

## TITLE 11

### STREETS AND PUBLIC WAYS

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#### CHAPTER 11-01. STREETS AND PUBLIC WAYS.

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#### 11-01-010. Authority.

This Chapter is adopted pursuant to and in accordance with applicable provisions of state law regarding a municipality's right to regulate its rights-of-way and under the City's police power to establish procedures and standards for the safe use of its rights-of-ways, including, but not limited to, the provisions set forth in *Utah Code Ann.* §§ 10-8-11, § 10-8-13, § 10-8-23, and § 10-8-84, as amended, and provisions of the Protection of Highways Act, as set forth in *Utah Code Ann.* §§ 72-7-101, *et seq.*, as amended.

#### 11-01-020. Powers and Duties.

The Public Works Director shall have general supervision of all the streets, rights-of-way, bridges, sidewalks, and other public ways that lie within the corporate boundaries of the City. The Public Works Director shall comply with and enforce the provisions of this Chapter and every other ordinance which shall relate to the maintenance and use of streets, rights-of-way, culverts, ditches, bridges, curbs, gutters, sidewalks, drains, water ways, or any other public ways. The Public Works Director shall supervise, inspect and control the construction, maintenance, and/or repair of all streets, rights-of-way, culverts, ditches, bridges, curbs, gutters, sidewalks, drains, water ways, and other public ways within the boundaries of the City. The powers and duties of the Public Works Director, as specified herein, may be delegated by the Public Works Director to authorized designees. When used in this Chapter, Public Works Director shall include the reference to such authorized designees.

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<sup>1</sup> Enacted by Ordinance No. 2016-11, April 19, 2016

<sup>2</sup> Amended by Ordinance No. 2016-16, June 7, 2016

**11-01-030. Administration.**

In addition to the powers and duties of the Public Works Director set forth in Section 11-01-020, this Chapter shall be administered and enforced by the Public Works Director, or his or her authorized designees.

**11-01-040. Standards and Specifications.**

The City Council, upon the recommendation of the City Engineer and Public Works Director, shall establish and adopt certain standards and specifications for the construction of streets and public improvements within the City ("Standards and Specifications"). Any installation, construction, alteration, repair, maintenance or other work on the streets and public improvements within the City, or within any public right-of-way, shall comply with the Standards and Specifications.

**11-01-050. Street Excavations.**

Prior to commencement of any excavation work within the public right-of-way, an excavation permit shall be obtained from the City in accordance with the provisions of Title 11, Chapter 4. It shall be unlawful for any person to perform such excavation work within the public right-of-way without obtaining an excavation permit from the City. All excavation work shall comply with the Standards and Specifications adopted by the City and the provisions of Title 11, Chapter 4.

**11-01-055. Franchise Required.**

Except as otherwise expressly provided herein or exempt under federal or state law, any person or entity desiring to install improvements or facilities within any public right-of-way under the jurisdiction of the City shall be required to enter into a franchise agreement or other acceptable rights-of-way use or license agreement with the City authorizing the use of the public right-of-way for such improvements or facilities and specifying the terms and conditions of such use of the public right-of-way. It shall be unlawful for any person to place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, utility or any other structure, facility or object of any kind or character within the public rights-of-way within the jurisdiction of the City without obtaining such a franchise agreement or other acceptable rights-of-way use or license agreement from the City in accordance with the provisions of this Section. Telecommunications improvements or facilities installed within public rights-of-way under the jurisdiction of the City shall be governed by the provisions of Title 9, Chapter 7, regarding Telecommunications Systems. Cable television improvements or facilities installed within the public rights-of-way shall be governed by the provisions of Title 9, Chapter 12, regarding Cable Systems and Services. Regulation of the City's rights-of-way as provided herein shall be subject to and comply with the provisions of Title 72, Chapter 7, of the Utah Code, as amended, entitled the Protection of Highways Act.

**11-01-057. Franchise Application Fees.**

In order to offset the costs to the City to review any application for a franchise or other acceptable rights-of-way use or license agreement as required under Section 11-01-055, the applicant shall be required to submit at the time of application the applicable franchise application fees as adopted by the City and set forth in the City Fee Schedule, which application fees shall be nonrefundable. An application fee shall also be paid when an amendment, renewal or transfer of such franchise is requested. The applicant shall also be required to pay reasonable costs and expenses for professional services, such as engineering and legal fees, incurred by the City in connection with any application, including a professional services deposit as adopted by the City and set forth in the City Fee Schedule.

**11-01-060. Driveways.**

It is unlawful for any person to construct a driveway or other improvement across a public sidewalk or within the public right-of-way without obtaining an excavation permit from the City in accordance with the Excavation Permit Ordinance as set forth in Title 11, Chapter 4. Any driveway must comply with applicable provisions of the City Zoning Ordinance, including, but not limited to, sight triangle requirements and impervious surface restrictions, and meter location restrictions as set forth in Section 9-1-102-116, as amended.

**11-01-065. Water Meters.**

The installation and location of all water meters and related facilities within the public right-of-way or park-strips shall comply with the provisions and requirements of Section 9-1-102-116, as amended.

**11-01-070. Stormwater Regulations.**

All persons and entities shall comply with applicable provisions of the Stormwater Ordinance, as set forth in Title 16, including, but not limited to prohibited actions set forth in Title 16, Chapter 4, regarding, among other prohibitions, obstructions, stockpiling, and illicit discharges within the public right-of-way.

**11-01-080. Placing or Mixing Materials.**

Unless a permit has been obtained from the City pursuant to Title 11, Chapter 4, regarding excavation permits, or Title 16, regarding stormwater management, it is unlawful for any person or entity to place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete, or any like substance or mixture, or allow the same to remain within the public right-of-way. It is unlawful for any person or entity to make, mix, or permit to be made or mixed, any mortar, plaster, concrete, or any like substance within the public right-of-way.

**11-01-085. Dumpsters and Equipment.**

Property owners and builders are encouraged to place all dumpsters, storage units, scaffolding, equipment and similar obstructions on private property. If it is not feasible or practical to place such obstructions on private property, occupancy permit may be obtained from the City for limited and temporary placement of such items within the public right-of-way. It shall be unlawful for any person to place, deposit, maintain, store or leave any dumpster, storage unit, scaffolding, equipment or other obstruction within any public right-of-way in the City without first obtaining an occupancy permit from the Public Works Director in accordance with the terms and conditions of this Section. All applicable fees shall be paid for such occupancy permit in accordance with the City Fee Schedule. Any approved occupancy of the public right-of-way shall be properly barricaded and conducted in accordance with an approved traffic plan, as required by the Public Works Director. Existing drainage channels and gutters shall be kept free of obstruction and dirt or debris so that the natural flow of the drainage is maintained and all stormwater BMP's shall be met.

**11-01-090. Overflowing Water.**

It shall be unlawful for any person to allow water to overflow from any ditch, subsurface drainage system, roof drain, canal, well, or irrigation stream onto the streets, sidewalks or property of the municipality.

**11-01-100. Discharge of Water.**

It shall be unlawful for any person owning, occupying, or having control of any premise to fail, refuse or neglect to prevent water from the roof or eaves of any house, building, or other structure, or from any other source under the control of such person to be discharged onto the streets, sidewalks or property of the municipality.

**11-01-110. Irrigation Ditches under Sidewalks.**

All owners or occupants of lots in the City who require water from a main ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes, install culverts, and maintain the same to convey water under sidewalks to or from their respective lots. Any such activity within the public right-of-way shall require an Excavation Permit in accordance with the provisions of Title 11, Chapter 4. All culverts, ditches, pipes and flumes conveying water under sidewalks shall comply with the Standards and Specifications as adopted by the City.

**11-01-120. Removal of Snow from Sidewalks.**

It shall be unlawful for the owner, occupant, lessor, or agent of any property, abutting a paved sidewalk to fail to remove, or have removed from such paved sidewalk, all hail, snow, or sleet thereon within a reasonable time after such snow, hail, or sleet has fallen. It shall be unlawful for any person removing snow from the sidewalk, driveway, or other property, to deposit snow, dirt, leaves, or any other material in the gutter so as to clog or prevent the free flow of water therein or in the street.

**11-01-130. Trash or Other Obstructions.**

It shall be unlawful for any person owning, occupying or having control of any premise to place, or permit to be placed (except on normal garbage collection days), upon or in the sidewalk, gutter, or within the street next to such premise which would hamper pedestrian or vehicular traffic:

(a) Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, or other like substances.

(b) Any lumber, boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, except as expressly authorized by ordinance.

(c) Any permanent or temporary structure, mechanism, device, vehicle, or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinance or other utilities or facilities as expressly authorized by ordinance.

**11-01-140. Parade Route Restrictions.**<sup>3</sup>

The following restrictions shall apply to the use of public property and rights-of-way adjoining designated parade routes or other public events. It shall be unlawful for any person to actually claim or attempt to claim, reserve, occupy or otherwise control public property either in person or by the placement of any object, such as, but not limited to, ropes, chairs, blankets, banners, vehicles, or barriers of any kind, prior to 4:00 p.m. the day before the scheduled parade or public event or prior to 5:00 p.m. if the day before the parade or event is a Sunday. It shall be unlawful for any person to place, erect, use or employ any stakes, tents or enclosed shelters, including vehicles or trailers, on public property adjoining a designated parade route or other public event at any time. No person shall obstruct public sidewalks, paved portions of streets, or occupy any unsafe position or occupy a position which may cause damage to public or private property. A violation of this Section shall be deemed an infraction, punishable by fine not to exceed fifty dollars (\$50.00).

**11-01-150. Park-Strip and Street Tree Regulations.**

(a) Definition. For purposes of this Chapter, park-strip shall mean the area located between the top back of the curb line to the front face, street side of the sidewalk or to the right-of-way when no sidewalk is present, but not including driveways, sidewalks, or trails.

(b) Maintenance. Except as otherwise provided and approved by the City, park-strips shall be landscaped with grass and plantings in accordance with applicable City Ordinances, including, but not limited to the City Zoning Ordinance and the provisions of this Chapter. Maintenance of all park-strip areas shall be the responsibility of the abutting property owner.

(c) Visual Obstructions. The following regulations shall apply to all structures, improvements and landscaping within park-strips:

(1) *Height Restriction.* In all zones, no fence, wall, sign, or similar structure, or landscaping which exceeds two (2) feet in height, except for trees approved by permit, and standard mailboxes, shall be placed within the park-strip.

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<sup>3</sup> Amended by Ordinance No. 2016-16, June 7, 2016

(2) *Enclosed mailboxes.* Except for cluster-box structures, all enclosed mailboxes within the park-strip, shall meet the USPS standard height of forty-one (41) inches to forty-five (45) inches and all other applicable USPS standards. Mailboxes, poles, stands and other similar devices shall not exceed eighteen (18) inches by eighteen (18) inches measured at the base. Street side mail-boxes shall be reviewed at the time of building permit review for all new residential development.

(3) *Driveway.* No sight obscuring fence, wall, sign, or other similar structure or landscaping, which exceeds two (2) feet in height shall be placed within a triangular area formed by a driveway line, the street/curb line, and a line connecting them at points twelve (12) feet along the driveway line and twelve (12) feet along the street/curb line, measured at the joint of the asphalt and gutter line.

(4) *Clear View of Intersection Street.* In all zones, no fence, wall, sign, or similar structure, or landscaping which exceeds two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street/curb lines measured at the joint of the asphalt and gutter line and a line connecting them at points fifty (50) feet from the intersection of the street/curb lines, except for public safety signs and equipment. Deciduous trees within the 50-foot triangle shall be allowed by permit approved by the Public Works Director. Evergreen trees are not allowed within the 50-foot triangle. Trees planted without a permit shall be subject to removal by the Public Works Department. Trees existing as of the date of adoption of this Ordinance with trunks located within the clear-view area defined herein may remain at the discretion of the City based upon safety and visibility standards, but may not be replaced once removed.

(d) *Park-Strip Trees.* All property owners who desire to plant a tree, or trees, within the park-strip or any portion of the public right-of-way, if a park-strip is not established, shall meet the following criteria:

(1) *Permit.* A complete application for permit shall be submitted to and reviewed by the Public Works Director or designee. The application shall include at least the following information:

(A) Name and address of applicant;

(B) Site plan indicating the location of the desired tree(s) and distance from curb, sidewalk, street corner, driveway, signage, fire hydrant, cross walk, utility meter and power lines; and

(C) The species and number of tree(s) to be planted.

(2) *Location.*

(A) Trees shall only be allowed within park-strips that have a minimum of four (4) feet in width, measured between the top back of the curb line to the front face of the sidewalk line.

(B) A tree planted within the park-strip shall be planted in the center of the park-strip at least two (2) feet from the curb and two (2) feet from the sidewalk.

(C) Each tree within the park-strip shall be planted no less than 20 feet from another park-strip tree.

(D) Park-strip trees shall not be allowed within thirty (30) feet of a public safety sign. Additional length for a specific area may be required as the City deems appropriate such as: distance from culinary and secondary water valves, distance from telecommunication fixtures, distance from power utility boxes, and distance from fire hydrants.

(E) All trees planted within the park strip shall meet the visual obstructions criteria found within 12-55-230 of the Centerville City Zoning Ordinance, as amended.

(F) Before choosing the planting location or installing any tree, the applicant shall contact Blue Stakes for location of underground utilities.

(3) *Maintenance.*

(A) All property owners shall be responsible for the cleanup of shed leaves, fruit, nuts, pods, branches and all other items produced by the vegetation found within the park-strip, or within the public right of way.

(B) Trees shall be pruned by the property owner as to have eight (8) feet of clearance over the sidewalk and thirteen (13) feet of clearance over the street.

(C) All newly planted trees under power lines shall not exceed twenty-five (25) feet at the tree's full mature height. Trees that may exceed this mature height limit may require removal at the homeowner's expense. All existing trees planted under power lines shall be pruned at the discretion of the electric utility provider.

(D) The City shall have the right to prune, maintain, or remove trees, at the owner's expense, within the park-strip and within the City right-of-way, that are deemed a hazard by the Centerville City Street Department Supervisor. A tree may be considered hazardous due to, but not limited to the following: size, age, condition, disease or obstructing the clear view of streets, signs, signals or intersections.

(E) Trees existing as of the date of adoption of this section that do not meet the City standard for park strip or street side trees may remain at the discretion of the City based upon safety and visibility standards, but may not be replaced once removed.

(F) The City shall have the right to require a property owner to remove any tree, at the owner's expense, that is deemed a safety hazard to pedestrians or vehicular traffic, or is damaging public infrastructure, regardless of when the tree was planted.

(4) *Acceptable Tree List.* The following is a list of acceptable trees that may be planted in the park-strip; provided, other trees may be approved by the City:

1. **Amur Maple**

Height: 15'  
Spread: 15'  
Growth Rate: Medium

2. **Eastern Redbud**

Height: 25'  
Spread: 25'  
Growth Rate: Medium

3. **English Hawthorn**

Height: 15'  
Spread: 15'  
Growth Rate: Slow

4. **Rose of Sharon Tree Form**

Height: 12'  
Spread: 6'  
Growth Rate: Slow-Medium

5. **Spring Snow Flowering Crabapple**

Height: 20'  
Spread: 20'  
Growth Rate: Fast

**6. Flowering Pear**

Height: 25'  
Spread: 16'  
Growth Rate: Fast

**7. Lavalle Hawthorn**

Height: 20'  
Spread: 20'  
Growth Rate: Medium

**8. Red Buckeye**

Height: 20'  
Spread: 25'  
Growth Rate: Medium

**9. Bigtooth Maple**

Height: 25'  
Spread: 15'  
Growth Rate: Slow

**10. Washington Hawthorn**

Height: 25'  
Spread: 25'  
Growth Rate: Medium

(5) Trees within the right of way where no park-strip exists shall be at least twelve (12) feet from the street/curb line, as measured from the top back of curb, and planted no less than twenty (20) feet from another street tree. The guidelines for visual obstructions shall apply to all street trees.

(e) Other Park-Strip Groundcover and Plantings. In all zones, hard surfacing within the park-strip shall be prohibited, unless reviewed and approved by the Streets Department. The use of course wood products (such as: bark, mulch and wood chips greater than a one-inch diameter), within the park-strip is prohibited. Decorative cobble, stepping stones, grass or other vegetation under two (2) feet shall be acceptable.

(f) Enforcement.

(1) Trees existing as of the date of adoption of this Section that do not meet the City standard for park-strip or street side trees may remain at the discretion of the City based upon safety and visibility standards, but may not be replaced once removed. Owners of existing park-strip/street side trees shall still be required to follow all maintenance standards required herein.

(2) Those who do not comply with the park-strip standards found herein shall be subject to enforcement action, which may include the removal of any such non approved item planted, constructed or placed within the park-strip and/or City right-of-way.

**11-01-160. Street Name and Addressing Regulations.**

(a) Purpose. The purpose of this Section regarding street name and addressing regulations is to promote order and predictability for emergency services, mail and delivery services, and common directional communication.

(b) Applicability. All buildings, addresses, lots, parcels, tracts, development, and other uses of land, and all publicly dedicated streets within the City shall be subject to the provisions of this Section and any applicable State statutes, construction codes or other applicable law. If there is a conflict between the provisions of this Section and any other applicable law or regulation, the most restrictive regulation shall apply unless otherwise preempted by State law.

(c) Numerical Street Coordinate System. All streets within the City shall be principally labeled using a numerical-based directional coordinate grid system. This system's base point is located at the intersection of Center Street and Main Street. This system is more particularly shown in Figure 1.

(d) Use of Alias Street Name. In addition to the officially assigned street numeric label, a street may be given an alias label, as approved by the City and in coordination with the City's emergency service entities, the County, and the local postmaster.

(e) Assignment of Street Names. The initial assignment of street names shall be reviewed and approved by the City's Public Works Director or his/her designee. Generally, all developments consisting of publicly dedicated streets shall provide the required street numeric and/or desired alias as part of the associated subdivision or street dedication plat approval.

(f) Changes, Corrections, or Alteration of Street Names. A street name may be changed, corrected, or altered (collectively referred to as "street name change") upon approval of the City Council. Any requests for street name change shall be submitted in writing to the Public Works Director. Such written request for street name change shall include a correct and current mailing list of all property owners of record of properties having a mailing address on, or for undeveloped properties located on, the street or portion of the street subject to the proposed name change (hereinafter referred to as "affected property owners"). The written request for street name change shall also include a petition describing the proposed name change and containing the signatures of all affected property owners of record who consent to the proposed street name change. In order to approve any street name change request, the required petition must include the signatures from at least 75% of the affected property owners consenting to the street name change. The written request for street name change must also include a letter of approval from all emergency services, Davis County, and local postmaster indicating that they have been notified of the proposed street name change and that such name change is acceptable. All costs associated with street name change requests shall be borne by the applicant making the request. The City Council may change, correct, or alter a street name upon the occurrence of the following:

(1) The Public Works Director shall review the written request to determine if the application is complete. If deemed complete, the Public Works Director shall prepare a Staff Report regarding the proposed street name change and forward the same with the written request and petition to the City Council.

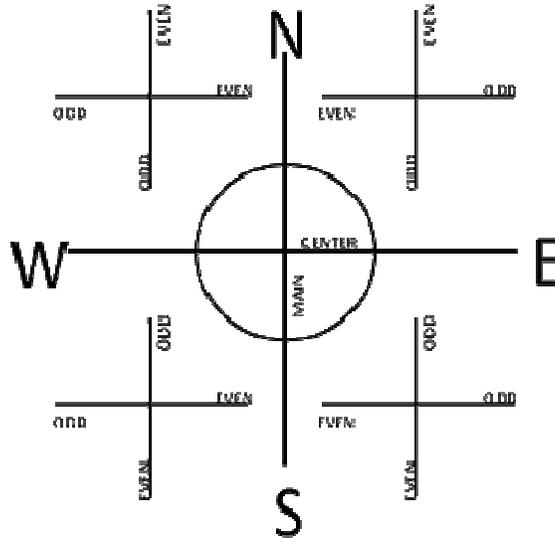
(2) The City Council shall schedule and hold a public hearing regarding the street name change request and consider the evidence and petition submitted to determine whether the street name change is warranted or appropriate. Notice of the public hearing and the proposed street name change shall be provided to all affected property owners as defined in Subsection (f). Public notice of the meeting and hearing shall also be provided in accordance with the Utah Open and Public Meetings Act.

(2) The City Council must determine, based on the evidence presented, that there is good cause to allow the street name change, correction, or alteration.

(3) The City Council is satisfied all emergency services, Davis County, and local postmaster have been notified by the applicant of the proposed change and have submitted the required written letter of approval.

(4) The City Council is satisfied there are sufficient funds budgeted or provided to facilitate the replacement of all signs associated with the proposed change, correction, or alteration. If the name change request is from a private citizen or agency, such person or agency shall pay for the cost of the replacement signs, unless otherwise specifically directed by the City Council.

(g) Numerical Address Coordinate System. All buildings, addresses, lots, parcels, tracts, development and other uses of land shall be labeled using an odd or even numeric/directional-based labeling system. This system's base point is located at the intersection of Center Street and Main Street. All east-west and north-south numeric/directional coordinates have been divided into quadrants associated with this base point and odd-even numeric shall be assigned as shown in Figure 1.



**Figure 1 – Address Coordinate System**

(h) **Assignment of Numerical Addresses.** The initial assignment of numerical addresses for parcels, lots, tracts, or buildings shall be reviewed and approved by the Public Works Director or his/her designee. Generally, all land division applications shall provide the required numerical address with the associated subdivision or street dedication plat approval in accordance with the Numerical Address Coordinate System set forth herein. For corner lots, two numerical addresses shall be provided for each lot and the final address assignment will be assigned with the issuance of the related building permit.

(i) **Changes, Corrections, or Alteration of Assigned Numerical Addresses.** An assigned Numerical Address may be changed, corrected, or altered upon approval of the Public Works Director or his/her designee. The Director may change, correct, or alter an assigned address upon the occurrence of the following:

- (1) A written request from the property owner or the property owner's agent is submitted to the City and includes the need or reason for requesting a change.
- (2) The Director determines that a change is warranted or appropriate to resolve a conflict or problem.
- (3) The new address is consistent with the Numerical Address Coordinate System set forth herein.
- (4) The new address is deemed acceptable by the City's emergency service entities and the applicant has supplied letters of approval from all affected entities.
- (5) A written letter, signed and notarized, is prepared and submitted to the Davis County Recorder with copies sent to the requester and the local postmaster.

**CHAPTER 11-02.      RESERVED.**

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## CHAPTER 11-4. EXCAVATION PERMITS

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### 11-04-010. Title.

This Chapter shall be known as and may be referred to as the Centerville City Excavation Permit Ordinance.

### 11-04-012. Authority.

This Chapter is adopted pursuant to and in accordance with applicable provisions of state law regarding a municipality's right to regulate its rights-of-way and under the City's police power to establish procedures and standards for the safe use of its rights-of-ways, including, but not limited to, the provisions set forth in *Utah Code Ann.* §§ 10-8-11, § 10-8-13, § 10-8-23, and § 10-8-84, as amended, and provisions of the Protection of Highways Act, as set forth in *Utah Code Ann.* §§ 72-7-101, *et seq.*, as amended.

### 11-04-015. Administration.

This Chapter shall be administered and enforced by the Public Works Director, or his or her authorized designees.

**11-04-017. Definitions.**

For purposes of this Chapter, the following terms and phrases shall have the meaning set forth herein:

(a) "Applicant" means any person who makes application for an Excavation Permit under the provisions of this Title.

(b) "Emergency" means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility services.

(c) "Manual on Uniform Traffic Control Devices" means the manual on proper barricading and traffic control devices as published by the Federal Highway Administration (FHWA).

(d) "Permittee" means any Person which has been issued a permit and thereby has agreed to fulfill the requirements of this Chapter.

(e) "Person" means and includes any natural person, partnership, firm, association, Provider, corporation, company, organization, or entity of any kind.

(f) "Property Owner" means person or persons who have legal title to property and/or equitable interest in the property.

(g) "Provider" means any person providing utility, cable or telecommunications services to another through the use of a system of facilities and infrastructure which uses the public rights-of-way, or any person who owns or operates such a system and leases it to another for the purpose of providing utility, cable or telecommunications services to another, or any public utility company which uses the public rights-of-way for purposes of providing gas, electrical, water or other utility product or services for the use by the general public.

(h) "Public Right-of-Way" means and includes all municipal streets, alleys, roads, lanes, footpaths, walkways, sidewalks and easements within the City dedicated to the public; provided, Public Rights-of-Way shall not include any real or personal property of the City that is not specifically described herein and shall not include utility easements not within rights-of-way of the City.

(i) "Standards and Specifications" means the latest version of the Standards and Specifications for construction of public improvements and other construction within the public rights-of-way as adopted by the City.

**11-04-020. Permit Required.**

Any person desiring to perform work of any kind in a Public Right-of-Way, other than the City or its authorized employees and agents, shall be required to apply for and obtain an Excavation Permit from the City. The decision by the City to issue an Excavation Permit shall include, among other factors determined by the City, the following:

(a) The capacity of the Public Right-of Way to accommodate the facilities or structures proposed to be installed in the Public Right-of-Way;

(b) The capacity of the Public Right-of-Way to accommodate multiple wires, pipes, and facilities in addition to cables, conduits, pipes and other facilities or structures of other users of the Public Right-of-Way, such as electrical power, telephone, gas, sewer and water;

(c) The damage or disruption, if any of public or private facilities, improvements, or landscaping previously existing in the Public Right-of-Way; and

(d) The public interest in minimizing the cost and disruption of construction from numerous excavations of the Public Right-of-Way.

**11-04-025. Exemptions.**

An Excavation Permit is not required from the Public Works Director for hand digging excavations for installation or repair of sprinkler systems, landscaping or street trees within the park-strip and non-paved areas of the Public Right-of-Way. However, conformance to all City Standards and Specifications is required for such excavations, as well as applicable provisions of the Zoning Ordinances regarding sight distances and landscaping regulations, Title 9 regarding water meter restrictions, and Title 11 regarding street tree permits.

**11-04-030. Permit Application Requirements.**

(a) Application for an Excavation Permit shall be filed with the Public Works Director on a form or forms to be furnished by the City.

(b) Only the following persons or entities shall be eligible to apply for or receive an Excavation Permit to do work within the Public Rights-of-Way of the City:

(1) Contractors licensed by the State of Utah as E100 or applicable license authorized to work in public right-of-way; or

(2) Providers.

(c) All Applications shall include excavation plans and details, showing the trench detail including the length, width, and depth of the trench, the exact location and address of the trench, and the relationship of the trench to the right-of-way lines, traffic lanes, intersections, signals and structures.

(d) All Applications shall include a traffic control plan, including the speed limit, taper length, devices and spacing in the taper, signs and spacing, traffic phasing, hours of construction, traffic lane closures, and shall be in compliance with the Manual on Uniform Traffic Control Devices.

(e) All Applications shall include the requisite application fee, inspection deposit, bonds and insurance certificates as more particularly set forth in this Chapter.

**11-04-032. Application Review and Approval.**

(a) The Public Works Director may deny the issuance of permits to contractors, utility companies, or other permit Applicants who have shown by past performance that in the opinion of the Public Works Director, with the advice of the City Engineer, they will not consistently conform to the Standards and Specifications or the requirements of this Chapter.

(b) To fully determine the relationship of the work proposed to existing or proposed facilities within the Public Rights-of-Way, and to determine whether the work proposed complies with the Standards and Specifications, all Excavation Permit Applications shall include engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship and compliance. When deemed appropriate in the sole discretion of the Public Works Director, such plans, specifications and sketches may be waived. Unless otherwise waived in writing by the Public Works Director, the application shall be deemed suspended until such plans and sketches are filed and approved by the City.

(c) It shall be unlawful for any person to commence work upon any Public Right-of-Way until the Public Works Director has approved the application and until an Excavation Permit has been issued for such work.

(d) The disapproval or denial of an application by the Public Works Director may be appealed by the Applicant to the City Manager by filing of a written notice of appeal within ten (10) days of the action of the Public Works Director. The City Manager shall hear such appeal, if written request therefor is timely filed, and render his or her decision within a reasonable time following notice of such appeal. Any final decision of the City Manager issued hereunder may be appealed to the City Council by filing a written notice of appeal within ten (10) days from the date of the final decision issued by the City Manager. The City Council shall hear such appeal, if written request therefor is timely filed, and render its decision within a reasonable time following notice of such appeal.

(e) In approving or disapproving work within any Public Right-of-Way, or permits therefor, in the inspection of such work, in reviewing plans, sketches or specifications, and generally in the exercise of the authority conferred upon him or her by this Chapter, the Public Works Director shall act in such manner as to preserve and protect the Public Right-of-Way and the use thereof, but shall have no authority to govern the actions or inaction of Permittees and Applicants or other persons which have no relationship to the use, preservation or protection of the Public Right-of-Way.

**11-04-035. Franchise Required.**

Any person, governmental entity or Provider desiring to construct, maintain, repair, operate or use any improvements or facilities to be located within the Public Right-of-Way shall be required to obtain a franchise or other acceptable rights-of-way use agreement or license agreement with the City authorizing the use of the Public Right-of-Way for such improvements or facilities in accordance with the provisions of Section 11-01-055, as amended, in addition and prior to the issuance of any Excavation Permit for work within the Public Right-of-Way.

**11-04-040. Emergency Work.**

(a) Any person maintaining pipes, lines, or facilities in the Public Right-of-Way may proceed with work upon existing facilities without an Excavation Permit when emergency circumstances demand the work to be done immediately; provided an Excavation Permit could not reasonably and practicably have been obtained beforehand.

(b) In the event that emergency work is commenced on or within any Public Right-of-Way of the City during regular business hours, the Public Works Director shall be notified within one-half hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to City Standards and Specifications, the Manual on Uniform Traffic Control Devices, and other applicable laws, regulations, or generally recognized practices in the industry.

(c) Any person commencing emergency work in the Public Right-of-Way during other than business hours without an Excavation Permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which City offices are open for business after such work is commenced. An Excavation Permit for such emergency work may be issued retroactive to the date when the work was begun, at the discretion of the Public Works Director.

**11-04-050. Application and Permit Fees.**

(a) The City shall charge and the Applicant shall pay upon issuance of the Excavation Permit, fees for costs associated with the work performed under the Excavation Permit as outlined in the Consolidated Fee Schedule. All costs shall be assessed in a non-discriminatory manner.

(b) The Public Works Director may waive permit fees or portions thereof provided for in this Chapter, when he or she determines that such permit fee:

(1) pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the City;

(2) pertains to an encroachment on the Public Right-of-Way involving a beautification project which furthers specific goals and objectives set forth in the City's strategic plan, master plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping; or

(3) pertains to construction or encroachment by a governmental entity.

(c) Additional charges to cover the reasonable cost and expenses of any required engineering review, professional services, inspection, and work site restoration associated with each undertaking may be charged by the City to each Permittee, in addition to the permit fee. A deposit for such charges may be required as a condition of permit approval.

**11-04-060. Permit - Contents, Duration and Extensions.**

(a) Each Excavation Permit application shall state the starting date and estimated completion date. Work shall be completed within five (5) days from the starting date or as determined by the Public Works Director. Such determination shall be based upon factors reasonably related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:

(1) The scope of work to be performed under the permit;

(2) Maintaining the safe and effective flow of pedestrian and vehicular traffic on the Public Right-of-Way affected by the work;

(3) Protecting the existing improvements to the Public Right-of-Way impacted by the work;

(4) The season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the Public Right-of-Way by the public; and

(5) Use of the Public Right-of-Way for extraordinary events anticipated by the City.

(b) The Public Works Director shall be notified by the Permittee of commencement of the work at least twenty-four hours prior to commencing work. The Excavation Permit shall be valid for the time period specified in the permit.

(c) If the work is not completed during such period, prior to the expiration of the permit, the Permittee may apply to the Public Works Director for an additional permit or an extension, which may be granted by the Public Works Director for good cause shown.

(d) The length of the extension requested by the Permittee shall be subject to the written approval of the Public Works Director.

**11-04-070. Permit - No Transfer or Assignment.**

Excavation permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this Chapter and under said permit.

**11-04-080. Compliance with Standards and Specifications.**

(a) The work performed in the Public Right-of-Way shall conform to the requirements of the Standards and Specifications and Traffic Control Regulations of the City, copies of which shall be available from the Public Works Director, kept on file in the office of the City Recorder and open to public inspection during office hours. All work performed within the Public Right-of-Way shall also comply with applicable City Ordinances, including, but not limited to, park-strip regulations set forth in Title 12, and water meter regulations set forth in Title 9.

(b) Where a job site is left unattended, before completion of the work, signage with minimum two inch (2") high letters shall be attached to a barricade or otherwise posted at the site, indicating the Permittee's name, or company name, telephone number, and after hours telephone number.

**11-04-082. Minimum Interference.**

All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the Public Right-of-Way shall be minimized.

**11-04-084. Barricades.**

Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the Permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the City; in which case the barricades, together with any necessary lights, flares or flashers, must remain in place until the backfill work is actually commenced by the City. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, flashers, etc., as required by the Public Works Director.

**11-04-086. Road Closures.**

Any excavation requiring a road closure shall be required to fill out and have approved a road closure permit form. All road closures shall be approved by the Public Works Director, with the consent of the Police Chief. All road closure permit applications shall include traffic control and barricade plans. The Police Department and Fire Department shall be notified at least twenty-four (24) hours in advance of any street closure or traffic detour.

**11-04-088. Excavating Requirements.**

(a) All excavations shall be bored and pot holed rather than open cut unless prior approval for open cutting is obtained at the time of issuance of the Excavation Permit. The City may permit open cutting upon the approval of the Public Works Director after receipt of a recommendation from the City Engineer in the following instances:

- (1) when grade or alignment conflict with another utility or utilities;
- (2) for safety and health concerns; or
- (3) in cases where utilities need to be placed on a specific grade, e.g. sanitary sewer, storm drain lines, etc.

(b) If the excavation is through asphaltic concrete, concrete, or stone, the excavator shall make the cut perpendicular at the side and ends from the surface to the full depth along the length and width of all excavations. In all cases, such precautions shall be taken as to ensure a neat, clean excavation cut.

(c) If excavating is done by machine, the Permittee shall do such excavating with either a trenching machine or equipment which does not have cleats, spikes or other protruding parts which will come in contact with the street surface when such machine is in motion, and which does not have a cutting width in excess of forty inches (40").

**11-04-089. Inspection Required before Hard Surfacing.**

Any Excavation Permit involving cuts into the hard surfacing of the Right-of-Way shall require an inspection of the road base, compaction, edges, saw cutting, and oil tacking, of affected areas prior to replacing the hard surfacing. A request for inspection shall be scheduled with the Public Works Department at least twenty-four (24) hours in advance of hard surfacing within the Right-of-Way or closing of any compacted area. Every Excavation Permit involving cuts into the hard surfacing of the Right-of-Way shall require an inspection deposit in the amount set forth in the City Fee Schedule. Failure to comply with the inspection requirements set forth herein shall be deemed a violation of this Chapter punishable by penalty set forth in Section 11-04-220. In addition to the remedies set forth in Section 11-04-220, the City may retain the inspection deposit amount in full and may require the Permittee to tear out any hard surfacing installed without prior inspection required herein.

**11-04-090. Other Highway Permits.**

(a) Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the City limits, shall not be required to obtain an Excavation Permit from the City under the provisions of this Chapter, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary, or is otherwise located within the Public Right-of-Way of the City. Any City permit shall not be construed to permit or allow work on a County road or on a State highway within the City without an applicable County or State permit.

(b) The Public Works Director, in his or her discretion, shall have the right and authority to regulate work under permits issued by other governmental entities with respect to hours and days of work, and measures required to be taken by the Permittee of said governmental entity for the protection of traffic and safety of persons and property. Notwithstanding the foregoing, nothing in this Chapter shall be construed to impose any duty, implied or express, on the City or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by government entities other than the City, or arising out of any work performed on any Public Right-of-Way owned or within the jurisdiction of the City.

**11-04-100. Relocation of Structures in Public Rights-Of-Way.**

(a) The City Engineer or Public Works Director may direct any person owning or maintaining facilities or structures in the Public Right-of-Way to alter, modify or relocate such facilities or structures as the City Engineer or Public Works Director may require as set forth herein. Such facilities or structures may include, but shall not be limited to, sewers, pipes, drains, tunnels, conduits, vaults, trash receptacles and overhead and underground gas, electric, utility, cable, telephone, telecommunication and communication facilities, pressure irrigation lines, and power and telephone poles. The person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the City, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the City. In the event that such person refuses or neglects to conform to the directive of the City, the City shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the City all costs incurred by the City in connection with such work performed by the City, including but not limited to design, engineering, construction, materials, insurance, court costs and attorneys fees.

(b) Any directive by the City Engineer or Public Works Director shall be based upon one or more of the following:

(1) The facility or structure was installed, erected or is being maintained contrary to law, or determined by the City Engineer or Public Works Director to be structurally unsound or defective;

(2) The facility or structure constitutes a nuisance as defined under State statute or City ordinance;

(3) The authority under which the facility or structure was installed has expired or has been revoked;

(4) The Public Right-of-Way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction;

(5) The grades or lines of the Public Right-of-Way are to be altered or changed; or

(6) Public convenience and necessity.

(c) Any directive of the City Engineer or Public Works Director under this Section shall be under and consistent with the City's police power. Unless an emergency condition exists, the City Engineer or Public Works Director shall make a good faith effort to consult with the person regarding any condition that may result in a removal or relocation of facilities in the Public Right-of-Way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive as far enough in advance of the required removal or relocation to allow the person a reasonable opportunity to plan and minimize costs associated with the required removal or relocation.

(d) This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the Public Right-of-Way, if that prior private easement grants a superior vested right.

(e) Any person owning or maintaining facilities or structures in the Public Right-of-Way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the City Engineer or Public Works Director shall be guilty of a class B misdemeanor. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.

(f) The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the System and appurtenances on, over or under the Public Right-of-Way, in which event the City shall not be liable therefor to a person. The City shall notify a person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this subsection.

#### **11-04-110. Impact of Excavation on Existing Improvements.**

(a) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with City standards for such.

(b) Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

(c) At any time a Permittee disturbs the yard, residence or the real or personal property of a private property owner or the City, such Permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the Permittee. Further, a Permittee shall reimburse a property owner or the City, for any actual damage caused by the Permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this Subsection shall require the Permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the Permittee remove, replace or relocate improvements associated with the service provided by the Permittee to the property owner and when the Permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the Permittee on which the Permittee relied to its detriment.

(d) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Public Works Director prior to the blockage of the channel. Permittee shall comply with all other storm water drainage requirements and restrictions, including, but not limited to, applicable provisions of the Storm Water Ordinance as set forth in Title 16, as amended.

(e) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.

(f) The requirements of this Section shall not apply to the removal by a Permittee, of a permanent structure placed by a property owner in a Public Right-of-Way, unless such property owner has received prior written permission from the City granting the property owner the right to install a permanent structure within the Public Right-of-Way, and such written permission has been recorded in the office of the County Recorder.

#### **11-04-120. Restoration of Public Property.**

(a) The Permittee shall, at its own expense, restore the surface of any Public Right-of-Way to its original condition and replace any removed or damaged pavement, landscaping and improvements. All damaged pavement shall be replaced with the same type and depth of pavement as that which is adjoining, including the gravel base material. In any event, all restoration shall conform to the Standards and Specifications promulgated by the City and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the Public Works Director.

(b) The Permittee doing the actual excavation work may request that the City restore the surface to its original condition. Approval of such request shall be made by the Public Works Director as part of the Excavation Permit approval. The fee for such resurfacing shall be determined by the Public Works Director in accordance with its reasonable costs for such work and shall be charged to the person, firm, or corporation making the excavation. Payment for the estimated cost of said work shall be received by the City prior to issuance of the Excavation Permit. Actual cost of such work shall be paid to the City prior to the release of the bond.

#### **11-04-130. Insurance Requirements.**

(a) Before a permit is issued, the Applicant shall furnish to the City evidence that such Applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the City:

(1) A minimum of Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than Two Million Dollars (\$2,000,000) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two times the required occurrence limit. The coverage shall be in the nature of Broad Form Commercial General Liability coverage. The City may increase the minimum insurance limits, depending on the potential liability of any project. In no event shall insurance coverage be in amounts less than those set forth herein or less than federal or state statutory limits and requirements, whichever is greater, including, but not limited to, governmental immunity cap limits for municipal corporations, as set forth in *Utah Code Ann.* §§ 63G-7-101, *et seq.*, as amended. The Permittee shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in *Utah Code Ann.* §§ 63G-7-101, *et seq.*, as amended, of the Governmental Immunity Act of Utah, as calculated by the State risk manager every two years and stated in Utah Admin. Code R37-4-3, as amended.

(2) All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "City" shall include the City, its employees, officers, officials, agents, volunteers and assigns.

(3) The coverage shall be primary insurance as respects the City, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the City, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the Permittee's insurance and shall not contribute to or with it.

(4) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its employees, officers, officials, agents, volunteers, and assigns.

(5) Coverage shall state that the Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(6) Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

(7) The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy.

(8) Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested sent to the City.

(9) Each policy shall be endorsed to indemnify, save harmless and defend the City and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the Permittee, or his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

(10) Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.

(b) Insurance coverage required herein shall be with a company licensed or authorized to do business in Utah. The insurance coverage shall be with a company or companies that maintain an A.M. Best's, or comparable rating agency, rating of A-XI or higher.

(c) The Permittee shall furnish the City with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the Permittee shall be prepared to provide such copies prior to the issuance of the permit.

(d) If any of the required policies are, or at any time become, unsatisfactory to the City as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City, the Permittee shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this Chapter.

(e) The Permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(f) Any deductibles or self-insured retentions shall be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its employees, officers, officials, agents, volunteers or assigns, or the Permittee shall procure a bond, in a form acceptable to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

(g) A Provider may be relieved of the obligation of submitting certificates of insurance if such company shall submit satisfactory evidence in advance that:

(i) It is insured in the amounts set forth in this Chapter, or has complied with State requirements to become self insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

(ii) Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this Chapter; or

(iii) The work to be performed under the permit issued to the Applicant is to be performed by the City, in which case insurance requirement or other risk transfer issues shall be negotiated between the City and the Applicant by separate agreement.

**11-04-140. Bonds and Warranty.**

(a) Except as noted in this Chapter, each Applicant, before being issued an Excavation Permit, shall provide the City with an acceptable corporate surety or cash bond in an amount determined by the Public Works Director, with the advice of the City Engineer, to guarantee faithful performance of the work authorized by a permit granted pursuant to this Chapter. The amount of the bond required may be increased or decreased at the discretion of the Public Works Director whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this Chapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the City.

(b) Public utilities franchised or authorized by separate agreement with the City shall not be required to file a bond if such requirement is expressly waived in the franchise documents or other acceptable right-of-way use agreement or license, or if such bond has been provided with the franchise grant or other acceptable right-of-way use agreement or license.

(c) The bond required by this Section shall be conditioned as follows:

(1) That the Permittee shall fully comply with the requirements of the City ordinances and regulations, the Manual on Uniform Traffic Control Devices, and the Standards and Specifications promulgated by the City, relative to work in the Public Right-of-Way, and respond to the City in damages for failure to conform therewith;

(2) That after work is commenced, the Permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the Public Right-of-Way to construction specifications, so as not to obstruct the Public Right-of-Way or travel thereon more than is reasonably necessary;

(3) That the Permittee shall guarantee the materials and workmanship for a period of two (2) years from completion of such work, with reasonable wear and tear excepted, unless a lesser warranty period is required by law regarding subdivision approval or development activity,; and

(4) That unless authorized by the Public Works Director on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days from the time the excavation commences, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to the Standards and Specifications. In winter, a temporary patch must be provided. In all excavations, restoration of pavement surfaces

shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the Permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

**11-04-150. Hold Harmless Agreement.**

(a) The Permittee agrees to save the City, its officers, employees, volunteers, and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit, including any work done by Permittee's contractors, subcontractors, agents, licensees, etc. The issuance and acceptance of any permit under this Chapter shall constitute such an agreement by the Permittee to this Section.

(b) This Chapter shall neither be construed as imposing upon the City, its officers, employees, volunteers, and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the Public Right-of-Way, or under a permit issued pursuant to this Chapter; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

**11-04-160. Work Without Permit.**

(a) A stop order may be issued by the Public Works Director or the City Engineer directed to any person or persons doing or causing any work to be done in the Public Right-of-Way without a permit.

(b) Any person found to be doing work in the Public Right-of-Way without having obtained a permit, as provided in this Chapter, shall be required to pay a permit fee equal to two times the normal permit fee.

**11-04-170. Failure to Comply or Default in Performance.**

(a) Any permit may be revoked or suspended and a stop order issued by the Public Works Director or the City Engineer, after notice to the Permittee for any of the following reasons:

- (1) Violation of any condition of the permit, the bond, or of any provision of this Chapter;
- (2) Violation of any provision of any other ordinance of the City or law relating to the work; or
- (3) Existence of any condition or the doing of any act which does constitute, may constitute or cause a condition endangering life or property.

(b) A suspension or revocation of a permit and a stop order, shall take effect immediately upon entry thereof by the Public Works Director or the City Engineer and notice to the person performing the work in the Public Right-of-Way. Notice to the person performing the work shall be accomplished when the Public Works Director or the City Engineer has posted a stop work order at the location of the work and written notice has been hand-delivered, or mailed return receipt requested, to the address indicated by the Permittee on the permit.

(c) Whenever the Public Works Director finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety or cash bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Public Works Director to be reasonably necessary for the completion of the work.

d) In the event that the surety or principal, within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of

doing the work, as set forth in the notice, the City may perform the work, at the discretion of the Public Works Director, with City forces or contract forces or both, and suit may be commenced by the City Attorney against the contractor and bonding company and such other persons as may be liable, to recover the entire amount due to the City, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

**11-04-180. Failure to Conform to Standards.**

(a) For failure to conform to the design standards and regulations, the Public Works Director or the City Engineer may:

- (1) Suspend or revoke the permit;
- (2) Issue a stop order;
- (3) Order removal and replacement of faulty work;
- (4) Require an extended warranty period; and/or
- (5) Negotiate a cash settlement to be applied toward future maintenance costs,

**11-04-190. Appeal of Suspension, Revocation, or Stop Order.**

Any suspension, revocation or stop order by the Public Works Director or the City Engineer may be appealed by the Permittee by filing a written notice of appeal with the City Manager within ten (10) days of the action of the Public Works Director or the City Engineer. The City Manager shall hear such appeal, if written request therefor is timely filed, as soon as practicable, and render its decision within a reasonable time following filing of notice of appeal.

**11-04-200. Tampering with Traffic Barricades.**

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site,

**11-04-210. Conflict with Governing Provisions.**

Should there be a conflict between the provisions of this Chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a Public Right-of-Way, the more restrictive provisions of the aforesaid documents shall apply.

**11-04-220. Violation - Penalty.**

Unless otherwise specified in this Chapter, a violation of any provision of this Chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a Class B misdemeanor, punishable by fine, imprisonment or both, as permitted by applicable laws of the State of Utah, or enforced through the civil enforcement procedures set forth in Chapter 1-06 of the Centerville Municipal Code, Each day the violation exists or continues shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this Chapter