

RESOLUTION 2021-04-01

**RESOLUTION OF THE BOARD OF DIRECTORS OF
DENARGO MARKET METROPOLITAN DISTRICT NO. 1**

**ADOPTING AMENDED AND RESTATED RULES AND REGULATIONS FOR
CONSTRUCTION ACTIVITY**

WHEREAS, Denargo Market Metropolitan District No. 1 (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and operates pursuant to its Service Plan approved by the City and County of Denver, on March 8, 2010 (the “**Service Plan**”); and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district; and

WHEREAS, the District has financed, and owns and maintains, certain public improvements, including, but not limited to, roadways, sidewalks, lighting, landscaping, and irrigation systems within the District’s service area (collectively, the “**District Property**”), the location of which facilities are generally depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, attendant to its duties and obligations for the District Property, the District wishes to adopt rules and regulations to govern construction activity that impacts District Property; and

WHEREAS, the Board previously adopted Resolution No. 2015-10-01 Regarding Rules and Regulations for Construction Activity (“**Resolution No. 2015-10-01**”); and

WHEREAS, the Board has determined certain revisions should be made to the Rules and Regulations for Construction Activity.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DENARGO MARKET METROPOLITAN DISTRICT NO. 1 OF THE CITY AND COUNTY OF DENVER, COLORADO:

1. The Board hereby determines that it is in the best interests of the District and members of the public using the District Property to exercise the authority granted under the Service Plan to adopt the Amended and Restated Rules and Regulations for Construction Activity attached hereto as **Exhibit B** and incorporated herein by this reference.

2. The District reserves the right, from time to time, to modify, amend or replace the Rules and Regulations.

3. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase, or word hereof, or the application thereof in any given circumstance shall not affect the validity of the remainder of this Resolution.

**SIGNATURE PAGE TO RESOLUTION ADOPTING AMENDED AND RESTATED
RULES AND REGULATIONS FOR CONSTRUCTION ACTIVITY**

APPROVED AND ADOPTED this 13th day of April, 2021.

**DENARGO MARKET METROPOLITAN
DISTRICT NO. 1**

By: *Laura Newman*
President

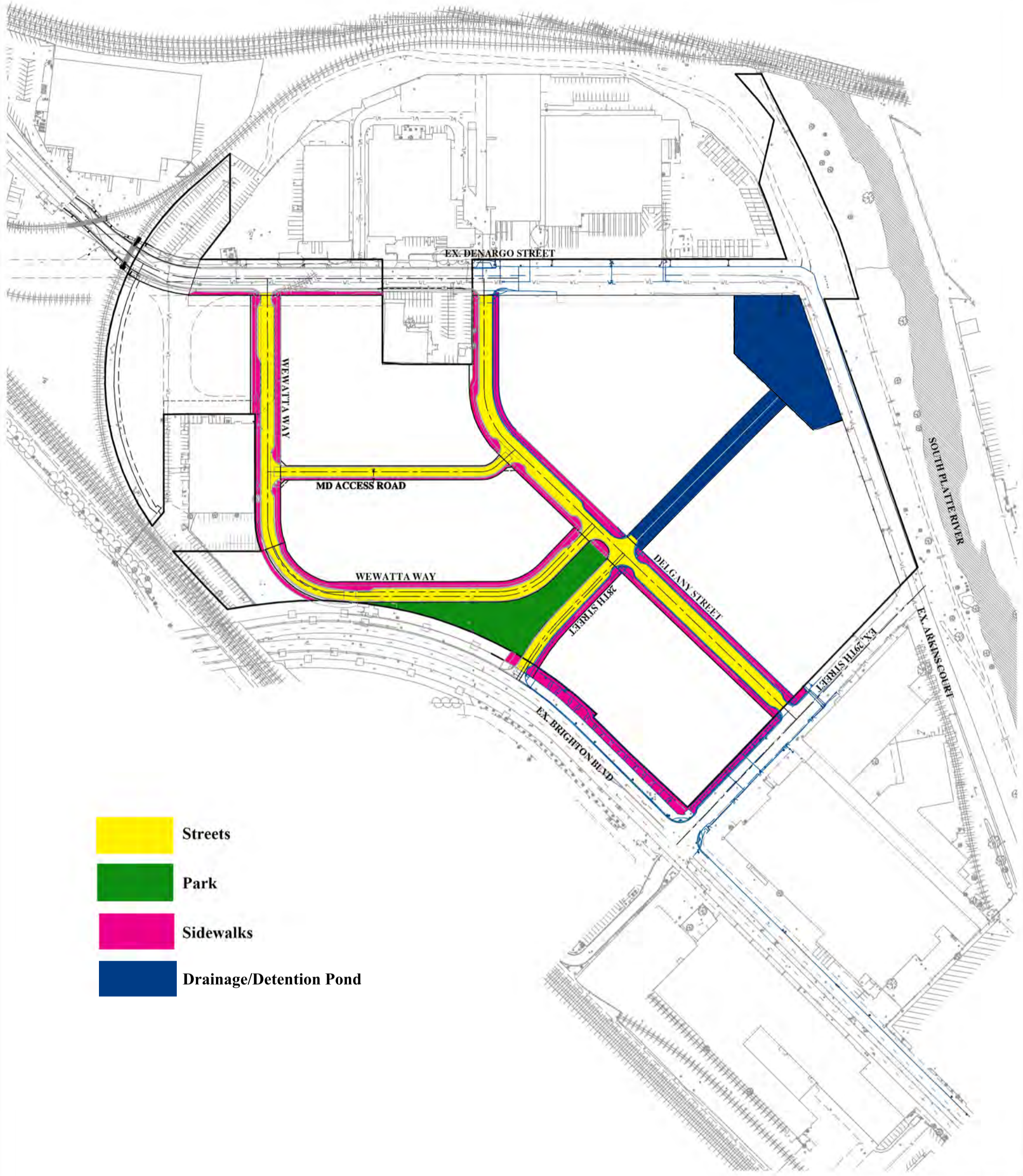
Attest:

Ann Finn
Secretary

EXHIBIT A

District Property

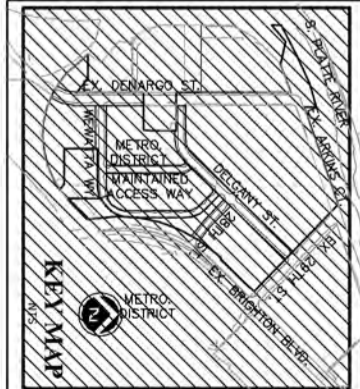
ATTACHMENT A



- Streets
- Park
- Sidewalks
- Drainage/Detention Pond

To request marking of underground facilities
811
 Know what's below.
 Call before you dig.
 Call 811 or visit call811.com
 for more information.

It is the contractor's responsibility to contact UNCC a minimum of 2 days prior to the start of construction operations. Inc claims no responsibility for the underground facilities depicted in this plan set.



Project Number:
07200101
 Designed By:
BEC
 Checked By:
JAM
 Sheet Number:



No.	Date	Description

Denargo Market
 Metropolitan District
 141 Union Blvd.
 Suite 150
 Lakewood, CO 80228
 Tel: (303) 987-0835
 FAX: (303) 987-2032

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
 OVFRA I ROAD MAP

ENGINEERING CONSULTANTS
 Contact: Jason A. Monforton, PE
 3151 S. Vaughn Way, Suite 680 - Aurora, CO 80014-3517
 (303) 368-5601 - FAX: (303) 368-5603
 Email: jmonforton@j3Engineering.net

EXHIBIT B

Amended and Restated Rules and Regulations for Construction Activity

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
AMENDED AND RESTATED RULES AND REGULATIONS
FOR CONSTRUCTION ACTIVITY**

ARTICLE 1. GENERAL

1.1 Applicability and Purpose. These Rules and Regulations for Construction Activity shall apply to any construction activity that impacts any District Property and are enacted to provide funds necessary for the costs of administration, management, restoration or reconstruction of District Property impacted or damaged by construction activity, to reduce the damage to District Property, and to protect the integrity of the District's road and irrigation systems, landscaping and other public facilities. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

1.2 Definitions. Unless the context indicates otherwise, the meaning of the terms used in these Rules and Regulations shall be as follows:

- (a) City means the City and County of Denver, Colorado.
- (b) Construction Activity Permit means permit issued by the District authorizing a Contractor to undertake construction work that will impact District Property as more fully described in Sections 2.1 and 2.5.
- (c) Contractor means a contractor that is properly licensed and bonded for the proposed work as detailed in Chapter 49, Article XVII, of the City's Revised Municipal Code.
- (d) Construction Parking Plan means the Permittee's plan for parking of construction vehicles and contractor and employee vehicles during the term of the Permitted Project, which shall provide for primarily off-street parking thereof.
- (e) Damage Deposit means a deposit, or letter of credit or other security in lieu thereof reasonably acceptable to the District, made at the time of issuance of a Construction Activity Permit in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project as more fully described in Section 2.6.
- (f) District means Denargo Market Metropolitan District No. 1.
- (g) District Property means any real or personal property within the District's service area that is owned, operated, and/or maintained by the District, including, but not limited to, roadways, signage, lighting, sidewalks, landscaping, irrigation systems, or any portion thereof, as generally depicted on Exhibit A attached hereto and incorporated herein by this reference, as may be amended.
- (h) Parking Rules and Regulations means the District's Parking Rules and Regulations, as may be amended from time to time, governing use of the District's roadways including parking restrictions.

(i) Permit Fee means a fee charged by the District to issue a Construction Activity Permit, as more fully described in Section 2.5.

(j) Permitted Project means a construction project for which a valid Construction Activity Permit has been issued by the District.

(k) Permittee means the property owner to whom a Construction Activity Permit is issued.

1.3 Use of District Property.

(a) Except as otherwise authorized in these Rules and Regulations, no Permittee shall construct or place any structure, building or fencing, whether temporary or permanent, or plant or locate any trees, on any part of the District Property without having first obtained the prior written consent of the District, which consent shall not be unreasonably withheld or delayed if the proposed improvements will not materially interfere with the District Property. Any structure, building or fencing, whether temporary or permanent, or any trees situated on District Property without such prior written consent may be removed by the District without liability for damages arising therefrom. Except as authorized herein, no Permittee shall take any action or locate any improvements or landscaping features which would materially impair the functions of the District Property.

(b) Upon completion of any activities subject to a Construction Activity Permit which disturb District Property, the Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved by the District in its discretion), restore or commence restoration (and diligently prosecute to completion) of the District Property at its sole cost and expense, to the condition it was in immediately prior to such disturbance, except as otherwise provided herein or as necessarily modified to accommodate any approved facilities or improvements associated with the Permitted Project.

(c) Except in the event of emergency, the Permittee shall provide written notice to the District at least seventy-two (72) hours prior to the full or partial closure of any District Property, including, but not limited to, streets and sidewalks, which notice shall specify the scope and duration of the anticipated closure as well as traffic control and safety measures during the closure.

ARTICLE 2. CONSTRUCTION ACTIVITY PERMIT

2.1 Application for Permit. Any Contractor or property owner intending to design, plan, construct, reconstruct, or remodel any improvements that will impact any portion of the District Property shall file a written application for a Construction Activity Permit with the District prior to commencing any construction. The application shall include the following:

(a) A general description of the work proposed to be done, together with its location, and any plans and specifications for the proposed work, including an anticipated schedule for completion of construction;

- (b) List of required permits and licenses required by all governmental entities with jurisdiction over the work constituting the Permitted Project;
- (c) Evidence of the Contractor's license and bonding as required by the City;
- (d) Description of insurance to be maintained through the duration of the Permitted Project complying with the minimum City standards for the type of work undertaken as part of the Permitted Project;
- (e) Description of any anticipated encumbrances on the District Property during the construction of the Permitted Project;
- (f) Description of the Construction Parking Plan, including the estimated number of construction vehicles and contractor and employee vehicles anticipated to be accessing the construction area;
- (g) Contact information for the Permittee and Contractor; and
- (h) A statement of the estimated costs of the horizontal site work that will be subject to the Damage Deposit, which costs shall be borne by the Permittee.

2.2 Construction Standards. Except as otherwise specified herein, all work on District Property, including, but not limited to, replacement of or repairs to existing facilities such as sidewalks, driveways, and curb and gutter as well as excavation work shall be conducted in accordance with the applicable provisions of the Charter of the City, City ordinances, rules and regulations of the City, and rules and regulations of the District in effect at the time of construction as well as any state and federal laws. The District acknowledged that the District-owned and maintained roadways described on Exhibit A have not been constructed in accordance with all City ordinances and rules and regulations and as a result have not been dedicated to the City. Notwithstanding any provisions of subsections 2.5(j) and (k) herein to the contrary, to the extent a Construction Activity Permit requires repairs to a District-owned roadway, such roadway shall be reconstructed or repaired to the standards specified in the original plans and specifications prepared by J3 Engineering, a copy of which plans and specifications shall be made available upon request to the District Manager.

2.3 Site Inspection. Prior to commencement of construction activity requiring a Construction Activity Permit, and as a condition of receipt of a Construction Activity Permit, the District shall schedule a site inspection with the Contractor to establish baseline conditions for the Permitted Project, review the Construction Parking Plan, and discuss any terms for mitigation of any impact to District Property.

2.4 Construction Parking Plan. In acknowledgment of the limited parking available on the District's roadways, which parking is inadequate for residents, property owners and visitors within the District and is regulated by the Parking Rules and Regulations, and in the interest of minimizing damage to District Property, a Construction Parking Plan describing the Permittee's overall construction parking plan and identifying off-street construction parking shall be required as a condition of each Construction Activity Permit.

2.5 Construction Activity Permit. Upon receipt of the application described in Section 2.1, the District Manager shall have thirty (30) days to review the application and approve the issuance of a Construction Activity Permit, which issuance shall be made subject to the following conditions:

- (a) Payment of a non-refundable Permit Fee in the amount of \$10,000.00 to cover the District's administrative and inspection costs for the Permitted Project;
- (b) Payment to the District of any fee identified in the most current City and County of Denver Department of Public Works "Fee Schedules" for equivalent work;
- (c) Delivery of the Damage Deposit, as more fully described below in Section 2.6;
- (d) That all costs incident to the work shall be borne solely by the Permittee;
- (e) That the work shall be done only by a Contractor appropriately licensed to perform that particular type of work;
- (f) That the Permittee, in performance of the work, observe and comply with the provisions of the Charter of the City, City ordinances, and rules and regulations of the City and the District in effect at the time of construction and any state and federal laws which, in any manner, limit, control or apply thereto, and that all permits and licenses required in the prosecution of the work will be obtained and paid for by the Permittee;
- (g) That the Permittee obtain and comply with all permits or licenses required by all jurisdictional entities to undertake and complete the Permitted Project;
- (h) That the Permittee and its agents, employees and consultants observe and comply with the Construction Parking Plan;
- (i) That the Construction Activity Permit shall be effective for thirty (30) days after issuance or other time period specified in the Construction Activity Permit. If work has not begun within such specified time, a new Construction Activity Permit must be secured;
- (j) Any other site-specific terms and conditions deemed to be necessary by the District, in its reasonable discretion, following review of the plans and specifications and the site inspection;
- (k) That in the event a Permittee intends to cut and/or excavate any portion of a District-owned roadway, and except as specified in Section 2.2 herein, the Permittee shall also be subject to the then-current City Rules and Regulations Governing Street Cuts and Roadway Excavation Specifications, which are incorporated herein by reference and attached hereto as Exhibit B, and as more fully set forth in Chapter 49, Article VIII, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations Governing Street Cuts and Roadway Excavation"); and

(1) That in the event a Permittee intends to construct any curbs, gutters, sidewalks, detached sidewalks, driveways, or pave any portion of a District-owned roadway, and except as specified in Section 2.2. herein, the Permittee shall also be subject to the then-current City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements, which are incorporated herein by reference and attached hereto as Exhibit C, and as more fully set forth in Chapter 49, Article VI, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements," and together with the City Rules and Regulations Governing Street Cuts and Roadway Excavation, the "City Rules and Regulations").

2.6 Damage Deposit. In addition to the Permit Fee, a refundable Damage Deposit (or a letter of credit or other security in lieu thereof reasonably acceptable to the District) in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project shall be due at the time of issuance of a Construction Activity Permit. Upon completion of the Permitted Project, an authorized representative of the District shall inspect any areas of District Property that may have been affected by the Permitted Project. If no damage to District Property is found, then the District will either return the full amount of the Damage Deposit to the Permittee or release the letter of credit or other security delivered in lieu thereof. If there has been damage to District Property, then the District shall provide written notice to Permittee of such damage. Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved the District in its discretion), repair or commence repair (and diligently prosecute to completion) of any damage to District Property identified by the District. In the event Permittee fails to repair damage to District Property in such timeframe, the District may use the Damage Deposit (or draw upon the letter of credit or other security delivered in lieu thereof) to pay for any repairs needed and shall return any funds remaining once the repairs have been completed to the Permittee. The Permittee shall be liable to the District for any repair costs that exceed the amount of the Damage Deposit (or the letter of credit or other security delivered in lieu thereof).

2.7 Right of Inspection. The District shall have a right to inspect at all times any construction activity that impacts District Property to ensure that no District Property has been damaged or is likely to be damaged by the Permitted Project. Authorized representatives of the District shall be allowed reasonable access at all reasonable hours to any construction site to ensure compliance with these Rules and Regulations. All such access shall be at the sole risk of the District, and the District's authorized representative shall be required to follow all on-site safety policies and procedures of the Permittee and its contractors. If the District determines that the work is not being performed in accordance with these Rules and Regulations, the District shall have the right to order the work to cease until there is satisfactory evidence that the work conforms to these Rules and Regulations.

2.8 Site Maintenance. The Permittee shall remove all rubbish and debris promptly as the work progresses, leaving the site and adjoining property in neat condition. Rubbish and debris will not be permitted to be piled in or on District Property.

2.9 Mechanic's and Materialmen's Liens. As a condition of Construction Activity Permit issuance, the Permittee shall covenant and agree not to suffer or permit any lien of

mechanics or materialmen or others to be placed against the District Property with respect to work or services claimed to have been performed for, or materials claimed to have been furnished to the Permittee. If any lien arises because of the Permittee's construction, repair, restoration or maintenance work associated with the Permitted Project, the Permittee shall immediately take all steps to remove the lien, including, if necessary, the immediate posting of appropriate collateral or bond to remove the lien.

2.10 Warranty. The Permittee shall guarantee any work located on District Property, or which the District will have any obligation to maintain, for a period of three (3) years after completion against defective workmanship and materials and shall keep the same in good order and repair. The determination of the necessity during such guarantee period for the Permittee to repair or replace any portion of the work that impacts District Property thereof shall rest entirely with the District, whose decision upon the matter shall be final and obligatory upon the Permittee.

2.11 Violations.

(a) Generally. If, upon inspection, the District determines that a violation of these Rules and Regulations (a "Violation") has occurred, the District shall give the Permittee written notice of the Violation (the "Notice of Violation"), including a specific description of the Violation and require the Permittee to take such action as necessary to remedy the Violation within a time period that shall not exceed ten (10) business days unless an alternate time period is specified in writing by the District. In the event the Permittee fails to take action to remedy the Violation within the time period specified, the District may pursue any one or more of the following remedies without further notice to Permittee: (a) levy fines, as described herein, upon the Permittee for each Violation or the continuance of a single Violation; (b) cause the Violation to be cured and charge the cost thereof to the Permittee; (c) revoke the Permittee's Construction Activity Permit and withhold additional Construction Activity Permits until assurance is received that the Construction Activity Permit terms and conditions will be complied with and that non-compliant work will be replaced satisfactorily; and (d) file a perpetual lien on the Permittee's property, which lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens.

(b) Fines. Following issuance of the Notice of Violation and failure by the Permittee to remedy the violation as provided in subsection (a) above, the District may also impose the following fines for each violation or the continuance of a single Violation:

- (i) First Notice of Violation = \$100
- (ii) Second Notice of Violation = \$250
- (iii) Third Notice of Violation = \$500
- (iv) Continuing Violation = Cost to Correct the Violation. The cost for the District to remedy the violation will be billed to the Permittee.

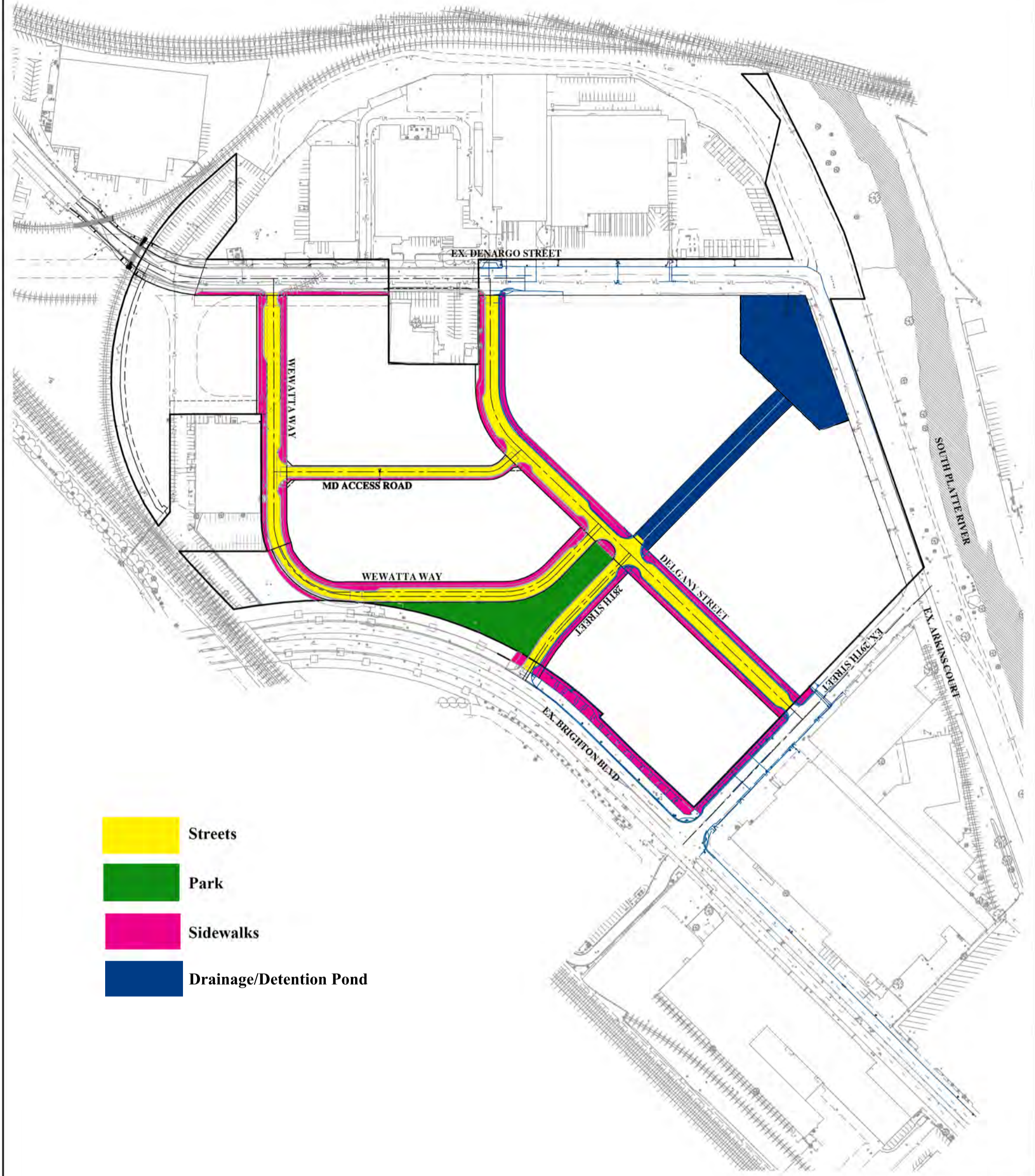
ARTICLE 3. ADDITIONAL PROVISIONS

3.1 Questions Regarding Rules and Regulations. Any questions as to the applicability of the City Rules and Regulations shall be directed to the District in writing for interpretation. The District shall review and respond promptly to any questions submitted by the Permittee.

3.2 Conflicts. In the event of any conflict between these Rules and Regulations and the City Rules and Regulations, the more specific regulations shall control.

EXHIBIT A

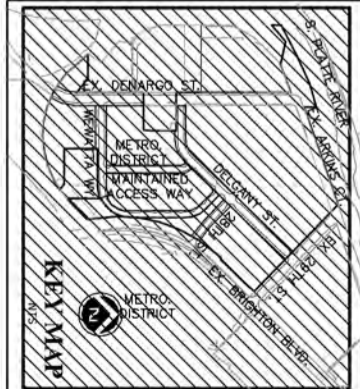
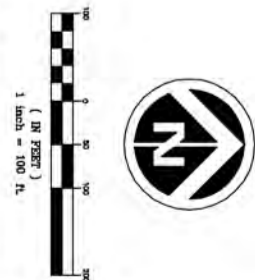
ATTACHMENT A



- Streets
- Park
- Sidewalks
- Drainage/Detention Pond

To request marking of underground facilities
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Know what's below.
Call before you dig.
 Call 811 or visit call811.com
 for more information.

It is the contractor's responsibility to contact UNCC a minimum of 2 days prior to the start of construction operations. Inc claims no responsibility for the underground facilities depicted in this plan set.



Project Number:
07200101
 Designed By: **BEC** Drawn By: **SCD**
 Checked By: **JAM**
 Sheet Number:



No.	Date	Description

Denargo Market
 Metropolitan District
 141 Union Blvd.
 Suite 150
 Lakewood, CO 80228
 Tel: (303) 987-0835
 FAX: (303) 987-2032

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
 OVFRA I ROAD MAP

ENGINEERING CONSULTANTS
 Contact: Jason A. Monforton, PE
 3151 S. Vaughn Way, Suite 680 - Aurora, CO 80014-3517
 (303) 368-5601 - FAX: (303) 368-5603
 Email: jmonforton@j3engineering.net

EXHIBIT B

ARTICLE VIII. - STREET CUTS

Footnotes:

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Editor's note— Ord. No. 492-91, § 1, adopted July 1, 1991, amended this article in its entirety, in effect repealing former art. VIII, relative to excavations, divs. 1—3, §§ 49-191—49-198, 49-206—49-211, and 49-221—49-223, and enacting new provisions in lieu thereof as art. VIII, §§ 49-191—49-208. Formerly, such sections derived from §§ 333.1—333.9 and 333.11—333.13 of the city's 1950 Code.

Cross reference— Excavations generally, Ch. 19; duties of police department concerning excavation in streets, § 42-23.

Sec. 49-191. - Purpose.

This article is enacted to provide funds necessary for the costs of administration, management, operation and maintenance, planning and engineering, construction, reconstruction of street cuts, and to protect the integrity of the road system. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-192. - Definitions.

As used in this article and the rules and regulations of the manager of transportation and infrastructure, the following words shall have the meanings given to them in this section except where the context clearly indicates and requires a different meaning. The words "shall" and "must" are to be construed as mandatory and not directory.

- (a) *Manager* shall mean the manager of transportation and infrastructure or his or her designee.
- (b) *Entire expense* shall mean the total cost of replacing the paving or surfacing material, and the base or subbase, including the long-term costs of repair directly caused by the street cut. This total cost includes the loss of the surface life of the pavement on a long-term basis.
- (c) *Street cut* shall mean a cut made in the ground or pavement of any city street, alley or other right-of-way, including excavation, backfill and paving.
- (d) *Licensed contractor* shall mean:
 - (1) Any general contractor who is licensed as detailed in sections 49-596 and 49-598 by excise and license under the authority of the manager to do work in and on the street right-of-way; or
 - (2) Any sewer contractor who is licensed as detailed in section 49-616 and 49-618 by excise and license under the authority of the manager to do work in and on the street right-of-way; or
 - (3) Any paving contractor who is licensed as detailed in sections 49-626 and 49-628 by excise and license under the authority of the manager to do work in and on the street right-of-way.
- (e) *Code* shall mean any part of the Denver Revised Municipal Code (specifically article VIII of chapter 49) dealing with street cuts.
- (f) *Franchisee* shall mean a public utility exercising rights granted by franchise from the city to use and occupy streets, alleys, viaducts, bridges, roads, lanes, public ways, and other public places for the

construction, maintenance and operation of its facilities.

- (g) *Radium street* shall mean any street which is included in Operable Unit VII, Denver Radium Streets, of the Denver Radium Superfund Site, and designated by the United States Environmental Protection Agency in the Record of Decision, dated March 24, 1986, and Explanation of Significant Differences, dated October 9, 1992, or other streets, alleys and public rights-of-way designated by the manager based on United States Environmental Protection Agency studies.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 2, 7-1-96; Ord. No. 39-20, § 107, 2-3-20)

Sec. 49-193. - Permit required.

- (a) It shall be unlawful for any person, firm or corporation, including the city, to disturb the ground or pavement in any public right-of-way including any streets or alleys within the city without first obtaining a written permit therefor from the manager.
- (b) The applicant for a permit, other than the city and franchisee, shall be licensed under this article to perform street cuts. All applicants, before the issuance of the permit, shall submit the following to the manager:
- (1) An application for a street cut permit on forms furnished by the city;
 - (2) Evidence that the applicant is not delinquent in payments due the city on prior work;
 - (3) Evidence of all permits or licenses required to do the proposed work, if licenses or permits are required under the laws of the state or ordinances of the city;
 - (4) A satisfactory plan of work showing protection of the subject property and adjacent properties when a transportation and infrastructure safety representative determines such protection is necessary;
 - (5) A plan for the protection of shade and ornamental trees and the restoration of turf when the city forester determines that damage may occur to such trees or turf;
 - (6) Evidence that all orders issued by the department to correct deficiencies under previous permits issued under this article have been satisfied;
 - (7) Payment of a permit fee under section 49-197;
 - (8) A health and safety plan designed to assure protection of workers and the public, if a street cut is to be performed in a radium street.
- (c) The permit shall specify the period of time when the work shall be performed, and if the work is not completed within the period specified a new permit shall be obtained.
- (d) No permit issued under the provisions hereof shall be for more than one (1) excavation project.
- (e) Emergencies. Excavations may be started by a person authorized to perform street cuts prior to issuance of a permit when necessary for preservation of life or property, provided that the person, firm or corporation making such excavation shall apply to the manager for a permit on the first working day after such excavation is commenced. Even in emergency situations, notice shall be given immediately to the street closure section and the street maintenance section of the department of transportation and infrastructure.
- (f) A street cut permit shall not be required for sidewalk, driveway, curb cuts, curb and gutter, curb ramps or cross-pan construction. All other applicable permits shall be required.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 3, 7-1-96; Ord. No. 39-20, § 108, 2-3-20)

Sec. 49-194. - Exhibition.

Street cut permits issued under this article shall be available at the work site for inspection while the work is in progress.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-195. - Warranting street cuts.

- (a) As a condition for the issuance of the permit, the permittee shall warrant against any defects due to faulty materials or workmanship and that there will be no subsidence of the excavation for three (3) years following the final inspection and acceptance by the manager. If subsidence occurs within three (3) years, the manager shall notify the permittee and repairs and repaving shall be commenced within fourteen (14) days unless the area of the subsidence is a hazard to the health, safety or welfare of the public in which case the manager shall order the permittee to immediately repair the subsidence. In the event that the permittee fails or refuses to make repairs as ordered, the manager shall cause the repairs to be made, and all costs, including administrative costs, shall be paid by the permittee within ten (10) days of the billing of costs. In addition to costs, interest in the same amount as for delinquent ad valorem taxes shall be collected. Any person failing to pay the costs billed under this section shall be barred from performing any work in the public right-of-way until all costs, including interest, are paid.
- (b) For the purpose of this article, date of completion is the date upon which permanent pavement resurfacing is finished and accepted by the manager.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 1, 6-26-00)

Sec. 49-196. - Records.

The manager shall keep a record of all applications made for street cut permits and of the permits so issued.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-197. - Permit fee.

- (a) An administrative and inspection fee, as defined in the manager's rules and regulations, shall be payable for any street cut permit anywhere within the city right-of-way. Such fee shall be based on the administrative costs of permitting, inspecting and regulating the permit system.
- (b) The administrative fee for excavation or improvement permits shall be doubled if work is commenced prior to obtaining a permit. Paying double fees does not waive other penalties. This subsection shall not apply to emergency excavations as defined in section 49-193(e).
- (c) An additional administrative fee for excavation and improvement permits in a radium street shall be assessed by the manager based on the city's costs associated with the regulation, oversight, management and disposal of radium contaminated material; provided, however, that this additional fee shall not be assessed for radium street cuts that disturb less than two hundred (200) cubic feet of radium

contaminated material or in cases in which the person performing the street cut lawfully disposes of all radium contaminated material disturbed at a properly sited and lawfully permitted radioactive waste disposal facility located outside a major metropolitan area.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 4, 7-1-96)

Sec. 49-198. - Paved streets and alleys.

- (a) If the city has agreed to permanently resurface a street cut as detailed in section 49-198(c), no permit to make a street cut in any paved or hard topped street or alley shall be issued unless the applicant shall have first deposited with the manager a sum of money to be fixed by the manager, sufficient to cover the entire expense of replacing the paving or surface material.
- (b) If the amount deposited is insufficient, the excavator shall pay to the manager the deficiency within ten (10) days after notice.
- (c) Placement of temporary pavement by the permittee, using material approved by the city engineer, is required immediately after completion of backfilling. Permanent resurfacing shall be completed within fourteen (14) working days after completion of backfilling of each city block. Failure to complete resurfacing in a timely manner shall be a violation of this provision, and the city may correct all deficiencies at the permittee's expense.
- (d) If it is necessary for the city to correct the deficiencies, the manager shall send the permittee an itemized statement of all charges for labor and materials furnished by the street maintenance division. Charges shall first be taken from the permittee's deposit. Any amount due over and above the deposit shall be paid in full within thirty (30) days of the date of such statement. Interest on past due amounts shall be collected in an amount equal to that charged for delinquent ad valorem taxes. The permittee shall also be prohibited from performing work in any city right-of-way until the costs including interest are paid.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-199. - Excavator's license.

It shall be unlawful for any person other than the city or a franchisee to engage in the business of performing excavations on public property without first having obtained an excavation license from the director of excise and licenses.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-200. - Requirements for obtaining an excavation license and suspension or revocation of license.

- (a) In addition to the requirements of chapter 32 of the Denver Revised Municipal Code, applicants for excavation licenses shall meet one (1) or more of the following additional requirements:
 - (1) Provide proof of being a licensed contractor;
 - (2) Provide proof of being a registered engineer; or
 - (3) Provide proof, as outlined in the manager's rules and regulations, to the manager of the competence of the applicant to conduct excavation work in the public right-of-way.

- (b) The applicant for a license, except an applicant with a paving contractor license under division 5 of article XV chapter 49, shall furnish a bond by some reliable surety company approved by the manager in the sum of five thousand dollars (\$50,000.00), which bond shall be conditioned on compliance with all requirements, specifications and instructions of the manager and all of the requirements of the Code and ordinances of the city pertaining to street cuts, including the payment of all fees, penalties or cost of repairs.
- (c) The applicant for a license shall provide a certificate of insurance naming the city as an additional insured affording the following coverage:

General Liability

Coverage	Minimum limits of liability
Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 1/96 or equivalent)	Each Occurrence: \$1,000,000
	General aggregate limit: \$2,000,000
	Products-completed operations aggregate limit: \$2,000,000
	Personal and advertising injury: \$1,000,000
	Fire damage (any one fire): \$50,000

This insurance shall include coverage for collapse and underground (CU) hazard, explosions (X) coverage, and contractual liability.

Automobile Liability

Coverage	Minimum limits of liability
Business automobile liability (coverage at least as broad as ISO form CA 0001 12/93)	Combined single limit: \$1,000,000

This insurance shall include coverage for owned, nonowned and hired vehicles. The manager may accept satisfactory evidence of self-insurance in lieu of the above coverage. The above-referenced certificate shall show the insurance will not be canceled without thirty (30) days written notice to the manager.

- (d) Suspension or revocation of license. The manager may suspend or revoke a license when the licensee commits one (1) or more of the following acts or omissions:
- (1) Fails to comply with the responsibilities as outlined in the *Roadway Excavation Specifications* and/or the provisions as outlined in article VIII, chapter 49 of the Denver Revised Municipal Code.
 - (2) Conspires with any person to permit a license to be used by another person.
 - (3) Willfully violates or disregards any of the provisions of the Code.
 - (4) Creates, as a result of work performed, an unsafe condition.
 - (5) Fails to obey orders in a timely fashion.
 - (6) Fails to obey a stop work order.
- (e) Procedure for revocation or suspension of license. When any of the acts or omissions outlined in

subsection (d) above are committed by a license holder, and the manager deems that the license shall be suspended or revoked, the action shall be as follows:

- (1) The department shall notify the licensee in writing by certified mail or personal service at least seven (7) days prior to suspension or revocation.
 - (2) Upon receipt of the notice, the licensee may request a hearing to show cause why the license should not be suspended or revoked. This request shall be in writing to the department within thirty (30) days after the notice is mailed.
 - (3) If a hearing is requested by the licensee, the manager shall set a time, date and place, and so notify the licensee. Suspension or revocation of the license shall be stayed until after the hearing.
 - (4) When a hearing is conducted, the licensee, the department and other interested parties may attend. Upon completion of the hearing, the manager shall take all evidence available as a result of the department's investigation and all evidence presented at the hearing under advisement, and shall notify the licensee in writing of the findings and decision, including length of suspension or revocation if any, by certified mail or personal service.
- (f) Emergency suspension. If the manager finds that cause exists for emergency suspension or revocation of a license, he may enter an order for the immediate suspension of the license, pending further investigation. The licensee may, upon notice of the suspension, request an immediate hearing before the manager. The suspension or revocation is not stayed while the hearing is pending.
- (g) Time of suspension or revocation. Time of suspension may be up to one (1) year. Time of revocation may be from one (1) year to five (5) years.
- (h) Delegation of authority. The manager may appoint a qualified member of the department to sit in his stead as hearing officer to conduct the hearing. Final decision shall be rendered by the manager.
- (i) Appeal rights. Any person who disputes a license suspension or revocation, suspension or revocation of a street cut permit, or any other actions of the city pursuant to this article, may appeal the decision as outlined in section 56-106 of the Denver Revised Municipal Code. The appeal shall stay all orders pending the decision on the appeal, unless an emergency suspension as outlined in section 49-200(f). The permittee shall be responsible for all costs of corrections as required as a result of the appeal.
- (j) Appeal. An appeal of a decision rendered under section 56-106 of the Revised Municipal Code shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 2, 6-26-00)

Sec. 49-201. - Fees.

For application and license fees for contractors' licenses, refer to section 32-73.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-202. - Excavation and backfill of street cuts.

- (a) All street cuts performed in city rights-of-way shall be done in conformity with the rules and regulations of the manager which shall provide for the proper care and protection of the streets, alleys, sidewalks

and other public places of the city and persons and property either on the public right-of-way or adjacent thereto.

- (b) Excavations and backfills shall be made in accordance with the plans and specifications furnished by the applicant which:
 - (1) Are prepared in accordance with accepted engineering standards;
 - (2) Are adapted to the particular conditions of travel, load requirements, terrain, subsoil, moisture, etc., where the excavation backfill is to be performed; and
 - (3) Are approved by the manager.
- (c) Where a permit has been issued, or where an excavation has been done under subsection 49-193(e), the excavator shall notify the manager of the time and date of the backfilling of the excavations will commence. In the event the manager determines that the permittee is not using acceptable backfill materials or acceptable backfilling procedures, he/she may order the suspension of all work at the site. The manager may require the permittee to furnish a soil test by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics in order to determine whether the backfill for the excavation was adequately compacted. All expense of such tests shall be borne by the permittee, and surface repair shall not commence until the manager is satisfied that the backfill has been restored to a density condition meeting the requirements of the rules and regulations adopted by the manager.
- (d) The permittee shall repair any damage caused by the work performed under this article including, but not limited to, reestablishing any grass or sprinkler system damaged as a result of work performed by the permittee in accordance with specifications adopted by the manager. Where existing topsoil is deemed of insufficient quality, the manager may require the top six (6) inches be replaced with new topsoil.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-203. - Traffic safety.

- (a) It shall be unlawful, for purposes of making a street cut, to stop up or obstruct more than one (1) block and one (1) intersection at the same time on any street, or to keep the same blocked up for more than two (2) days after the repaving is finished without the permission of the manager and the issuance of a street occupancy permit as required in section 54-652.
- (b) It shall be unlawful for any person to dig or cause to be dug any hole, drain, ditch or any other excavation in any street, alley, sidewalk or other public place in the city without providing sufficient lights during the nighttime. To prevent persons, animals and vehicles from sustaining injury or damage, such lights shall be placed with a suitable barricade or temporary fence around the hole, drain, ditch or other excavation.
- (c) During the daytime, the barricade shall be maintained, but warning lights are not required.
- (d) Every street cut shall further be protected at all times by traffic safety devices as prescribed by the *Uniform Manual of Traffic Control Devices* in order to minimize the disruption of the flow of traffic in the vicinity of the excavation.
- (e) It shall be unlawful to damage, displace, remove or interfere with any barricade, warning light or any other traffic safety device which is lawfully placed around or about any street, alley, sidewalk or other excavation or construction work in the city.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-204. - Obstruction of construction operations.

It shall be unlawful to hinder or obstruct any paving operations or excavations conducted in conformance with the provisions of this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-205. - Disclaimer.

The granting of a permit or the monitoring of operations conducted under any permit shall not make the manager responsible for construction means, methods, techniques, sequences, procedures or permittee's failure to perform the work in accordance with the standards and specifications set forth in the *Uniform Manual of Traffic Control Devices*, nor shall any approval granted by any city official make any such official responsible for any personal injury or property damage occurring as a result of the permittee's operation.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-206. - Liability for damages.

Any person who shall undertake work pursuant to a permit issued under provisions of this article, or work under contracts with the city, shall be answerable for any damage occasioned to persons, animals or property by reason of carelessness or negligence connected with such work, and shall be subject to civil penalties as set forth in sections 56-106 and 56-107 and indemnity; and shall defend the city from all claims arising from work performed on the public right-of-way under this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-207. - Moratorium.

- (a) No street cuts shall be allowed in any public street or alley for a period of three (3) years from the completion of street resurfacing and/or reconstruction without written approval from the manager. Written approvals will be issued only after submittal and approval of a plan outlining the course of remediation. Street cuts required due to emergency situations shall require submittal of a plan within forty-eight (48) hours from the time of the cut for the approval of the manager, outlining the course of remediation. Remediation will consist of a curb to curb profile and overlay, a centerline to curb profile and overlay or a lane line to curb profile and overlay whichever is necessary in order not to decrease the life expectancy of the street surface.
- (b) Street cuts performed during the months of December, January and February shall be limited in quantity and extent. Due to problems associated with permanent patching during adverse winter conditions, street cuts shall be performed only under conditions which will provide adequate time for permanent patching to be completed using material approved by the city engineer. The manager shall be notified in advance of all work occurring during these winter months.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 3, 6-26-00)

Sec. 49-208. - Information on pipes and other structures.

It shall be the duty of every person to furnish on request to the manager information regarding the horizontal location in any street, alley, sidewalk or other public place of the city of any pipe or other structure installed, maintained or utilized by such person.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-209—49-245. - Reserved.

EXHIBIT C

ARTICLE VI. - SIDEWALKS, CURBS, GUTTERS AND DRIVEWAYS

DIVISION 1. - GENERALLY

Secs. 49-101—49-110. - Reserved.

DIVISION 2. - CONSTRUCTION, RECONSTRUCTION AND REPAIR

Footnotes:

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Charter reference— *Local public improvements, § A2.4 et seq.*

Sec. 49-111. - Permit for sidewalk, driveway or curb cut construction.

- (a) No person shall construct, reconstruct or repair sidewalks, driveways, curbs, gutters or curb cuts on the public right-of-way without first obtaining a permit to do so from the manager of transportation and infrastructure.
- (b) The fee for a permit under this section shall be set by the manager of transportation and infrastructure, which fee schedule shall be posted for public inspection in the office of the city engineer.
- (c) Where sidewalk, driveway or curb cut are constructed or reconstructed simultaneously, only one (1) permit and fee shall be required.
- (d) The permit shall specify the work to be done, and any violation of the terms of such permit shall render the same null and void.

(Code 1950, §§ 320.1, 320.3, 321.1; Ord. No. 39-20, § 88, 2-3-20)

Sec. 49-112. - Construction materials.

All sidewalks constructed on the public right-of-way in the city shall be constructed of the size, in the location and according to the specifications as contained in the rules and regulations pertaining to sidewalk construction as promulgated by the manager of transportation and infrastructure under authority of this section.

(Code 1950, § 320.2; Ord. No. 39-20, § 89, 2-3-20)

Sec. 49-113. - Location.

All sidewalks hereafter constructed or reconstructed shall be located to conform with the rules and regulations promulgated by the manager of transportation and infrastructure under the authority of this division and of the Charter.

(Code 1950, § 320.5; Ord. No. 39-20, § 90, 2-3-20)

Sec. 49-114. - Extension beyond prescribed limits or conversion to private use of sidewalks.

- (a) On all streets where courts or open spaces are permitted for the planting of trees or grass plots, the same shall be kept level and to grade and free of any obstruction, fence, railing, bench, hedge or bush, unless objects are used to define tree planting spaces, water quality or green infrastructure facilities, bike rack areas, or other acceptable amenities to ensure safe use of the public right-of-way.
- (b) When trees are located within a concrete sidewalk area, all planting spaces shall be designed in a manner as deemed necessary for the public safety by the manager of transportation and infrastructure in consultation with the city forester.
- (c) No person shall construct or reconstruct a loading platform upon city property without first obtaining a permit to do so from the manager of transportation and infrastructure.

(Code 1950, § 320.4; Ord. No. 1017-17, § 8, 10-16-2017; Ord. No. 39-20, § 91, 2-3-20)

Sec. 49-115. - Grade.

All sidewalks and curbstones shall be laid and set to the established grade, which shall be furnished by the city engineer.

(Code 1950, § 321.3)

Sec. 49-116. - Construction order.

- (a) The manager of transportation and infrastructure may order the construction or reconstruction of sidewalks otherwise than in local improvement districts whenever in the manager's opinion it shall be proper because sufficient sidewalks have been laid in the vicinity to make it reasonable that intervening areas should be provided with sidewalks, or existing sidewalks should be reconstructed.
- (b) In all such cases, the manager of transportation and infrastructure shall notify the owner or agent in charge of the premises to construct or reconstruct such sidewalks within thirty (30) days from the date of the service of the notice in accordance with plans and specifications to be determined upon by the manager and stated in the notice. Such notice shall be in writing and served in person upon the owner or agent in charge of the premises, if found within the city, and if not, it

may be served by registered or certified United States mail, addressed to the owner and deliverable to addressee only, with return receipt requested, or by publication for ten (10) days in some daily newspaper published in the city.

- (c) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of any such notice within the time therein specified.

(Code 1950, § 321.7; Ord. No. 39-20, § 92, 2-3-20)

Sec. 49-117. - Order to reconstruct due to nonconformity to grade.

- (a) If any sidewalks or curbs hereafter constructed or reconstructed are not laid upon substantially the official grades, it shall be the duty of the person laying the same upon notice from the city engineer, so to alter and reconstruct the same as to conform to the official lines and curbs.
- (b) Failure within five (5) days after such notice to comply with the notice and the requirements of this division shall be an offense, and each day's neglect and refusal to comply with the terms of such notice shall constitute a separate offense.

(Code 1950, § 321.4)

Sec. 49-118. - Change of the grade of a sidewalk.

Whenever there has been a change in the official grade of any sidewalk, the manager of transportation and infrastructure may cause to be served upon the owner or agent in charge of the premises abutting upon such sidewalk a notice as set forth in section 49-120(b) to construct or reconstruct such sidewalk upon the official grade.

(Code 1950, § 321.5; Ord. No. 450-84, § 1, 8-27-84; Ord. No. 39-20, § 93, 2-3-20)

Sec. 49-119. - Sidewalk repairs on hazardous walks.

When the manager of transportation and infrastructure determines that a sidewalk's condition is such that it presents a hazard to members of the public, then a notice to repair the sidewalk, as set forth in section 49-120(b), shall be sent to the owner or agent in charge of the abutting property.

(Code 1950, § 321.6; Ord. No. 450-84, § 2, 8-27-84; Ord. No. 39-20, § 94, 2-3-20)

Sec. 49-120. - Contents and service of notice.

- (a) Service of the notice provided for in section 49-118 and 49-119 shall be made either by serving such notice on the person or entity named in the notice, or by sending such notice by first class mail, to the residence or place of business of the person or entity named in the notice, and by

posting such notice in a conspicuous place on the property abutting the hazardous sidewalk. If the notice is served on other than the owner of the property adjacent to the sidewalk, a copy of the notice shall be mailed to the owner at the address contained in the assessor's record.

(b) Any notice issued under sections 49-118 and 49-119 shall contain:

- (1) A description of the construction, reconstruction, or repairs required;
- (2) A statement of the condition of the sidewalk that constitutes the hazard;
- (3) A statement advising of the right to an administrative hearing to appeal the notice, if requested within thirty (30) days, pursuant to section 56-106(b) of the Revised Municipal Code;
- (4) A requirement that compliance shall be made within forty-five (45) days from the date of issuance of the notice, [and such notice] shall also indicate that failure to make the repairs within forty-five (45) days shall be unlawful, and that failure to comply with the notice may result in the work being done by the city at the expenses of the party to whom the notice was issued.

(Code 1950, § 321.8; Ord. No. 450-84, § 3[1], 8-27-84; Ord. No. 811-88, § 1, 12-27-88)

Sec. 49-121. - Access and ease of movement for handicapped persons.

The manager of transportation and infrastructure shall require that all new streets and any existing streets which are reconstructed shall provide for the safe and convenient movement of handicapped persons, including those in wheelchairs, across all curbs at all crosswalks and at all intersection corners.

(Ord. No. 298-83, § 1, 5-23-83; Ord. No. 39-20, § 95, 2-3-20)

Cross reference— Rights and duties of persons with mobility handicaps who operate wheelchairs, § 54-547.

Sec. 49-122. - City may construct, reconstruct, or repair a sidewalk.

If a person or entity to whom notice is directed pursuant to section 49-118 or 49-119 fails to comply within the time specified in the notice, the manager of transportation and infrastructure or his designated representative may, in his discretion, order the construction, reconstruction, or repair of the sidewalk by or on behalf of the city, and the procedures outlined in division 3 of this article VI for collection of costs and expenses thereof shall apply in addition to the penalties provided by this Code.

(Ord. No. 811-88, § 2, 12-27-88; Ord. No. 39-20, § 96, 2-3-20)

Secs. 49-123—49-130. - Reserved.

DIVISION 3. - LIEN FOR REPAIRS

Sec. 49-131. - Recovery of cost and expenses.

- (a) When work has been performed pursuant to section 49-122, the manager of transportation and infrastructure or his designated representative shall bill any or all owners, occupants, lessees or holders of legal or equitable interest of or in the property known to the manager of transportation and infrastructure or his designated representative for the costs and expenses as determined by the manager of transportation and infrastructure or his designated representative.
- (b) If the owner, occupant, lessee or holder of legal or equitable interest of or in the property shall fail within thirty (30) days after billing to pay the costs and expenses of work by the city, a lien may be assessed against the property. The manager of transportation and infrastructure, to initiate such lien, shall certify a statement thereof to the manager of finance, who shall record a notice of such lien with the clerk and recorder. The manager of finance shall assess and charge the same against the property involved, and collect the same due, plus interest thereon, in the manner as are delinquent real property taxes. If the lien remains unsatisfied, the manager of finance shall sell the property involved in the manner prescribed for sales of property for delinquent property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision.
- (c) The liens created hereby shall be superior and prior to other liens, regardless of date, except liens for general and special taxes.

(Code 1950, §§ 322.1, 322.3; Ord. No. 450-84, § 3[2], 8-27-84; Ord. No. 811-88, § 3, 12-27-88; Ord. No. 464-98, § 5, 7-6-98; Ord. No. 775-07, § 79, 12-26-07; Ord. No. 39-20, § 97, 2-3-20)

Sec. 49-132. - Discharge of work certificate; sale; redemption.

- (a) The certificate issued in section 49-131 upon being sold to the manager of finance shall thereupon receipt for the same and enter upon a roll to be kept for the purpose the date of issue, name of the holder, description of the property affected thereby, and the amount of the principal sum due thereon.
- (b) Redemption of the certificate by payment to the manager of finance of the principal amount and accrued interest by any person having a legal or equitable interest in the abutting property shall, upon recordation of a release of lien given therefor by the manager of finance, effect satisfaction of the debt and release of the lien based thereon.

(Code 1950, §§ 322.2, 322.4; Ord. No. 450-84, § 4, 8-27-84; Ord. No. 775-07, § 80, 12-26-07)

Sec. 49-133. - Redemption of certificate; extinguishment of lien.

Any sidewalk certificate issued under the provisions of section 49-131 may be taken up, redeemed and paid, in the following manner:

- (1) The manager of finance is hereby authorized and directed to receive from the owner of any property, against which any such sidewalk certificate is a lien, or from the agent, assignee or attorney of any such owner, or from any person having a legal or equitable claim in or to such property, at any time before the foreclosure of the lien created by any such sidewalk certificate, the amount and interest due upon any such sidewalk certificate, and hold the amount for the owner of such certificate, and pay over the same to the owner of such certificate, upon the presentation of the same for cancellation.
- (2) The manager of finance, upon receipt of the amount, shall issue to the person making such payment, a redemption certificate, in the usual form.
- (3) Upon payment as aforesaid, and the receipt of such certificate of redemption, the interest upon the sidewalk certificate shall cease, and the lien created thereby shall be deemed cancelled, extinguished, and for naught held from the date of the recording of the certificate of redemption, in the office of the city clerk.

(Code 1950, § 322.5; Ord. No. 775-07, § 81, 12-26-07)

Sec. 49-134. - Manager of transportation and infrastructure furnishes manager of finance list of certificates.

It shall be the duty of the manager of transportation and infrastructure to furnish to the manager of finance, from time to time, a list of all outstanding sidewalk certificates, showing date of issue thereof, description of property affected thereby, to whom issued, and the amount for which the same was issued.

(Code 1950, § 322.6; Ord. No. 775-07, § 82, 12-26-07; Ord. No. 39-20, § 98, 2-3-20)

Secs. 49-135—49-140. - Reserved.

DIVISION 4. - CURB CUTS

Sec. 49-141. - Necessity.

The manager of transportation and infrastructure is hereby authorized to determine the necessity for the location and width of curb cuts, taking into consideration the location of the property affected; the extent of vehicular and pedestrian traffic along the same; the demand and the necessity for parking spaces; the means of ingress and egress to and from the property; and generally the health, safety and welfare of the public.

(Code 1950, § 325.1; Ord. No. 39-20, § 99, 2-3-20)

Sec. 49-142. - When manager may require alteration of curb.

Where the use, convenience and necessity of the public require, the manager of transportation and infrastructure is hereby authorized to order the owners or agents of the property adjacent to which curb cuts are maintained to repair, alter, construct or reconstruct, or close or replace the curb or to change the width and location thereof, and is further authorized to make such rules and regulations in respect thereof as the manager deems fit and proper under the circumstances.

(Code 1950, § 325.2; Ord. No. 39-20, § 100, 2-3-20)

Sec. 49-143. - Notification for curb alteration.

- (a) In all cases under section 49-142, the manager of transportation and infrastructure shall notify the owner or agent of the property to repair, alter, construct or reconstruct, or close or replace the curb, or to change the width or location thereof in accordance with the rules and regulations, plans and specifications of the manager within thirty (30) days from the date of the notice.
- (b) Such notice shall be in writing and served:
 - (1) By delivering the notice to the owner personally or by leaving the same at the owner's residence, office or place of business, with some member of the owner's family over fifteen (15) years of age; or
 - (2) By mailing such notices by registered mail to such owner at the last known address; or
 - (3) If the owner is unknown, by posting the notice in some conspicuous place on the premises for five (5) consecutive days.

(Code 1950, § 325.3; Ord. No. 39-20, § 101, 2-3-20)

Sec. 49-144. - Failure to comply with notice; work by city.

- (a) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of notice under this division within the time therein specified.
- (b) Whenever the owner shall be in default or shall fail to comply with the notice of the manager of transportation and infrastructure, the manager is hereby authorized to have the necessary work performed and to recover the cost of the same as provided in section 49-131.

(Code 1950, § 325.4; Ord. No. 464-98, § 6, 7-6-98; Ord. No. 39-20, § 102, 2-3-20)

Secs. 49-145—49-160. - Reserved.