

**WELD COUNTY
CODE ORDINANCE 2010-5**

IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 5 REVENUE AND FINANCE, CHAPTER 8 PUBLIC WORKS, AND CHAPTER 12 LICENSES AND PERMITS, OF THE WELD COUNTY CODE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, STATE OF COLORADO:

WHEREAS, the Board of County Commissioners of the County of Weld, State of Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

WHEREAS, the Board of County Commissioners, on December 28, 2000, adopted Weld County Code Ordinance 2000-1, enacting a comprehensive Code for the County of Weld, including the codification of all previously adopted ordinances of a general and permanent nature enacted on or before said date of adoption, and

WHEREAS, the Weld County Code is in need of revision and clarification with regard to procedures, terms, and requirements therein.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of Weld, State of Colorado, that certain existing Chapters of the Weld County Code be, and hereby are, repealed and re-enacted, with amendments, and the various Chapters are revised to read as follows.

**CHAPTER 5
REVENUE AND FINANCE**

Add the following under Sec. 5-7-10. Permits, regulations and fees established.

T. Appendix 5-M: Department of Public Works Permit Application fees.

Amend Appendix 5-D to delete item #13 and renumber remaining items
Amend Appendix 5-M - ATTACHED

**CHAPTER 8
PUBLIC WORKS**

Delete Article II, Road Access Policy (Sec. 8-2-10 through Sec. 8-2-60).

Delete Sec. 8-6-50. Right-of-way use by pipeline companies.

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**CHAPTER 12
LICENSES AND PERMITS**

Repeal and Re-enact Article IV, in its entirety, to read as follows:

**ARTICLE IV
Right-of-Way Use Permit Policy**

Sec. 12-4-10. General.

Weld County strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. The Right-of-Way Use Permit is a tool to help regulate unauthorized obstructions of, excavations in, and use of the County's rights-of-way and easements including, but not limited to, all construction activities within the Weld County rights-of-way, whether gravel or paved, and including all public drainage easements. A Right-of-Way Use Permit grants a permit holder permission to occupy, excavate, survey, or construct facilities within the County rights-of-way or easement, and provide for the subsequent restoration upon completion. This policy shall apply within all unincorporated areas of Weld County as of the effective date of this Article.

Sec. 12-4-20. Purpose.

This Article recognizes the importance of protecting the health, safety, and welfare of the traveling public, maintaining efficient traffic flow, and preserving the integrity of County rights-of-way. This Article describes the minimum requirements for alleviating detrimental or negative impacts to the citizens of Weld County, traffic impediments, and damages to Weld County rights-of-way for occupying, obstructing, or any construction along, across, upon and under any County rights-of-way.

Sec. 12-4-30. Regulation of Work in County Rights-of-Ways.

- A. Issuance of Right-of-Way Use Permit. A Right-of-Way Use Permit shall be issued only in compliance with the rules and regulations set forth in this Article. In no event shall construction within the County rights-of-way be allowed or permitted if it is detrimental to the public health, welfare, and safety.
- B. Right-of-Way Permit Necessary. A Right-of-Way Use Permit is required for occupying, constructing, or excavating facilities within, and for encroaching upon, any County rights-of-way or easement.
- C. No Work Without Permit. No person or entity may occupy, construct, or excavate within any County rights-of-way or easement, or encroach upon any County rights-of-way or easement, without first having obtained a Right-of-Way Use Permit from the Department of Public Works. In addition, no person or entity may excavate, construct, or occupy the County rights-of-way or easement beyond the date or dates specified in the Permit unless: (1) the person or entity requests a written extension before the expiration of the initial Permit, and (2) a new Permit or extension is granted.
- D. Exceptions. A property owner may, for that area located within the County right-of-way, erect a single mailbox in accordance with USPS standards, maintain and mow areas of vegetation, maintain roadside ditches, and maintain that portion of the existing or proposed driveway without obtaining a Right-of-Way Permit. Caution

should be used when working in the County right-of-way, and although a Permit is not required, all activities shall conform to the criteria set forth in this Article.

Sec. 12-4-40. Definitions.

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

Contractor means any party performing the installation and construction for a permit holder who obtains a permit pursuant to this Article. A contractor may be a permit holder under this definition.

Lines means all underground and overhead cable, telephone, electric power, wire, gas, and irrigation lines, appurtenances, structures, or pipelines.

Permit Holder means the owner, operator, person, and/or entity constructing, excavating, or occupying the County rights-of-way who has obtained a permit pursuant to this Article.

Right-of-Way means a strip of land that is granted through an easement or other mechanism for transportation purposes, such as a roadway or highway.

Sec. 12-4-50. Right-of-Way Use Permit Application.

Complete Application Required. Applicants shall file a complete application for a Right-of-Way Use Permit. Based upon the information provided in the application, additional submittals may be required by the Department of Public Works if sufficient information was not provided for review of the application. An application shall be considered complete if it is submitted in the required form, includes all mandatory information, including all supporting materials specified by application, and is accompanied by the applicable fee. If an application is determined to be incomplete, the Department of Public Works shall provide notice to the applicant, along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected in a future resubmittal. An application which is determined to be incomplete may, or may not, retain its same processing cycle.

Sec. 12-4-60. Application Review, Right-of-Way Use Permit Issuance, Permit Expiration and Permit Extension.

- A. Review Process. The application and other data filed by an applicant for a Right-of-Way Use Permit shall be reviewed by the Department of Public Works. The application may also be reviewed by other departments or agencies to verify compliance with any applicable laws. If the Department finds that the work described in an application for a Right-of-Way Use Permit conforms to the requirements and regulations set forth in this Article, meets the requirements defined in the Department of Public Works Design Standards and Criteria or other pertinent laws regulations or ordinances, and that all required fees have been paid, a Right-of-Way Use Permit shall be issued to the applicant. Criteria upon which the Right-of-Way Use Permit shall be considered include, but are not limited to, the following:

1. Safety: Occupation within the County rights-of-way must not create a safety hazard to the travelling public.



2. Constructability: All construction or excavation within the County rights-of-way must be able to be performed according to general construction practices.
- B. Changes in Approved Permit. An approved Right-of-Way Use Permit shall not be changed, modified, or altered without written authorization from the Department of Public Works. All work shall be done in conformance with the approved Permit.
 - C. Permit Limitations. An approved Right-of-Way Use Permit requires the Permit Holder to meet certain permit specifications and general engineering standards when working within the County right-of-way. The Department of Public Works shall be responsible for ensuring compliance with such specifications and standards. Reasonable care should be used to avoid damaging the existing roadway. The issuing and granting of the Right-of-Way Use Permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Article or of any regulations of the County.
 - D. Indemnification. Permit Holder, its agents, employees, subcontractors, contractors, and assigns hereby agree to hold Weld County, Colorado, the agencies thereof, and their officers and employees harmless from any and all loss and damage or any claims which may arise out of, or be connected with, the construction, installation, maintenance, alteration, removal, or presence of the lines installed and/or constructed herein referred to or any work or facility connected therewith, within the area covered by this permit; excluding any such loss and damage or any claims (including consequential damages) which may be caused solely by the negligence of Weld County, the agencies thereof, or its officers and employees. Permit Holder fully understands that all line installation, construction, and relocation will be performed at no expense whatsoever to Weld County.
 - E. Permit Expiration. Every approved Right-of-Way Use Permit shall expire if the work authorized by the Permit is not substantially begun within three (3) months from the date of the Permit issuance, or if the construction of work authorized by the Permit is suspended or abandoned for a period of one year at any time after the work has begun. Before work can begin or be resumed, the Permit must be reissued by the Department of Public Works.
 - F. Permit Extension. Any Permit Holder with an unexpired Right-of-Way Use Permit may apply, in writing, for an extension of the time within which work may begin under that Permit if the Permit Holder is unable to begin work within the time required for good cause, and that the cause is acceptable to the Department of Public Works. There shall be an extension fee assessed to cover administrative costs.

Sec. 12-4-70. County Authority.

A Right-of-Way Use Permit is considered to be a license for use of the County rights-of-way. The Department of Public Works shall have the authority to suspend work, wholly or in part, because of the failure of the Permit Holder to properly execute the work in accordance with this Article. Weld County, notwithstanding the issuance of any Permit or construction in the County rights-of-way, reserves the right to make any changes, additions, repairs, or required relocation of any facilities within the dedicated rights-of-way at any time including, but not limited to, in connection with the relocation, reconstruction, widening and maintaining roads or rights-of-way, without compensating the owner.

Sec. 12-4-80. Permit Holder's General Responsibilities.

A Permit Holder is responsible for the following items. Additional requirements and more detailed information are shown in the Special Provisions of the Right-of-Way Use Permit.

- A. **Insurance.** Permit Holder shall secure and maintain insurance policies that will protect them, their subcontractors, and Weld County from claims for bodily injury, death, or property damage, which may arise from the excavation, installation and/or construction contemplated herein, or caused by the lines which are installed and/or constructed as permitted herein. Weld County must be named as an "Additional Named Insured," upon said insurance policies.
- B. **Bonding and Surety.** If deemed necessary by the Department of Public Works, Permit Holder shall provide a surety bond and/or other security for the total amount required to restore the rights-of-way upon which the projected lines are to be installed or constructed, based upon current Weld County prices for the performance of such work. Said security shall remain in effect for a period of twenty-four (24) months after all installation and construction of said lines have been substantially completed by the Department of Public Works. The amount of the security shall be established by the Weld County Engineer. Whether or not covered by a bond, Permit Holder shall reimburse Weld County for any and all expenses incurred by Weld County within 24 months after completion of any work, as a result of, or related to, failure by Permit Holder to perform all installation, construction, maintenance or other work pursuant to the Permit, in a workmanlike manner.
- C. **Utility Locates.** The Permit Holder shall be responsible for utility locates at least 48 hours in advance of the construction or excavation in the rights-of-way. Permit Holder is responsible for any damages to existing utilities or structures.
- D. **Traffic Control.** Construction activities in the County rights-of-way shall not interfere with movement of traffic or compromise public safety. A traffic control plan shall be submitted to, and approved by, the Department of Public Works as part of the permit application. All traffic control shall conform to Manual on Uniform Traffic Control Devices (MUTCD) standards, which are available for review at the Department of Public Works. Plans may be required to be prepared by a certified Traffic Control Supervisor (TCS) or Licensed Engineer.
- E. **Emergency Conditions.** When a condition arises where emergency work must be performed on a facility located within the County rights-of-way, the applicant shall immediately notify the Department of Public Works of the event regarding its facilities which it considers to be an emergency. The applicant may proceed to take actions that are necessary in order to respond to the emergency in accordance with this Article. Within two (2) business days after the occurrence of the emergency, the applicant shall apply for the necessary permits, pay the associated fees, and fulfill the rest of the requirements necessary to comply with the Right-of-Way Use Permit for the actions the Applicant took in response to the emergency.
- F. **Drainage Interference.** A Permit Holder shall not obstruct the natural free and clear passage of water along the roadside ditch flow lines or other waterways. If surface drainage is to be affected, the Permit Holder is responsible for the proper disposition of the runoff.

- G. **Restoration and Clean Up.** The Permit Holder shall assume all responsibility for removing all debris associated with the construction activities in the County rights-of-way and restoring the site to pre-existing conditions. If, upon inspection, the Department of Public Works determines that debris has not been removed from the County rights-of-way, or the site restored to pre-existing conditions, the Department shall notify the Permit Holder of the violation of the Permit conditions. The Permit Holder, upon notification from the Department, shall correct all work, to the extent necessary, using the method required. The work shall be completed within the time period specified in the notice from the Department. If the Permit Holder fails to restore the rights-of-way in the manner and to the condition required, the Department may have the County perform the restorations. In that event, the Permit Holder shall pay to the County, within 30 days of billing, the cost of restoring the County rights-of-way.
- H. **Ownership and Maintenance.** Permit Holder shall own, maintain, operate, and repair any line installed or constructed herein in accordance with the regulations, conditions, and terms of this Permit. No lines installed within County rights-of-way may be abandoned by the owner at any time. Although the lines may be retired, they may not be abandoned and all responsibility for such lines remains with the owner. Weld County does not recognize, nor accept, any lines designated by any other source as abandoned, and Weld County will continue to expect such lines to be maintained or removed by Permit Holder.
- I. **Warranty of Right-of-Way.** Weld County does not warrant the rights-of-way which are the subject of any issued Permit. Permit Holder is responsible for determining the ownership of properties traversed by its lines, the location of all property boundary lines, and the ownership of all rights-of-way. A Permit may be issued for a right-of-way apparently owned by Weld County but not regularly maintained as a road. Any Permit Holder who wishes to place lines within a right-of-way not maintained as a road must meet all requirements of the landowners to either side of the right-of-way.

Sec. 12-4-90. Inspections

Inspection of work performed within Weld County rights-of-way, pursuant to an approved Right-of-Way Use Permit, is required. Inspections during the construction period will be made by the Department of Public Works to ensure that work is progressing in compliance with the Permit. It shall be the responsibility of the Permit Holder to provide safe access to the work site for the Department and to all others, as authorized by law, for inspection at all reasonable times during the execution and upon completion of the work. At the time of inspection, the Department may order the immediate termination of any work which poses a serious threat to the life, health, safety, or well-being of the public.

It shall be the responsibility of the Permit Holder to notify the Department of Public Works when work is ready for inspection. The Department requires that every request for inspection be received at least forty-eight (48) hours before such inspection. Such requests may be made by telephoning, emailing, or faxing the Department. The presence of Department employees on-site shall not guarantee or qualify the Permit Holder's performance. The approved Permit must be available on-site for review by Department staff. Failure to comply will result in suspension of the permit.

The Department of Public Works may make or require other inspections or testing of any work as deemed necessary to ascertain compliance with the provisions of this Article. Any work performed without the required inspections shall be subject to removal and replacement at the Permit Holder's expense, regardless of the quality of the work. Any inspection hours required outside of the normal working hours will be paid by the Permit Holder. Certain types of work may have continuous inspection and when large scale projects exceed the ability of the Department to provide inspection, the Permit Holder will incur the cost of a private inspection firm. This third party inspector will be appointed by the Department prior to issuance of the Permit.

Sec. 12-4-100. Administrative Fee.

All required fees shall be paid, in full, at the time of the Permit application. The fee schedule for Right-of-Way Use Permits shall be as determined by resolution of the Board of County Commissioners and shall be shown on the Permit. If the applicant objects to the denial of a permit application by the Department of Public Works, or objects to any of the terms or conditions of a permit thereby placed by the Department, the applicant has the right to appeal the decision to the Board of County Commissioners, in accordance with the procedures detailed in Section 12-4-110, below.

Sec. 12-4-110. Appeal of Denial of Right-of-Way Use Permit.

If an application for an Right-of-Way Use Permit is denied by the Department of Public Works, or if the applicant objects to any of the terms or conditions of a permit thereby placed by the Department, the applicant has the right to appeal the decision to the Board of County Commissioners, in writing, utilizing the appeal procedures set forth in Section 2-4-10 of this Code.

Sec. 12-4-120. Failure to Comply.

The issuance of the Right-of-Way Use Permit based on plans, specifications, or other data, shall not prevent the Department of Public Works from requiring the correction of errors in the plans, specifications, and other data, or from stopping excavation or construction operations being conducted in violation of this Article or any other regulations of Weld County. Failure of the applicant to comply with any of the terms and conditions of the Right-of-Way Use Permit shall be sufficient cause for cancellation of the Permit.

The Permit Holder shall correct any unsatisfactory work including, but not limited to, defects in removal, replacement, or patching. If the Permit Holder fails to restore the County rights-of-way in the manner and to the condition required by the Department of Public Works, or fails to satisfactorily and timely complete all restorations required by the Department, Weld County shall have the right to perform the restorations at the expense of the Permit Holder.

Weld County reserves the right to require relocation of any facilities within the dedicated rights-of-way at any time without compensating the owner. If the contractor or permit holder does not perform the required relocation within four (4) months of notification from the Department of Public Works; no new permits will be issued from the Department of Public Works for the contractor until the relocation has been accomplished.

Sec. 12-4-130. Permit Suspension or Revocation.

The Department of Public Works may deny, revoke, or suspend any Right-of-Way Use Permit in order to protect the public health, safety, welfare, and safe function of County roadways. Permit Holders hold Right-of-Way Use Permits as a privilege. Weld County reserves its right to

revoke any Right-of-Way Use Permit without a fee refund whenever the Permit is issued in error or on the basis of incorrect information supplied by the applicant, or whenever the Permit may have been issued in violation of any provisions of this Article.

If the Department of Public Works determines that the Permit Holder has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the Permit, the Department shall notify the Permit Holder of their suspension by either a phone call or a written demand, and the Permit Holder must then remedy the violation. The demand shall state that continued violations may be cause for revocation of the Permit. Further, a substantial breach shall allow the Department to place additional or revised conditions on the Permit.

Within twenty-four (24) hours of receiving notification of the suspension, the Permit Holder shall contact the Department of Public Works with a plan of correction which must be accepted by the Department. The Permit Holder's failure to contact the Department, failure to submit an acceptable plan, or failure to reasonably implement the approved plan, shall be cause for immediate revocation of the Permit and termination of work. Upon revocation of the permit the Permit Holder will be required to re-apply for a new permit and will be charged for any additional fees that may be applicable.

Sec. 12-4-140. Enforcement.

- A. Violations and penalties. The County, through the Department of Public Works or other departments so authorized, may enforce this Article through methods included in this Article or through other methods adopted by the Board of County Commissioners.
- B. Criminal penalties.
 - 1. It is unlawful to occupy, construct, or excavate within any County rights-of-way or easement, or encroach upon any County rights-of-way or easement, unless a Right-of-Way Use Permit is first issued. Any person, firm, or corporation violating any provision of this Article is guilty of a Class 2 petty offense, which, upon conviction thereof, shall be punishable by a fine of three hundred dollars (\$300.00) or by imprisonment in the County jail for not more than ten (10) days, or by both such fine and imprisonment, for each separate violation. Each day during which such violation continues shall be deemed a separate offense.
 - 2. Whenever the Department of Public Works, through one (1) of its employees, has personal knowledge of any violation of this Article, it shall give written notice to the violator to correct such violation within seven (7) days after the date of such notice. Should the violator fail to correct the violation within such seven (7) day period, the Department may request that the Sheriff's Office issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in court at a definite time and place stated therein to answer and defend the charge. One (1) copy of said summons and complaint shall be served upon the violator by the Sheriff's Office in the manner provided by law for the service of a criminal summons. One (1) copy each shall be retained by the Sheriff's Office and Department and one (1) copy shall be transmitted to the Clerk of the Court. The County may remove any

obstruction or work not conforming to this Article during the pendency of the enforcement action.

3. It is the responsibility of the County Attorney to enforce the provisions of this Section. In the event the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint the District Attorney to perform such enforcement duties in lieu of the County Attorney.
 4. Any arresting law enforcement officer shall follow the penalty assessment procedure provided in Section 16-2-201, C.R.S., for any violation of this Article.
- C. Equitable relief in civil action. In the case of any violation of this Article, the County Attorney, in addition to the other remedies provided by law, ordinance, or resolution, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such violation.
- D. Civil penalties. In addition to any of the penalties set forth above, any person, firm, or corporation violating any such regulation, provision, or amendment thereof, or any provision of this Article, may be subject to the imposition, by order of the County Court, of a civil penalty in an amount of not less than two hundred fifty dollars (\$250.00), nor more than five hundred dollars (\$500.00). It is within the discretion of the County Attorney to determine whether to pursue the civil penalties set forth in this Article, the remedies set forth above, or both. Each day after the issuance of the order of the County Court, during which such unlawful activity continues, shall be deemed a separate violation and shall, in accordance with the subsequent provisions of this Section, be the subject of a continuing penalty in an amount not to exceed fifty dollars (\$50.00) for each such day. In no event shall civil penalties, imposed pursuant to this Subsection, constitute a lien against real property.
- E. The Permit Holder should notify, prior to making or beginning excavation, all owners, operator, or association of owner and operators, having underground facilities in the area of such excavation, in accordance with the requirements of Section 9-1.5-103(3), C.R.S.

Add Article V to read as follows:

ARTICLE V

Road Access Policy

Sec. 12-2-10. General.

This Article is established for the safe and efficient movement of traffic while allowing reasonable access to properties. It is necessary to protect the public health, safety, and welfare, to maintain conventional traffic flow, to maintain unobstructed roadside drainage, and to protect the functional level of County roadways. This Article shall apply to all accesses onto roads located within the unincorporated area of Weld County, including accesses from municipalities or other counties, which may exist as of the effective date of this Article or are new after that date.

Sec. 12-2-20. Purpose.

Land use, natural resources recovery, general utilities, and development have impacts on County roads. This Article recognizes that the efficiency and safety of County roads depends, to a large extent, upon minimizing roadside interference and its detrimental effect upon the movement of traffic. This Article describes the minimum requirements for the design, construction, and maintenance of accesses onto Weld County roads.

Sec. 12-2-30. Regulation of access onto County roadways.

- A. One access per lot. Direct access from a public road shall be limited to not more than one (1) per legal lot, except as may be expanded or further limited or restricted by the Board of County Commissioners or staff, as a result of zoning requirements, consideration in land use applications, safety considerations, subdivision regulations, or inability to meet minimum requirements as defined in the Weld County Design Criteria.
- B. Access permit required. Any person constructing a new access onto a County road, or reconstructing, paving, altering, enlarging, or changing the use of any existing access onto a County road, must first be issued access by the Weld County Department of Public Works. No such work shall commence prior to the issuance of an access permit.
- C. Issuance of access permit. Access permits shall be issued only in compliance with the rules and regulations set forth in this Article. In no event shall an access be allowed, or permitted, if it is detrimental to the public health, welfare, and safety.
- D. Emergency access allowed. Police, fire, ambulance, and other emergency providers shall have a right to direct access to County roadways if no other acceptable access is available.
- E. Additional access. If a new access is requested to a legal parcel where an existing access already exists, the additional access shall not be approved unless the denial of the new access creates undue hardship on the property owner, as determined by the Department of Public Works. Whenever multiple accesses to a single legal parcel exist, and additional accesses are requested, one (1) or more existing accesses must be removed, minimizing new accesses and utilizing existing accesses.
- F. Access permit condition of building permit. When a new access is to be constructed in conjunction with the construction of a new principal structure, the issuance of an access permit shall be a condition for obtaining a building permit for such construction.
- G. Change of use. When the use of a principal structure or property is proposed to change, a new access permit shall be required prior to the use conversion.

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Sec. 12-2-40. Access permit application.

- A. Complete application required. Applicants shall file a complete application for an access permit. An application shall be considered complete if it is submitted in the required form, includes all mandatory information, including all supporting materials, and is accompanied by the applicable fee. If an application is determined to be incomplete, the Department of Public Works shall provide notice to the applicant, along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected in a future resubmitted application. An application which is determined to be incomplete may, or may not, retain its same processing cycle.
- B. Development access. The Department of Public Works may allow access permits to be processed in groups within a common development or subdivision to reduce the administrative burden on applicants requesting permits concurrently for multiple lots. Such "development access" is subject to a development review application. Due to the higher complexity and possible impacts, a transportation impact study may be required to support review and approval of an access permit application for an access serving development. The development review process may require public improvements such as acceleration and deceleration lanes, exclusive left or right-hand turn lanes, or a traffic signal.

Sec. 12-2-50. Application review, access permit issuance, permit limitations, and permit expiration.

- A. Review process. The application and data filed by an applicant for an access permit shall be reviewed by the Department of Public Works. The application may also be reviewed by other departments or agencies to verify compliance with any applicable laws. If The Department of Public Works finds that the work described in an application for an access permit conforms to the policies and requirements set forth in this Article, meets the requirements defined in the Department of Public Works design criteria or other pertinent laws regulations or ordinances, and that all required fees have been paid, an access permit shall be issued to the applicant. Criteria upon which the access permit shall be considered include, but are not limited to, the following:
 - 1. Safety. The access must not create a safety hazard to the travelling public.
 - 2. Constructability. The access must be able to be built according to general construction practices.
- B. Changes in approved permit. An approved permit shall not be changed, modified, or altered without written authorization from the Department of Public Works. All work shall be done in conformance with the approved permit.
- C. Permit limitations. An approved access permit requires the permit holder to meet certain permit specifications and general engineering standards when working on the permitted access. The Department of Public Works shall be responsible for ensuring compliance with such specifications and standards. Reasonable care should be used to avoid damaging the existing roadway.



- D. Permit expiration. Every approved access permit shall expire if the work authorized by the permit is not substantially begun within one hundred and twenty (120) days from the date of the permit issuance, or if the construction of work authorized by the permit is suspended or abandoned for a period of six (6) months at any time after the work has begun. Before work can begin or be resumed, the access permit must be reissued by the Department of Public Works.

Sec. 12-2-60. County authority.

Notwithstanding the issuance of any access permit or the construction of any access, Weld County reserves the right to make any changes, additions, repairs, or relocation of any part of an access within the dedicated right-of-way at any time, including, but not limited to, in connection with the relocation, reconstruction, widening and maintaining of the road or right-of-way, without compensating the owner of the access for the damages to, or destruction of, the access.

Sec. 12-2-70. Permit holder's general responsibilities.

A permit holder is responsible for the following items. Additional requirements and more detailed information are shown in the special provisions of the access permit.

- A. Utility locates. The permit holder shall be responsible for contacting the Utility Notification Center of Colorado for utility locates at least 48 hours in advance of the access construction, if excavation is required.
- B. Traffic control. Access construction activities shall not interfere with traffic on County roadways. If interference with traffic is required, a traffic control plan shall be submitted to, and approved by, the Department of Public Works as part of the permit application. All traffic control shall conform to Manual on Uniform Traffic Control Devices standards, which are available for review at the Department of Public Works.
- C. Drainage interference. A permit holder shall not obstruct the natural free and clear passage of water along the roadside ditch flow lines or other waterways. If surface drainage is to be affected, the permit holder is responsible for the proper disposition of the runoff. See Section 8-3-10 of the Weld County Code.
- D. Restoration and clean-up. The permit holder shall assume all responsibility for removing all debris associated with the access construction activities and restoring the County roadway to pre-existing conditions. The permit holder, upon notification from the Department of Public Works, shall correct all work, within forty-five (45) days. If the permit holder fails to restore the right-of-way in the manner and to the condition required by the Department of Public Works, the County shall perform the restorations at the permit holder's expense.

Sec. 12-2-80. Administrative fee.

An access permit fee shall be paid, in full, at the time of the access permit application. The fee for an access permit shall be determined by resolution or ordinance of the Board of County Commissioners and shall be shown on the access permit application.



Sec. 12-2-90. Enforcement.

- A. Violations and penalties. The County, through the Department of Public Works or other departments so authorized, may enforce this Article through methods included in this Article, or through other methods adopted by the Board of County Commissioners.
- B. Criminal penalties.
 - 1. It is unlawful to construct a new access onto a County road, or reconstruct, pave, alter, enlarge, or change the use of any existing access onto a County road unless an access permit is first issued. Any person, firm, or corporation violating any provision of this Article is guilty of a Class 2 petty offense, which, upon conviction thereof, shall be punishable by a fine of three hundred dollars (\$300.00) or by imprisonment in the County jail for not more than ten (10) days, or by both such fine and imprisonment, for each separate violation. Each day during which such work on an illegal access continues shall be deemed a separate offense.
 - 2. Whenever the Department of Public Works, through one (1) of its employees, has personal knowledge of any violation of this Article, it shall give written notice to the violator to correct such violation within sixty (60) days after the date of such notice. Should the violator fail to correct the violation within such sixty (60) day period, the Department of Public Works may request that the Sheriff's office issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in court at a definite time and place stated therein to answer and defend the charge. One (1) copy of said summons and complaint shall be served upon the violator by the Sheriff's office in the manner provided by law for the service of a criminal summons. One (1) copy each shall be retained by the Sheriff's Office and Department of Public Works and one (1) copy shall be transmitted to the Clerk of the Court. The County may install barriers across, or remove, any access not conforming to this Article during the pendency of the enforcement action.
 - 3. It is the responsibility of the County Attorney to enforce the provisions of this Section. In the event the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint the District Attorney to perform such enforcement duties in lieu of the County Attorney.
 - 4. Any arresting law enforcement officer shall follow the penalty assessment procedure provided in Section 16-2-201, C.R.S., for any violation of this Article.
- C. Equitable relief in civil action. In the case of any violation of this Article, the County Attorney, in addition to the other remedies provided by law, ordinance, or resolution, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such violation.
- D. Civil penalties. In addition to any of the penalties set forth above, any person, firm, or corporation violating any such regulation, provision, or amendment thereof or any

provision of this Article may be subject to the imposition, by order of the County Court, of a civil penalty in an amount of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). It is within the discretion of the County Attorney to determine whether to pursue the civil penalties set forth in this Article, the remedies set forth above, or both. Each day after the issuance of the order of the County Court, during which such unlawful activity continues, shall be deemed a separate violation and shall, in accordance with the subsequent provisions of this Section, be the subject of a continuing penalty in an amount not to exceed fifty dollars (\$50.00) for each such day. In no event shall civil penalties, imposed pursuant to this Subsection, constitute a lien against the real property.

- E. Inspections. The Department of Public Works or other County departments may conduct an inspection of each access that is the subject of the access permit to ensure full compliance with all provisions of this Article and the terms of the permit.
- F. Failure to comply with requirements of issued access permit. Failure of the permit holder to comply with any of the terms and conditions of an issued access permit shall be sufficient cause for cancellation of the permit and may result in the removal of the access and its appurtenances by the County at the Permit Holder's expense.
- G. Access permit issued erroneously or upon incorrect information. Any access permit which has issued in error, or on the basis of incorrect information supplied by the Permit Holder, shall be considered void. In the event an access permit is void, no refund of permit fees shall be made unless the access permit was issued in error by the Department of Public Works.
- H. Notice Regarding Illegal Access. For an illegal access, the property owner shall be sent written notice of any illegal access location or use. The Owner shall be given sixty (60) days notification of pending actions, after which the County may install barriers across, or remove, any access not conforming to this Article. Any access, driveway, or curb-cut being constructed within County Right-of-Way without an approved Access Permit, shall be required to stop work immediately and apply for an Access Permit. If the permit is approved, work may continue subject to the conditions of the permit. If the permit is denied, any work that has been completed must be removed and the road and drainage facilities returned to pre-existing conditions acceptable to the Department of Public Works, upon completion of any appeal or the time for appeal pursuant to the provisions of Section 12-2-100, below.

Sec. 12-2-100. Appeal of denial of access permit.

If an application for an access permit is denied by the Department of Public Works, or the applicant objects to any of the terms or conditions of a permit thereby placed by the Department, the applicant has the right to appeal the decision to the Board of County Commissioners, in writing, utilizing the appeal procedures set forth in Section 2-4-10 of this Code.

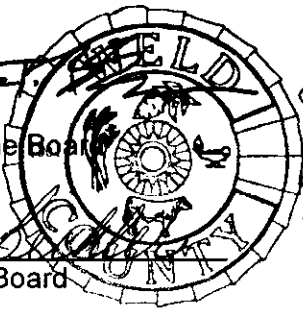
Renumber Article V, Public Dance Hall, Booth, Pavillion or Other Place Where Public Dances Are Held, to become Article VI and renumber Sections to become 12-6-10 through 12-6-70, accordingly.

BE IT FURTHER ORDAINED by the Board that the Clerk to the Board be, and hereby is, directed to arrange for Colorado Code Publishing to supplement the Weld County Code with the amendments contained herein, to coincide with chapters, articles, divisions, sections, and sub sections as they currently exist within said Code; and to resolve any inconsistencies regarding capitalization, grammar, and numbering or placement of chapters, articles, divisions, sections, and sub-sections in said Code.

BE IT FURTHER ORDAINED by the Board if any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held or decided to be unconstitutional, such decision shall not affect the validity of the remaining portions hereof. The Board of County Commissioners hereby declares that it would have enacted this Ordinance in each and every section, subsection, paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.

The above and foregoing Ordinance Number 2010-5 was, on motion duly made and seconded, adopted by the following vote on the 21st day of June, A.D., 2010.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST:  Douglas Rademacher
Weld County Clerk to the Board
Douglas Rademacher, Chair

BY: Donna J. Schaefer
Deputy Clerk to the Board
Barbara Kirkmeyer, Pro-Tem

APPROVED AS TO FORM: Sean P. Conway
County Attorney
William F. Garcia

David E. Long
David E. Long

First Reading: May 10, 2010
Publication: May 20, 2010, in the Windsor Beacon

Second Reading: June 7, 2010
Publication: June 10, 2010, in the Windsor Beacon

Final Reading: June 21, 2010
Publication: June 24, 2010, in the Windsor Beacon

Effective: June 29, 2010




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APPENDIX 5-M
DEPARTMENT OF PUBLIC WORKS PERMIT APPLICATION
FEES


Type	Fee
1. Development Construction Permit	
Dwelling units	\$150.00/lot
Nondwelling units	\$750.00/lot
2. Offsite Road Agreements / Haul Route Agreement Review	\$500.00
3. Flood Hazard Development Permit	\$180.00
4. Stormwater Permit	\$180.00
5. Geologic Hazard Permit	\$180.00
6. Nonexclusive License Agreements	\$100.00
7. Nonexclusive Cross Road Signs (Installation and Fabrication)	\$150.00

8. Access Permit Fess	
A) Field Access Permit (Agriculture Only)	Exempt
B) Single Residential Access	\$75.00
C) Subdivision Access	\$150.00
D) Commercial or Oil and Gas Access (Up to 50 veh/day)	\$75.00
E) Industrial or Commercial Access (More than 50 veh/day)	\$150.00
F) Temporary Access (Expires within 6 months)	\$75.00
G) Inspection Outside Normal Work Hours	\$50.00/ hr
H) Working Prior to Permit Approval	Subtotal (x) 2
I) Public Safety Violation	\$200.00

9. Right-of-Way Use Permit Fees			
A) Permit Fee	Fee	Unit	Minimum
Admin, review, and inspection	\$125.00	-	-
Admin, review and no inspection	\$75.00	-	-
B) Annual Permit			
Admin, review, and inspection	\$250.00	-	-


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C) Road Bore			
Road bore with bore pit located in R.O.W.	\$75.00	Per Location	-
Road bore with bore pit located outside R.O.W.	\$25.00	Per Location	-
D) Work within a Hard Surface Roadway			
Trench w/Structural fill or Flowable fill	\$2.00	SF	\$50.00
Test Hole/Pot Hole	\$20.00	Each	-
E) Work within a Gravel Roadway			
Trench w/ Structural fill	\$0.50	SF	\$20.00
Test Hole/Pot Hole	\$10.00	Each	-
F) Work in R.O.W. Outside of Roadway			
Trenching / Plow or cable puller	\$0.20	LF	\$15.00
Test Hole/Pot Hole	\$10.00	Each	-
G) New Appurtenance	-		
3 sq/ft or less	\$25.00	Each	-
Greater than 3 sq/ft	\$150.00	Each	-
H) Abandonment			
Abandoning line in R.O.W.	\$75.00	Each	-
I) Working Prior to Permit approval	Subtotal		
Emergency repairs excluded	(x) 2	-	-
J) Public Safety Violation	\$200.00	-	-
J) Inspection Outside Normal Work Hours	\$50.00/hr	-	-
K) Inspection Outside Normal Work Hours	\$50.00/hr	-	-


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