

ORDINANCE NO. 10
Series 2005

September 6, 2005: Introduced as Council Bill 12 Series 2005 by Councilmember Doug Tisdale, seconded by Councilmember Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

September 20, 2005: Considered in full text on second reading. Passed unanimously

A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE REPEALING AND REENACTING
ARTICLE 11-2 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, ENTITLED
PUBLIC RIGHT-OF-WAY PERMITS

WHEREAS, obstructions and excavations in public rights-of-way disrupt and interfere with public use of the rights-of-way; and

WHEREAS, obstructions and excavations in public rights-of-way result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and excavations; and

WHEREAS, to provide for and protect the health, safety and welfare of the City of Cherry Hills Village ("City") and its residents, it is desirable to adopt policies and regulations which will enable the City to maintain control over the disruption and interference with the public use of public rights-of-way; and

WHEREAS, significant public funds have been invested to acquire, build, maintain and repair the streets within the City, and cuts and excavations in the streets reduce the useful life of the pavement; and

WHEREAS, significant funds have been invested to place and maintain landscaping within public rights-of-way in the City, and cuts and excavations in the public rights-of-way cause damage to, and increase the costs of maintaining that landscaping; and

WHEREAS, at the present time, the City does not have a detailed map or database indicating the location, nature, or extent of the entire system of underground utility and telecommunications facilities; and

WHEREAS, while private and commercial operators of motor vehicles pay added gasoline taxes to compensate for the damage their vehicles cause to City streets, public and commercial utilities which also degrade the streets do not similarly pay their proportional share for damage they cause to the roadway surfaces.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Article II of Chapter 11 of the Cherry Hills Village Municipal Code is hereby repealed and reenacted to read in its entirety as follows:

ARTICLE II
PUBLIC RIGHT-OF-WAY PERMITS

11-2-10 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, under or upon any public right-of-way, and to protect the integrity of the City'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 City must ensure that the primary purpose of the public right-of-way, passage of pedestrian and vehicular traffic, is protected. The use of the public rights-of-way by private users is secondary to these public objectives. This Article has several objectives:

1. To minimize public inconvenience.
2. To protect the City's infrastructure investment by establishing repair standards for the pavement, facilities, and property in 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 City.
6. To establish a public policy for enabling the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.
7. To promote cooperation among permittees and the City in the occupation of the public rights-of-way, and work therein, in order to: eliminate duplication of facilities that is wasteful, unnecessary or unsightly; lower the permittees' and the City's costs of providing services to the public; and minimize street cuts.
8. To protect the public health, safety, and welfare.

11-2-20 Definitions.

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

- A. "Access structure" means any structure providing access to facilities in the public right-of-way.
- B. "Approved alignment" means the designed horizontal and vertical alignment of facilities to be installed in the public right-of-way which is approved by the City at the time the permit is issued, plus any alignment variance tolerances set forth in the Construction and Excavation Standards, plus any alignment variances approved by the City in accordance with the Construction and Excavation Standards.
- C. "City" means the City Manager for the City of Cherry Hills Village or his/her designee.
- D. "Construction and Excavation Standards" means the document entitled Construction, Excavation Standards and Permit Fees for Work in Public Rights-of-Way, as adopted by resolution of the Cherry Hills Village City Council and amended from time to time.
- E. "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.

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

G. "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.

H. "Equipment" means any materials, trailers, storage units, waste collection containers or any other equipment typically used to perform construction activities within the City's right of way.

I. "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.

J. "Facilities" means any pipe, conduit, wire, cable, amplifier, transformer, fiberoptic 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.

K. "Infrastructure" means any public facility, system, or improvement including, but not limited to, 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.

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

M. "Major installation" means work in the public right-of-way involving an excavation exceeding three hundred feet (300') in length.

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

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

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

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

R. "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, traffic signal devices; tree trimming; 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.

11-2-30 Police power.

A. A permittee's rights hereunder shall at all times be subject to the police power of the City, 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 City 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 City's police power shall be resolved in favor of the latter.

11-2-40 Permit required.

A. No person except an employee or official of the City or a person exempted by contract with the City shall undertake or permit to be undertaken any work in a public right-of-way or place any equipment in a public right-of-way without first obtaining a permit from the City 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 City.

B. No permittee shall perform work in an area larger or at a location different, or for a period of time longer 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 City immediately and within two days shall file a supplementary application for the additional work.

C. Permits shall not be transferable or assignable without the prior written approval of the City.

D. Upon oral or written notification from the City, 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 11-2-250.

E. No private improvements are allowed within the City's right-of-way without the approval of the City with the exception of placing and maintaining landscaping that will not interfere with the public's use of the right-of-way. By allowing the placement and maintenance of landscaping in the right-of-way, this shall not be construed to abridge, limit or restrict the City in exercising its right to make full use of the City right-of-way encroached upon as public thoroughfares or public places, nor shall it operate to restrict utility companies or any other licensees in exercising their rights to construct, remove, operate and maintain their installations within the City's right-of-way, having first obtained the proper permits required.

F. No improvements are allowed within any trail easement in the City unless there is an underlying utility easement. The placement of structures within a trail easement must be approved by the City before installation. If there is an underlying easement that predates the trail easement, such senior easement takes precedent. However, it is the intent of the City to work cooperatively with all utilities holding easements to allow for the full use of the easement granted.

G. The Public Right-of-Way Permit process is to allow for work within the City's right of way. The permit may be used to cover the need to occupy the right of way for work outside of the right of way at the sole discretion of the City.

11-2-50 Developer installation of infrastructure.

Construction of infrastructure necessary to serve new development is the responsibility of the developer. Once a public right-of-way has been dedicated to

the City, all work in that public right-of-way, including the installation of new infrastructure by a developer, shall be subject to this Article.

11-2-60 Permit application.

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

1. The date of application;
2. The name, address and telephone number of the applicant and any contractor or subcontractor who will perform any of the work;
3. A plan showing the work site, the public right-of-way boundaries, all existing and proposed infrastructure in the area, as applicable, and identifying all improved landscape areas that will be disturbed.;
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;
8. If applicable, documentation of the approval required by Section 11-2-180(C); and
9. The applicable permit fees as set by 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. 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 City resolution, ordinance or regulation. When performing water or sewer taps, the applicant shall provide evidence that all applicable tap fees have been paid prior to submitting an application for right-of-way permit.
2. Copy of a site storm water drainage quality assurance plan to keep sedimentation from entering any storm water system within the City including road side ditches. No engineering is required, but instead a plan of what BMPs will be used for water quality during the project and until vegetation has been reestablished within the areas disturbed by the work. No storm water quality assurance plan shall be required when the permitted work in the right of way will have no impact on storm water quality.

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:

Engineering construction drawings or site plans for the proposed work in a format acceptable to the City and signed by a professional engineer licensed in the State of Colorado, except that an applicant expressly exempt from the signature requirement pursuant to C.R.S. § 12-25-103, as amended, need not include the signature of a licensed professional engineer.

D. An applicant shall notify the City immediately and shall update a permit application within two 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 City that the applicant is in compliance with all other permits issued by the City, and that the applicant is not delinquent in any payment due to the City for prior work. This certification shall not apply to outstanding claims which are honestly and reasonably disputed by the applicant, if the applicant and the City are negotiating in good faith to resolve the dispute.

11-2-70 Blanket maintenance permits.

A. A public right-of-way permit shall not be required for routine maintenance in the public right-of-way, as the term "routine maintenance" is defined in Section 11-2-20. However, other maintenance operations within the public right-of-way which involve traffic lane closures or sidewalk closures shall require a public right-of-way permit. To expedite the process for ongoing maintenance operations, owners of facilities within the public right-of-way may, at their sole option and in the alternative to obtaining individual public right-of-way permits, obtain a blanket maintenance permit pursuant to this Section.

B. A blanket maintenance permit shall be valid from the date of issuance of the permit through December 31st of the calendar year in which it was issued. Under no circumstances shall a blanket maintenance permit be valid for more than one year.

C. A blanket maintenance permit shall not, under any circumstances, authorize any pavement disturbance, excavation or installation of new facilities. Notwithstanding the foregoing, existing facilities may be removed and replaced, if no excavation or pavement disturbance is required.

D. Any person seeking a blanket maintenance permit shall file an application on a form provided by the City which includes the following information:

1. The date of application;
2. The name, address and telephone number of the applicant;
3. A description of the maintenance operations to be performed pursuant to the permit;
4. The precise location of maintenance operations known at the time of application;
5. Traffic control plan(s) as required by this Section and the Construction and Excavation Standards;
6. If applicable, documentation of the approval required by Section 11-2-180(C); and
7. The applicable permit fee as set by the Construction and Excavation Standards.

E. Blanket maintenance permits shall be subject to applicable provisions of the Construction and Excavation Standards.

F. A blanket maintenance permit shall not require a performance bond, letter of credit or warranty. Work performed pursuant to a blanket maintenance permit shall not be subject to the specific inspections set forth in Section 11-2-140, but may be subject to random inspection by the City to ensure compliance with the terms of the blanket maintenance permit and applicable provisions of the Construction and Excavation Standards.

11-2-80 City review and approval.

A. An application for a public right-of-way permit shall be reviewed by the City for completeness. If the application is not complete, the City shall notify the applicant of all missing information.

B. Once an application is deemed complete by the City, the City shall review the application to determine whether the application complies with this Article and the Construction and Excavation Standards.

C. At the conclusion of the review period, the City shall either approve the permit, approve the permit with conditions, or deny the permit. If the permit is denied, the City shall send a written notice of denial to the permittee at the address listed on the application, via first-class mail, postage prepaid. The notice shall include the reason(s) for denial.

D. Permits for work within trail easements will only be issued if the trail easement has an underlying utility easement. The City is not authorized to grant any additional use of trails other than the use granted the City by the trail easement. No other use shall be allowed by the City unless an easement for that use has been granted by the property owner.

E. For utility companies needing to place structures within a trail/utility easement, the location of the structure must receive review and approval from the City before placement of each structure.

11-2-90 Permit fees.

A. Before a public right-of-way permit is issued, the applicant shall pay to the City a permit fee, which shall be determined in accordance with the fee schedule contained in the Construction and Excavation Standards. Permit fees shall be reasonably related to the costs incurred by the City in providing services relating to the granting or administration of permits pursuant to this Article. 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.

B. Restoration fees.

1. Restoration fees shall only be charged to the applicant if the City chooses to allow the applicant to not perform the required restoration of the public right-of-way to the City's standards, rendering the City responsible for performing any required restoration. The City shall decide at the time of application whether the applicant will perform any required restoration, and the City's decision shall be final.

2. Restoration fees will be charged for all excavations within streets that are of a gravel surface. This fee will cover the cost to restore the street back to its original condition. Under no circumstances will this fee be waived for any reason if the work is within the gravel portion of the street. This fee may be charged for work outside of the gravel portion of the right-of-way if the City determines that the nature of the work will have an impact on the gravel surface of the street.

3. No restoration fees shall be required for a public right-of-way permit which does not include excavation unless the City determines that the

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nature of the work being performed under the permit will have an impact on the street.

4. Restoration fees collected by the City shall be placed in a separate account for general street maintenance and construction.

5. Restoration fees may be waived in the City'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 City. These circumstances are outlined in more detail in the section of the Construction and Excavation Standards addressing permit fees.

11-2-100 Insurance.

A. Unless otherwise specified in a franchise agreement or median maintenance agreement between a permittee and the City, prior to the granting of any permit, the permittee shall carry and maintain in full effect at all times the following insurance coverage:

1. Commercial general liability insurance, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, for limits not less than one million dollars (\$1,000,000) each occurrence for damages of bodily injury or death to one or more persons; and five hundred thousand dollars (\$500,000) each occurrence for damage to or destruction of property.

2. Workers compensation insurance as required by State law.

B. The permittee shall file with the City proof of such insurance coverage in a form satisfactory to the City.

C. Upon prior written approval of the City, a permittee may provide self-insurance with the minimum coverage limits set forth in subsection A.

11-2-110 Indemnification.

A. Each permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall hold the City harmless and defend and indemnify the City, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, as incurred, arising out of or in any way related to permittee's work or activity in the public right-of-way, including, but not limited to, the actions or omissions of the permittee, its employees, representatives, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the permittee of any rights granted in the permit, including any third party claims, administrative hearings, and litigation; whether or not any act or omission complained of is authorized, allowed, or prohibited by this Article or other applicable law. A permittee shall not be obligated to hold harmless or indemnify the City for claims or demands to the extent that they are due to the negligence or willful and wanton acts of the City or any of its officers, employees, or agents.

B. Following the receipt of written notification of any claim, the permittee shall have the right to defend the City with regard to all third party actions, damages and penalties arising in any way out of the exercise of any rights in the permit. If at any time, however, the City elects to defend itself with regard to such matters, the permittee shall pay all expenses incurred by the City related to its defense, including reasonable attorney fees and costs.

C. If a permittee is a public entity, the indemnification requirements of this Section shall be subject to the provisions of the Colorado Governmental Immunity Act.

D. If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the permittee and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.

11-2-120 Performance bonds and letters of credit.

A. Before a public right-of-way permit is issued, the applicant shall file with the City a bond or letter of credit, at the applicant's choice, in favor of the City in an amount equal to the total cost of construction, including labor and materials but excluding the cost of any facilities being installed, or five thousand dollars, 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, resolutions and regulations, and upon payment of all judgments and costs rendered against the applicant for any violation of any City resolution, regulation or ordinances or state law arising out of any negligent or wrongful acts of the applicant in the performance of work pursuant to the permit.

B. The City may bring an action on the bond or letter of credit on its own behalf.

C. The bond or letter of credit shall be approved by the City prior to the issuance of the permit.

E. A blanket bond of sufficient amount to cover all proposed work during the upcoming year may be filed with the City on an annual basis in lieu of the project-specific performance 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 City. Should the blanket bond be deemed insufficient by the City based on the work to date, the City may require additional, project-specific performance bonds or letters of credit pursuant to subsection A.

F. The performance bond, blanket bond, or letter of credit shall remain in force and effect for a minimum of two years after completion and acceptance of the street cut, excavation or lane closure.

G. If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the applicant and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.

11-2-130 Warranty.

A. A permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the City and in accordance with this Article and the Construction and Excavation Standards, and warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance.

B. Under the warranty, the permittee shall at its own expense repair or replace, at the discretion of the City, any portion of the work that fails, is defective, is unsound, or is unsatisfactory because of design, engineering, materials or workmanship.

C. The warranty period shall begin on the date of the City's probationary acceptance of the work. If repairs are required during the warranty period, those repairs need only be warranted until the end of the initial two-year period starting with the date of probationary acceptance.

D. At any time prior to completion of the warranty period, the City may notify the permittee in writing of any needed repairs. If the defects are determined by the City to be an imminent danger to the public health, safety and

welfare, the permittee shall begin repairs within twenty-four hours of receipt of the written notice and continue the repairs until completion. Non-emergency repairs shall be completed within thirty days after notice.

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

F. If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the applicant and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.

11-2-140 Inspections.

A. The following four inspections shall take place, at a minimum:

1. Pre-construction inspection. The City shall conduct a pre-construction inspection, to determine any necessary conditions for the permit. The permittee shall mark with white paint the area proposed for excavation.
2. One site inspection shall be conducted on or after the first day the work starts as stated on the permit.
3. Completed work inspection. The permittee shall notify the City immediately after completion of work. The City shall inspect the work within ten working days of the permittee's notification. Probationary acceptance shall be made if all work complies with this Article, the Construction and Excavation Standards and any other applicable City regulation, ordinance or resolution. The probationary acceptance shall begin after the inspection has been completed. If all work does not meet the requirements established by the City, written notice will be mailed to the address on the permit listing all items that must be corrected.
4. Warranty inspection. Approximately thirty days prior to the expiration of the two-year warranty period, the City shall conduct a final inspection of the work. If the work is still satisfactory, the bond or letter of credit shall be returned or allowed to expire.

B. Upon review of the application for a permit, the City 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 City may waive any or all of the above-listed inspections. At any time during the permit period, the City may increase the number of inspections required. The additional fees associated with the inspections shall be paid for within two working days of such change to the permit.

11-2-150 Time of completion.

A. All work covered by the permit shall be completed within the time period stated on the permit, unless an extension has been granted by the City in writing, in which case all work shall be completed within the time period stated in the written extension.

B. Permits shall be void if work has not commenced within thirty days after issuance, unless an extension has been granted by the City in writing. The permittee shall request such an extension in writing, and the City shall either grant or deny the request within five days of receipt of the request.

11-2-160 Joint planning and construction.

A. Permittees shall make reasonable efforts to attend and participate in meetings of the City, 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 City, at the City's request, to discuss the permittee's planned major excavations in the City. As used in this subsection, the term "planned major excavations," means any major excavations planned by the permittee that will affect any public right-of-way for more than five days per year during the next three years. Between the annual meetings to discuss planned major excavations, the permittee shall use its best efforts to inform the City 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 City and the amount of pedestrian and vehicular traffic that is obstructed or impeded. Should two permittees refuse to joint trench or share bores or street cuts, the City may require each permittee to submit written evidence detailing why such joint trenching or sharing would be impossible or impractical. Such evidence may include the potential impact of joint trenching or sharing on the timing of the initiation and/or completion of the work. The City shall consider the evidence submitted. Should the permittee fail to provide evidence satisfactory to the City that joint trenching or sharing is impossible or impractical, the City may deny a permit on that basis.

11-2-170 Locate information.

A. Any person owning facilities in the public right-of-way shall provide field locate information to the City and any other permittee with a valid public right-of-way permit which authorizes locate pothole excavation or other excavation work. Within seven days of receipt of a written request from the City or such a permittee, the facility owner shall field locate facilities in the public right-of-way in which the work will be performed.

B. For major installations, a permittee shall obtain a public right-of-way permit to locate other existing facilities as provided in the Construction and Excavation Standards. The location of such facilities shall be field-verified in a manner approved by the City.

C. Before beginning excavation in any public right-of-way, a permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by C.R.S. § 9-1.5-102 *et seq.*, 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.

D. Before beginning excavation in any public right-of-way that has been landscaped and is maintained by contiguous property owner, the permittee shall contact the property owner to provide them with notice of the planned work in the right-of-way. In all cases, all improvements that are disturbed during the work will be restored to its condition before work commenced.

11-2-180. 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

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the rights and reasonable convenience of property owners and residents. Facilities shall be located, constructed and maintained in such manner as not to interfere with sewers, water pipes, or any City 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 City or its authority.

B. Facilities shall not unnecessarily hinder or obstruct the free use of the public rights-of-way or other public property, interfere with the travel and use of the public rights-of-way by the public during the construction, repair, operation or removal thereof, or obstruct or impede traffic.

C. No permit shall be granted for work in a landscaped median or road side landscaping unless the applicant demonstrates that its plans, specifications and a proposed schedule of work have been submitted to and approved by the City, special district or other entity responsible for the median or road side landscaping.

11-2-190 Underground construction and use of poles.

A. When required by City 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 City.

B. In areas where existing facilities are above-ground, the permittee may install above-ground facilities on existing poles with approval from the owner of that above ground facility.

C. For aboveground facilities, a permittee shall use existing poles. If at any time, the existing aboveground facilities are converted to underground, the permittee will place its facilities underground at that time and at no cost to the City or property owners that are utilizing those facilities for any services provided by those facilities, subject to the requirements of C.R.S. § 29-8-101, *et seq.*, as applicable.

11-2-200 Use of trenches and bores by City.

Should the City desire to place its own facilities in trenches or bores opened by a permittee, the permittee shall cooperate with the City in any construction by the permittee that involves trenching or boring, provided that the City 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 City to place its facilities in the permittee's trenches and bores, provided that: the City incurs any incremental increase in cost of the trenching and boring; the City's installation does not unreasonably delay the permittee's work; and the City's facilities are used solely for noncommercial, City purposes. The City shall be responsible for maintaining its respective facilities buried in the permittee's trenches and bores. If requested by the permittee, the City shall have separate access structures, and shall not use the permittee's access structures.

11-2-210 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.

11-2-220 Hours of Work.

A. To reduce the impact of work within the public right-of-way in and around certain heavily traveled collector streets within the City, work will only be allowed between the hours of 9:00 AM to 3:00 PM, Monday through Friday. No work will be allowed on weekends or holiday or at any other time unless directed by the City.

B. Exemptions for emergency operations. Emergency operations in restricted rights-of-way shall be permitted pursuant to Section 11-2-250.

11-2-230 Relocation of facilities.

A. If the relocation of any facilities in the public right-of-way becomes necessary to allow the City to make any public use of the public right-of-way, or because of the improvement, repair, construction or maintenance of any public right-of-way, or because of traffic conditions, public safety or installation of any type of public improvement by the City or other public agency or special district, or if the City or local improvement district implements any general program for the undergrounding of such facilities pursuant to C.R.S. § 29-8-101, *et seq.*, as applicable, the City may request a permittee to relocate facilities within or adjacent to public rights-of-way, either temporarily or permanently. The City shall notify the affected permittee, at least ninety days in advance, except in the case of emergencies, of the reason for the relocation and the projected start date of the project necessitating the relocation. The City shall provide the affected permittee with such notice at least one hundred twenty days in advance if the relocation will be considered a major installation under this Article. The permittee shall thereupon, at its own cost, unless otherwise required by C.R.S. § 29-8-101 *et seq.*, or when the facility owner by law can pass that cost onto the customer, accomplish the necessary relocation within a reasonable time from the date of the notification, but in no event later than three working days prior to the date listed in the notice as the proposed start date, or immediately in the case of emergencies.

B. Should the permittee fail to perform the relocation, the City may perform such relocation at the permittee's expense and the permittee shall reimburse the City as provided in Section 11-2-260, unless otherwise required by C.R.S. § 29-8-101, *et seq.*

C. Following relocation, the permittee shall, at the permittee's own expense, unless otherwise required by C.R.S. § 29-8-101, *et seq.*, 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 City may grant an extension if, in its sole discretion, the extension will not adversely affect the City's project or the public use of the affected public rights-of-way.

11-2-240 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 City 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 days from the date such notice is submitted to the City, and the method of removal and restoration. The permittee may not remove, destroy or permanently disable any such facilities during said fifteen-day period without written approval of the City. After fifteen days from the date of such notice, the permittee may commence removal and disposal of such facilities as set forth in the notice, as the notice may be modified by the City. The permittee shall complete such removal and disposal within one hundred eighty days, unless additional time is requested from and granted by the City.

B. Abandonment of facilities in place. Upon prior written approval of the City, a permittee may either:

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

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

C. If any provision of this Section conflicts with any provision of a valid, effective franchise agreement between the permittee and the City, the conflicting provision of this Section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.

11-2-250 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 City for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the City's Public Works Department, the City's Police Department and the appropriate fire protection agency.

B. If any damage occurs to an underground facility or its protective covering, the contractor or permittee responsible 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 or permittee responsible shall immediately notify the facility's owner and 911 and take immediate action to protect the public and nearby properties.

11-2-260 Reimbursement of City costs.

A. The City may make any repairs necessary to eliminate any imminent danger to the public health or safety without notice to any permittee, at the responsible permittee's expense.

B. For any work not performed by a permittee as directed by the City but not constituting imminent danger to the public health or safety, the City shall provide written notice to the permittee, ordering that the work be corrected within ten days of the date of the notice. If the work is not corrected within the ten-day period, the City may correct the work at the permittee's expense.

C. Costs of any work performed by the City pursuant to this Section shall be billed to the permittee. The permittee shall also be responsible for any direct costs incurred by the City. The permittee shall pay all such charges within thirty 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 may be barred from performing any work in the public right-of-way, and under no circumstances will the City issue any further permits of any kind to said permittee, until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the permittee and being negotiated in good faith with the City) have been paid in full.

11-2-270 Permit revocation and stop work orders.

A. A public right-of-way permit may be revoked or suspended by the City 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 City ordinance or state law relating to the work.
3. Existence of any condition or performance of any act which, in the City's determination, constitutes or causes a condition endangering life or property.

B. Stop work orders. A stop work order may be issued by the City to any person or persons performing or causing any work to be performed in the public right-of-way for:

1. Performing work without a permit except for emergency repairs to existing facilities as provided for in this Article.
2. Performing work in violation of the permit, any provision of this Article, or any other City resolution, ordinance or regulation, or state law relating to the work.
3. Performing any act which, in the City'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 to the permittee. If neither the person performing the work nor the permittee can be located on the work site on the day of issuance of the suspension, revocation or stop work order, the suspension, revocation or stop work order shall take effect upon mailing of the written notice via first-class mail, postage prepaid, to the permittee's last known address.

11-2-280 Penalties.

A. If any person, firm or corporation is found guilty of or pleads guilty to a violation of any of the provisions of this Article, he or she shall be subject to the penalties set forth in Article IV, Chapter 1 of this Code. 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 Article IV, Chapter 1 of this Code, upon conviction in the Cherry Hills Village Municipal Court of any of the following offenses, the party convicted thereof shall be assessed the following mandatory minimum penalty for each such offense:

1. For any occupancy of a travel lane or any portion thereof beyond the time periods or days set forth in the traffic control plan approved by the City:

a. In restricted streets (as defined in the City of Cherry Hills Village Transportation System Map) from the hour of 6:30 a.m. through 8:30 a.m., inclusive and from 3:00 p.m. through 6:00 p.m., inclusive, Monday through Friday: one hundred dollars (\$100) for each fifteen minutes, or portion thereof, for a maximum of two thousand dollars (\$2,000) per day.

b. In restricted streets during any time other than the times specified in subsection a., or in local streets at any time: fifty dollars (\$50) for each fifteen minutes, or portion thereof, for a maximum of fifteen hundred dollars (\$1,500) per day.

2. For commencing work without a valid permit: five hundred dollars (\$500), plus twice the applicable permit fee.

3. For facilities installed outside of the approved alignment: ten dollars (\$10) per linear foot. This penalty shall not be imposed if the facilities are

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removed and/or relocated to comply with the approved alignment, or the facilities are abandoned pursuant to Section 11-2-240(C).

4. For any other violation of any other term of a permit: two hundred fifty dollars (\$250) per violation, with no maximum amount.

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


Section 2. The table of contents for Article II of Article 11 of the Cherry Hills Village Municipal Code is hereby amended to reflect the repeal and reenactment of said Article by Section 1 of this Ordinance.

Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 4. The repeal of any ordinance or parts of ordinances of the City of Cherry Hills Village shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and the repeal set forth in this ordinance shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

Section 5. Effective Date. This Ordinance shall become effective on October 10, 2005.

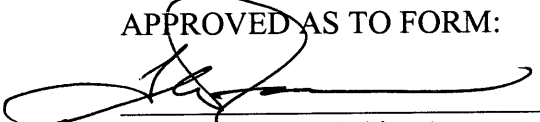
Adopted as Ordinance No. 10, Series 2005, by the City Council of the City of Cherry Hills Village, Colorado, the 20th day of September, 2005.


 Douglas C. Scott, Mayor

ATTEST:


 Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:


 Thad W. Renaud, City Attorney

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

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

I. Purpose

- A. 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 under Chapter 11, Article II of the City of Cherry Hills Village Code shall conform to the criteria set forth herein.

II. Permit Fees

Fee Structure -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 the work approved by the permit consists of any pavement disturbance, the permit may also be subject to a restoration fee. Other fees shall be added to the cost of the permit as appropriate, in accordance with the fee schedule. Pursuant to Section 11-2-80 City of Cherry Hills Village Code, the applicable permit fees shall be as follows:

Management Fee includes pre and post project site inspections, all application processing related to the permit, and the end of warranty inspection performed one month prior to the end of the 2 year warranty period. This fee is based on current year labor rates.

2005 Fee \$100.00

Inspection fee is based on a minimum of 1 site inspection during the permit period. During the permitting process, the City will determine whether any additional inspections will be required.

2005 Inspection Fee \$25.00

Pavement Restoration Fee- The pavement restoration fee shall include construction costs associated with the restoration of the pavement to minimize the impact to the useful service life of the roadway. This will be accomplished by using infrared heating of the street cut patch area. The fee shall be applied to all permits that result in the disturbance of the pavement. However, the City encourages the permittee to perform the restoration work in lieu of paying the restoration fee. The pavement restoration fee shall be calculated as follows:

- **Locate Potholes in Asphalt:** Each locate pothole will require one 5' x 7' infrared heat patch if located within the wheel track of a travel lane as defined by the City. If more than one pothole is located within the 5' x 7' heat area, no additional cost will be charged. Additional costs may be added to cover the cost of traffic control required for the restoration process by the contractor as estimated by the City.
- **Asphalt cut patches:** The cost for infrared patches for each street cut will be based on the number of 5' x 7' heats required to contain the cuts length + 6" and the width + 6". One 5' x 7' infrared heat patch costs \$70.00 based on 2004 contract prices. A \$25.00 inspection fee will be added to the cost of each infrared patch. Additionally, a 10% fee will be added for administration of the infrared heat contract with the City. Additional costs may be added to cover the cost of traffic control required for the restoration process by the contractor as estimated by the City.

Work in gravel streets: All work performed within a ROW with a gravel surface will be charged a restoration fee. The fee will consist of charges for City staff to restore the street to its original condition before the work was performed. The minimum charges will be as follows:

| | |
|---|---------|
| Labor fee min. 2 hours for 3 operators @ 30 per hour | \$180 |
| Equipment fee @ \$50 per Hour | \$100 |
| Grader | \$100 |
| Dump/Water Truck | \$100 |
| Roller | \$ 50 |
| Materials fee for road base @ \$50 per load | \$265** |
| Total restoration fee for gravel roads @ 50% of actual cost | |

** The cost @ 50% is to account for the crew performing the restoration during regularly scheduled gravel road maintenance operations. The fee is to cover the extra time and materials to restore the work area. Depending on the size of the work area, this fee may increase as determined by the City.

Other Fees - Other fees shall include additional costs directly incurred by the City in providing services related to the granting and administration of a permit. These costs will be based on the current year labor rate of the Director of Public Works or his designee time as estimated by the City and all costs associated with services provided by contract consultants.

The minimum permit fee for asphalt paved streets for 2005: \$125.00
The minimum permit fee for gravel streets for 2005: \$390.00

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

| | |
|---|----------|
| Restoration fee per each 5'x7' infrared heat for 2005: | \$105.00 |
| Right-of-way occupancy fee for 2005 | \$100.00 |
| (Placement of construction trash containers or other materials or equipment typically associated with construction of residential properties) | |

III. Location of Facilities

A. General

- 1). The 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 City.
- 2). It is City policy to discourage the placement of utility lines and other facilities within landscaped median areas unless there is no other reasonable location for the placement of such lines and facilities. Perpendicular crossings of the median for utility purposes are allowed subject to the provisions of these standards and specifications. No applicant shall receive a permit for work in a landscaped median within the public right-of-way unless the applicant provides the City with evidence that, prior to commencing construction, it has provided notice to the metropolitan, special district, homeowners association or adjacent property owner which owns or maintains the median or road side ROW landscaping material.
- 3). The utility alignment shall not vary greater than eighteen inches (18") from the approved design alignment without prior City approval.
- 4). If the designed alignment conflicts with other facilities not shown on the approved plans, the permittee shall submit an alignment modification request and the change shall be approved by the City prior to proceeding.
- 5). All underground facilities must be constructed with the means to be locatable. This may require installation of a tracking wire.
- 6). All underground installations shall have a minimum of three feet (3') of cover below the roadway surface or existing landscaping. If locating underground facilities in a road side ditch, the conduit must have three feet (3') of cover with respect to flow lines established by the City.
- 7). Depth of bury for gas and electric are as follows and subject to change: Gas service line – 18"; Gas main line – 24"; Electric 0 to 600 volts – 24"; Street light circuits less than 150 V phase to ground – 18"; Electric 601 to 50,000 volts – 30"; all depths are measured from bottom of pavement structure including base course and flow line of ditch as determined by the City.
- 8). Within the proposed utility boundary area (which extends eighteen inches (18") 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 eighteen inches (18") vertical clearance is provided. This separation may be less if agreed to by both facility owners. The separation distance shall be increased to five feet (5') in relation to wet utilities such as water and sewer.

B. Above-ground structures

- 1). A detailed plan shall be required for all above-ground 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 above-ground structures outside the public right-of-way within a private easement on the property being served.
- 3). All new above-ground structures shall be screened from the view of adjacent properties with existing landscaping or approved landscape plan to provide screening as directed by the City. If the adjacent property owner is not willing to maintain the landscaping, no screening will be required.
- 4). All facilities shall be placed underground when the technology exists and where practical.
- 5). The location of above-ground structures shall not interfere with sight distance requirements for intersecting streets and access drives as determined by the City.
- 6). Above-ground structures shall be located to minimize the aesthetic impact to the landscaping within the public right-of-way.

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

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

- 1). Underground access structures shall be placed in line with the utility alignment when practical. Horizontal adjustments to accommodate underground access structures are discouraged and shall only be permitted when conditions warrant at the City's sole discretion. The placement of each access structure shall require field approval prior to placement.
- 2). The location of access structures, when placed within the City's right of way, must be approved by the City before installation.
- 3). The maximum size of an access structure and access lid shall be the minimum necessary for the facilities being installed, as determined by the City.
- 4). Access lids when placed in landscaped areas, shall be integrated into the landscaping while allowing for direct access for operations and maintenance while meeting applicable safety requirements.
- 5). Access lids placed in sidewalks shall be flush with the existing surface.
- 6). All access lids within travel lanes shall be placed outside of the wheel track as defined by the City.
- 7). Access lids shall be placed at an elevation of +0 inch to -3/8 inch relative to the surrounding pavement surface.

IV. Construction Standards

A. General

- 1). Testing, in compliance with the City's testing schedule, which is attached hereto as Exhibit "A", shall be performed by a pre-approved testing company or tester acceptable to the City and results shall be provided to the City Inspector within two (2) working days of completion of testing and prior to the next phase of construction. (For example, a sub grade test is required prior to asphalt placement).
- 2). Any damage not documented during the pre-construction inspection shall be repaired by the permittee at the 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 City within forty-five (45) days of the completion of work, pursuant to Chapter 11, Article II of the City of Cherry Hills Village Code.
- 4). Permittee shall advise the City at least 48 hours in advance of the date work will be started and shall notify the City 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). Each permittee shall maintain the work site so that: a) Trash and construction materials are contained and not blown off the work site. 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 approval of the Director. All storm water quality BMPs are maintained while work progresses and until all vegetation that has been disturbed has been reestablished to the satisfaction of the City.
- 6). Each permittee shall utilize its best efforts to eliminate the tracking of mud or debris upon any street or sidewalk. Streets and sidewalks shall be cleaned of mud and debris at the end of each day or as otherwise directed by the City. 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 City.
- 7). Backhoe equipment outriggers shall be fitted with rubber pads 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 City, the City may use the permittee's performance bond or letter of credit to repair any damage.
- 8). As the 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 the permittee.

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

- 9). No permittee shall disturb any surface monuments, property marks or survey hubs and points found on the line of work unless approval is obtained from the City. Any monument, hub, or point which is disturbed by the permittee shall be replaced by a Colorado Registered Land Surveyor at the permittee's sole expense.
- 10). There shall be no parking on sidewalks, paved and gravel trails, or in any park, or recreation site within the City. In the event parking must occur in these areas, a parking and detour plan must be submitted to the City for approval.
- 11). A permittee shall provide necessary sanitary facilities for workers, the location of which shall be approved by the City in the permit.

B. Pavement removal

- 1). All asphalt 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 asphalt 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). Asphalt Pavement cuts shall be such that no longitudinal joint lies within the wheel track as determined by the City.
- 4). No pavement cuts will be allowed within eighteen-inches (18") from the edge of pavement or concrete structures of any kind. With all planned excavations within this limit, the asphalt from the edge of the planned excavation to the edge of asphalt or concrete structure shall be removed and replaced in a manner determined by the City.
- 5). Concrete pavement shall be removed and replaced from existing panel joints only.

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 City, the City 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 City. No open trench shall be left unprotected overnight.
- c. A maximum of two excavations shall be open at anyone time for access structure installation and conduit splicing, unless otherwise approved by the City.
- d. When back-filling of the excavation will not be accomplished within the same day, excavated materials shall be stockpiled directly into haul trucks for removal to minimize the impact to the public right-of-way. When stock piles are permitted by the City, the permit will require a stormwater management plan that will be implemented during the project to reduce sediment from entering the stormwater flows in that area. Material or equipment shall not be placed within the right-of-way without the prior written approval of the City.
- e. All open excavations shall be properly barricaded to protect vehicles and pedestrians. All permits will require a traffic control plan for review by the City. At any time it is determined that additional traffic control is needed, the permittee will stop work, and not begin work until the requested traffic control has been provided.
- f. If sub grade requires stabilization, the method shall be approved by the City prior to proceeding.

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

2). Backfilling

a. Controlled Low Strength Material (CLSM)

- i. All excavations less than one hundred cubic yards (100 CY) within the roadway pavement of roadways that are categorized as "Mains" shall be backfilled with controlled low strength material (flowable fill) unless otherwise approved by the City.
- ii. 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. The permittee shall submit a mix design for approval by the City.
- iii. 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").

3). Native Backfill

- a. 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 or as amended from time to time.
- b. The Permittee shall provide compaction testing for all backfill work per the Minimum Testing Requirements table attached in Exhibit "A". Each lift not tested in accordance with the testing frequency and lifts required may be rejected by the City.
- c. 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 City determines that this cannot be accomplished, the Permittee shall submit a plan for City approval showing how traffic will be handled around the work zone.

4). Bridging plates

- a. Substantial bridging, properly anchored and capable of carrying the legal limit loading, in addition to adequate trench bracing, shall be used to bridge across trenches at street crossings where trench backfill and temporary patches have not been completed during regular working hours. Safe and convenient passage for pedestrians and access to all properties shall be provided.
- b. The bridging plate shall be secured to the pavement with anchored pins so that it does not slip. The bridging plate 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.
- c. The use of bridging plates shall not be allowed from October through April. Use of bridging plates shall only be allowed with the prior written approval of the City.
- d. The permittee's design engineer shall certify in writing the suitability of the plates for the specific use by the Permittee.

D. Boring

- 1). To minimize the impact to traffic and the right-of-way infrastructure, the City encourages boring rather than open trenching.
- 2). If the Permittee's boring results in disturbance to other utilities or in the public right-of-way not described on the approved plan, the City shall issue a stop work order directing the permittee to immediately repair such damage. Prior to the re-commencement of work, the permittee shall provide the City with written verification of the cause of the disturbance and method to ensure the situation will not occur again.
- 3). Waste material from boring shall be contained within the work site and shall not be allowed to discharge onto private property, the curb and gutter, any stormwater system or the roadway.

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

E. Repairing Streets

1). Asphalt Pavements

- a. The minimum patch dimensions shall be three feet by three feet (3'X3') unless approved by the City.
- b. 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 the existing wheel tracks as defined by the City.
- c. A tack coat shall be applied to all edges of the existing pavement prior to placing the patch
- d. Asphalt mix shall be CDOT, SX mix (1/2 inch) for all streets unless otherwise determined by the City. Patch back areas greater than one hundred twenty square feet (120 SF) shall require the submittal and approval of a mix design to the City prior to placement.
- e. 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.
- f. Compaction equipment shall be capable of compacting corners and edges of patch.
- g. Hot bituminous patches shall be placed in maximum three inch (3") compacted lifts to a depth of the existing pavement plus two inches (2").
- h. Patches shall also have a cross slope section consistent with the design of the existing roadway.
- i. A cold mix asphaltic material may only be used as a temporary patch and the cold mix material shall be approved by the City.
- j. Whenever permanent patches are not constructed within the same day 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 City. The use of bridging plates shall not be allowed from October through April. Use of bridging plates shall only be allowed with the prior written approval of the City. 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 City.
- k. Permittee shall monitor temporary patches on a daily basis and temporary patches exhibiting ruts, humps, or depressions shall be repaired or replaced immediately.
- l. A permanent hot patch of material meeting the City's standards shall be made within five (5) days after the area is open to traffic, weather permitting
- m. If final patching is not completed within the specified time, no non-emergency permits shall be granted to the Permittee under any circumstances until all outstanding work is completed.
- n. Upon completion of the permanent patch, the surface shall be thoroughly compacted, smooth, and free from ruts, humps, depressions, or irregularities. When a straight-edge 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 3/16 inch (3/16") from the lower edge of the straight-edge. Patches exhibiting deviations greater than 3/16 inch (3/16") 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.
- o. On local streets for excavations exceeding 50 feet in length in the pavement parallel to the direction of traffic, all patches will be required to be infrared heat patched to provide a seamless smooth patch. If at completion of the infrared heat patching, the required smoothness of the patch is not accepted by the City, milling and overlay of the patch will be required.
- p. On all restricted street for excavations exceeding 50 feet in length in the pavement parallel to the direction of traffic, all patches will be milled to a depth of 2 inches and a width that is 18 inches wider than the patch on both sides. A 2 inch overlay with a paving machine of a type approved by the City will be required. All other patches will be infrared heat patched after completion.

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

2). Restoration of Locate Potholes

- a. Locate potholes shall not be located within the wheel track of a travel lane as defined by the City. Failure to comply with this provision shall result in the assessment of a restoration fee to cover asphalt resurfacing or the contractor meeting the required restorations.
- 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. The pavement shall be patched with hot mix asphalt of similar aggregate size at a thickness equal to the thickness of surrounding asphalt plus 1-inch and compacted in maximum three inch (3 ") lifts with a "pogo stick" compactor capable of fitting into the core hole such that the surface is flush with the surrounding pavement. Localized treatment shall be required to blend the top mat of the asphalt together by inferred heating.
- e. Where possible locate potholes shall be located under existing pavement marking and such marking shall be replaced at the completion of the repair to camouflage the pavement disturbance.
- f. The City may allow changes to these restoration requirements if the contractor can provide evidence that an alternative restoration method meets the City's requirements.

3). Concrete flatwork

- a. Concrete material and placement shall be CDOT Class B, with 3500 psi compressive strength.
- b. Weather protection shall be provided in compliance with CDOT Standard Specifications Section 601.
- c. Permittee shall schedule a form inspection 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 require the removal of 12-inches of asphalt to place the forms on the street side of the work area. On the landscaped side of the work area, forms used will have a 1-inch maximum width to protect the landscaping and irrigations systems. At sidewalk and driveways, the private improvements will be used as the form with the placement of an approved expansion joint material to separate the new concrete from existing improvement.
- g. Sub grade 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 (1/8") 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.

F. 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 City.
- 2). Landscape restoration shall be completed within two (2) weeks of completion of work at each site.
- 3). Irrigation shall be maintained throughout construction to ensure no landscaping is affected during the construction phase.

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

- 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 City, all permittees shall provide a letter from each property owner adjacent to the work site stating that all landscaping has been restored.
- 6). Any additional landscaping required for screening above-ground structures shall be coordinated with and approved by the adjacent property owner responsible for landscape maintenance.

G. Traffic Control

- 1). When it is necessary to obstruct roadways or pedestrian ways, the Permittee shall submit traffic control plans, in compliance with the Manual of Uniform Traffic Control Devices (MUTCD), showing all work. The 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 the traffic control plans.
- 3). Lane closures are permitted only between 8:30 a.m. and 3:00 p.m. on weekdays. No work is allowed on weekends or holidays unless otherwise noted on the permit. Emergency repairs are allowed and are covered under section 11-2-250 of the City code.
- 4). When planning construction phasing and developing traffic control plans, the Permittee shall make every effort to minimize the impact to the motoring public and maintain the capacity of the roadway system. The City may require that the traffic control plan(s) be modified to comply with this requirement.
- 5). When the traffic control plan requires the modification of any traffic signals timing plans, the Permittee shall be responsible to notify the appropriate authority to coordinate the re-timing of the signal. All costs associated with work shall be borne by the Permittee.
- 6). 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 the retro reflective requirements of CDOT Standard Specifications Section 713.04.
- 7). The City may require that a Permittee place Variable Message Boards in advance of the work to notify the traveling public of the upcoming construction impacts. All costs for this work shall be borne by the Permittee.
- 8). If the closure of a street is required for the completion of the work, the 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 City.
- 9). No Permittee shall block access to private property, fire hydrant, fire station, utility structure, or any other emergency response equipment unless the Permittee provides constructive notice to all parties, which provides for and supports informed consent methodology for citizen participation. Such notice would detail the project activities, dates, contacts, access provisions and restrictions with allowances for property owners to request other alternatives as applicable.
- 10). When necessary for public safety and when required by the City, the permittee shall employ flag persons whose duties shall be to control traffic around or through the work site.

- 11). The 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..
- 12). Any deficiencies noted by the City shall be corrected immediately by the Permittee. If the Permittee is not available or cannot be found, the City may make the required corrections and charge the cost thereof to the permittee pursuant to Section 12-2-260 of the Cherry Hills Village Code.
- 13). The phasing of construction and length of the active work zone shall be submitted by the Permittee to the City for review and approval. Permittees shall make every effort to minimize the impact to the use of the public right-of-way and adjacent properties. The City may require that the Permittee modify the proposed construction phasing in order to minimize the impact during construction.
- 14). Permittee shall be responsible for all damage to sidewalks unless such damage was pre-existing and documented with a pre-construction inspection. Pedestrian access shall be maintained throughout the period of work.

V. Restricted Rights-of-Way

To reduce the impact of work within the public right-of-way in and around certain heavily traveled collector streets within the City, work will only be allowed between the hours of 9:00 AM to 3:00 PM, Monday through Friday. No work will be allowed on weekends or holiday or at any other time as directed by the City. See Exhibit B Transportation System Map for location of restricted rights of ways.

Emergency repairs are allowed on any street and at any time to restore utility services to the community. Contractor must provide a traffic control plan that works to minimize disruptions to traffic.

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

EXHIBIT A

City of Cherry Hills Village Public Works Department. Minimum Testing Requirements.

Public Works Department, 2450 E. Quincy Ave., Cherry Hills Village, CO 80113, Phone: 303-783-2731
Fax: 303-761-9386

ALL TESTING TO BE PERFORMED PER CURRENT CDOT STANDARDS

| ITEM | TYPE OF TEST | MINIMUM FREQUENCY |
|---|---|---|
| All excavation backfill - gas, elec., water, storm & san. sewer, cable TV, phone, etc. | Moisture/Density (Compaction Test) | 1 per 200 lineal ft., per vertical foot of fill, and within 2 ft. of all structures; minimum 2 tests per lift not including tests around structures. 95% compaction under roadways and 85% to 90% under landscape areas. |
| Roadways Sub grade testing Base course Testing Concrete Testing – Full Time Asphalt Testing – Full time | Moisture/Density (Compaction) Proof-roll Moisture/Density (Compaction) Gradation/Atterberg limits Proof-roll Air and Slump Slump Density Extraction/Gradation, Marshall | 1 per 200 lane feet, min. 2 tests per lift all sub grade 1per 200 lane feet, min. 2 tests per lift 1 per 500 tons All base course 1 st 3 loads, if pass, 1 per 100yds ₃ every load 1per 200 lane feet, min. 2 tests per lift 1 per 500 tons |
| Sidewalk, Curb & Gutter Soil testing Concrete Testing | Moisture/Density (Compaction) Proof-roll Air and Slump | 1 per 200 lineal ft., per 2 'vertical feet of fill Min. 2 tests per lift All sub grade All sub grade 1 per day min. – Machine placed 2 per day min. – hand placed plus 1 per 500 square yards |
| Inlets/structures All inlet/structures must be pre-cast structures set in place meeting all specifications established by the City | No tests required unless hand placed structures approved by City, and testing will be determined by the City before work will begin. | To be established by the City. |

ABF554

Exhibit B

City of Cherry Hills Village
Transportation System Map
2005

