

Proposed Revision to Chapter 2-2-11, Traffic Engineering,” B.R.C. 1981 (1-30-09)

Chapter 1-2, “Definitions,” B.R.C. 1981 (Reference Only, No Proposed Revisions)

"Public right-of-way" means the entire area between property boundaries which is: owned by a government, dedicated to public use, or impressed with an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. "Right-of-way" includes, without limitation, the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

"Street" means the entire width between the property boundary line of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and includes, without limitation, alleys, or the entire width of every way declared to be a public highway by any law.

"Traffic engineer" means the city manager, any city employee designated by the manager to act as traffic engineer or assistant traffic engineer, and the supervisors of any person so designated.

2-2-11, “Traffic Engineering,” B.R.C. 1981 (Proposed Revision to Subsection (b) (13))

(a) The city manager is appointed as traffic engineer for the city to perform the responsibilities provided in this section and other applicable ordinances of the city. It is the general duty of the traffic engineer to plan the installation, timing, and maintenance of traffic control devices; to plan and direct the operation and parking of traffic on the streets of the city; to conduct investigations of traffic conditions; to represent the city in dealing with officials of other governments on traffic and street improvements; to make agreements dividing responsibility for maintenance of streets and traffic control devices over which authority is exercised jointly with other governments; and to take such steps as are reasonably necessary and proper to carry out these plans subject to the availability of funds.

(b) In addition to other duties prescribed by this code or other ordinances of the city, the city manager may, without limitation:

- (1) Plan for and regulate the movement of traffic on the streets of the city including parking areas;
- (2) Investigate traffic conditions, conduct safety studies, and study police and citizen accident reports;
- (3) Determine when and where to install traffic control devices, including, without limitation, traffic signals, signs, and markings;
- (4) Determine the timing of traffic control signals;

(5) Determine where certain types of traffic on certain streets or lanes of roadways should be restricted or prohibited;

(6) Establish speed limits;

(7) Determine where angle parking should be established;

(8) Determine where loading zones should be established;

(9) Determine when stopping or parking should be prohibited or limited to certain times or certain classes of vehicles;

(10) Determine the need for and location of tow-away zones;

(11) Determine where parking on streets or city parking lots should be metered and the amount to be charged;

(12) Establish safety zones of such kind and character and at such places where the manager finds that there is particular danger to pedestrians and whose existence is reasonably likely to reduce that danger;

(13) Close *or prescribe methods for handling traffic impacts on* streets during civil emergencies, *work in the public right-of-way*, and construction projects;

(14) Establish barricaded play streets if the manager finds that the public safety and convenience would be served thereby;

(15) Close streets or portions of streets temporarily for no more than eight hours for community or neighborhood events, if the manager finds that the public safety and convenience would not be thereby adversely affected and subject to such conditions as the manager deems reasonable to protect public health, safety, and welfare; and

(16) Approve use of all or a portion of streets for bicycle or pedestrian racing events, and temporarily close for no more than twelve hours all or a portion of such areas as reasonably necessary for the safety of racers, spectators, and those who would otherwise use the facility, if the manager also determines that:

(A) The event will not unreasonably interfere with other traffic or with access to affected properties;

(B) If required by the manager, the organizers have secured the approval of the persons in possession of affected properties;

(C) Approval of the Colorado Department of Highways has been secured by the race organizers if any portion of the event is on a state highway;

(D) The organizers have agreed to pay the reasonable costs, as determined by the manager, of the extra expenses, including, without limitation, salaries and overtime of city employees, reasonably occasioned by city participation in preparation, monitoring, directing traffic, securing areas, and returning the areas to their normal use, and have paid such amounts in advance or have secured such payment obligation by a method acceptable to the manager;

(E) The race organizers have presented a practical and detailed plan of the event which, if followed, will promote reasonable safety and minimize traffic disruption; and

(F) The organizers have demonstrated an ability to comply with the plan.

(c) The city manager may erect, install, and maintain such traffic control devices as are reasonably necessary to effectuate the manager's determinations and to cover emergencies, tests, experiments, and other special circumstances.

(d) In exercising the discretion delegated by this section, the city manager shall consider the following factors that apply under the circumstances:

(1) The standards of the traffic engineering profession and of the state and federal governments;

(2) Public safety;

(3) The most efficient use of the streets and city parking areas; and

(4) The costs involved.

(e) The city manager shall make and maintain records of the location, installation, functioning, and maintenance of all traffic control devices. The manager shall maintain a record of all approvals made by the Colorado Highway Department of traffic control devices on state highways.

(f) The city manager is authorized to produce or acquire and sell to the public handicapped parking permits which will serve in lieu of depositing money or tokens in parking meters, or purchasing time in a parking space in a pay station, on city streets and city parking lots by vehicles eligible to park in spaces designated for parking by the handicapped. If the Central Area General Improvement District or the University Hill General Improvement District determines to extend use of these permits to meters or pay stations on lots owned or leased by the district, or to attended parking on such lots, the general manager of the district shall enter into a written agreement with the city manager specifying how to divide the permit revenues equitably between the general fund and the district in proportion to the division which would occur were no permits sold. If the manager determines to institute such a

program, the manager shall, by regulation, specify the form of the permit, the method of its use and display, the method of application and purchase, the cost of the permit, and any restrictions on its use.

(g) (1) The city manager is authorized to specify the circumstances under which authorized emergency vehicles of the city police and city fire departments, of the Boulder County Sheriff's Department, the University of Colorado Police Department, and the Colorado State Patrol, may park in metered parking spaces or spaces regulated by pay stations on city streets, alleys, or parking lots for investigative and administrative purposes not rising to the level of an emergency governed by the parking exemption of section 7-2-12, "Exemptions for Authorized Emergency Vehicles," B.R.C. 1981, without paying the fees specified and in excess of the time limit. With respect to city vehicles covered by this policy, the manager shall estimate the annual parking revenue loss occasioned thereby, and cause such an amount to be transferred from the amount appropriated for each such department into the parking meter revenue account.

(2) The city manager is authorized to issue meter parking permits to public utility companies for display on marked service vehicles of such utility companies in lieu of depositing money in meters or pay stations on city streets, alleys, or parking lots in return for prepayment of the parking meter revenue loss occasioned thereby, as estimated by the manager. Such permits may only be displayed when the service vehicle is parked in a metered space or space regulated by a pay station in response to a bona fide utility service necessity.

(Ordinance Nos. 5233 (1989); 5241 (1989); 5920 (1997); 7294 (2003))

Proposed Revisions to Chapter 8-2, " Streets and Sidewalks," B.R.C. 1981

8-2-11 Duty to Maintain Walkway Around Obstructed Portions of Sidewalks.

Whenever in the construction, rebuilding, or repairing of any building or structure it is necessary to blockade, obstruct, or remove the adjacent sidewalk, no person in charge of such work shall fail to *provide an appropriate alternative pedestrian facility meeting the requirements of the Design and Construction Standards* build and maintain a sound and substantial walkway meeting the requirements of the City of Boulder department of public works, Work Area Traffic Control and Safety Handbook, July 1980, around the obstructed portion of such sidewalk.

Proposed Revisions to Chapter 8-5, “ Work in the Public Right-of-Way and Public Easements,” B.R.C. 1981

8-5-1 Legislative Intent.

The purpose of this chapter is to regulate the placement of structures and infrastructure, construction, excavation, encroachments, and work activities within or upon any public right-of-way or public easement, to assure public safety and to protect the integrity *and operation* of the transportation system. To achieve this purpose, it is necessary to *establish standards for any work activity*, require permits, to establish permit procedures, and to fix and collect fees and charges. This chapter is intended to balance the public objectives for providing efficient, safe transportation routes with the use of public rights-of-way for city-owned and non-city-owned public utilities, including:

- (a) Ensuring that the public safety is maintained and that public inconvenience is minimized.
- (b) Protecting the city's investment in its infrastructure by establishing repair standards for surface improvements and pavement when work is accomplished.
- (c) Facilitating work within the right-of-way and public easements through the adoption and implementation of standards for regulating the placement *and construction* of infrastructure *and defining actions for balancing work activity impacts with the public need for transportation access and mobility*.
- (d) Maintaining an efficient permit process.
- (e) Conserving the limited physical capacity of the public rights-of-way and public easements held in public trust by the city.
- (f) Assuring that the city can continue to fairly and responsibly protect the public health, safety, and welfare.

8-5-2 Definitions.

The following terms used in this chapter have the following meaning, unless the context fully indicates otherwise:

"Encroachment" means a private improvement, structure, utility or obstruction extending into or located within, above, or under any public right-of-way or public easement.

"Fence" means any artificially constructed barrier of wood, masonry, stone, wire, metal, or any other 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, trees and landscaping in public right-of-way, city-owned and non-city-owned utilities, 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 chapter.

"Public easement" means a public interest in land owned by another person that entitles the public to a specific limited use or enjoyment of said land for the use or installation, construction, reconstruction, repair, or maintenance of public infrastructure such as utilities, drainage systems, or transportation improvements.

"Standards" means design and construction standards as 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.

"Temporary Traffic Control Plan (TTCP)" means a method for handling traffic prepared under the supervision of an American Traffic Safety Services Association (ATSSA) certified Traffic Control Supervisor (TCS) and implemented under the supervision of a TCS or certified Traffic Control Technician (TCT) in conformance Section 8-10, "Temporary Traffic Control."

"Temporary Traffic Control Zone" means an area of the public right-of-way where transportation conditions are changed for pedestrians, bicyclists, transit or motorists because of work, a work activity or incident by the use of temporary traffic control devices, flaggers, law enforcement or emergency operations officers, or other authorized personnel.

"Work" or "work activity" means any labor, construction, excavation, or storage of equipment or materials in the public rights-of-way or public easements, including, without limitation, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. "Work" or "work activity" also means 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 right-of-way or public easement, and installation of overhead poles used for any purpose.

8-5-3 Permit Required for Work in the Public Right-of-Way and Public Easements.

(a) Work in Right-of-Way or Public Easement Prohibited Without Permit: No person shall undertake or permit to be undertaken any work in the public right-of-way or a public easement without first obtaining a permit from the city as set forth in this chapter, unless such work is exempt under the provisions of section 8-5-17, "Work in the Public Right-of-Way or Public Easement Exempt From Required Permit," B.R.C. 1981, or involves sidewalk construction as permitted under section 8-2-18, "Permit for Sidewalk Construction Required," B.R.C. 1981.

(b) Display of Permit: *No person* The permittee shall *fail to* maintain the applicable permits, *including without limitation, a right-of-way permit, state highway permit, floodplain development permit, wetland permit, and temporary traffic closure authorization*, along with associated *project* documents, including *without limitation*, the approved engineering construction drawings or site plans, and applicable *a temporary* traffic control *plan, or and an* erosion control plans, on the job site. *and a* All documents shall be made available for inspection upon request by any officer or employee of the city.

(c) Work Consistent with the Permit: No ~~permittee~~ *person* shall work in an area larger or at a location different from that specified in the approved permit *or project area*. If it becomes necessary to work in a larger or different area than originally requested under the *project* application, ~~the permittee shall notify the city manager~~ *shall be notified* and *file* a supplementary application for the additional work *shall be submitted* within twenty-four hours.

(d) Permits are Not Transferrable: Permits shall not be transferable or assignable. The permittee may subcontract the work to be performed under a permit provided that the holder of the permit shall be and remain responsible for the performance of the work under the permit and provide all insurance and financial security as required.

8-5-4 Permit Application.

An applicant for a permit to work in the public right-of-way or public easement under this section shall file a written application on a form provided by the city manager that includes the following:

(a) 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 work; the type of existing public infrastructure, *including*, without limitation, street pavement, curb and gutter, sidewalks or utilities impacted by the work; the purpose of the proposed work; the dates for beginning and ending the proposed work; the measurements, quantities, itemization and total cost, including labor and materials, of the construction improvements and excavations for improvements that are to be owned and operated by the City of Boulder; and type of work proposed.

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

(c) A ~~satisfactory~~ *temporary* traffic control *in conformance with Section 8-10 and the Design and Construction Standards* and an erosion protection plan *in conformance with the Design and Construction Standards* for the proposed work.

(d) Evidence that the applicant has an effective license, including, without limitation, required insurance, deposits, bonding, and warranty to perform work in the public right-of-way or public easement, as prescribed under chapter 4-6, "Contractor in the Public Right-of-Way License," B.R.C. 1981.

(e) A satisfactory plan of work, showing protection of the subject property and adjacent properties including the protection of shade and ornamental trees and the restoration of turf.

(f) Evidence that the applicant or its contractor is not delinquent in payments due the city on prior work, and that all orders issued by the city to the applicant, requiring the applicant to correct deficiencies under previous permits issued under this chapter, have been satisfied.

(g) Evidence that any financial guarantee required under section 9-2-20, "Required Improvements and Financial Guarantees," or 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981, have been provided in connection with the approved subdivision, site plan, or engineering construction drawings.

(h) Documentation that all permits required for the proposed work have been obtained including, without limitation, floodplain development permits, wetland permits, state highway access or utility permits, *temporary traffic closure authorizations*, revocable right-of-way permits, and sewer and water utility permits.

(i) Pay the fees prescribed by section 4-20-6, "Public Right-of-Way Permit and Contractor License Fees," B.R.C. 1981.

8-5-5 Permit Contents.

A permit issued under this section should state the right-of-way permit number, the date of issue and expiration; the name and address of the permittee, the name and address of the developer, contractor or subcontractor licensed to perform work under the permit; the location, nature, and purpose of the proposed work permitted; any conditions of approval, including, without limitation, inspection, testing, certification, and provision of as built drawings; the type of existing public infrastructure including, without limitation, street pavement, curb and gutter, sidewalks, trees and landscaping, or utilities impacted by the permit; references to the approved engineering construction drawings or site plans; references to any supplemental permits including, without limitation, wetland, floodplain development, state highway access or utility, revocable right-of-way and water and sewer utility permits required; and the amount of fees and deposits paid, and bonds filed by the permittee.

8-5-6 Public Improvement Warranty.

The applicant shall warrant all public improvements constructed under the approved permit as set forth in section 9-12-14, "Public Improvement Warranty," B.R.C. 1981. The applicant shall warrant the restoration of a public street excavated and filled with rock backfill material pursuant to subsection 8-5-12(c), B.R.C. 1981, for three years in conformance with the requirements set forth in section 9-12-14, "Public Improvement Warranty," B.R.C. 1981.

(Ordinance No. 7088 (2000))

8-5-7 Inspections.

~~The permittee~~ **No person** shall **fail to** contact the city to schedule inspections for work completed within any public easement or right-of-way pursuant to an approved right-of-way permit, and shall not proceed with additional work until authorized by the city manager. If any stage of work under the permit is found by the city to be unsatisfactory, ~~the permittee~~ **said person** shall remedy, repair, or reconstruct said portion of the work found unsatisfactory prior to proceeding with new stages of the work.

Immediately upon completion of all work under a permit, the permittee shall notify the city to schedule an inspection and submit construction drawings of the completed construction and work as built, at which time city acceptance will be made if all work meets city standards. The warranty period begins upon acceptance of the work after the final inspection. Approximately thirty days prior to the expiration of the warranty, the city will perform an inspection of the completed work. If the work is still satisfactory, the financial guarantee for individual permit holders shall be returned less any amounts needed to complete work not done by the permittee.

8-5-8 Public Safety and Nuisance.

(a) ~~Permittee's Responsibilities:~~ No person who obtains a permit for **performing** work in the public right-of-way or public easement shall fail to maintain a safe work area, free of nuisance conditions. If ~~the permittee~~ **said person** fails to provide a safe work area free of nuisance conditions, the city may issue an order to make any repair necessary to eliminate any hazards or nuisances.

(b) Failure to Comply: If ~~the permittee~~ **any person** fails to correct a hazard or a public nuisance, the city may issue a stop work order and make any repair necessary to eliminate such hazard or public nuisance. Any such work performed by the city shall be billed to ~~the permittee~~ **said person** at overtime rates. The ~~permittee~~ **violating person** shall pay all such charges within thirty days of the statement date. If ~~the permittee~~ **said person** fails to pay such charges within the prescribed time period, the city may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. Furthermore, the ~~permittee~~ **violating person** shall be barred from performing any work in the public right-of-way or public easement, and under no circumstance will the city issue any further permits of any kind to said ~~permittee~~ **person** until such time that all outstanding charges have been paid in full. This

remedy is in addition to any criminal action which the city may bring or pursue for violation of the chapter.

8-5-9 Time of Completion.

All work covered by the permit shall be completed by the date approved on the application. Permits shall expire and be void if work has not commenced within thirty days after issued or as otherwise authorized in the permit after issuance. Unused funds guaranteed by letters of credit or cash deposited as a financial guarantee for individual permits will be returned after expiration and voiding of the permit.

8-5-10 *Temporary* Traffic Control.

No person shall perform any work, work activity, construction, or maintenance in a public right-of-way or public easement without providing temporary traffic control measures to mitigate transportation impacts affecting pedestrian, bicycle, transit or vehicular travel on the transportation system that include the following: No person shall initiate any work in the public right-of-way or public easements without meeting the following requirements:

(a) *Temporary Traffic Control Plan Required:* When it is necessary to impede or obstruct *pedestrian, bicycle, transit, or vehicular* traffic, a *temporary* traffic control plan *shall be* prepared *by an ATSSA certified Traffic Control Supervisor* in conformance with Section 2.13, Temporary Traffic Control," Design and Construction Standards, the Manual on Uniform Traffic Control Devices, *and* shall be submitted to the city prior to starting work. No *right-of-way* permit will be issued until the *temporary traffic control* plan is reviewed and approved by the city *for compliance with the DCS standards.*

(b) *Access and Pass Ability:* No person 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 from the city manager. Streets, *including without limitation, vehicle travel lanes, parking, bicycle lanes, sidewalks, and multi-use paths,* are to remain passable at all times, unless *permission authorization* to close a street is approved by the city manager, as prescribed under section 2-2-11, "Traffic Engineering," B.R.C. 1981. *No person shall be the responsibility of the permittee fail* to notify and coordinate all work in the public right-of-way with police, fire, ambulance, and transit organizations.

(c) *Temporary Traffic Warning and Control Devices:* *The permittee Any person implementing a temporary traffic control plan shall illustrate on the permit the provide all* warning and traffic control devices proposed for use. *At the direction of the city manager, may require that* such warning and control devices shall be increased, decreased, or modified *if traffic impacts or safety concerns for transportation users or workers arise.* The Manual on Uniform Traffic Control Devices, Part IV, shall be used as a guide for all maintenance and construction signing. 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. The permittee shall provide all traffic control devices. If used at night, the *any temporary* traffic control devices must *shall* be reflectorized and be illuminated or have barricade warning lights. Oil flares or kerosene lanterns are not allowed as a means of illumination.

(*cd*) Flag Person Required: When *called for under a temporary traffic control plan prepared in conformance with the Design and Construction Standards, or where* necessary for public safety, the city manager will require the permittee to employ certified flag persons shall *be employed as part of implementing temporary traffic control measures* whose duties shall be to control traffic around or through the construction site *temporary traffic control zone*.

(e) Supervision: An ATSSA certified Traffic Control Supervisor or Traffic Control Technician shall be responsible for implementing a temporary traffic control plan for any temporary traffic control zone.

8-5-11 Minimizing the Impacts of Work in the Rights-of-Way and Public Easements.

(a) Responsibility of Permittee: The permittee *No person* shall *fail to* conduct work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property.

(b) Location of Utilities: Before any permittee *person* begins work in any public right-of-way or public easement, it shall contact the Utility Notification Center of Colorado and make inquiries of all ditch companies, utility companies, districts, municipal departments, and all other agencies that might have facilities in the area of work to determine possible conflicts. The permittee *No person* shall *fail to* contact the Utility Notification Center of Colorado and request field locations of all facilities in the area at least forty-eight hours in advance of commencing work.

(c) Protection of Utilities: The permittee *No person* shall *fail to* support and protect all infrastructure, including, without limitation, pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction performance of the work, or settlement of trenches subsequent to construction.

(d) Work Hours: Work activity performed in public right-of-way or public easements under a right-of-way permit may occur Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m. *Any work activity in the public right-of-way or public easement requires the authorization of the City Manager. No person responsible for such work shall fail to comply with the requirements provided in the Design and Construction Standards.* No work shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 8:00 a.m. or 4:30 p.m. to 5:00 p.m. on streets designated "collector" or greater in the adopted Transportation Master Plan without the approval of the city manager. Construction hours may be further modified by the city manager to minimize construction impacts on traffic flow along arterial and collector roadways, or to address environmental and safety concerns which may be associated with a right-of-way construction permit application.

(e) After Hours Work: ~~The applicant~~ *A person* may request permission to perform after hours work activity in a public right-of-way or public easement, subject to city approval considering the type of work to be performed, the public necessity to have the work performed outside of normal hours, and the potential inconvenience or annoyance the work may have on the general public and occupants of neighboring property. Any approval to permit after-hours construction ~~under an approved right-of-way construction permit~~ shall be subject to approval of a sound level variance, if necessary, prescribed under chapter 5-9, "Noise," B.R.C. 1981, and the applicant's agreement to pay the fee for after hours inspection prescribed under subsection 4-20-6(g), B.R.C. 1981.

(f) Noise: ~~The permittee~~ *No person* shall *fail to* comply with allowable noise levels prescribed under chapter 5-9, "Noise," B.R.C. 1981.

(g) Trash and Construction Materials: ~~The permittee~~ *No person* shall *fail to* maintain the work site such that:

(1) Trash and construction materials are contained and do not blow off 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; and

(3) Trash dumpsters, materials, storage trailers, or construction trailers shall not be placed in the right-of-way unless approved with the right-of-way permit.

(h) Dust and Erosion: ~~The permittee~~ *No person* shall *fail to* use appropriate measures, such as watering and best management environmental practices, to control dust and erosion at the construction site.

(i) Deposit of Dirt and Material on Roadways: ~~The permittee~~ *No person* shall *fail to* comply with the requirements to eliminate the tracking of mud or debris upon any street or sidewalk as prescribed under section 8-2-10, "Deposit of Dirt and Material on Streets and Alleys Prohibited," B.R.C. 1981. Equipment and trucks used during construction, excavation or work activity shall be cleaned of mud and debris prior to leaving any work site.

(j) Use of Street and Sidewalk within the Right-of-Way or Public Easement: A permittee for a right-of-way construction permit shall:

(1) Make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not impacted;

(2) Obtain permission from the city manager to occupy public metered parking spaces and pay applicable parking reimbursement fees for any work activity that impacts public metered parking spaces, as set forth in section 4-18-8, "Parking Meter Hood and Sign Permits," B.R.C. 1981;

(3) Maintain safe traffic operations along all public streets in conformance with section 8-5-10, "Traffic Control," B.R.C. 1981;

(4) Maintain an adequate and safe unobstructed public walkway through or around the working construction site or blocked sidewalk in conformance with section 8-2-11, "Duty to Maintain Walkway Around Obstructed Portions of Sidewalks," B.R.C. 1981;

(5) Clear all snow and ice hazards from public sidewalks or walkways through or around the work site by 12:00 noon following a snowfall in conformance with section 8-2-13, "Duty to Keep Sidewalks Clear of Snow," B.R.C. 1981; and

(6) Secure all dangerous areas, such as trenches and excavations, with appropriate markers, barricades, and/or fencing.

(k) Protection of Trees and Landscaping: ~~The permittee~~ *No person* shall *fail to* protect trees, landscape, and landscape features as required by the city. All protective measures shall be provided at the expense of the ~~permittee~~ *person performing work*. Any damage to existing trees and landscaping shall be reported to the city manager for inspection. The ~~permittee~~ *person performing work* shall be required to complete any remedial action necessary to repair and restore damaged trees and landscaping, as determined by the city manager. Any trees and landscape materials which are damaged beyond repair or restoration shall be replaced at an equivalent value to the damaged material at the expense of the ~~permitted~~ *person performing work*.

(l) Protection of Paved Surfaces From Damage: The ~~permittee~~ *person performing work* shall be responsible for any damage caused to any pavement by any work activity. Upon order of the city manager, ~~the permittee~~ *said person* shall repair all damage to the satisfaction of the city manager. Failure to repair such damage will result in the use of the permittee's performance bond, financial guarantee, or warranty by the city to repair any damage. To protect against pavement damage, backhoe equipment outriggers shall be fitted with rubber pads when used on pavement surfaces, and tracked vehicles are not permitted on paved surface unless specific precautions approved by the city manager are taken to protect the surface.

(m) Protection of Property: ~~The permittee~~ *No person* shall *fail to* protect from injury any adjoining property by providing adequate support and taking other necessary measures. ~~The permittee~~ *Said person* shall, at their 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 right-of-way and public easements.

(n) Cleanup: As the work progresses, all public rights-of-way, public easements, and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All cleanup operations shall be done at the expense of the ~~permittee~~ *person performing work*.

(o) Preservation of Monuments: The ~~permittee~~ *person* 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 shall be replaced by a Colorado Registered Land Surveyor at the ~~permittee's~~ *said person's* expense.

8-5-12 Standards for Repairs and Restoration of Pavement or Sidewalks.

(a) ~~Permittee~~ Responsibility: The ~~permittee~~ *person performing work* shall be fully responsible for the cost and actual performance of all work in the public right-of-way or public easement. ~~The permittee~~ *Said person* shall do all work in conformance with city design and construction standards. All restoration work shall result in a pavement and sidewalk condition equal to or better than that which existed prior to construction. All streets and paved surfaces shall be restored within two weeks of their excavation. Where bike lanes and multi-use paths are reopened to the public prior to final restoration, a temporary, all-weather, hard surface patch shall be provided. No person shall fail to repair or restore any public improvement damaged, removed, or destroyed during the performance of any work under a permit issued pursuant to this chapter.

(b) Flowable Fill Required: Flowable fill backfill material, or an equivalent backfill material approved by the city manager that provides an incompressible, settlement-free, stable surface satisfying the design and construction standards adopted by the city, shall be used to restore all trenches that have been excavated in the paved or traveled portion of any public street or alley.

(c) Rock Backfill Material Permitted: The city manager may permit an applicant to use rock backfill material in lieu of flowable fill backfill material on streets that are designated "local" in the Transportation Master Plan, provided all of the following conditions are satisfied:

(1) Prior to issuance of a permit for work activity in the public right-of-way or public easement, the applicant must request and receive city manager approval for the use of the rock backfill material;

(2) The work activity requires trench excavation in excess of five feet in depth;

(3) The trench excavation is along a parallel alignment beneath the paved roadway or travel lane, and does not include any perpendicular or diagonal trench excavation across the paved roadway or travel lane;

(4) The type, gradation, placement, compaction, and testing of the rock backfill material shall meet or exceed all requirements specified in the design and construction standards adopted by the city; and

(5) The applicant shall warrant the restoration of the public street for a period of three years as set forth in section 8-5-6, "Public Improvement Warranty," B.R.C. 1981.

(d) Subsurface or Pavement Failures: In the event that subsurface material or pavement over or immediately adjacent to any excavation should become depressed, broken, or fail in any way at any time after the excavation has been completed, the city manager will notify the *person performing work or* permittee of the condition, location, and required remedy for the street failure, and the *person performing work or* permittee shall repair or restore, or cause to be repaired or restored, the street failure to the satisfaction of the city manager within three days of such notice. The city manager may extend the time for the *person performing work or* permittee to repair or restore the affected public street.

(e) Repair by the City: In the event that any person or permittee fails, neglects, or refuses to repair or restore any condition pursuant to the city manager's notice as set forth in subsection (d) of this section the city manager may repair or restore, or cause to be repaired or restored, such condition in such manner as the city manager deems expedient and appropriate pursuant to the following:

(1) Any such work performed by the city shall be billed to the *person performing work or* permittee to recover the cost thereof plus up to fifteen percent of such cost for administration. The *person performing work or* permittee shall pay all such charges within thirty days of the statement date. If the *person performing work or* 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 warranty guarantee;

(2) The *person performing work or* permittee shall be barred from performing any work in the public right-of-way or public easement, and under no circumstance will the city issue any further permits of any kind to said *person performing work or* permittee, until such time that all outstanding charges have been paid in full; and

(3) Repair or restoration by the city in accordance with this subsection shall not relieve the *person performing work or* permittee from liability for future failures at the site of the repair or restoration.

(Ordinance No. 7088 (2000))

8-5-17 Work in the Public Right-of-Way or Public Easement Exempt From Required Permit.

The following work activities do not require a *right-of-way* permit under this chapter:

(a) Public Projects: Maintenance and construction of public infrastructure by an employee or official of the city designated by the city manager, or a person under contract with the city and licensed under section 4-6-2, "License Required," B.R.C. 1981.

(b) Private Projects: Maintenance and construction of non-city-owned utilities by public utility companies, their employees or agents, in public utility easements less than fifteen feet in width where no city-operated utilities, transportation, or drainage system improvements are in place.

(c) Maintenance of Landscaping and Surface Improvements: Maintenance by the adjacent property owner of landscaping and surface improvements located within a public easement, or within the public right-of-way as it abuts a property outside of any street section, behind the curb and gutter or edge of pavement. "Maintenance" generally includes, without limitation, watering, mowing, raking, and weeding activities.

(d) Landscaping Materials: Planting by the adjacent property owner of landscaping materials located within a public easement, or within the public right-of-way as it abuts a property outside of any street section, behind the curb and gutter or edge of pavement, involving living materials with root systems that do not extend more than ten inches below grade or have mature heights exceeding thirty inches, non-living natural materials commonly used in landscape development for ground cover, not including any timber, rock, masonry or concrete retaining walls or elevated planting borders, and attendant irrigation systems, that do not extend more than ten inches below grade.

(e) Trees: Planting by the adjacent property owner of trees as set forth in section 6-6-3, "City Manager Will Supervise Planting," B.R.C. 1981.

8-5-18 Revocation of Permits.

In addition to any other provisions of this code or other ordinances of the city, the city manager may suspend or revoke a permit issued under this chapter if:

(a) Violations:

- (1) The permittee violates any condition of the permit or of any provision of this chapter;
- (2) The permittee violates any provision of any other ordinance of the city or state law relating to the work;
- (3) The permittee causes any condition or performs any act which constitutes or causes a condition endangering life or damage to property; or
- (4) The permittee obtained the permit by fraud or misrepresentation.

(b) Suspension, Revocation and Stop Work Order: 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 right-of-way. Any suspension or revocation or stop work order may be appealed by the permittee to the city manager under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) Stop Work Order for Unauthorized Work: 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 right-of-way without a permit, or in violation of any provision of this chapter, or any other ordinance of the city.

(d) Compliance With Order Required: No person shall fail to comply with the conditions of an order suspending or revoking a permit or an order to stop work.

21 Adopted by Ordinance No. 5919.

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