

## RIGHT-OF-WAY PERMIT REQUIREMENTS

Pursuant to the *Fort Morgan Municipal Code, Chapter 11, Streets, Sidewalks and Public Places, Article 3, Public Rights-of-Way*, the following principles and procedures are required:

**Sec. 11-3-10. Purpose.** The purpose of this Ordinance is to provide principles, procedures and associated funding for the placement of structures and infrastructures, construction, excavation, encroachments and work activities within or upon any public right-of-way and to protect the integrity of the road system of the City. To achieve this purpose, it is necessary to require permits, to establish permit procedures and to fix and collect fees and charges. (Prior code 25-12; Ord. 1110 § 1, 2010)

**Sec. 11-3-20. Objectives.** There is a need to accommodate public and private entities' use of public rights-of-way for the location of equipment required for provision of public services; however, the City must insure that the primary purpose of the right-of-way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. The use of the right-of-way corridors by others is secondary to the movement of such traffic. This Ordinance is intended to strike a balance between the public need for efficient, safe transportation routes and the use of rights-of-way for location of equipment by public and private entities. This Ordinance has several objectives:

- (1) To insure that the public safety is maintained and that public inconvenience is minimized.
- (2) To protect the City's infrastructure investment by establishing repair standards for the pavement when work is accomplished.
- (3) To facilitate work within the right-of-way through the standardization of regulations and hardware placements.
- (4) To maintain an efficient permit process.
- (5) To conserve the limited physical capacity of the public rights-of-way held in public trust by the City.
- (6) To assure that the City can continue to fairly and responsibly protect the public health, safety, and welfare. (Prior code 25-13; Ord. 1110 § 1, 2010)

**Sec. 11-3-30. Definitions.** For the purpose of this Article the following words shall have the following meanings:

*"City"* means the City of Fort Morgan, Colorado.

*"Fence"* means any artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected to enclose, partition, beautify, mark, or screen areas of land.

*"Infrastructure"* means any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets and sidewalks, and public safety equipment.

*"Landscaping"* means materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, as well as attendant irrigation systems.

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

*"Person"* means any person, firm, partnership, special, metropolitan, or general district, association, corporation, limited liability company, or organization of any kind.

*"Public right-of-way", "right-of-way" or "public way"* means any public street, way, place, alley, sidewalk, public easement, park, square, plaza, and City owned right-of-way or any other public property owned or controlled by the City and dedicated to public use.

*"Specifications"* means engineering, regulations, construction specifications, and design standards adopted by the City.

*"Structure"* means anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.

*"Work"* means any labor performed on, or any use or storage of equipment or materials in the public rights-of-way, including but not limited to, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose. (Prior code 25-14; Ord. 1110 § 1, 2010)

**Sec. 11-3-40. Police Powers.** The Permittee's rights hereunder are subject to the police powers of the City, which include the power to adopt and enforce Ordinances, including amendments to this Ordinance, necessary to the safety, health, and welfare of the public. The Permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City reserves the right to exercise its police powers, notwithstanding anything in this Ordinance and the permit to the contrary. Any conflict between the provisions of the Ordinance or the permit and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter. (Prior code 25-15; Ord. 1110 § 1, 2010)

**Sec. 11-3-50. Permit Required.**

(a) No person, except an employee or official of the City or a person under contract with the City, shall undertake or permit to be undertaken any construction, excavation, or work in the public right-of-way without first obtaining a permit from the City as set forth in the Article, except as provided in Section 11-3-190. Each permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the City.

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(b) No Permittee shall perform construction, excavation, or work in an area larger or at a location different than that specified in the permit or permit application. But if, when construction, excavation, or work is commenced under an approved permit, it becomes necessary to perform construction, excavation, or work in a larger or different area than originally requested under the application, the Permittee shall notify the City Manager immediately and within twenty four (24) hours shall file a supplementary application for the additional construction, excavation, or work.

(c) Permits shall not be transferable or assignable and work shall not be performed in any place other than that specified in the permit. The Permittee may subcontract the work to be performed under a permit provided that the Permittee shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required.

(d) The physical construction of public improvements in new developments within the City is the responsibility of the developer of the land. Ownership of those improvements remains with the developer of the land until acceptance by the City. Any person performing work on those improvements which are within a public way, but prior to acceptance by the City, shall obtain a permit from the City and permission from the owner of the improvements in the public way. The Permittee shall be financially responsible to the owner of the improvements to carry out all remedial work necessary to receive acceptance by the City of those improvements. This financial obligation shall apply only to the work in the public way done by the Permittee. (Prior code 25-16; Ord. 1110 § 1, 2010)

**Sec. 11-3-60. Permit Application; permit contents.** An applicant for a permit to allow construction, excavation, or work in the public right-of-way under this Article shall:

(1) File a written application on forms furnished by the City that includes the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor licensed to perform work in the public right-of-way; the exact location of the proposed construction, excavation or work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or work; the purpose of the proposed construction, excavation or work; the dates for beginning and ending the proposed construction, excavation or work; the measurements and quantities of the construction improvements and excavations; and type of work proposed.

(2) Include a verified statement that the applicant and/or its contractor is not delinquent in payments due the City on prior work.

(3) Include a verified statement that the applicant and/or its contractor holds all permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed work, if such licenses or permits are required under the laws of the United States, the State of Colorado, or the Ordinances of the City.

(4) Provide a satisfactory plan of work showing protection of the subject property and adjacent properties when the City determines such protection is necessary.

(5) Provide a satisfactory plan for the protection of shade and ornamental trees and the restoration of turf when the City determines such protection is necessary.

(6) Include a verified statement that all orders issued by the City to the applicant and/or its contractor, requiring correction of deficiencies under previous permits issued under this Article have been satisfied.

(7) Include with the application, engineering construction drawings or site plans for the proposed construction, excavation, or work.

(8) Include with the application, a satisfactory traffic control and erosion protection plan for the proposed construction, excavation, or work when the City determines such plans are necessary.

(9) Pay the fees prescribed by the City.

For the benefit of the City, each permit issued under this Article shall state the right-of-way permit number, the date of issuance and expiration of the permit; the name and address of the Permittee and the name and address of the developer, contractor or subcontractor licensed to perform work under the permit; the location, nature, and purpose of the proposed construction, excavation or work permitted; any conditions of approval (including but not limited to inspection, testing, certification, and provision of as built drawings); the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the permit; references for the engineering construction drawings or site plans; references to any supplemental permits (wetland, floodplain development, state highway access or utility, revocable right-of-way and water and sewer utility permits, etc.) required; and the amount of fees and deposits paid, and bonds filed by the Permittee. (Prior code 25-17; Ord. 1110 § 1, 2010)

**Sec. 11-3-70. Permit Fee.** Before a permit is issued pursuant to this Article, the applicant shall pay to the City Manager a permit fee, which shall be determined in accordance with a Fee Schedule adopted from time to time by the City Council by Resolution. (Prior code 25-13; Ord. 1110 § 1, 2010)

**Sec. 11-3-80. Location of Equipment.**

(a) The City Manager shall assign specific corridors within the right-of-way or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the City Manager expects will some day be located within the right-of-way. All construction, excavation or work for which permits are issued by the City Manager involving the installation or replacement of equipment or facilities in public rights-of-way shall designate the proper corridor for such equipment or facilities at issue.

(b) The City Manager may prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of applicants to occupy or use the right-of-way. In

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making such decisions, the City Manager shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's need for a particular service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment and facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest. (Prior code 25-19; Ord. 1110 § 1, 2010)

**Sec. 11-3-90. Mapping.** Each Permittee shall, within sixty (60) days from the date of the City's acceptance of the work undertaken in connection with the permit, provide to the City Manager "as built" maps indicating at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all equipment and facilities which relate to the permit and which are located in any right-of-way of the City. In addition, within sixty (60) days from date of the City's acceptance of the work undertaken in connection with any permit, the Permittee shall use its "best efforts" to provide to the City Manager "as built" maps, or to the extent "as built" maps are not available, other information that is available showing at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all existing equipment and facilities which the Permittee owns or over which it has control, and which are located in any right-of-way of the City. This information shall be provided with the specificity and in the format requested by the City Manager for inclusion in the City's mapping system. (Prior code 25-20; Ord. 1110 § 1, 2010)

**Sec. 11-3-100. Insurance and Indemnification.**

(a) Prior to granting any permit hereunder the City Manager shall require the filing of an insurance policy or certificate with coverage as follows:

- (1) The contractor shall carry a comprehensive general liability policy, including broad form property damage, completed operations and contractual liability 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 one million dollars (\$1,000,000.00) each occurrence for damage to or destruction of property.
- (2) Special hazards coverage, such as, but not limited to, property damage as a result of explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, shall all be specially added by endorsement to the hereinabove required liability policy.

Whenever any person has filed with the City Manager evidence of insurance as required, any additional or subsequent license holder in the employ of said initial person shall not be required to deposit or file any additional evidence of insurance.

(b) Each Permittee shall construct, maintain, and operate its facilities in a manner which provides protection against injury or damage to persons or property. The Permittee for itself and its related entities, agents, employees,

subcontractors, and the agents and employees of said subcontractors shall save the City harmless, defend, and indemnify the City, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability from damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, as incurred, arising out of the installation and operation of the Permittee's system within the streets and rights-of-way, including but not limited to the actions of the Permittee, its employees, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the Permittee of the permit 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 Ordinance and the City is the prevailing party, the Permittee shall reimburse the City for all costs related hereto, including reasonable attorney's fees. The Permittee shall not be obligated to hold harmless or indemnify the City for claims or demands to the extent that they are due solely to the negligence or any intentional and/or willful acts of the City or any of its officers, employees, or agents. (Prior code 25-21; Ord. 1110 § 1, 2010)

**Sec. 11-3-110. Performance Bond.**

(a) Before any permit required by this Article shall be issued to an applicant, the applicant shall file with the City Manager a bond or letter of credit in favor of the City in an amount equal to the total cost of construction, including labor and materials, or five thousand dollars (\$5,000.00), whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one 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 City Ordinances and of the rules and regulations of the Department of Public Works and upon payment of all judgments and costs rendered against the applicant for any violation of City Ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of work done pursuant to the permit issued under the provisions of this Article. Action on the bond or letter of credit may be brought by any person so aggrieved as beneficiary. The bond or letter of credit must be approved by the City Treasurer as to form and as to the responsibility of the surety thereon prior to the issuance of the permit provided for in this Article. However, the City Treasurer 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 the security required by this Section.

(b) A letter of responsibility will be accepted in lieu of a performance bond or letter of credit from all public utilities, all cable television companies, and all water and sanitation districts operating within the City.

(c) The performance bond or letter of credit shall remain

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in force and effect for a minimum of three (3) years after completion and acceptance of the street cut, excavation or lane closure. (Prior code 25-22; Ord. 1110 § 1, 2010)

### **Sec. 11-3-120. Performance Warranty/Guarantee.**

(a) Any warranty made hereunder shall serve as security for the performance of work necessary to repair the public right-of-way if the Permittee fails to make the necessary repairs or to complete the work under the permit.

(b) The Permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the City and warrants and guarantees all work done by him/her for a period of three (3) years after the date of acceptance, and agrees to maintain the same upon demand and to make all necessary repairs during the three (3) year period. This warranty shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship.
- (2) Settling of fills or excavations.
- (3) Any unauthorized deviations from the approved plans and specifications.
- (4) Failure to barricade.
- (5) Failure to clean up during and after performance of the work.
- (6) Any other violation of this Article or the ordinances of the City.

The three (3) year warranty period shall run from the date of the City's acceptance of the work. If repairs are required during the three (3) year warranty period, those repairs shall be warranted until the end of the initial three (3) year period starting with the date of initial acceptance.

(c) At any time prior to completion of the three (3) year warranty period, the City may notify the Permittee of any required repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the City to be an imminent danger to the public health, safety and welfare. Non-emergency repairs shall be completed within thirty (30) days after notice. (Prior code 25-23; Ord. 1110 § 1, 2010)

**Sec. 11-3-130. Inspections.** Two (2) inspections of the work to be performed shall take place. First, the Permittee shall notify the City immediately after completion of work operations and acceptance will be made if all work meets City and permit standards. Second, approximately thirty (30) days prior to the expiration of the three (3) year guarantee, the City shall perform an inspection of the completed work. If the work is still satisfactory, the performance bond or letter of credit for individual permit holders shall be returned less any amounts needed to complete work not done by Permittee. (Prior code 25-24; Ord. 1110 § 1, 2010)

**Sec. 11-3-140. Public Safety and Nuisance.** Any person who obtains a permit for construction, excavation, or work in the public right-of-way shall maintain a safe work area, free of nuisance conditions. The City may make any repair necessary

to eliminate any hazards or nuisances or work not performed as directed. Any such work performed by the City shall be completed and billed to the Permittee at overtime rates. The Permittee shall pay all such charges within thirty (30) days of the statement date. If the Permittee fails to pay such charges within the prescribed time period, the City may, in addition to taking other collection remedies, seek reimbursement through the performance bond or letter of credit. Furthermore, the Permittee shall be barred from performing any work in the public right-of-way, and under no circumstances will the City issue any further permits of any kind to said Permittee, until such time that all outstanding charges have been paid in full. (Prior code 25-25; Ord. 1110 § 1, 2010)

**Sec. 11-3-150. Time of Completion.** All work covered by the permit shall be completed by the date stated in the application. Permits shall be void if work has not commenced six (6) months after issuance. Performance bonds or letters of credit deposited as security for individual permits shall be returned if a permit is voided for failure to commence the work. (Prior code 25-13; Ord. 1110 § 1, 2010)

### **Sec. 11-3-160. Traffic Control.**

(a) When it is necessary to obstruct traffic, a detour plan shall be submitted to the City prior to starting construction. No permit will be issued until the detour plan is approved by the City. No Permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained in writing from the owner of that facility, equipment, or property. If a street closing is desired, the applicant will request the assistance of and obtain approval from the City Manager. It shall be the responsibility of the Permittee to notify and coordinate all work in the public way with police, fire, ambulance, and transit organizations.

(b) When necessary for public safety, the Permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the City Manager.

(c) Unless approved by the City Manager, the Permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:30 a.m. to 8:30 a.m. or 4:30 p.m. to 5:30 p.m. without the approval of the City Manager.

(d) Traffic control devices as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the Permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights. Oil flare or kerosene lanterns are not allowed as means of illumination.

(e) Part VI of the Manual on Uniform Traffic Control Devices shall be used a guide for all maintenance and construction signage. The Permittee shall illustrate on the



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permit the warning and control devices proposed for use. At the direction of the City Manager, such warning and control devices shall be increased, decreased, or modified. (Prior code 25-27; Ord. 1110 § 1, 2010)

### **Sec. 11-3-170. Minimizing the Impacts of Work in the Right-of-Way.**

(a) Before any Permittee begins excavation in any public way, he shall contact the Utility Notification Center of Colorado and make inquiries of all ditch companies, utility companies, telecommunications companies, districts, municipal departments, and all other agencies that might have facilities in the area of work to determine possible conflicts. The Permittee shall contact the Utility Notification Center of Colorado and request field locations of all facilities in the area at least forty-eight (48) hours in advance of commencing the work. Field locations shall be marked prior to commencing work. The Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

(b) Each Permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the Permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of 9:00 p.m. and 6:00 a.m., nor at any time on Sunday, except with the written permission of the City Manager, or in case of an emergency.

(c) Each Permittee shall maintain the work site so that:

- (1) Trash and construction materials are contained so that they are not blown off of the construction site.
- (2) Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard.
- (3) Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the City Manager.

(d) Each Permittee shall comply with the requirements to eliminate the tracking of mud or debris upon any street or sidewalk as prescribed by the City Manager. Equipment and trucks used during construction, excavation, or work activity shall be cleaned of mud and debris prior to leaving any work site.

(e) Each Permittee shall protect trees, landscape, and landscape features as required by the City. All protective measures shall be provided at the expense of the Permittee.

(f) Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved surfaces unless specific precautions are taken to protect the surface. The Permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, upon order of the City Manager, shall

repair such surfaces. Failure to do so will result in the use of the Permittee's performance/warranty guarantee by the City to repair any damage.

(g) Each Permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The Permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

(h) As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean up operations shall be done at the expense of Permittee.

(i) Each Permittee shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the City Manager. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at the Permittee's expense.

(j) Each Permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a worksite is not impacted.

(k) Each Permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk as prescribed by the City Manager.

(l) Each Permittee shall clear all snow and ice hazards from public sidewalks at the work site by noon following a snowfall. (Prior code 25-28; Ord. 1110 § 1, 2010)

**Sec. 11-3-180. Standards for Repairs.** The Permittee shall be fully responsible for the cost and actual performance of all work it performs in the public way. The Permittee shall do all work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the City. These standards shall apply to all work in the public way unless otherwise indicated in the permit. (Prior code 25-29; Ord. 1110 § 1, 2010)

**Sec. 11-3-190. Relocation of Facilities.** If at any time the City requests the Permittee to relocate its facilities, in order to allow the City to make any public use of streets or 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, repair, constructing, or maintaining of any street or rights-of-way, or by reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement by the City or other public agency or special district, and any general program for the undergrounding of such facilities, to move or change the Permittee's facilities within or adjacent to streets or rights-of-way in any manner, either temporarily or permanently, the City shall notify the Permittee, at least one-hundred-eighty (180) days in advance, except in the case of emergencies, of the City's intention to perform or have such work performed. The Permittee shall thereupon, at no cost to the City, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three (3)

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working days prior to the date the City has notified the Permittee that it intends to commence its work or immediately in the case of emergencies. Upon the Permittee's failure to accomplish such work, the City or other public agencies or special district may perform such work at the Permittee's expense and the Permittee shall reimburse the City or other agency within thirty (30) days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by the Permittee at the Permittee's expense. (Prior code 25-30; Ord. 1110 § 1, 2010)

**Sec. 11-3-200. Emergency Procedures.** Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. Emergency work is defined to mean any work necessary to restore water, sewer, gas, telephone, electric, cable and other telecommunications facilities. Repairs on other facilities in the public way may also be administratively classified as an emergency by the City Manager. The person doing the work shall apply to the City for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the City Police and Fire Department. (Prior code 25-31; Ord. 1110 § 1, 2010)

**Sec. 11-3-210. Revocation of Permits.**

(a) Any permit issued hereunder may be revoked or suspended by the City Manager, after notice to the Permittee for:

- (1) Violation of any condition of the permit or of any provision of this Article.
- (2) Violation of any provision of any other City ordinance or state law relating to the work.
- (3) Existence of any condition or performance of any act which does constitute or cause a condition endangering life or damage to property.

(b) A suspension or revocation by the City Manager, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(c) A stop work order may be issued by the City Manager to any person or persons doing or causing any work to be done in the public way without a permit, or in violation of any provision of this Article or any other ordinance of the City. (Prior code 25-32; Ord. 1110 § 1, 2010)

**Sec. 11-3-220. Abandoned and Unusable Equipment and Facilities.** The Permittee, or subsequent owner of equipment or facilities installed pursuant to a permit granted under this Article, who is determined to have discontinued its operations must either:

- (1) Provide information satisfactory to the City Manager that the Permittee's or owner's obligations for its equipment in the right-of-way under this Article have been lawfully assumed by another entity; or
- (2) Submit to the City Manager a proposal and instruments for transferring ownership of its equipment or facilities to the City. If a person

proceeds under this subsection, the City may, at its option:

- a. Purchase the equipment; or
- b. Require the Permittee or owner at its own expense, to remove the equipment; or
- c. Require the Permittee or owner to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment or facilities.

Equipment or facilities of a Permittee or owner who fails to comply with Subsection (2) above, which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned equipment or facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity. Any Permittee or owner who has unusable equipment or facilities in any public right-of way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the City Manager. (Prior code 25-33; Ord. 1110 § 1, 2010)

**Sec. 11-3-230. Appeals Procedure.** Any decision rendered by the City Manager may be appealed within thirty (30) days by the Permittee to the City Council in accordance with any rules and procedures established by that body. (Prior code 25-34; Ord. 1110 § 1, 2010)

**Sec. 11-3-240. Penalty.** If any person, firm or corporation, including but not limited to the officers and agents of a corporation responsible for its actions or inaction, and the partners of a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this Article, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted, and upon conviction of any such violation such person, firm or corporation, including but not limited to such partners or officers or agents, shall be punished by a fine in accordance with the provisions of Section 1-4-10 of this Code. (Prior code 25-35; Ord. 1110 § 1, 2010)