

Ridgway Municipal Code

CHAPTER 14

SECTION 5

Excavation In and Encroachment Of Town Property

Subsections:

- 14-5-1 Purpose.
- 14-5-2 Objectives.
- 14-5-3 Definitions.
- 14-5-4 Police Powers.
- 14-5-5 Permit Required.
- 14-5-6 Permit Application - Permit Contents.
- 14-5-7 Permit and Rental Fees.
- 14-5-8 Insurance.
- 14-5-9 Performance Security.
- 14-5-10 Purpose of Performance Security.
- 14-5-11 Public Safety and Nuisance.
- 14-5-12 Time of Completion.
- 14-5-13 Traffic Control.
- 14-5-14 Minimizing the Impacts of Work in the Rights-of-Way.
- 14-5-15 Standards, Specifications, Administration and Inspection
- 14-5-16 Construction and Restoration Standards for Newly Constructed or Overlaid Streets.
- 14-5-17 Location and Relocation of Facilities.
- 14-5-18 Emergency Procedures.
- 14-5-19 Revocation of Permits.
- 14-5-20 Undergrounding Required.
- 14-5-21 Administration and Enforcement.

(Section Enacted by Ord 3-2000, Repealed and Restated by Ord 3-2001)

14-5-1 PURPOSE.

This Section provides principles, procedures and associated funding for the placement of structures and infrastructure, construction, excavation, encroachments and work activities within or upon any public right-of-way, and is intended to protect the integrity of the street system. To achieve these purposes, it is necessary to require permits for temporary or continuing uses of the public rights-of-way, to establish permit procedures and to fix and collect fees and charges.

14-5-2 OBJECTIVES.

Public and private uses of public rights-of-way for location of equipment employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the Town must insure that the primary purpose of the right-of-way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, facilities and properties should be protected, competing uses must be

reconciled, and the public safety preserved. The use of right-of-way corridors by continuing users is secondary to these public objectives, and the movement of traffic.

This Section 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. It thus has several objectives:

- (A) To insure that the public safety is maintained and that public inconvenience is minimized.
- (B) To protect the Town's infrastructure investment by establishing repair standards for the pavement, facilities, and property in the public rights-of-way, when work is accomplished.
- (C) To facilitate work within the right-of-way through the standardization of regulations and hardware placements.
- (D) To maintain an efficient permit process.
- (E) To conserve and fairly apportion the limited physical capacity of the public rights-of-way held in public trust by the Town.
- (F) To assure that the Town can continue to fairly and responsibly protect the public health, safety, and welfare.

14-5-3 DEFINITIONS.

For the purposes of this Section, the following words shall have the following meanings:

“Town” means the Town of Ridgway, Colorado, and any authorized officer or employee.

“Public right-of-way” or “right-of-way” or “public way” means any public street, way, place, alley, sidewalk, utility easement, owned or controlled by the Town.

“Work” means any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, 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 surface, and installation of overhead poles used for any purpose.

14-5-4 POLICE POWERS.

The permittees rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce ordinances, including amendments to this Section, 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 government unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this Section, any permit issued hereunder, any franchise, or any CATV or other permit to the contrary. Any conflict between the provisions of this Section, any

Ridgway Municipal Code

franchise or any permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

14-5-5 PERMIT REQUIRED.

(A) No person except the Town, or a person exempted by contract with the Town, shall undertake or permit to be undertaken any construction, excavation, or work in the public right-of-way, or operate and maintain any utility or communication facilities except those lawfully installed prior to June 1, 2000 pursuant to a franchise or other permit, without first obtaining a permit from the Town as set forth in this Section, except as provided in Section 14-5-18. Each permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by the Town. Provided however, the Town may waive a permit for minor repairs to existing sidewalks or driveways. (Ord 14-2007)

(B) 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, or 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 immediately and within twenty-four hours shall file a supplementary application for the additional construction, excavation, or work.

(C) Permits shall not be transferable or assignable and work shall not be performed in any place other than that specified in the permit. The applicant may subcontract the work to be performed under a permit provided that the holder of the permit shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required.

(D) The physical construction of public improvements in new developments 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 or on an area proposed for dedication as a public right of way or utility easement, but prior to acceptance by the Town, shall obtain a permit from the Town, and permission from the owner of the improvements and the proposed 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.

(E) Any work or use of other Town property, other than rights of way, may be allowed by the Town only if it is appropriate in the Town's discretion or authorized by other Town ordinances or regulations. Such use may be subjected to the provisions of this Section in addition to any other terms and conditions required by the Town.

(F) The installation of utility and communications facilities in rights of way controlled by the Colorado Department of Transportation shall nonetheless require the Town's approval, and compliance with applicable Town ordinances.

(G) A permit under this Section is not required for:

- (1) landscaping of that portion of the street right of way outside of the roadway when authorized pursuant to Section 14-3-2;

- (2) minor encroaching structures authorized by a Town Council approved revocable encroachment permit pursuant to 14-3-2;
- (3) work pursuant to a sidewalk construction or maintenance permit issued under Section 14-1-1.

(Ord 8-2007)

14-5-6 PERMIT APPLICATION - PERMIT CONTENTS.

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

(1) File a written application on forms furnished by the Town which will include information necessary or convenient for the administration and enforcement of this Section, including but not limited to the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor who will 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; and type of work proposed.

(2) Include evidence that the applicant or its contractor is not delinquent in payments due the Town on prior work.

(3) Attach copies of all permits or licenses (including required insurance, deposits, bonds, and warranties) required to do the proposed work, and to work in the public rights-of-way, if licenses or permits are required under the laws of the United States, the State of Colorado, or the ordinances or regulations of the Town.

(4) Provide a satisfactory plan of work showing 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 that damage may occur to such trees or turf.

(6) Include evidence that all orders issued by the Town to the applicant, requiring the applicant to correct deficiencies under previous permits issued under this Section, have been made.

(7) Include with the application engineering construction drawings or site plans for the proposed construction, excavation or work. When more than 100 linear feet of right of way is affected, plans shall be submitted both in writing and CAD format.

(8) Include with the application a satisfactory traffic control and erosion protection plan for the proposed construction, excavation, or work.

(9) Pay the fees prescribed by this Section.

(B) The permit shall be issued with terms and conditions as necessary and appropriate to implement this Section and protect the public health, safety and welfare, including provisions for

insurance, indemnification, a hold harmless and damage release for the Town, warranty, and repair periods, requirements for as built plans in both written and CAD format if construction deviates from the submitted plans, and requirements to reimburse the Town for any costs it incurs as a result of relying on inaccurate "as built" submitted to the Town.

(C) The Town may utilize different permit forms for entities with a Town approved franchise, CATV permit, or comprehensive system permit for a telecommunications or utility system maintained on a continuing basis.

14-5-7 PERMIT AND RENTAL FEES.

Before a permit is issued pursuant to this Section, the applicant shall pay to the Town a permit fee and any fee for rental of Town owned conduit, or of the right of way, which shall be determined in accordance with a fee schedule adopted by the Town Council by resolution.

14-5-8 INSURANCE.

(A) Whenever insurance is required of a licensee under this Section, such licensee shall:

(1) At all times maintain worker’s compensation insurance, public liability insurance with minimum limits of one hundred fifty thousand dollars for any one person and six hundred thousand dollars for any one accident, and public property damage insurance with a minimum limit of one hundred thousand dollars for any one accident.

(2) File with the Town a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of worker’s compensation and public liability and property damage insurance naming the Town and its officers and employees as an additional insured on the liability policy at least to the limits required by subsection (1) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, and a copy of an endorsement placed on each policy requiring ten days’ notice by mail to the Town before the insurer may cancel the policy for any reason.

(B) Evidence of insurance is not required from other government agencies or for an insubstantial project outside of the roadway, or upon a driveway, by or on behalf of the owner of abutting property when the property owner is the permittee. (Ord 8-2007)

14-5-9 PERFORMANCE SECURITY.

(A) Each permittee, before being issued a permit, shall provide the Town, at the permittees expense a performance security. This security shall be in the form of cash or an irrevocable letter of credit in a form and amount approved by the Town.

(B) The security shall be in an amount equal to one hundred percent of the Town’s estimate of the cost of restoration. The cost of restoration shall include, without limitation, the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The irrevocable letter of credit shall run for a period of time of at least two years beyond the anticipated acceptance date of the work identified in the permit. Such security shall be extended if requested by the Town, or, in the event the projected acceptance date is not met, for two years beyond the actual acceptance date.

Ridgway Municipal Code

(C) Security is not required for insubstantial projects outside of the roadway, or work by or on behalf of an abutting property owner outside of the roadway, or upon a driveway, when the property owner is the permittee. (Ord 8-2007)

(D) In lieu of the performance security arrangement described above, the Town may accept from persons holding a valid franchise or CATV permit from the Town, a water company, governmental agency or utility or telecommunications company blanket security covering all of the company's facilities and separate permits.

(E) Notwithstanding anything to the contrary contained in this Section, any contractor performing work pursuant to a contract directly with the Town shall adhere to the performance requirements set forth in the contract documents.

14-5-10 PURPOSE OF PERFORMANCE SECURITY.

(A) Any security provided hereunder may be used for the performance of work necessary to repair the public right-of-way if the permittee fails to make the necessary repairs or to complete the work under the permit, or to reimburse the Town for any costs it incurs as a result of any violations of this Section or the permit.

(B) The permittee, by acceptance of the permit, agrees to perform the work in a manner acceptable to the Town, and further agrees to maintain upon demand and to make all necessary repairs (as determined by the Town) during a two year period from acceptance of the work by the Town. This obligation shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship.
- (2) Settling of fills or excavations.
- (3) Any unauthorized deviations from the approved plans and specifications.
- (4) Failure to barricade.
- (5) Failure to clean up during and after performance of the work.
- (6) Any other violation of this Section, the Permit, or the ordinances of the Town.

(C) The two year repair period shall run from the date of the Town's acceptance of the work. If repairs are required during the two year repair period, those repairs need only be warranted until the end of the initial two year period starting with the date of initial acceptance.

(D) At any time prior to completion of the two year warranty period, the Town may notify the permittee of any needed repairs. Such repairs shall be completed within twenty-four hours if the defects are determined by the Town to be an imminent danger to the public health, safety, and welfare. Non-emergency repairs shall be completed within 30 days after notice.

14-5-11 PUBLIC SAFETY AND NUISANCE.

A person who obtains a permit for construction, excavation, or work in the public right-of-way shall maintain a safe work area, free of safety hazards or nuisance conditions. The Town may make any repair necessary to eliminate any hazards or nuisances or work not performed as directed. Any such work performed by the Town shall be completed and billed to the permittee at overtime rates. The permittee shall pay all such charges within 30 days of the statement date. If the permittee fails to pay

such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the performance security. Furthermore, the permittee shall be barred from performing any work in the public right-of-way, and under no circumstances will the Town issue any further permits of any kind to said permittee until all outstanding charges have been paid in full.

14-5-12 TIME OF COMPLETION.

All work covered by the permit shall be completed by the date stated on the application. Permits shall be void if work has not commenced six months after issuance. Letters of credit or cash deposited as a performance security for individual permits will be returned after voiding of the permit, with administrative and any other Town costs deducted.

14-5-13 TRAFFIC CONTROL.

(A) When it is necessary to obstruct traffic, a detour plan shall be submitted to the Town prior to starting construction. No permit will be issued until the plan is approved by the Town. No permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valve, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained in writing from the owner of that facility, equipment, or property. If a street closing is desired, the applicant will request the assistance and obtain the approval of the Town. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, transit organizations, and affected property owners at least 24 hours in advance.

(B) When necessary for public safety, the permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the Town.

(C) Unless approved by the Town, the permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours.

(D) Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights. Oil flares or kerosene lanterns are not allowed as means of illumination.

(E) Part VI of the Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The permittee shall illustrate on the permit the warning and control devices proposed for use. At the direction of the Town, such warning and control devices shall be increased, decreased, or modified.

14-5-14 MINIMIZING THE IMPACTS OF WORK IN THE RIGHTS-OF-WAY.

(A) Relocation and protection of utilities – Before any permittee begins excavation in any public way, he shall contact the Utility Notification Center of Colorado and make inquiries of all ditch companies, utility companies, districts, municipal departments, and all other agencies that might have facilities in the area of work to determine possible conflicts. The permittee shall contact the

Utility Notification Center of Colorado and request field locations of all facilities in the area at least 72 hours in advance. Field locations shall be marked prior to commencing work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

(B) Noise, dust, debris, hours of work – Each permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of 8:00 p.m. and 7:00 a.m. nor at any time on Sunday, except with the written permission of the Town, or in case of an emergency.

(C) Trash and construction materials – Each permittee shall maintain the work site so that:

- (1) Trash and construction materials are contained so that they are not blown off of the construction site.
- (2) Trash is removed from a construction site often enough so that it does not become a health, fire or safety hazard.
- (3) Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Town.

(D) Deposit of dirt and materials on roadways – Each permittee shall comply with the requirements to eliminate the tracking of mud or debris upon any street or sidewalk. Equipment and trucks used during construction, excavation, or work activity shall be cleaned of mud and debris prior to leaving the work site.

(E) Protection of trees and landscaping – Each permittee shall protect trees, landscape, and landscape features as required by the Town. All protective measures shall be provided at the expense of the permittee.

(F) Protection of paved and improved surfaces from equipment damage – Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved or improved surfaces unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to the surfaces by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the applicant's performance security by the Town to repair any damage, and possibly, the requirement of additional warrantees.

(G) Protection of property – Each permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

(H) Clean-up – As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the permittee.

(I) Preservation of monuments – Each permittee shall not disturb any surface monuments or survey hubs and points found on the line or work unless approval is obtained from the Town. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at

the permittees expense.

(J) Each permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not impacted.

(K) Each permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk in conformance with Town building codes.

(L) Each permittee shall clear all snow and ice hazards from public sidewalks at the work site by noon following a snowfall.

(M) The permittee shall provide adequate sanitary facilities.

14-5-15 STANDARDS, SPECIFICATIONS, ADMINISTRATION AND INSPECTION.

(A) The permittee shall be joint and severally liable and responsible with any contractor involved for the cost and proper performance of the work under the permit, in conformance with applicable Town ordinances, regulations, standards and specifications. (Ord 8-2007)

(B) All driveways, curb cuts, or other accesses to Town streets and alleys, shall be located, constructed and maintained in accordance with Town ordinances, regulations, standards and specifications. Such work shall require a permit and shall not adversely affect the flow or water in curbs and gutters, valley pans, inlets, ditches, pipes, culverts and other drainage and irrigation facilities whether on or off the public right of way. Such work shall not result in a traffic or safety hazard. Any damage to existing pavement, drainage or irrigation structures, curb, gutter, sidewalks, or other infrastructure caused by such construction or maintenance, shall be promptly repaired by the Permittee in accordance with Town ordinances, regulations, standards and specifications. No such access may be used until the Town inspects it and issues a Certificate of Approval. (Ord 8-2007)

(C) Access to state highways shall also be in compliance with the State Access Code. (Ord 8-2007)

(D) The Town may inspect the work as it deems appropriate, and issue a Certificate of Approval or acceptance after it determines the work has been done in apparent conformity with the permit and this Section. (Ord 8-2007)

(E) The permittee shall reimburse the Town for the costs the Town incurs in the review, issuance, administration and enforcement of the application and permit in accordance with the provisions of Subsection 7-3-20 of the Ridgway Municipal Code. (Ord 8-2007)

14-5-16 CONSTRUCTION AND RESTORATION STANDARDS FOR NEWLY CONSTRUCTED OR OVERLAYED STREETS.

(A) No person shall excavate an area in the pavement of any public street or alley for a period of three years from the completion of construction or resurfacing except in compliance with the provisions of this subsection. Any application for a permit to excavate in a public street or alley subject to the requirements of this subsection shall contain the following information:

(1) A detailed and dimensional engineering plan that identifies and accurately represents the Town rights-of-way or property that will be impacted by the proposed excavation. The following information shall also be included on the plan:

The street width or alley width including curb and gutter over the total length of each Town block that will be impacted by the proposed excavation.

The location, width, length, and depth of the proposed excavation.

The total area of existing street or alley that will be impacted by the proposed excavation.

(2) A written statement addressing the criteria for approval.

(B) Criteria for approval – No permit for excavation in the right-of-way of new streets shall be approved unless the Town finds that all of the criteria have been met:

(1) Boring or jacking under the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.

(2) Alternative utility alignments that do not involve excavating the street or alley found to be impractical.

(3) The proposed excavation cannot reasonably be delayed until after the three year deferment period has lapsed.

(4) Flowable fill is used to backfill the trench.

(C) Exemptions for emergency operations – Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer utility service. Any person commencing emergency operations shall submit detailed engineering plans and remediation plans no later than five working days after initiating the emergency maintenance operation.

(D) Construction and restoration standards for newly constructed or overlaid streets and alleys – The streets shall be repaired so as not to reduce the useful life of the pavement in accordance with design and construction standards adopted by the Town. If the total area of the proposed excavation exceeds fifteen percent of the total area of pavement within a block or involves a trench in excess of one hundred fifty feet in length, the applicant shall remediate the damage caused to the pavement. Remediation will consist of a curb to curb profile and overlay, a center line to curb profile and overlay, or a lane line to curb profile and overlay, whichever is necessary not to decrease the average life expectancy of the street or alley surface.

14-5-17 LOCATION AND RELOCATION OF FACILITIES.

(A) The location of the permittees facilities shall be subject to the prior approval of the Town, shall be located to maximize the potential use of the right of way, minimize interference with the Town's use and facilities, and conform to requirements of Town standards and specifications.

(B) If at any time the Town requests the permittee to relocate its facilities, in order to allow the Town to make any use of rights of way, or if at any time it shall become necessary or convenient,

because of a change in the grade or by reason of the improving, repairing, constructing, or maintaining of any street or rights of way, by reason of traffic conditions, public safety, by reason of installation of any type of Town utility facilities or other improvement, or by reason of any program for the undergrounding of such facilities, to move or change the permittees facilities within or adjacent to streets or rights of ways in any manner, either temporarily or permanently, the Town shall notify the permittee at least 90 days in advance, except in the case of emergencies, of the Town's intention to perform or have such work performed. The permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three working days prior to the date the Town has notified the permittee that it intends to commence its work or immediately in the case of emergencies. Upon the permittees failure to accomplish such work, the Town may perform such work at the permittees expense and the permittee shall reimburse the Town within 30 days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by the permittee at the permittees expense, and revised as-built plans submitted to the Town.

(C) The Town may require the relocation of facilities which are not installed in the approved location or corridor following the procedures set out in (B) above.

14-5-18 EMERGENCY PROCEDURES.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. Emergency work is defined to mean any work necessary to restore water, sewer, gas, phone, electric, and cable facilities. Repairs on other facilities in the public way may also be administratively classified as emergency by the Town. The person doing the work shall apply to the Town for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the Town Police Department and the appropriate fire protection agency.

14-5-19 REVOCATION OF PERMITS.

(A) Any permit may be revoked or suspended by the Town after notice to the permittee for:

- (1) Violation of any condition of the permit or of any provision of this Section.
- (2) Violation of any provision of any other ordinance of the Town or state law relating to the work.
- (3) Existence of any condition or performance of any act which the Town determines does constitute or cause a condition endangering life or damage to property.

(B) Suspension or revocation by the Town and a stop work order shall take effect immediately upon notice to the person performing the work in the public way, or to the permittees last known address.

(C) A stop work order may be issued by the Town to any person or persons doing or causing any work to be done in the public way without a permit, or in violation of any provision of this Section, or any other ordinance of the Town.

(D) Any suspension or revocation or stop work order may be appealed by the permittee to the Town Manager by filing a written notice of appeal within 10 days of the action.

14-5-20 UNDERGROUNDING REQUIRED.

(A) All new electric or communication facilities involving the use of poles or above ground wires are hereby prohibited within the Town, including within highway rights of way controlled by the Colorado Department of Transportation. New telecommunication lines and cables shall not be hung on existing power poles but shall be placed underground. All such facilities shall be constructed substantially underground within the Town, whether on public or private property. Underground construction on Town owned or controlled property and rights-of-way shall require a permit pursuant to this Section. Permittees are encouraged, but not required, to install conduit with space available for rental to other permittees, or to rent available conduit space from the Town or others rather than construct new excavations. A permit under this section shall be required whether existing conduit is used or not.

(B) Existing overhead electric and communication facilities may be converted to underground locations in the following manner:

(1) Pursuant to the procedures of CRS 29-8-101 et seq.

(2) When ordered by the Town where the Town is willing to pay and assume the costs of conversion for the applicable utility.

(3) When ordered by the Town in connection with incidental and episodic conversions associated with public improvements, such as street widening or sewer construction, at the cost of the public utility, facility owner or cable operator.

(C) The provisions of this section shall be applicable and supersede any inconsistent requirements in any existing franchise or permit as an exercise of the Town's police powers.

14-5-21 ADMINISTRATION AND ENFORCEMENT.

(A) It shall be unlawful to violate any of the provisions of this Section, or of a permit issued hereunder. Any person convicted of such a violation may be punished by a fine up to \$300. Each day a violation continues shall be considered a separate violation. (Ord 1-2017)

(B) Continuing violations of this Section, or of any permit issued pursuant hereto are hereby declared to be a nuisance, which may be abated in any lawful manner.

(C) The Town may maintain an action in a court of competent jurisdiction to enjoin any violation of this Section, or of any permit issued pursuant hereto.