

COLUMBINE VALLEY

TRUSTEE BILL NO. 2
SERIES OF 2000

INTRODUCED BY
TRUSTEE: DAVID GAMBETTA

A BILL

FOR

AN ORDINANCE CONCERNING RIGHTS OF WAY

WHEREAS, obstructions and excavations in Town rights of way disrupt and interfere with public use of the rights of way; and

WHEREAS, obstructions and excavations in Town rights of way result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and excavations; and

WHEREAS, it is desirable to adopt policies and regulations which will enable the Town of Columbine Valley to gain greater control over the disruption and interference with the public use of public streets and rights of way, in order to provide for the health, safety and well-being of the Town's residents and users of Town streets; and

WHEREAS, significant public funds have been invested to acquire, build, maintain and repair the streets within the Town and cuts and excavations in the streets reduce the useful life of the pavement infrastructure; and

WHEREAS, significant public funds have been invested to place and maintain landscaping within public rights of way in the Town and cuts and excavations in the public rights of way cause damage to, and increase the costs of maintaining that landscaping; and

WHEREAS, at the present time, the Town does not have a detailed map or database indicating the location, nature, or extent of the entire system underground utility and telecommunications facilities; and

WHEREAS, the various public and commercial utilities which install, maintain, and operate facilities under the Town's streets are constrained, from time to time, to make excavation cuts which degrade the surfaces of these thoroughfares, thereby reducing their useful life; and

WHEREAS, operators of motor vehicles (private and commercial) pay added gasoline taxes to compensate for the damage their vehicles caused to Town streets and roads. Part of these taxes are used by the federal government (the federal highway "trust fund") for construction and maintenance of interstate and federal highways. The State of Colorado annually transfers revenue from gasoline taxes to the Town for street maintenance. Public and commercial utilities which degrade the streets presently do not adequately pay for the long-term damage done to the roadway surfaces; and

WHEREAS, at the present time there is no formal mechanism nor legal requirement that

public and commercial utilities and telecommunications companies coordinate roadway cuts.

NOW THEREFORE, be it ordained by the Board of Trustees of the Town of Columbine Valley, Colorado as follows:

Section 1.

There is hereby added Chapter 12.13, titled Rights of Way, to the Municipal Code of the Town of Columbine Valley as follows:

I. PURPOSE AND OBJECTIVES

A. Purpose

This ordinance provides principles, procedures and associated funding for the placement of Structures and Facilities, construction excavation encroachments and work activities within or upon any public right of way, and to protect the integrity of the road system. To achieve these purposes, it is necessary to require permits of permanent private users of the public rights of way, to establish permit procedures and to fix and collect fees and charges.

B. Objectives

Public and private uses of public rights of way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the Town must insure that the primary purpose of the right of way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the right of way corridors by permanent private users is secondary to these public objectives, and the movement of traffic. This ordinance is intended to strike a balance between the public need for efficient, safe transportation routes and the use of rights of way for location of Facilities by public and private entities. It thus has several objectives:

1. Insure that the public safety is maintained and that public inconvenience is minimized.
2. To protect the Town's infrastructure investment by establishing repair standards for the pavement, facilities, and property in the public rights of way, when work is accomplished.
 1. To facilitate work within the rights of way through the standardization of regulations.
 2. To maintain an efficient permit process.
 3. To conserve and fairly apportion the limited physical capacity of the public rights of way held in public trust by the Town.
 4. To establish a public policy for enabling the Town to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

5. To promote cooperation among the Permittees (as defined herein) and the Town in the occupation of the public rights of way, and work therein, in order to (i) eliminate duplication that is wasteful, unnecessary or unsightly, (ii) lower the Permittee's and the Town's costs of providing services to the public, and (iii) minimize street cuts.
6. To assure that the Town can continue to fairly and responsibly protect the public health, safety, and welfare.

II DEFINITIONS

For the purpose of this chapter the following words shall have the following meanings:

- A. "Access Vault" means any structure containing one or more Ducts, conduits, manholes, handhole or other such facilities in Permittee's facilities.
- A. "Town" means the Town of Columbine Valley, Colorado.
- B. "Degradation" means a decrease in the useful life of the right of way or damage to any landscaping within the rights of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct the surface and/or subsurface structure of such right of way earlier than would be required if the excavation or disturbance did not occur.
- C. "Public Works Commissioner" means the Commissioner of Public Works of the Town or his/her authorized representative.
- D. "Duct" or "Conduit" means a single enclosed raceway for cables, Fiber Optics or other wires.
- E. "Emergency" means any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed overhead pole structures.
- F. "Excavate" means to dig into or in any way remove or penetrate any part of a right of way.
- G. "Facilities" means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, and other like equipment, fixtures and appurtenances used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.
- H. "Fence" means any artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected to enclose partition, beautify, mark, or screen areas of land.
- I. "Infrastructure" means any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets and sidewalks, and public safety equipment.
- J. "Landscaping" means materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, as well as attendant irrigation systems.

- K. "Permit" means any authorization for use of the public rights of way granted in accordance with the terms of this ordinance, and the laws and policies of the Town.
- L. "Permittee" means the holder of a valid Permit issued pursuant to this Chapter.
- M. "Person" means any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, or organization of any kind.
- N. "Public right of way" or "right of way" or "public way" means any public street, way, place, alley, sidewalk, easement, park, square, plaza, and Town-owned right of way dedicated to public use.
- O. "Specifications" means engineering regulations, construction specifications, and design standards adopted by the Town.
- P. "Structure" means anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.
- Q. "Surplus Ducts or Conduits" are Conduits or Ducts other than those occupied by Permittee or any prior Permittee, or unoccupied Ducts held by Permittee as emergency use spares, or other unoccupied Ducts that Permittee reasonably expects to use within three (3) years from the date of a request for use.
- R. "Work" means any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation of overhead poles used for any purpose.

III. POLICE POWERS

The Permittee's rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce ordinances, including amendments to this ordinance, necessary to the safety, health, and welfare of the public. The Permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this ordinance and the Permit to the contrary. Any conflict between the provisions of the ordinance or the Permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

IV. PERMIT REQUIRED

- A. No person except an employee or official of the Town or a person exempted by contract with the Town shall undertake or permit to be undertaken any construction, excavation, or Work in the public rights of way without first

obtaining a Permit from the Town as set forth in this chapter, except as provided in Section XXII. Each Permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the Town.

- B. Construction, excavation or Work area. No Permittee shall perform construction, excavation, or Work in an area larger or at a location different, or for a longer period of time than that specified in the Permit or Permit application. If, after construction, excavation, or Work is commenced under an approved Permit, it becomes necessary to perform construction, excavation, or Work in a larger or different area than originally requested under the application or for a longer period of time, the Permittee shall notify the Public Works Commissioner immediately and within twenty-four hours shall file a supplementary application for the additional construction, excavation, or Work.
- C. Permit transferability or assignability. The applicant may subcontract the Work to be performed under a Permit provided that the Permittee shall be and remain responsible for the performance of the Work under the Permit and all insurance and financial security as required. Permits are transferable and assignable if the transferee or assignee posts all required security pursuant to this Ordinance and agrees to be bound by all requirements of the Permit and this Ordinance.
- D. In Town, the physical construction of public infrastructure in new developments is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until acceptance by the Town. Any person performing Work on infrastructure which is within a public way, but prior to acceptance by the Town, shall obtain a Permit from the Town and permission from the owner of the infrastructure in the public way. The Permittee shall be financially responsible to the owner of the infrastructure to carry out all remedial Work necessary to receive acceptance by the Town of that infrastructure. This financial obligation shall apply only to the Work in the public way done by the Permittee. The Town will not accept for dedication public rights of way, or other property where Work not performed is not in accordance with applicable Town specifications.
- E. Any person or utility found to be conducting any excavation activity within the public right of way without having first obtained the required Permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a Permit before Work may be restarted. A surcharge of TWO HUNDRED FIFTY DOLLARS (\$250.00) shall be required in addition to all applicable Permit fees.

V. PERMIT APPLICATION - PERMIT CONTENTS

- A. An applicant for a Permit to allow construction, excavation, or Work in the public right of way under this section shall:
 - 1. File a written application on forms furnished by the Town which include the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or

subcontractor licensed to perform Work in the public right of way; the exact location of the proposed construction, excavation or Work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or Work; the purpose of the proposed construction, excavation or Work; the dates for beginning and ending the proposed construction, excavation or Work; proposed hours of Work; itemization of the total cost of restoration, based upon R.S. Means Estimating Standards; and type of Work proposed.

2. Include evidence that the applicant or its contractor is not delinquent in payments due the Town on prior Work.
3. Attach copies of all Permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed Work, and to Work in the public rights of way, if licenses or Permits are required under the laws of the United States, the State of Colorado, or the ordinances or regulations of the Town.
4. Provide a satisfactory plan of Work showing protection of the subject property and adjacent properties.
5. Provide a satisfactory plan for the protection of existing landscaping when the Town determines that damage may occur.
6. Include evidence that all orders issued by the Town to the applicant, requiring the applicant to correct deficiencies under previous Permits issued under this ordinance, have been satisfied.
7. Include with the application engineering construction drawings or site plans for the proposed construction, excavation, or Work.
8. Include with the application a satisfactory traffic control and erosion protection plan for the proposed construction, excavation, or Work.
9. Include a statement indicating any proposed joint use or ownership of the Facility; any existing Facility or Permit of the applicant at this location; any existing Facility of others with which the proposed installations might conflict; and the name, address and telephone number of a representative of the applicant available to review proposed locations at the site.
10. Pay the fees prescribed by this ordinance.
11. Applicants shall update any new information on Permit applications

within ten (10) days after any change occurs.

12. Joint Applications. Applicants may apply jointly for Permits to Work in public rights of way at the same time and place. Applicants who apply jointly for Permits may share in the payment of the Permit fee. Applicants must agree among themselves as to the portion each shall pay.

VI. PERMIT FEE

- A. Before a Permit is issued pursuant to this Ordinance, the applicant shall pay to the Town a Permit fee, which shall be determined in accordance with a fee schedule established in Section 12.04.120..
- B. Any Permit for temporary use or occupation of the public rights of way, where there is no construction involved, shall not require payment of a degradation fee as part of the Permit fee.

VII. INSURANCE AND INDEMNIFICATION

- A. Prior to the granting of any Permit, the Permittee shall file with the Town an insurance policy or certificate in a form satisfactory to the Town with coverage as follows:
 1. The Permittee shall carry and maintain in full effect at all times a comprehensive general liability policy, including broad form property damage, completed operations and contractual liability for limits not less than Four Hundred Thousand Dollars (\$400,000.00) each occurrence for damages of bodily injury or death to one or more persons; and hundred thousand dollars (\$100,000.00) each occurrence for damage to or destruction of property.
 2. Insurance coverage for special hazards: special hazards coverage, such as, but not limited to, property damage as a result of explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, shall all be specifically added by endorsement to the herein above required liability policies.
 1. Workers compensation insurance as required by State law.
 2. Town departments shall be relieved of the obligation of submitting a certificate of insurance.
- B. Whenever any person has filed with the Town evidence of insurance as required, any additional or subsequent Permit holder in the employ of said initial person may, at the discretion of the Town, be excused from depositing or filing any additional evidence of insurance if such employee is fully covered by the

Permittee's insurance policy.

- C. Each Permittee shall construct, maintain, and operate its facilities in a manner which provides protection against injury or damage to persons or property.
1. The Permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall save the Town harmless, defend, and indemnify the Town, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the Town for all its reasonable expenses, as incurred, arising out of the installation, maintenance, operation or any other Work or activity in the public right of way or by the Permittee related to its use thereof, including, but not limited to, the actions of the Permittee, its employees, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the Permittee of the Permit rights granted in the Permit, including any third party claims, administrative hearings, and litigation; whether or not any act or omission complained of is authorized, allowed, or prohibited by this ordinance or other applicable law.
 2. The terms of each contract awarded by the Permittee for activities pursuant to a Permit shall contain indemnity provisions whereby the contractor shall indemnify the Town to the same extent as described above.
 3. The Permittee shall have the right to defend the Town with regard to all third party actions, damages and penalties arising in any way out of the exercise of any rights in the Permit. If at any time, however, Permittee refuses to defend, and the Town elects to defend itself with regard to such matters, the Permittee shall pay all actual expenses incurred by the Town related to its defense.
 4. In the event the Town institutes litigation against the Permittee for a breach of the Permit or for an interpretation of this ordinance and the Town is the prevailing party, the Permittee shall reimburse the Town for all costs related hereto, including reasonable attorney's fees. The Permittee shall not be obligated to hold harmless or indemnify the Town for claims or demands to the extent that they are due to the gross negligence, or any intentional and/or willful acts of the Town or any of its officers, employees, or agents.
 5. In the event the Permittee is a public entity, the indemnification requirements of this section shall be subject to the provisions of the Colorado Governmental Immunity Act.

VIII. PERFORMANCE BOND/LETTER OF CREDIT

- A. Before any Permit required by this chapter shall be issued to an applicant, the applicant shall file with the Public Works Commissioner a bond or letter of credit in favor of the Town in an amount equal to the total cost of construction, including labor and materials, or five thousand dollars, whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of Town ordinances, rules and regulations, and upon payment of all judgments and costs rendered against the applicant for any material violation of Town ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of Work done pursuant to the Permit. The Town may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary. The bond or letter of credit must be approved by the Town's finance Public Works Commissioner as to form and as to the responsibility of the surety thereon prior to the issuance of the Permit. However, the Town may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets located in the state to satisfy any claims intended to be protected against the security required by this section.
- B. A letter of responsibility will be accepted in lieu of a performance bond or letter of credit from all public utilities, all franchised entities, and all metropolitan, water and sanitation districts operating within the Town.
- C. The performance bond, letter of credit or letter of responsibility shall remain in force and effect for a minimum of three years after completion and acceptance of the street cut, excavation or lane closure.

IX. PERFORMANCE WARRANTY/GUARANTEE

- A. Any warranty made hereunder shall serve as security for the performance of Work necessary to repair the public right of way if the Permittee fails to make the necessary repairs or to complete the Work under the Permit.
- B. The Permittee, by acceptance of the Permit, expressly warrants and guarantees complete performance of the Work in a manner acceptable to the Town and warrants and guarantees all Work done for a period of three years after the date of probationary acceptance, and agrees to maintain upon demand and to make all necessary repairs during the three year period. This warranty shall include all repairs and actions needed as a result of:
 - 1. Defects in Workmanship.

2. Settling of fills or excavations.
 3. Any unauthorized deviations from the approved plans and specifications.
 4. Failure to barricade.
 5. Failure to clean up during and after performance of the Work.
 6. Any other violation of this chapter or the ordinances of the Town.
- C. The three year warranty period shall run from the date of the Town's probationary acceptance of the Work. If repairs are required during the three year warranty period, those repairs need only be warranted until the end of the initial three year period starting with the date of probationary acceptance. It is not necessary that a new three year warranty be provided for subsequent repairs after probationary acceptance.
- D. At any time prior to completion of the three year warranty period, the Town may notify the Permittee of any needed repairs. Such repairs shall be completed within twenty four hours if the defects are determined by the Town to be an imminent danger to the public health, safety and welfare. Nonemergency repairs shall be completed within thirty (30) calendar days after notice.

X. INSPECTIONS

A minimum of three inspections shall take place. First, the Permittee shall request that the Town conduct a pre-construction inspection, to determine any necessary conditions for the Permit. Second, the Permittee shall notify the Town immediately after completion of Work operations. The Town shall inspect the completed Work within twenty one (21) days of Permittee's notification. Probationary acceptance will be made if all Work meets Town and Permit standards. Third, approximately thirty days prior to the expiration of the three-year guarantee, the Town shall conduct a final inspection of the completed Work. If the Work is still satisfactory the bond or letter of credit shall be returned or allowed to expire, with a letter of final acceptance, less any amounts needed to complete Work not done by Permittee. Upon review of the application for a Permit, the Public Works Commissioner shall determine how many additional inspections, if any, may be required. For Work which does not involve material disturbance in the rights of way, the Public Works Commissioner shall waive the final inspection and the performance bond/letter of credit.

XI. PUBLIC SAFETY

The Permittee shall maintain a safe Work area, free of safety hazards. The Town may make any repair necessary to eliminate any safety hazards not performed as directed. Any such Work performed by the Town shall be completed and billed to the Permittee at overtime rates. The Permittee shall pay all such charges within 30 days of the statement date. If the Permittee fails to pay such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. Furthermore, the Permittee shall be barred from performing any Work in the public right of way, and under no circumstances will the Town issue any further Permits of any kind to said Permittee, until all outstanding charges have been paid in full.

XII. TIME OF COMPLETION

All Work covered by the Permit shall be completed by the date stated on the application. Permits

shall be void if Work has not commenced six months after issuance, unless an extension has been granted by the Public Works Commissioner. Performance bonds, letters of credit or letters of responsibility deposited as a performance/warranty guarantee for individual Permits will be returned after voiding of the Permit, with administrative and any other Town costs deducted.

XIII. TRAFFIC CONTROL

- A. When it is necessary to obstruct traffic, a traffic control plan shall be submitted to the Town prior to starting construction. No Permit will be issued until the plan is approved by the Town. No Permittee shall block access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the Permittee provides the Town with written verification of written notice delivered to the owner or occupant of the facility, equipment or property at least 48 hours in advance. If a street closing is desired, the applicant will request the assistance and obtain the approval of the Public Works Commissioner. It shall be the responsibility of the Permittee to notify and coordinate all Work in the public way with police, fire, ambulance, other government entities, and transit organizations.
- B. When necessary for public safety, the Permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the Public Works Commissioner.
- C. Unless approved by the Public Works Commissioner, the Permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the Public Works Commissioner.
- D. Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the Permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights.
- E. Oil flares or kerosene lanterns are not allowed as means of illumination.
- F. Part VI of the Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The Permittee shall illustrate on the Permit the warning and control devices proposed for use. At the direction of the Public Works Commissioner, such warning and control devices shall be modified.

XIV. GENERAL RIGHTS OF WAY USE AND CONSTRUCTION

- A. Right of Way Meetings. Permittee will make reasonable efforts to attend and participate in meetings of the Town, of which the Permittee is made aware, regarding right of way issues that may impact its facilities, including, planning meetings to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Permittee shall Work with other providers, licensees, Permittees, and franchisees so as to reduce so far as possible the number of right of way cuts within the Town.

- A. Minimal Interference. Work in the right of way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Permittee's facilities shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Town, or with any other pipes, wires, conduits, pedestals, structures, or other Facilities that may have been laid in the rights of way by, or under, the Town's authority. The Permittee's Facilities shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Town may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights of way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic.

- B. Underground Construction and Use of Poles.
 - 1. When required by general ordinances, resolutions, regulations or rules of the Town or applicable State or federal law, Permittee's Facilities shall be placed underground at Permittee's expense. Placing Facilities underground does not preclude the use of ground-mounted appurtenances.

 - 2. Where all Facilities are installed underground at the time of Permittee's construction, or when all such Facilities are subsequently placed underground, all Permittee Facilities shall also be placed underground at no expense to the Town unless funding is generally available for such relocation to all users of the rights of way. Related equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules. In areas where existing Facilities are aerial, the Permittee may install aerial Facilities.

 - 3. For above ground Facilities, the Permittee shall utilize existing poles and

conduit wherever possible.

4. Should the Town desire to place its own Facilities in trenches or bores opened by the Permittee, the Permittee shall cooperate with the Town in any construction by the Permittee that involves trenching or boring, provided that the Town has first notified the Permittee in some manner that it is interested in sharing the trenches or bores in the area where the Permittee's construction is occurring. The Permittee shall allow the Town to place its Facilities in the Permittee's trenches and bores, provided the Town incurs any incremental increase in cost of the trenching and boring. The Town shall be responsible for maintaining its respective Facilities buried in the Permittee's trenches and bores under this paragraph.
5. Use of Conduits by the Town. The Town may install or affix and maintain its own Facilities for Town purposes in or upon any and all of Permittee's ducts, conduits or equipment in the rights of way and other public places, at a charge to be negotiated between the parties (but in no event greater than the best price charge by Permittee to any other user), to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. For the purposes of this subsection, "Town purposes" includes, but is not limited to, the use of the structures and installations for Town fire, police, traffic, water, telephone, and/or signal systems.
6. Common Users.

a. The rights of way have a finite capacity for containing Facilities. Therefore, whenever the Town determines it is impracticable to permit construction of an underground Conduit system by any other entity which may at the time have authority to construct or maintain Conduits or Ducts in the rights of way, but excluding entities providing services in competition with Permittee, and unless otherwise prohibited by federal or state law or regulations, the Town may require Permittee to afford to such entity the right to use Permittee's Surplus Ducts or Conduits in common with Permittee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Permittee and the other entity. Nothing herein shall require Permittee to enter into an agreement with such entity if, in Permittee's reasonable determination, such an agreement could compromise the integrity of the Permittee's facilities.

b. Permittee shall give a common user pursuant to this Section a minimum of one hundred twenty (120) days notice of its need to occupy a Conduit and shall propose that the common user take the

first feasible action as follows:

- (1) Pay revised Conduit rent designed to recover the cost of retrofitting the Conduit with space-saving technology sufficient to meet Permittee's space needs;
 - (2) Pay revised Conduit rent based on the cost of new Conduit constructed to meet Permittee's space needs;
 - (3) Vacate the needed Ducts or Conduit; or
 - (4) Construct and maintain sufficient new Conduit to meet Permittee's space needs.
- c. When two or more common users occupy a section of Conduit Facility, the last user to occupy the Conduit Facility shall be the first to vacate or construct new Conduit. When Conduit rent is revised because of retrofitting, space-saving technology or construction of new Conduit, all common users shall bear the increased cost.
- d. All Facilities shall meet any applicable local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Permittee and the other common user. Permittee may, at its option, correct any attachment deficiencies and charge the common user for its costs. Each common user shall pay Permittee for any fines, fees, damages or other costs the common user's attachments cause Permittee to incur.

XV. JOINT PLANNING AND CONSTRUCTION; COORDINATION OF EXCAVATIONS

- A. Excavations in Town rights of way disrupt and interfere with the public use of Town streets and damage the pavement and landscaping. The purpose of this Section is to reduce this disruption, interference and damage by promoting better coordination among Permittees making excavations in Town rights of way and between these Permittees and the Town. Better coordination will assist in minimizing the number of excavations being made wherever feasible, and will ensure the excavations in Town rights of way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the Town.
- B. Any Permittee owning, operating or installing facilities in Town rights of way, providing water, sewer, gas, electric, communication, video or other utility

services, shall meet annually with the Public Works Commissioner, at the Public Works Commissioner's request to discuss Permittee's excavation master plan. At such meeting, to the extent not already in possession of the Town, Permittee shall submit documentation, in a form required by the Public Works Commissioner, showing a location of the Permittee's existing facilities in the Town rights of way. Permittee shall discuss with the Public Works Commissioner, its excavation master plan, and identify planned major excavation Work in the Town. The Public Works Commissioner may make his own record on a map, drawing or other documentation, of each Permittee's planned major excavation Work in the Town; provided, however, that no such document prepared by the Public Works Commissioner shall identify a particular entity, or the planned major excavation Work of that particular entity. Permittee shall meet with the Public Works Commissioner to discuss an initial excavation master plan no later than sixty (60) days after submitting its first Permit application. Thereafter, each Permittee shall submit annually, on the first regular business day of January, a revised and updated excavation master plan. As used in this subsection, the term "planned major excavation Work" refers to any future excavations planned by the Permittee when the excavation master plan or update is submitted that will affect any Town right of way for more than five (5) days, provided that the Permittee shall not be required to identify future major excavations planned to occur more than three (3) years after the date that the Permittee's master plan or update is discussed. Between the annual meetings to discuss planned major excavation Work, Permittee shall use its best efforts to inform the Public Works Commissioner of any substantial changes in the planned major excavation Work discussed at the annual meeting.

- C. The Public Works Commissioner shall prepare a Repaving Plan showing the street resurfacing planned by the Town. For purposes of this Section, the Repaving Plan shall include a landscaping or other right of way improvement plan. The Repaving Plan shall be revised and updated on an annual basis after meeting to discuss the Permittee's and Town Department's master plans and updates. The Public Works Commissioner shall make the Town's Repaving Plan available for public inspection. In addition, after determining the street resurfacing Work that is proposed for each year, the Public Works Commissioner shall send a notice of the proposed Work to all Permittees that have had an annual meeting with the Public Works Commissioner.
- D. Prior to applying for a Permit, any Person planning to excavate in the Town's rights of way shall review the Town's Repaving Plan on file with the Public Works Commissioner and shall coordinate, to the extent practicable, with the utility and street Work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of such rights of way.
- E. In performing location of facilities in the public rights of way in preparation for

construction under a Permit, Permittee shall compile all information obtained regarding its or any other facilities in the public rights of way related to a particular Permit, and shall make that information available to the Town in a written and verified format acceptable to the Public Works Commissioner.

- F. Prior to undertaking any Work in the rights of way or related landscaping, the Town may notify all Permittees of the Town Work to be performed. Upon such notification, all Permittees shall, within seven (7) days, locate their Facilities in the rights of way in which the Work will be performed, and provide documentation in a format acceptable to the Public Works Commissioner of the Permittee's facilities in that right of way.

XVI. MINIMIZING THE IMPACTS OF WORK IN THE RIGHTS OF WAY

- A. Relocation and Protection of Utilities. Before beginning excavation in any public way, a Permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by C.R.S. §9-1.5-102 et seq., make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have facilities in the area of Work to determine possible conflicts.

The Permittee shall contact the UNCC and request field locations of all facilities in the area pursuant to UNCC requirements. Field locations shall be marked prior to commencing Work. The Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the Work from damage during construction or settlement of trenches subsequent to construction.

- A. Noise, Dust, Debris, Hours of Work. Each Permittee shall conduct Work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the Work, the Permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No Work shall be done between the hours of 8:00 p.m. and 7:00 a.m. nor at any time on Sunday, except with the written permission of the Public Works Commissioner, or in case of an emergency.
- B. Trash and Construction Materials. Each Permittee shall maintain the Work site so that:
 - 1. Trash and construction materials are contained so that they are not blown off of the construction site.
 - 2. Trash is removed from a construction site often enough so that it does not

become a health, fire, or safety hazard.

3. Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Public Works Commissioner.
- C. Deposit of Dirt and Material on Roadways. Each Permittee shall eliminate the tracking of mud or debris upon any street or sidewalk. Equipment and trucks used during construction, excavation, or Work activity shall be cleaned of mud and debris prior to leaving any Work site.
- D. Protection of Trees and Landscaping. Each Permittee shall protect trees, landscape, and landscape features as required by the Town. All protective measures shall be provided at the expense of the Permittee.
- E. Protection of Paved Surfaces From Equipment Damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved surface unless specific precautions are taken to protect the surface. The Permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the Town to repair any damage, and, possibly, the requirement of additional warrantee(s).
- F. Protection of Property. Each Permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the Work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out Work in the public way.
- G. Clean-Up. As the Work progresses, all public rights of way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the Permittee.
- H. Preservation of Monuments. A Permittee shall not disturb any surface monuments or survey hubs and points found on the line of Work unless approval is obtained from the Public Works Commissioner. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at the Permittee's expense.
- I. Each Permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a Work site is not impacted.

- J. Each Permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk in conformance with Town Code.
- K. Each Permittee shall clear all snow and ice hazards from public sidewalks at the Work site by noon following a snowfall in conformance with Town Code.

XVII. STANDARDS FOR REPAIRS AND RESTORATION

- B. Permittee Responsibility. The Permittee shall be fully responsible for the cost and actual performance of all Work in the public way. The Permittee shall do all Work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the Town. These standards shall apply to all Work in the public way unless otherwise indicated in the Permit.
- C. All restoration shall result in a Work site condition equal to or better than that which existed prior to construction. In addition to the regulations, specifications and standards referred to in subsection (A) the following provisions shall apply to Work in the public rights of way of the Town.
 - 1. Pavement cuts shall be filled with compacted select material. Either concrete or asphalt patches will be placed to match the existing street cross section. Select material shall include select fill, stone (CDOT 26 or 57) or controlled density (flowable) fill.
 - 2. Select fill shall be placed in an excavation to the density required by Town compaction specifications.
 - 3. Flowable fill backfill material, satisfying design and construction standards adopted the Town, shall be used to restore all trenches that have been excavated in the paved portion of any public street or alley. For trench excavations in excess of five feet in depth, the applicant may utilize granular backfill material in lieu of flowable fill backfill material, provided that all of the following conditions are satisfied.
 - 4. Prior to the issuance of a Permit for construction, excavation, or Work activity, in the public right of way, the applicant must request and receive approval for the use of granular backfill material.
 - 5. The type, gradation, placement, compaction, and testing of the granular backfill material shall meet or exceed all requirements specified in design

and construction standards adopted the Town.

6. In cases where it is impossible to achieve the compaction required by the local municipal/county building code on select fill, the Town encourages the use of controlled density fill or flash fill material. When controlled density fill type material is used, steel plate will be placed to cover the opening for the time required to allow the material to set.
7. Once the compacted backfill has been placed, an asphalt cutback shall be made. The cutback will extend 6 inches minimum on each side of the opening and will be over undisturbed pavement material (1-1/2 inch deep minimum). All edges of the opening shall be neatly cut with an asphalt saw at 90 degrees to traffic and uniformly tacked.
8. The new asphalt will be placed in lifts (3 inches maximum) and compacted upon placement. Asphalt depths will be governed the existing cross section of the street but not less than 4 inches of full deep asphalt shall be used to fill a street cut regardless of the existing cross section. Concrete meeting all construction standards of the Town shall be used to replace concrete pavement wherever it occurs.

XVIII. CONSTRUCTION AND RESTORATION STANDARDS FOR NEWLY CONSTRUCTED OR OVERLAYED STREETS

No person shall cause an open trench excavation or potholing of utilities in the pavement of any public right of way for a period of three years from the completion of construction or resurfacing except in compliance with the provisions of this Section.

- A. Application. Any application for a Permit to excavate in a public right of way subject to the requirements of this section shall contain the following information:
 1. A detailed and dimensional engineering plan that identifies and accurately represents the Town rights of way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.
 2. The street width or alley width including curb and gutter over the total length of each Town block that will be impacted by the proposed excavation.
 3. The location, width, length, and depth of the proposed excavation.
 4. The total area of existing street or alley pavement in each individual Town block that will be impacted by the proposed excavation.
 5. A written statement addressing the criteria for approval.
- B. Criteria for Approval. No Permit for excavation in the right of way of new streets

shall be approved unless the Public Works Commissioner finds that all of the following criteria have been met:

1. Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.
 2. Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.
 3. The proposed excavation cannot reasonably be delayed until after the three year deferment period has lapsed.
- C. Exemptions for Emergency Operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the Town to perform emergency maintenance operations within the public rights of way, shall be exempted from this section. Any person commencing operations under the laws of this section shall submit detailed engineering plans, construction methods and remediation plans no later than three Working days after initiating the emergency maintenance operation.
- D. Construction and Restoration Standards for Newly Constructed or Overlaid Streets and Alleys. The streets shall be restored and repaired in accordance with design and construction standards adopted the Town and guaranteed in accordance with Section IX.

XIX. RELOCATION OF FACILITIES

If at any time the Town requests the Permittee to relocate its Facilities, in order to allow the Town to make any public use of rights of way, or if at any time it shall become necessary because of a change in the grade or for any other purpose by reason of the improving, repairing, constructing, or maintaining of any rights of way, or reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement the Town or other public agency or special district, and any general program for the undergrounding of such facilities, to move or change the Permittee's Facilities within or adjacent to rights of way in any manner, either temporarily or permanently, the Town shall notify the Permittee, at least 90 days in advance, except in the case of emergencies, of the Town's intention to perform or have such Work performed. The Permittee shall thereupon, at its sole cost and expense, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three Working days prior to the date the Town has notified the Permittee that it intends to commence its Work or immediately in the case of emergencies. Upon the Permittee's failure to accomplish such Work, the Town or other public agencies or special district may perform such Work at the Permittee's expense and the Permittee shall reimburse the Town or other agency within 30 days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction the Permittee at the Permittee's expense. Notwithstanding the requirements of the Section, a Permittee may request additional time to complete a relocation project. The Public Works Commissioner shall grant a reasonable extension if in his sole discretion, the extension will not adversely affect the Town's project.

XX. ABANDONMENT AND REMOVAL OF FACILITIES

- A. Notification of Abandoned Facilities. Any Permittee that intends to discontinue use of any Facilities within the public rights of way shall notify the Public Works Commissioner in writing of the intent to discontinue use. Such notice shall describe the Facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than thirty (30) days from the date such notice is submitted to the Public Works Commissioner and the method of removal and restoration. The Permittee may not remove, destroy or permanently disable any such Facilities during said thirty (30) day period without written approval of the Public Works Commissioner. After thirty (30) days from the date of such notice, the Permittee shall remove and dispose of such Facilities as set forth in the notice, as the same may be modified by the Public Works Commissioner, and shall complete such removal and disposal within six months, unless additional time is requested from and approved by the Public Works Commissioner.
- B. Conveyance of Facilities. At the discretion of the Town, and upon written notice from the Public Works Commissioner within thirty (30) days of the notice of abandonment, the Permittee may abandon the Facilities in place, and shall further convey full title and ownership of such abandoned Facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the Facilities in place. The Permittee is responsible for all obligations as owner of the Facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

XXI. EMERGENCY PROCEDURES

Any person maintaining Facilities in the public way may proceed with repairs upon existing facilities without a Permit when emergency circumstances demand that the Work be done immediately. The person doing the Work shall apply to the Town for a Permit on or before the third Working day after such Work has commenced. All emergency Work will require prior telephone notification to the Town Police/Sheriff Department and the appropriate fire protection agency.

XXII. REVOCATION OF PERMITS

- A. Any Permit may be revoked or suspended by the Public Works Commissioner, after notice to the Permittee for:
 - 1. Violation of any material condition of the Permit or of any material provision of this ordinance.
 - 2. Violation of any material provision of any other ordinance of the Town or state law relating to the Work.
 - 3. Existence of any condition or performance of any act which the Town determines constitutes or causes a condition endangering life or damage to property.
- B. A suspension or revocation by the Public Works Commissioner, and a stop Work order, shall take effect immediately upon notice to the person performing the Work in the public way, or to the Permittee's last known address.

- C. A stop Work order may be issued by the Public Works Commissioner to any person or persons doing or causing any Work to be done in the public way without a Permit, or in violation of any provision of this chapter, or any other ordinance of the Town.
- D. Any suspension or revocation or stop Work order may be appealed by the Permittee to the Town Board of Trustees by filing a written notice of appeal within thirty days of the action.

XXIII. APPEALS PROCEDURE

Any decision rendered by the Public Works Commissioner pursuant to this Ordinance may be appealed within 30 days by the Permittee to the Town Board of Trustees in accordance with the rules and procedures established by that body.

XXIV. PENALTY

If any person, firm or corporation shall violate or cause the violation of any of the provisions of this chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted, and upon conviction of any such violation such person, firm or corporation shall be punished as provided by a fine of not less than \$10.00 nor more than \$1,000.00 or imprisonment for a period of not more than one year, or both.

Section 2. That should any section, clause, sentence, part or portion of this Ordinance be adjudged by any Court to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part or portion declared by such Court to be unconstitutional or invalid.

Section 3. The Town Clerk shall certify the passage of this Ordinance and cause notice of its contents and passage to be published.

Section 4. This Ordinance shall be in full force and effect upon the expiration of thirty (30) days after the publication of this Ordinance in the Littleton Independent, Littleton, Colorado, said newspaper being a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

Introduced as Trustee Bill No. 2, Series of 2000, at a regular meeting of the Board of Trustees of the Town of Columbine Valley, held at the Columbine Valley Town Offices, located at Creekside at Columbine Office Park, 5931 South Middlefield Road, Unit 101, Littleton, Arapahoe County, Colorado, on the ____ day of _____, 2000, passed by a vote of for and ____ against on first reading; passed on second reading at a regular meeting of Board of Trustees held at the Columbine Valley Town Offices, Town of Columbine Valley, Arapahoe County, Colorado, by a vote of ____ for and ____ against on the ____ day of _____, 2001, at 7:30 o'clock p.m. and ordered published in the Littleton Independent on the ____ day of _____, 2001.

James McShane, Mayor

ATTEST:

Ann Jennings, Clerk of the
Town of Columbine Valley

GMTC MODEL RIGHT OF WAY ORDINANCE

PROPOSED FEE SCHEDULE

The Right of Way Committee of the Greater Metro Telecommunications Consortium (GMTC) has examined cost recovery mechanisms and fees charged for right of way licenses and permits in jurisdictions throughout the country. These include San Francisco, California; Sacramento, California; Louisville, Kentucky; Eugene, Oregon; Fort Wayne, Indiana; Fort Collins, Colorado; and the Mid-America Regional Council, comprising the metropolitan area of Kansas City, Missouri and Kansas. The Committee has also factored into its recommendation the experience of the public works officials who have participated in this project. While there are various concepts that have been taken from different jurisdictions, the Committee is recommending a fee schedule that is most closely aligned with the structure and the substance of the Kansas City area fee schedule. The Committee notes that both Kansas and Missouri law, like Colorado law, allows local governments to charge fees in order to recover costs for the use of public rights of way, provided that the charge relates to a direct cost to the local government arising out of the right of way usage.

The structure of the recommended permit fees divides the fees into three separate areas, Degradation Costs, Disruption Costs, and Administrative/Management Costs. Degradation is defined in Section II.C. of the Model Ordinance. Disruption Costs refer to the interruption of the normal use of the public right of way. Administrative/Management Costs relate to those costs associated with a public right of way project such as permitting, inspections, as well as inventory, map updating, and general inquiries related to public right of way intrusion.

It is anticipated that after recommendation of a proposed fee schedule is presented to the GMTC Board of Public Works Commissioners, the GMTC will finalize and make its own recommendations for a Model Ordinance and Fee Schedule. The final version of the Model Ordinance and Fee Schedule will be considered independently by GMTC member jurisdictions, and may or may not be adopted by individual GMTC jurisdictions.

PROPOSED RIGHT OF WAY PERMIT FEES

I. DEGRADATION COSTS

The formula for Degradation Costs is provided in Tables 1 through 3, for streets with a 20, 30 and 40 year design standard. Table 4 illustrates a hypothetical calculation.

TABLE 1 - Recommended Cost of Recovery Method (With 20 Year Street Design Standard)

		Cost per Square Yard for Streets, Overlays and Sealcoats	
		X Depreciation Rate X Area of Influence (1)	

Depreciation Rates						Cost Per Square Yard (3)		
Street (2)				Overlays		Type	Cost	
Age	Rate	Age	Rate	Age	Rate			
0	100%	21		1	90%	Asphalt Street Reconstruction	\$45.00	
1	99%	22		2	80%	Overlays	\$5.00	
2	98%	23		3	70%	Sealcoats	\$1.10	
3	97%	24		4	60%			
4	96%	25		5	50%			
5	95%	26		6	40%			
6	90%	27		7	30%			
7	84%	28		8	20%			

8	79%	29			9	10%		
9	74%	30			10	0%		
10	68%	31						
11	63%	32			Sealcoats			
12	58%	33			Age	Rate		
13	52%	34			1	80%		
14	47%	35			2	60%		
15	42%	36			3	40%		
16	36%	37			4	20%		
17	31%	38			5	0%		
18	26%	39						
19	20%	40						
20	15%							

(1) Area of influence is equal to area of the cut plus 3.0 feet on each side (expressed in sq. yds.)

(2) Depreciation rates are based on a 20-year street design standard.

Depreciation for the first 5 years is 1.0% per year, followed by straight line depreciation less 15.0% for the remaining street design standard (15 years). Depreciation can occur at 1.0% per year after this time for up to 15 years or street reconstruction, whichever occurs first. This reflects the consensus of the Committee that streets retain some value beyond their design standard or expected street life.

(3) Average cost estimates as recommended by GMTC Right of Way Committee.

TABLE 2 - Recommended Cost of Recovery Method (With 30 Year Street Design Standard)

		Cost per Square Yard for Streets, Overlays and Sealcoats	
		X Depreciation Rate X Area of Influence (1)	

Depreciation Rates						Cost Per Square Yard (3)		
Street (2)				Overlays		Type		Cost

Age	Rate	Age	Rate		Age	Rate			
0	100%	21	44%		1	90%		Asphalt Street Reconstruction	\$45.00
1	99%	22	41%		2	80%		Overlays	\$5.00
2	98%	23	37%		3	70%		Sealcoats	\$1.10
3	97%	24	34%		4	60%			
4	96%	25	31%		5	50%			
5	95%	26	28%		6	40%			
6	92%	27	25%		7	30%			
7	89%	28	21%		8	20%			
8	85%	29	18%		9	10%			
9	82%	30	15%		10	0%			
10	79%	31							
11	76%	32			Sealcoats				
12	73%	33			Age	Rate			
13	69%	34			1	80%			
14	66%	35			2	60%			
15	63%	36			3	40%			
16	60%	37			4	20%			
17	57%	38			5	0%			
18	53%	39							
19	50%	40							
20	47%								

(1) Area of influence is equal to area of the cut plus 3.0 feet on each side (expressed in sq. yds.)

(2) Depreciation rates are based on a 30-year street design standard.

Depreciation for the first 5 years is 1.0% per year, followed by straight line depreciation less 15.0% for the remaining street design standard (25 years). Depreciation can occur at 1.0% per year after this time for up to 15 years or street reconstruction, whichever occurs first. This reflects the consensus of the Committee that streets retain some value beyond their design standard or expected street life.

(3) Average cost estimates as recommended by GMTC Right of Way Committee.

TABLE 3 - Recommended Cost of Recovery Method (With 40 Year Street Design Standard)

		Cost per Square Yard for Streets, Overlays and Sealcoats	
		X Depreciation Rate X Area of Influence (1)	

Depreciation Rates							Cost Per Square Yard (3)	
Street (2)				Overlays		Type	Cost	
Age	Rate	Age	Rate	Age	Rate			
0	100%	21	58%	1	90%	Asphalt Street Reconstruction	\$45.00	
1	99%	22	56%	2	80%	Overlays	\$5.00	
2	98%	23	54%	3	70%	Sealcoats	\$1.10	
3	97%	24	52%	4	60%			
4	96%	25	49%	5	50%			
5	95%	26	47%	6	40%			
6	93%	27	45%	7	30%			
7	90%	28	42%	8	20%			
8	88%	29	40%	9	10%			
9	86%	30	39%	10	0%			
10	84%	31	36%					
11	81%	32	33%	Sealcoats				
12	79%	33	31%	Age	Rate			
13	77%	34	29%	1	80%			
14	74%	35	26%	2	60%			
15	72%	36	24%	3	40%			
16	70%	37	22%	4	20%			
17	68%	38	20%	5	0%			

18	65%	39	17%					
19	63%	40	15%					
20	61%							

(1) Area of influence is equal to area of the cut plus 3.0 feet on each side (expressed in sq. yds.)

(2) Depreciation rates are based on a 40-year street design standard.

Depreciation for the first 5 years is 1.0% per year, followed by straight line depreciation less 15.0% for the remaining street design standard (35 years). Depreciation can occur at 1.0% per year after this time for up to 15 years or street reconstruction, whichever occurs first. This reflects the consensus of the Committee that streets retain some value beyond their design standard or expected street life.

(3) Average cost estimates as recommended by GMTC Right of Way Committee.

TABLE 4 - Recommended Cost of Recovery Method

		Cost per Square Yard for Streets, Overlays and Sealcoats	
		X Depreciation Rate X Area of Influence (1)	

Example

Using 20-Year Street Design Standard

Assumptions: Street is 16 years old

Overlay is 5 years old

Sealcoat is 1 year old

Area of cut = 3 feet x 3 feet

Area of influence = 9 feet x 9 feet = 81 square feet

= 9 square yards

	Cost per Square Yard	Depreciation Rate	Area of Influence	Degradation Cost
Street	\$45.00	36.00%	9.0	\$145.80
Overlay	\$ 5.00	50.00%	9.0	\$ 22.50
Sealcoat	\$ 1.10	80.00%	9.0	\$ 7.92
		Total Cost		\$176.22

II. DISRUPTION COSTS

At the time of Permit application, the Public Works Commissioner shall determine the number of days necessary to complete the construction requested in the Permit application. The determination shall be based upon the R.S. Means Estimating Standards. There shall be no Permit fee attributable to disruption costs for construction during the number of days determined by the Public Works Commissioner as necessary to complete the work, so long as no lanes of traffic are obstructed during the rush hours set forth in Section XIV.A. of the Ordinance. If the project is not completed during the time period set forth in the Permit, and if the Public Works Commissioner has not granted an extension pursuant to Section XIII of the Ordinance, and/or if at any time Permittee interferes with any lanes of traffic during rush hour on collector or arterial streets, without having first received permission to do so from the Public Works Commissioner, the following daily fees shall be paid to compensate for disruption costs:

Residential Street	\$100.00	
	<u>NON RUSH HOUR</u>	<u>RUSH HOUR</u>
Collector Streets	\$200.00	\$400.00
Arterial Streets	\$400.00	\$800.00

The fees for disruption costs shall apply for each 500 feet of right of way obstructed. By way of example, if a Permit has been granted for work on a collector street, and the Public Works Commissioner has determined that the work will be completed in four days, no disruption cost Permit fee shall be charged for work during those four days, so long as no lanes of traffic are interfered with during rush hours. If, without prior approval of the Public Works Commissioner, a lane of traffic on this street is interfered with during rush hours, and the interference comprises 500 feet or less, an additional fee of \$400.00 must be paid. If the work is not completed within four days, and no extension is granted, on the fifth day of work, any interference with one lane of traffic of 500 feet or less during a non rush hour time period, will require an additional permit fee of \$200.00. If the area of lane interference exceeds 500 feet, but is less than 1,000 feet, in this scenario, the non rush hour fee on the fifth day of work would be \$400.00.

III. ADMINISTRATIVE/MANAGEMENT COSTS

The formula for determining that portion of the Permit fee relating to Administrative/Management Costs is as follows:

(Labor + Indirect Costs) x Number of Inspector Visits to the Work Site

= Permit Fee for Administrative/Management Costs

In connection with this formula the following assumptions are made:

Labor = hourly rate + benefits

Inspectors are paid \$30.00 per hour

Benefits = 45% of salary (\$13.50 per hour)

Average inspections take 30 minutes

Indirect costs = 25% of salary (\$7.50 per hour)

HYPOTHETICAL EXAMPLE INVOLVING PROJECT REQUIRING FIVE INSPECTIONS:

$$(\$21.75 + \$3.75) \times 5 = \$127.50$$