBLIC RIGHTS OF WAY.

STOP WORK ORDER MEANS THE ORDER DIRECTING THAT WORK CEASE AS DESCRIBED IN SECTION 21-55 BELOW.

STRUCTURE MEANS ANYTHING CONSTRUCTED OR ERECTED WITH A FIXED LOCATION BELOW, ON, OR ABOVE GRADE, INCLUDING, WITHOUT LIMITATION, FOUNDATIONS, FENCES, RETAINING WALLS, AWNINGS, BALCONIES, AND CANOPIES.

UNIMPROVED STREET MEANS A STREET WHICH HAS NOT BEEN SURFACED WITH ASPHALTIC OR CONCRETE PAVEMENT.

WORK MEANS ANY LABOR PERFORMED ON, OR ANY USE OR STORAGE EQUIPMENT OR MATERIALS, INCLUDING BUT NOT LIMITED TO, EXCAVATION IN OR CONSTRUCTION OF STREETS AND ALL RELATED APPURTENANCES, FIXTURES, IMPROVEMENTS, SIDEWALKS, DRIVEWAY OPENINGS, BUS SHELTERS, BUS LOADING PADS, STREET LIGHTS, LANDSCAPING AND TRAFFIC SIGNAL DEVICES. IT SHALL ALSO MEAN CONSTRUCTION, MAINTENANCE AND REPAIR OF ALL UNDERGROUND STRUCTURES SUCH AS PIPES, CONDUITS, DUCTS, TUNNELS, MANHOLES, VAULTS, BURIED CABLE, WIRE, OR ANY OTHER SIMILAR STRUCTURE LOCATED BELOW SURFACE, AND INSTALLATION OF OVERHEAD POLES USED FOR ANY PURPOSE.

WORK IN THE PUBLIC WAY SHALL INCLUDE, BUT NOT BE LIMITED TO, EXCAVATION IN OR CONSTRUCTION OF STREETS AND ALL RELATED

APPURTENANCES, CURBS AND GUTTERS, SIDEWALKS, DRIVEWAY OPENINGS, BUS SHELTERS, BUS LOADING PADS, STREET LIGHTS, LANDSCAPING AND TRAFFIC SIGNAL DEVICES. IT SHALL ALSO MEAN CONSTRUCTION, MAINTENANCE AND REPAIR OF ALL UNDERGROUND STRUCTURES SUCH AS PIPES, CONDUITS, DUCTS, TUNNELS, MANHOLES, VAULTS, BURIED CABLE, WIRE OR ANY OTHER SIMILAR STRUCTURES LOCATED UNDER THE SURFACE OF ANY PUBLIC WAY, AND INSTALLATION OF OVERHEAD POLES USED FOR ANY PURPOSE.

ARTICLE II. - WORK IN PUBLIC WAYS

SEC. 21-11. – PERMIT REQUIRED.

- (a) *PERMIT REQUIRED, COMPLIANCE WITH REGULATIONS AND SPECIFICATIONS; APPLICATION TO CITY PERSONNEL.* 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 CONSTRUCTION, EXCAVATION, OR WORK IN THE PUBLIC RIGHTS OF WAY WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY AS SET FORTH IN THIS CHAPTER, EXCEPT AS PROVIDED IN SECTION 21-14. EACH PERMIT OBTAINED, ALONG WITH ASSOCIATED DOCUMENTS, SHALL BE MAINTAINED ON THE JOB SITE AND AVAILABLE FOR INSPECTION UPON REQUEST BY ANY OFFICER OR EMPLOYEE OF THE CITY.
- (b) *LIMITATION OF WORK AREA.* NO PERMITTEE SHALL PERFORM CONSTRUCTION, EXCAVATION, OR WORK IN AN AREA LARGER OR AT A LOCATION DIFFERENT, OR FOR A LONGER PERIOD OF TIME THAN THAT SPECIFIED IN THE PERMIT OR PERMIT APPLICATION. IF, AFTER CONSTRUCTION, EXCAVATION, OR WORK IS COMMENCED UNDER AN APPROVED PERMIT, IT BECOMES NECESSARY TO PERFORM CONSTRUCTION, EXCAVATION, OR WORK IN A LARGER OR DIFFERENT AREA THAN ORIGINALLY REQUESTED UNDER THE APPLICATION OR FOR A LONGER PERIOD OF TIME, THE PERMITTEE SHALL NOTIFY THE DIRECTOR IMMEDIATELY AND WITHIN TWENTY-FOUR HOURS SHALL FILE A SUPPLEMENTARY APPLICATION FOR THE ADDITIONAL CONSTRUCTION, EXCAVATION, OR WORK.
- (c) *PERMIT TRANSFERABILITY OR ASSIGNABILITY.* THE APPLICANT MAY SUBCONTRACT THE WORK TO BE PERFORMED UNDER A PERMIT PROVIDED THAT THE PERMITTEE SHALL BE AND REMAIN RESPONSIBLE FOR THE PERFORMANCE OF THE WORK UNDER THE PERMIT AND ALL INSURANCE AND FINANCIAL SECURITY AS REQUIRED. PERMITS ARE TRANSFERABLE AND ASSIGNABLE IF THE TRANSFEREE OR ASSIGNEE POSTS ALL REQUIRED SECURITY PURSUANT TO THIS CODE AND AGREES TO BE BOUND BY ALL REQUIREMENTS OF THE PERMIT AND THIS CODE.
- (d) *SUBCONTRACTING.* THE APPLICANT MAY SUBCONTRACT THE WORK TO BE PERFORMED UNDER A PERMIT PROVIDED THAT THE PERMITTEE SHALL BE AND REMAIN RESPONSIBLE FOR THE PERFORMANCE OF THE WORK UNDER THE PERMIT AND ALL INSURANCE AND FINANCIAL SECURITY AS REQUIRED. PERMITS ARE TRANSFERABLE AND ASSIGNABLE IF THE

TRANSFeree OR ASSIGNEE POSTS ALL REQUIRED SECURITY PURSUANT TO THIS CODE AND AGREES TO BE BOUND BY ALL REQUIREMENTS OF THE PERMIT AND THIS CODE.

- (e) EXCEPT AS PROVIDED IN SECTION 21-12, ANY PERSON OR UTILITY FOUND TO BE CONDUCTING ANY EXCAVATION ACTIVITY WITHIN THE PUBLIC RIGHTS OF WAY WITHOUT HAVING FIRST OBTAINED THE REQUIRED PERMIT(S) SHALL IMMEDIATELY CEASE ALL ACTIVITY (EXCLUSIVE OF ACTIONS REQUIRED TO STABILIZE THE AREA) AND BE REQUIRED TO OBTAIN A PERMIT BEFORE WORK MAY BE RESTARTED. A SURCHARGE TO BE SET BY COUNCIL/BOARD RESOLUTION SHALL BE REQUIRED IN ADDITION TO ALL APPLICABLE PERMIT FEES.

SEC. 21-12. – EMERGENCY PROCEDURES.

ANY PERSON MAINTAINING FACILITIES IN THE PUBLIC WAY MAY PROCEED WITH REPAIRS UPON EXISTING FACILITIES WITHOUT A PERMIT WHEN EMERGENCY CIRCUMSTANCES DEMAND THAT THE WORK BE DONE IMMEDIATELY. THE PERSON DOING THE WORK SHALL APPLY TO THE CITY FOR A PERMIT ON OR BEFORE THE THIRD WORKING DAY AFTER SUCH WORK HAS COMMENCED. ALL EMERGENCY WORK WILL REQUIRE PRIOR TELEPHONE NOTIFICATION TO THE CITY AND THE APPROPRIATE FIRE PROTECTION AGENCY.

SEC. 21-13. – PERMIT APPLICATION – PERMIT CONTENTS.

AN APPLICANT FOR A PERMIT TO ALLOW CONSTRUCTION, EXCAVATION, OR WORK IN THE PUBLIC WAY UNDER THIS SECTION SHALL:

- (1) FILE A WRITTEN APPLICATION ON FORMS FURNISHED BY THE CITY WHICH INCLUDE THE FOLLOWING: THE DATE OF APPLICATION; THE NAME AND ADDRESS OF THE APPLICANT; THE NAME AND ADDRESS OF THE DEVELOPER, CONTRACTOR OR SUBCONTRACTOR LICENSED TO PERFORM WORK IN THE PUBLIC WAY; THE EXACT LOCATION OF THE PROPOSED CONSTRUCTION, EXCAVATION, OR WORK ACTIVITY, THE TYPE OF EXISTING PUBLIC INFRASTRUCTURE (STREET PAVEMENT, CURB AND GUTTER, SIDEWALKS OR UTILITIES) IMPACTED BY THE CONSTRUCTION, EXCAVATION, OR WORK; THE PURPOSE OF THE PROPOSED CONSTRUCTION, EXCAVATION, OR WORK; PROPOSED HOURS OF WORK; ITEMIZATION OF THE TOTAL COST OF RESTORATION IF REQUIRED, OR AT THE DISCRETION OF THE DIRECTOR, OTHER PUBLISHED STREET REPAIR COST ESTIMATING STANDARDS; AND TYPE OF WORK PROPOSED.
- (2) INCLUDE AN AFFIRMATIVE STATEMENT THAT THE APPLICANT OR ITS CONTRACTOR IS NOT DELINQUENT IN PAYMENTS DUE THE CITY ON PRIOR WORK.
- (3) ATTACH COPIES OF ALL PERMITS OR LICENSES (INCLUDING REQUIRED INSURANCE, DEPOSITS, BONDING, AND WARRANTIES) REQUIRED TO DO THE PROPOSED WORK AND TO WORK IN THE PUBLIC RIGHTS OF WAY, IF LICENSES OR PERMITS ARE REQUIRED UNDER THE LAWS OF

THE UNITED STATES, THE STATE OF COLORADO, OR THE ORDINANCES OR REGULATIONS OF THE CITY. IF RELEVANT PERMITS OR LICENSES HAVE BEEN APPLIED FOR BUT NOT YET RECEIVED, PROVIDE A WRITTEN STATEMENT SO INDICATING. COPIES OF ANY SUCH PERMITS OR LICENSES SHALL BE PROVIDED TO THE CITY WITHIN FORTY-EIGHT (48) HOURS AFTER RECEIPT.

- (4) PROVIDE A SATISFACTORY PLAN OF WORK ACCEPTABLE TO THE DIRECTOR SHOWING PROTECTION OF THE SUBJECT PROPERTY AND ADJACENT PROPERTIES.
- (5) PROVIDE A SATISFACTORY PLAN FOR THE PROTECTION OF EXISTING LANDSCAPING ACCEPTABLE TO THE DIRECTOR, WHEN THE CITY DETERMINES THAT DAMAGE MAY OCCUR.
- (6) INCLUDE A SIGNED STATEMENT VERIFYING THAT ALL ORDERS ISSUED BY THE CITY TO THE APPLICANT, REQUIRING THE APPLICANT TO CORRECT DEFICIENCIES UNDER PREVIOUS PERMITS ISSUED UNDER THIS CODE, HAVE BEEN SATISFIED. THIS VERIFICATION 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.
- (7) INCLUDE WITH THE APPLICATION ENGINEERING CONSTRUCTION DRAWINGS OR SITE PLANS FOR THE PROPOSED CONSTRUCTION, EXCAVATION, OR WORK.
- (8) THE DIRECTOR MUST APPROVE ALL TUNNEL OR BORE CONSTRUCTION PRIOR TO CONSTRUCTION. TUNNEL AND/OR BORE CONSTRUCTION MAY BE REQUIRED IN LIEU OF OPEN EXCAVATION IF THE DIRECTOR DEEMS IT TO BE IN THE BEST INTEREST OF THE CITY.
- (9) UNLESS OTHERWISE PROVIDED IN A FRANCHISE AGREEMENT WITH THE CITY, PROVIDE SATISFACTORY SECURITY (LETTER OF CREDIT OR PERFORMANCE BOND) TO SECURE THE PERFORMANCE OF THE OBLIGATIONS CONTAINED HEREIN.
- (10) PAY THE FEES PRESCRIBED BY THIS CODE.
- (11) APPLICANTS SHALL UPDATE ANY NEW INFORMATION ON PERMIT APPLICATIONS WITHIN TEN (10) DAYS AFTER ANY MATERIAL CHANGE OCCURS.

SEC. 21-14. - PERMIT TO WORK IN THE PUBLIC RIGHT-OF-WAY CONTENTS.

- (a) EACH PERMIT ISSUED UNDER THIS SECTION SHALL STATE THE PERMIT NUMBER, THE DATE OF ISSUE AND EXPIRATION OF THE PERMIT; THE NAME AND ADDRESS OF THE PERMITTEE, THE NAME AND ADDRESS OF THE DEVELOPER, CONTRACTOR OR SUBCONTRACTOR LICENSED TO PERFORM WORK UNDER THE PERMIT; THE LOCATION, NATURE, AND PURPOSE OF THE PROPOSED CONSTRUCTION, EXCAVATION, OR WORK

PERMITTED; ANY CONDITIONS OF APPROVAL (INCLUDING BUT NOT LIMITED TO INSPECTION, TESTING, CERTIFICATION, AND PROVISION OF AS BUILT DRAWINGS); THE TYPE OF EXISTING PUBLIC INFRASTRUCTURE (STREET PAVEMENT, CURB AND GUTTER, SIDEWALKS OR UTILITIES) IMPACTED BY THE PERMIT; INCORPORATION OF THE ENGINEERING CONSTRUCTION DRAWINGS OR SITE PLANS AND TRAFFIC CONTROL AND EROSION PROTECTION PLANS; INCORPORATION OF ANY SUPPLEMENTAL PERMITS (WETLAND, FLOODPLAIN DEVELOPMENT, STATE HIGHWAY ACCESS OR UTILITY, REVOCABLE RIGHT-OF-WAY AND WATER AND SEWER UTILITY PERMITS, ETC.) REQUIRED; THE AMOUNT OF FEES AND DEPOSITS PAID, AND THE PERFORMANCE BONDS, LETTER OF CREDIT, OR OTHER SECURITY FILED BY THE PERMITTEE. THE PERMITS SHALL BE ISSUED WITHIN A REASONABLE TIME AFTER SUBMITTING A COMPLETE APPLICATION WITH ALL REQUIREMENTS ATTACHED. IF THE CITY REQUIRES MORE INFORMATION FOR PROCESSING AN APPLICATION, THE CITY SHALL REQUEST THE SPECIFIC INFORMATION NEEDED IN WRITING WITHIN FIFTEEN (15) DAYS OF SUBMITTING AN APPLICATION.

- (b) *MAINTENANCE PERMITS*. A PUBLIC RIGHTS OF WAY PERMIT SHALL NOT BE REQUIRED FOR ROUTINE MAINTENANCE IN THE PUBLIC RIGHTS OF WAY. HOWEVER, OTHER MAINTENANCE OPERATIONS WITHIN THE PUBLIC RIGHTS OF WAY WHICH INVOLVE TRAFFIC LANE CLOSURES OR SIDEWALK CLOSURES SHALL REQUIRE A PUBLIC RIGHTS OF WAY PERMIT. TO EXPEDITE THE PROCESS FOR ONGOING MAINTENANCE OPERATIONS, OWNERS OF FACILITIES WITHIN THE PUBLIC RIGHTS OF WAY MAY, AT THEIR SOLE OPTION AND IN THE ALTERNATIVE TO OBTAINING INDIVIDUAL PUBLIC RIGHTS OF WAY PERMITS, OBTAIN A MAINTENANCE PERMIT PURSUANT TO THIS SECTION.
- (c) A MAINTENANCE PERMIT SHALL BE VALID FROM THE DATE OF ISSUANCE OF THE PERMIT FOR UP TO TWELVE (12) CONSECUTIVE MONTHS. UNDER NO CIRCUMSTANCES SHALL A MAINTENANCE PERMIT BE VALID FOR MORE THAN ONE (1) YEAR.
- (d) A 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.
- (e) ANY PERSON SEEKING A MAINTENANCE PERMIT SHALL FILE AN APPLICATION ON A FORM PROVIDED BY THE CITY/TOWN/COUNTY 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 SECTION 21-60, TRAFFIC CONTROL.
 6. IF APPLICABLE, DOCUMENTATION OF THE APPROVAL FOR WORK REQUIRED IN LANDSCAPED MEDIANS.
- (f) THE APPLICABLE PERMIT FEE AS SET BY SECTION 21-20 SHALL ACCOMPANY THE APPLICATION WHEN SUBMITTED.
- (g) MAINTENANCE PERMITS SHALL BE SUBJECT TO ALL APPLICABLE PROVISIONS OF THIS CODE.
- (h) A MAINTENANCE PERMIT SHALL NOT REQUIRE A PERFORMANCE BOND, LETTER OF CREDIT OR WARRANTY. WORK PERFORMED PURSUANT TO A MAINTENANCE PERMIT SHALL NOT BE SUBJECT TO THE SPECIFIC INSPECTIONS SET FORTH IN SECTION 21-20, BUT MAY BE SUBJECT TO RANDOM INSPECTION BY THE CITY TO ENSURE COMPLIANCE WITH THE TERMS OF THE MAINTENANCE PERMIT AND APPLICABLE PROVISIONS OF THIS CODE.

SECS. 21-15—21-19. - RESERVED.

SEC. 21-20. - FEES GENERALLY; BONDS, ETC.; OTHER PROVISIONS RELATIVE TO PERMITS.

- (a) *ESTABLISHMENT BY RESOLUTION; MAINTENANCE OF FEE SCHEDULE.* THE FEES TO BE PAID FOR PERMITS REQUIRED BY THIS ARTICLE AND FOR INSPECTIONS MADE OR REQUIRED BY THIS ARTICLE SHALL BE ESTABLISHED BY RESOLUTION, TAKING INTO ACCOUNT THE COSTS INCURRED BY THE CITY IN PROVIDING SERVICES RELATING TO THE GRANTING AND ADMINISTERING OF PERMITS HEREUNDER. THE CURRENT FEE SCHEDULE SHALL BE MAINTAINED BY THE DEPARTMENT OF PUBLIC WORKS AND MAY BE EXAMINED DURING NORMAL BUSINESS HOURS.
- (b) *WHEN BOND REQUIRED.* WHEN THE COST OF THE WORK FOR WHICH A PERMIT OR PERMITS IS REQUIRED EXCEEDS TEN THOUSAND DOLLARS (\$10,000.00), A BOND IN THE AMOUNT OF THE ESTIMATED COST OF SUCH WORK SHALL BE FILED WITH THE DIRECTOR PRIOR TO THE ISSUANCE OF SUCH PERMIT, UNLESS OTHERWISE PROVIDED IN A FRANCHISE AGREEMENT WITH THE CITY. THE BOND SHALL BE IN EFFECT FOR TWO (2) YEARS AFTER ACCEPTANCE OF THE WORK BY THE CITY.
- (c) *VIOLATION; PENALTY; REPLACEMENT AT PERMITTEE'S COST.* UNLESS OTHERWISE PROVIDED FOR IN THIS ARTICLE, WORK IN THE PUBLIC WAY WITHOUT A VALID PERMIT WHEN THE APPLICANT IS OPERATING WITHOUT SUCH PERMIT IS A VIOLATION OF THE CODE OF LAWS. THE VIOLATOR SHALL BE REQUIRED TO OBTAIN THE REQUIRED PERMIT FOR THE WORK. UNLESS OTHERWISE LIMITED BY LAW, THE MINIMUM ADMINISTRATIVE PENALTY ASSESSED SHALL BE EITHER TWO HUNDRED TWENTY-FIVE DOLLARS (\$225.00) OR TRIPLE THE PERMIT AND INSPECTION FEES, WHICHEVER IS GREATER, PLUS ANY ADDITIONAL COSTS INCURRED FOR

SPECIAL TESTING OF THE COMPLETED WORK. IF, IN THE OPINION OF THE DIRECTOR, THE COMPLETED WORK CANNOT BE ADEQUATELY TESTED OR WAS PLACED NOT IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS, IT SHALL BE REMOVED AND REPLACED AT THE PERMITTEE'S SOLE COST.

- (d) *DENIAL OF PERMIT; APPEAL.* NO PERMIT SHALL BE ISSUED TO ANY PERSON WHO, IN THE REASONABLE OPINION OF THE DIRECTOR, IS NOT QUALIFIED TO PERFORM THE WORK IN ACCORDANCE WITH THE STREET EXCAVATION STANDARDS AND SPECIFICATIONS. THE DECISION OF THE DIRECTOR UPON APPEAL SHALL CONSTITUTE THE FINAL DECISION OF THE CITY.
- (e) *ESCROW ACCOUNT.* IN THE SOLE DISCRETION OF THE CITY, THE PERMITTEE MAY SET UP AN ESCROW ACCOUNT WITH THE CITY TO COVER COSTS ASSOCIATED WITH THE PERMITS REQUIRED UNDER THIS CHAPTER.

SEC. 21-21. - LICENSES AND FEES.

- (a) THE DEPARTMENT OF PUBLIC WORKS SHALL DETERMINE LICENSE QUALIFICATIONS FOR CLASS A THROUGH CLASS C LICENSES.
- (b) THE VARIOUS CLASSES OF LICENSES ISSUED UNDER THIS ARTICLE AND THE WORK AUTHORIZED TO BE PERFORMED BY THE HOLDER OF THE LICENSE ARE AS FOLLOWS:
 - (1) *MUNICIPAL CONTRACTOR—CLASS A.* A LICENSE TO DO WORK AS A MUNICIPAL CONTRACTOR, CLASS A, SHALL BE REQUIRED FOR THE INSTALLATION OF THE FOLLOWING IN THE PUBLIC WAY:
 - a. WATER MAINS.
 - b. SEWER MAINS.
 - c. WATER AND SEWER SERVICE LINES.
 - d. STORM DRAINS.
 - e. RELATED STRUCTURES.
 - (2) *SAME—CLASS B.* A LICENSE TO DO WORK AS A MUNICIPAL CONTRACTOR, CLASS B, SHALL BE REQUIRED FOR STREET, ALLEY AND OTHER ROADWAY-RELATED CONSTRUCTION IN THE PUBLIC WAY, INCLUSIVE OF:
 - a. EXCAVATION, GRADING, LEVELING OF SUB-GRADE.
 - b. COMPACTION, ROLLING, GRAVELING, ASPHALTING, PAVING, CURBING, DRAINING, POT-HOLING AND DRILLING.
 - c. CONSTRUCTION OF CURB, GUTTER, SIDEWALKS, MEDIANS AND OTHER CONCRETE STRUCTURES OR INSTALLATIONS.
 - d. CONSTRUCTION OF TRAFFIC SIGNAL INSTALLATIONS.
 - (3) *SAME—CLASS C.* A LICENSE TO DO WORK AS A MUNICIPAL CONTRACTOR, CLASS C, SHALL BE ISSUED FOR, AND LIMITED TO, THE

INSTALLATION OF WATER AND SEWER SERVICE LINES INCLUDING EXCAVATION, PIPE PLACEMENT, BACKFILLING AND OTHER OPERATIONS AS NECESSARY IN THE PUBLIC WAY.

(4) *TRAFFIC CONTROL AND STREET LIGHTS ONLY—CLASS D.* A LICENSE TO DO WORK AS A MUNICIPAL CONTRACTOR, CLASS D, SHALL BE REQUIRED FOR NON-ROADWAY-RELATED CONSTRUCTION IN THE PUBLIC WAY, INCLUSIVE OF:

- a. TRAFFIC CONTROL.
- b. INSTALLATION OF STREET AND/OR PEDESTRIAN LIGHTS. A SEPARATE ELECTRICAL PERMIT SHALL BE REQUIRED FROM THE BUILDING DIVISION.
- c. TREE TRIMMING AND/OR CUTTING ON PRIVATE OR PUBLIC PROPERTY.
- d. STAGING OF MATERIALS AND/OR TRASH RECEPTACLES, EXCEPT FOR PRIVATE HOUSEHOLD USE.

(5) *SAME—LICENSE LIMITATIONS.* THE DIRECTOR OF PUBLIC WORKS SHALL REVIEW APPLICATIONS FOR MUNICIPAL CONTRACTORS' LICENSES AND SHALL INDICATE THOSE CONTRACTORS, WHICH THE APPLICANT HAS SHOWN HE IS QUALIFIED TO PERFORM. UPON COMPLETION OF REVIEW, THE DIRECTOR OF PUBLIC WORKS SHALL THEN CAUSE TO BE ISSUED A LICENSE LIMITED AS INDICATED.

(c) HOLDERS OF CERTAIN OF THE LICENSES MAY PERFORM AS IF LICENSED FOR CERTAIN OF THE OTHER FUNCTIONS IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

CLASS A	CLASS C
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(d) THE ANNUAL LICENSE FEES FOR CONTRACTORS LICENSE UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE PAID IN ACCORDANCE WITH THE FOLLOWING TABLE:

- (1) MUNICIPAL CONTRACTOR, CLASS A—\$200.00.
- (2) MUNICIPAL CONTRACTOR, CLASS B—\$150.00.
- (3) MUNICIPAL CONTRACTOR, CLASS C—\$125.00.
- (3) MUNICIPAL CONTRACTOR, CLASS D—\$50.00.

LICENSE FEES ARE DUE WITH THE LICENSE APPLICATION AND ARE NONREFUNDABLE. NONISSUANCE OF LICENSES SHALL NOT ENTITLE APPLICANT TO A REFUND OF FEES PAID.

(e) *INSURANCE AND INDEMNIFICATION.* UNLESS OTHERWISE SPECIFIED IN A FRANCHISE AGREEMENT BETWEEN THE PERMITTEE AND THE CITY, PRIOR TO THE GRANTING OF ANY PERMIT, THE PERMITTEE SHALL FILE WITH THE CITY AN INSURANCE POLICY OR CERTIFICATE IN A FORM SATISFACTORY TO THE CITY/TOWN/COUNTY WITH COVERAGE AS FOLLOWS:

1. THE PERMITTEE SHALL CARRY AND MAINTAIN IN FULL EFFECT AT ALL TIMES A COMMERCIAL GENERAL LIABILITY POLICY, 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 TWO MILLION DOLLARS (\$2,000,000.00) EACH OCCURRENCE FOR DAMAGES OF BODILY INJURY OR DEATH TO ONE OR MORE PERSONS; AND ONE MILLION DOLLARS (\$1,000,000.00) EACH OCCURRENCE FOR DAMAGE TO OR DESTRUCTION OF PROPERTY.
 2. WORKERS COMPENSATION INSURANCE AS REQUIRED BY STATE LAW.
 3. CITY DEPARTMENTS SHALL BE RELIEVED OF THE OBLIGATION OF SUBMITTING A CERTIFICATE OF INSURANCE.
 4. NOTWITHSTANDING THE FOREGOING, THE DIRECTOR MAY WAIVE ANY INSURANCE REQUIREMENT OR OTHER REQUIREMENTS ADDRESSING FINANCIAL SECURITY FOR (I) A GOVERNMENTAL ENTITY, OR (II) OTHER ENTITY IF SUCH OTHER ENTITY IS DEEMED TO PROVIDE SUFFICIENT COVERAGE THROUGH SELF-INSURANCE, IN HIS OR HER SOLE REASONABLE DISCRETION.
- (f) *LICENSE AND PERMIT BOND.* A CASH BOND IN THE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00) SHALL BE DEPOSITED WITH THE CITY PRIOR TO ISSUANCE OF ANY CLASS A, B OR C MUNICIPAL CONTRACTOR LICENSES. THE BOND SHALL BE HELD BY THE CITY TO INSURE COMPLETION OF ANY WORK PERMITTED TO THE MUNICIPAL CONTRACTOR AND TO WARRANT ANY WORK PERFORMED UNDER A LICENSE FOR A PERIOD OF TWO (2) YEARS. AN INSURANCE COMPANY PERFORMANCE AND WARRANTY BOND ACCEPTABLE TO THE DIRECTOR OF PUBLIC WORKS MAY BE SUBSTITUTED FOR THE REQUIRED CASH BOND.

SEC. 21-22. AUTHORITY; PROCEDURE; EMERGENCY SUSPENSION.

- (a) *AUTHORITY.* THE DIRECTOR OF PUBLIC WORKS MAY SUSPEND OR REVOKE CLASS A THROUGH C LICENSES. LICENSE SUSPENSION OR REVOCATION MAY OCCUR WHEN THE LICENSEE COMMITS ONE (1) OR MORE OF THE FOLLOWING ACTS OR OMISSIONS:
- (1) FAILING TO COMPLY WITH ANY OF THE LICENSEE RESPONSIBILITIES AS OUTLINED IN THIS CHAPTER.
 - (2) KNOWINGLY COMBINING OR CONSPIRING WITH A PERSON BY PERMITTING ONE'S LICENSE TO BE USED BY SUCH PERSON, FIRM OR CORPORATION.
 - (3) ACTING AS AGENT, PARTNER, ASSOCIATE OR IN ANY OTHER CAPACITY WITH PERSONS, FIRMS OR CORPORATIONS TO EVADE THE PROVISIONS OF THIS CHAPTER.
 - (4) COMMITTING ANY ACT OF NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT IN THE PERFORMANCE OF THE CONTRACTOR'S

SPECIFIC TRADE WHICH RESULTS IN A SUBSTANTIAL THREAT TO PUBLIC HEALTH AND SAFETY.

- (5) PERFORMING UNDER HIS/HER LICENSE IN AN UNWORKMANLIKE, CARELESS, OR RECKLESS MANNER.

(b) *PROCEDURE.* WHEN ANY OF THE ACTS OR COMMISSIONS AS HEREIN ENUMERATED ARE COMMITTED BY A LICENSE HOLDER AND THE DIRECTOR OF PUBLIC WORKS DEEMS THAT SUCH LICENSE SHALL BE SUSPENDED OR REVOKED, THE PROCEDURE SHALL BE AS FOLLOWS:

- (1) THE LICENSEE SHALL BE NOTIFIED, IN WRITING, BY OR BY PERSONAL SERVICE, AT LEAST SEVEN (7) DAYS PRIOR TO SUSPENSION OR REVOCATION.
- (2) APPEALS OF A LICENSE SUSPENSION OR TERMINATION SHALL BE MADE TO THE DIRECTOR OF PUBLIC WORKS. APPEALS MUST BE MADE IN WRITING WITHIN SEVEN (7) WORKING DAYS OF RECEIPT OF NOTICE.
- (3) THE HEARING DATE SHALL BE SET WITHIN FOURTEEN (14) DAYS OF RECEIPT OF THE PROTEST AND THE LICENSEE SHALL BE NOTIFIED OF THE SAME.
- (4) WHEN A HEARING IS CONDUCTED, THE LICENSEE AND OTHER INTERESTED PARTIES MAY BE IN ATTENDANCE. UPON COMPLETION OF THE HEARING, THE DIRECTOR OF PUBLIC WORKS SHALL TAKE ALL EVIDENCE ADMITTED UNDER ADVISEMENT AND SHALL NOTIFY THE LICENSEE OF THEIR FINDINGS AND RULINGS EITHER DURING THE MEETING OR IN WRITING BY CERTIFIED MAIL.
- (5) HEARINGS SHALL BE ADMINISTRATIVE AND INFORMAL. ALTHOUGH AN INTERESTED PARTY MAY BE REPRESENTED BY AN ATTORNEY, NO FORMAL RULES OF EVIDENCE SHALL BE OBSERVED. NO CROSS-EXAMINATION OF WITNESSES WILL BE PERMITTED. EVIDENCE AND WITNESSES WILL BE RECEIVED, HOWEVER THE HEARING OFFICER HAS THE RIGHT TO EXCLUDE EVIDENCE WHICH IS REPETITIVE AND/OR IRRELEVANT. THE HEARING OFFICER MAY PERMIT CONCLUDING AND/OR REBUTTAL STATEMENTS. THE DECISION OF THE HEARING OFFICER SHALL BE THE FINAL ACTION OF THE CITY FOR PURPOSES OF ANY APPEAL.

(c) *EMERGENCY SUSPENSION.* IF THE DIRECTOR OF PUBLIC WORKS FINDS THAT CAUSE DOES EXIST FOR SUSPENSION OR REVOCATION OF A LICENSE, HE MAY ENTER AN ORDER FOR IMMEDIATE SUSPENSION OF SUCH LICENSE, PENDING FURTHER INVESTIGATION. THE LICENSEE MAY, UPON NOTICE OF SUCH SUSPENSION, REQUEST AN IMMEDIATE HEARING BEFORE THE DIRECTOR OF PUBLIC WORKS AND THE HEARING SHALL BE CONDUCTED IN THE MANNER PRESCRIBED BY UNDER SUBSECTION (B) ABOVE.

SECS. 21-23—21-29. - RESERVED.

SEC. 21-30. – PERFORMANCE WARRANTY/GUARANTEE

- (a) ANY WARRANTY MADE HEREUNDER SHALL SERVE AS SECURITY FOR THE PERFORMANCE OF WORK NECESSARY TO REPAIR THE PUBLIC RIGHTS OF WAY IF THE PERMITTEE FAILS TO MAKE THE NECESSARY REPAIRS OR TO COMPLETE THE WORK UNDER THE PERMIT.
- (b) THE PERMITTEE, BY ACCEPTANCE OF THE PERMIT, EXPRESSLY WARRANTS AND GUARANTEES COMPLETE PERFORMANCE OF THE WORK IN A MANNER ACCEPTABLE TO THE CITY AND GUARANTEES ALL WORK DONE FOR A PERIOD OF THREE (3) YEARS AFTER THE DATE OF PROBATIONARY ACCEPTANCE AND AGREES TO MAINTAIN UPON DEMAND AND TO MAKE ALL NECESSARY REPAIRS DURING THE THREE (3) YEAR PERIOD. THIS WARRANTY SHALL INCLUDE ALL REPAIRS AND ACTIONS NEEDED AS A RESULT OF:
 - (1) DEFECTS IN WORKMANSHIP;
 - (2) SETTLING OF FILLS OR EXCAVATIONS;
 - (3) ANY UNAUTHORIZED DEVIATIONS FROM THE APPROVED PLANS AND SPECIFICATIONS;
 - (4) FAILURE TO BARRICADE;
 - (5) FAILURE TO CLEAN UP DURING AND AFTER PERFORMANCE OF THE WORK;
 - (6) ANY OTHER VIOLATION OF THIS CHAPTER OR THE ORDINANCES OF THE CITY.
- (c) THE THREE (3) YEAR WARRANTY PERIOD SHALL RUN FROM THE DATE OF THE CITY'S PROBATIONARY ACCEPTANCE OF THE WORK. IF REPAIRS ARE REQUIRED DURING THE THREE (3) YEAR WARRANTY PERIOD, THOSE REPAIRS NEED ONLY BE WARRANTED UNTIL THE END OF THE INITIAL THREE (3) YEAR PERIOD STARTING WITH THE DATE OF PROBATIONARY ACCEPTANCE. IT IS NOT NECESSARY THAT A NEW THREE (3) YEAR WARRANTY BE PROVIDED FOR SUBSEQUENT REPAIRS AFTER PROBATIONARY ACCEPTANCE.
- (d) AT ANY TIME PRIOR TO COMPLETION OF THE THREE (3) WARRANTY PERIOD, THE CITY MAY NOTIFY THE PERMITTEE, IN WRITING, OF ANY NEEDED REPAIRS. SUCH REPAIRS SHALL BE COMPLETED WITHIN TWENTY-FOUR (24) HOURS IF THE DEFECTS ARE DETERMINED BY THE CITY TO BE AN IMMINENT DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE. NON-EMERGENCY REPAIRS SHALL BE COMPLETED WITHIN THIRTY (30) CALENDAR DAYS AFTER SUCH NOTICE.
- (e) THE WARRANTY DESCRIBED IN THIS SECTION SHALL COVER ONLY THOSE AREAS OF WORK UNDERTAKEN BY A PERMITTEE AND NOT DIRECTLY IMPACTED BY THE WORK OF ANY OTHER PERMITTEE OR THE CITY. IN THE EVENT THAT A PORTION OF WORK WARRANTED BY PERMITTEE IS SUBSEQUENTLY IMPACTED BY WORK OF ANOTHER PERMITTEE OR THE CITY DURING THE WARRANTY PERIOD, THAT OTHER PERMITTEE OR THE

CITY SHALL ASSUME RESPONSIBILITY FOR REPAIR TO THE SUBSEQUENTLY IMPACTED SECTION OF RIGHTS OF WAY.

SEC. 21-31. – APPEALS PROCEDURE.

ANY DECISION RENDERED BY THE DIRECTOR PURSUANT TO THIS CODE MAY BE APPEALED WITHIN THIRTY (30) DAYS BY THE PERMITTEE TO THE CITY MANAGER/BOARD OF ADJUSTMENT/CITY COUNCIL IN ACCORDANCE WITH THE RULES AND PROCEDURES ESTABLISHED BY THAT BODY.

SECS. 21-32—21-50. - RESERVED.

SEC. 21-51. - LIABILITY FOR INJURIES, DAMAGE.

TO THE EXTENT AUTHORIZED AND PERMITTED BY LAW, THE UTILITY DISTRICT OR COMPANY SHALL BE RESPONSIBLE FOR LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY RESULTING FROM INSTALLATION OF ITS UNDERGROUND STRUCTURES OR FROM THE REPAIR OR FAILURE TO REPAIR STREET SURFACES AS HEREIN PROVIDED. IF THE UTILITY COMPANY OR DISTRICT IS CONDUCTING THE WORK WITH THEIR OWN FORCES, THEY SHALL SUBMIT PROOF OF INSURANCE AND BOND AS REQUIRED IN SECTION 5-125 OF THE WHEAT RIDGE CODE OF LAWS.

SEC. 21-52. - RESPONSIBILITIES OF PERSONS WORKING IN THE PUBLIC WAY.

RESPONSIBILITIES OF PERSONS PERFORMING WORK IN THE PUBLIC WAYS OF THE CITY SHALL BE AS FOLLOWS:

- (1) EXCEPT AS SPECIFICALLY LIMITED BY SECTION 21-51 OF THIS CHAPTER (AS RELATES SOLELY TO UTILITIES AND QUASI-MUNICIPAL CORPORATIONS, AND INCLUDING, FOR PURPOSES OF THIS CHAPTER 21) AND UNLESS OTHERWISE SPECIFIED IN A FRANCHISE AGREEMENT WITH THE CITY, PERSONS MAKING EXCAVATIONS IN THE PUBLIC WAYS OF THE CITY SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, THE CITY COUNCIL MEMBERS, THE DIRECTOR AND CITY EMPLOYEES INDIVIDUALLY FROM LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY RESULTING FROM ANY WORK PERFORMED UNDER A PERMIT INCLUDING EXCAVATION OR BACKFILL OF UNDERGROUND STRUCTURES OR FAILURE TO REPAIR STREET SURFACES AS HEREIN PROVIDED UNLESS CAUSED BY THE INTENTIONAL ACTS OF THE CITY. THEY FURTHER SHALL HOLD HARMLESS THE CITY, THE CITY COUNCIL MEMBERS, THE DIRECTOR AND CITY EMPLOYEES INDIVIDUALLY FROM LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY RESULTING FROM THE INADEQUACY OF BARRICADES, LIGHTS OR OTHER PROPER WARNING DEVICES, UNLESS CAUSED BY THE INTENTIONAL ACTS OF THE CITY. IN THOSE INSTANCES WHERE INDEMNIFICATION IS PRECLUDED BY LAW, THE ENTITY PERFORMING WORK PROVIDED HEREUNDER SHALL BE RESPONSIBLE FOR ITS OWN, OR ITS CONTRACTOR'S OR AGENT'S ACTS OR OMISSIONS.
- (2) GOOD PRACTICES AND STANDARD SAFETY PRECAUTIONS SHALL BE OBSERVED AT ALL TIMES AND THE TRAFFIC CONTROL PLAN SHALL BE FOLLOWED.

- (3) DURING THE DEVELOPMENT PHASE IN NEW SUBDIVISIONS WHILE STREETS ARE BEING LAID OUT, CONSTRUCTED AND/OR SURFACED, OR WHILE UTILITY LINES ARE BEING LAID OR INSTALLED, AUTHORIZATION MAY BE GRANTED TO TOTALLY CLOSE THESE STREETS IN THE INTEREST OF PUBLIC SAFETY. THIS AUTHORIZATION WILL BE IN WRITING AND APPROVED BY THE DIRECTOR. THE AUTHORIZATION SHALL STATE THE TIME PERIOD WHEN SUCH TOTAL CLOSURE WILL BE ALLOWED AND ANY SPECIAL CONDITIONS REQUIRED FOR CLOSURE OF THE ROADWAYS.
- (4) WHEN A STREET IS OVERLAID OR RECONSTRUCTED BY THE CITY OR WORK IN THE RIGHT-OF-WAY IS UNDERTAKEN BY ANOTHER PERMITTEE, THE RESPONSIBILITY OF THE ORIGINAL PERMITTEE IS REMOVED TO THE EXTENT THAT SUCH SUBSEQUENT WORK AFFECTS THE ORIGINAL PERMITTEE'S WORK, IN THE SOLE DETERMINATION OF THE DIRECTOR. THE CITY SHALL CANCEL AND AUTOMATICALLY RELEASE ANY ESCROWS THAT ARE ON DEPOSIT WITH THE CITY AFTER ANY DEDUCTIONS ARE MADE FROM THE ESCROW ACCOUNT OR THE PERMITTEE PAYS THE CITY FOR COSTS RELATED TO STABILIZATION OF ITS STREET CUTS.
- (5) (a) *RELOCATION AND PROTECTION OF UTILITIES.* BEFORE BEGINNING EXCAVATION IN ANY PUBLIC WAY, A PERMITTEE SHALL CONTACT THE UTILITY NOTIFICATION CENTER OF COLORADO (UNCC) AND, TO THE EXTENT REQUIRED BY C.R.S. §9-1.5-102 ET SEQ., MAKE INQUIRIES OF ALL DITCH COMPANIES, UTILITY COMPANIES, BROADBAND PROVIDERS, DISTRICTS, LOCAL GOVERNMENT DEPARTMENTS, 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 LOCATIONS OF ALL FACILITIES IN THE AREA PURSUANT TO UNCC REQUIREMENTS. FIELD LOCATIONS SHALL BE MARKED PRIOR TO COMMENCING WORK. THE PERMITTEE SHALL SUPPORT AND PROTECT ALL PIPES, CONDUITS, POLES, WIRES, OR OTHER APPARATUS WHICH MAY BE AFFECTED BY THE WORK FROM DAMAGE DURING CONSTRUCTION OR SETTLEMENT OF TRENCHES SUBSEQUENT TO CONSTRUCTION.

- (b) *NOISE, DUST, DEBRIS.* EACH PERMITTEE SHALL CONDUCT WORK IN ACCORDANCE TO ALL APPLICABLE LAWS AND IN SUCH MANNER AS TO AVOID UNNECESSARY INCONVENIENCE AND ANNOYANCE TO THE GENERAL PUBLIC AND OCCUPANTS OF NEIGHBORING PROPERTY. IN THE PERFORMANCE OF THE WORK, THE PERMITTEE SHALL TAKE APPROPRIATE MEASURES TO REDUCE NOISE, DUST, AND UNSIGHTLY DEBRIS
- (c) *TRASH AND CONSTRUCTION MATERIALS.* EACH PERMITTEE SHALL MAINTAIN THE WORK SITE SO THAT AND CONSTRUCTION

MATERIALS ARE CONTAINED SO THAT THEY ARE NOT BLOWN OFF OF THE CONSTRUCTION SITE; TRASH IS REMOVED FROM A CONSTRUCTION SITE IS REMOVED FROM A CONSTRUCTION SITE OFTEN ENOUGH SO THAT IT DOES NOT BECOME A HEALTH, FIRE, OR SAFETY HAZARD DUMPSTERS AND STORAGE OR CONSTRUCTION TRAILERS ARE NOT PLACED IN THE STREET WITHOUT SPECIFIC APPROVAL OF THE DIRECTOR.

- (6) *DEPOSIT OF DIRT AND MATERIAL ON ROADWAYS.* EACH PERMITTEE SHALL UTILIZE THEIR BEST EFFORTS TO ELIMINATE THE TRACKING OF MUD OR DEBRIS UPON ANY STREET OR SIDEWALK. STREETS AND SIDEWALKS SHALL BE CLEANED OF MUD AND DEBRIS AT THE END OF EACH DAY. ALL EQUIPMENT AND TRUCKS TRACKING MUD AND DEBRIS INTO THE RIGHT OF WAY SHALL BE CLEANED OF MUD AND DEBRIS AT THE END OF EACH DAY OR AS DIRECTED BY THE DIRECTOR.
- (7) *PROTECTION OF TREES AND LANDSCAPING.* EACH PERMITTEE SHALL PROTECT TREES, LANDSCAPE, AND LANDSCAPE FEATURES AS REQUIRED BY THE CITY. ALL PROTECTIVE MEASURES SHALL BE PROVIDED AT THE EXPENSE OF THE PERMITTEE. IF THE PERMITTEE CAUSES DAMAGES TO TREES OR LANDSCAPE, PERMITTEE SHALL REPAIR THE DAMAGE OR REPLACE THE DAMAGED ITEMS OR REIMBURSE THE OWNER OF SUCH ITEMS WHEN THE LOSS OR DAMAGE IS IRREPARABLE, WITHIN A REASONABLE PERIOD OF TIME.
- (8) *PROTECTION OF PAVED SURFACES FROM EQUIPMENT DAMAGE.* BACKHOE EQUIPMENT OUTRIGGERS SHALL BE FITTED WITH RUBBER PADS WHENEVER OUTRIGGERS ARE PLACED ON ANY PAVED SURFACE. TRACKED VEHICLES THAT WILL DAMAGE PAVEMENT SURFACES ARE NOT PERMITTED ON PAVED SURFACE UNLESS SPECIFIC PRECAUTIONS ARE TAKEN TO PROTECT THE SURFACE. THE PERMITTEE WILL BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO THE PAVEMENT BY THE OPERATION OF SUCH EQUIPMENT AND, UPON ORDER OF THE DIRECTOR, SHALL REPAIR SUCH SURFACES. FAILURE TO DO SO WILL RESULT IN THE USE OF THE PERMITTEE PERFORMANCE/WARRANTY GUARANTEE BY THE CITY TO REPAIR ANY DAMAGE
- (9) *PROTECTION OF PROPERTY.* EACH PERMITTEE SHALL PROTECT FROM INJURY ANY ADJOINING PROPERTY BY PROVIDING ADEQUATE SUPPORT AND TAKING OTHER NECESSARY MEASURES. THE PERMITTEE SHALL, AT ITS OWN EXPENSE, SHORE UP AND PROTECT ALL BUILDINGS, WALLS, FENCES OR OTHER PROPERTY LIKELY TO BE DAMAGED DURING THE WORK, AND SHALL BE RESPONSIBLE FOR ALL DAMAGE TO PUBLIC OR PRIVATE PROPERTY RESULTING FROM FAILURE TO PROPERLY PROTECT AND CARRY OUT WORK IN THE PUBLIC WAY.
- (10) *CLEAN-UP.* AS THE WORK PROGRESSES, ALL PUBLIC RIGHTS OF WAY AND PRIVATE PROPERTY SHALL BE THOROUGHLY CLEANED OF ALL

RUBBISH, EXCESS DIRT, ROCK, AND OTHER DEBRIS. ALL CLEAN-UP OPERATIONS SHALL BE DONE AT THE EXPENSE OF THE PERMITTEE.

- (11) *PRESERVATION OF MONUMENTS.* A PERMITTEE SHALL NOT DISTURB ANY SURFACE MONUMENTS OR SURVEY HUBS AND POINTS FOUND ON THE LINE OF WORK UNLESS APPROVAL IS OBTAINED FROM THE DIRECTOR. ANY MONUMENTS, HUBS, AND POINTS DISTURBED WILL BE REPLACED BY A COLORADO REGISTERED LAND SURVEYOR AT THE PERMITTEE'S EXPENSE.
- (12) EACH PERMITTEE SHALL MAKE PROVISIONS FOR EMPLOYEE AND CONSTRUCTION VEHICLE PARKING SO THAT NEIGHBORHOOD PARKING ADJACENT TO A WORK SITE IS NOT IMPACTED.
- (13) EACH PERMITTEE SHALL MAINTAIN AN ADEQUATE AND SAFE UNOBSTRUCTED WALKWAY AROUND A CONSTRUCTION SITE OR BLOCKED SIDEWALK IN CONFORMANCE WITH THE CODE OF LAWS.
- (14) EACH PERMITTEE SHALL CLEAR ALL SNOW AND ICE HAZARDS FROM PUBLIC SIDEWALKS AT THE WORK SITE BY NOON FOLLOWING A SNOWFALL IN CONFORMANCE WITH CODE OF LAWS.
- (15) EACH PERMITTEE SHALL PROVIDE NECESSARY SANITARY FACILITIES FOR WORKERS. THE LOCATION OF SUCH FACILITIES SHALL BE APPROVED BY THE CITY IN THE PERMIT.

SEC. 21-53. - INSPECTION REQUESTS.

- (a) REQUESTS FOR INSPECTIONS BY THE DEPARTMENT OF PUBLIC WORKS SHALL BE MADE AT LEAST TWENTY-FOUR (24) HOURS IN ADVANCE. FOR SATURDAYS, SUNDAYS, CITY-OBSERVED HOLIDAYS OR AT NIGHT REQUESTS SHALL BE MADE AT LEAST FORTY-EIGHT (48) HOURS IN ADVANCE. IN THE EVENT THAT WORK IS PERMITTED ON SATURDAY, SUNDAY, AT NIGHT OR CITY HOLIDAYS, THE PERMITTEE WILL BE REQUIRED TO PAY TO THE CITY ANY OVERTIME COSTS INCURRED BY CITY PERSONNEL ASSIGNED TO OBSERVE AND TEST THE WORK BEING PERFORMED DURING SUCH TIME.
- (b) IT IS THE PERMITTEE'S RESPONSIBILITY TO CONTACT THE DIRECTOR TO REQUEST INSPECTIONS OF THE WORK CONTAINED UNDER THE PERMIT. THE PERMITTEE WILL BE RESPONSIBLE FOR ANY ADDITIONAL COSTS INCURRED BY THE CITY FOR SPECIAL TESTING OF WORK PERFORMED WITHOUT SUCH NOTICE AND OPPORTUNITY FOR INSPECTION. IF, IN THE OPINION OF THE DIRECTOR, THE COMPLETED WORK CANNOT BE ADEQUATELY TESTED OR WAS PLACED NOT IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS, IT SHALL BE REMOVED AND REPLACED AT THE PERMITTEE'S SOLE COST.
- (c) THE INSPECTION AND/OR TESTING OF PORTIONS OF THE WORK AND MATERIALS SHALL NOT RELIEVE THE PERMITTEE OF ANY OF HIS OBLIGATIONS TO CONSTRUCT THE WORK IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS. WORK AND MATERIALS NOT MEETING SUCH REQUIREMENTS SHALL BE MADE GOOD AND UNSUITABLE

WORK OR MATERIALS MAY BE REJECTED, NOTWITHSTANDING THAT SUCH WORK AND/OR MATERIALS MAY HAVE BEEN PREVIOUSLY INSPECTED AND/OR TESTED BY THE INSPECTOR.

SEC. 21-54. - SUBCONTRACTS.

WHEN WORK IS PERFORMED BY AN INDEPENDENT CONTRACTOR FOR ANY WATER AND/OR SANITATION DISTRICT AND/OR UTILITY COMPANY, THE DISTRICT/COMPANY SHALL PROVIDE THE PERMIT(S) FOR ALL WORK DONE IN THE PUBLIC WAY IN THE CITY AND SHALL BE RESPONSIBLE TO THE CITY IN ALL MANNERS AS PRESCRIBED HEREIN AS THE PERMITTEE. THE SUBCONTRACTOR SHALL BE IDENTIFIED ON THE REQUEST FOR THE PERMIT AND SHALL BE CURRENTLY LICENSED WITH THE CITY FOR THE TYPE OF WORK TO BE DONE.

SEC. 21-55. – REVOCATION; STOP WORK ORDERS; SUSPENSION; APPEALS.

- (a) ANY PERMIT MAY BE REVOKED OR SUSPENDED BY THE DIRECTOR, AFTER WRITTEN NOTICE TO THE PERMITTEE AND AN OPPORTUNITY TO CURE, FOR:
 - (1) VIOLATION OF ANY CONDITION OF THE PERMIT OR OF ANY PROVISION OF THIS CHAPTER.
 - (2) VIOLATION OF ANY PROVISION OF ANY OTHER ORDINANCE OF THE CITY OR STATE LAW RELATING TO THE WORK.
 - (3) EXISTENCE OF ANY CONDITION OR PERFORMANCE OF ANY ACT WHICH THE CITY DETERMINES CONSTITUTES OR CAUSES A CONDITION ENDANGERING LIFE OR DAMAGE TO PROPERTY.
- (b) *STOP WORK ORDERS.* A STOP WORK ORDER MAY BE ISSUED BY THE DIRECTOR TO ANY PERSON OR PERSONS DOING OR CAUSING ANY WORK TO BE DONE IN THE PUBLIC WAY FOR:
 - (1) WORKING WITHOUT A PERMIT
 - (2) DOING WORK IN VIOLATION OF ANY PROVISIONS OF THIS CHAPTER OR ANY OTHER ORDINANCE OF THE CITY, OR STATE LAW RELATING TO THE WORK.
 - (3) PERFORMING ANY ACT, WHICH THE CITY DETERMINES CONSTITUTES OR CAUSES A CONDITION THAT ENDANGERS LIFE OR PROPERTY.
- (c) A SUSPENSION OR REVOCATION BY THE DIRECTOR AND STOP WORK ORDER SHALL TAKE EFFECT IMMEDIATELY UPON NOTICE TO THE PERSON PERFORMING THE WORK IN THE PUBLIC WAY OR TO THE PERMITTEE'S LAST KNOWN ADDRESS.
- (d) ANY SUSPENSION OR REVOCATION OR STOP WORK ORDER MAY BE APPEALED BY THE PERMITTEE TO THE DIRECTOR, WITHIN SEVEN (7) DAYS OF THE EFFECTIVE DATE

SECS. 21-56-21-59. - RESERVED.

SEC. 21-60. - TRAFFIC CONTROL AND ACCESS.

TO AVOID INTERFERENCE WITH TRAFFIC, THE FOLLOWING CONDITIONS MUST BE OBSERVED IN WORKING IN THE PUBLIC WAY:

- (1) ALL WORK IN THE PUBLIC WAYS MUST HAVE A TRAFFIC CONTROL PLAN SHALL BE SUBMITTED TO THE CITY PRIOR TO STARTING CONSTRUCTION. NO PERMIT WILL BE ISSUED UNTIL THE PLAN IS APPROVED BY THE DIRECTOR. THE TRAFFIC CONTROL PLAN MUST PROVIDE SAFE METHODS FOR MOVEMENT OF PEDESTRIANS AND MOTORISTS THROUGH THE WORK ZONE AND A SAFE AREA FOR WORKERS ENGAGED IN THE CONSTRUCTION ACTIVITY. THE TRAFFIC CONTROL PLAN SHALL BE SITE SPECIFIC UNLESS OTHERWISE ALLOWED BY THE DIRECTOR. THE TRAFFIC CONTROL PLAN SHALL INCLUDE THE NAME AND EMERGENCY PHONE NUMBERS OF THE PERMITTEE AND THE PERMITTEE'S DESIGNATED TRAFFIC CONTROL SUPERVISOR.
- (2) WORK SHALL BE CONDUCTED IN A MANNER AS TO NOT IMPEDE TRAFFIC. SHOULD IT BE NECESSARY TO RESTRICT TRAFFIC IN ANY MANNER, THE APPLICANT SHALL SUBMIT THE TRAFFIC CONTROL PLAN TO THE DIRECTOR FOR APPROVAL AT THE TIME OF FILING THE PERMIT APPLICATION REQUIRED BY SECTION 21-13. THE PERMITTEE SHALL NOT BEGIN ANY WORK UNTIL HE RECEIVES APPROVAL FROM THE DIRECTOR.
- (3) WHEN NECESSARY FOR PUBLIC SAFETY, IT SHALL BE THE RESPONSIBILITY OF THE PERMITTEE PERFORMING THE WORK TO COORDINATE ALL WORK IN THE PUBLIC WAY WITH APPROPRIATE FIRE, AMBULANCE, POLICE AND TRANSIT AUTHORITIES AND INFORM THEM OF THE TIMES AND LOCATIONS OF ANY IMPEDIMENT OF TRAFFIC. UPON REQUEST OF THE PERMITTEE, THE CITY SHALL PROVIDE A LIST OF CONTACT NAMES AND TELEPHONE NUMBERS OF EACH EMERGENCY PERSONNEL THAT IS REQUIRED TO BE NOTIFIED.
- (4) WHEN NECESSARY FOR PUBLIC SAFETY, THE PERMITTEE SHALL EMPLOY FLAG PERSONS WHOSE DUTIES SHALL BE TO CONTROL TRAFFIC AROUND OR THROUGH THE CONSTRUCTION SITE. FLAG PERSONS SHALL BE TRAINED IN FLAGGING OPERATIONS AND SHALL BE CERTIFIED. THE USE OF FLAG PERSONS MAY BE REQUIRED BY THE DIRECTOR AS PART OF THE TRAFFIC CONTROL PLAN.
- (5) UNLESS APPROVED BY THE DIRECTOR, THE PERMITTEE SHALL NOT IMPEDE RUSH HOUR TRAFFIC ON COLLECTOR/ARTERIAL STREETS DURING RUSH HOURS. NO CONSTRUCTION SHALL BE PERFORMED NOR SHALL ANY TRAVEL LANE ON THESE STREET CLASSIFICATIONS SHALL BE CLOSED BETWEEN THE HOURS OF 6:30 A.M. TO 8:30 A.M. OR 3:30 P.M. TO 6 P.M. WITHOUT THE APPROVAL OF THE DIRECTOR.
- (6) AS A GUIDE FOR ALL MAINTENANCE AND TRAFFIC SIGNING, PART VI OF THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" AND THE CDOT STANDARDS SHALL BE USED. THE PERMITTEE SHALL ILLUSTRATE ON THE PERMIT THE WARNING AND TRAFFIC CONTROL

DEVICES PROPOSED FOR USE DURING CONSTRUCTION. AT THE DISCRETION OF THE DIRECTOR, SUCH WARNING AND CONTROL DEVICES MAY BE INCREASED, DECREASED OR MODIFIED BEFORE AND AFTER ISSUANCE OF THE PERMIT.

- (7) TYPE I, II AND III BARRICADES MUST BE USED WHENEVER IT IS NECESSARY TO CLOSE A TRAVEL LANE OR SIDEWALK. BARRICADES ARE TO BE SUPPLIED BY THE PERMITTEE. ALL WORK SHALL BE BARRICADED AT ALL TIMES AND BETWEEN THE HOURS OF SUNSET AND SUNRISE AND SHALL BE PROPERLY LIGHTED AND DELINEATED SO AS TO WARN ALL PERSONS.
- (8) THE PERMITTEE SHALL BE RESPONSIBLE FOR FURNISHING, ERECTING AND MAINTAINING TRAFFIC CONTROL DEVICES AND FACILITIES REQUIRED BY THE TRAFFIC CONTROL PLAN THROUGHOUT THE LIFE OF THE PERMIT, INCLUDING ANY PERIODS OF SUSPENSION.
- (9) TRAFFIC CONTROL DEVICES OTHER THAN THOSE WHICH GENERALLY INFORM THE PUBLIC OF WORK ZONES AHEAD WHICH FACE ONCOMING TRAFFIC SHALL BE TURNED AWAY FROM ONCOMING TRAFFIC OR OTHERWISE MASKED FROM VIEW DURING NONWORKING HOURS. SIGNS WHICH ARE SPECIFIC IN NATURE, SUCH AS LANE DROP SIGNS, FLAGMAN AHEAD SIGNS, ROAD CLOSED SIGNS AND OTHER SIGNS, WHICH IN THE OPINION OF THE DIRECTOR ARE INAPPROPRIATE FOR DISPLAY DURING NONWORKING HOURS ARE SUBJECT TO CONFISCATION BY THE CITY. TRAFFIC CONTROL DEVICES SHALL NOT BE PLACED ON SIDEWALKS OR OTHER AREAS WHERE THEY WOULD BLOCK PEDESTRIAN ACCESS, NOR AT INTERSECTION CORNERS WHERE THEY BLOCK SIGHT LINES.
- (10) NO PERMITTEE SHALL INTERRUPT ACCESS TO AND FROM PRIVATE PROPERTY, BLOCK EMERGENCY VEHICLES, BLOCK ACCESS TO FIRE HYDRANTS, FIRE STATIONS, FIRE ESCAPES, WATER VALVES, UNDERGROUND VAULTS, VALVE HOUSING STRUCTURES, OR ANY OTHER VITAL EQUIPMENT UNLESS THE PERMITTEE PROVIDES THE CITY WITH WRITTEN VERIFICATION OF WRITTEN NOTICE DELIVERED TO THE OWNER OR OCCUPANT OF THE FACILITY, EQUIPMENT OR PROPERTY AT LEAST 48 HOURS IN ADVANCE. IF A STREET CLOSING IS DESIRED, THE APPLICANT WILL REQUEST THE ASSISTANCE AND OBTAIN THE APPROVAL OF THE DIRECTOR. IT SHALL BE THE RESPONSIBILITY OF THE PERMITTEE TO NOTIFY AND COORDINATE ALL WORK IN THE PUBLIC WAY WITH POLICE, FIRE, AMBULANCE, OTHER GOVERNMENT ENTITIES, AND TRANSIT ORGANIZATIONS.
- (11) WHEN NECESSARY FOR PUBLIC SAFETY, THE PERMITTEE SHALL EMPLOY FLAG PERSONS WHOSE DUTIES SHALL BE TO CONTROL TRAFFIC AROUND OR THROUGH THE CONSTRUCTION SITE. THE USE OF FLAG PERSONS MAY BE REQUIRED BY THE DIRECTOR.
- (12) TRAFFIC CONTROL DEVICES, AS DEFINED IN PART VI OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, MUST BE USED WHENEVER

IT IS NECESSARY TO CLOSE A TRAFFIC LANE OR SIDEWALK. TRAFFIC CONTROL DEVICES ARE TO BE SUPPLIED BY THE PERMITTEE. IF USED AT NIGHT, THEY MUST BE REFLECTORIZED AND MUST BE ILLUMINATED OR HAVE BARRICADE WARNING LIGHTS.

- (13) NIGHTTIME WORK AREA FLOOD LIGHTING SHALL NOT BE ALLOWED TO SPILL OUT OF THE CONSTRUCTION AREA IN SUCH A WAY AS TO DISTURB, ANNOY, OR ENDANGER THE COMFORT, HEALTH OR PEACE OF OTHERS.

SEC. 21-60.1. - EXCAVATIONS, BACKFILLING AND COMPACTING.

THE DIRECTOR HAS THE AUTHORITY TO PROMULGATE ALL NECESSARY RULES AND REGULATIONS GOVERNING OR OTHERWISE RELATED TO THE MATERIALS TO BE USED IN EXCAVATION, BACKFILLING, COMPACTING AND ANY OTHER RECLAMATION PROJECTS IN THE PUBLIC RIGHTS OF WAY, TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE CITY INHABITANTS. ALL WORK PERFORMED UNDER THIS CHAPTER SHALL CONFORM WITH ANY SUCH RULES AND REGULATIONS.

SEC. 21-61. - CONSTRUCTION REQUIREMENTS IN UNIMPROVED STREETS.

ALL EXCAVATIONS MADE IN UNIMPROVED CITY STREETS, ALLEYS OR RIGHTS-OF-WAY SHALL BE CAREFULLY BACKFILLED AND COMPACTED BY THE METHOD PRESCRIBED IN THE RULES AND REGULATIONS PROMULGATED PURSUANT TO SECTION 21-60.1 ABOVE. MINIMUM SURFACING OF SIX (6) INCHES OF CLASS 6 AGGREGATE BASE COURSE SHALL BE PLACED AND COMPACTED TO ONE HUNDRED (100) PERCENT OF AASHTO T99.

SEC. 21-62. - RELOCATION OF FACILITIES.

IF AT ANY TIME THE CITY REQUESTS THE PERMITTEE TO RELOCATE ITS FACILITIES IN ORDER TO ALLOW THE CITY TO MAKE ANY PUBLIC USE OF RIGHTS OF WAY, OR IF AT ANY TIME IT SHALL BECOME NECESSARY BECAUSE OF A CHANGE IN THE GRADE OR FOR ANY OTHER PURPOSE BY REASON OF THE IMPROVING, REPAIRING, CONSTRUCTING, OR MAINTAINING OF ANY RIGHTS OF WAY, OR REASON OF TRAFFIC CONDITIONS, PUBLIC SAFETY OR BY REASON OF INSTALLATION OF ANY TYPE OF STRUCTURE OF PUBLIC IMPROVEMENT THE CITY OR OTHER PUBLIC AGENCY OR SPECIAL DISTRICT, AND ANY GENERAL PROGRAM FOR THE UNDERGROUNDING OF SUCH FACILITIES, TO MOVE OR CHANGE THE PERMITTEE'S FACILITIES WITHIN OR ADJACENT TO RIGHTS OF WAY IN ANY MANNER, EITHER TEMPORARILY OR PERMANENTLY, THE CITY SHALL NOTIFY THE PERMITTEE AT LEAST NINETY (90) DAYS IN ADVANCE, EXCEPT IN THE CASE OF EMERGENCIES, OF THE CITY'S INTENTION TO PERFORM OR HAVE SUCH WORK PERFORMED. THE PERMITTEE SHALL THEREUPON, AT ITS SOLE COST AND AT NO COST TO THE CITY, AND IRRESPECTIVE OF ANY FUNDS AVAILABLE TO THE CITY UNDER THE PROVISIONS OF ANY FRANCHISE, ACCOMPLISH THE NECESSARY RELOCATION, REMOVAL OR CHANGE WITHIN A REASONABLE TIME FROM THE DATE OF THE NOTIFICATION, BUT IN NO EVENT LATER THAN THREE (3) WORKING DAYS PRIOR TO THE DATE THE CITY HAS NOTIFIED THE PERMITTEE

THAT IT INTENDS TO COMMENCE ITS WORK OR IMMEDIATELY IN THE CASE OF EMERGENCIES. UPON THE PERMITTEE'S FAILURE TO ACCOMPLISH SUCH WORK, THE CITY OR OTHER PUBLIC AGENCIES OR SPECIAL DISTRICT MAY PERFORM SUCH WORK AT THE PERMITTEE'S EXPENSE AND THE PERMITTEE SHALL REIMBURSE THE CITY OR OTHER AGENCY WITHIN THIRTY (30) DAYS AFTER RECEIPT OF A WRITTEN INVOICE FOR SUCH EXPENSE. THE PERMITTEE'S OBLIGATION TO BEAR THE EXPENSE OF RELOCATION SHALL ALSO INCLUDE COSTS INCURRED BY THE CITY AS A CONSEQUENCE OF DELAY BY PERMITTEE IN RELOCATING ITS FACILITIES. UNPAID EXPENSE INVOICES MAY BE COLLECTED BY THE CITY IN THE SAME MANNER ALLOWED FOR COLLECTION OF DELINQUENT CHARGES, ASSESSMENTS OR TAXES. FOLLOWING RELOCATION, ALL AFFECTED PROPERTY SHALL BE RESTORED TO, AT A MINIMUM, THE CONDITION WHICH EXISTED PRIOR TO CONSTRUCTION BY THE PERMITTEE AT THE PERMITTEE'S EXPENSE. A PERMITTEE MAY REQUEST ADDITIONAL TIME TO COMPLETE A RELOCATION PROJECT, WHICH MAY BE GRANTED OR DENIED IN WHOLE OR IN PART AT THE DIRECTOR'S SOLE DISCRETION.

SEC. 21-63. - MAINTENANCE OF RECORDS.

ALL PERMITTEES UNDER THIS CHAPTER SHALL COMPILE AND PROVIDE TO THE CITY RECORDS OF THE LOCATION AND EXTENT OF THEIR FACILITIES LOCATED IN THE PUBLIC RIGHTS OF WAY, SUCH RECORDS TO INCLUDE AS-BUILT DRAWINGS IF REQUESTED BY THE DIRECTOR. WITH RESPECT TO PRIVATE UTILITY, SANITATION, AND WATER COMPANIES WHOSE PRIMARY FUNCTION IS TO PROVIDE WATER FOR CONSUMPTION, AND WATER AND SANITATION DISTRICTS AND PUBLIC UTILITIES, SUCH PERMITTEES SHALL COMPILE AND MAINTAIN ACCURATE RECORDS OF THE EXTENT OF THEIR FACILITIES LOCATED IN THE PUBLIC RIGHTS OF WAY AND PROVIDE THEM TO THE CITY UPON REQUEST. STATE AGENCIES CONSTRUCTING FACILITIES IN PUBLIC RIGHTS-OF-WAY SHALL MAINTAIN RECORDS OF THE EXTENT OF SUCH FACILITIES AND SHALL PROVIDE COPIES OF SUCH RECORDS TO THE CITY UPON REQUEST.

SECS. 21-64—21-100. - RESERVED.

ARTICLE III. - PERMITS FOR USE OF RIGHT-OF-WAY

SEC. 21-101. - GENERALLY.

PERMITS FOR TEMPORARY USE OF PUBLIC RIGHT-OF-WAY BY ABUTTING PROPERTY OWNERS MAY BE ISSUED WHEN SUCH USE IS BENEFICIAL TO BOTH THE APPLICANT AND THE CITY. SUCH PERMITS SHALL BE ISSUED ONLY UPON A FINDING BY THE DIRECTOR OF PUBLIC WORKS THAT:

- (1) THE DESIRED RESULTS CANNOT BE ACHIEVED WITHOUT THE USE OF THE RIGHT-OF-WAY;
- (2) WHEN THE DESIRED RESULTS CAN BE ACHIEVED WITH NO IMPEDIMENT OR IMPAIRMENT TO PUBLIC USE OF THE RIGHT-OF-WAY; AND

- (3) WHEN THE DESIRED RESULTS CAN BE ACHIEVED WITH NO DANGER TO THE PUBLIC BEING CREATED THEREBY.

THE DIRECTOR OF PUBLIC WORKS SHALL HAVE SOLE AUTHORITY IN DETERMINING WHETHER THE CONDITIONS PREVIOUSLY STATED IN THIS PARAGRAPH HAVE BEEN MET.

SEC. 21-102. - TERM OF RIGHT-OF-WAY USE PERMITS.

THE TERM OF THE PERMIT PROVIDED FOR BY THIS ARTICLE SHALL BE NO LONGER THAN FIVE (5) YEARS FROM THE DATE OF ISSUANCE, UNLESS THE PERMIT IS TO BE RECORDED AS PROVIDED BY SECTION 21-107(D), IN WHICH CASE THE TERM MAY BE OF ANY LENGTH OR INDEFINITE. THE DIRECTOR OF PUBLIC WORKS SHALL DETERMINE THE APPROPRIATE TERM AND ISSUE THE PERMIT ACCORDINGLY. ISSUANCE OF ANY PERMIT SHALL NOT PRECLUDE THE CITY FROM TERMINATING SAID PERMIT AT ANY TIME, WITHOUT LIABILITY TO THE CITY, PURSUANT TO THE PROVISIONS OF SECTION 21-104 OF THIS CODE AND CHARTER SECTION 15.9.

SEC. 21-103. - RENEWAL.

PERMITS ISSUED UNDER THE PROVISIONS OF THIS ARTICLE MAY BE RENEWED IF THE ORIGINAL CONDITIONS TO THE ISSUANCE ARE STILL IN EXISTENCE AND THE CITY'S INTEREST CONTINUES TO BE SERVED.

SEC. 21-104. - TERMINATION.

ANY PERMIT ISSUED UNDER THIS ARTICLE MAY BE TERMINATED UPON NINETY (90) DAYS' NOTICE FROM THE CITY. THE CITY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE PERMITTEE RESULTING FROM SUCH TERMINATION.

SEC. 21-105. - UTILITIES.

USE OF THE RIGHT-OF-WAY BY A UTILITY COMPANY OR SPECIAL DISTRICT SHALL BE CONSIDERED ONLY AS THOSE USES WHICH DO NOT PREEMPT THE CITY'S ABILITY TO UTILIZE THE RIGHT-OF-WAY IN THE CITY'S INTEREST. ALL SUCH USES SHALL BE SUBJECT TO SECTIONS 15.5 AND 15.9 OF THE HOME RULE CHARTER.

SEC. 21-106. - INDEMNIFICATION.

THE HOLDER OF ANY PERMIT ISSUED PURSUANT TO SECTION 21-101 SHALL EXECUTE AN INDEMNIFICATION AGREEMENT, IN FORM APPROVED BY THE CITY ATTORNEY, WHICH RELEASES AND DISCHARGES THE CITY, ITS EMPLOYEES, AGENTS AND ASSIGNS FROM ANY LIABILITY AND FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS, CAUSES OF ACTION, OR SUITS OF ANY KIND OR NATURE WHATSOEVER RELATED TO OR ARISING FROM PERMITTEE'S OCCUPATION OF THE PUBLIC RIGHT-OF-WAY. UNDER SUCH AGREEMENT, THE CITY MAY ELECT TO PROVIDE ITS OWN DEFENSE OR TO REQUIRE PERMITTEE TO PROVIDE SUCH SERVICES. THE PERMITTEE SHALL BE LIABLE FOR ALL COSTS AND FEES RELATED TO THE DEFENSE, REGARDLESS OF WHICH PARTY PROVIDES THE SERVICES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, FAILURE TO

EXECUTE AN INDEMNIFICATION AGREEMENT AS REQUIRED BY THIS SECTION SHALL CONSTITUTE GROUNDS FOR REFUSAL TO GRANT, OR, IN THE CASE OF ISSUED PERMITS, IMMEDIATE TERMINATION OF A PERMIT.

SEC. 21-107. - INSURANCE REQUIREMENTS.

- (a) NO PERMIT SHALL BE ISSUED OR REMAIN IN EFFECT UNLESS THE PERMITTEE OBTAINS AND MAINTAINS IN FORCE AND ON FILE WITH THE PUBLIC WORKS DEPARTMENT, SUFFICIENT EVIDENCE OF A GENERAL LIABILITY POLICY COVERING INJURY TO OR DESTRUCTION OF PROPERTY AND BODILY INJURY, INCLUDING DEATH, TO AT LEAST THE LIABILITY LIMITS ESTABLISHED BY C.R.S. § 24-10-114, AND AS HEREAFTER MAY BE AMENDED.
- (b) REQUIRED COVERAGE MAY BE EVIDENCED BY ENDORSEMENT, WITH THE CITY NAMED AS AN ADDITIONAL INSURED, AND PROVIDING FOR THIRTY (30) DAYS' NOTICE TO THE DIRECTOR OF PUBLIC WORKS OR HIS DESIGNEE IN THE EVENT OF ANY MATERIAL CHANGE IN OR CANCELLATION OF THE COVERAGE.
- (c) THE PERMITTEE MUST PROVIDE PROOF OF THE INSURANCE COVERAGES REQUIRED BY THIS SECTION ON AN ANNUAL BASIS AND AT SUCH OTHER TIMES AS REASONABLY REQUESTED BY THE DIRECTOR OF PUBLIC WORKS OR HIS DESIGNEE.
- (d) THE REQUIREMENTS OF THIS SECTION MAY BE WAIVED BY THE DIRECTOR OF PUBLIC WORKS UPON THE CONDITION THAT THE PERMITTEE ADEQUATELY INDEMNIFY THE CITY AND THAT THE PERMIT ITSELF BE RECORDED IN THE REAL PROPERTY RECORDS OF THE JEFFERSON COUNTY CLERK & RECORDER.

SECS. 21-108—21-120. - RESERVED.

DIVISION 1. - GENERALLY

SEC. 21-121. - DEFINITION.

IN THIS ARTICLE "COURTESY BENCH" MEANS ANY BENCH OR SEAT THAT MAY OR MAY NOT CONTAIN ADVERTISING MATERIAL, WHICH IS LOCATED ON A PUBLIC RIGHT-OF-WAY OR PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY AND IS ADJACENT TO AN RTD SIGN DESIGNATING A BUS STOP.

SEC. 21-122. - EXEMPTIONS.

THE CITY AND THE REGIONAL TRANSPORTATION DISTRICT ARE HEREBY EXEMPT FROM APPLICATION OF THE PROVISIONS OF THIS ARTICLE.

SEC. 21-123. - CITY TO PERMIT LOCATION.

THE CITY MAY PERMIT ONE OR MORE PROVIDERS OF COURTESY BENCHES IN THE CITY. THE CITY MAY PROVIDE FOR INSTALLATION OF COURTESY BENCHES DIRECTLY BY THE CITY, BY CONTRACT, AGREEMENT OR OTHERWISE. ALL COURTESY BENCHES SHALL BE CONSTRUCTED AND INSTALLED IN COMPLIANCE WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT AND AS OTHERWISE PROVIDED IN THIS ARTICLE IV. IF INSTALLED BY CONTRACT OR AGREEMENT, THE TERMS OF SUCH CONTRACT OR AGREEMENT SHALL GOVERN THE PLACEMENT OF SUCH BENCHES; PROVIDED, HOWEVER, THAT ALL SUCH BENCHES SHALL COMPLY WITH THE LOCATION REQUIREMENTS DESCRIBED IN THIS ARTICLE IV. ANY CONTRACT OR AGREEMENT TO INSTALL COURTESY BENCHES CONTAINING ADVERTISING PURSUANT TO THIS SECTION MUST BE APPROVED BY AFFIRMATIVE VOTE OF THE CITY COUNCIL.

SEC. 21-124. - COURTESY BENCH LOCATION.

- (a) *ZONES IN WHICH ADVERTISING MATTER ON BENCHES PERMITTED.* BENCHES AT BUS STOPS WHICH DO NOT CONTAIN ANY ADVERTISING MATTER SHALL BE ALLOWED IN ALL ZONE DISTRICTS. BENCHES WITHOUT ADVERTISING SHALL NOT BE SUBJECT TO ASSESSMENT OF A PERMIT FEE, AND MAY HAVE A COURTESY PLAQUE, NO LARGER THAN FORTY-EIGHT (48) SQUARE INCHES, ANNOUNCING THE NAME OF THE PERSON, ORGANIZATION OR COMPANY RESPONSIBILITY FOR PLACEMENT OF THE COURTESY BENCH. BENCHES WHICH CONTAIN ADVERTISING MATTER SHALL BE PERMITTED, BY RIGHT ONLY IN THE FOLLOWING ZONE DISTRICTS:
- (1) COMMERCIAL (RC-1, R-C, C-1, C-2, PCD)
 - (2) INDUSTRIAL (PID)
 - (3) MULTIFAMILY (R-3, R-3A, PRD)
 - (4) HOSPITAL (H-1, H-2)
- (b) *BENCHES WITHOUT ADVERTISING.* THE CITY SPECIFICALLY FINDS THAT THE EXCLUSION OF BENCHES CONTAINING ADVERTISING FROM THE A-1, A-2, R-1, R-1A, R-1C, R-2 ZONE DISTRICTS WITHIN THE CITY IS NECESSARY TO PRESERVE THE AESTHETIC CHARACTER AND INTEGRITY OF THE PREDOMINATELY SINGLE FAMILY RESIDENTIAL HOMES AND NEIGHBORHOODS ESTABLISHED THEREIN.

SEC. 21-125. - RESERVED.

SEC. 21-126. - RESERVED.

SEC. 21-127. - RESERVED.

SEC. 21-128. - DIRECTOR OF PUBLIC WORKS AUTHORITY.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE DIRECTOR OF PUBLIC WORKS IS AUTHORIZED TO DECLARE ANY INDIVIDUAL

BUS STOP, GROUP OF STOPS OR OTHER DEFINED AREA AS AN AREA IN WHICH COURTESY BENCHES MAY NOT BE LOCATED.

Secs. 21-129—21-140. - Reserved.


Section 12. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 2. Effective Date. This Ordinance shall take effect immediately upon adoption, as permitted by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 27th day of April, 2020, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for May 11, 2020 at 7:00 p.m., as a virtual meeting.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 11th day of May, 2020.

SIGNED by the Mayor on this 11th day of May, 2020.



Bud Starker, Mayor

ATTEST:



Steve Kirkpatrick, City Clerk

Approved as to Form:



Gerald E. Dahl, City Attorney

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