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Christy M. Beckman, Clerk & Recorder
Sedgwick County, Colorado
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ORDINANCE NO. 23-475

AN ORDINANCE ADOPTING RIGHT-OF-WAY (ROW) REQUIREMENTS, PERMITTING REQUIREMENTS, AND CONSTRUCTION RESTRICTIONS

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JULESBURG, COLORADO:

WHEREAS, the Town Board has authority pursuant to C.R.S. §31-15-702, et seq. to regulate the use of sidewalks along the streets and alleys; and

WHEREAS, pursuant to that authority, the Board previously adopted local land use regulations, codified in Chapter 12 of Town of Julesburg Municipal Code (the "Code") concerning streets, sidewalks and public places; and

WHEREAS, pursuant to that authority, the Board desires to adopt certain rules and regulations to create and regulate construction within public ROW property; and

WHEREAS, the Town Board of Trustees has determined that it serves the interests of the community to protect its ROWs; and

WHEREAS, the Town Board has seen an increase in the use of its ROW for public utility development; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JULESBURG, COLORADO:

Section 1. Chapter 12 of the Town Code will be amended to adopt 12.02 right-of-way requirements, pem1itting requirements, and construction restrictions.

Sec. 12.02.010 Purpose

The purpose of this Article is to provide principles, procedures and associated funding for the placement of structures and infrastructures, construction, excavation, encroachments and work activities within or upon any public right-of-way and to protect the integrity of the road system of the Town. To achieve this purpose, it is necessary to require permits, to establish permit procedures and to fix and collect fees and charges.

Sec. 12.02.020 Objectives

There is a need to accommodate public and private entities' use of public rights-of-way for the location of equipment required for provision of public services; however, the Town must ensure that the primary purpose of the right-of-way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. The use of the right-of-way corridors by others is secondary to the movement of such traffic. This Article is intended to strike a balance between

the public need for efficient, safe transportation routes and the use of rights-of-way for location of equipment by public and private entities. This Article has several objectives:

1. To ensure that public safety is maintained and that public inconvenience is minimized.
2. To protect the Town's infrastructure investment by establishing repair standards for the pavement when work is accomplished.
3. To facilitate work within the right-of-way through the standardization of regulations and hardware placements.
4. To maintain an efficient permit process.
5. To conserve the limited physical capacity of the public rights-of-way held in public trust by the Town.
6. To assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

Sec. 12.02.030 Definitions

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

Town means the Town of Julesburg, Colorado.

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 and public safety equipment.

- *landscaping* means materials, including, without limitation, grass, groundcover, shrubs, vines, hedges or trees and nonliving natural materials commonly used in landscape development, as well as attendant irrigation systems.

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

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

Public right-of-way, right-of-way or *public way* means any public street, way, place, alley, sidewalk, public easement, park, square, plaza and Town owned right-of-way or any other public property owned or controlled by the Town and dedicated to public use.

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.

Work means any labor performed on, or any use or storage of equipment or materials in the public rights-of-way, including, but not limited to, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, streetlights and traffic signal devices. It shall also mean 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 the surface of any public way, and installation of overhead poles used for any purpose.

Sec. 12.02.040. 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 Article, 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 unite having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this Article and the permit to the contrary. Any conflict between the provisions of this Article or the permit any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

Sec. 12.02.050. Permit Required

1. No person, except an employee or official of the Town or a person under 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 permit from the Town as a set forth in this article, except as provided in Section 11-3-190 of this Article, 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.
2. No permittee shall perform construction, excavation or work in an area larger or at a location different than that specified in the permit or permit application. But if, when 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, the permittee shall notify the Town Manager immediately and within twenty-four (24) hours shall file a supplementary application for the additional construction, excavation or work.
3. Permits shall not be transferable or assignable, and work shall not be performed in any place other than that specified in the permit. The permittee may subcontract the work to be performed under a permit 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.
4. The physical construction of public improvements in new developments within the Town is the responsibility of the developer of the land. Ownership of those improvements

remains with the developer of the land until acceptance by the Town. Any person performing work on those improvements which are within a public way, but prior to acceptance by the Town, shall obtain a permit from the Town and permission from the owner of the improvements in the public way. The permittee shall be financially responsible to the owner of the improvements to carry out all remedial work necessary to receive acceptance by the Town of those improvements. This financial obligation shall apply only to the work in the public way done by the permittee.

Sec. 12.02.060. Permit application; permit contents

An applicant for a permit to allow construction, excavation or work in the public right-of-way under this Article shall:

1. File a written application on forms furnished by the Town that includes the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor licensed to perform work in the public right-of-way; the exact location of the proposed construction, excavation or work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or work; the purpose of the proposed construction, excavation or work; the dates for beginning and ending the proposed construction, excavation or work; the purpose of the proposed construction, excavation or work; the dates for beginning and ending the proposed construction, excavation or work; the measurements and quantities of the construction improvements and excavations; and type of work proposed.
2. Include a verified statement that the applicant and/or its contractor is not delinquent in payments due the Town on prior work.
3. Include a verified statement that the applicant and/or its contractor holds all permits or licenses (including required insurance, deposits, bonding and warranties) required to do The proposed work, if such licenses or permits are required under the laws of the United States, the State or the ordinances of the Town.
4. Provide a satisfactory plan of work protection of the subject property and adjacent properties when the Town determines such protection is necessary.
5. Provide a satisfactory plan for the protection of shade and ornamental trees and the restoration of turf when the Town determines such protection is necessary.
6. Include a verified statement that all orders issued by the Town to the applicant and/or its contractor, requiring correction of deficiencies under previous permits issued under this Article have been satisfied.
7. Include with the application, engineering construction drawings or site plans for the proposed construction, excavation or work.
8. Include with the application a satisfactory traffic control and erosion protection plan for the proposed construction, excavation or work when the Town determines such plans are necessary.
9. Pay the fees prescribed by the Town.

For the benefit of the Town, each pe1mit issued under this Article shall state the right-of-way permit number, the date of issuance and expiration of the permit; the name and address of the permittee and the name and address of the developer, contractor or subcontractor licensed to perform work under the permit; the location, nature and purpose of the proposed construction, excavation or work permitted; any conditions of approval (including but not limited to inspection, testing, certification and provision of as-built drawings); the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the permit; references for the engineering construction drawings or site plans; references to any supplemental permits (wetland, floodplain development, state highway access or utility, revocable right-of-way and water and sewer utility permits, etc.) required; and the amount of fees and deposits paid, and bonds filed by the permittee.

Sec. 12.02.070. Permit Fee

Before a permit is issued pursuant to this Article, the applicant shall pay to the Town Manager a permit fee, which shall be determined in accordance with a fee schedule adopted from time to time by the Town Board by resolution.

Sec. 12.02.080 Location of Equipment

(a) The Town Manager shall assign specific corridors within the right-of-way or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the Town Manager expects will someday be located within the right-of-way. All construction, excavation or work for which permits are issued by the Town Manager involving the installation or replacement of equipment or facilities in public rights-of-way shall designate the proper corridor for such equipment or facilities at issue.

(b) The Town Manager may prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all the requests of applicants to occupy or use the right-of-way. In making such decisions, the Town Manager shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's need for a particular service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment and facilities in the right-of-way and future Town plans for public improvements and development projects which have been determined to be in the public interest.

Sec. 12.02.090. Mapping.

Each permittee shall, within sixty (60) days from the date of the Town's acceptance of the work undertaken in connection with the permit, provide to the Town Manager as "built" maps indicating at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all equipment and facilities which relate to the permit and which are located in any right-of-way of the Town. In addition, within sixty (60) days from the date of the Town's acceptance of the work undertaken in connection with any permit, the permittee shall use its "best efforts" to provide to the Town Manager "as built" maps, or to the extent "as built" maps

are not available, other information that is available showing at a minimum the horizontal and vertical location, relative to the boundaries of the right-of-way, of all existing equipment and facilities which the permittee owns or over which it has control, and which are located in any right-of-way of the Town. This information shall be provided with the specificity and in the format requested by the Town Manager for inclusion in the Town's mapping system.

Passed, adopted, signed and approved this 5th day of September, 2023.

Chad Hoschouer

Mayor

ATTEST:

Carrie Hartwell

Town Clerk