

CHAPTER 11

Streets, Sidewalks and Public Property

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ARTICLE 1

Sidewalks

Sec. 11-1-10. Repair and maintenance.

The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property in good repair and in a safe, unobstructed condition, free of weeds and debris. (Ord. 1 §1, 2012)

Sec. 11-1-20. Snow and ice removal from sidewalks.

The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property, and shall remove and clear away, or cause to be removed or cleared away, snow and ice from sidewalks in all business districts within the Town by four (4) business hours after the cessation of any fall of snow, sleet or freezing rain or by the beginning hours of the next business day following such fall, whichever period is shorter, and from all other sidewalks in the Town within twenty-four (24) hours of the cessation of any fall of snow, sleet or freezing rain. (Ord. 1 §1, 2012)

ARTICLE 2

Newly Paved and Constructed Streets

Sec. 11-2-10. Definitions.

For purposes of this Article, *excavation* means digging into, moving, or otherwise penetrating any part of a paved right-of-way. (Ord. 2 §1, 2004; Ord. 1 §1, 2012)

Sec. 11-2-20. Prohibition regarding excavation.

For newly paved and constructed streets, no excavation in the pavement shall be permitted within two (2) years of the completion of the repaving or construction except as set forth in this Section, or in the case of an emergency that in the discretion of the Town required immediate excavation to protect the health, safety and welfare of the citizens of the Town. (Ord. 2 §1, 2004; Ord. 1 §1, 2012)

Sec. 11-2-30. Exemption.

In rare circumstances, the Town may grant an exemption from this Article in accordance with the following procedures.

(1) An application for exemption shall be in writing on a form acceptable to the Town and shall contain at a minimum the following information.

a. A detailed an dimensional engineering plan that identified 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 any type of facility to be installed at the proposed excavation.

c. A statement as to how any of the criteria set forth in this Section applies to the proposed work.

(2) Criteria for approval. In determining whether an exemption should be granted, the Town shall at a minimum 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 reasonable be delayed until after the two-year period has elapsed.

c. Whether duct, conduit or other facilities are reasonable 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. (Ord. 2 §1, 2004; Ord. 1 §1, 2012)

Sec. 11-2-40. Penalty.

Violations of this Article shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00). The Town further reserves the right to seek restitution for any actual pecuniary damages arising from a violation of this Article. However, nothing in this Article shall be construed to impair any common law or statutory cause of action, or legal or equitable remedy therefrom, including injunctive relief, or any person for injury or damage arising from any violation of this Article from other law. (Ord. 2 §1, 2004; Ord. 1 §1, 2012)

ARTICLE 3

Excavations

Sec. 11-3-10. Standards, regulations and specifications.

The Public Works Department, in consultation with the Town Administrator and the Public Works Director, shall develop standards, regulations and specifications governing access, utilization and restoration of all streets, alleys and rights-of-way within the corporate limits of the Town, which standards, regulations and specifications shall not constitute a barrier to the use and excavation of Town facilities, but shall preserve the integrity of the facilities at the least possible cost to Town taxpayers. (Ord. 1 §1, 2012)

Sec. 11-3-20. Penalties.

Any person convicted of violating the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 1 §1, 2012)

ARTICLE 4

Access, Approaches, Driveways, Mailboxes and Right-of-Way Permits

Sec. 11-4-10. Purpose.

The Town's streets and right-of-ways are held by the Town primarily for the purpose of pedestrian, bicycle, equestrian and vehicular passage, for the provision of essential public safety services, including police, fire and emergency medical response services, the provision of utilities and public health services, including municipal water service and storm drainage and consistent with and pursuant to the power vested in the Town by Section 31-15-702, C.R.S. The provisions of this Section shall apply to all properties and public streets. The purpose of this Section is:

- (1) To provide clear visibility, unobstructed by structures or vegetation in sight triangles at intersections.
- (2) To provide clear visibility and safe passage, unobstructed by structures or vegetation, for citizens traveling along the streets and right-of-ways within the Town.
- (3) To provide for open, unobstructed roadsides and ditches.
- (4) To preserve opportunities to construct planned trails and other future trails.
- (5) To prevent damage to streets and paved surfaces.
- (6) To provide further guidance for what citizens may do on Town property.
- (7) To promote the health, safety and welfare of the public and to prevent the creation of nuisances. (Ord. 1 §1, 2012)

Sec. 11-4-20. Permit required.

(a) A right-of-way use permit shall be required for the construction, installation and maintenance of any street, sidewalk, driveway, curb cut, bore or trench. A permit is also required for any substantial modification of existing features or uses of any street or Town right-of-way. Depending upon the type of work to be done, one (1) or more of the following permits may be required:

- (1) Public right-of-way license, in accordance with Section 11-4-30 below; or
- (2) Public right-of-way use permit, in accordance with Article 5 of this Chapter; or
- (3) Overlot grading permit. Application for such permits shall be submitted to the office of the Town Clerk.

(b) It shall be unlawful and deemed a violation of this Chapter to commence construction in or alteration of streets or Town rights-of-way without an approved permit, and any such violation shall be subject to the penalties set forth in Section 11-2-40 of this Chapter. (Ord. 1 §1, 2012)

Sec. 11-4-30. Right-of-way license.

(a) The Town may grant a right-of-way license to an adjoining property owner to allow a structure in the Town right-of-way that would otherwise have been prohibited by this Section. Right-of-way licenses are granted at the discretion of the Town and may be revoked at any time; concurrently the Town may also require removal of the structure. Application for such license may be submitted to the office of the Town Clerk. The Revocable License Agreement can be found in Appendix 11-B to this Chapter.

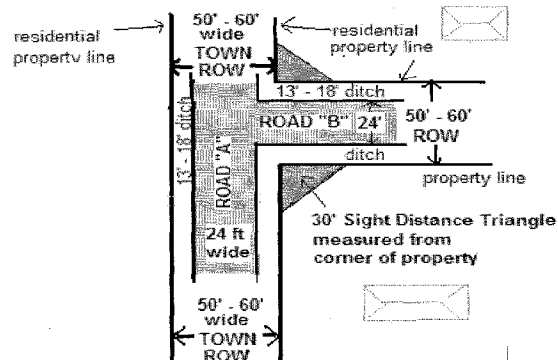
(b) In general, construction in the Town right-of-way is discouraged; however, a right-of-way license may be granted for structures based upon consideration of the following conditions:

- (1) The structure would break away easily if struck by a vehicle.
- (2) The structure does not obstruct the vision of drivers or pedestrians.
- (3) The structure does not obstruct any existing or anticipated future equestrian, pedestrian or bicycle trails or paths.
- (4) The property owner adjoining the Town right-of-way where the structure is located agrees to provide adequate liability insurance for said structure for as long as said structure is located in the Town right-of-way and agrees to execute the Revocable License Agreement.
- (5) The property owner adjoining the Town right-of-way agrees to indemnify the Town against all liability or claims related to the structure. (Ord. 1 §1, 2012)

Sec. 11-4-40. Town right-of-way.

(a) Defined. The Town owns in fee simple the Town rights-of-way. Most Town rights-of-way are platted sixty (60) feet wide, although some are fifty (50) feet wide. The width of the paved

street surface within the Town right-of-way is generally twenty-four (24) feet. It is important to note that property lines do not extend to the edge of the street pavement. The Town right-of-way includes the twenty-four-foot-wide paved surface and approximately an additional thirteen (13) to eighteen (18) feet of land on each side of the paved surface (see Figure 11-1). Not all paved surfaces are centered within the Town right-of-way. It is the resident's obligation to check the survey of the property and property boundary markers to determine correct property boundary lines.



**Figure 11-1
Right-of-Way**

(b) The following are allowed in the Town right-of-way:

- (1) Roadside mailboxes in accordance with Section 11-4-50(a) below.
- (2) Custom mailboxes in accordance with Section 11-4-50(b) below.
- (3) Driveways and culverts with an approved public right-of-way use permit.
- (4) Signs in accordance with Section 16-3-100 of this Code.
- (5) Structures erected by a governmental agency or public utility.
- (6) Structures for which the Town has granted a right-of-way license.
- (7) Native grass.

(8) Landscaping that does not obstruct sightlines for vehicular or pedestrian traffic, stone, rock, mulch, brick and railroad ties, may be used adjacent to a driveway to protect a culvert or driveway edge, provided that such use:

- a. Is located within ten (10) feet of either end of a Town approved driveway culvert;
- b. Does not exceed the elevation of the adjoining street; and
- c. Does not alter or impede drainage in a culvert or ditch.

(c) The following are prohibited in the Town right-of-way. The following are prohibited in the Town right-of-way; however, the Town may consider a right-of-way use application (Article 5 of

this Chapter) or right-of-way license applications (Section 11-4-20) for structures or activities that would otherwise have been prohibited by this Section. In no case shall the following be permitted without an approved permit or right-of-way license:

(1) Landscaping, including stone, rock, mulch, brick and railroad ties, except to protect a culvert or driveway edge, unless such use: 1) is located within ten (10) feet of either end of a Town-approved driveway culvert; 2) does not exceed the elevation of the adjoining street; and 3) does not alter or impede drainage in a culvert or ditch. Otherwise, only native grass is permitted in the Town rights-of-way along roadsides.

(2) Monuments or entry features.

(3) Custom mailboxes, except in accordance with Section 11-4-50(b).

(4) Fences or walls.

(5) Storage of vehicles, equipment or materials.

(6) Use of street as staging area for construction material or equipment.

(7) Routine parking of vehicles.

(8) Excavation.

(9) Fill.

(10) Altering or impeding drainage.

(11) Cutting of curbs or street pavement.

(12) Any alteration of the Town right-of-way that would impact a planned trail as defined in the Comprehensive Plan as amended from time to time.

(13) Installation, alteration or construction of any structure, other than a structure permitted by this Code.

(14) Removal or alteration of any structure erected by the Town or other governmental agency or public utility. (Ord. 1 §1, 2012)

Sec. 11-4-50. Residential mailboxes.

(a) Roadside mailbox requirements.

(1) Roadside mailboxes shall consist of a mail receptacle meeting the specifications of the United States Postal Service ("USPS").

(2) Roadside mailboxes shall be mounted on a breakaway support of adequate strength and size to properly support the box. The use of heavy metal posts, concrete posts and miscellaneous items of farm equipment, such as milk cans filled with concrete, are prohibited.

The support should be an assembly which, if struck, will bend or fall away from the striking vehicle instead of severely damaging the vehicle and injuring its occupants. A support for a mailbox shall be no larger than a 4" x 4" wood post or a metal post with strength no greater than a two-inch diameter schedule 40 steel pipe and which is buried no more than twenty-four (24) inches deep. A metal post shall not be fitted with an anchor plate; however, an anti-twist attachment is acceptable. Breakaway supports shall not be set in concrete.

(3) The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.

(4) The bottom of a roadside mailbox shall be forty (40) to forty-eight (48) inches above the mail stop surface or as defined by USPS installation requirements.

(5) The face of a roadside mailbox shall be offset behind the edge of pavement or curb a distance of eight (8) to twelve (12) inches or as defined by USPS installation requirements.

(6) The adjoining property owner shall be responsible for the maintenance of the roadside mailbox.

(b) Custom mailbox requirements.

(1) A custom mailbox constructed using materials that do not meet the standards for a roadside mailbox and breakaway support as defined in Subsection (a) above may be installed only if: 1) a permit application for a custom mailbox is submitted to the Town; 2) the application is approved by both the Board of Trustees and the Town Engineer; and 3) a revocable license agreement has been issued.

(2) A custom mailbox must conform to the following requirements and any additional rules set forth in the application approval:

a. The structure supporting the custom mailbox shall be at least twelve (12) inches from the back of curb or edge of pavement.

b. The entire custom mailbox structure shall not exceed the dimensions of two (2) feet in width, two (2) feet in depth and five (5) feet in height and shall be hollow.

c. The custom mailbox structure shall be located on a thick concrete pad measuring two and one-half (2½) feet wide by two and one-half (2½) feet deep by four (4) inches thick. (2'6" wide x 2'6" deep x 4" thick concrete pad.) The custom mailbox structure shall not be permanently affixed to the concrete pad so that it shall yield, break away or slide off its base if struck by a vehicle.

d. The adjoining property owner shall be responsible for the maintenance of the custom mailbox. (Ord. 1 §1, 2012)

Sec. 11-4-60. Safety requirements.

No street, sidewalk, driveway, curb cut, bore or trench shall be constructed or maintained which creates a threat to the safety of persons or vehicles in the vicinity of the street, driveway or

curb cut. No permit for the construction of a street, driveway or curb cut shall be issued unless the Town Engineer determines that the proposed street, driveway or curb cut will not create a threat to the safety of persons or vehicles in the vicinity of the proposed street, driveway or curb cut. In making this determination, the Town Engineer shall consider the following factors:

- (1) Whether the street to which access is sought is residential or commercial in character.
- (2) Whether the proposed street, driveway or curb cut would cross a sidewalk/trail.
- (3) Whether drivers of vehicles using the proposed street, driveway or curb cut would have difficulty in seeing pedestrians or other vehicles in the vicinity.
- (4) Whether pedestrians or the drivers of other vehicles would have difficulty in seeing vehicles using the proposed street, driveway or curb cut.
- (5) Whether the proposed street, driveway or curb cut would result in increased noise, dirt, smoke or fumes in the vicinity of the proposed street, driveway or curb cut.
- (6) Whether the property for which a street, driveway or curb cut is proposed is already served by an existing street, driveway or curb cut.
- (7) Whether parking is permitted on the street to which access is proposed.
- (8) The width of the street to which access is sought.
- (9) The posted speed limit on the street to which access is sought.
- (10) The distance of the proposed street, driveway or curb cut from the curb line, or edge of asphalt where curb does not exist, of the nearest street, which intersects the street to which access is proposed.
- (11) The proximity of the proposed street, driveway or curb cut to residential neighborhoods and schools. (Ord. 1 §1, 2012)

Sec.11-4-70. Construction specifications; location of access points.

(a) A residential property with less than one hundred fifty (150) feet of frontage shall be limited to one (1) access point. Residential properties with more than one hundred fifty (150) feet can have additional access points where there is sufficient frontage to provide for minimum and maximum requirements. In the event a property has more than one (1) access point, the primary use driveway shall be established by use as the access point to the primary garage. This primary use driveway may have a maximum of two (2) access points to the public right-of-way when meeting the minimum requirements for lot frontage and separation distances. All other access points shall be designated as secondary use access and shall not affect the spacing requirements for the adjoining property or properties across the street.

(b) In business and commercial areas, no street or curb cut shall be closer than fifteen (15) feet to a property line of an adjacent property except where there is shared access with the adjacent property. (Ord. 1 §1, 2012)

Sec. 11-4-80. Residential driveways and culverts.

(a) All new or replacement driveways and culverts and temporary construction driveways require review by the Town Engineer and approval of a public right-of-way use permit in accordance with the Town of Foxfield Basic Principles for Single-Family Residential Driveways.

(b) The minimum separation distance between any two (2) residential driveways, either on the same side of the street or on opposite sides of a street, should be thirty-five (35) feet where possible.

(c) The width of a residential driveway within the Town right-of-way shall be a minimum of twelve (12) feet to a maximum of twenty-two (22) feet (or twenty-four [24] feet with flares).

(d) The minimum separation distance required between a residential driveway and a major arterial street, such as Arapahoe or Parker Road, is two hundred ten (210) feet.

(e) The minimum separation distance required between a residential driveway and a residential street intersection is fifty (50) feet.

(f) An eighteen-inch diameter culvert or equivalent, to be determined by the Town Engineer, in line with the roadside ditch centerline, shall be required for all residential driveways where roadside ditches drain across a residential driveway location.

(g) It is prohibited to place irrigation lines, electrical lines, cables or other features inside culverts.

(h) Construction entrances on residential lots shall have the same requirements as a residential driveway. (Ord. 1 §1, 2012)

Sec. 11-4-90. Construction adjacent to rights-of-ways.

To prevent encroachment, the Town may require a stamped or sealed improvement location certificate or a stamped or sealed survey from a professional licensed surveyor prior to construction of any structure, fence, monument or landscaping feature proposed to be located on private property adjacent to an easement or Town right-of-way. (Ord. 1 §1, 2012)

Sec. 11-4-100. Drainage.

The construction of streets, driveways and curb cuts shall be accomplished so as not to cause water to enter onto the traveled portion of the street and so as not to interfere with the drainage system of the street right-of-way. (Ord. 1 §1, 2012)

Sec. 11-4-110. General provisions.

(a) Any structure constructed in the Town right-of-way before the effective date of this Chapter will be required to comply with the provisions set forth herein.

(b) The Town shall have the authority pursuant to this Chapter and Section 31-15-702, C.R.S., to order the repair, alteration or removal of any structure, vegetation or landscaping feature

located in a street or right-of-way that constitutes a hazard to life or property, is a nuisance or does not comply with the requirements of this Section.

(c) The Town shall have the authority to order the repair, alteration or removal of any structure located in a sight triangle, as defined in Subsection 16-3-30(a), that constitutes a hazard to life or property or that does not comply with the requirements of this Section.

(d) No provision of this Chapter shall be construed to impair any common law or statutory cause of action or legal or equitable remedy therefrom, including injunctive relief, of any person for injury or damage arising from any violation of this Chapter or from other law. (Ord. 1 §1, 2012)

Sec. 11-4-120. Inspection.

The Town Engineer shall be responsible for the inspection, monitoring and final acceptance of the construction of all streets, driveways and curb cuts in accordance with the access permits issued by the Town Engineer. (Ord. 1 §1, 2012)

ARTICLE 5

Work Permits in the Public Right-of-Way

Sec. 11-5-10. Purpose and objectives.

(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 or upon any public right-of-way and to protect the integrity of the Town's street system.

(b) Objectives. Public and private uses of public rights-of-way should, in the interests of the general welfare, be accommodated; however, the Town 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 has several objectives:

- (1) To minimize public inconvenience.
- (2) To protect the Town's infrastructure investment by establishing repair standards for the public rights-of-way.
- (3) To standardize regulations and thereby facilitate work within the rights-of-way.
- (4) To maintain an efficient permit process.
- (5) To conserve and fairly apportion the limited physical capacity of public rights-of-way held in public trust by the Town.
- (6) To establish a public policy for enabling the Town to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

(7) To promote cooperation among permittees and the Town 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 Town's costs of providing services to the public; and minimize street cuts.

(8) To protect the public health, safety and welfare. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-20. Definitions.

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

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

Construction and Excavation Standards means the document entitled Town of Foxfield Construction and Excavation Standards for Public Rights-of-Way, as adopted by resolution of the Board of Trustees and amended from time to time, attached as Appendix 11-A to this Chapter.

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 and/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 Town and being legally responsible to the Town 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, plugged or leaking sewer or storm drain conduit systems, 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, street light, 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.

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

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

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

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

Public right-of-way means any public street, way, place, alley, trail, sidewalk, easement, park, square or plaza that is dedicated to public use and under the jurisdiction and/or control of the Town.

Work means any labor performed within a public right-of-way and/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, street lights 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 which does not involve excavation, installation of new facilities, lane closures, sidewalk closures or damage to any portion of the public right-of-way. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-30. Police power.

(a) A permittee's rights hereunder shall at all times be subject to the police power of the Town, which includes the power to adopt and enforce ordinances, including amendments to this Article, necessary for the safety, health and welfare of the public.

(b) The Town reserves the right to exercise its police power, notwithstanding anything in this Article or any permit to the contrary. Any conflict between the provisions of any permit and any other present or future lawful exercise of the Town's police power shall be resolved in favor of the latter. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-40. Permit required.

(a) No person except an employee or official of the Town or a person exempted by contract with the Town shall undertake or permit to be undertaken any work in a public right-of-way without first obtaining a permit from the Town as set forth in this Article. 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 Town.

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

(c) Permits shall not be transferable or assignable without the prior written approval of the Town.

(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 performed pursuant to Section 11-5-230. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-50. Developer ownership of infrastructure.

In the Town, the construction of infrastructure in new developments is the responsibility of the developer. Once a public right-of-way has been dedicated to the Town, all work in that public right-of-way, including the installation of new infrastructure by a developer, shall be subject to this Article. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-60. Permit application.

(a) An applicant for a public right-of-way permit shall file a written application on a form furnished by the Town which includes the following information:

(1) The date of the 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 and proposed hours of work and the number of actual work days required to complete the project; and

(7) The applicable permit fees as set forth in the Construction and Excavation Standards.

(b) For any work in the public right-of-way which includes excavation, in addition to the information required by Subsection (a), 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; and

(2) Copies of all permits and licenses (including required insurance, deposits, bonds and warranties) required to do the proposed work, whether required by federal or state law or Town resolution, ordinance or regulation.

(c) An applicant for a public right-of-way permit for a major installation shall, in addition to the information required by Subsections (a) and (b), submit the following information:

(1) Locates of all existing facilities located within seven (7) feet of the proposed facility, which shall be compiled and submitted according to the Construction and Excavation Standards and Section 11-5-160; and

(2) Engineering construction drawings or site plans for the proposed work.

(d) An applicant shall update a permit application within ten (10) days after any material change occurs.

(e) 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.

(f) In all cases, the applicant for a public right-of-way permit and the eventual permittee shall be the owner of the facilities to be installed, maintained or repaired, rather than the contractor performing the work.

(g) By signing an application, the applicant is certifying to the Town that the applicant is in compliance with all other permits issued by the Town and that the applicant is not delinquent in any payment due to the Town 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 Town are negotiating in good faith to resolve the dispute. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-70. Town review and approval.

(a) An application for a public right-of-way permit shall be reviewed by the Town for completeness within five (5) working days of submission. If the application is not complete, the Town shall notify the applicant of all missing information within the five-day time period.

(b) Once an application is deemed complete by the Town, the Town shall review the application to determine whether the application complies with this Article and the Construction and Excavation Standards. The time for such review shall be as follows:

(1) For a public right-of-way permit which does not include excavation, within five (5) working days.

(2) For a public right-of-way permit which includes excavation but is not a major installation, within fifteen (15) working days.

(3) For a public right-of-way permit for a major installation, within twenty (20) working days.

(c) At the conclusion of the review period, the Town shall approve the permit, approve the permit with conditions or deny the permit. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-80. Permit fees.

Before a public right-of-way permit is issued, the applicant shall pay to the Town 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 rights-of-way permits, verifying rights-of-way occupation, mapping rights-of-way occupation, inspecting work, administering this Article and, if applicable, costs relating to restoration of the public right-of-way to remedy degradation of that public right-of-way caused by permittees.

(1) No restoration fees shall be required for a public right-of-way permit which does not include excavation.

(2) Restoration fees collected by the Town shall be placed in a separate account for general street maintenance and construction.

(3) Restoration fees may be waived at the Town's discretion when additional circumstances exist which would make restoration unnecessary, such as poor street quality and/or proposed street resurfacing or construction by the Town. These circumstances are outlined in more detail in the Construction and Excavation Standards. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-90. Insurance.

(a) Unless otherwise specified in a franchise agreement between a permittee and the Town, 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 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 Town proof of such insurance coverage in a form satisfactory to the Town.

(c) Upon prior written approval of the Town, a permittee may provide self-insurance with the minimum coverage limits set forth in Subsection (a). (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-100. Indemnification.

(a) Each permittee, for itself and its related entities, agents, employees, subcontractors and the agents and employees of said subcontractors, shall hold the Town harmless and defend and indemnify the Town, 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 Town for all its reasonable expenses, as incurred, arising out of any work or activity in the public right-of-way, including but not limited to the actions 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 Article or other applicable law. A permittee shall not be obligated to hold harmless or indemnify the Town for claims or demands to the extent that they are due to the negligence or willful and wanton acts of the Town 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 Town 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 Town and the Town elects to defend itself with regard to such matters, the permittee shall pay all expenses incurred by the Town 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 Town, the conflicting provision of this Section shall not apply to the franchisee and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-110. Performance bonds and letters of credit.

(a) Before a public right-of-way permit is issued, the applicant shall file with the Town a bond or letter of credit, at the applicant's choice, in favor of the Town in an amount equal to the total cost of construction, including labor and materials but excluding the cost of any facilities being installed, or twenty thousand dollars (\$20,000.00), whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one (1) surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of Town ordinances, resolutions and regulations and upon payment of all judgments and costs rendered against the applicant for any violation of any Town resolution, regulation or ordinance 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 Town may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary.

(c) The bond or letter of credit shall be approved by the Town prior to the issuance of the permit. The Town may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets located in the state to satisfy any claims intended to be protected against by the security required by this Section.

(d) A letter of responsibility, in a form acceptable to the Town, shall be accepted in lieu of a performance bond or letter of credit from all special districts operating within the Town.

(e) A blanket bond of sufficient amount to cover all proposed work during the upcoming year may be filed with the Town on an annual basis in lieu of the project-specific performance bonds or letters of credit required by Subsection (a). The form and amount of the blanket bond shall be subject to the prior review and approval of the Town. Should the blanket bond be deemed insufficient by the Town at any time, the Town may require additional, project-specific performance bonds or letters of credit pursuant to Subsection (a).

(f) The performance bond, blanket bond, 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 Town, the conflicting provision of this Section shall not apply to the franchisee and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-120. Warranty.

(a) A permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the Town, warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance and agrees to maintain upon demand and to make all necessary repairs during the two-year period. This warranty shall include all repairs and actions needed as a result of defects in workmanship, including settling of fills or excavations.

(b) The warranty period shall begin on the date of the Town'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.

(c) At any time prior to completion of the warranty period, the Town 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 Town to be an imminent danger to the public health, safety and welfare. Non-emergency repairs shall be completed within thirty (30) days after notice.

(d) 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 Town. If a portion of work warranted by a permittee is subsequently impacted by work of another permittee or the Town during the warranty period, the other permittee or the Town, as applicable, shall assume responsibility for repair to the subsequently impacted portion of the public right-of-way. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-130. Inspections.

(a) The following three (3) inspections shall take place, at a minimum:

(1) Pre-construction inspection. The permittee shall request that the Town conduct a pre-construction inspection, to determine any necessary conditions for the permit.

(2) Completed work inspection. The permittee shall notify the Town immediately after completion of work. The Town shall inspect the work within twenty-one (21) days of the permittee's notification. Probationary acceptance shall be made if all work meets all standards set forth in this Article and any other applicable Town regulation, ordinance or resolution. Written notice of probationary acceptance shall be delivered to the permittee in person, via e-mail or sent to the permittee's last known address by first-class mail, postage prepaid.

(3) Warranty inspection. Approximately thirty (30) days prior to the expiration of the two-year warranty period, the Town shall conduct a final inspection of the work. If the work is still satisfactory, the bond or letter of credit shall be returned or allowed to expire, with a letter of final acceptance, less any amounts needed to complete work not completed by the permittee.

(b) Upon review of the application for a permit, the Town shall determine how many additional inspections, if any, may be required. The total number of required inspections shall be listed on the permit. For a permit which does not include excavation, the Town may waive any or all of the above-listed inspections. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-140. Time of completion.

(a) All work covered by the permit shall be completed by the date stated on the application, unless an extension has been granted by the Town in writing, in which case all work shall be completed by the date stated in the written extension.

(b) Permits shall be void if work has not commenced within thirty (30) days after issuance, unless an extension has been granted by the Town in writing. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-150. Joint planning and construction.

(a) Permittees shall make reasonable efforts to attend and participate in meetings of the Town, of which the permittee is notified, regarding public right-of-way issues that may impact its facilities, including planning meetings to anticipate joint trenching and boring.

(b) Each permittee owning, operating or installing facilities in public rights-of-way shall meet annually with the Town, at the Town's request, to discuss the permittee's planned major excavations in the Town. As used in this Subsection, the term *planned major excavations* means any future excavations planned by the permittee that will affect any public right-of-way for more than five (5) days, provided that the permittee shall not be required to identify future major excavations planned to occur more than three (3) years after the date that the permittee's planned major excavations are discussed. Between the annual meetings to discuss planned major excavations, the permittee shall use its best efforts to inform the Town of any substantial changes in the planned major excavations discussed at the annual meeting.

(c) Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, a permittee shall meet and cooperate with other providers, licensees, permittees and franchisees so as to reduce so far as possible the number of street cuts within the Town and the amount of pedestrian and

vehicular traffic that is obstructed or impeded. Should two (2) permittees refuse to joint trench or share bores or street cuts, the Town may require each permittee to submit written evidence detailing why such sharing would be impossible or impractical. Should the permittee fail to provide evidence satisfactory to the Town, the Town may deny a permit application on that basis. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-160. Locate information.

(a) Any person owning facilities in the public right-of-way shall provide field locate information to the Town and any other permittee with a valid 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 Town 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) In locating facilities in the public right-of-way, a permittee shall compile all information obtained regarding its facilities or any other known facilities in the public right-of-way related to a particular permit.

(c) For major installations, a permittee shall obtain a public right-of-way permit for the location of all parallel facilities within seven (7) feet of the permittee's proposed facility alignment. The location of parallel facilities shall be field-verified in a manner approved by the Town. The location of other existing facilities which may affect the proposed facility alignment shall also be field-verified in a manner approved by the Town.

(d) 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. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-170. Minimal interference with other property.

(a) Work in the public right-of-way or on or near other public or private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Facilities shall be constructed and maintained in such manner as not to interfere with sewers, water pipes or any Town property, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the public rights-of-way by the Town or its authority.

(b) Facilities shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the Town may deem proper.

(c) Facilities shall not unnecessarily hinder or obstruct the free use of the public rights-of-way or other public property, shall not interfere with the travel and use of the public rights-of-way by the public during the construction, repair, operation or removal thereof and shall not obstruct or impede traffic. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-180. Underground construction and use of poles.

(a) When required by Town ordinance, resolution or regulation or applicable state or federal law and in locations where all existing facilities are located underground, all of a permittee's facilities shall be installed underground at no cost to the Town.

(b) In areas where existing facilities are above ground, the permittee may install aboveground facilities.

(c) For aboveground facilities, a permittee shall use existing poles wherever possible. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-190. Use of trenches and bores by Town.

Should the Town desire to place its own facilities in trenches or bores opened by a permittee, the permittee shall cooperate with the Town in any construction by the permittee that involves trenching or boring, provided that the Town has first notified the permittee in writing that it is interested in sharing the trenches or bores in the area where the permittee's construction is occurring. The permittee shall allow the Town to place its facilities in the permittee's trenches and bores, provided that: the Town incurs any incremental increase in cost of the trenching and boring; the Town's installation does not unreasonably delay the permittee's work; and the Town's facilities are used solely for noncommercial, Town purposes. The Town shall be responsible for maintaining its respective facilities buried in the permittee's trenches and bores. If requested by the permittee, the Town shall have separate access structures and shall not use the permittee's access structures. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-200. Construction and excavation standards.

(a) Each permittee shall comply with the Construction and Excavation Standards for all work in the public right-of-way, including the location of the work and facilities within the public right-of-way.

(b) Except as otherwise provided in this Article, the permittee shall be fully responsible for the cost and actual performance of all of its work in the public rights-of-way.

(c) All restoration shall result in a work site condition equal to or better than that which existed prior to the work. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-210. Relocation of facilities.

(a) If at any time the Town requests a permittee to relocate its facilities in order to allow the Town 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 public rights-of-way, or by reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement the Town or other public agency or special district and any general program for the undergrounding of such facilities, to relocate facilities within or adjacent to public rights-of-way in any manner, either temporarily or permanently, the Town shall notify the affected permittee, at least ninety (90) days in advance, except in the case of

emergencies, of the Town's intention to perform or have such work performed. The permittee shall thereupon, at no cost to the Town, accomplish the necessary relocation 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 Town has notified the permittee that it intends to commence its work or immediately in the case of emergencies.

(b) Should the permittee fail to perform the relocation, the Town may perform such relocation at the permittee's expense and the permittee shall reimburse the Town as provided in Section 11-5-240.

(c) Following relocation, the permittee shall, at the permittee's own expense, restore all affected property to, at a minimum, the condition which existed prior to the work. A permittee may request additional time to complete a relocation project and the Town may grant an extension if, in its sole discretion, the extension will not adversely affect the Town's project or the public use of the affected public rights-of-way. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-220. Abandonment and removal of facilities.

(a) Notification. A permittee that intends to discontinue use of any facility within the public right-of-way shall notify the Town in writing of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than fifteen (15) days from the date such notice is submitted to the Town, and the method of removal and restoration.

(b) The permittee may not remove, destroy or permanently disable any such facilities during said fifteen-day period without written approval of the Town. After fifteen (15) days from the date of such notice, the permittee shall remove and dispose of such facilities as set forth in the notice, as the same may be modified by the Town and shall complete such removal and disposal within one hundred eighty (180) days, unless additional time is requested from and approved by the Town.

(c) Abandonment of facilities in place. Upon prior written approval of the Town, a permittee may either:

(1) Abandon the facilities in place and immediately convey full title and ownership of such abandoned facilities to the Town. The only consideration for the conveyance shall be the Town's permission to abandon the facilities in place. The permittee shall be responsible for all obligations and liabilities until the conveyance to the Town is completed.

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

(d) If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the permittee and the Town, the conflicting provision of this Section shall not apply to the franchisee and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-230. Emergency procedures.

(a) Any person maintaining facilities in the public right-of-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 Town for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the Town Police Department and the South Metro Fire Rescue Authority.

(b) If any damage occurs to an underground facility or its protective covering, the contractor or permittee shall notify the facility's owner promptly. When the facility's owner receives a damage notice, the facility's owner shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any inflammable, toxic or corrosive gas or liquid or endangers life, health or property, the contractor responsible shall immediately notify the facility's owner and 911 and take immediate action to protect the public and nearby properties. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-240. Reimbursement of Town costs.

(a) The Town may make any repairs necessary to eliminate any safety hazard without notice to any permittee, at the responsible permittee's expense.

(b) For any work not performed by a permittee as directed but not constituting a safety hazard, the Town shall provide written notice to the permittee, ordering 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 Town may correct the work at the permittee's expense.

(c) Any work performed by the Town pursuant to this Section shall be billed to the permittee. 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 Town may, in addition to taking other collection remedies, seek reimbursement through the performance bond or letter of credit. Furthermore, the permittee may be barred from performing any work in the public right-of-way, and under no circumstances will the Town 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 Town) have been paid in full. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-250. Permit revocation and stop work orders.

(a) A public right-of-way permit may be revoked or suspended by the Town for any of the following:

(1) Violation of any condition of the permit or any provision of this Article or the Construction and Excavation Standards.

(2) Violation of any other Town ordinance or state law relating to the work.

(3) Existence of any condition or performance of any act which, in the Town's determination, constitutes or causes a condition endangering life or property.

(b) Stop work orders. A stop work order may be issued by the Town to any person performing or causing any work to be performed in the public right-of-way for:

(1) Performing work without a permit except for routine maintenance or emergency repairs to existing facilities as provided for in this Article.

(2) Performing work in violation of any provisions of this Article, or any other Town resolution, ordinance or regulation, or state law relating to the work.

(3) Performing any act which, in the Town's determination, endangers life or property.

(c) A suspension, revocation or stop work order shall take effect immediately upon delivery of written notice to the person performing the work, or upon mailing first-class mail, postage prepaid, to the permittee's last known address. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

Sec. 11-5-260. Penalties.

(a) If any person is found guilty of or pleads guilty to a violation of any of the provisions of this Article, he shall be punished as provided in Section 1-4-20. 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), the Town 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 Town:

a. 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: fifty dollars (\$50.00) for each fifteen (15) minutes, or portion thereof, for a maximum of one thousand dollars (\$1,000.00) per day.

b. At any time other than the times specified in Subsection (a): twenty-five dollars (\$25.00) for each fifteen (15) minutes, or portion thereof, for a maximum of five hundred dollars (\$500.00) per day.

(2) For commencing work without a valid permit: two hundred fifty dollars (\$250.00), plus twice the applicable permit fee.

(3) For any other violation of a permit: one hundred twenty-five dollars (\$125.00) per violation, with no maximum amount.

(c) The penalties set forth in this Section shall not be the Town's exclusive remedy for violations of this Article and shall not preclude the Town 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 exercise of one (1) penalty shall not preclude the Town from exercising any other penalty. (Ord. 6 §2, 2001; Ord. 1 §1, 2012)

APPENDIX 11-A

Construction and Excavation Standards and Permit Fees for Work in Public Rights-of-Way

I. Purpose

This document establishes the minimum design and technical criteria for the placement, maintenance and construction of all work in the public right-of-way. All proposed work submitted for approval within the Town of Foxfield ("Town") shall conform to the criteria set forth herein.

II. Right-of-way Permit Fees

Public right-of-way permit fees are divided into three separate categories: pavement restoration fee, management/inspection fee, and other fees. All permits are subject to a management/inspection fee. If work approved by the permit consists of any pavement disturbance, the permit may also be subject to a restoration fee. Applicable permit fees shall be as follows:

A. Permit /Inspection Fee: Permit/Inspection fees shall include administrative costs associated with managing public right-of-way permits which includes, but is not limited to: application processing, inspections, review meetings, outside consultant or agency review, mapping and general inquiries related to use of the public right-of-way. The formula used to calculate Permit/Inspection fees shall be as follows:

$$\text{Administrative Fee: } (\$)^1 + \text{Inspection Fee } (\$)^2 + \text{Deposit Fee } ^3 = \text{Permit Fee } (\$)$$

$$\text{Minimum Fee: } \$553.50$$

B. Pavement Restoration Fee: The pavement restoration fee shall include construction costs associated with restoration of the pavement to minimize the impact to the useful service life of the roadway. The fee shall be applied to all permits that result in the disturbance of the pavement. Such restoration fee is in addition to the requirement for the permittee to patch and/or repair the disturbed area of pavement. The pavement restoration fee shall be calculated as follows:

Asphalt Pavement Disturbance Restoration:

$$\text{Unit Cost: } (\$/\text{SY})^4 \times \text{Area } (\text{SY})^5 = \text{Fee } (\$)$$

$$\text{Minimum Fee: } \$8.40/\text{SY} \times 26.8 \text{ SY} = \$225.12$$

Locate Pothole Restoration:

$$\text{Unit Cost } (\$/\text{SY})^4 \times \text{Area } (\text{SY})^6 = \text{Fee } (\$)$$

$$\text{Minimum Fee: } \$8.40/\text{SY} \times 6.7 \text{ SY} = \$56.28$$

If the calculated restoration area exceeds 20% of the total area of pavement bound by the limits of any multiple pavement cuts or if cuts are within fifty (50) lineal feet, then the restoration area shall include the total area.

C. Other Fees: Other fees shall include additional costs associated with administrative work, which shall be calculated as follows:

Inspections outside of regular business hours⁷:

Inspector rate (\$/HR) x 1.5 x Inspection Time (HR) + mileage = Fee (\$)

(1½ hour minimum + mileage)

(\$254.25 minimum. Additional Time over 1½ hour minimum: \$157.50)

Canceling inspections without 24 hours' notice: \$100.00 per cancellation

Starting work without scheduling inspection with 24 hours' notice: \$100.00 per violation

A re-inspection fee for failed inspections is \$175.50.

D. Right-of-Way Permit Fee Reference Notes

¹ Administration Fee: This fee is the minimum fixed administrative processing fee of \$150.00 to be applied to all permits. There may be an additional fee if the Town determines that the scope of the permit requires additional time.

² Inspection Fee: This fee is based on the Town Engineer permit review time (hours) + initial inspection time (hours + mileage) + final inspection time (hours + mileage). Review time shall be one-half (1/2) hour multiplied by the Town Engineer's hour rate. Initial inspection time shall be one and one-half (1 ½) hours multiplied by the Town Engineer's hourly rate + mileage. Final inspection time shall be one and one-half (1 ½) hours multiplied by the Town Engineer's hourly rate plus mileage. Any additional permit review time and/or inspection time, if required, may be determined at the time of application and added to the Deposit Fee.

³ Deposit Fee: This fee is based on any additional costs incurred for processing, reviewing, inspecting, etc. of Right-of-way Permits to be determined by the Town at the time of application. When a deposit is required, the applicant will be required to execute a Town Chargeback Agreement prior to issuance of the permit. An initial minimum deposit shall be \$500.00 for any permit application. Any unused Deposit Fee will be returned to the applicant at the time of final acceptance of construction within the Town's right-of-way (typically one (1) year from the end of construction).

⁴ The unit cost is based on the current mill and overlay unit cost multiplied by 15% adjustment factor (5% inflation, 10% contract administration).

⁵ Area is calculated by the total width of each lane(s) disturbed multiplied by the length of the disturbance plus five feet (5'). The minimum length shall be twenty feet (20').

⁶ Area is calculated by the total width of each lane(s) disturbed multiplied by the length of the disturbance plus two feet (2'). The minimum length shall be five feet (5').

⁷ Regular inspection hours are Monday - Friday, 8:00 a.m. to 4:00 p.m.

⁸ The overtime inspection fee is based on current year labor rates.

III. Location of Facilities

A. General

1. Location of all facilities within the public right-of-way shall comply with the details and specifications shown on the construction plans approved by the Town.

2. It is Town policy to discourage placement of utility lines and other facilities within landscaped median areas unless there is no other reasonable location for placement of such lines and facilities. No applicant shall receive a permit for work in a landscaped median within the public right-of-way unless the applicant provides the Town with evidence that, prior to commencing construction, it has submitted plans and specifications and a proposed schedule of its work to the Town which owns and maintains median landscaping material for the Town's review and approval.

3. The utility alignment shall not vary greater than eighteen inches (18") from the approved design alignment without prior written Town approval.

4. If conflicts of the designed alignment conflicts with other facilities not shown on the approved plans, permittee shall submit an alignment modification request and the change shall be approved by the Town prior to proceeding.

5. All underground cables and wires shall be placed within a conduit sleeve, with a locator tracer.

6. All underground installations shall have a minimum of three feet (3') of cover below the roadway surface.

7. Within the proposed utility boundary area (which extends two feet [2'] on either side of the proposed facility), the proposed facility shall be placed at the lowest elevation in relation to other existing facilities within the boundary area such that a minimum two feet (2') vertical clearance is provided. The separation distance shall be increased to five feet (5') in relation to wet utilities such as water, sewer and gas.

B. Aboveground structures

1. A detailed plan shall be required for all aboveground structures placed in the public right-of-way. The plan shall show dimensions of the cabinet, base and proposed location.

2. A Permittee shall use its best efforts to locate all aboveground structures outside the public right-of-way within a private easement on the property being served.
3. All aboveground structures shall be screened with landscaping, as approved by the Town.
4. All facilities shall be placed underground when the technology exists.
5. The location of aboveground structure shall not interfere with sight distance requirements for intersecting streets and access drives.
6. Aboveground structures shall be located to minimize aesthetic impact to the landscaping within the public right-of-way.

C. Underground access structures (vaults and hand-holes)

1. Underground access structures shall be placed in line with the utility alignment. Horizontal adjustments to accommodate underground access structures are discouraged and shall only be permitted when conditions warrant at the Town's sole discretion. Placement of each access structure shall require field approval prior to placement.
2. Minimum separation between access structures shall be five hundred feet (500').
3. Access structures shall be placed a minimum of one hundred fifty feet (150') from any intersection, unless otherwise approved by the Town.
4. Maximum size of an access structure and access lid shall be the minimum necessary for the facilities being installed, as determined by the Town.
5. Access lids located in landscaped areas shall be buried in mulch, rock beds or sod, unless otherwise approved by the Town.
6. Access lids placed in trails or sidewalks shall be flush with the existing surface and capable of being filled with like material.
7. All access lids within travel lanes shall be placed outside of wheel tracks determined by the Town.
8. Access lids shall be placed at an elevation of +0 inch to $-\frac{3}{8}$ inch relative to the surrounding pavement surface.

IV. Construction Standards

A. General. All work shall be in accordance with these standards and/or the Metropolitan Government Pavement Engineering Council (MGPEC), the stricter standard shall apply. Whenever reference is made to established standards such as AASHTO, ASTM, MUTCD, ATSSA or other standards established by CDOT, MGPEC or similar organizations, such reference shall include amendments to such standards or their equivalents which are in effect at the time the proposed work is submitted for approval. If conflicting standards are applicable to any proposed work, the Town

Engineer shall select the appropriate standard based upon an evaluation of the proposed work and its impacts on the Town.

1. Testing, in compliance with the MGPEC standards, shall be performed by an independent testing company acceptable to the Town and results shall be provided to the Town Engineer within two (2) working days of completion of testing and prior to the next phase of construction (for example, a subgrade test is required prior to asphalt placement).

2. Any damage not documented during the pre-construction inspection shall be repaired by the permittee at permittee's sole expense.

3. Utility markings shall be limited to the boundaries of the construction area and shall be removed by a method approved by the Town within forty-five (45) days of the completion of work.

4. Permittee shall advise the Town at least forty-eight (48) hours in advance of the date work will be started and shall notify the Town at least twenty-four (24) hours in advance if this date is changed or cancelled. Inspections required on the permit shall be scheduled by permittee at least twenty-four (24) hours in advance.

5. Permittee shall maintain the work site so that:

a) Trash and construction materials are contained and not blown off the worksite.

b) Trash is removed from a work site often enough so that it does not become a health, fire or safety hazard.

c) Trash dumpsters and storage or construction trailers are not placed in the street without specific prior written approval of the Town.

d) No construction staging areas shall be located on any Town pavement without specific prior written approval of the Town.

6. Each permittee shall utilize its best efforts to eliminate the tracking of mud or debris upon any street, trail or sidewalk. Streets, trails and sidewalks shall be cleaned of mud and debris at the end of each day. All equipment and trucks tracking mud and debris into a public right-of-way shall be cleaned of mud and debris at the end of each day or as otherwise directed by the Town.

7. Backhoe equipment outriggers and similar supports shall be fitted with rubber pads or other devices sufficient to prevent an indentation or damage to the paved surface whenever outriggers are placed on any paved surface. Tracked vehicles that may damage pavement surfaces shall not be permitted on paved surfaces unless specific precautions are taken to protect the surface. The permittee shall be responsible for any damage caused to the pavement by the operation of such equipment and shall repair such surfaces at its own expense. Should the permittee fail to make such repairs to the satisfaction of the Town, the Town may use the permittee's performance bond or letter of credit to repair any damage.

8. As work progresses, all public rights-of-way and other property shall be thoroughly cleaned of all rubbish, excess dirt, rock and other debris, at the sole expense of permittee.

9. No permittee shall disturb any surface monuments, property marks or survey hubs and points found on the line of work unless prior written approval is obtained from the Town. Any monument, hub or point which is disturbed by permittee shall be replaced by a Colorado Registered Land Surveyor at permittee's sole expense.

10. A permittee shall provide employee and construction vehicle parking so that parking in the neighborhood adjacent to a work site is not impacted. There shall be no parking on trails or sidewalks.

11. Permittee shall provide necessary sanitary facilities for workers, the location of which shall be approved by the Town in the permit.

12. Permittee and its contractors shall warrant all pavement repairs and concrete flatwork against defects, other than normal wear and tear, for a period of two (2) years after completion of all work at the site. Permittee or its contractors will maintain a bond, which may include a general bond covering other work by the bonded entity, for the entire warranty period.

B. Pavement removal

1. All pavement cuts shall be in straight lines. Irregular shaped cuts with more than four (4) sides or cuts within existing patches shall not be allowed. All cuts shall be rectangular in shape, and edges shall be parallel or perpendicular to the flow of traffic.

2. In order to provide straight edges, all pavement cuts shall be cut by saw cutting, rotomilling or an approved method, which assures a straight edge for the required depth of the cut.

3. Pavement cuts shall be such that no longitudinal joint lies within the wheel track as determined by the Town.

4. Concrete shall be removed and replaced from joint to joint.

C. Excavation and Backfill

1. Excavation

a) All trench excavation shall be made by open cut to the depth required to construct the facility and provide adequate bracing of trench walls. All excavation, trenching, shoring and stockpiling of excavated materials shall be in strict compliance with the applicable OSHA rules and regulations. The permittee shall furnish, place and maintain all supports and shoring required for the sides of the excavation, as to prevent damage to the work or adjoining property. If the permittee is not expected to fully complete the work within any excavated area in a reasonable length of time as determined by the Town, the Town may require the permittee to backfill the excavation and re-excavate when the work can be completed expeditiously.

b) The length of an open trench shall be limited to the amount of pipe that can be placed and backfilled in a single day. However, in no case shall the length of the open trench exceed three hundred feet (300) unless otherwise approved by the Town. No open trench shall be left unprotected overnight.

c) A maximum of two (2) excavations shall be open at any one (1) time for access structure installation and conduit splicing, unless otherwise approved by the Town.

d) Excavated materials shall be stockpiled directly into haul trucks for removal to minimize the impact to the public right-of-way. Material or equipment shall not be placed within the right-of-way.

e) All open excavations shall be properly barricaded to protect vehicles and pedestrians.

f) Current field moisture and density test results (taken within forty-eight [48] hours of the scheduled construction date) for top one foot (1') of subgrade shall be provided to the Town prior to placing forms. If any lift of the top one foot (1') of subgrade does not meet moisture or density requirements, then the material shall be scarified, wetted and re-compacted accordingly. If subgrade requires stabilization, the method shall be approved by the Town prior to proceeding.

2. Boring

a) To minimize the impact to traffic and right-of-way infrastructure, the Town encourages boring rather than open trenching.

b) Upon completion of the boring, the permittee shall verify that all storm and sanitary sewer service lines to adjacent properties have not been damaged by the boring by videoing the line or present the Town with a written release from the facility owner or property owner.

c) If the permittee's boring results in disturbance to other utilities in the public right-of-way not described on the approved plan, the Town shall issue a stop work order directing permittee to immediately repair such damage. Prior to the re-commencement of work, permittee shall provide the Town with written verification of the cause of disturbance and method to ensure the situation will not occur again.

d) Waste material from boring shall be contained within the work site and shall not be allowed to discharge onto private property, curb and gutter, roadside ditches or the roadway.

e) When the alignment criteria apply to a permit, permittee shall provide "as-built" information to the Town Engineer on a daily basis.

f) All "as-built" information shall be provided to the Town prior to occupancy or use of the facility.

3. Backfilling

a) Controlled Low Strength Material (CLSM)

1. All excavations less than one hundred cubic yards (100 CY) within the roadway pavement shall be backfilled with controlled low strength material (flowable fill) unless otherwise approved by the Town.

2. Controlled low strength material shall consist of a controlled low strength, self-leveling material composed of various combinations of cement, fly ash, aggregate, water and chemical admixtures. It shall have a design compressive strength between 50 to 150 psi at 28 days when tested in accordance with ASTM 4832. The mix shall result in a product having a slump in the range of seven inches (7") to ten inches (10") at the time of placement. Prior to use, permittee shall submit a mix design in writing for approval by the Town.

3. The maximum layer thickness for CLSM shall be three feet (3'). Additional layers shall not be placed until the backfill has lost sufficient moisture to be walked on without indenting more than two inches (2").

b) Native Backfill

1. In cases where CLSM is not required, backfill of suitable material shall be placed in maximum eight-inch (8") loose lifts. Density and moisture control shall be per Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, current edition, (CDOT Standard Specifications) Section 2.03.

2. The permittee shall provide compaction testing for all backfill work per MGPEC standards. Each lift not tested in accordance with the testing frequency and lifts required may be rejected by the Town.

3. Excavation and backfill shall be accomplished on the same day in order to minimize impact to the public right-of-way. In instances where the Town determines that this cannot be accomplished, the permittee shall submit a plan for Town approval showing how traffic will be handled around the work zone.

c) Bridging plates

1. Substantial bridging, properly anchored and capable of carrying the legal limit loading, in addition to adequate trench bracing, shall be used to bridge across benches at street crossings where trench backfill and temporary patches have not been completed during regular working hours. Permittee shall provide safe and convenient passage for pedestrians and access to all properties.

2. Bridging plates shall be secured to pavement with anchored pins so that it does not slip. Bridging plates shall extend over supporting pavement by a minimum of one foot (1') on all sides. Cold mixed asphalt shall be ramped a minimum of two feet (2') in the travel direction.

3. The use of bridging plates shall not be allowed from September through April. Use of bridging plates shall only be allowed upon prior written approval of the Town.

4. Permittee's design engineer shall certify in writing the suitability of the plates for the specific use by permittee.

D. Repairing streets

1. Asphalt pavements

a) The minimum patch dimensions shall be three feet x three feet (3' x 3').

b) Any cut exceeding one-half ($\frac{1}{2}$) of the pavement width shall provide full pavement width asphalt replacement.

c) Any longitudinal cut greater than fifty (50) feet in length shall provide full pavement width asphalt replacement.

d) Prior to placing the permanent patch, the existing pavement shall be saw cut to a neat, straight line, square to the travel lane. The longitudinal edges of the patch shall not fall within wheel tracks determined by the Town.

e) A tack coat shall be applied to all edges of the existing pavement prior to placing the patch.

f) Asphalt mix shall be CDOT, S mix ($\frac{3}{4}$ inch) for non-residential streets and SX mix ($\frac{1}{2}$ inch) for residential streets. Patch back areas greater than one hundred twenty square feet (120 SF) shall require the submittal and approval of a mix design to the Town prior to placement.

g) Compaction shall be between 92 and 96 percent of AASHTO T 209. Average compaction of less than 92 percent of AASHTO T 209 shall be cause for rejection.

h) Compaction equipment shall compact corners and edges of patch.

i) Hot bituminous patches shall be placed in maximum three inch (3") compacted lifts to a depth of the existing pavement plus two inches (2").

j) Patches shall have a cross slope section consistent with the design of the existing roadway.

k) A cold mix asphaltic material may only be used as a temporary patch and the cold mix material shall be approved by the Town.

l) Whenever permanent patches are not constructed immediately following trench backfilling operations, temporary pavement patches consisting of a minimum of three inches (3") of hot or cold plant mix or steel plates must be utilized to provide the required number of paved travel lanes. Plates may be left for the short duration approved by the

Town. Temporary pavement patches may be left in place for a maximum of five (5) working days following completion of backfilling operations unless otherwise approved by the Town. The Town may require a delay in completion of operations if the Town determines a delay is advisable due to weather conditions.

m) Permittee shall monitor temporary patches on a daily basis and temporary patches exhibiting ruts, humps or depressions shall be repaired or replaced immediately.

n) A permanent hot patch of material meeting the Town's standards shall be made within five (5) days after the area is open to traffic, weather permitting.

o) If final patching is not completed within the specified time, no non-emergency permits shall be granted to the permittee under any circumstances until outstanding work is completed.

p) Upon completion of the permanent patch, the surface shall be thoroughly compacted, smooth, and free from ruts, humps, depressions, or irregularities. When a straightedge ten feet (10') long is laid across the permanent patch parallel to the centerline of the street and in a direction transverse to the centerline, the surface shall not vary more than $\frac{3}{16}$ inch from the lower edge of the straight edge. Patches exhibiting deviations greater than $\frac{3}{16}$ inch shall be replaced prior to acceptance of the patch. If the existing street exceeds the above tolerances, then the patch shall be equal or better than the condition of the surrounding pavement.

2. Restoration of Locate Potholes

a) Locate potholes shall not be located within wheel tracks as determined by the Town. Failure to comply with this provision shall result in the assessment of a restoration fee to cover asphalt resurfacing.

b) All locate potholes in the pavement section shall be cored with a circular coring saw with a maximum diameter of ten inches (10"). The plug shall be carefully removed without causing damage.

c) Excavations for potholes shall be backfilled with squeegee or controlled low strength material (flowable fill) only. Native material removed shall not be used to backfill the hole.

d) Removed pavement surface shall be replaced in one of the following methods as directed by the Town:

1. The removed original core shall be grouted with a high strength; quick set epoxy or mortar as approved by the Town, or

2. The pavement shall be patched with asphalt of similar aggregate size to the surrounding asphalt and compacted in maximum three inch (3") lifts with a "pogo stick" compactor capable of fitting into the core hole. At the Town's discretion,

localized infrared treatment may be required to blend the top mat of the asphalt together.

e) Where possible, locate potholes shall be located under existing pavement marking and such marking replaced at the completion of the repair to camouflage pavement disturbance.

3. Concrete flatwork

a) Concrete material and placement shall be CDOT Class B, with 3,000 psi compressive strength.

b) Weather protection shall be provided in compliance with CDOT Standard Specifications Section 601.

c) Permittee shall schedule a form inspection at least twenty-four (24) hours in advance and obtain approval prior to pouring.

d) Damaged concrete pavement shall be removed and replaced as a full panel section with dowels set into adjacent panels in compliance with CDOT M&S Standards.

e) Damaged flatwork and curb and gutter shall be replaced in full sections from existing contraction joints. Partial section replacement shall not be permitted.

f) Concrete removed adjacent to asphalt pavements shall be saw cut along the abutting edge prior to removal in order to remove without damage to the pavement. The saw cut edge shall be protected and used as a form for the new concrete. The top edge of the replaced concrete section shall be straight and true without warping or irregularity. Failure to replace the concrete in this manner or damage caused to the edge of the asphalt pavement shall result in the assessment of a restoration for asphalt resurfacing.

g) Subgrade elevation shall be brought up to +/- 0.1 foot of final grade per plans, with approved materials prior to placing forms.

h) No water shall be placed on concrete surface to assist finishing.

i) Variations of concrete surface shall not exceed 1/8 inch in ten feet (10').

j) Liquid membrane curing compound shall be placed in compliance with CDOT Standard Specifications Section 412 at a rate to completely coat all exposed concrete surfaces.

E. Landscape areas

1. Excessive, unnecessary disturbance to landscaping and other existing improvements shall result in a stop work order until repairs are made to the satisfaction of the Town.

2. Landscape restoration shall be completed within two (2) weeks of completion of work at each site, unless otherwise approved by the Town because of weather conditions or other conditions beyond the control of permittee.

3. Irrigation shall be maintained throughout construction to ensure no landscaping is affected during the construction phase.

4. Permittee shall work with the adjacent property owners to coordinate any construction activity that disrupts the owners' landscaping.

5. Prior to probationary acceptance by the Town, permittee shall provide a letter from each property owner adjacent to the work site stating that all landscaping has been restored. The Town may waive this requirement if permittee has made a good faith effort to obtain such a letter and the property owner fails to respond to a reasonable request within a reasonable time.

6. Any additional landscaping required for screening above-ground structures shall be coordinated with and reasonably acceptable to the adjacent property owner responsible for landscape maintenance.

F. Traffic control

1. When it is necessary to obstruct roadways or pedestrian ways, permittee shall submit traffic control plans, in compliance with the Manual of Uniform Traffic Control Devices (MUTCD), showing all work. Traffic control plans shall include:

- a) Each lane closure scenario, including work zones for locate pothole work.
- b) Lane configurations and access locations specific to the actual work zone.
- c) Any upstream intersections within five hundred feet (500') of the work zone, showing all impacted inbound lanes to the intersection.
- d) Pedestrian route detours showing the nearest crossing intersections at each end of the work area.
- e) Proposed hours of operation of each traffic control setup.

2. All traffic control plans shall be prepared under the supervision of a certified work site traffic control supervisor. Documentation of certification shall be submitted with traffic control plans.

3. Lane closures are permitted only between 8:30 a.m. and 3:30 p.m. on weekdays, 8:00 am to 7:00 p.m. on Saturdays and 10:00 a.m. to 7:00 p.m. on Sundays, unless otherwise noted on the permit.

4. When conditions warrant, to minimize impact to the public, the Town may require permittee perform work during the morning, evening, night or on weekends.

5. When planning construction phasing and developing traffic control plans, permittee shall make every effort to minimize the impact to the motoring public and maintain capacity of the roadway system. The Town may require traffic control plan(s) be modified to comply with this requirement.

6. When the traffic control plan requires modification of any traffic signal timing plans, permittee shall be responsible to notify the governing authority's signal maintenance contractor to coordinate re-timing of the signal. All costs associated with work shall be borne by permittee.

7. If any vehicles or equipment brought into Town exceed weight standards then in effect for vehicles on Town roads, permittee shall obtain the Town Engineer's prior written approval of a traffic plan which specifies routes to be taken through Town by all overweight vehicles and the approximate number of trips such vehicles will make through Town.

8. All signs and devices shall conform to the Manual on Uniform Traffic Control Devices. The devices and signs shall be clean, legible, properly mounted and meet a quality standard rating of "acceptable" per the requirements of American Traffic Safety Services Association (ATSSA) Quality Standard for Work Zone Traffic Control Devices. All signs and devices used for night operation shall meet retro reflective requirements of CDOT Standard Specifications Section 713.04.

9. When the traffic control plan requires major traffic impacts, the Town may require that permittee place Variable Message Boards in advance of the work to notify the traveling public of upcoming construction impacts. All costs for this work shall be borne by permittee.

10. If closure of a street is required for completion of work, permittee shall provide all notifications to emergency agencies, government entities, school and bus districts, newspapers and adjacent businesses and homeowner's associations in a format approved by the Town.

11. No permittee shall block access to private property, fire hydrant, fire station, utility structure or any other vital equipment unless permittee provides the Town with prior written approval from the affected agency and/or property owner.

12. When necessary for public safety and when required by the Town, the permittee shall employ flag persons whose duties shall be to control traffic around or through the work site.

13. Permittee shall be responsible for maintaining all work area signing and barricading required throughout the duration of work. During non-work hours, all signs that are not appropriate shall be removed, covered or turned around so that they do not face traffic.

14. Any deficiencies noted by the Town shall be corrected immediately by permittee. If permittee is not available or cannot be found, the Town may make the required corrections and charge the cost thereof to permittee.

15. The phasing of construction and length of the active work zone shall be submitted by permittee to the Town for review and approval. Permittee shall make every effort to minimize the impact to the use of the public right-of-way and adjacent properties. The Town may

require that permittee modify the proposed construction phasing in order to minimize the impact during construction.

16. No vehicles larger than one (1) ton pickups with 10,000 pound gross vehicle weight shall be allowed on trails or sidewalks. Permittee shall be responsible for all damage to trails or sidewalks unless such damage was pre-existing and documented with a pre-construction inspection. Pedestrian access shall be maintained throughout the period of work.

(Ord. 1 §1, 2012)

APPENDIX 11-B

Revocable License Agreement

THIS AGREEMENT is made this ___ day of _____, 20___, by and between the Town of Foxfield, Colorado (the "Town") and _____ ("Licensee").

For and in consideration of the sum of ten dollars (\$10.00) paid by the Licensee to the Town, the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. THE LICENSE

Licensee owns the property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, and desires to obtain a License to occupy and use the property more particularly described and depicted in Exhibit B, attached hereto and incorporated herein by this reference (the "Property"). Subject to all the terms and conditions hereto, the Town hereby grants to Licensee a license to occupy and use the Property for the purpose set forth in Section 2 herein.

SECTION 2. TERMS OF AGREEMENT

The Property may be used and occupied by the Licensee for the purpose of maintaining a fence/driveway/structure/monument over and on a portion of the public right-of-way.

SECTION 3. TERMINATION

Either party may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date specified therein.

SECTION 4. MAINTENANCE

Licensee shall, at its own expense, keep and maintain in good repair any fixtures or structures constructed, placed, operated or maintained on the Property and, within thirty (30) days of termination of this Agreement, shall remove such fixtures.

SECTION 5. DAMAGE TO PROPERTY

Licensee shall be responsible for all damage to the Property arising out of or resulting from the use of the Property by the Licensee, its agents, employees, visitors, patrons and invitees. The Town shall notify Licensee immediately upon discovery of any damage to the Property. Licensee shall correct and repair the damage within one (1) week of notification or knowledge of the damage unless otherwise directed by the Town.

SECTION 6. INDEMNIFICATION

Licensee agrees to indemnify and hold harmless the Town, its officers, employees and insurers, from and against all liability, claims and demands arising out of the placement, use and operation of the Property. Licensee agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at his sole expense, or, at the option of the Town, agrees to pay the Town or reimburse the Town for the defense costs incurred by the Town in connection with any such liability, claims or demands. Licensee also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

SECTION 7. INSURANCE

Licensee agrees to procure and maintain an insurance policy which includes and covers the Property that is the subject of this Agreement, and to name the Town of Foxfield as an additional insured thereon for the duration of this Agreement. Such insurance policy shall at a minimum include liability and property damage insurance, with a combined single limit for bodily injury and property damage of one hundred fifty thousand dollars (\$150,000.00) per person and six hundred thousand dollars (\$600,000.00) per occurrence. A Certificate of Insurance showing the Town as an additional insured thereon shall be provided to the Town within thirty (30) days of execution of this Agreement. The failure to provide the Certificate of Insurance or the failure to maintain the insurance policy required by this Agreement shall be grounds for immediate revocation of this License Agreement. In addition, Licensee agrees to notify any successor in interest to the Property of the existence of this Agreement and shall also provide notice to the Town of any sale of the Property or any other conveyance that creates a successor in interest to this Agreement.

SECTION 8. NOTICES

Any notice given pursuant to this Agreement by either party to the other shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the Town: Town of Foxfield

To Licensee: _____
