

## CHAPTER 11

### Streets, Sidewalks and Public Property

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## ARTICLE 1

### Snow Removal

#### **Sec. 11-1-10. Snow removal required.**

It is unlawful for any owner or occupant of any lot, block or parcel of ground within the Town, or for any agent in charge of such property, to allow any snow or ice to accumulate or remain upon any sidewalk or pathway alongside such property longer than twenty-four (24) hours from the time of the last accumulation of such snow or ice. (Ord. 7 §1, 2010)

#### **Sec. 11-1-20. Applicability of provisions.**

(a) The provisions of this Article shall be applicable to all sidewalks and public pathways within the Town.

(b) It is determined that the accumulation of snow and ice on the sidewalks and public pathways adjacent to the streets described in Subsection (a) above interferes with the free movement of pedestrian and vehicular traffic within the Town to a substantially greater degree than the accumulation of snow and ice on other sidewalks and public pathways within the Town. (Ord. 7 §1, 2010)

#### **Sec. 11-1-30. Snow removal parking restrictions.**

Parking restrictions during times of snow removal are set forth in Section 8-2-60 of this Code. (Ord. 7 §1, 2010)

#### **Sec. 11-1-40. Legal remedy.**

If any person allows snow or ice to accumulate or remain upon any sidewalk or public pathways, as provided in this Article, the Town may cause such snow or ice to be removed and may assess the cost thereof as a lien against the adjoining property or may bring an action in county court against the owner of such property to recover the cost thereof. (Ord. 7 §1, 2010)

## ARTICLE 2

### Street Construction

#### **Sec. 11-2-10. Purpose.**

The purpose of this Article is to safeguard life, limb, property and the public welfare by regulating the opening, excavating and restoration of the public rights-of-way or of public places and the property adjacent thereto and providing for the use and maintenance of the same. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-20. Title.**

This Article shall be known as the "Construction within the Public Right-of-Way Ordinance of the Town of Red Cliff." (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-30. Definitions.**

Unless the context requires otherwise, the following terms shall have the meanings given them as follows:

*Adjacent property* means the property abutting the public right-of-way or public place.

*Applicant* means any person who makes application for a permit.

*Emergency* means any unforeseen circumstances or occurrence which constitutes a clear and immediate danger to persons or property.

*Excavation* means any opening in the surface of the public right-of-way or a public place.

*Permit* means the permit for the use of or construction within the public right-of-way required by this Article.

*Person* means any person, firm, partnership, association, company, organization, public or private utility, governmental body or quasi-governmental body, including improvement, water or sanitation districts, and shall include its agents, employees and contractors. Unless the context otherwise requires, *person* does not include the Town, its agents or employees.

*Private utility* or *public utility* means any person subject to the jurisdiction of the Public Utilities Commission, or any person providing gas, electricity, water, telephone, cable television or other utility product or services.

*Public street* means the entire space between the right-of-way boundary lines.

*Town Engineer* means the Town Engineer for the Town, his or her designated representative or any duly authorized agent or representative acting on behalf of the Town. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-40. Permit required.**

(a) No person shall use any right-of-way or public land for private purpose, or to perform any excavation or perform any construction or fill any excavation in any public street, right-of-way or other public place in the Town without first obtaining a permit to do so from the Town.

(b) No person shall construct or install any street, street improvement, curb, gutter or sidewalk in or upon any public street, right-of-way or other public place in the Town except as provided by ordinance and in compliance with the standards and specifications.

(c) A separate permit shall be required for each location at which work is performed, including work performed by persons that have been issued annual permits.

(d) The permit shall be kept on the site of the work being performed and shall be presented upon request to any authorized representative of the Town.

(e) Any person using or excavating in a public right-of-way or place without having first obtained a permit shall have all operations suspended, shall obtain a permit applicable to that use or excavation and shall pay twice the usual fee.

(f) Any person who performs excavation in the public right-of-way or in a public place relating to an emergency without first obtaining a permit must notify the Town Engineer and obtain a permit on the first working day thereafter. Should the person fail to make this notification and obtain the required permit, the matter shall be dealt with as provided in Subsection (e) above.

(g) Any person using an annual permit as described in Section 11-2-90 of this Article shall make application for all work performed as required in Section 11-2-60 below. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-50. Qualifications of applicant.**

(a) Applicants must furnish proof to the satisfaction of the Town, evidencing qualifications and experience necessary to accomplish the work for which the permit is sought. The Town, for good and sufficient reason, may refuse to allow the applicant a permit for construction within the public right-of-way, or the Town may refuse to allow the applicant to perform any part or parts of the work for which the permit is sought.

(b) This requirement does not apply to public utilities, private utilities or the Town. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-60. Application for permit.**

(a) Application for a permit shall be made to the Town on forms provided by the Town. The application shall state the name and address of the principal place of business of the applicant and such further information as may be required for the administration and enforcement of this Article:

(1) The location, description and dimensions of the excavation work to be performed;

(2) The approximate time which will be required to complete all work, including backfilling of any excavation and removal of all materials, equipment and debris from the site, removal of all obstructions and restoration of the surface as required by this Article; and

(3) The approximate size of any excavation to be made and the purpose of such excavation.

(b) The Town may require that the application be accompanied by such plans as deemed necessary to permit the Town Engineer to determine the relationship of the job to existing or proposed facilities within the public right-of-way, including but not limited to a traffic control plan.

(c) The Town may require that the permittee comply with such special conditions regulating the performance of the work as may be deemed necessary to protect public health and safety or to assure compliance with the regulations and ordinances of the Town.

(d) The Town reserves the right to require that the application comply with any and all CDOT regulations for construction and related road improvements.

(e) The Town shall approve or disapprove an application within a reasonable time. Plans should be submitted to the Town at least ten (10) days prior to the need for a permit.

(f) The Town may refuse to grant a permit if:

(1) The application is incomplete and the deficiencies therein have not been remedied after reasonable notice to the applicant;

(2) The work for which the application for the permit is made is unnecessary, improper or in violation of the applicable ordinances, rules or regulations;

(3) The applicant is in default of the provisions or conditions of any other outstanding permit without good cause;

(4) Permit fees pursuant to Section 11-2-70 below have not been paid; or

(5) The requirements for deposit or security bond pursuant to Section 11-2-80 below have not been satisfied.

(g) At the discretion of the Town Engineer, a permit may be issued for more than one (1) excavation or category of work, provided that:

(1) All of the work will be performed by one (1) person;

(2) All of the work will be performed at one (1) location or near vicinity;

(3) All of the work will be performed in one (1) continuous operation without interruption or delay; and

(4) All work is similar to each location or all categories of work are integral to the final product. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-70. Permit fees.**

Applicants shall pay the required fee to the Town before the issuance of any permit established by resolution of the Board of Trustees for administrative, inspection and replacement costs incurred by the Town for excavation or other work. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-80. Deposit or security bond required.**

(a) Every applicant, before being issued a permit under this Article, shall furnish the Town a cash deposit or other form of cash security in an amount which shall be determined by the Town.

(b) The holder of an annual permit shall be exempt from the requirements of Subsection (a) above unless default has occurred in performance of the indemnification agreement required by Paragraph 11-2-90(1) below for issuance of the annual permit.

(c) Upon notice to the applicant, for reasonable cause, the Town may at any time increase or reduce the amount of the required security or waive the same as conditions warrant.

(d) The Town shall refund the cash deposit or release the security bond one (1) year after the work, as described in the permit, has been completed. The amount of refund shall be the full amount of the original deposit except that the deposit shall be reduced by costs of restoration or corrective measures performed by the Town or those hired by the Town, pursuant to Sections 11-2-340 and 11-2-370 of this Article. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-90. Annual permit.**

An annual permit may be issued by the Town to:

(1) Any utility company providing electric, telephone, natural gas, water, sewer or cable television service on a regular basis to the residents of the Town. Annual permittees are exempted from posting a deposit or surety bond for street construction work, provided that the utility company files a letter with the Town Engineer, signed by the appropriate officers of the company, agreeing to reimburse the Town for all costs incurred in repairing street openings made by the utilities, agreeing to indemnify the Town pursuant to Section 11-2-130 below, and agreeing to abide by all the terms of this Article. Each utility company shall submit a list of persons authorized to sign permit applications, keep that list current and shall file a permit every time it commences work within the Town.

(2) Except as specifically provided in this Article, the annual permit provided for in this Article shall not exempt or relieve the permittee, or the agents or employees of the permittee, from any of the requirements or provisions of this Article. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-100. Certificate of insurance.**

(a) Every applicant, before being granted a permit under the provisions of this Article, shall furnish the Town with proof of insurance to cover liability for injuries, death or property damage occurring as a result of the work at the site for which the permit is issued.

(b) The proof of insurance that the applicant furnishes must be in such form as is approved by the Town with an insurance company licensed to do business in the State.

(c) Such proof of insurance shall be specified for all operations of the permittee and for all his or her vehicles to be used in the course of his or her operations in the Town.

(d) The limits of insurance coverage shall be four hundred thousand dollars (\$400,000.00) per single occurrence and one hundred fifty thousand dollars (\$150,000.00) per person per single occurrence.

(e) Annual permittees are exempted from the requirements of this Section.

(f) Subcontractors performing work for permittees or annual permittees shall be required to furnish proof of insurance pursuant to this Section. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-110. Permit issuance.**

The application, together with such other papers or plans as may be attached thereto and together with any additional regulations as stipulated by Town pursuant to Section 11-2-160 below, when approved and signed by the Town, shall constitute the permit. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-120. Permit nontransferable.**

(a) Permits under this Article are not transferable, and the work shall not be made in any place other than the location specifically designated in the permit, or by any person, agent or independent contractor other than the permittee unless specifically provided in the permit.

(b) Nothing contained in this Article shall prevent a permittee or annual permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit and for all bonding, insurance and other requirements of this Article. All subcontractors shall conform to the insurance requirements of Section 11-2-100 above. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-130. Town nonliability.**

Prior to the issuance of any permit under this Article, every applicant shall agree to hold the Town, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to have accrued by reason of any work performed under a permit issued under this Article and, in addition, shall agree to indemnify the Town therefor. The acceptance of a permit shall constitute such an agreement by the applicant. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-140. Permit expiration, extension.**

Every permit shall expire at the end of the period of time set out in the permit. If the permittee is unable to commence or to complete the work within the specified time, he or she shall, prior to the expiration date, present in writing to the Town a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the Town, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work being done. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-150. Permit revocation, suspension.**

Any permit may be revoked by the Town after notice to the permittee, on the following grounds:

- (1) Violation of any condition of the permit or of any provision of this Article;
- (2) Violation of any provision of any other applicable ordinance or law relating to the work;  
or
- (3) Existence of any condition or the performance of any act constituting a nuisance or endangering lives or properties of others. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-160. Additional regulations; Town Engineer.**

In granting any permit, the Town Engineer or other authorized Town representative may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to the following:

- (1) Restrictions as to the size and type of equipment.
- (2) Designation of routes upon which equipment and materials may travel or be transported.
- (3) The place and manner of disposal of excavated materials.
- (4) Requirements as to the cleaning of streets, the prevention or reduction of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof.
- (5) Regulations as to the use of streets in the course of the work.
- (6) Minimum depth of any utility or service line shall be eighteen (18) inches below finish grade or, when under asphalt, twenty-four (24) inches below finish grade.
- (7) Temporary patching or other measures that may be necessary to protect the public and the public way.
- (8) Additional deposits or securities above the requirements of Section 11-2-80 of this Article that may be necessary to ensure that the cost of repair or maintenance is paid by the permittee.
- (9) The notification of some or all residents near the site of the work and/or public or private utilities regarding the specific work to be performed. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-170. Limitations on cutting asphalt.**

Permits to construct within the public right-of-way which would involve excavation within any paved street shall be issued with the provision that said excavation shall only be authorized when the following conditions have been met:

- (1) Alternate routes for the utility or proposed installation which would minimize or negate the necessity to excavate within the affected paved street are not feasible. Said alternate routes may include, but not be limited to, a shift in horizontal alignment of the proposed installation, "double frontage" of the utility main in the case of service connections, making use of nearby easements which would allow an alternate route, or any other method approved by the Town Engineer.
- (2) There are no usable conduits in place crossing under the affected paved streets in an accessible location to the proposed work site.
- (3) In the case of transverse installations, under the full street width jacking and/or boring are not feasible. Jacking and/or boring shall generally be considered feasible except as herein

provided, unless and until it has been demonstrated by the applicant that subsurface conditions prevent the possibility of jacking and/or boring. This demonstration shall include, but not be limited to, no fewer than three (3) attempts at jacking and/or boring, at least one (1) of which has been witnessed by the Town Engineer, that result in failure in each instance. Instances in which jacking and/or boring shall be considered infeasible at the time of application shall include, but not be limited to:

- a. Repair of a utility main which lies directly under the pavement.
- b. Service connections to the utility main which lie directly under the pavement that cannot make use of an access hole and jacking and/or boring.
- c. Installations where line and grade are absolutely essential to the function of the proposed facility.
- d. Installations in areas of known geologic difficulty; i.e., rocks and boulders.
- e. Where jacking and/or boring might damage existing utilities.

Situations not mentioned above shall be considered on a case-by-case basis and decided by the Town Engineer. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-180. Jacking and/or boring.**

Jacking and/or boring shall be performed subject to the following conditions:

- (1) Transverse installations within the right-of-way shall be jacked and/or bored without disturbing the surface or any structure above.
- (2) Vertical excavations for the purpose of jacking and/or boring shall not be closer horizontally than the depth of the excavation to the paved surface, or outside the road prism, whichever is a greater distance from the paved surface.
- (3) Transverse installations by jacking and/or boring shall be for the purpose of installing a permanent casing pipe, through which utilities shall be installed, unless the carrier pipe itself is jacked and/or bored, or the jacked pipe is used to retrieve a carrier pipe of the same size.
- (4) Bores shall not be larger than lines or encasements.
- (5) Water-assisted boring will be permitted, as determined by the Town Engineer. Water jetting will not be permitted. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-190. Size restriction.**

The opening which may be made in the street at any one (1) time shall be no greater than will permit the reasonable use of the street by the public and will not cause substantial hazards in the use of the street by the public. Reasonable and adequate provisions shall be made for use of the street by the public, and the use of the street by the public may not be blocked entirely unless prior approval

has been granted by the Town Engineer, the County Sheriff and the Eagle River Fire Protection District. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-200. Location of utilities.**

The location of all utility facilities shall be located and clearly marked sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary. The permittee shall be solely responsible for obtaining and maintaining the utility marking throughout construction. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-210. Pipe drain and culvert protection.**

Pipe drains, pipe culverts or other facilities shall be protected from damage by the permittee and kept clean from construction debris. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-220. Street drainage.**

When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper alternate drainage to the satisfaction of the Town Engineer. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-230. Protective measures and routing of traffic.**

(a) It shall be the duty of every person excavating or engaging in any other construction on any right-of-way to place and maintain barricades and warning devices to warn the general public of such construction or excavation.

(b) Such barriers, warning signs and lights shall conform to the Town specifications. Warning lights shall be electrical markers or flashers. The Town Engineer, upon discovery of any default on the permittee's part to maintain warning lights and barricades at the scene of the work, shall have the authority to suspend the work until the deficiencies are remedied, obtain the necessary lights and barricades and charge the permittee as provided in Subsection 11-2-370(b) of this Article.

(c) The permittee shall take appropriate measures to assure that, during the performance of the construction work, normal traffic conditions shall be maintained at all times as nearly as possible. If the work to be performed will disrupt the normal flow of traffic, the Town Engineer may require barricades, detours and traffic control plans from the permittee prior to the performances of the work. Crossings at intersections shall be kept open to traffic unless prior written approval is given.

(d) When traffic conditions permit, the Town Administrator may, in writing, permit the closing of streets and alleys to all traffic for a period of time to be prescribed by the Town Engineer. The Town Engineer may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

(e) Warning signs shall be placed far enough in advance of a construction operation to alert traffic of such construction in a timely manner, and cones or other approved devices shall be placed to channel traffic, in accordance with the instruction of the Town Engineer.

(f) Upon request by individual property owners for the use of the Town-owned barricades and protective measures, the Town Engineer may authorize the use of such Town-owned equipment subject to availability. The Town Engineer may require an additional cash deposit or security for the use of the Town-owned property. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-240. Protection of adjacent property.**

(a) The permittee shall at all times, at his or her own expense, preserve and protect from damage adjacent property or structures by providing proper foundations and by taking other measures suitable for the purpose of preventing damage to any adjacent property.

(b) When for the protection of property it is necessary to enter upon such property for the purpose of taking appropriate measures, the permittee shall obtain written permission from the owner of such property to enter thereupon, and the Town Administrator shall take whatever action he or she deems necessary.

(c) The permittee shall, at his or her own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of his or her excavation work, and the permittee shall be responsible for all damage to public or private property or highways resulting from his or her failure to properly protect or carry out said work.

(d) Whenever it may be necessary for the permittee to trench through any area, such area shall be restored to a condition equal to or better than that which existed prior to construction. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-250. Access to fire hydrants and driveways.**

Access to private driveways shall be provided, except during working hours when construction operations prohibit provision of such access; provided, however, that access to private driveways shall be restored promptly, and the blocking of private driveways shall be only for such a period of time as is necessary to complete the work immediately in front of the private driveway. Free access must be provided at all times to fire hydrants. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-260. Care of excavated materials.**

(a) All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner so as not to endanger those working in the trench, so as not to endanger pedestrians or other traffic and so as to assure that minimal inconvenience is created to those using streets and adjoining property.

(b) Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the excavation, the permittee may be required to haul the excavated material away from the site.

(c) It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for disposing of all excavated materials.

(d) All trench and tunnel excavations and construction shall conform to the safety requirements for placing of shoring, bracing and ladders in excavations in effect at the time of the work being performed.

(e) Whenever necessary, toe boards or bins may be required to prevent the spreading of dirt and other excavated materials into traffic lanes.

(f) Excavated materials shall not be used as a barricade.

(g) Materials being used in the work or equipment being used for the work shall not be used as barricades, unless suitably marked. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-270. Time of day work may be performed.**

Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-280. Seasonal restrictions on work.**

No street cut permit authorized under this Article shall be issued so as to allow a street opening or pavement cut between November 15 and April 15, except in accordance with the following:

(1) The Town Engineer may issue a permit for a street opening or pavement cut between November 15 and December 1 if it is determined that special or unforeseen circumstances require the issuance of the permit or if the applicant for the permit is a public utility. If the Town Engineer determines that an excavation should be allowed, the applicant may be required to comply with any of the following additional items:

a. Post an additional sum to pay the costs of cold-patching the cut, maintenance of the cut or possible damage to the public way that may occur over the winter;

b. Temporarily cold-patch the excavation repair no later than June 15; or

c. Do any other reasonable thing that the Town Engineer determines is necessary to protect the public way until the excavation is permanently closed. In addition, any applicant requesting a permit for excavation shall agree to provide a permanent catch or repair for the street cut the following summer when the ground and weather permit the same.

(2) In no event shall a permit be issued after December 1 except in the case of an emergency or upon specific written approval by the Town. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-290. Emergency work.**

(a) Any person maintaining pipes, lines or facilities in the public way may proceed with work upon existing facilities without a permit when emergency conditions demand the work to be done immediately, provided that a permit could not reasonably and practicably have been obtained beforehand.

(b) Any person commencing emergency work in the public way without a permit shall immediately thereafter apply for a permit or give notice on the first regular business day on which Town offices are open for business after such work is commenced, and a permit may be issued which shall be retroactive to the date when the work has begun, at the discretion of the Town Engineer.

(c) In the event that emergency work is commenced within any public way of the Town, the Police Department shall be notified within one-half (½) hour from the time work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-300. Backfilling and restoration; specifications designated.**

All pavement cuts, openings and excavations shall be backfilled, surfaced and restored as set forth in Sections 11-2-310 through 11-2-360 below. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-310. Backfilling; paved streets.**

Backfilling under paved streets shall be made in accordance with the following specifications:

(1) Materials. Materials shall be granular, consisting essentially of sand, gravel, rock, slag, disintegrated granite or a combination of such materials. It shall be a well-graded mixture containing sufficient soil mortar, crusher dust or other binding material which, when placed and compacted, will result in a firm, stable foundation. Material composed of uniformly sized particles or which contains pockets of excessively fine or excessively coarse material will not be acceptable. The material shall meet the following gradation:

<i>Sieve Designation</i>	<i>Percent by Weight Passing</i>
2½-inch	100
2-inch	95—100
No. 4	30—60
No. 200	5—15

All material passing the No. 4 sieve shall have a liquid limit of not over thirty-five (35) and a plasticity index of not over six (6). Test for liquid limit and plasticity index shall be in accordance with A.A.S.H.T.O. designations T-89 and T-91, respectively.

(2) Base course. The top six (6) inches under asphalt shall be backfilled with Class 6 ¾" roadbase and compacted in accordance with Paragraph (3) below.

(3) Construction methods. The material shall be deposited in layers not to exceed eight (8) inches in thickness prior to compacting, provided that the bottom layer shall not exceed fifteen (15) inches in thickness. The material shall be compacted using moisture-density control. Compaction shall be obtained by means of suitable mechanical equipment. No puddling or jetting will be allowed. Backfill shall be compacted to not less than ninety-five percent (95%) of the theoretical density as determined by A.A.S.H.T.O. Method T-99. Field densities shall be determined by approved methods.

The amount of water used in compacting the specified backfill shall be that necessary to achieve the required minimum density. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-320. Backfilling; unpaved streets.**

Backfilling of unpaved streets shall be made in accordance with the following specifications:

(1) Materials. The bottom six (6) inches and the top twelve (12) inches of backfill shall be the same type of material specified in Paragraph 11-2-310(1) above. The excavation material may be used for the remainder of the backfill, provided that no materials greater than six (6) inches in diameter shall be used for backfill.

(2) Construction methods. The material shall be deposited in layers not to exceed eight (8) inches in thickness prior to compacting, provided that the bottom layer shall not exceed fifteen (15) inches in thickness. The material shall be compacted using moisture-density control. Compaction shall be obtained by means of suitable mechanical equipment. No puddling or jetting will be allowed. Backfilling for the portion of the trench to be completed using materials specified in Paragraph 11-2-310(1) above shall be compacted in accordance with the requirements of Paragraph 11-2-310(3) above. Backfill for the remainder of the trench shall be compacted to not less than ninety-five percent (95%) of the theoretical laboratory density as determined by A.A.S.H.T.O. Method T-99. The amount of water used for compacting the remaining trench soils shall be not less than two percent (2%) dry of optimum or more than optimum moisture. Field densities shall be determined by approved methods. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-330. Backfilling; unpaved nonvehicular places.**

Excavations in unpaved places not used as vehicular ways shall be backfilled in accordance with the following specifications:

(1) Materials. The bottom six (6) inches shall be the same type material specified in Paragraph 11-2-310(1) above. Suitable excavated material may be used for the remainder of the backfill, provided that no materials greater than six (6) inches in any dimension shall be used for backfill.

(2) Construction methods. The material shall be deposited in layers not to exceed twelve (12) inches in thickness prior to compacting, provided that the bottom layer shall not exceed fifteen (15) inches in thickness. The material shall be compacted using moisture-density control. Compaction shall be obtained by means of suitable mechanical equipment. No puddling or jetting will be allowed. Backfill for the portion of the trench to be compacted using materials specified in Paragraph 11-2-310(1) above shall be compacted in accordance with the requirements of Paragraph 11-2-310(3) above. Backfill for the remainder of the trench shall be compacted to not less than ninety-five percent (95%) of the theoretical laboratory density as determined by A.A.S.H.T.O. Method T-99. The amount of water used for compacting the remaining trench soils shall be not less than two percent (2%) dry of optimum for more than optimum moisture. Field densities shall be determined by approved methods. All sodded, landscaped or grassed areas shall be restored to the original condition. Before sod replacement is accomplished, the trench shall be crowned sufficiently to allow for natural subsidence.

(3) Where narrow trenches (less than six [6] inches in top width) are excavated to shallow depths (less than forty-eight [48] inches) by means of conventional ditching machines in areas outside the road prism and/or paved areas for purpose of installing direct burial cables or conduit such as telemetry lines, television cables, telephone lines, electrical lighting circuits or natural gas lines, backfilling requirements as called for above may be waived in lieu of the following: Narrow trenches shall be uniformly backfilled with suitable excavated material or other approved materials. Specialized compaction requirements will not be applied, provided that the width of the trenches does not exceed six (6) inches. The backfilled narrow trenches shall be satisfactorily crowned to allow for natural subsidence. The overfilled trench shall be so completed that surface water runoff is neither interrupted nor ponded and drainage routes remain unaffected. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-340. Backfilling; quality control.**

(a) Quality control of backfill compaction may be monitored by the Town Engineer by utilizing standard compaction testing methods.

(b) The Town Engineer shall have the authority to require the permittee to obtain standard compaction tests during the backfilling process. The soils engineer or testing laboratory shall be approved by the Town Engineer.

(c) When compaction tests are required by the Town Engineer, at least one (1) compaction test shall be taken on each compacted level of backfill per one hundred (100) feet or in locations designated by the Town Engineer if the project is of a smaller scope than one hundred (100) feet.

(d) In the event that compaction tests do not meet the backfill standards required by Section 11-2-330 above, the areas not meeting the minimum density requirements shall be recompacted and retested until density requirements are met.

(e) If the permittee fails to perform required compaction tests, the Town Engineer shall have the authority to order the permittee to cease backfill operations until such time as the compaction tests are performed.

(f) If compaction testing is required, no paving or repaving operations shall occur until the compaction tests have been approved by the Town Engineer. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-350. Restoration; asphalt surfaces.**

The cut and restoration of asphalt surfaces shall be made in the following manner:

(1) The initial pavement cut shall be made a minimum of one (1) foot wider than the trench on all sides of the trench, a minimum of three (3) feet wide, and the cut in the paving shall be made with a power circular saw or cutter and shall be in straight lines and with a minimum of angles.

(2) Resurfacing shall be performed by a person experienced in resurfacing work. The Town Engineer may demand proof of experience and qualifications of the person before allowing permanent restoration.

(3) Between November 15 and April 15 or when hot bituminous asphalt is not readily available, the permittee shall temporarily cover the top surface of the backfill with a minimum of two (2) inches of cold mix.

a. All temporary surfacing material shall conform as closely as possible to the level of the adjoining paved surface and shall be compacted to be a safe surface for pedestrian and vehicular traffic.

b. The permittee shall maintain the temporary paving in a safe condition for pedestrian and vehicular traffic until hot bituminous asphalt is available, at which time the permanent resurfacing shall be completed by the permittee.

(4) Between April 15 and November 15 permanent resurfacing shall be completed with hot bituminous asphalt of a mix design acceptable to the Town Engineer. The work shall be performed in a manner that will permanently restore the asphalt surface to the level of the adjoining surfaces, with suitable compaction. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-360. Restoration; adjacent surfaces; costs.**

If the Town Engineer finds that paved surfaces adjacent to the construction may have been damaged during the progress of the work, the permittee shall be required to perform or pay the cost of resurfacing. The cost of resurfacing shall be the sole responsibility of the permittee. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-370. Corrective measures.**

(a) For a period of one (1) year following the completion of work, the Town Engineer, upon discovery of any defect in materials or workmanship for which a construction in the public right-of-way permit is issued, shall:

(1) In the event of any emergency, order Town personnel or a private contractor to do such work as may be necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the permittee to restore or maintain the public street, highway or right-of-way pursuant to the provisions and conditions of his or her permit.

(2) In other cases, give notice to the permittee and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than fourteen (14) calendar days, within which such defects are to be repaired.

a. Such period of time may be extended by the Town Engineer upon application, for reasonable cause shown.

b. In the event of failure of the permittee to perform the required repairs within the period provided by such notice, the Town personnel or a private contractor on order of the Town shall make such repairs as may be necessary.

(b) The Town shall recover any and all costs of work performed by the Town personnel or any private contractor hired by the Town, including the cost of labor, equipment, materials, attorneys'

fees, court costs and administrative costs at the expense of the permittee by applying any deposit, bond or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the permittee by legal action or otherwise.

(c) The Town Engineer, upon discovery of any defect or defects in the work for which a right-of-way use and excavation permit was issued and which is not corrected to the satisfaction of the Town Engineer by the permittee, shall disqualify said permittee from performing either parts of or all work for which the permit was originally issued and may refuse to issue future permits to said permittee for a period of one (1) year. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-380. Notice of improvements.**

When the Town schedules a major improvement in any public way, the Town Engineer shall notify all affected private and public utilities of the nature, scope and timing of said improvements. When final plans are approved, the Town Clerk shall give notice to all persons owning property abutting the public way about to be improved and to all private and public utilities owning or operating substructures in said way, and all such persons, public utilities and private utilities shall, within six (6) months from the giving of such notice, make all connections as well as any repairs thereto which would necessitate excavation of the public ways. The time may be extended if permission is requested in writing and approved by the Town Engineer. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-390. Opening new street surfaces.**

No permit shall be issued by the Town Engineer which would allow an excavation or opening in a newly paved or rebuilt street surface less than one (1) year old, unless the applicant can clearly demonstrate that public health, safety or interest requires that the proposed work be permitted, or unless an emergency condition exists. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-400. Map of underground facilities required.**

Every public utility, private utility or person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, telephone, cable television, water or sewer to or from the Town or to or from its inhabitants, or for any other purpose, shall file with the Town Engineer, within one hundred twenty (120) days after the adoption of the ordinance codified in this Article, a map or set of maps, each drawn to a scale of not less than one (1) inch to four hundred (400) feet, showing the location, size and description of all such installations. The owner agrees upon reasonable notice from the Town or any permittee to accurately locate his or her installations upon the ground as shown on the maps. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-410. Map corrected annually.**

By March 1 of each year, such person shall file with the Town Engineer a corrected map or set of maps, drawn to the scale designated in Section 11-2-400 above, showing installations and abandonments during the previous year; provided, however, that if no further installations have been made during the previous year, there may be filed with the Town Engineer a written statement to that effect. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-420. Sidewalk construction and repair.**

Property owners desiring to restore or construct sidewalks in the public right-of-way and adjacent to their property may perform that work subject to the following conditions:

- (1) Said property owner shall be exempt from the provisions of Sections 11-2-70, 11-2-80 and 11-2-100 of this Article.
- (2) The property owner shall submit plans with the permit application that demonstrate:
  - a. The location, dimensions and elevation of the sidewalk improvements; and
  - b. Plans for providing protective measures to ensure the safety of pedestrian traffic. (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**Sec. 11-2-430. Violations; penalty.**

Any person violating any of the provisions of this Article shall be deemed guilty of a criminal offense and, upon conviction of any such violation, such person shall be punished as set forth in Section 1-4-20 of this Code. Said offense shall be deemed to be one of "strict liability." (Ord. 2 §1, 1987; Ord. 7 §1, 2010)

**ARTICLE 3**

**Public Property**

**Sec. 11-3-10. Parks and cemetery, administration.**

The administration and supervision of the Town parks and cemetery shall be by the direction of the Mayor, who will employ such other persons as may be necessary for the care and maintenance of the Town parks and cemetery. (Prior code 13-2-1; Ord. 7 §1, 2010)

**Sec. 11-3-20. Parks and cemetery, rules and regulations.**

The Board of Trustees shall adopt rules and regulations not inconsistent with the provisions of this Section governing the supervision of the Town parks and cemetery, which rules and regulations shall be on file and available for public observation in the office of the Town Clerk. Failure to comply with any rule or regulation promulgated under this Section shall be deemed a violation of this Code. (Prior code 13-2-2; Ord. 7 §1, 2010)