

## CHAPTER 11

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**ARTICLE I**

**Access, Excavation and Obstruction Permits**

**Sec. 11-1. Access permit.**

No access, private road or driveway shall be installed, altered or modified within a public right-of-way unless a permit from the Public Works Director is issued. The Public Works Director shall approve the location, construction and installation of the access. In evaluating the issuance of a permit, the Public Works Director shall consider the impact of the proposed access on alteration of historical drainage patterns within and adjacent to the public right-of-way and shall require that all surface or subsurface runoff, from whatever source, shall be intercepted and diverted into an appropriate drainage way and not allowed to flow onto the improved surface of a public road or to compromise the structural integrity of the public road. (Ord. 10-1991 §3)

**Sec. 11-2. Excavation permit.**

(a) No landscaping, construction or repair within or ripping up, opening, disturbing, grading, excavating, boring or otherwise altering any public right-of-way, sidewalk or trail shall occur unless a permit for such work from the Public Works Director is issued.

(b) Minor installations. Minor installations shall consist of all utility, cable television or drainage culvert crossings of public rights-of-way, perpendicular or within thirty degrees (30°) perpendicular to the right-of-way, driveway culverts within public right-of-way, or excavations for repair of utility, cable television or drainage facilities within public roadways.

(c) Major installations. Major installations shall consist of all utility, cable television and drainage culvert installations constructed within public rights-of-way parallel to the roadway or through the roadway at more than thirty degrees (30°) to perpendicular.

(d) Multiple road cuts. At the discretion of the Public Works Director, more than one (1) road cut may be included in a single permit. Application and inspection fees and security deposit requirements shall be adjusted to reflect the amount of work covered by a single permit. (Ord. 10-1991 §3)

**Sec. 11-3. Obstruction permit.**

No obstruction of a public right-of-way, sidewalk or trail shall occur unless a permit from the Public Works Director is issued. A permit may be granted only where the obstruction is necessary for the construction, alteration or repair of the adjoining property for a maximum duration not to exceed one (1) year. (Ord. 10-1991 §3; Ord. 10-1997 §8)

**Sec. 11-4. Permit fees.**

No permit shall be issued unless the applicant has first paid the required fee and provided a security deposit. Application for a construction or excavation permit shall be made no later than seven (7) days prior to planned commencement of work. The permit shall be kept and exhibited at the permitted site.

<u>Permit Type</u>	<u>Permit Fee</u>
Access	\$50.00
Excavation:	
minor installations	50.00
major installations	50.00 plus .25 cents per lineal foot of total length of installation
Obstruction	50.00

(Ord. 10-1991 §3; Ord. 10-1997 §8)

**Sec. 11-5. Security deposit.**

The security deposit shall be in the form of a letter of credit issued by a bank having banking offices in the State, or in cash. At the discretion of the Public Works Director, alternate forms of security may be accepted. The Town is authorized to appropriate the security deposit to restore

any damage to the public right-of-way which is the subject of a permit not repaired by the permittee; provided, however, that the Public Works Director in his or her discretion may waive or modify the requirement to provide a security deposit with the Town, on a case-by-case basis.

<u>Permit Type</u>	<u>Security Deposit</u>
Access	None
Excavation:	
minor installations	\$1,000.00
major installations	\$30.00 per lineal foot of improvements for water and sewer line installations; \$10.00 per lineal foot for drainage culvert installations or other utility installations; or \$1,000.00, whichever is greater.
Obstruction	\$500.00

(Ord. 10-1991 §3; Ord. 1-1995 §4)

**Sec. 11-6. Warranty.**

The restoration of the public right-of-way in accordance with the provisions of this Article shall be warranted by the permittee for a period of two (2) years from the date of final inspection and approval of the restoration by the Public Works Director. During the period of the warranty, the applicable provisions of the permit will remain in full force and effect. The permittee will be entitled to a return of the security deposit, upon request, after the expiration of the warranty period, if all restorative work, pavement replacement and cleanup has been completed in accordance with the provisions of this Article. (Ord. 10-1991 §3)

**Sec. 11-7. Exigent circumstances.**

In the event of exigent circumstances threatening the health, safety or welfare of persons or

property, any electric, gas, water or sewer utility company may commence such construction or repair which would require a permit pursuant to this Article, without first obtaining a permit, provided that:

(1) Notice is given to the Public Works Director, or, if not during normal business hours, the Chief of Police, of the existence of the exigent circumstances, the location of the incident and the intended repair; and

(2) A permit is obtained not later than the next business day following the discovery of the condition creating the exigent circumstance. (Ord. 10-1991 §3)

**Sec. 11-8. Limitation due to winter months.**

No excavation permit shall be issued from October 15 through April 15. However, in the event of extraordinary circumstances, a permit may be issued at the sole discretion of the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-9. Limitation due to new surface.**

No excavation permit shall be issued concerning a road, sidewalk or trail which has been installed or resurfaced within the previous four (4) years, except for boring. However, in the event of extraordinary circumstances, a permit may be issued at the sole discretion of the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-10. Permit supervision.**

The Public Works Director shall oversee and supervise the permittee's actions within the permit area to ensure compliance with the terms and conditions of the permit. (Ord. 10-1991 §3)

**Sec. 11-11. Supervision of excavation.**

All openings made in any public right-of-way shall be made under the supervision of the

Public Works Director, who shall have the right to prescribe the method to be used in the excavation, the width thereof, and any other reasonable condition for the protection of utilities for the public or for minimizing the interference with vehicular or pedestrian traffic. (Ord. 10-1991 §3)

#### **Sec. 11-12. Boring.**

All utility and cable television crossings of the Brush Creek Road right-of-way shall be made by boring. Only hydraulic boring twenty-four (24) inches below the improved surface of the right-of-way will be permitted. The Public Works Director, at his or her discretion, may require boring of any public right-of-way. (Ord. 10-1991 §3)

#### **Sec. 11-13. Time limitations.**

No excavation shall be open for more than twenty-four (24) hours. Open shall mean a hole, depression or other obstruction other than compacted road base or pavement that will allow safe use of the road. A permittee may apply for an extension of the twenty-four-hour limitation, and after investigation the Public Works Director may grant such an extension, at his or her sole discretion. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, unless the permittee obtains written consent from the Public Works Director. (Ord. 10-1991 §3)

#### **Sec. 11-14. Emergency access required.**

No construction shall be performed, or excavation made, in such manner as to prohibit access by emergency vehicles to any building, structure or dwelling unit abutting the public rights-of-way. It shall be the responsibility of the permittee to immediately notify the Public Works Director, the Chief of Police and the Snowmass-Wildcat Fire Protection District if any obstruction of a right-of-way occurs which prevents access. (Ord. 10-1991 §3)

#### **Sec. 11-15. Change in scope of work.**

If there is any change in the scope or extent of the work described in the permit, the permittee shall immediately notify the Public Works Director. The permittee is not authorized to perform any work which is not in accordance with the existing permit. (Ord. 10-1991 §3)

#### **Sec. 11-16. Barricades and warning lights.**

Adequate warning lights and safety barricades or fencing around the construction or excavation shall be maintained. From one-half (½) hour after sunrise to one-half (½) hour before sunset, warning lights are recommended but not required. (Ord. 10-1991 §3)

#### **Sec. 11-17. Safety devices.**

Flagmen, signals, special traffic signing, walkways, ramps, canopies or other similar safety precautions shall be required when the Public Works Director deems necessary to maintain the public health, welfare, safety and convenience. (Ord. 10-1991 §3)

#### **Sec. 11-18. Shoring.**

Any person performing any work requiring a permit pursuant to the provisions of this Article shall provide shoring, piling or other necessary devices and shall use the necessary precautions to prevent injury or damage to persons or property and to protect street improvements, utilities and adjacent property from damage or disturbance. (Ord. 10-1991 §3)

#### **Sec. 11-19. Damage to existing utilities.**

In the event any utility line is damaged as a result of any work pursuant to a permit, the permittee shall immediately, upon discovery of the damage, notify the appropriate operator of the utility and the Town, and make the necessary arrangements for repairing the damage according to the policies and procedures of the utility. (Ord. 10-1991 §3)

**Sec. 11-20. Bridge or culvert crossings.**

Utilities and cable television are not permitted to be attached to bridges without the express written consent of the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-21. Dust control.**

It shall be the permittee's responsibility to control dust at the excavation site. Dust control measures shall occur as determined by the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-22. Road cut procedure.**

All cuts in asphalt, concrete or other paved improvements shall be made with square edges and straight lines. All cuts in concrete or asphalt shall be made six (6) inches past the edge of the trench prior to excavation. Final cut edges shall be done with saws. (Ord. 10-1991 §3)

**Sec. 11-23. Excavated material.**

All excavated material shall be removed from the permit site and disposed of by the permittee as the excavation is made when the Public Works Director deems it necessary due to traffic or other conditions. Any excavated material not removed immediately shall be stockpiled off of the permit site, or in a location approved by the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-24. Longitudinal cuts.**

Longitudinal cuts that are located three (3) feet or more into the improved surface of a road and exceeding fifteen (15) feet in length shall be permanently patched, in accordance with the provisions of this Article. The entire street width shall be overlaid for the full length of the cut with two (2) inches of asphalt. (Ord. 10-1991 §3)

**Sec. 11-25. Excavation under existing curb and gutter and sidewalk.**

If any excavation occurs under existing curb and gutter or sidewalk, that curb and gutter and sidewalk shall be removed and replaced. The replacement shall be from the nearest concrete joint. The curb and gutter and sidewalk must be replaced within seven (7) working days after the excavation is complete. If approved by the Public Works Director, a permittee may bore under a curb, gutter or sidewalk in a manner which does not damage the curb, gutter or sidewalk. (Ord. 10-1991 §3)

**Sec. 11-26. Native backfill.**

At the discretion of the Public Works Director, backfill for major installations may be made with native material, provided that compaction requirements can be met. Native backfill shall not contain boulders in excess of twelve (12) inches in diameter. (Ord. 10-1991 §3)

**Sec. 11-27. Composition of backfill.**

All backfill shall be free from muck, debris, paving, frozen material or organic matter and shall be placed uniformly at two percent (2%) of optimum moisture content for the required density. Compaction shall be subject to inspection and approval of the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-28. Excavation in paved areas.**

Backfill placed under or within five (5) feet of paved surfaces shall be three-fourths-inch road base (Class 6, State Department of Highways Classification). Backfill shall be placed in layers not to exceed twelve (12) inches in depth. Compaction shall be ninety-five percent (95%) of the A.S.T.M. Designation D698-64T. (Ord. 10-1991 §3)

**Sec. 11-29. Excavation in unpaved areas.**

Backfill may be native material if approved by the Public Works Director, except that the top eight (8) inches, compacted depth, shall be three-fourths-inch crushed road base. Backfill shall be placed in layers not to exceed eighteen (18) inches in depth and shall contain no rocks greater than twelve (12) inches in diameter. Compaction shall be ninety percent (90%) of the A.S.T.M. Designation D698-64T. (Ord. 10-1991 §3)

**Sec. 11-30. Excavation in unimproved areas.**

Backfill may be native material except that no rocks shall exceed eighteen (18) inches in diameter and no rocks greater than six (6) inches in diameter shall be allowed in the top twelve (12) inches of backfill. (Ord. 10-1991 §3)

**Sec. 11-31. Patch required for all paved improvements.**

(a) Permanent. Permanent patch shall be not less than existing thicknesses of surfacing materials or less than the following:

- (1) Brush Creek Road - six (6) inches of hot mix asphalt and twelve (12) inches of road base.
- (2) All other public roadways - four (4) inches of hot mix asphalt and eight (8) inches of road base.

All permanent patches shall extend at least five (5) feet past the edge of the trench, in accordance with the provisions of this Article. The edges of the patch shall be feathered back to existing pavement. Permanent patch shall be installed within ten (10) working days of the completion of the backfill. The composition of the patch material is subject to the approval of the Public Works Director.

(b) Temporary. A temporary patch shall be not less than two (2) inches thick over all backfill for excavations within paved roadways. Hot mix shall be used rather than cold mix whenever possible. The patch shall be installed only when the backfill is completed. Temporary patch shall be placed immediately upon completion of the backfill. The composition of the patch material is subject to the approval of the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-32. Inspection.**

The restoration of the public right-of-way shall be inspected by the Public Works Director before acceptance. A compaction test by a soils testing firm may be required by the Public Works Director to measure percent compaction obtained; all such testing shall be at the expense of the permittee. (Ord. 10-1991 §3)

**Sec. 11-33. Clean-up of work site.**

The permittee shall remove all excess excavated material, boulders, barricades, signs, supplies, equipment, rubbish and debris from the work site within three (3) working days. The work site shall be left in a neat and clean appearance. (Ord. 10-1991 §3)

**Sec. 11-34. Road closure procedure.**

Road closures are not permitted unless justified on the basis of overall benefit to the general public and approved by the Town Manager. When road closures are permitted, the applicant must adhere to the following procedures:

- (1) Notify the appropriate governmental agencies of the exact location, date and time traffic will be impeded, one (1) week in advance of street closure.
- (2) Erect and maintain, at his or her own expense, necessary barricades, flashers and construction signs and employ flagmen taking all necessary precautions for public safety and convenience. (Ord. 10-1991 §3)

**Sec. 11-35. Applicability to franchises.**

The provisions of this Article are applicable to the holders of any franchise granted by the Town. (Ord. 10-1991 §3; Ord. 4-1994 §1)

**Sec. 11-36. Public Works Director authority.**

In granting any permit, the Public Works Director may attach conditions as may be reasonable and necessary to protect the public health, safety, welfare and convenience. Such conditions may include but shall not be limited to the following:

- (1) Restrictions as to the size and type of equipment;
- (2) Designation of routes upon which materials may be transported;
- (3) The place and manner of disposal of excavated materials;
- (4) Requirements as to the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof;
- (5) Regulations as to the use of streets in the course of the work;
- (6) Minimum depth of any utility or service line shall be twenty-four (24) inches below grade;
- (7) Temporary patches or other measures that may be necessary to protect the public and the public way. (Ord. 10-1991 §3)

**Sec. 11-37. Rules and regulations.**

There is hereby delegated to the Public Works Director the authority to create rules and

regulations to carry out the intention of the provisions of this Article. Such rules and regulations shall be effective upon adoption by the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-38. Town option.**

Any work performed which is not in strict conformity with this Article shall, within ten (10) days after notice to the permittee, be made to conform to this Article at the expense of the permittee, or the same shall be corrected or removed by the Town at the expense of the owner or responsible party. (Ord. 10-1991 §3)

**Sec. 11-39. Revocation of permit.**

The Public Works Director may revoke any permit granted pursuant to this Article in the event there has been noncompliance with the terms and conditions of the permit or the terms and conditions of this Article. Such revocation shall remain effective until appropriate arrangements for rectifying all noncompliance have been approved by the Public Works Director. (Ord. 10-1991 §3)

**Sec. 11-40. Prohibition against permit.**

In the event a permittee has not complied with the conditions of a previously issued permit, causing the Town to exercise its authority pursuant to the provisions of Sections 11-38 and 11-39 above, which resulted in the amount of the security deposit to be inadequate, so that the Town incurred actual expense, no further permit shall be granted to the permittee until all sums due and owing to the Town have been paid in full. Further, the same prohibitions shall apply to the issuance of a permit at a permit site, irrespective of who the proposed permittee is. (Ord. 10-1991 §3)

**Secs. 11-41—11-60. Reserved.**

## ARTICLE II

### Right-of-Way Protection

#### Sec. 11-61. Purpose.

The operation, maintenance, repair, drainage and snow removal and storage functions of the Public Works Department within public rights-of-way is of significant importance to the public health, safety, welfare and convenience. To facilitate the efficient functioning of the Public Works Department and maintenance of standards of care within the public rights-of-way, restriction on the placement of impediments, improvements and obstructions within the public rights-of-way is mandatory. The public health, safety, welfare and convenience requires a restriction on the utilization of private property adjacent to public rights-of-way for purpose. (Ord. 10-1991 §6)

#### Sec. 11-62. Description of right-of-way.

The right-of-way of all public roads within the Town shall be one-half (½) of the width of the improved surface of a road plus ten (10) feet on either side of the center line of the road, unless a greater distance is provided by specific dedication or conveyance. (Ord. 10-1991 §6)

#### Sec. 11-63. Prohibition against improvements.

No landscaping, improvements or structures of any type or kind may be placed within the public right-of-way, without the approval of a revocable license by the Town Council. (Ord. 10-1991 §6)

#### Sec. 11-64. Disclaimer.

The Town hereby disclaims any responsibility for damage to any landscaping, improvements or structures of any kind or type which

may be placed within a public right-of-way from the carrying out of the functions of the Public Works Department in the operation, maintenance, repair, drainage and snow removal and storage functions in the public rights-of-way. (Ord. 10-1991 §6)

#### Secs. 11-65—11-80. Reserved.

## ARTICLE III

### Dedication of Private Roads

#### Sec. 11-81. Policies.

(a) No private road shall be accepted and maintained by the Town as a public road unless the Town Council, following a public hearing thereon, makes the following findings:

(1) That the road, at the time of the proposed dedication, is part of the general road system of the Town and is being used to provide public services on a regular and continuing basis.

(2) That the road, at the time of the proposed dedication, is being used by tourists, residents and employees as a general access to an area of the Town as distinguished from a private driveway or similar thoroughfare with restricted public use.

(b) Each acceptance of private roads shall be considered on its own merits and the Town shall not be estopped, for any reason, to deny or refuse acceptance of any such road because of its previous acceptance of other private roads. (Prior code Ch. XIII §3-1)

#### Sec. 11-82. Preliminary conference.

A preliminary conference shall be scheduled by the applicant with the Town Manager, the Planning Director and the Public Works Director

to review the proposed road dedication, which review shall include, but not be limited to, definition of public usage, general road conditions, potential easement problems, public service and maintenance capability, existing restrictions on use, parking area relationships, drainage and other related matters. (Prior code Ch. XIII §3-2-1; Ord. 4-1994 §1; Ord. 10-1997 §12)

**Sec. 11-83. Application.**

Following the preliminary conference, an application to accept a dedication of all or a portion of a private road may be submitted to the Public Works Director (together with sufficient copies to allow review) and shall include the following information:

(1) A map at a scale of 1" = 50' showing the roads, buildings and general surrounding area involved, including connections to existing public roads and other private roads.

(2) A legal description of the roads and easements proposed for dedication.

(3) Engineering data on road widths, surface and base conditions including core samples, drainage and such other engineering information as may be requested by the Town Engineer.

(4) A description of the parking provisions, including the number of spaces, management plan and enforcement procedures when applicable.

(5) The number of units or homes being served with estimated population densities and estimated daily private vehicle trips during the peak winter season periods.

(6) A map and written description of access and internal traffic pattern provisions for emergency vehicles, buses, trash collection, snowplowing and storage and other public uses.

(7) A detailed description of improvements, if any, committed to by the present owner prior to dedication. (Prior code Ch. XIII §3-2-2; Ord. 4-1994 §1)

**Sec. 11-84. Hearing.**

Upon receipt of a complete application, the Public Works Director shall schedule a public hearing before the Town Council, notice of which shall be published in a newspaper of general circulation in the Town at least thirty (30) days prior to such hearing and posted in the location designated for official Town public notices. (Prior code Ch. XIII §3-2-3; Ord. 4-1994 §1)

**Sec. 11-85. Town Council action.**

Within thirty (30) days after the conclusion of the public hearing, the Town Council shall act to approve, approve with conditions or deny such application. The Town Council may conduct such additional hearings or investigations as it deems appropriate. (Prior code Ch. XIII §3-2-5; Ord. 4-1994 §1)

**Secs. 11-86—11-100. Reserved.**