

ORDINANCE NO. 1695

AN ORDINANCE OF THE CITY OF BOULDER CITY AMENDING TITLE 9 OF THE CITY CODE TO REPEAL CHAPTER 1, EXCAVATIONS AND OBSTRUCTIONS AND REPLACE WITH AN UPDATED CHAPTER 1, PUBLIC WORKS PERMITS

The City Council of Boulder City do ordain:

Section 1. That Boulder City, Nevada ("City") does by this Ordinance hereby amend Title 9 of the City Code to repeal Chapter 1, Excavations and Obstructions and replace with an updated Chapter 1, Public Works Permits attached hereto as **Exhibit A**.

Section 2. VALIDITY. Each section and each provision or requirement of any section of this ordinance shall be considered separable and the invalidity of any portion shall not affect the validity or enforceability of any other portion.

Section 3. PUBLICATION. The City Clerk shall cause this Ordinance to be published in summary on the 3<sup>rd</sup> day of March 2023, in the *Las Vegas Review Journal*, a daily newspaper, published in Las Vegas, Nevada.

Section 4. EFFECTIVE. This Ordinance shall become effective on the 23<sup>rd</sup> day of March 2023 after its approval and publication.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Joe Hardy, Mayor

  
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Tami McKay, City Clerk

The foregoing Ordinance was first proposed and read by title to the City Council on the 14th day of February, 2023, which was a regular meeting; thereafter, on the 28th day of February 2023, a regular meeting was held and the proposed Ordinance was adopted by the following vote:

VOTING AYE: Hardy, Booth, Fox, Jorgensen, Walton

VOTING NAY: None

ABSENT: None

APPROVED:



\_\_\_\_\_  
Joe Hardy, Mayor

ATTEST:



\_\_\_\_\_  
Tami McKay, City Clerk

## **Chapter 1 -PUBLIC WORKS PERMITS**

### **9-1-1. DEFINITIONS.**

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**ADMINISTRATIVE AUTHORITY:** The City of Boulder City, Nevada, hereinafter referred to as the "City."

**ADMINISTRATIVE OFFICER:** The city engineer or other designated official of the City (designee) responsible for the administration and enforcement of this chapter, hereinafter referred to as "Engineer."

**CITY COUNCIL:** The governing board of the City of Boulder City.

**CONTRACTOR:** A person who holds a valid and current contractor's license issued by the Nevada State Contractors Board to lawfully perform the work described on the permit. Such person must also hold a valid and current Boulder City business license as issued by the City.

**EXCAVATION:** Any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

**FACILITY:** Any building, off-site improvement, utility transmission or distribution system- or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed, or maintained in, upon, along, across, under or over any public place.

**INSPECTOR:** The authorized representative of the Engineer who is assigned to make detailed inspections of the work authorized by the permit.

**MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES or MUTCD:** The City Council adopted the MUTCD, Latest Edition, and requires compliance with this manual within the jurisdiction of the City of Boulder City, Nevada. The purpose of this manual is to set forth the basic principles and standards to be observed by all those who perform work within a public right-of-way, to provide safe and effective work areas and to warn, control, protect and expedite vehicular and pedestrian traffic, in accordance with NRS 484.781 which provides for the adoption and use of the Manual on Uniform Traffic Control Devices.

**NO CUT:** After a pavement reconstruction project, whether total reconstruction, rehabilitation, or maintenance sealing, that the pavement cannot be cut through for a minimum of 5 years after the project has substantially been completed.

**OBSTRUCTION:** Any objects, materials or facilities not owned by the City that are placed within a public right-of-way of the City for temporary storage purposes that are not a part of a street or highway facility. The term does not include licensed vehicles parked in a lawful manner within that right-of-way.

**PARKWAY:** An area within the public right-of-way between the back of curb and sidewalk, which is adjacent to public or private property and/or from the back of sidewalk to the adjacent right-of-way limits.

**PERMIT:** The written permission from the administrative authority to allow work to be performed in accordance with this Chapter.

**PERMITTEE:** Any contractor issued a permit by the administrative authority.

**PERSON:** Any individual, firm, partnership, association, corporation, company, or organization of any kind.

**PUBLIC PLACE:** Any public right-of-way, public parcel, public street, way, place, alley, sidewalk, parkway, park, square, plaza, or any other similar public property owned or controlled by the administrative authority and dedicated to public use.

**PUBLIC RIGHT-OF-WAY:** The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest.

**PUBLIC WORKS DIRECTOR:** The department director appointed by the city manager to direct and supervise the Public Works Department of the City.

**SPECIAL CONDITIONS:** Special specifications, reports, professional recommendations, drawings, tests, surveys, safety precautions or other special requirements needed before issuance of a permit.

**STANDARD SPECIFICATIONS AND DRAWINGS FOR PUBLIC WORKS CONSTRUCTION (STANDARDS):** Certain documents approved by the Engineer and adopted by the City Council governing excavation, removal, abandonment, alteration, improvement, or new construction of any facility within a public place, and such other standard specifications and drawings which may hereafter be adopted by the City Council.

**STRUCTURE:** Any pole, standard, sign, cabinet, fire hydrant, guy pole, wall, fence, guardrails, or any other similar structure located above the surface of any public place.

**SUBSTRUCTURE:** Any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, footing, or any other similar structure located below the surface of any public place.

**UTILITY:** A private company and/or corporation, public entity, or municipal department engaged in providing a particular service to the general public, existing under and by virtue of the laws of the State of Nevada.

### **9-1-2 STANDARD SPECIFICATIONS**

At the direction of the Public Works Director all work within the public right-of-way must conform to the standard specifications and drawings for public works construction, unless otherwise authorized by the Public Works Director.

### **9-1-3 WORK PERFORMED WITHOUT A PERMIT PROHIBITED**

No person shall perform work, including without limitation, excavation, removal, relocation, obstruction, altering, installation, or construction of any facility within or upon a public place without first submitting an application and obtaining a permit from the City except as otherwise provided in this Chapter.

### **9-1-4 PERMIT APPLICATION.**

The application for a permit to perform work in the public right-of-way must be in writing on a form prescribed by the City. The written application shall state the name, address, principal place of business of the applicant, the authority of applicant to occupy the public place for which the permit is sought, the name, address, state and City business license number of the contractor, the location and dimensions of the work to be performed, the purpose of the facility, the valuation of the work (not required by utility licensee companies), plans, detailed drawings and elevations as required, the approximate time which will be required to complete such work, including backfilling any excavations and removing all obstructions, material and debris from the public place. No permit shall be issued except as provided in this Chapter. The City may issue an annual blanket permit for the purpose of placing, replacing, or repairing any facility within a public place and other miscellaneous work approved by the Public Works Department to the following:

- A. Public Utility: A public utility regulated by the Public Utilities Commission of the State.
- B. Utility Licensee: A person holding a public utility license from the City.

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- C. Utilities Department: A department that maintains the infrastructure for public service. These utilities include water, wastewater, landfill, and electric.
  - D. Contractors: No permit under this Chapter will be required for contractors performing work under contract for the City pursuant to specific plans and specifications and awarded following normal bid procedures.

Public utilities and persons holding public utility licenses from the City referred to in subsections A and B of this Section, shall, so far as practicable, give written notice as to the location, time, and extent of work to be done at least twenty-four (24) hours in advance of commencement of such work. In cases of emergency, which is defined in Section 17 of this chapter, notice shall be provided to the administrative authority during the first working day following commencement of such emergency work.

The Engineer reserves the rights to deny the issuance of a permit if requested within a public place designated as a "no cut" area due to recent work being performed.

### **9-1-5. PERMIT TERMS**

- A. *Fees.* Permit fees are set by resolution adopted by the City Council.
  - 1. Permit fees will not be assessed to other governmental agency applicants, but contractor doing work on behalf of a governmental agency may be assessed a fine for any violations. Local governmental entities including general improvements districts, water districts, etc. when incorporated by an act of the State legislature and other state agencies, when working on their own systems, and not performing work necessitated by or on behalf of a private development, are exempt from the fees. It is the responsibility of the permittee to demonstrate its qualification for exemption when questions arise.
  - 2. Fees will be charged for the processing of permit applications. The fees are non-refundable once processing of the permit application has commenced, even if the permit application is denied, subsequently withdrawn, or if issued and subsequently revoked. In the event a permit is issued but the encroachment is not constructed within the prescribed period, the permit will be revoked, and a new processing fee will be required for reapplication.
- B. *Permit length.* An issued permit has an expiration date of ninety days after it is issued. Permits can be renewed up to 2 times. If a contractor cannot complete the permitted work in the amount of time approved, the contractor must contact the administrative officer and make the request. There may be situations where ninety days is not long enough for a project to be completed. In this case the administrative officer will determine the length of time allowed for the permit.
- C. *Subject to prior and subsequent permits and department projects.* This permit is issued to all prior valid and existing permits (whether constructed or not), agreements, contracts, leases, licenses, liens, reservations, conditions, encumbrances, or claims of title which may affect the property covered by this permit whether of record or not, and permittee is responsible for obtaining the consent of the underlying fee owner in the event the City does not own the full fee simple interest in the right-of-way. Any delay in the prosecution of work under this permit and the subsequent conflict with another permit within the same area will be the sole responsibility of the permittee. The City will make every attempt to identify such permitted work which may be ongoing, however, any adjustments to facilities previously installed or which may be under construction by reason of other permits issued thereafter or simultaneously thereto will be the sole responsibility of the permittee and the City assumes no responsibility, therefore. It is imperative that permittee investigates and reviews any projects underway, planned, or contemplated by the City or other entities authorized by or working in conjunction with the City in or near the proposed permit work. Any costs associated with any conflict related thereto will be borne by the permittee.
- D. *Revocation or Modification of Permit.* The terms, conditions, and general provisions of this permit are revocable, or subject to modification or abrogation by the City of Boulder City, at any time, without

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prejudicing any prior rights, including those evidenced by any joint-use agreements, franchise rights, or reserved rights for operating purposes in a grant of an easement. In the event of revocation, the permittee will, at the direction of the Engineer, remove any or all encroachments installed or constructed pursuant to this permit, and will restore the public right-of-way to a safe condition.

- E. *Plan Changes.* The permittee must obtain prior written approval from the Engineer before making any changes to the approved plans (including the additional terms and conditions) and/or method. Should any change in the plans be approved, the permittee will submit revised drawings, delineating the change within thirty (30) days after the date of approval of the change.
- F. *Permit Transfer.* Permittee may not transfer, convey, or assign this permit, or any privilege or responsibility contained herein pertaining to actual work to be accomplished within the public right-of-way without prior written approval of the City. The permittee will ensure that the continuing responsibility for the upkeep and repair of any facility erected or installed in connection with this permit will be transferred to permittee's successors in interest or assigns. The permittee is solely responsible for performance of the work authorized herein.
- G. *No Precedent Established.* Permits are issued with the understanding that any particular action will not be considered as establishing any precedent on the question of the expediency of permitting any kind of right-of-way occupancy to be erected within the public right-of-way, or as to any utility or the acceptability of any such permits as to any other or future situations.
- H. *Working Days.* No work will be performed by the permittee on Fridays, Saturdays, Sundays, or holidays observed by the City or during hours of darkness unless required by the City, with the prior written approval of the Engineer when for the convenience of the permittee.
- I. *Posting Permit.* The permit which includes the approved traffic control plan, if applicable, will be kept at the site of the work at all times and must be shown to any representative of the City or any law enforcement officer on demand. Work will be suspended if the permit, construction, and traffic control plans are not at the job site as provided.

#### **9-1-6 PERMIT TO CONSTITUTE AGREEMENT.**

Without limiting the rights, powers and authority vested by law in the City in respect to the suspension, revocation or cancellation of permits, and in addition to every remedy vested by law in the City in relation thereto, the acceptance of a permit or any renewal thereof under the provisions of this chapter shall constitute an agreement on the part of the holder thereof, as a condition for the granting of the same, that:

- A. *Violation of Terms of Permit.* Such permit may be revoked by the Engineer at any time for any violation of any of the provisions or conditions of such permit.
- B. *Failure to Complete Construction.* Such permit may be revoked by the Engineer at any time upon the failure or refusal of the holder to complete the work within the time specified on the permit unless an extension of time is requested and granted by the Engineer.
- C. *Failure to Commence Work.* The permit may be revoked by the Engineer for failure on the part of the permittee to commence work within ten (10) days of the date specified on the permit unless a request for an extension of the time to commence work is submitted to and approved by the Engineer.
- D. *Failure to Maintain or to Construct According to the Terms and Conditions of the Permit.* The permit may be revoked for failure or refusal of the permittee to perform the work in accordance with the standard specifications, standard drawings, special conditions or to provide a safe work site.

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### **9-1-7 RIGHTS OF APPEAL UPON REFUSAL OF PERMIT.**

In the event the Engineer shall refuse to issue the permit herein provided, a qualified applicant therefor may, within thirty (30) days from the date of such refusal, appeal to the Public Works Director for a review of the action by the Engineer.

### **9-1-8 CONTRACTOR TO PERFORM WORK.**

Only properly licensed contractors, utility companies and authorized state, county and municipal employees shall perform work within or upon a public place. All contractors doing work within the city limits shall be licensed in the State of Nevada and hold a current Boulder City business license.

### **9-1-9 GUARANTEE.**

- A. The permittee shall guarantee, for a period of one year, all work performed within a public place.
- B. The permittee shall guarantee for a period of two years all pavement reconstruction performed within the right-of-way.

### **9-1-10 NOTIFICATIONS.**

The permittee shall request line locations of existing facilities, a minimum of two working days before commencing any work, unless an emergency exists. The contractor shall notify the office of the Engineer one working day in advance before commencing any work described under the permit for each required inspection.

### **9-1-11 SOIL TESTS AND REPORTS.**

Before a permit shall be issued, the Engineer may require soil tests be taken at the site of the work to determine if special material or construction requirements are necessary, or when a request to deviate from the approved plans, standard drawings, or specifications is submitted.

### **9-1-12 INSURANCE.**

- A. *Proof Required; Coverage.* Before a permit, as herein provided, is issued, the applicant shall deposit with the administrative authority a proof of liability insurance naming the City as an insured party in accordance with the rate schedule as adopted by resolution of the City Council. The form of coverage shall be:
  - 1. Conditioned upon the permittee's securing and holding the City and its officers harmless against any and all claims, judgments or other costs arising from the work covered by the permit or for which the City, the City Council or any City officer may be made liable by reason or any accident or injury to persons or property through the fault of the permittee, either in not properly guarding the work or for any other injury resulting from the negligence of the permittee. Claims against such insurance for any injury or accident shall not exhaust the policy but it shall, in its entirety, cover any or all future accidents or injuries during the work for which it is given. In the event of any suit or claim against the City by reason of the negligence or default of the permittee upon the City's giving written notice to the permittee of such suit or claim, any final judgment against the City requiring it to pay for such damage shall be conclusive upon the permittee and his insurer.
  - 2. An annual liability insurance policy may be submitted under this provision as specified above, and shall be applicable to all permitted work in public places during the terms of one year from the date of issuance of the annual permit.

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3. At any time when an insurance policy has changed or renewed, the proof of coverage must be submitted to the Administrative Authority.
- B. *Public Utilities Not Excepted; Exceptions.* Public utilities operating under the supervision of the Public Utilities Commission or utility licensees shall not be relieved of the obligation of submitting such proof of insurance by the administrative authority. City departments and other governmental agencies may be relieved of this obligation by the administrative authority.

### **9-1-13 PERFORMANCE BOND AND CASH DEPOSITS.**

The Engineer may require a performance bond or cash deposit equal to the estimated value for the repair and performance of work necessary to restore the public place to as good a condition as it was prior to the work performed within a public place. The Engineer may waive the requirement for cash deposit or performance bond when the contractor has held a valid contractor's license for a minimum of three years and has performed all past work satisfactorily.

- A. *Purpose.* Any performance bond or cash deposit made hereunder shall serve as security for the repair and performance of work necessary to restore the public place to as good a condition as it was prior to the work if the permittee fails to make the necessary repairs or to complete the work under the permit or to completely remove the work under the permit. The performance bond or cash deposit shall be consistent with the rate schedule adopted by resolution of the City Council.
- B. *Restoration Deposits.* The application for a permit under this Chapter shall be accompanied with a performance bond or cash deposit, made to the administrative authority for deposit with the Finance Department in accordance with the rate schedule as adopted by resolution of the City Council.
- C. *Annual Deposits.* Any person intending to obtain a permit may make and maintain with the Finance Department an annual deposit in accordance with the rate schedule as adopted by resolution of the City Council, and the person so depositing shall not be required to make the special deposits provided in this Section, but shall, however, be required to comply with all other applicable provisions of this Chapter.
- D. *Refund Of Restoration Deposits.* Upon the completion of the work by the permittee covered by such permit in conformity with this Chapter as determined by the administrative authority, two-thirds ( $\frac{2}{3}$ ) of such restoration deposit shall be promptly refunded by the City to the permittee and the balance shall be refunded by the City to the permittee upon the expiration of a six (6) month period.
- E. *Refund Of Annual Deposits.* Two-thirds ( $\frac{2}{3}$ ) of any annual deposit shall be refunded by the City at the end of the one-year period for which the deposit is made or the satisfactory completion of all permitted work undertaken during such period, whichever is later, and the balance of the annual deposit shall be refunded at the expiration of a six (6) month period following the completion of such work.
- F. *Use Of Deposits.* The administrative authority may use any or all of any such deposits to pay the costs of any work the administrative authority performs to restore or maintain the public place as herein provided in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be reduced by the amount thus expended by the administrative authority.
- G. *Public Utility Companies.* Where a permit is issued to public utility companies operating under a public utility license issued by the City or under the supervision of the Public Utilities Commission or utilities operated by governmental agencies, the permit may be granted without making such deposit. In such cases, the utilities shall be liable for the actual cost of any work required to be done by the administrative authority in restoring the area covered by the permit to as good a condition as it was prior to the work. Further provided, however, that the administrative authority may, in the future, require such deposit from any such utility if a bill rendered in accordance with this section remains unpaid thirty (30) days after date of billing.



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## 9-1-14 TRAFFIC PROTECTION AND CONTROL.

- A. *Barriers And Warning Devices.* It shall be the duty of every person working in a public place to ensure placement and maintenance of traffic control devices necessary for safety of the general public in accordance with MUTCD.
- B. *Conformance With Traffic Code.* Barriers, warning signs, lights, etc., shall conform to the requirements of the MUTCD, standard specifications and drawings, and the administrative authority. Warning lights shall be electric torches, electric lanterns, electric markers, or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Warning devices illuminated with open flame lanterns, torches or flares shall be prohibited.
- C. *Markers And Flashers; Light Sources.* Electric markers or flashers shall emit light, amber in color, at sufficient intensity to be visible at a reasonable distance for safety. Flashing lights shall flash at a rate such that the interval the light is on is approximately one-half (½) of the on-off cycle length. Reflectors or reflecting material may be used to supplement, but not replace, light sources.
- D. *Maintain Normal Traffic Conditions.* The permittee shall take appropriate measures to assure that during the work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.
- E. *Closing of Streets and Alleys.* When traffic conditions permit, the administrative authority may, by written approval, separate from the permit, allow the closing of streets and alleys to all traffic for a limited period time determined by the administrative authority to be necessary for the safety of the general public and workers. The written approval of the administrative authority shall require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.
- F. *Safe Crossings Required.* The permittee shall maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe street crossings for pedestrians at intervals of not more than three hundred feet (300'). If any work is performed within any public street, alley or sidewalk adequate crossing shall be maintained for vehicles and for pedestrians.
- G. *Placement Of Warning Signs.* Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street.- Work in public places shall be properly protected by barricade and/or flagman methods as provided under the MUTCD and standard specifications and drawings. Any person maintaining improper barricades within the public right-of-way which requires the placement of additional barricades, warning lights, or signs by the City in the interest of public safety shall be assessed a fee in accordance with adopted resolution for each occasion in which the City finds it necessary to place the barricades.

## 9-1-15 PROMPT COMPLETION OF WORK.

Once the permitted work is commenced, the permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary.

## 9-1-16 URGENT WORK.

When traffic conditions, the safety or convenience of the traveling public, or the public interest require that the permitted work be performed as emergency work, the administrative authority shall have full power to order, at the time the permit is granted, that an appropriate crew, equipment, and material be employed by the permittee twenty four (24) hours a day so the permitted work may be completed as soon as possible. The permittee shall, under these emergency circumstances, provide the Engineer and the police department with names and

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telephone numbers of all responsible supervisors who have the authority to order out additional crews and equipment as may be required before work commences.

### **9-1-17 EMERGENCY ACTION.**

Nothing in this chapter shall be construed to prevent the performing of such work as may be necessary for the preservation of life or property or for making emergency repairs to a substructure of a utility system, provided that the person taking such emergency action shall apply to the administrative authority for such a permit on the first working day after such work is commenced.

Emergency Repair Work means public right-of-way work which must be commenced immediately to correct a hazardous condition in which the safety of the public is in imminent danger, such as a threat to life or health of the public or where immediate correction is required to maintain or restore essential public utility service.

### **9-1-18 NOISE, DUST, VIBRATION, AND DEBRIS.**

- A. Each permittee shall conduct and carry out all work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the work, noise, dust, vibration, and unsightly debris. The permittee shall not use, except with the express written permission of the administrative authority or in case of an emergency as herein otherwise provided, any tool, appliance, or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. Unless otherwise approved by the administrative authority.
- B. The Engineer may order at any time that the permittee remove accumulated debris and discarded material from the work site. Control of dust, obnoxious fumes, and other air pollutants shall be in accordance with city, county, and state regulations now in force or such future regulations as may be adopted by the city, county, or State of Nevada.

### **9-1-19 PRESERVATION OF MONUMENTS.**

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey benchmark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the administrative authority to do so. Permission to remove or disturb such monuments, reference points, or benchmarks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument. Permittee shall be required to secure the replacement of a monument by his retaining a Professional Land Surveyor registered in the State of Nevada to perform this work in accordance with State statute. Under no circumstances shall a monument be disturbed by a permittee without first completing and delivering to the administrative authority reference measurements in accordance with State statute. The professional land surveyor must submit records when installing new, re-establishing, or removing monumentation.

### **9-1-20 INSPECTIONS.**

- A. *Authority.* The administrative authority shall make such inspections as reasonably necessary in the enforcement of this chapter.
- B. *Remedies.* The administrative authority shall take such remedies available under State statutes and City ordinance to cause unsafe or unpermitted conditions to cease being in violation of this chapter.
- C. *Rules And Regulations for Enforcement.* The administrative authority shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

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- D. *Fines and Fees.* The administrative officer has the authority to issue fines and fees in accordance with the fees adopted by resolution.
  - E. *Final Inspection.* A final inspection of the work accomplished by the permittee may be performed by the Engineer to ensure that the permittee has complied with the terms and conditions of this permit.
  - F. *Periodic Inspections.* Periodic inspections by the Engineer during the progress of work may be made to ensure conformance to the City's standards and those specified by this permit. If the periodic inspection shows that the work performed under the permit does not conform to the permit requirements, the Engineer has the authority to demand that the items not conforming be immediately corrected, or to require that the work on the job site within the public right-of-way be immediately suspended until the issues concerning the items which are not conforming are resolved.
  - G. *Expense of Inspection.* For complex or extensive work under this permit, the City may require full-time inspectors and/or engineers to observe the progress of work in its entirety. In such case, the permittee agrees to compensate the City for the direct and indirect costs of inspection, such as but not limited to, wages, mileage, per diem and overhead costs incurred by said inspectors and/or engineers in connection with such inspection.

### **9-1-21 MAINTENANCE OF DRAWINGS.**

- A. *Map; Scale.* Every person owning, using, controlling or having an interest in above grade or overhead structures, substructures, and structures under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia, or oil in the City, shall when requested, file with the administrative authority within one hundred twenty (120) days of the request a map or set of maps each drawn to a scale of not less than one inch to two hundred feet (1" = 200') showing in detail the plan location, size and kind of installation, if known, and approximate depth of all substructures, except service lines designed to serve single properties beneath the surface of the public place belonging to, used by or under the control of such person having any interest, and shall file with the administrative authority annually at a time specified by the administrative authority, a corrected map or set of maps each drawn to said scale in imperial units, including all installations made during the previous year, to and including the last day of such year; provided, however, that a public utility owner may at its option provide corrected atlas sheets at more frequent intervals.
- B. *Waiver.* The provisions of subsection A of this Section may be waived by the administrative authority if such maps are already on file with the City and are being supplemented at least annually.
- C. *Confidentiality.* All such maps of utilities shall be considered confidential by the City and the information shall not be released to anyone other than the public utility owner. The City shall be allowed use of the mapping information in preparation of the City's own projects. The City may provide the mapping information to consultants under contract with the City.
- D. Subject to and including NAC 408.4418 and 408.442, the permittee shall indemnify, defend and save harmless the City of Boulder City, its agencies, its officers, employees, agents, and contractors (hereinafter "Indemnitees) from and against any and all demands, liens, liabilities, actions and causes of actions, suits for damages, at law or in equity, claims of any character, liability, loss, damage, costs, attorneys' fees and expense which the Indemnitees may incur, suffer, or be required to pay by reason of, and or based upon, death, disease, or bodily injury to any person or persons, or injury to, destruction of, or loss of use of any property, real or personal, including property belonging to the City of Boulder City, arising out of or incident to activities contemplated by or performed under this permit due to any error, negligence, act or omission of the permittee, including but not limited to, any negligent operation of the permittee, any defective materials, any negligent safeguarding of work and/or any negligent design of the permitted work, even if proximately caused, in whole or in part, by any act, omission, or negligence of the Indemnitees, unless it is established by the permittee, in a court of competent jurisdiction, that the proximate cause was the willful

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misconduct or gross negligence of the Indemnitees. The sums for which the permittee indemnifies Indemnitees, in the event of any claim or action, shall include, but is not limited to, the amounts of any judgement, settlement, court costs, litigation expenses, witness fees, expert witness fees, and attorney fees.

### **9-1-22 LIABILITY OF CITY.**

This chapter shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any permitted or unpermitted work or the creation of an obstruction for which a permit is issued hereunder, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder for the issuance of any permit or the approval of any work.

### **9-1-23 OBLIGATION OF THE ENGINEER.**

The Engineer is directed to prepare rules, regulations, drawings, specifications, schedule of inspection fees and administrative charges necessary for the administration and enforcement of this chapter for City Council approval.

### **9-1-24 FAILURE TO OBTAIN PERMIT.**

A person or contractor found performing work within a public place without benefit of a permit shall be issued a stop work order until a permit is obtained. The permit fees for work without a permit shall be adopted per resolution.

### **9-1-25 VIOLATION AND PENALTY.**

- A. Any person violating any of the provisions of this chapter, following written notification of such violation, is guilty of a civil violation. The administrative officer has the authority to issue fines and fees for such violation in accordance with the fees adopted by resolution. Each day such violations are committed or permitted to continue constitutes a separate offense and is punishable as such hereunder.
- B. Administrative officer has the authority to cease all work until violation is corrected and fees have been paid.
- C. Any person in violation shall not receive an additional permit until the violation is corrected and fees have been paid.
- D. At the discretion of the administrative authority any person may be barred from performing work in a public place due to violation history.

### **9-1-26 CHARGES FOR DAMAGE TO PUBLIC PROPERTY.**

Any person who enters upon a public place and damages any facility or other public property shall be charged the full cost of replacement or repair of such property and all incidental charges relating thereto.