

CHAPTER 11

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Article 1

STREET SUPERINTENDENT

Sec. 11-1. Appointment.

The board of trustees shall appoint a qualified person to serve as superintendent of streets. He or she shall, subject to the control of the board of trustees, have the charging control of the construction, maintenance and repair of the streets, alleys and sidewalks within the town. (Ord. 90-2 Sec. 1, 1990)

Sec. 11-2—11-9. Reserved.

Article 2

Reserved

Secs. 11-10—11-19. Reserved.

Article 3

RAILROADS

Sec. 11-20. Track height.

Every railroad company, corporation or person owning or operating a line or railroad running through or within the limits of the town shall keep the track of its railroads, when the same shall cross or extend lengthwise of any sidewalk, street, alley or highway, and shall raise or lower its tracks when required to conform to any grade of such street which at any time may be established by the town board. (Ord. 21 Sec. 1, 1917)

Sec. 11-21. Drainage.

Every such railway company, corporation or person owning or operating any such line of

railway shall make, keep open and repair all ditches, drains, sewers and culverts along and under its railroad block, keep all filthy or stagnant water from or upon its ground or right-of-way, and keep the natural drainage of adjacent property from being infected by its road beds. (Ord. 21 Sec. 2, 1917)

Sec. 11-22. Change in street grade.

Whenever at any time the grade of any street, alley or highway of the town, across or lengthwise of which any railroad track may now or hereafter be constructed, shall be established, raised, lowered or in any manner changed, the company, corporation or persons owning or operating such railroad shall raise or lower, as the case may be, its road beds and tracks to correspond with grade, pursuant to Section 11-20 hereof, within ten (10) days after receiving written notice of such establishment of change of grade. (Ord. 21 Sec. 3, 1917)

Sec. 11-23. Approval.

All changes of grade and all work done by such railroad company, corporation or person pursuant to Sections 11-20 and 11-22 hereof shall be subject to the approval of the street supervisor. (Ord. 21 Sec. 4, 1917)

Sec. 11-24. Notice.

Personal service of the notice mentioned in Section 11-22 hereof upon the agent or officers of any such railroad company, corporation or person owning or operating any such railroad residing in the town shall be sufficient notice of any such company, corporation or person, of any such establishment or change of grade, and of the necessity of complying with any provisions of Section 11-20 or 11-22 hereof. (Ord. 21 Sec. 4, 1917)

Sec. 11-25. Stationary trains.

No railroad company, corporation or person owning or operating any lines of railroad, its agents or employees, shall suffer or allow its trains, cars locomotives or engines to stand or remain stationary upon, across or over any street or sidewalk in the town, where the same is crossed by its railroad track, for a period of more than five (5) consecutive minutes at any one (1) time. (Ord. 21 Sec. 5, 1917)

Sec. 11-26. Warnings--Bell.

Every engineer or other person in charge of any locomotive engine within the town or approaching any public street or crossing shall ring or cause to be rung a bell to warn all persons of the approach of such locomotive engine, and shall continue to ring such bell or cause the same to be rung until such locomotive engine and train of cars shall have cleared such crossing. (Ord. 21 Sec. 6, 1917)

Sec. 11-27. Warning--Whistling post.

Every railroad company, corporation or person owning or operating a line of railroad, any portion of which is within the town limits, shall place at the limits a whistling post, and all persons in charge of any engine or train shall, upon approaching said post, blow or cause to be blown a whistle; and at all times while said engine or train is moving within the town limits, said person in charge thereof shall ring or cause to be rung the bell upon said engine or train. (Ord. 21 Sec. 7, 1917)

Secs. 11-28—11-39. Reserved.

Article 4

PUBLIC WORKS MANUAL

Sec. 11-40. Adoption.

The Standards and Specifications for the Design and Construction of Public Works for the town of Hudson, November 1999, and attached to the ordinance codified herein as Exhibit A, is hereby adopted by the town by reference and shall remain in effect until amended by the board of trustees. (Ord. 94-18 Sec. 1, 1994; Ord. 02-17 Sec. 1, 2002)

Sec. 11-41. Purpose.

The purpose of these standards and specifications is to provide minimum standards and specifications to be adhered to in the design and construction of public improvements and work in streets, rights-of-way and easements of the town. (Ord. 94-18 Sec. 4, 1994)

Sec. 11-42. Maintenance and supplementation.

The town engineer, or his or her designee, is charged with the maintenance and supplementation of this Manual. (Ord. 94-18 Sec. 2, 1994)

Sec. 11-43. Modifications.

The town engineer may propose such modifications and supplementation to the Manual as he or she deems necessary, subject to appeal to the board of trustees. (Ord. 94-18 Sec. 3, 1994)

Secs. 11-44—11-59. Reserved.

Article 5

EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY

Sec. 11-60. Purpose; objectives.

(a) The purpose of this article is to establish principles, standards and procedures for the placement of facilities, construction, excavation, encroachments and work activities within or upon any public right-of-way, and to protect the integrity of the town's street system.

(b) Public and private uses of public rights-of-way should, in the interests of the general welfare, be accommodated; however, the town must ensure that the primary purpose of the public right-of-way, passage of pedestrian and vehicular traffic, is protected. The use of the public rights-of-way by private users is secondary to these public objectives. This article has several objectives:

- (1) To minimize public inconvenience.
- (2) To protect the town's infrastructure investment by establishing repair standards for the public rights-of-way.
- (3) To standardize regulations and thereby facilitate work within the rights-of-way.
- (4) To maintain an efficient permit process.
- (5) To conserve and fairly apportion the limited physical capacity of public rights-of-way held in public trust by the town.

(6) To establish a public policy for enabling the town to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

(7) To promote cooperation among permittees and the town in the occupation of the public rights-of-way, and work therein, in order to: eliminate duplication of facilities that is wasteful, unnecessary or unsightly; lower the permittees' and the town's costs of providing services to the public; and minimize street cuts.

(8) To protect the public health, safety and welfare. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-61. Definitions.

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

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

(2) *Construction and Excavation Standards* means the document entitled "Town of Hudson Standards and Specifications for Design and Construction of Public Improvements," as adopted by resolution of the board of trustees and amended from time to time.

(3) *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.

(4) *Developer* means the person, partnership, corporation or other legal entity improving a parcel of land within the town and being legally responsible to the town for the construction of infrastructure within a subdivision or as a condition of a building permit.

(5) *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, and damaged electrical and communications facilities.

(6) *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.

(7) *Facilities* means any pipe, conduit, wire, cable, amplifier, transformer, fiber-optic cable, antenna, pole, street light, duct, fixture, appurtenance or other like equipment used in connection with transmitting, receiving, distributing, offering and providing utility and other services, whether above or below ground.

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

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

(10) *Permit* means an authorization for use of the public rights-of-way granted pursuant to this article.

(11) *Permittee* means the holder of a valid permit issued pursuant to this article.

(12) *Public right-of-way* means any public street, way, place, alley, sidewalk, easement, park, square or plaza that is dedicated to public use.

(13) *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.

(14) *Work* means any labor performed within a public right-of-way and/or any use or storage of equipment or materials within a public right-of-way, including but not limited to: excavation; construction of streets, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, street lights and traffic signal devices; construction, maintenance and repair of all underground facilities such as pipes, conduit, ducts, tunnels, manholes, vaults, cable, wire or any other similar structure; maintenance of facilities; and installation of overhead poles used for any purpose. Notwithstanding the foregoing, *work* shall not include routine maintenance. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-62. Police power.

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

(b) The town reserves the right to exercise its police power, notwithstanding anything in this article or any permit to the contrary. Any conflict between the provisions of any permit and any other present or future lawful exercise of the town's police power shall be resolved in favor of the latter. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-63. Permit required.

(a) No person, except an employee or official of the town or a person exempted by contract with the town, shall undertake or permit to be undertaken any work in a public right-of-way without first obtaining a permit from the town as set forth in this article. Copies of the permit and associated documents shall be maintained on the work site and available for inspection upon request by any officer or employee of the town.

(b) No permittee shall perform work in an area larger or at a location different, or for a longer period of time than that specified in the permit. If, after work is commenced under an approved permit, it becomes necessary to perform work in a larger or different area or for a longer period of time than what the permit specifies, the permittee shall notify the town immediately and within twenty-four (24) hours shall file a supplementary application for the additional work.

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

(d) Any person conducting any work within the public right-of-way without having first obtained the required permit shall immediately cease all activity and obtain a permit before work may be resumed, except for emergency operations performed pursuant to Section 11-84. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-64. Developer ownership of infrastructure.

In the town, the construction of infrastructure in new developments is the responsibility of the developer. Once a public right-of-way has been dedicated to the town, all work in that public right-of-way, including the installation of new infrastructure by a developer, shall be subject to this article. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-65. Permit application.

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

(1) The date of 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 infrastructure in the area and all landscaping in the area.

(4) The purpose of the proposed work.

(5) A traffic control plan in accordance with the Engineering Standards and Construction Specifications and the current edition of the Manual of Uniform Traffic Control Devices.

(6) The dates for beginning and ending the proposed work and proposed hours of work, and the number of actual work days required to complete the project; and

(7) The applicable permit fees as set forth by resolution for right-of-way excavation permits.

(b) For any work in the public right-of-way which includes excavation, in addition to the information required by subsection (a) above, the application shall include the following information:

(1) An itemization of the total cost of construction, including labor and materials but excluding the cost of any facilities being installed.

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

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

(1) Locates of all existing facilities located within seven (7) feet of the proposed facility, which shall be compiled and submitted according to the Engineering Standards and Construction Specifications and Section 11-76, and

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

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

(e) Applicants may apply jointly for permits to work in public rights-of-way at the same time and place. Utility corridors or conduit banks are encouraged by the town. 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 before the first applicant submits an application and begins work, payment in full shall be required of all applicants.

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

(g) By signing an application, the applicant is certifying to the town that the applicant is in compliance with all other permits issued by the town, and that the applicant is not delinquent in any payment due to the town for prior work. This certification shall not apply to outstanding claims which are honestly and reasonably disputed by the applicant, if the applicant and the town are negotiating in good faith to resolve the dispute. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-66. 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 11-61. 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 same year. Under no circumstances shall a blanket maintenance permit be valid in more than one (1) calendar year.

(c) A blanket maintenance permit shall not, under any circumstances, authorize any pavement disturbance, traffic or pedestrian detour, excavation or installation of new facilities.

(d) Any person seeking a blanket maintenance permit shall file an application on a form provided by the town which includes the following information:

- (1) The date of application.
- (2) The name, address and telephone number of the applicant.
- (3) A general description of the maintenance operations.
- (4) Any location of maintenance operations known at the time of application.
- (5) Traffic control plans as required by this section, the Construction and Excavation Standards and the current edition of the Manual of Uniform Traffic Control Devices.
- (6) The applicable permit fee schedule as set by Resolution 01-15, or as it may be amended or revised.
- (7) A certificate of insurance consistent with Section 11-69 of this article, valid for the entire duration of the permit period.

(e) Blanket maintenance permits shall be subject to applicable provisions of the Engineering Standards and Construction Specifications.

(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 11-73, but may be subject to random inspection by the town to ensure compliance with the terms of the blanket maintenance permit and applicable provisions of the Engineering Standards and Construction Specifications. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-67. Town review and approval.

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

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

- (1) For a public right-of-way permit which does not include excavation, within five (5) working days.
- (2) For a public right-of-way permit which includes excavation but is not a major installation, within ten (10) working days.

(3) For a public right-of-way permit for a major installation, within fifteen (15) working days.

(c) At the conclusion of the review period, the town shall either approve the permit, approve the permit with conditions or deny the permit. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-68. Permit fees.

(a) Before a public right-of-way permit is issued, the applicant shall pay to the town a permit fee, which shall be determined in accordance with the fee schedule contained in Resolution 01-15 or as it may be revised or amended. Permit fees shall be reasonably related to the costs of managing the public rights-of-way. These costs include, but are not limited to, the costs of issuing rights-of-way permits, verifying rights-of-way occupation, mapping rights-of-way occupation, inspecting work, administering this article, and, if applicable, costs relating to restoration of the public right-of-way to remedy degradation of that public right-of-way caused by permittees.

(b) Restoration fees.

(1) Restoration fees shall only be charged to the applicant if the applicant chooses not to perform the required restoration of the public right-of-way to the town's standards, so that the town will be ultimately responsible for performing the required restoration. The restoration fee shall be two hundred percent (200%) of the estimated cost as determined by the town for the restoration work. The applicant shall decide at the time of application whether the applicant will perform the required restoration, and the applicant's decision shall be final.

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

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

(4) Restoration fees may be waived in the town's sole discretion when additional circumstances exist which would make restoration unnecessary. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-69. Insurance.

(a) Unless otherwise specified in a franchise agreement between a permittee and the town, prior to the granting of any permit, the permittee shall carry and maintain in full effect at all times the following insurance coverage:

(1) Commercial general liability insurance, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, for limits not less than one million dollars (\$1,000,000.00) each occurrence for damages of bodily injury or death to one (1) or more persons; and five hundred thousand dollars (\$500,000.00) each occurrence for damage to or destruction of property.

(2) Workers' compensation insurance as required by state law.

(b) The permittee shall file with the town proof of such insurance coverage in a form satisfactory to the town.

(c) Upon prior written approval of the town, a permittee may provide self insurance with the minimum coverage limits set forth in subsection (a) above. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-70. Indemnification.

(a) Each permittee, for itself and its related entities, agents, employees, subcontractors and the agents and employees of said subcontractors, shall hold the town harmless and defend and indemnify the town, its successors, assigns, officers, employees, agents and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the town for all its reasonable expenses, as incurred, arising out of any work or activity in the public right-of-way, including, but not limited to, the actions 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 town for claims or demands to the extent that they are due to the negligence or willful and wanton acts of the town or any of its officers, employees or agents.

(b) Following the receipt of written notification of any claim, the permittee shall have the right to defend the town with regard to all third party actions, damages and penalties arising in any way out of the exercise of any rights in the permit. If at any time, however, a permittee refuses to defend the town,

and the town elects to defend itself with regard to such matters, the permittee shall pay all expenses incurred by the town related to its defense, including reasonable attorney fees and costs.

(c) If a permittee is a public entity, the indemnification requirements of this section shall be subject to the provisions of the Colorado Governmental Immunity Act.

(d) If any provision of this section conflicts with any provision of a valid, effective franchise agreement between the permittee and the town, the conflicting provision of this section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-71. Performance bonds and letters of credit.

(a) Before a public right-of-way permit is issued, the applicant shall file with the town a bond or letter of credit, at the applicant's choice, in favor of the town in an amount equal to the total cost of construction, including labor and materials but excluding the cost of any facilities being installed, or five thousand dollars (\$5,000.00), whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one (1) surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of town ordinances, resolutions and regulations, and upon payment of all judgments and costs rendered against the applicant for any violation of any town resolution, regulation or ordinance or state law arising out of any negligent or wrongful acts of the applicant in the performance of work pursuant to the permit.

(b) The town may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary.

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

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

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

(f) The performance bond, blanket bond, letter of credit or letter of responsibility shall remain in force and effect for a minimum of one (1) year after completion and acceptance of the street cut, excavation or lane closure.

(g) If any provision of this section conflicts with any provision of a valid, effective franchise agreement between the applicant and the town, the conflicting provision of this section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-72. Warranty.

(a) A permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the town and warrants and guarantees all work done for a period of one (1) year 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 town, 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 town's probationary acceptance of the work. If repairs are required during the warranty period, those repairs need only be warranted until the end of the initial one-year period starting with the date of probationary acceptance.

(d) At any time prior to completion of the warranty period, the town may notify the permittee in writing of any needed repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the town to be an imminent danger to the public health, safety and welfare. Nonemergency repairs shall be completed within thirty (30) 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 town. If a portion of work warranted by a permittee is subsequently impacted by work of another permittee or the town during the warranty period, the other permittee or the town, as applicable, shall assume responsibility for repair to the subsequently impacted portion of the public right-of-way. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-73. Inspections.

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

(1) Preconstruction inspection. The permittee shall have the option to request that the town conduct a preconstruction photo-documented inspection, to determine any necessary conditions for the permit or the preexisting conditions of the site for completed work inspection.

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

(3) Warranty inspection. Approximately thirty (30) days prior to the expiration of the one-year warranty period, the town shall conduct a final inspection of the

work. If the work is still satisfactory, the bond or letter of credit shall be returned or allowed to expire, with a letter of final acceptance, less any amounts needed to complete work not completed by the permittee.

(b) Upon review of the application for a permit, the town shall determine how many additional inspections, if any, may be required. The total number of required inspections shall be listed on the permit. For a permit which does not include excavation, the town may waive any or all of the above-listed inspections. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-74. Time of completion.

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

(b) Permits shall be void if work has not commenced within thirty (30) days after issuance and all fees forfeited, unless an extension has been granted by the town in writing. All construction permits shall be void with extensions after one hundred eighty (180) days from issuance. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-75. Joint planning and construction.

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

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

(c) Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, a permittee shall meet and cooperate with other providers, licensees, permittees and franchisees so as to reduce so far as possible the number of street cuts within the town and the amount of pedestrian and vehicular traffic that is obstructed or impeded. Should two (2) permittees refuse to joint trench or share bores or street cuts, the town may require each permittee to submit written evidence detailing why such sharing would be impossible or impractical. Should the permittee fail to provide evidence satisfactory to the town, the town may deny a permit application on that basis. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-76. Locate information.

(a) Any person owning facilities in the public right-of-way shall provide field locate information to the town and any other permittee with a valid right-of-way permit which

authorizes locate pothole excavation or other excavation work. Within seven (7) days of receipt of a written request from the town or such a permittee, the facility owner shall field locate facilities in the public right-of-way in which the work will be performed.

(b) In locating facilities in the public right-of-way, a permittee shall compile all information obtained regarding its facilities or any other known facilities in the public right-of-way related to a particular permit.

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

(d) Before beginning excavation in any public right-of-way, a permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by Section 9-1.5-102, C.R.S., 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 and considered valid for up to thirty (30) calendar days or as may be set by UNCC, whichever is less. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-77. Minimal interference with other property.

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

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

(c) Facilities shall not unnecessarily hinder or obstruct the free use of the public rights-of-way or other public property, shall not interfere with the travel and use of the public rights-of-way by the public during the construction, repair, operation or removal thereof and shall not obstruct or impede traffic. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-78. Underground construction and use of poles.

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

(b) In areas where existing facilities are above ground, the permittee may install above-ground facilities with the approval of the town.

(c) For above-ground facilities, a permittee shall use existing poles wherever possible, with the appropriate authorization of the owner. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-79. Use of trenches and bores by town.

(a) Should the town desire to place its own facilities in trenches or bores opened by a permittee, the permittee shall cooperate with the town in any construction by the permittee that involves trenching or boring, provided that the town has first notified the permittee in writing that it is interested in sharing the trenches or bores in the area where the permittee's construction is occurring. The permittee shall allow the town to place its facilities in the permittee's trenches and bores, provided that:

(1) The town incurs any incremental increase in cost of the trenching and boring.

(2) The town's installation does not unreasonably delay the permittee's work.

(3) The town's facilities are used solely for noncommercial, town purposes.

(b) The town shall be responsible for maintaining its respective facilities buried in the permittee's trenches and bores. If requested by the permittee, the town shall have separate access structures and shall not use the permittee's access structures. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-80. Construction and excavation specifications.

(a) Each permittee shall comply with the Engineering Standards and Construction Specifications 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 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 unless otherwise authorized by the town pursuant to this code. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-81. Newly resurfaced and constructed streets.

(a) For newly resurfaced and constructed streets, no excavation in the pavement shall be permitted within two (2) years of the completion of the resurfacing or construction.

(b) The town shall publish once in a newspaper of general circulation in the town during the month of January of each year, a list of those streets which will be tentatively resurfaced or constructed in that year.

(c) Exemption. In rare circumstances, the town may grant an exemption from this section in accordance with the following procedures:

(1) A request for exemption shall be in writing on a form acceptable to the town and shall contain the following information, at a minimum:

a. A detailed and dimensional engineering plan that identifies and accurately represents all public rights-of-way and other property that will be impacted by the proposed work, and the method of construction;

b. The location, width, length and depth of the proposed excavation and a statement as to how any of the criteria set forth in subsection (2) below apply to the proposed work.

(2) Criteria for approval. In determining whether an exemption should be granted, the town shall consider the following criteria, at a minimum:

a. Whether alternative utility alignments that do not involve excavating in the street are available;

b. Whether the proposed excavation can reasonably be delayed until after the two-year period has elapsed;

c. Whether duct, conduit or other facilities are reasonably available from another user of the public right-of-way;

d. Whether the proposed work involves joint trenching or joint use, and the number of users to share in the trenching or use;

e. Whether the proposed work is to be by horizontal boring, tunneling or open trenching;

f. Whether applicable law requires the applicant to provide service to a particular customer; and

g. Whether denial of the exemption would prevent the applicant from providing such service.

(d) Exemptions for emergency operations. Emergency operations in newly resurfaced or constructed streets shall be permitted pursuant to Section 11-84. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-82. Relocation of facilities.

(a) If the relocation of any facilities in the public right-of-way becomes necessary to allow the town 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 town or other public agency or special district, or if the town implements any general program for the undergrounding of such facilities, the town may request a permittee to relocate facilities within or adjacent to public rights-of-way, either temporarily or permanently. The town shall notify the affected permittee, at least ninety (90) days in advance, except in the case of emergencies, of the reason for the relocation and the projected start date of the project necessitating the relocation. The permittee shall thereupon, at its own cost, accomplish the necessary relocation within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date 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 town may perform such relocation at the permittee's expense, and the permittee shall reimburse the town as provided in Section 11-85.

(c) Following relocation, the permittee shall, at the permittee's own expense, restore

all affected property to, at a minimum, the condition which existed prior to the work. A permittee may request additional time to complete a relocation project, and the town may grant an extension if, in its sole discretion, the extension will not adversely affect the town's project or the public use of the affected public rights-of-way. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-83. Abandonment and removal of facilities.

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

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

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

- (1) Abandon the facilities in place, and immediately convey full title and ownership of such abandoned facilities to the

town. The only consideration for the conveyance shall be the town's permission to abandon the facilities in place. The permittee shall be responsible for all obligations and liabilities until the conveyance to the town is completed.

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

(d) If any provision of this section conflicts with any provision of a valid, effective franchise agreement between the permittee and the town, the conflicting provision of this section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-84. Emergency procedures.

(a) Any person maintaining facilities in the public right-of-way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. The person doing the work shall apply to the town for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the public works department and the appropriate fire protection agency.

(b) If any damage occurs to an underground facility or its protective covering, the contractor or permittee shall notify the facility's owner promptly. When the facility's owner receives a damage notice, the facility's owner shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any inflammable, toxic

or corrosive gas or liquid or endangers life, health or property, the contractor responsible shall immediately notify the facility's owner and 911 and take immediate action to protect the public and nearby properties. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-85. Reimbursement of town costs.

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

(b) For any work not performed by a permittee as directed but not constituting a safety hazard, the town shall provide written notice to the permittee, ordering that the work be corrected within ten (10) days of the date of the notice. If the work is not corrected within the ten-day period, the town may correct the work at the permittee's expense.

(c) Any work performed by the town pursuant to this section shall include administrative costs and be billed to the permittee. The permittee shall pay all such charges within thirty (30) days of the statement date. If the permittee fails to pay such charges within the prescribed time period, the town may, in addition to taking other collection remedies, seek reimbursement through the performance bond or letter of credit. Furthermore, the permittee may be barred from performing any work in the public right-of-way, and under no circumstances will the town issue any further permits of any kind to said permittee, until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the permittee and being negotiated in good faith with the town) have been paid in full. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-86. Permit revocation and stop work orders.

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

- (1) Violation of any condition of the permit or any provision of this article or the Engineering Standards and Construction Specifications.
- (2) Violation of any other town ordinance or state law relating to the work.
- (3) Existence of any condition or performance of any act which, in the town's determination, constitutes or causes a condition endangering life or property.

(b) Stop work orders. A stop work order may be issued by the town to any person 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 routine maintenance or emergency repairs to existing facilities as provided for in this article.
- (2) Performing work in violation of any provisions of this article, or any other town resolution, ordinance or regulation, or state law relating to the work.
- (3) Performing any act which, in the town's determination, endangers life or property.

(c) A suspension, revocation or stop work order shall take effect immediately upon delivery of written notice to the person performing the work, or upon mailing by first class mail, postage prepaid, to the permittee's last known address. (Ord. 02-01 Sec. 1, 2002)

Sec. 11-87. Penalties.

(a) If any person is found guilty of or pleads guilty to a violation of any of the provisions of this article, he or she shall be punished as provided in Section 1-51 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 subsection (a) above, the town may impose the following monetary penalties:

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

- a. During the hours of 6:30 a.m. through 8:30 a.m. and 3:30 p.m. through 6:00 p.m., Monday through Friday: fifty dollars (\$50.00) for each fifteen (15) minutes, or portion thereof, for a maximum of two thousand dollars (\$2,000.00) per day.
- b. At any time other than the times specified in subsection a: twenty-five dollars (\$25.00) for each fifteen (15) minutes, or portion thereof, for a maximum of five hundred dollars (\$500.00) per day.

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

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

(c) The penalties set forth in this section shall not be the town's exclusive remedy for violations of this article, and shall not preclude the town from bringing a civil action to enforce any provision of a public right-of-way permit, or to collect damages or recover costs associated with any use of the public rights-of-way. Furthermore, the exercise of one (1) penalty shall not preclude the town from exercising any other penalty. (Ord. 02-01 Sec. 1, 2002)

Secs. 11-88—11-100. Reserved.

Article 6

PLACEMENT OF NEWSRACKS

Sec. 11-101. Definitions.

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

(1) *Distributor* means the person responsible for placing and maintaining a newsrack in a public right-of-way.

(2) *Newsrack* means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals.

(3) *Parkway* means that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and property line adjacent thereto. *Parkway* shall also include any area within a roadway which is not open to vehicular travel.

(4) *Roadway* means that portion of a street improved, designed or ordinarily used for vehicular travel.

(5) *Sidewalk* means any surface provided for the exclusive use of pedestrians. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-102. Permit required.

(a) It is unlawful for any person to erect, place, maintain or operate, on any public street or sidewalk, or in any other public way or town-owned or town-operated place or facility in the town, any newsrack without first having obtained a permit from the town specifying the exact location of such racks.

(b) One (1) permit may be issued to include any number of newsracks. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-103. Application for permit.

(a) Application for a newsrack permit shall be made, in writing, to the town upon such form as shall be provided by the town.

(b) The application shall contain the name and address of the applicant and the proposed specific location of said newsrack, and shall be signed by the applicant.

(c) Permits shall be issued within seventy-two (72) hours after the application has been filed.

(d) An annual permit fee of twenty-five dollars (\$25.00) per newsrack shall be paid at the time of application. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-104. Conditions for permit.

(a) As an express condition of the issuance of such permit, the permittee thereby agrees to indemnify and save harmless the town, its officers, directors and employees against any loss or liability or damage,

including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use or maintenance of a newsrack within the town.

(b) Permits shall be issued for the installation of a newsrack only after prior inspection of the location by the town administrator, or his or her designee.

(c) Newsrack permits and the installation, use or maintenance of newsracks shall be conditioned upon observance of the provisions of this article and such reasonable rules and regulations as may be established by the town.

(d) Such permits shall be valid for one (1) year and shall be renewable pursuant to the procedure for original applications referred to in Section 16-103 and upon payment of the twenty-five-dollar annual permit fee. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-105. Standards for maintenance and installation.

Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

(1) No newsrack shall exceed four (4) feet in height, thirty-two (32) inches in width or two (2) feet in depth.

(2) Newsracks may be used only for the following purposes:

- a. The display and sale of newspapers or other news periodicals;
- b. Advertising the sale of the newspapers or periodicals sold therein;
- c. Publicizing charitable or community services and activities of a non-

profit nature; and

d. Other public service purposes.

(3) Newsracks shall not be used to advertise or direct attention to any business, commodity, service or activity, conducted, sold or offered other than from such newsrack.

(4) Each newsrack shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for. The coin return mechanism shall be maintained in good working order at all times.

(5) Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, a notice setting forth the name, address and telephone number of the distributor.

(6) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, each newsrack shall be serviced and maintained so that:

- a. It is free of dirt and grease.
- b. It is free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.
- c. It is painted one (1) solid color.
- d. It is free of rust and corrosion in the visible unpainted metal areas thereon.

e. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and free of cracks, dents, blemishes and discoloration.

f. The paper or cardboard parts, or inserts thereof, are free of tears, peeling or fading.

g. The structural parts thereof are not broken or unduly misshapen.

h. The plastic parts of any structural portion are unbroken and free of cracks, dents, blemishes and discoloration. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-106. Location and placement of newsracks.

Any newsrack which rests in whole or in part upon or on any portion of a public right-of-way, or which projects onto, into or over any part of a public right-of-way, shall comply with this section:

(1) No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street.

(2) No newsrack shall be chained, bolted or otherwise attached to any municipally owned fixture, including, but not limited to: street signs, traffic control devices and fire hydrants. For purposes of this paragraph, the phrase *municipally owned fixture* does not include concrete or asphalt sidewalks located in the public right-of-way.

(3) Newsracks may be chained, bolted or otherwise attached to other newsracks or privately owned fixtures if such placement otherwise complies with this article and

permission for such connection has been secured from the owner of the other newsrack or fixture.

(4) Newsracks may be placed adjacent to each other, provided that no group of newsracks shall extend for a distance of more than eight (8) feet along a curb, and a distance of not less than one hundred (100) feet shall separate each group of newsracks.

(5) Newsracks shall be placed and installed in such a manner so as to prevent their movement caused by high winds or other foreseeable conditions.

(6) No newsrack shall be placed, installed, used or maintained:

a. Within three (3) feet of any marked crosswalk or curbcut for a crosswalk.

b. Within twelve (12) feet of any curb return.

c. Within five (5) feet of any fire hydrant, fire call box, police call box or other emergency facility.

d. Within five (5) feet of any driveway.

e. At any location where the clear space for the passageway of pedestrians would be reduced to less than six (6) feet, unless such passageway is already restricted by the placement of a permanent utility pole or other similar permanent fixture, and the attachment of the newsrack to that fixture or placement of the newsrack adjacent to that fixture will not substantially reduce the remaining clear space available for pedestrian passage.

f. Within three (3) feet of or on any public area improved with flowers, shrubs, trees or other landscaping.

g. Within one hundred (100) feet of any other newsrack on the same side of the street in the same block which contains the same issue or edition of the same publication.

h. Within three (3) feet of any designated "no parking" or restricted parking area.

i. At any location wherein it is determined by the town administrator that its placement causes a traffic hazard, including, but not limited to, impairment of a driver's vision triangle caused by its placement.

(7) The provisions contained in subsection (5) above shall not apply if compliance with said provisions would prohibit the placement of newsracks for a distance of one hundred fifty (150) feet on the same side of the street in the same block; provided, however, that in no event shall a newsrack be allowed which would substantially interfere with or impede the flow of pedestrian or vehicular traffic; the ingress or egress to any residence or place of business; or the use of emergency facilities. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-107. Violations.

(a) Upon a determination by the town administrator or his or her designee that a newsrack has been installed, used or maintained in violation of the provisions of this article, a notice to correct the offending condition shall be issued to the distributor of the newsrack.

(b) The notice shall be mailed via first class United States mail to the distributor at the address shown on the newsrack.

(c) The notice shall specifically describe the offending condition and suggest actions necessary to correct the condition.

(d) Failure to properly correct the offending condition within seven (7) days (excluding Saturdays, Sundays and legal holidays) of the date of the notice shall result in the offending newsrack being summarily removed and processed as unclaimed property.

(e) If the offending newsrack is not properly identified as to owner under the provisions of Subsection 11-105(5) above, it shall be removed immediately and processed as unclaimed property.

(f) The distributor may, by written notice within seven (7) days of the date of the notice of violation, request an informal meeting with the town administrator or his or her designee. Said meeting shall be held within five (5) working days from the date of the request. The appeal time referred to in Section 11-108 below shall commence and begin to run as of the date of the meeting. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-108. Appeals.

(a) Any person or entity aggrieved by a finding, determination, notice or action taken under the provisions of this article may appeal to the board of trustees.

(b) An appeal must be perfected within seven (7) days after receipt of notice of any protested decision or action.

(c) An appeal is perfected by filing with the town clerk a letter of appeal briefly stating therein the basis for such appeal.

(d) A hearing shall be held on a date no more than sixty (60) days after receipt of the letter of appeal.

(e) The appellant shall be given at least ten (10) days' notice of the time and place of the hearing.

(f) At such hearing, the board of trustees shall give the appellant and any other interested party a reasonable opportunity to be heard. The appellant shall have the right to examine the evidence upon which the town administrator or his or her designee relied, to cross-examine any witnesses who may have testified, and to offer any evidence which may tend to show that the subject newsrack does not violate any provision of this article.

(g) At the hearing, the burden of proof shall be upon the appellant to show that there was no evidence to support the action taken by the town administrator or his or her designee.

(h) At the conclusion of the hearing, the board of trustees shall make a final determination.

(i) The perfection of any appeal to the board of trustees shall stay the removal of any newsrack until the board of trustees makes its final determination, unless the newsrack presents a clear and present danger of imminent personal injury or property damage. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-109. Emergency.

Nothing contained in this article shall be interpreted to limit or impair the exercise by the town of its police power, in the event of an emergency, to remove any such newsrack. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-110. Revocation.

(a) In addition to the enforcement procedures provided in Section 11-107 of this article, upon the second violation of any provision of this article within a period of one (1) year, the town administrator or his or her designee shall revoke the permit for placement of newsracks, and the distributor shall forthwith remove all newsracks covered by said permit.

(b) *Violation*, as contained herein, means any violation of which the distributor has been notified pursuant to Section 11-107 and which was not corrected within the times provided therein, the determination of which has not been withdrawn by the town administrator or his or her designee after the informal meeting established by Section 11-107, or which has not been overturned by the board of trustees or any reviewing court. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-111. Abandonment.

If a newsrack remains empty for a period of thirty (30) continuous days, the newsrack shall be deemed abandoned and shall be treated in the manner as provided in Section 11-107 for newsracks in violation of the provisions of this article. (Ord. 02-04 Sec. 1, 2002)

Sec. 11-112. Compliance.

All newsracks resting in whole or in part upon or on any portion of a public right-of-way or which project onto, into or over any part of a public right-of-way, shall be brought into compliance with the terms of this article no later than thirty (30) days after the effective date of the ordinance codified herein. Any newsrack not found to be in compliance with the requirements of this article as of such date shall be subject to Section 11-107. (Ord. 02-04 Sec. 1, 2002)

Secs. 11-113—11-120. Reserved.

Article 7

PREQUALIFICATION OF CONTRACTORS

Sec. 11-121. Authority.

The town administrator may establish procedures to prequalify contractors for public works projects, and to prequalify contractors permitted to work on public property, including rights-of-way. (Ord. 02-10 Sec. 1, 2002)

Sec. 11-122. Requirements.

In order to become prequalified as a contractor, if such prequalification is determined necessary, the town administrator shall be provided with the following information:

(1) The contractor shall provide evidence of workmen's compensation coverage and comprehensive general liability insurance. The required insurance will be considered primary, and, in the event of loss covered by such insurance, such insurance shall first be exhausted before any other insurance or funds are applied to pay the loss.

(2) The contractor's comprehensive general liability insurance policy shall include broad form property damage, completed operations and broad form contractual liability.

(3) Any other information determined necessary by the town administrator in order to protect town property, including its rights-of-way, in the interests of the health, safety and welfare of the town and its inhabitants. (Ord. 02-10 Sec. 1, 2002)

Sec. 11-123. Refusal; revocation.

The town administrator is authorized to revoke a determination of prequalification or to refuse to prequalify a contractor based on any of the following:

(1) Violation of any provision of this article.

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

(3) Existence of any condition or performance of any act which does constitute or cause a condition endangering life or damage to property. (Ord. 02-10 Sec. 1, 2002)

Sec. 11-124. Appeals process.

Any decision rendered by the town administrator may be appealed within thirty (30) days to the board of trustees. (Ord. 02-10 Sec. 1, 2002)

Secs. 11-125—11-140. Reserved.