



TOWN BOARD WORK SESSION

February 9, 2026 - 5:30 PM

1st Floor Conference Room, 301 Walnut Street, Windsor, CO 80550

To view Town Board meeting broadcasts, visit
www.windsorgov.com/MeetingsOnDemand.

AGENDA

GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the Public in attendance are asked to be recognized by the Mayor before participating in any discussions of the Town Board

WORK SESSION AGENDA ITEMS

1. Board/Manager/Attorney Monthly Meeting
2. Right of Way Permitting and Maintenance Ordinances - K. Mihm, Deputy Town Attorney
3. Park System Buildout - E. Lucas, Deputy Town Manager
4. A Resolution Supporting An Agreement Between the Town of Windsor, Colorado, and the State Board of the Great Outdoors Colorado Trust Fund for a Grant Application for the North Campus Park and New Open Space Master Plan - T. Fotsch, Director of Parks, Recreation and Culture
5. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



MEMORANDUM

Date: February 9, 2026
To: Mayor and Town Board
From: Kim Mihm, Deputy Town Attorney
Re: Right of Way Permitting and Maintenance Ordinances - K. Mihm, Deputy Town Attorney
Item #: 2.

Background / Discussion:

There are two items for consideration. The first item is the new Right of Way Ordinance covering all permits related to our right of way - from excavations to occupation - to encroachments. This was briefly discussed in a prior work session in October, 2025. Before this item is presented for a first reading, we will have Brandon Dittman review to make sure none of the language runs afoul of the FCC, in terms of regulating fiber and broadband communications. Omar and Brian have been operating our new ROW permit system that aligns with this new code for the past few months.

The second item is the right of way maintenance ordinance. This is intended to "mirror" the snow removal ordinance we have operated successfully under for some years. The intent is to have property owners who are adjacent to or abutting sidewalks, lawns, or other landscaping, be responsible for the mowing, cutting, and keeping the area neat and tidy.

This past summer, we had instances of folks dumping items over their fence (chairs, rocks, debris), and seemingly having no consequences for such actions. This results in unsightly streets, and can actually harm Town equipment, depending upon its placement.

Additionally, the maintenance ordinance aligns trimming of trees with the Town's landscaping standards, so we have consistency throughout the Town.

The purpose of this ordinance is to give clear guidance to the Town departments and citizens, of duties and responsibilities for property maintenance of our right of ways.

Financial Impact:

N/A - unless it is decided the property owners are not responsible for ROW maintenance.

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 2-5-26 DRAFT ordinance re Maintenance in ROW
2. 2.3.26 ROW Permit Ordinance.comments

TOWN OF WINDSOR

ORDINANCE NO. 2026-[##]

AN ORDINANCE AMENDING WINDSOR MUNICIPAL CODE SECTIONS 7-3-30 AND 7-4-30 CONCERNING THE REMOVAL AND MAINTENANCE OF GRASS, WEEDS AND BRUSH BY THE OWNERS OR OCCUPANTS OF PROPERTY ABUTTING OR ADJACENT TO PUBLIC RIGHTS OF WAY, STREETS, ALLEYS AND SIDEWALKS

WHEREAS, the Town of Windsor (“Town”) is a home rule municipality with all powers conferred under Colorado law; and

WHEREAS, issues arise each year with the questions of who is responsible for maintenance of areas bordering private property adjacent to or abutting public rights of way, streets, alleys and sidewalks; and

WHEREAS, the Windsor Municipal Code (“Code”) requires adjacent or abutting property owners or occupants to be responsible for snow removal, and trees, shrubs and brushes, but fails to address grass, weeds and brush; and

WHEREAS, these amendments will bring consistency to the Code, to require all owners or occupants of property abutting or adjacent to public rights of way, streets, alleys and sidewalks to be responsible for the maintenance of these areas; and

WHEREAS, the adjacent or abutting property owners benefits from the proper and consistent maintenance of these areas; and

WHEREAS, the Town Board finds that this Ordinance promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Section 7-3-30 is hereby amended and shall read as follows:

Sec. 7-3-30. - Duty of property owner to cut, remove and maintain.

1. It shall be the duty of each and every person, **corporate entity, metro district** or association owning, occupying or possessing any lots, tracts or parcels of land within the Town to cut to the ground and remove all weeds, **trash, junk**, and brush. **For purposes of this section, the term “weeds” includes undesirable grass, trees, vegetation or any plants, growing in an undesired location. “Trash” and “junk” mean any items, leaves, yard waste, or personal items, including furniture, left or abandoned in the right of way or other public place.**

2. The owners or occupants of property abutting upon or adjacent to a public right-of-way or easement of any street, alley, sidewalk or other public place, including areas separated by any fence, wall, landscaping or similar improvement, shall at all times maintain and cut grass, and shall maintain, cut or remove all weeds, junk, trash, personal items and brush within the areas between the property and the adjacent street, alley, sidewalk, curb, or other public place, including adjacent areas behind fences or walls.

Section 2. Section 7-4-30 is hereby amended and shall read as follows:

Sec. 7-4-30. - Authority of the town to require trimming, removal and maintenance of grass, weeds, brush, trees, vegetation, shrubs and hedges, and removal of junk or abandoned property in public places.

(a) Town General Authority. The Town shall have the authority pursuant to this Section to require the **mowing, cutting**, trimming, pruning, removal or destruction of any **grass, weeds, brush**, trees, shrubs, **vegetation** or hedges in, over or upon the public right-of-way of any street, alley, sidewalk, **streetlight, fire hydrant, any Town utility** or other public place within the Town **by the owners or occupants of property abutting upon or adjacent thereto. The dumping or abandonment of junk, trash, lawn waste, tree leaves, or other personal property upon the public right of way of any street, alley, sidewalk or other public place is prohibited, and any action taken to clean up by the Town shall be declared a nuisance subject to the provisions below.** Nothing herein shall be deemed to impose a duty on the Town to undertake action or expend funds pursuant to the authority granted under this Section. **The standard vertical clearance of all trees shall be no less than 14 feet over streets and no less than eight (8') feet over sidewalks. Trees, shrubs, bushes or any vegetation shall not impede or encroach upon the sidewalk, curb and gutter or impede the view of any street signs or any streetlights, traffic control safety devices, pedestrian or school flashing lights.**

(b) Nuisance Declaration. Except in cases of emergency, **and pursuant to the nuisance provisions set forth in Chapter 7, Article III, and Chapter 7, Article I,** the Town shall make reasonable efforts with property owners and/or occupants to informally and cooperatively assure the **clean up of the right of way or other adjacent or abutting public places, to include mowing**, trimming, pruning, removal or destruction of any **grass, weeds, brush**, trees, shrubs or hedges, **removal of junk, lawn waste, tree leaves, trash, or other personal property, in, over or upon the public right-of-way of any street, alley, sidewalk, streetlight, fire hydrant, any Town utility or other public place within the Town.** In the event such informal efforts do not result in satisfactory property owner compliance, the Town shall have the authority to declare a nuisance and abate the nuisance as provided below.

(c) In cases of emergency, the Town shall have the authority to immediately declare a nuisance under this Section.

(d) Abatement and Enforcement. The powers and duties of the Town with respect to enforcement of **the clean up of the right of way or other adjacent or abutting public places, to include mowing, trimming, pruning, removal or destruction of any grass,**

weeds, brush, trees, shrubs or hedges, removal of junk, lawn waste, tree leaves, trash, or other personal property, in, over or upon the public right-of-way of any street, alley, sidewalk, streetlight, fire hydrant, any Town utility or other public place within the Town under this Section, and the abatement of nuisances declared hereunder, shall be exercised in accordance with the nuisance abatement provisions set forth herein.

- (1) **Authorization.** The Police Department may apply under oath to the Municipal Court for an *ex-parte* order authorizing immediate abatement of the nuisance. The Municipal Judge is empowered to administratively issue *ex-parte* orders for the immediate abatement of any nuisance which presents an imminent threat to the public health, safety or welfare.
- (2) **Determination administrative.** In conjunction with the application for an *ex parte* order under Paragraph (1) above, the Police Department may issue a citation to the property owner, the property occupant or both. Notwithstanding the issuance of a citation under this Subsection, the determination and issuance of an *ex parte* order shall remain an administrative matter except as provided below.
- (3) **Contents.** Every *ex parte* order issued pursuant to this Subsection shall authorize the immediate abatement of any such nuisance and shall contain a finding by a preponderance of the evidence that a nuisance exists upon the subject property which presents an imminent threat to the public health, safety or welfare, shall recite the facts supporting such a finding and shall be supported by sworn testimony or affidavit upon personal knowledge.
- (4) **Mailing and posting.** The Municipal Court shall mail a copy of every *ex parte* order issued pursuant to this Subsection within twenty-four (24) hours of its issuance to the property owner address as maintained by the County Assessor's Office by first-class mail. The Municipal Court shall further direct the Police Department to post a copy of such *ex-parte* order in a conspicuous location upon the premises.
- (5) **The Chief of Police designee shall certify in writing the costs associated with the nuisance abatement or removal measures undertaken pursuant to this Section, and such certification shall be mailed by certified mail, return receipt requested, to both the owner of the property and to the property address if different from the owner's address. Such service shall constitute proof of notice to the property owner for all intents and purposes hereunder.**
- (6) **The owner of any property subject to a nuisance abatement or removal lien under this Article shall have the right to request a**

hearing before the Municipal Court. Such request shall be in writing, shall contain the requestor's mailing address and shall be delivered in person to the Police Department within ten (10) days of the mailing specified in Subsection (a) above. Upon receipt of a request for a hearing, the Chief of Police designee or Town Prosecutor shall schedule a hearing before the Municipal Court and provide written notice of the same to the requesting party by first-class mail, postage prepaid, to the address appearing on the request for hearing. Failure to request a hearing as provided in this Subsection shall be deemed a waiver of any objections to the lien for nuisance abatement or removal measures established in this Section.

- (7) If a hearing is timely requested by the property owner, the sole question at the hearing shall be the cost incurred by the Town for abatement and removal measures associated with the subject property. The Chief of Police designee, and/or Town Prosecutor shall present any evidence in support of the costs associated with the nuisance abatement or removal measures in question. The property owner shall have a right to present evidence and argument in opposition. The Municipal Judge shall determine all evidentiary questions and shall render a written order within thirty (30) days of the hearing containing findings and conclusions as to the amount of the lien. The written order shall be mailed to the property owner and a copy provided to the Chief of Police and to the Town Prosecutor.
- (8) Any lien established under this Section shall constitute a perpetual lien on the property upon which the nuisance abatement or removal measures were undertaken in accordance with this Section.
- (9) The attachment of such lien is not dependent on the recording of written notice, and the lien is prior and superior to all other liens, claims, titles and encumbrances, whether or not prior in time, except liens for general taxes. The lien remains attached to the property from the date the nuisance abatement or removal costs are incurred until all such costs, together with simple interest at the rate of eight percent (8%) per annum from the date the costs were incurred, are paid.
- (10) The Town is not required to seek payment of nuisance abatement or removal costs from any person other than the owner of the property. No change of ownership, occupancy or possession affects the application of this Section, and the failure of any owner to discover that property was purchased against which a lien for nuisance abatement or removal costs exists in no way affects such owner's liability for payment in full.
- (11) The Town may enforce its lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied

to the unpaid nuisance abatement or removal costs and allowable court costs in the manner provided for foreclosure of statutory liens.

- (12) The lien may also be enforced by certification of assessment upon the property to the treasurer of the county wherein the property is located for collection by the county in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law.
- (13) Unpaid abatement or removal costs, together with simple interest at eight percent (8%) per annum and costs of collection, may also be collected by civil suit against the owner of the property, commenced at any time after the charges become due.
- (14) The remedies provided under this Section are cumulative and supplemental to each other.

Sec. 7-4-40. - Wildlife habitat and natural areas and open space exceptions.

An owner of a tract of land that has been deemed by the Town to be a natural area, open space and/or an area preserving wildlife habitat, **excluding stormwater facilities within these areas**, shall be permitted to have grasses growing in excess of twelve (12) inches high.

Section 3. Code Section 11-7-10 is hereby amended to address pushing snow or stockpiling snow in the streets and shall read as follows:

Sec. 11-7-10. - Removal of snow and ice from sidewalks.

- (a) The owners or occupants of property abutting upon or adjacent to sidewalks within the corporate limits of the Town shall at all times keep such **curb, gutter and sidewalks** free and clear of snow and ice. **Sidewalks separated from the property by any fence, wall, landscaping, or similar improvement are still deemed abutting or adjacent for purposes of this section.** In the event such owners or occupants fail to remove snow and ice from such sidewalks within twenty-four (24) hours after the accumulation of snow and ice thereon, the Town may have the **curb, gutter and sidewalks** cleaned and cleared of snow and ice, and the cost thereof, including inspection and other incidental costs and an additional cost for administration not to exceed ten percent (10%), shall be assessed against the property in accordance with the assessment provisions set forth below.
- (b) **It shall be unlawful to push, pile, stockpile or leave snow removed from sidewalks and driveways in or upon any right of way, street, public drive or public driveway or alleyway.**

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Section 4. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the

invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 5. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance are hereby repealed, only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Introduced and passed on first reading and ordered published this [date], 2026.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]

Passed on second reading, and ordered published this [date], 2026.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]

TOWN OF WINDSOR
ORDINANCE NO. 2026-

AN ORDINANCE AMENDING CERTAIN PORTIONS OF CHAPTER 11 OF THE WINDSOR MUNICIPAL CODE, CONCERNING THE USE OF THE PUBLIC RIGHTS OF WAY, PERMITTING, AND REQUIREMENTS THERETO WITHIN THE TOWN OF WINDSOR, COLORADO

WHEREAS, the Town of Windsor ("Town") is a Colorado home rule municipality with all powers and authority vested under Colorado law; and

WHEREAS, obstructions and excavations in the Town rights of way disrupt and interfere with public use of the Rights of Way ("ROW"); and

WHEREAS, obstructions and excavations in the Town's ROW result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and excavations; and

WHEREAS, it is desirable to adopt policies and regulations which will enable the Town to gain greater control over the disruption and interference with the public use of public streets and ROW, to provide for the health, safety and well-being of the Town's residents and users of Town ROW; and

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

WHEREAS, significant public funds have been invested to place and maintain landscaping within Town ROW, and excavations in the ROW cause damage, and increase the costs of maintaining that landscaping; and

WHEREAS, at the present time, the Town's Department of Public Works does not have a complete detailed map or database indicating the location, nature, or extent of the system for underground utility, communications and similar facilities; and

WHEREAS, the various public and commercial utilities, broadband and communications providers and similar entities which install, maintain, and operate facilities under the Town's ROW are constrained, from time to time, to make excavation cuts which degrade the surfaces of these ROW, thereby reducing their useful life; and

WHEREAS, demand for access to broadband services is growing, and to fill such demand, more broadband network infrastructure is being installed in ROW; and

WHEREAS, in other jurisdictions, the demand for access and the number of entities seeking to install facilities has sometimes resulted in multiple, or serial excavations within the ROW, which

can and has resulted in traffic disruption, a weakening of pavement integrity, and a shortening of the useful life of paved surfaces; and

WHEREAS, while Colorado state statutes, particularly, Colorado Revised Statutes Sec. 38-5.5-109, contains some procedures for addressing joint trenching in connection with broadband provider operations in the ROW, at the present there is no comprehensive mechanism nor any legal requirement that all public and commercial entities coordinate excavation in the ROW, and construct facilities in newly developed areas to minimize future excavations; and

WHEREAS, the Town of Windsor intends to responsibly manage its ROW by anticipating such demand and planning accordingly.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Windsor Municipal Code Chapter 11, Article VIII is hereby repealed and replaced and shall read as follows:

ARTICLE VIII – Use of Public Rights of Way, Town-Owned Easements and Town Property

Sec. 11-8-10 Definitions.

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

Access vault means any structure containing one or more ducts, conduits, manholes, handhole, or other such facilities in permittee's facilities.

Appurtenances means transformers, switching boxes, gas regulator stations, terminal boxes, meter cabinets, pedestals, system amplifiers, power supplies, optical nodes, pump stations, valves and valve housings, and other devices necessary to the function of underground electric, communications, cable television wiring, coaxial, fiber optic, water, sewer, natural gas, other utility lines, and street lighting circuits.

Code means the Windsor Municipal Code.

Contractor means a person, partnership, corporation, or other legal entity that undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, excavate, or add to any improvements covered by this chapter that require work, workers, and/or equipment to be in the right of way in the process of performing the above-named operations.

Dark fiber means inactive, bare fiber optic capacity not involving any of the electronics necessary to transmit or receive signals over that capacity.

Degradation means a decrease in the useful life of the right of way or damage to any landscaping within the rights of way caused by excavation in or disturbance of the right of way, resulting in

the need to reconstruct the surface and/or subsurface structure of such right of way earlier than would be required if the excavation or disturbance did not occur.

Developer means the person, partnership, corporation, or other legal entity who is improving a parcel of land within the Town and who is legally responsible to the Town for the construction of improvements within a subdivision or as a condition of a building permit.

Director means either the Town's Community Development Director, Public Works Director, or their respective designee(s).

Duct or conduit means a single enclosed raceway for cables, fiber optics, dark fiber, wires, or other use.

Easement means real property right authorizing the easement owner to do something or maintain something on the land of another, that is recorded and runs with the land.

Emergency means any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, trench failure, or downed overhead pole structures.

Encroachment permit means a permit issued for permanently installed structures within the right of way.

Excavate means to dig into or in any way remove or penetrate any part of a right of way.

Facilities means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, dark fiber, antennae, poles, ducts, and other like equipment, fixtures, and appurtenances used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.

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

Infrastructure means any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets and sidewalks, cross pans, traffic control devices, and public safety equipment, markings, and crosswalks, etc.

Initial acceptance into warranty/construction acceptance means acceptance by the Director following inspection after permittee has completed all work and a determination has been made that the work has met all Town and permit standards and inspection conditions, stipulations, and provisions.

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

Occupation Permit means a permit issued for temporary obstructions within the right of way.

Permit means any authorization for use of the public right of way granted in accordance with the terms of this chapter, and the laws and policies of the Town.

Permittee means the holder of a valid permit issued pursuant to this chapter who is the owner or joint owner of the facilities.

Person means any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, organization or entity of any kind.

Public right of way or right of way means any Town-owned street, way, place, alley, sidewalk, park, square, plaza, easement, right of way or other grounds dedicated to public use.

Routine maintenance means: (a) for all streets, any maintenance activity operating in the right of way that is outside of the actual roadway area and does not disrupt the flow of vehicular or pedestrian traffic; (b) for streets classified as local or minor collector, any maintenance activity that does not require a street cut and will not disrupt traffic for more than 60 minutes.

Specifications means engineering regulations, construction specifications, and design standards adopted by the Town.

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

Surplus ducts or conduits are enclosed empty raceways for cables, fiber optics, dark fiber, wires, or other facilities which are held by permittee as emergency use spares or are otherwise not unused by permittee within three years of placement or purchase.

Telecommunications provider means a person that provides telecommunications service, as defined in Colorado Revised Statutes Section 40-15-102(29).

Temporary Occupation Permit means a permit issued for a temporary use of the right of way, such as dumpsters, landscape materials, etc.

Town means the Town of Windsor, Colorado.

Work means any labor performed on, or any use or storage of equipment or materials, including but not limited to construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, streetlights, traffic signal devices, and street cleaning. It shall also mean installation, construction, maintenance, and repair of all

underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation of overhead poles used for any purpose.

Sec. 11-8-20 - Police powers.

The permittee's rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce ordinances, including amendments to this chapter, necessary to the safety, health, and welfare of the public. The permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this chapter and the permit to the contrary. Any conflict between the provisions of this chapter or the permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

Sec. 11-8-30 – Right of way Permit required.

- (a) Permit. 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 construction, excavation, or work in the public right of way without first obtaining a right of way permit from the Town as set forth in this chapter, except as provided in Code Sec. 11-8-210. A copy of each permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the Town. The permit will be in the name of the person who will own the facilities to be constructed. In the event of joint ownership or joint occupation, the permit will be in the name of all person(s) having an ownership interest in the facilities. The names of all subcontractors performing work in the work area must be on the permit as well. Permittees and/or their contractors/subcontractors may be required to provide references about qualifications and experience on similar projects, at any time during the permit, to verify qualified contractors/subcontractors are performing work within the public right of way.
- (b) Construction, excavation, or work area. No permittee shall perform construction, excavation, or work in an area larger or at a location different, or for a longer period than that specified in the permit or permit application. If, after construction, excavation, or work is commenced under an approved permit, it becomes necessary to perform construction, excavation, or work in a larger or different area than originally requested under the application or for a longer period of time, the permittee shall notify the Director immediately and within twenty-four hours shall file a supplementary application as designated by the Director for the additional construction, excavation, or work.
- (c) Permit transferability or assignability. The applicant may subcontract the work to be performed under a permit and include such subcontractor as a named permittee, provided that the permittee shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required. Permits are not transferable nor assignable without the express consent of the Town, which consent shall not be

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unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of the permittee to a parent, subsidiary, or financially viable affiliate during the period of the permit shall not be deemed an assignment or transfer for the purposes of this section.

- (d) New developments. In the Town, the physical construction of public infrastructure in new developments is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until acceptance by the Town. Unless waived by the Director or designee, any person performing work tying into existing infrastructure within a public right of way, or any existing streets, shall obtain a permit from the Town and permission from the owner of the infrastructure. The permittee shall be financially responsible to the owner of the infrastructure to carry out all remedial work necessary to receive acceptance by the Town of that infrastructure. This financial obligation shall apply only to the work in the right of way done by the permittee. The Town will not accept for dedication public right of way, or other property where work performed is not in accordance with applicable Town specifications.
- (e) Failure to procure permit. Except as provided in Code Sec. 11-8-210, in the case of an emergency, any person or utility found to be conducting any excavation activity within the public right of way without having first obtained the required permits shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. An administrative surcharge of \$750.00 shall be required in addition to all applicable permit fees. If work commences without compliance with this section, the Town may utilize all available legal remedies, including but not limited to municipal court citation, injunctive relief, and each day of non-compliance is a new violation. Until in compliance, no new permits may be issued.

Sec. 11-8-40 - Permit application; contents.

- (a) Unless otherwise provided in an agreement between the permittee and the Town, an applicant for a permit to allow construction, excavation, or work in the public right of way under this section shall:
 - (1) File an online application, accessible on the Town's website, <https://www.windsorgov.com/93/Engineering-and-Public-Works-Permits>, which includes the following:
 - a. The date of application and the name and address of the applicant(s) who is (are) the owner or joint owners of the facilities involved.
 - b. The name, address, and telephone number of the developer, contractor, or subcontractor who will perform work in the public right of way, including the name and telephone number of an individual who will always be available during construction.
 - c. A description of the type of construction, excavation, or work to be done, and purpose for which it is being done.
 - d. A plan for storage of equipment and materials.

- e. The type of existing public infrastructure (street pavement, curb and gutter, sidewalks, or utilities) impacted by the construction, excavation, or work.
 - f. The purpose of the proposed construction, excavation, or work, including specification of varieties and quantities of facilities to be placed in the right of way.
 - g. The dates for beginning and ending the proposed construction, excavation, or work, including landscape restoration.
- (2) Unless otherwise specified in an agreement between the permittee and the Town, attach copies or otherwise show proof of all permits or licenses required under the laws of the United States, the State of Colorado, or the ordinances or regulations of the Town to do the proposed work, and to work in the public rights of way (including required insurance, deposits, letters of credit, and warranties).
 - (3) Unless otherwise specified in an agreement between the permittee and the Town, provide a plan of work satisfactory to the Director or designee showing protection of the subject property and adjacent properties.
 - (4) Unless otherwise specified in an agreement between the permittee and the Town, upon request, provide a landscaping restoration plan satisfactory to the Director for the protection of existing landscaping.
 - (5) Include written verification that all orders issued by the Town to the applicant, requiring the applicant to correct deficiencies under previous permits issued under this chapter, have been satisfied.
 - (6) Include with the application stamped engineering construction drawings or site plans for the proposed construction, excavation, or work, including exact locations of all ground-mounted appurtenances and manholes in and out associated with any underground facilities.
 - (7) Include with the application a satisfactory traffic control and erosion protection plan for the proposed construction, excavation, or work, if applicable.
 - (8) Include a statement indicating any proposed joint use or ownership of the facility; any existing facility or permit of the applicant at this location; any known existing facility or others with which the proposed installations might conflict; and the name, address, and telephone number of a representative of the applicant available to review proposed locations at the site.
 - (9) Pay all applicable fees prescribed by this chapter.
 - (10) Upon written request of the Director, provide a notification plan for the notification of the public as to the nature and duration of the proposed work.

- (b) Applicants shall update any new information on permit applications within ten (10) days after any change occurs.
- (c) Joint applications. Applicants may apply jointly for permits to work in public rights of way at the same time and place. Applicants who apply jointly for permits may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.
- (d) Permit fee. Before a permit is issued pursuant to this chapter, the applicant shall pay the Town a permit fee, which shall be determined in accordance with a fee schedule adopted by the Town Board by resolution as amended and updated from time to time. Fees will be reasonably related to the costs inherent in managing the public rights of way. As used in this chapter, these costs include, but are not necessarily limited to, verifying rights of way occupation, mapping rights of way occupations, inspecting job sites and rights of way restorations, administering this chapter, and costs relating to the degradation of the rights of way, i.e., the cost to achieve a level of restoration as determined by the Town at the time the permit is issued.
- (1) The portion of the permit fee relating to degradation/restoration costs shall be reduced by the Town in cases where the applicant demonstrates to the satisfaction of the Director that the excavation proposed will be used by two or more entities, legally and financially unrelated, for the installation, maintenance, or repair of facilities. The degradation/restoration cost portion of the permit fee shall be further reduced in cases where the applicant demonstrates to the satisfaction of the Director that the excavation to be made will be commenced and completed during the 24-month period immediately prior to the scheduled repaving or resurfacing of a street, as indicated in the most recent edition of the Town's repaving plan.
 - (2) Any permit for temporary use or occupation of the public rights of way, where there is no construction nor excavation involved, shall not require payment of a degradation fee as part of the permit fee.
 - (3) That portion of any permit fee relating to degradation costs shall be segregated by the Town into an account to cover the Street Maintenance Program.
- (e) All applications for any type of permit pursuant to this Article shall be made online via the link referenced in (a)(1) above, which depending on the type of permit requested, will be routed to either the Community Development Department or Public Works Department. Such Department shall make an investigation of the information contained in the application and, prior to the issuance of a permit, shall determine that the proposed encroachment, obstruction or other structure does not constitute a nuisance, destroy or impair the use of the right of way by the public or constitute a traffic hazard. No permit shall be issued where the above conditions are found to exist. At the time of issuance of a permit hereunder, in addition to the permit fees set by resolution by the Town Board, as may be amended from time to time, the applicant shall pay a fee equal to the cost of recording the permit with the County Clerk and Recorder. The respective department shall

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so record a copy of the permit. Any such permit so issued may be revoked by the Town at any time the conditions above referred to are found to exist, or when it is determined that the property upon which the encroachment, obstruction or structure exists is required for use by the public.

Sec. 11-8-50 - Insurance and indemnification.

- (a) Unless otherwise specified in an agreement between the permittee and the Town, prior to the granting of any permit, the permittee shall file with the Town certificates of insurance for comprehensive general liability, special hazards, and workers compensation insurance policies in a form and amount satisfactory to the Town, listing the Town and its officers and employees as additional named insureds. Town departments shall be relieved of the obligation of submitting certificates of insurance.
- (b) Indemnification. The permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall hold the Town harmless, 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 unless caused by the negligent or intentional acts of Town, and reimburse the Town for all its reasonable expenses, as incurred, arising out of the installation, maintenance, operation or any other work or activity in the public right of way or by the permittee related to its use thereof, including, but not limited to, the actions of the permittee, its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, or the securing of and the exercise by the permittee of the permit rights granted in the permit, including any third party claims, administrative hearings, and litigation; whether or not any act or omission complained of is authorized, allowed, or prohibited by this chapter or other applicable law.

Sec. 11-8-60 - Security.

- (a) Before any permit required by this chapter shall be issued, the applicant shall file with the Director, a performance/warranty guarantee (security) in an amount equal to or exceeding the cost of the project, pursuant to approved cost estimates or bids provided to the Town, in a form acceptable to the Director. Security may be by cash, surety bond or letter of credit. The amount of security will be determined by the Director and shall be equal to the costs necessary for total restoration of the site. The security will be held for a period of two years prior to release.
- (b) Security, in cases where repairs or replacements are not expected to exceed \$700.00, may be waived by the Director, in the Director's sole discretion, for residential utility repairs and replacements, and residential sidewalk and driveway repairs and replacements, depending upon the type and extent of the repairs and replacements proposed.
- (c) The letter of credit, letter of responsibility, or cash deposit shall remain in force and effect for a minimum of two (2) years after completion of the construction, excavation, or work.

Sec. 11-8-70 - Performance warranty; guarantee.

- (a) Unless otherwise provided in an agreement between the permittee and the Town, any warranty made hereunder shall serve as security for the performance of work necessary to repair the public right of way if the permittee fails to make the necessary repairs or restore the public right of way in a manner acceptable to the Town.
- (b) The 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 the duration of the warranty period.
- (c) The warranty period shall run from the date of the Town's Initial Acceptance into Warranty of the work. The warranty period shall be one year for landscaping and irrigation systems, and two (2) years for all other improvements.
- (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 24 hours if the defects are determined by the Town to be an imminent danger to the public health, safety, and welfare. Should the applicant fail to complete nonemergency warranty work in a timely manner, upon giving the applicant ten (10) calendar days' written notice the Town may perform the work at the applicant's expense. If the costs of the warranty work performed by the Town exceeds the amount of the financial security, the applicant will be liable for the additional costs. If there is a dispute as to the amount owed, the applicant may provide financial security to the Town to fully secure such payment until resolution of any appeal under this chapter. The Town shall have final authority to determine which permittee is responsible for repairs in the case of more than one permittee, and in what amount.
- (e) The warranty described in this section shall cover only those areas of work undertaken by a permittee. If the work of another permittee subsequently impacts a portion of work of another permittee under warranty, the subsequent permittee shall assume responsibility for repairs.

Sec. 11-8-80 - Inspections.

- (a) A minimum of three (3) inspections shall take place, unless waived by the Director. If the work is unsatisfactory, the Director may issue a stop work order or draw against the posted security. First, the permittee shall request that the Town conduct a pre-construction inspection, to determine any necessary conditions for the permit. Second, the permittee shall notify the Town immediately after completion of work operations. The Town shall inspect the completed work within 21 days of the permittee's notification. Conditional Acceptance will be made if all work meets Town and permit standards. Third, approximately 30 days prior to the expiration of the two (2) year warranty period, the Town shall conduct a final inspection of the completed work. If the work is still satisfactory, the letter of credit or cash deposit shall be returned or allowed to expire, with a letter of Final Acceptance, less any amount needed to complete restoration work not done by the permittee. Upon review of the application for a permit, the Director shall estimate how

many additional inspections, if any, may be required. All inspections shall be made in a timely manner.

- (b) The permittee shall pay to the Town the reasonable costs and expenses of any engineering review and inspection, in addition to the permit fee. No permit shall be issued, and no work shall be performed under any permit for which required fees and charges have not been paid. Any fee(s) related to inspections shall be adopted by resolution of the Town Board.

Sec. 11-8-90 - Public safety and protective requirements.

- (a) The permittee shall maintain a safe work area, free of safety hazards. Whenever any person, under authority of this Article or otherwise, shall place any obstruction in any street, alley, sidewalk or other place, or make any excavation therein or alteration thereto, such person shall keep such obstruction, excavation or alteration properly safeguarded by substantial barricades, and between dusk and daylight adequate warning lights or flares shall be placed around the obstruction, excavation or alteration. In all instances, fire hydrants shall be kept clear of all building material, dirt and rubbish, with clear and adequate access to such hydrant from the roadway. Existing gutters and other drainage courses shall be kept open so as to allow adequate drainage. All excavations shall be made in such a way as to protect any existing surveying monuments and existing utilities.
- (b) The Director shall have authority to specify protective measures and minimum clearances regarding existing utilities, and any such specifications shall be followed. Sufficient shoring of excavations shall be provided whenever needed or whenever deemed necessary by the Director.
- (c) The Town may make any repair necessary to eliminate any safety hazards not performed as directed. Any such work performed by the Town shall be completed and billed to the permittee at overtime rates. The permittee shall pay all such charges within 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 warranty surety.
- (d) The Town shall not issue any further permits of any kind to said permittee until all outstanding charges have been paid in full; provided, however, that permits shall not be withheld for outstanding charges which are honestly and reasonably disputed by the permittee, if the permittee and the Town are negotiating in good faith to resolve the dispute.

Sec. 11-8-100 - Time of completion.

All work covered by the permit shall be completed by the date stated on the application. Permits shall be void if work does not commence six (6) months after issuance, unless an extension has been granted by the Director. Letters of credit or letters of responsibility deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit, with administrative and any other Town costs deducted.

Sec. 11-8-110 - Traffic control.

- (a) When it is necessary to obstruct traffic, a traffic control plan shall be submitted prior to starting construction. No permit will be issued until the plan is approved by the Town. No permittee shall block access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the permittee provides the Town with written verification of written notice delivered to the owner or occupant of the facility, equipment, or property at least 48 hours in advance. If a street closing is desired, the applicant will request and obtain the approval of the Director. It shall be the responsibility of the permittee to notify and coordinate all work in the right of way with:
- Windsor Public Works
 - Railroad
 - Adjacent Property Owners
 - Windsor/Severance School District
 - Counties (Weld/Larimer)
 - Homeowner Associations
 - Windsor Police, Windsor/Severance Fire/Ambulance
 - Adjacent Business Owners
 - Adjacent Utilities (Electric, Gas, Non-potable, Fiber, Communications, Petroleum)
 - Water/Sanitary/Storm Districts
 - CDOT/State Patrol
 - Parks/Open Space/Town Facilities
 - Ditch/Irrigation Companies
- (b) Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, published by the Federal Highway Administration, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the permittee. Part VI of the Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The permittee shall illustrate on the permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be modified. If a flag person is to be utilized all persons flagging traffic shall be Colorado Department of Transportation ("CDOT") certified. Any lane closure shall comply with the Town's Design Criteria and Construction Specifications.
- (c) Nighttime work area flood lighting shall not be allowed to spill out of the construction area in such a way as to disturb or endanger the comfort, health or peace of others.
- (d) The permittee shall be responsible for maintaining all work area signing and barricading during construction operations as well as any signs and barricades that are needed to protect roadway users and pedestrians during non-work hours. During non-work hours, all construction work area signs that are not appropriate shall be removed, covered, or turned around so that they do not face traffic. Any deficiencies noted by the Town shall be corrected immediately by the permittee. If the permittee is not available or cannot be found, the Town may make such corrections, and the permittee shall pay the actual costs, including administrative costs, plus a civil penalty to be set by resolution of the Town Board.

Sec. 11-8-120 - General right of way use and construction standards.

- (a) Right of way meetings. The permittee will make reasonable efforts to alert other similar providers of its intention to trench, bore or cut in the public right of way and will attend and participate in meetings of the Town, of which the permittee is made aware, regarding right of way issues that may impact its facilities, including planning meetings to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, the permittee shall work with other providers, licensees, permittees, and franchisees to reduce so far as possible the number of right of way cuts within the Town. Nothing herein shall require the permittee to enter into an agreement with such other entities if such an agreement would compromise the integrity of the permittee's facilities, unless the entity proposing to use the facilities agrees, at its expense, to make such modifications to the facilities as would prevent such compromise of integrity.
- (b) Minimal interference. Work in the right of way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. The permittee's facilities shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, traffic control devices, drainage channels, or any other property of the Town, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the rights of way by, or under, the Town's authority. The permittee's 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, or to unnecessarily hinder or obstruct the free use of the right of way or other public property, and shall not unreasonably interfere with the travel and use of public places by the public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic. The permittee's facilities shall be of sufficient capacity to avoid re-entering the right of way for a period of five (5) years for purposes of expansion.
- (c) Underground construction and use of poles.
- (1) When required by the ordinances, resolutions, regulations, or rules of the Town or applicable state or federal law, the permittee's facilities shall be placed underground at the permittee's expense. Placing facilities underground does not preclude the use of above-ground appurtenances.
 - (2) Where all facilities are installed underground at the time of the permittee's construction, or when all such facilities are subsequently placed underground, all permittee facilities shall also be placed underground at no expense to the Town unless funding is generally available for such relocation to all users of the right of way. Related equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules.
- (d) In areas where existing facilities are aerial, the permittee may install aerial facilities.

Commented [KM3]: Dig Once . . . Dig Smart.
Permittee shall try to let other providers aware of intent to trench. See highlighted language. Can we do this process, and does this satisfy the Town's desire to have such a policy?

(e) For aboveground facilities, the permittee shall utilize existing poles and conduit wherever possible. However, in the event undergrounding of the existing facility is required, the co-located facilities shall also be undergrounded, unless it can be demonstrated to the satisfaction of the Town that such undergrounding requests are not feasible. In such circumstances, the co-located facilities shall work with the Town to determine the next best location.

Commented [KM4]: This needs to be reviewed by B. Dittman to see if this additional language would violate FCC rules/regs.

(f) Should the Town desire to place its own facilities for Town purposes in trenches or bores opened by the 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 some manner 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 the Town pays any incremental increase in the cost of the trenching and boring. The Town shall be responsible for maintaining its respective facilities buried in the permittee's trenches and bores under this subsection. The Town is solely responsible for obtaining any additional permits that may be needed in advance. If the Town fails to obtain other applicable necessary permits, the permittee has no obligations under this subsection. The Town shall be responsible for all damages related to its use of the right of way.

(g) Use of conduits by the Town. The Town may install or affix and maintain its own facilities for Town purposes in or upon any and all of the permittee's ducts, conduits, or equipment in the right of way and other public places, at a charge to be negotiated between the parties. For the purposes of this subsection, Town purposes include, but are not limited to, the use of the structures and installations for Town fire, police, traffic control devices, streetlights, SCADA, water, communications, fiber, telephone, and/or signal systems not in competition with the permittee.

(h) Common users.

- (1) Rights of way have a finite capacity for containing facilities. Whenever the Town determines it is impracticable to permit construction of an underground conduit system by any other entity which may at the time have authority to construct or maintain conduits or ducts in the right of way, and unless otherwise prohibited by federal or state law or regulations, the Town may require a prior permittee to afford to such entity the right to use a prior permittee's surplus ducts or conduits in common with a new permittee, pursuant to the terms and conditions of an agreement for use of surplus ducts or conduits entered into by a prior permittee and the other entity. Nothing herein shall require a prior permittee to enter into an agreement with such entity if, in the prior permittee's reasonable determination, such an agreement could compromise the integrity of the prior permittee's facilities.
- (2) When two or more common users occupy a section of conduit facility, the last user to occupy the conduit facility shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting, space-saving technology, or construction of new conduit, all common users shall bear the increased cost.

- (i) All facilities shall meet any applicable local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the permittee and the other common user. The permittee may, at its option, correct any attachment deficiencies and charge the common user for its costs. Each common user shall pay the permittee for any fines, fees, damages, or other costs the common user's attachments cause the permittee to incur.

Sec. 11-8-130 - Backfilling of excavations.

All permit holders shall adequately backfill any excavations made under the authority of this Article. Backfilling shall be done in accordance with the Standard Specifications and Construction Manual for the Town. At the request of the Director, the density of the compacted backfill shall be tested by a soils engineer and a copy of the test results shall be given to the Director of Engineering. The number and location of soil tests shall meet the approval of the Director of Engineering. All costs for testing shall be paid by the permit holder. The permit holder must notify the Director of Engineering before backfilling.

Sec. 11-8-140 – Inspection of backfilling.

Within forty-eight (48) hours after completion of backfilling, the permit holder shall notify the Department of Engineering and request an inspection. The surface of the excavation shall not be replaced until the backfill has been approved on inspection. Any defects in the backfill shall be corrected by the permit holder within the time required by the Department of Engineering. Upon correction of defects noted, the permit holder shall again request an inspection from the Department of Engineering.

Sec. 11-8-150 - Restoration of surface.

- (a) Upon receiving approval of the backfill from the Department of Engineering, the permit holder shall restore the surface of the excavation in the manner required by this Section, or, at the option of the permit holder, such work may be done by the Town and charged to the permit holder, in which case the permit holder shall reimburse the Town for such work within 30 days after it is billed.
- (b) All patches shall have straight and vertical edges and shall cover the total width of the excavation. Patches in concrete pavements shall be six (6) inches thick, shall be made from concrete conforming to specifications of the Town and shall be finished to the same surface texture as the adjacent existing concrete. The existing concrete shall be saw-cut to a depth of one and one-half (1½) inches to assure a straight edge and uniform patch. Patches in asphalt pavements shall consist of four (4) inches of base course material and asphalt surfacing equal to the total thickness of adjacent existing pavement. The concrete and asphalt shall conform to the specifications of the Town. Asphalt surfacing shall be compacted to conform to the specifications of the Town. Permanent asphalt patches shall not be put in during freezing weather. Upon completion of work, all surplus earth, rubbish and other materials shall be immediately removed, and the Department of Engineering shall

be notified that the job is completed, and final inspections shall be requested by the permittee.

Sec. 11-8-160 - Conformance to permit required; supplemental applications.

In no case shall any permit holder open or remove a greater area of surface or make such removal at a location other than that specified in the permit. In the event it shall be necessary to open or remove a greater area than originally applied for, the applicant shall first notify and obtain the consent of the Director of Engineering and, if required by said Director, file a supplemental application and make an additional deposit. No person shall exceed the time limit specified on the permit without the express consent of the Director.

Sec. 11-8-170 - Permittee liable in case of nonconformance.

In the event any permit holder fails to do anything required hereunder, the Director may cause the same to be done, the cost of the same shall be charged to the holder of the permit, who shall be liable therefore.

Sec. 11-8-180 - Permittee liable for injuries to person or property.

Every permit holder acting under a permit issued pursuant to this Article shall be responsible to anyone for injury to person or property by reason of the work done under the permit and shall indemnify and hold the Town harmless from any expenses, costs, claims or other charges or fees arising out of such work. The permit holder shall be responsible for adequately protecting the work, the surrounding property and the public and shall adequately safeguard the work regardless of whether any specific requirements in connection with the work are made by the Director of Engineering.

Sec. 11-8-190. Excavations under sidewalks.

It shall be unlawful for any person, persons or corporation to make any excavation or opening at a depth greater than one (1) foot and/or two (2) inches in diameter under any sidewalk or upon any street, alley or public ground of the Town, for the purpose of installing permanent areaways thereunder, without first obtaining a right so to do from the Director; and no such right or privilege shall be granted by the Director, except upon written application therefor and upon conditions to be prescribed by the Director respecting the continued occupancy and use of such areaways after the same have been constructed.

Sec. 11-8 -200 - Joint planning and construction; coordination of excavation.

- (a) Annual meetings. Any permittee owning, operating, or installing facilities in Town right of way, providing water, sewer, gas, electric, communication, video, or other utility services, shall meet annually with the Director at the Director's request to discuss the permittee's excavation master plan.

- (1) At such meeting, to the extent not already in possession of the Town, the permittee shall submit documentation, in a form required by the Director, including as-built drawings, digital and software compatible GIS, showing the exact location, including elevations of manholes in and out, of the permittee's existing facilities in the Town right of way.
 - (2) The permittee shall discuss with the Director its excavation master plan and identify planned major excavation work in the Town known at that time.
 - (3) The Director may make his or her own record on a map, drawing, or other documentation, of each permittee's planned major excavation work in the Town; provided, however, that no such document prepared by the Director shall identify a particular entity, or the planned major excavation work of that particular entity.
- (b) The permittee shall meet with the Director to discuss an initial excavation master plan no later than 60 days after submitting its first permit application. Thereafter, each permittee shall submit annually, on the first regular business day of January, a revised and updated excavation master plan.
- (c) As used in this subsection, the term planned major excavation work refers to any future excavations planned by the permittee when the excavation master plan or update is submitted that will affect any Town right of way for more than five (5) days at any given location, 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 master plan or update is discussed.
- (d) Between the annual meetings to discuss planned major excavation work, the permittee shall use its best efforts to inform the Director of any substantial changes in the planned major excavation work discussed at the annual meeting.

Sec. 11-8 -210 - Repaving and reconstruction schedule.

- (a) The Town shall prepare a pavement management schedule showing the street resurfacing planned by the Town. The pavement management schedule shall be revised and updated on an annual basis after meeting to discuss the permittee's and Town departments' master plans and updates. The Director shall make the Town's pavement management schedule available for public inspection. In addition, after determining the street resurfacing work that is proposed for each year, the Director shall send notice of the proposed work to all permittees that have had an annual meeting with the Director.
- (b) Prior to applying for a permit, any person planning to excavate in the Town's right of way shall review the Town's repaving and reconstruction schedule on file with the Director and shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to and avoid undue disruption and interference with the public use of such right of way.

- (c) In performing location of facilities in the public right of way in preparation for construction under a permit, the permittee shall compile all information obtained regarding its or any other facilities in the public right of way related to a particular permit, and shall make that information available to the Town in a written and verified format acceptable to the Director in accordance with adopted standards and specifications, which includes software compatible GIS and digital form.
- (d) Prior to the Town undertaking any work in the right of way or performing any related landscaping, the Town may notify all permittees of the Town work to be performed. Upon such notification, all permittees shall, within three (3) days, locate their facilities in the right of way in which the work will be performed, and provide documentation in a format acceptable to the Director in accordance with adopted standards and specifications, of the permittee's facilities in that right of way.

Sec. 11-8-220 - Minimizing impacts of work in the rights of way.

- (a) Relocation and protection of utilities. Before beginning excavation in any public right of way, a permittee shall contact Colorado 811, and, to the extent required by C.R.S. Sec. 9-1.5-102 et seq., make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have facilities in the area of work to determine possible conflicts. The permittee shall, at its expense, promptly provide all design and field locates of the infrastructure in a manner acceptable to the Director in accordance with adopted standards and specifications.
- (b) Field locations shall be marked prior to commencing work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches after construction. If the permittee damages the property of other users of the right of way, the permittee shall pay the other users for such damages within 30 days.
- (c) Safe work area. The permittee shall maintain a safe work area, free of safety hazards. The Town may make any repair necessary to eliminate any safety hazards not performed as directed after the permittee has been given an adequate opportunity to repair the hazard. Any such work performed by the Town shall be completed and billed to the permittee at overtime rates. The permittee shall pay all such charges within thirty days of the statement date. If the permittee fails to pay such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. Furthermore, the permittee shall 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 have been paid in full.
- (d) Each permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk in conformance with the Town code.
- (e) Each permittee shall clear all snow and ice hazards from public sidewalks at the work site by noon following a snowfall in conformance with the Town code.

- (f) Noise, dust, debris, hours of work. Each permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the public and occupants of neighboring property. In the performance of the work, the permittee shall take all appropriate measures to reduce noise, dust, and unsightly debris.
- (g) Work shall only be performed between the hours of 7:00 am and 7:00 pm on normal Town of Windsor business days unless prior approval has been obtained from the Town Engineer or its designee. Work being performed by the Town shall be exempt from these hourly requirements, as will any emergency work approved by the Director be exempt. Further restrictions may be imposed depending on certain criteria, such as traffic impacts, coordination with other permits or other Town work, weather conditions, and contractual requirements, if any.
- (h) Trash and construction materials. Each permittee shall maintain the work site so that:
- (1) As the work progresses, all public right of way and private property in the work area shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris resulting from the permittee's work. All clean-up operations shall be done at the expense of the permittee, and in compliance with standards set forth in Code Sec. 13-5-50 - Illicit discharge prohibited. In the event the Town requests clean up to take place, the permittee shall complete such work within 24 hours from the time of the request.
 - (2) Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard.
 - (3) Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Director.
 - (4) Each permittee shall prevent the tracking of mud or debris upon any street or sidewalk. Equipment and trucks used during construction, excavation, or work activity shall be cleaned of mud and debris prior to leaving any work site in compliance with Code Sec. 13-5-50.
- (i) Protection of trees and landscaping. Each permittee shall protect trees, landscape, and landscape features as required by the Town. All protective measures shall be provided at the expense of the permittee. If the permittee causes damage to trees and landscape, the permittee shall be responsible for repairs and restoration.
- (j) Protection of paved surfaces from equipment damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. The permittee will be responsible for any damage caused to the infrastructure by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the Town to repair any damage, refusal

by the Town to issue any further permits, discontinuance of scheduled work until repairs are complete, and, possibly, the requirement of additional warranties.

- (k) Protection of property. Each permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public right of way.
- (l) Preservation of monuments. A permittee shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the Director in writing. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at the permittee's expense.
- (m) Each permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not prejudiced.

Sec. 11-8-230 - Standards for repairs and restoration.

- (a) Permittee responsibility. The permittee shall be fully responsible for the cost and actual performance of all work in the public right of way. The permittee shall perform or cause to have all work performed in conformance with any and all applicable engineering regulations, construction specifications, and design standards adopted by the Town, as amended. These standards shall apply to all work in the public right of way unless otherwise indicated in the permit.
- (b) Restoration work. All restoration shall result in a work site condition equal to or better than that which existed prior to construction.
 - (1) All pavement cuts and potholing shall be repaired in accordance with the Town's standards and specifications.
 - (2) All pavement markings shall be replaced after new asphalt is placed.

Sec. 11-8-240 - Construction and restoration standards for newly constructed or overlaid streets.

- (a) No person shall cause an open trench or excavation in any public right of way for a period of five (5) years from the completion of work allowed by the permit, or other construction or resurfacing except in compliance with the provisions of this section, and in accordance with the Town's standards and specifications. Potholing of utilities in the pavement will be allowed at the discretion of the Director.

(b) Application. Any application for a permit to excavate in public right of way subject to the requirements of this section shall contain the following information:

- (1) A detailed and dimensional engineering plan that identifies and accurately represents the Town right of way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.
- (2) The street width or alley width including curb and gutter over the total length of each Town block that will be impacted by the proposed excavation.
- (3) The location, width, length, depth of the proposed excavation, and description of materials to be placed within the right of way.
- (4) The total area of existing street or alley pavement in each individual Town block that will be impacted by the proposed excavation.
- (5) A written statement addressing the criteria for approval.

(c) Criteria for approval. No permit for excavation in the right of way of new streets shall be approved unless the Director finds that all the following criteria have been met:

- (1) Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.
- (2) Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.
- (3) The proposed excavation cannot reasonably be delayed until after the five (5) year deferment period has lapsed.
- (4) An additional pavement cut fee shall be required for any cuts on roadways that have a pavement condition index ("PCI") greater than or equal to 80.
- (5) Exemptions for emergency operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the Town to perform emergency maintenance operations within the public right of way shall be exempt from this section. Any person commencing operations under the laws of this section shall submit detailed engineering plans, construction methods, and remediation plans no later than three (3) working days after initiating the emergency maintenance operation.

(d) Construction and restoration for newly constructed or overlaid streets and alleys. The streets shall be restored and repaired in accordance with the Town's Design Criteria and Construction Specifications.

Sec. 11-8-250 - Relocation of facilities.

- (a) The Town may request the permittee to relocate, move, or change its facilities within or adjacent to right of way, either temporarily or permanently, for the following purposes:
 - (1) Change in the grade.
 - (2) Improving, repairing, constructing, or maintaining any right of way.
 - (3) Traffic conditions or other public safety concerns.
 - (4) For the installation of any type of structure or public improvement of the Town or other public agency or special district.
 - (5) As a result of any general program for the undergrounding of such facilities; or
 - (6) Public health or safety concerns.
- (b) The Town shall notify the permittee, at least ninety days in advance, except in the case of emergencies, of the Town's intention to change the permittee's facilities within or adjacent to right of way in any manner, either temporarily or permanently, or have such work performed.
- (c) The permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal, or change within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date the Town has notified the permittee that it intends to commence its work, or, in the case of emergencies, immediately.
- (d) Upon the permittee's failure to accomplish such work, the Town or other public agencies or special district may perform such work at the permittee's expense, and the permittee shall reimburse the Town or other agency within thirty days after receipt of a written invoice.
- (e) Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to relocation at the permittee's expense.
- (f) Notwithstanding the requirements of this section, a permittee may request additional time to complete a relocation project. The Director shall grant a reasonable extension if in his or her sole discretion, the extension will not adversely affect the Town's project.

Sec. 11-8-260 - Abandonment and removal of facilities.

- (a) Notification of abandoned facilities. Unless otherwise provided in an agreement between the permittee and the Town, any permittee that intends to discontinue use of any facilities within the public right of way shall notify the Director in writing of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, the

method of removal and restoration, and provide a date of discontinuance of use, of which date shall not be less than 30 days from the date such notice is submitted to the Director. The permittee may not remove, destroy, or permanently disable any such facilities during said 30 day period without written approval of the Director. After 30 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 Director, and shall complete such removal and disposal within six (6) months, unless additional time **is** requested from and approved by the Director, including repairs after removal.

Commented [KM5]: If we don't want the facilities, and they refuse to remove it, then we can remove at their expense . . .

- (b) Conveyance of facilities. Unless otherwise provided in an agreement between the permittee and the Town, at the discretion of the Town, and upon written notice from the Director within 30 days of the notice of abandonment, the permittee may abandon the facilities in place and shall further convey full title and ownership of such abandoned facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the facilities in place. The permittee is responsible for all obligations as owner of the facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

Sec. 11-8-270 - Emergency procedures.

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. If the emergency repairs involve disturbing any public right of way improvement, the person doing the work shall apply to the Town for a permit on or before the third working day after such work has commenced. All emergency work repairs involving disturbance of any public right of way improvement or traffic will require prior telephone notification to the police and public works departments of the Town.

Sec. 11-8-280 - Revocation of permit.

- (a) Any permit may be revoked or suspended by the Director, after written notice to the permittee for:
- (1) Violation of any material condition of the permit or of any provision of this chapter.
 - (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 the Town determines constitutes or causes a condition endangering life or damage to property.
 - (4) A suspension or revocation by the Director, and a stop work order, shall take effect immediately upon written notice to the person performing the work in the public right of way, or to the permittee's last known address.

- (b) A stop work order may be issued by the Director to any person(s) doing or causing any work to be done in the public right of way without a permit, or in violation of any provision of this chapter, or any other ordinance of the Town.
- (c) Any suspension or revocation or stop work order may be appealed by the permittee to the Town Manager by filing a written notice of appeal within 30 days of the action.

Sec. 11-8-290 - Permission to temporarily occupy public right of way (Temporary Occupation Permit); application contents.

- (a) Temporary Occupation Permit. Any person desiring to place facilities within the public right of way and does not already have permission to do so through an agreement with the Town or otherwise, must obtain permission from Community Development Director or designee, to temporarily occupy or encroach within the Town right of way. The term of such permit shall be 90 days, however upon written application, such permits may be renewed for an additional 90 day period. Any permit issued under this Article may be revoked if the holder thereof violates any of the provisions of this Article or the rules and regulations of the Community Development Department, the Public Works Department or if the work allowed by the permit unduly interferes with pedestrian or vehicular traffic.

The application for permission to temporarily occupy the right of way shall include the following:

- (1) The name, address, and telephone number of the applicant owning the facilities to occupy Town right of way.
 - (2) The name, address, and telephone number of a contact person.
 - (3) The name and telephone number of an emergency contact who shall be available 24 hours per day.
 - (4) A statement as to the purpose of the facilities and a detailed description of all types and quantities of facilities to be placed in the right of way.
 - (5) A statement as to whether installation will require a public right of way permit pursuant to this chapter and whether an application for such a permit has been filed with the Town.
 - (6) A non-refundable application fee of \$25.00 that is directly related to the costs incurred by the Town in processing and reviewing the initial license application. This fee shall be collected and retained by the Town, whether permission is granted or the application is denied.
- (b) In addition to any fees charged as direct costs related to providing services relating to granting or administration of permits, the Town reserves the right to charge reasonable rates of compensation for any person's occupation of the public right of way as may be permitted by law.

Commented [KM6]: Sec. 11-3-100. Notice to remove encroachment.

- (a) Whenever any encroachment, obstruction or structure is made or located contrary to the terms of the permit therefor or without a permit or at such time as the permit is revoked as above provided for, the Town Manager or his or her authorized agent shall give notice to the person who made or located such encroachment, obstruction or structure or caused or permitted the same to be done, or who owns or controls the premises with which such encroachment, obstruction or structure is connected, to remove such encroachment, obstruction or other structure. The same shall be removed within ten (10) days after notice.
- (b) It shall be unlawful for any person to continue any encroachment, obstruction or other structure for a period of ten (10) days after receipt of the notice provided for above.
(Prior code 11-50; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 11-3-110. Noncompliance with notice.

- (a) In case any notice given under Section 11-3-100 shall not be complied with, the Town Manager or his or her authorized agent is hereby authorized and empowered to cause the removal of the encroachment, obstruction or structure.
- (b) Upon completion of such removal, the Town Manager or his or her authorized agent shall certify to the Town Clerk the cost of said removal, and the Town Clerk shall thereupon, by certified mail addressed to the owner of the premises with which the obstruction is connected, give notice of such removal and the cost incurred for such work, together with a statement that the cost of the work will be assessed against the owner's lot, tract or parcel of land if such cost is not paid to the Town within thirty (30) days after mailing of such notice.
- (c) If such person fails to make payment within the aforesaid thirty (30) days, the Town shall make assessment by ordinance against the lot, tract or parcel of land in connection with which the encroachment, obstruction or structure was made, and such assessment shall be certified to the County Treasurer for the purpose of having the same placed upon the tax rolls and collected in the same manner as general taxes are collected.

Commented [KM7]: The notice to remove should apply to all violations not under a permit . . .

Sec. 11-8-300 - Right of way encroachment permit.

Except as otherwise provided in this Code, it is unlawful for any person to obstruct or encroach upon any right of way, street or sidewalk with any debris, lumber, sand, gravel, dirt, abandoned or wrecked automobiles, or other material or substance without first obtaining a permit in accordance with this Article. Such permits may be granted only where the obstruction is necessary for the construction, alteration, or repair of the adjoining property and such permitted obstructions shall be limited to as short a time as is reasonably possible. Each day that an unlawful obstruction exists constitutes a separate and distinct offense.

Sec. 11-8-310 – Protection of pedestrian and vehicular traffic.

The holder of any permit issued under this Chapter shall provide whatever fencing the Director requires to protect pedestrian and vehicular traffic on the abutting public property. If required, the permit holder shall build and maintain a good and substantial protected walkway around the obstruction. The permit holder shall adequately light and mark the obstruction so as to protect pedestrian and vehicular traffic.

Sec. 11-8-320-Adequate drainage and access to fire hydrants required.

Any person holding a permit issued under this Chapter shall take such measures as may be required to ensure that adequate drainage is maintained around the obstruction. All fire hydrants shall be kept clear of all building materials, rubbish and other obstructions, and easy access to such hydrants shall be provided and kept clear at all times. Upon completion of the work, the permit holder shall remove all obstructions, materials, debris and rubbish within ten (10) days.

Sec. 11-8-330 - Oversize Hauling Permit.

- (a) It shall be unlawful for any person(s), business entity, or corporation to use or occupy any street, alley or other public ground in the Town for the purpose of moving a building or other oversized structure greater than 14 feet in width across or thereon without first having obtained a permit from the Director.
- (b) Application for a permit hereunder shall be made upon forms to be furnished by the Town and shall set forth such information as may be required thereon. At the time of making application, the applicant shall pay a permit fee as established by resolution by the Town Board and shall file the bond required herein.
- (c) Application for a permit hereunder shall be accompanied by a corporate surety bond in an amount established by the Town Board, conditioned upon compliance with all requirements of the ordinances of the Town relating to activities under the permit.
- (d) Any person using the streets, alleys or other public ground for the purpose of moving buildings and other structures across or thereon shall be responsible for any damage done to such street, alley or public ground or any improvements situated thereon, including,

without limitation, trees and other plantings, signs, utility poles, utility lines, traffic signals and the like. Any such persons shall also be responsible for any damage caused to any private property by virtue of use of the streets, alleys and other public grounds of the Town for the purpose of moving such buildings or other structures.

- (e) The Director shall determine whether the applicant possesses the technical qualifications and the necessary equipment for the moving of buildings and structures and shall issue or deny the permit based upon such determination.
- (f) Any permit granted hereunder may be revoked by the Director upon written notice to the holder of the permit, if the permit holder fails to comply with the requirements of the ordinances of the Town relating to the permit or for other good cause relating thereto. In the event of such revocation, no fee paid hereunder shall be refunded. If any permit holder objects to the revocation of a permit by the Director, he or she may appeal the question of revocation to the Town Manager, who shall make the final determination on the question.
- (g) Any permit granted hereunder shall be valid for ten (10) days unless sooner revoked.

Sec. 11-8-340 – Notice to remove.

- (a) Whenever any encroachment, obstruction, facilities, or structure is made or located contrary to the terms of the permit therefor or without a permit or at such time as the permit is revoked as above provided for, the Director shall give notice to the person who made or located such encroachment, obstruction or structure or caused or permitted the same to be done, or who owns or controls the premises with which such encroachment, obstruction or structure is connected, to remove such encroachment, obstruction or other structure. The same shall be removed within ten (10) days after notice.
- (b) It shall be unlawful for any person to continue any encroachment, obstruction or other structure for a period of ten (10) days after receipt of the notice provided for above. Failure to comply may result in the Town removing the encroachment, obstruction or other structure, at the property owner's expense, issuance of a citation, or both.

Sec. 11-8-350. Noncompliance with notice.

- (a) In case any notice given under Section 11-8-340 shall not be complied with, the Director is hereby authorized and empowered to cause the removal of the encroachment, obstruction or structure.
- (b) Upon completion of such removal, the Director shall certify the cost of said removal, and the Director shall thereupon, by certified mail addressed to the owner of the premises with which the obstruction is connected, give notice of such removal and the cost incurred for such work, together with a statement that the cost of the work will be assessed against the owner's lot, tract or parcel of land if such cost is not paid to the Town within 30 days after mailing of such notice.

- (c) If such person fails to make payment within the aforesaid 30 days, there shall be a right for the Town to claim a lien for any costs incurred by the Town for the remediation and enforcement of the encroachment, obstruction or structure.
- (d) Any lien, established pursuant to this Chapter, shall be a first and prior lien upon the real property, upon which any encroachment, obstruction or structure is located and which has been subject to remediation efforts of the Town pursuant to this Chapter, so long as all requirements of this Chapter have been followed. The lien provided under this Chapter remains attached to the property from the date the lien attaches until all applicable remediation costs, together with simple interest at the rate of eight percent (8%) per annum from the date the costs were incurred, are satisfied in full.
- (e) The Town is not required to seek payment of remediation costs from any person other than the owner of the property. No change of ownership, occupancy or possession affects the application of this Article, and the failure of the owner to discover that property was purchased against which a lien for remediation costs exists in no way affects such owner's liability for payment in full. The Town may enforce its lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied to the unpaid remediation costs and allowable court costs in the manner provided for foreclosure of statutory liens. The lien may also be enforced by certification of assessment upon the property to the treasurer of the county wherein the property is located for collection by the county in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law. Unpaid remediation costs, together with simple interest at eight percent (8%) per annum and costs of collection, may also be collected by civil suit against the owner of the property, commenced at any time after the lien attaches.

Sec. 11-8-360 - Appeals procedure.

Any decision rendered by the Director pursuant to this Chapter may be appealed by the permittee to the Town Manager by filing a written notice of appeal within 30 days of the action. The Town Manager, or a designee thereof, shall conduct a quasi-judicial administrative hearing.

Commented [KM8]: Town Manager - or do we want it to go somewhere else?

Sec. 11-8-370 - Penalty.

If any person, firm, or corporation shall violate or cause the violation of any of the provisions of this chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues, or is permitted, and upon conviction of any such violation such person, firm, or corporation shall be punished as provided in chapter 1, Article IV of the Code for each such violation.

Commented [KM9R8]: Or Town Board?

Section 2. The following sections of Windsor Municipal Code, Chapter 11, are hereby repealed:

Article II – Excavations, in its entirety, including:

- 11-2-10. – Permit required; exception in the case of emergency.
- 11-2-20. – Types of permits.

- 11-2-30. – Application for permit; contents and conditions.
- 11-2-40. – Fees for permits.
- 11-2-50. – Bond and insurance requirements.
- 11-2-60. – Requirements for performance of work.
- 11-2-70. – Safety and protective requirements.
- 11-2-80. – Backfilling of excavations.
- 11-2-90. – Inspection of backfilling.
- 11-2-100.- Restoration of surface.
- 11-2-110.- Conformance to permit required; supplemental applications.
- 11-2-120. – Permittee liable in case of nonconformance.
- 11-2-130.- Permittee liable for injuries to person or property.
- 11-2-140.- Excavations under sidewalks.

Article III - Encroachments and Obstructions, in its entirety, including:

- 11-3-10. – Encroachments and obstructions prohibited.
- 11-3-20. – Application for occupation of street.
- 11-3-30. - Term of permit; renewal and revocation.
- 11-3-40. - Surety bond required.
- 11-3-50. - Protection of pedestrian and vehicular traffic.
- 11-3-60. – Adequate drainage and access to fire hydrants required.
- 11-3-70. - Permittee liable in case of nonconformance.
- 11-3-80. - Permit application for encroachment.
- 11-3-90. – Investigation; fee; revocation of permit.
- 11-3-100. – Notice to remove encroachment.
- 11-3-110.- Noncompliance with notice.

Article IV - Moving of Buildings, in its entirety, including

- 11-4-10. - Permit required; fee; liability; revocation; term.

Commented [KM10]: This is all of Article II, Chapter 11. nc

Commented [KM11]: This is all of Article IV.

Section 3. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance are hereby repealed, only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Introduced, passed on first reading, and ordered published this ____ day of ____ 2026.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]

Introduced, passed on second reading, and ordered published this ____ day of ____ 2026.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]



MEMORANDUM

Date: February 9, 2026
To: Mayor and Town Board
From: Eric Lucas, Deputy Town Manager
Re: Park System Buildout - E. Lucas, Deputy Town Manager
Item #: 3.

Background / Discussion:

At the upcoming Town Board work session, staff will present the Park Buildout Plan. This discussion will outline staff's identified plan to build the remaining new parks, complete the build-out of parks that are currently in phased development, and provide a glimpse into the long-term unknown amenities the park system may need well into our future.

The following is background information meant to aid the Town Board in understanding how Windsor's current park system has historically been built and our current process to develop the remaining parks.

Until 2019, Windsor built a park in every neighborhood. The land was dedicated as subdivisions arose through a parkland dedication policy and most parks were built using neighborhood park or community park fees. Each housing permit paid both fees at the issuance of a building permit and Windsor began the process of designing and building each park as the neighborhoods reached around 80% buildout.

In 2019, at the recommendation of staff, Windsor moved to a new model. We stopped building a park in every neighborhood and instead focused our park buildout on larger community parks that could meet the needs of multiple neighborhoods. This was approved because we recognized that in the long term, having a park in every neighborhood would become an unsustainable model when it came to maintenance and capital replacement. In doing so, we eliminated the park land dedication for future development and combined the neighborhood and community park fees into one. Additionally, we determined that Windsor had a future need for 40 additional miles of trails. The new fee, called the park & trail development fee, is collected at the issuance of the building permit and is split 70/30 (park build / trail build). The intent being that, over time, as Windsor grew, we would be able to build out the park and trail system.

Financial Impact:

None at this time

Relationship to Strategic Plan:

Focus Area 2 Vital Infrastructure

Goal 2.6 Complete Park System Buildout

Recommendation:

Provide staff feedback

CC:**Attachments:**



MEMORANDUM

Date: February 9, 2026
To: Mayor and Town Board
From: Tara Fotsch, Director of PRC
Re: A Resolution Supporting An Agreement Between the Town of Windsor, Colorado, and the State Board of the Great Outdoors Colorado Trust Fund for a Grant Application for the North Campus Park and New Open Space Master Plan - T. Fotsch, Director of Parks, Recreation and Culture
Item #: 4.

Background / Discussion:

The Town of Windsor has been selected as 1 of 13 candidates to move forward with a formal grant application for \$1.6 Million Dollars for the construction of Phase 1 of the North Campus and associated Master Plan Development of the new 300 acre Open Space, below is the response from GOCO:

Thank you for your recent concept paper submission! GOCO received 26 concept papers this cycle, with funding requests totaling approximately \$23.7 million. The quality of proposals and the breadth of need continue to impress our team. In evaluating submissions, staff considered each project's merit, alignment with program goals, relative cost, urgency, and overall impact. With only about \$5.3 million remaining for the fiscal year, we had to make highly selective recommendations.

Congratulations on being among the 13 projects we're inviting to submit a full application! The application phase will be competitive, and we'd welcome the opportunity to share feedback from concept review to help strengthen your proposal.

As a part of the application submittal, a resolution from the Town Board is required confirming budget allocation and support of moving forward with a grant application.

If awarded the grant, the department would be able to complete the bicycle skills course, the 40,000 square foot destination playground, and the master plan for the recently purchased 300 acres of open space.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. Resolution 2026-09 GOCO Grant

TOWN OF WINDSOR

RESOLUTION NO. 2026-09

A RESOLUTION SUPPORTING AN AGREEMENT BETWEEN THE TOWN OF WINDSOR, COLORADO, AND THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND FOR A GRANT APPLICATION FOR THE NORTH CAMPUS PARK AND NEW OPEN SPACE MASTER PLAN

WHEREAS, the Town of Windsor (“Town”) is a home rule municipality with all powers and authority vested under Colorado law; and

WHEREAS, the Town supports the completion of the phase one construction of the North Campus Park and development of a Master Plan for the new Open Space; and

WHEREAS, the development of the North Campus Park will include three (3) three hundred foot (300’) synthetic turf baseball fields, restrooms, concessions stand, and a bicycle skills course; and

WHEREAS, the Town is submitting a grant application to Great Outdoors Colorado with a request of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) in grant funding to assist with the funding of the development of the North Campus Park and New Open Space Master Plan, subject to award and execution of a grant agreement; and

WHEREAS, the Town’s contribution from the Park Development Fund has already included Thirteen Million Five Hundred Thousand Dollars (\$13,500,000.00), with contributions from the Weld RE4 School District of Two Million Dollars (\$2,000,000.00) and a potential Five Thousand Dollars (\$5,000.00) from the Poudre Heritage Alliance, pending approval, in addition to some in kind contributions, to reach the total projected price of Seventeen Million One Hundred Forty-Eight Thousand Five Hundred Dollars (\$17,148,500.00); and

WHEREAS, the Town Board is in support of the grant application, and deems its approval to be in the best interest of public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. The Town of Windsor supports the grant application and if awarded, hereby authorizes Tara Fotsch, Director of Parks, Recreation and Culture, to sign the grant agreement with Great Outdoors Colorado.

Section 2. The Town of Windsor hereby authorizes the expenditure of funds as necessary to meet the terms and obligations of the grant agreement and application.

Section 3. This Resolution shall be in full force and effect from and after its passage and approval.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this ____ day of ____ 2026.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]



FUTURE TOWN BOARD MEETINGS

February 16, 2026	Canceled – Presidents Day Holiday
February 23, 2026 5:30 p.m.	Town Board Work Session New Hire – Meet the Board Wastewater Treatment Plant Expansion Financing Discussion Wildfire Resiliency Code Direction
February 23, 2026 7:00 p.m.	Town Board Regular Meeting
March 2, 2026	Canceled – 1 st Monday
March 9, 2026 5:30 p.m.	Town Board Work Session Board/Manager/Attorney Monthly Meeting DOLA Demographic Presentation Town Website Domain Discussion
March 9, 2026 6:45 p.m.	Kern Board Meeting
March 9, 2026 7:00 p.m.	Town Board Regular Meeting
March 16, 2026 5:30 p.m.	Town Board Work Session Monumental Entryway Sculpture Proposals Colorado's/USA – 150/250 Celebration Discussion
March 23, 2026 5:30 p.m.	Town Board Work Session New Hire – Meet the Board Future Recreation Center Facility Results Housing Needs Assessment Draft Discussion
March 23, 2026 7:00 p.m.	Town Board Regular Meeting
March 30, 2026	Canceled – 5 th Monday
April 6, 2026	Canceled – 1 st Monday
April 13, 2026 5:30 p.m.	Town Board Work Session Board/Manager/Attorney Monthly Meeting
April 13, 2026 7:00 p.m.	Town Board Regular Meeting

April 20, 2026
5:30 p.m.

Town Board Work Session

April 27, 2026
5:00 p.m.
5:30 p.m.

Town Board Work Session
Arbor Day Poster/Poetry Contest Winners' Recognition
New Hire – Meet the Board

April 27, 2026
7:00 p.m.

Town Board Regular Meeting

Future Work Session Topics

- Parking Plan update
- Camping Ban
- WDA Review and Evaluation – 2nd Quarter (April or May)
- Backyard Chicken Ordinance Discussion
- Kyger Fishery Designation
- Compensation Study Review and Recommendations – September 21st
- October 19th meeting – Light Agenda (ICMA 2026)