

**CITY OF LEADVILLE, COLORADO**  
**Ordinance No. 1**  
**Series of 2020**

**AN ORDINANCE AMENDING CHAPTER 12.04 AND  
REPEALING AND REPLACING CHAPTER 12.12 OF TITLE 12  
OF THE LEADVILLE MUNICIPAL CODE CONCERNING  
STREET EXCAVATIONS**

**WHEREAS**, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

**WHEREAS**, the City Council desires to update its street excavation regulations and related definitions, codified at Chapter 12.12 and Chapter 12.04 of the Leadville Municipal Code, in advance of the City’s 2020 construction season, which begins on or about May 1, 2020, and to ensure consistency between the City’s regulations and new street excavation regulations adopted by Lake County on March 16, 2020; and

**WHEREAS**, the City Council finds that adoption of this Ordinance furthers the public health, safety and welfare and desires to approve the Ordinance for incorporation into the Municipal Code; and

**WHEREAS**, the City Council finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety because the City requires updated regulations in place prior to the 2020 construction season in order to fairly and uniformly review and approve street excavation permits and complete inspections of excavations within the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:**

**Section 1.** Chapter 12.04 of Title 12 of the Leadville Municipal Code, titled “Definitions”, is hereby amended to read in full as follows, with additions shown in bold and underlined text and deletions shown in strikethrough text and with all defined terms listed in alphabetical order:

**“Emergency” means any event which may threaten public health or safety, or that results in an interruption in the provision of service, including but not limited to damaged or leaking water or gas conduit systems, damaged, obstructed or leaking sewer or storm drain conduit systems and damaged electrical and communications facilities. During October 1 until May 1 of each year, in the city’s sole discretion, the need to begin work within a public right-of-way or on other public property prior to May 1 in order to provide service to a particular customer or building or to timely complete a project may also constitute an emergency eligible for an emergency permit.**

"Excavation" means digging into or in any way removing or penetrating any part of a public right-of-way or other public property, including trenchless excavation such as boring, tunneling and jacking ~~each and every opening in a block of a street or sidewalk, as defined in this section, and each lateral from each original opening shall be considered an additional excavation for the purposes of this title.~~

"Sidewalk" means that portion of the street which is set aside for the use of pedestrians and which has been surfaced with cement, stone or other similar material.

"Street" means the entire width of every dedicated public way, and includes the traveled portion thereof known as the roadway, the portion used for sidewalks, and the portion between the property line and the roadway, known as the parking portion. The term shall also include an alley.

**Section 2.** Chapter 12.12 of Title 12 of the Leadville Municipal Code, titled "Street Excavations", is hereby repealed and replaced to read in full as follows, with additions shown in bold and underlined text and deletions shown in strikethrough text:

## Chapter 12.12

### STREET EXCAVATIONS

#### 12.12.010 - Permit required.

- A.** It is unlawful for any person, as defined by Section 1.04.010 of this code, **any public utility operating within the city**, or any municipal or quasi-governmental corporation or entity, other than an officer or employee of the city in the course of his or her employment **or a person exempted by contract with the city**, to make or cause or permit to be made, any excavation or opening in or under the surface of any street, alley, sidewalk, road, public easement or other public place within the city without first obtaining a permit ~~therefor~~ from the city in accordance with this chapter, or to make any such excavation in any manner which does not comply with the terms of the permit issued or the provisions of this chapter.
- B.** **A separate permit is required for each block, measured from intersection to intersection, on which excavation work will occur.** ~~An excavation permit issued under the provisions of this chapter shall be valid for an entire construction project, regardless of the number of separate excavations involved in such project.~~
- C.** If construction disturbs any part of the right-of-way of a state highway a separate permit shall be obtained from the ~~State Highway Department~~ **Colorado Department of Transportation**.
- D.** **No permittee shall perform work in an area larger or at a location different, or for a longer period of time than that specified in the permit. If, after work is commenced under an approved permit, it becomes necessary to perform work in a larger or different area or for a longer period of time than what the permit specifies, the permittee shall notify the city immediately and shall file a**

**supplementary application for the additional work prior to and as a condition of commencing such additional work.**

**12.12.020 - Notification list.**

The deputy city clerk shall keep and maintain a list with current addresses of all public and private entities who request notification of any digging or excavation within the city. It shall be the duty of each such entity to furnish such information to the deputy city clerk.

**12.12.030 - Application for permit.**

Any person or entity required to obtain a permit pursuant to ~~Section 12.12.010~~ **this chapter** shall submit an application for such permit ~~on blanks furnished for that purpose by the city clerk,~~ which application shall include the following information:

- A. The applicant's name, address and telephone number;
- B. The date of the application;
- C. The tentative beginning date of the excavation(s), the date the excavation(s) will be backfilled, and the date of ~~the final repair~~ **completion of the work;**
- ~~D. The location, size, width, length, and depth of the proposed excavation(s);~~
- D. The nature of the surface to be cut (asphalt, concrete, dirt, etc.);
- E. The purpose of the excavation(s);
- F. A description of all streets, alleys, sidewalks, and other public property which will be affected by the excavation(s);
- G. A drawing **or plan** showing ~~in detail~~ **the location, width, length and depth of the proposed excavation(s) in sufficient detail to permit determination of compliance with city standards, regulations and ordinances;**
- H. **Engineering plans, specifications, utility locates, timetables, water quality control plans, and/or traffic control plans showing the work, as may be required by the city;**
- I. **An itemized list of the total estimated cost of restoring the right-of-way in accordance with this chapter or other cost estimate of restoration sufficient to determine the surety amount to be posted in accordance with section 12.12.040 of this code;**
- J. **Copies of all required state, county, or other required permits;**
- K. A written list of persons whose utility services or access will be disrupted longer than one hour by the excavation;
- L. Any further information as may be required by the city ~~clerk.~~

**12.12.040 - Conditions and requirements for issuance of permits.**

**Except in the case of emergency excavations, all street excavation permits and all other application approvals provided for in this chapter shall be jointly approved by the street supervisor and the deputy city clerk or their designated representatives prior to the commencement of any excavation work.**

- A. The applicant shall pay to the deputy city clerk at the time of the submissions of his or her application a permit fee determined by resolution of city council. In the event the permit is denied, the permit fee shall be refunded. Once the permit is issued, the permit fee shall be nonrefundable.
- B. Except in the event of any emergency as provided in section 12.12.050090, permits must be applied for at least ~~forty-eight (48) hours~~ **four (4) business days** in advance of the commencement of any excavation.
- C. ~~All permits issued pursuant to this chapter will expire thirty (30) days from the designated starting date unless an extension of time is requested and approved by the city clerk prior to the expiration of the original permit~~ **Permits shall be void if work has not commenced within thirty (30) days after issuance, unless an extension has been granted by the city in writing. The permittee shall submit a written request for such extension, and the city shall either grant or deny the request within five (5) business days of receipt.**
- D. Except as provided in Section 12.12.050090 with respect to emergencies, it shall be the duty of the ~~holder of the permit~~ **permittee** to notify all public and private entities listed on the notification list maintained by the deputy city clerk, as well as those persons whose utility services or access will be disrupted longer than one hour by the excavation, of his or her intention to excavate at least forty-eight (48) hours prior to the commencement of excavation. Such notification may be given either in writing, in person or by telephone. Such notification shall specify the location of the excavation, the date work will commence and end and the nature of the proposed excavation.
- E. At the time of the submission of the application the applicant shall also submit to the deputy city clerk proof that the applicant has in effect at least five hundred thousand dollars (\$500,000.00) personal injury liability insurance and five hundred thousand dollars (\$500,000.00) property damage liability insurance. **All persons, including employees, agents, contractors and subcontractors of the permittee, who will perform the work as specified in the permit shall be fully covered by worker's compensation insurance when performing the work if and as required by law.**
- F. ~~Except as provided in section 12.12.050, all street excavation permits shall be jointly approved by the street supervisor and the city clerk or their designated representatives prior to beginning any excavation work.~~
- F. **Letters of credit and other acceptable sureties.**
- 1. Before a permit is issued, the applicant shall file with the city surety in favor of the city in an amount equal to one hundred ten percent (110%) of**

**the estimated cost necessary to restore the right-of-way in accordance with this chapter. Allowable sureties include a company (corporate) check, cashier's check, bond or irrevocable letter of credit. The surety shall be executed by the applicant as principal and by at least one (1) surety upon whom service of process may be had in the State. The surety shall be conditioned upon the applicant fully complying with all provisions of city ordinances, resolutions and regulations and upon payment of all judgments and costs rendered against the applicant for any violation of any city resolution, regulation or ordinances or state law arising out of any negligent or wrongful acts of the applicant in the performance of work pursuant to the permit.**

- 2. The surety shall be approved by the city prior to the issuance of the permit. The city may waive the requirements of any such surety upon finding that the applicant has financial stability and assets located in the State to satisfy any claims intended to be protected against by the security required by this section.**
- 3. A blanket surety of sufficient amount to cover all proposed work during the year may be filed with the city on an annual basis in lieu of the project-specific performance sureties or letters of credit required by subsection F.1 hereof. The form and amount of the blanket surety shall be subject to the prior review and approval of the city. Should the blanket surety be deemed insufficient by the city based on the work to date, the city may require additional, project-specific performance sureties or letters of credit pursuant to subsection F.1 hereof.**
- 4. The posted surety, blanket surety, or letter of credit required by this section shall remain in force and effect for a minimum of two (2) years after completion and acceptance of the excavation work.**

**12.12.050 - Warranty.**

- A. A permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the city and in accordance with this chapter and the city's roadway design standards, as adopted by the city and codified in chapter 12.32 of this code, and warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance.**
- B. Under the warranty, the permittee shall, at its own expense, repair or replace, at the discretion of the city, any portion of the work that fails, is defective, is unsound or is unsatisfactory because of but not limited to design, engineering, materials or workmanship.**
- C. The warranty period shall begin on the date of the city's probationary acceptance of the work. If repairs are required during the warranty period, those repairs**



need only be warranted until the end of the initial two-year period starting with the date of probationary acceptance.

**D. At any time prior to completion of the warranty period, the city may notify the permittee in writing of any needed repairs. If the defects are determined by the city to be an imminent danger to the public health, safety and welfare, the permittee shall begin repairs within twenty-four (24) hours of receipt of the written notice and continue the repairs until completion. Nonemergency repairs shall be completed within ten (10) calendar days after notice.**

**E. The warranty shall cover only those areas of work performed by the permittee providing the warranty and not directly impacted by the work of any other permittee or the city. If a portion of work warranted by a permittee is subsequently impacted by work of another permittee, another user of the right-of-way or the city during the warranty period, the other permittee or the city, as applicable, shall assume responsibility for repair to the subsequently impacted portion of the public right-of-way.**

#### **12.12.060 - Inspections.**

**A. At a minimum, the following four (4) inspections shall take place:**

- 1. Preconstruction inspection. The permittee shall request that the city conduct a preconstruction inspection, to determine any necessary conditions for the permit.**
- 2. Completed work inspection. The permittee shall notify the city immediately after completion of work. The city shall inspect the work within twenty-one (21) days of the permittee's notification. Probationary acceptance shall be made if all work complies with this chapter, the city's roadway design standards and any other applicable city regulation, ordinance or resolution. Written notice of probationary acceptance shall be sent to permittee listed on the permit application.**
- 3. Utility marking removal inspection. The permittee shall remove all utility markings within the public right-of-way no later than forty-five (45) days after completion of the excavation work using a method that is least destructive to existing improvements and approved by the city. The city shall conduct a utility marking removal inspection following notification to the city by permittee that utility markings have been removed.**
- 4. Warranty inspection. Approximately thirty (30) days prior to the expiration of the two-year warranty period, the city shall conduct a final inspection of the work. If the work is still satisfactory, the letter of credit shall be returned or allowed to expire, and the city shall issue a notice of final acceptance.**

- B. Upon review of the application for a permit, the city shall determine how many additional inspections, if any, may be required. Required inspections shall be listed on the permit.**

**12.12.070 – Newly resurfaced and constructed streets.**

- A. For newly resurfaced and constructed streets, no excavation in the pavement shall be permitted within two (2) years of the completion of the resurfacing or construction.**
- B. Exemption. The city may grant an exemption from this section in accordance with the following procedures:**
- 1. A request for exemption shall be in writing on a form acceptable to the city and shall contain the following information, at a minimum:**
    - a. A drawing or plan showing the excavation(s) in sufficient detail to permit determination of compliance with city standards, regulations and ordinances. The city may require applicant to file engineering plans, specifications, utility locates, timetables, water quality control plans and/or traffic control plans showing the work.**
    - b. The location, width, length and depth of the proposed excavation.**
    - c. A statement as to how any of the criteria set forth in subsection B.2 hereof apply to the proposed work.**
  - 2. Criteria for approval. In determining whether an exemption should be granted, the city shall consider the following criteria:**
    - a. Whether alternative utility alignments that do not involve excavating in the street are available.**
    - b. Whether the proposed excavation can reasonably be delayed until after the two-year period has elapsed.**
    - c. Whether duct, conduit or other facilities are reasonably available from another user of the public right-of-way.**
    - d. Whether the proposed work involves joint trenching or joint use and the number of users to share in the trenching or use.**
    - e. Whether the proposed work is to be by horizontal boring, tunneling or open trenching.**
    - f. Whether applicable law requires the applicant to provide service to a particular customer and whether denial of the exemption would prevent the applicant from providing such service.**

- g. Whether the purpose of the proposed work is to provide service to a particular building or a customer within a building who has requested such service and whether denial of the exemption would prevent the applicant from providing such service.**
  - h. Whether the work is limited to locate potholing to provide locate information.**
- C. Exemptions for emergency operations. Emergency operations in newly resurfaced or constructed streets shall be permitted in accordance with section 12.12.090 of this code.**

**12.12.080 - Restoration and reimbursement of city costs.**

- A. Upon completion of the work, the permittee shall restore the work area described in the permit, including the surface of the ground and all landscaping, and such other portions of the public right-of-way used by the permittee to substantially the condition said areas were in immediately prior to the commencement of the excavation work except as necessarily modified by such work.**
- B. Resurfacing repairs to streets shall be completed as soon as possible after the excavation backfilling is complete. The permittee is responsible for planning and scheduling of the resurfacing. If the permittee is unable to perform a permanent repair to the street surface, he or she shall install a cold patch until such time as a permanent repair can be made. It shall be the duty of the permittee to perform the permanent repairs at the earliest practicable date and in accordance with section 12.12.120 of this code.**
- C. Permittee shall substantially restore all slopes and drainage ditches to the condition they were in immediately prior to the commencement of the excavation work except as necessarily modified by such work. The city may require the permittee to reseed ditches as deemed necessary.**
- D. Unless otherwise specified in a franchise agreement with the city, if the city determines that additional restoration or upgrading of any portion of the public right-of-way surrounding the excavation location is necessary to preserve the integrity, operational safety and function of the right-of-way following completion of the excavation, permittee shall complete such work as directed by the city at permittee's sole cost. The city reserves the right to determine how much of the public right-of-way will be restored, resurfaced or upgraded.**
- E. All repairs to the pavement or other surfacing not completed to the satisfaction of the city shall be replaced by the city and the expense thereof deducted from the permittee's surety. Upon receipt of notice that charges have been assessed against the surety, the permittee involved shall immediately deposit an amount covering all liability, cost, damage and expenses caused by or in any manner arising from its excavation.**



- F. The city may make any repairs necessary to eliminate any imminent danger to the public health or safety without notice to any permittee, at the responsible permittee's expense.**
- G. For any work not performed by a permittee as directed by the city, but not constituting imminent danger to the public health or safety, the city shall provide written notice to the permittee, ordering that the work be corrected within ten (10) calendar days of the date of the notice. If the work is not corrected within the ten-day period, the city may correct the work at the permittee's expense.**
- H. Costs of any work performed by the city pursuant to this section, including any restoration or upgrading work the permittee failed to perform according to city direction, shall be billed to the permittee. The permittee shall also be responsible for any direct costs incurred by the city. The permittee shall pay all such charges within thirty (30) days of the statement date. If the permittee fails to pay such charges within the prescribed time period, the city may, in addition to taking other collection remedies, seek reimbursement through the surety. Furthermore, the permittee may be barred from performing any work in the public right-of-way, and under no circumstances will the city issue any further permits of any kind to said permittee, until all outstanding charges, except those outstanding charges that are honestly and reasonably disputed by the permittee and being negotiated in good faith with the city, have been paid in full.**

**12.12.050090 - Emergencies.**

**The proper officials, as described in this section, must be notified prior to commencement of an emergency excavation.** In the event of an emergency involving a present danger to life, property or the public health, a temporary **written or** verbal permit to excavate in a public way may be given by the mayor, the chief of police, street supervisor or their authorized representative. In the event of an emergency occurring during daytime hours the street supervisor, chief of police or police officer on duty shall be notified of the nature of the emergency, the location of the emergency, the nature of the emergency repairs to be performed and the time and date when work will commence and end. In the event of an emergency occurring during nighttime hours the dispatcher of the Lake County sheriff's department shall be provided with the same information. The written application, fee and ~~bonds~~**surety** required by this chapter shall be filed with the **deputy** city clerk as soon as practicable thereafter.

**12.12.060100 - Letter of responsibility.**

**A letter of responsibility, in a form acceptable to the city, shall be accepted from applicants who are special districts and governmental agencies in lieu of the surety required by section 12.12.040 of this code.** Any applicant shall post a written letter of responsibility. Such letter shall unconditionally obligate the applicant to make the repairs under this chapter for a period of ~~five~~**two** years following the completion of the excavation. A letter of responsibility may not be withdrawn by the applicant during such period.

**12.12.070110 - Time and area limitation on obstructions.**

It is unlawful to obstruct more than one block or one intersection at the same time in any one street or to keep the same blocked for more than three consecutive days. In the event of unforeseen extenuating circumstances, the applicant may apply for an extension of the three day limitation, and after investigation of the extenuating circumstances, the mayor or his or her authorized representative may grant such extension, provided that valid reasons and circumstances exist and justify the extension.

**12.12.080120 - Performance requirements.**

- A. Noise, dust, and debris shall be kept to as low a level as practicable, **and streets and sidewalks shall be kept free of debris.**
- B. Private driveways shall be kept open whenever possible.
- C. The cut in any pavement or surfacing will be made in a neat manner with square edges to be nondisruptive to the surrounding pavement.
- D. Excavated material shall be stored in neat, compact piles and not allowed to be scattered by wind, rain, traffic or other means.
- ~~E. Re-surfacing repairs to streets shall be completed as soon as possible after the excavation backfilling is complete. The holder of the permit is responsible for planning and scheduling of the re-surfacing. If the permittee is unable to perform a permanent repair to the street surface, he or she shall install a cold patch until such time as a permanent repair can be made. It shall be the duty of the permittee to perform the permanent repairs at the earliest practicable date.~~
- E.** Excavation backfill shall be maintained flush with the surrounding surface until the final resurfacing is initiated.
- F.** **Permittee shall notify the city street department at least twenty-four (24) hours before completion of backfill.**
- G.** Backfill for deep pipe installation or repair shall be as follows: three-quarter inch or minus screened crushed rock around and for one foot above pipe, then one-and-one-half- to two-inch screened crushed rock to within one foot of the surface, then ten (10) to twelve (12) inches of compacted road base then, if in existing pavement, four inches of asphalt or cold patch to be replaced by hot asphalt within four months or by October 1 of the next year. In the absence of the above backfill then at least ninety-five (95) percent compaction with each eight-inch lift of backfill will be required or flow fill will be used. Further specifications for the type of materials suitable for use as backfill, compaction testing, as well as other construction specifications, shall be as determined by the street supervisor or their authorized representative.
- H.** **Excavations done pursuant to the permit must have a temporary patch (cold patch) applied within seventy-two (72) hours of the completion of the work for which the permit was issued. Fill shall be placed in lifts not to exceed twelve (12)**

**inches. Fill shall be placed to a uniform depth and compacted to ninety-five percent (95%) standard Proctor relative density using mechanical compaction methods to ensure satisfactory results. The permittee shall provide to the city proof of testing to show that a minimum ninety-five (95%) compaction has been obtained within seven (7) days of completion of compaction. Material excavated from the site may be used as backfill provided that it is free of debris, organic matter, and corrosive material and reasonably dry; however, if deemed necessary, permittee may be required to introduce additional moisture to ensure reasonable compaction. No rock larger than three (3) inches in largest dimension shall be acceptable for backfill. In traveled roadways, the final twelve (12) inches lift of backfill shall consist of two six-inch lifts of Class 6 structural backfill placed and compacted six (6) inches below finished asphalt grade to facilitate paving. All excavations, which are made in paved city streets, shall be restored with hot bituminous pavement patch within fifteen (15) calendar days of the completion of the work for which the permit was issued. Except in an emergency excavation, any variance from these requirements must be approved by the city.**

**I. Pavement Section.**

- 1. New base material shall match existing base thickness or four (4) inches, whichever is greater and shall be compacted to ninety-five percent (95%) relative density.**
- 2. Base paving for permanent resurfacing must be completed within three (3) weeks of backfilling, unless specified otherwise on approved permit or plans.**
- 3. New asphalt concrete section shall match existing pavement thickness or six (6) inches, whichever is greater.**
- 4. Asphalt concrete paving will occur no sooner than forty-two (42) hours after slurry backfill of the trench.**

**J. Grind and resurface ("T-Cap"). Within fifteen (15) calendar days after backfilling, asphalt concrete shall be cold milled and resurfaced as follows:**

- 1. Existing asphalt concrete shall be ground down one and one-half (1-1/2) inches or one-half (1/2) the existing pavement thickness, whichever is less, to the T-Cap limits.**
- 2. Where possible, T-Cap limits shall be taken from Figure 1, "Examples of Grind and Resurface T-Cap Limits," and shall be included with the permit application. T-Cap is not required for service connections in streets over 25 years old.**
- 3. T-Cap limits shall extend at least two (2) feet beyond the trench T-Cut limits. Minimum T-Cap dimensions shall be five (5) feet by five (5) feet.**
- 4. For multiple excavations within five (5) feet of each other, the T-Cap limits shall encompass all the excavations within one rectangular area.**

- 5. When the T-Cap limit is within two (2) feet or less from a curb or gutter, the T-Cap limit shall extend to such curb or gutter.**
  - 6. Pavement shall be level with the adjacent roadway elevations and shall provide a smooth surface, which shall be subject to acceptance by Lake County Public Works.**
  - 7. Pot/core holes shall be filled, and T-Cap limits shall extend one (1) foot beyond such pot/core holes.**
- K. Cementitious flow fill will be accepted as an alternate (preferred) form of backfill. If this option is used, compaction testing will not be required.**
- 1. Trench backfill with flow fill material shall be properly consolidated. Flow-fill material for trenches deeper than five (5) feet and/or narrower than twelve (12) inches must be consolidated by vibration.**
  - 2. Backfill material shall be made smooth and level before placing base and pavement.**
- L. It is the responsibility of the permittee to ensure that work being done does not adversely impact water quality. In some cases, a water quality control plan may be required to be submitted to and approved by the city prior to commencement of the work.**
- M. Reference Figure 2 for T-trench and restoration detail. Figure 3 shows sheer step detail. The specifications and direction in these figures shall be followed whenever possible and when applicable.**
- N. These requirements may be modified by the mayor or street supervisor or city engineer so that they may be specifically adapted to the particular conditions of travel, load requirements, terrain, subsoil and moisture where backfill is to be affected.**
- ~~**O. In the event of settlement or subsidence of a particular excavation, repair, or part thereof, the permittee who performed the excavation work shall be responsible for all costs occasioned thereby for a period of five years. The permittee shall be notified by the city of the need for further repairs to the excavation site and shall have fourteen (14) days from the time of such notification within which to perform the repairs. If the repairs are not performed within such fourteen (14) day period, the city may perform the repairs without further notice to the permittee, and in such event the permittee shall be liable in damages for the cost of such repairs, together with interest thereon at the rate of one and one half percent per month, or fraction thereof, plus reasonable attorney's fees. If the excavation site presents a danger to persons or property, the permittee shall barricade the excavation site immediately upon receipt of notice from the city.**~~
- O. Unless approved by the city street department, work must be performed pursuant to the permit Monday through Friday between 7:00 A.M. and 7:00 P.M., and no excavations are permitted from October 1 through May 1. Emergency permits may be issued on a case-by-case basis from October 1 through May 1 at the discretion of the city. In such event, the city will accept the use of temporary patch (cold patch) within seventy-two (72) hours of completion of the work. The city**

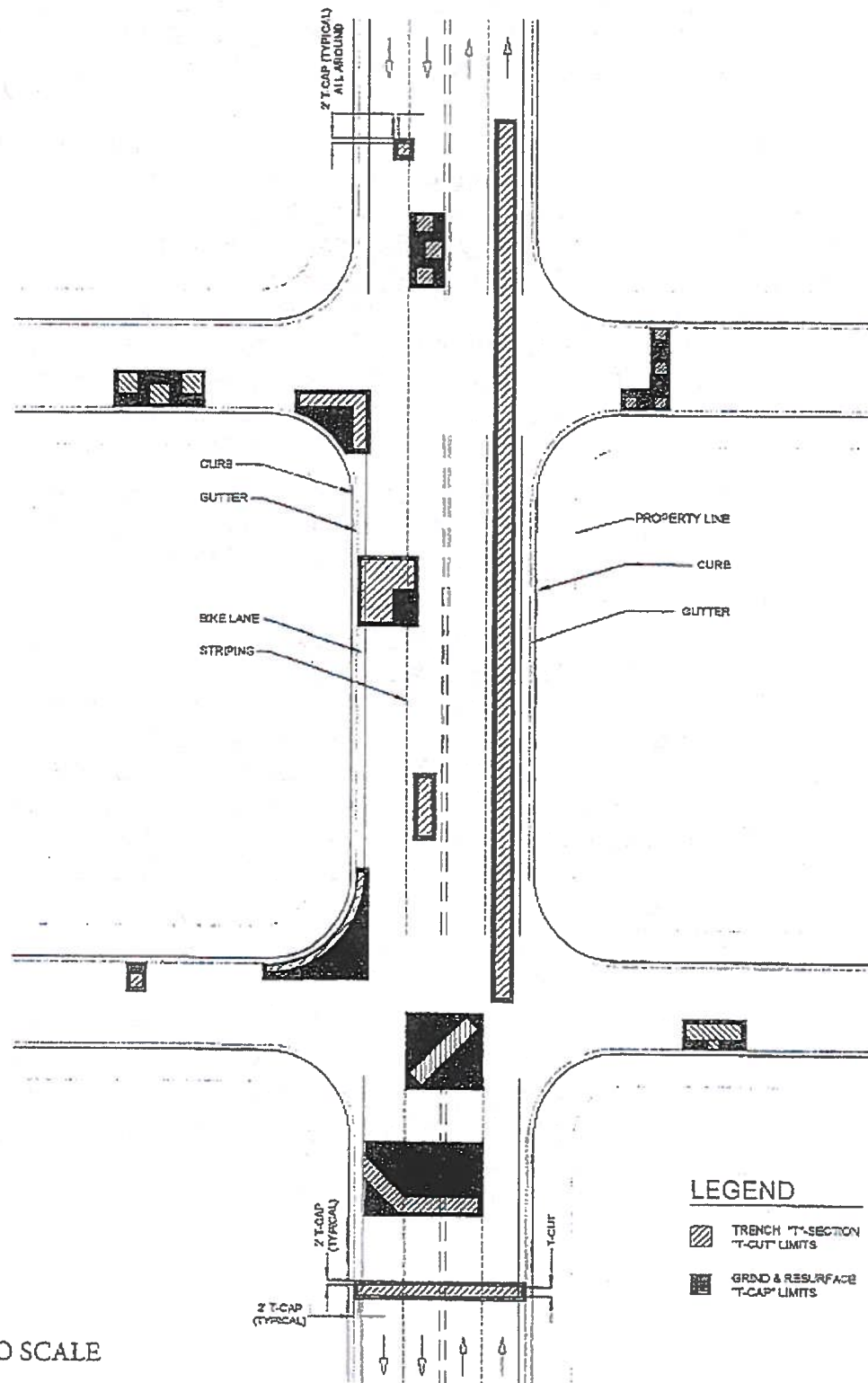


**understands that hot bituminous patch material is not available during the dates outlined above; therefore, a temporary patch will be accepted. However, a permittee must install a hot bituminous pavement patch as soon as possible after May 1. The final inspection will not be completed until the hot bituminous patch has been completed.**

- P. All work done pursuant to the permit shall be performed in accordance with all applicable standards and specifications. Such standards and specifications include, but are not limited to, the city's roadway design standards as set forth in chapter 12.32 of this code, Parkville Water Regulations, Leadville Sanitation District Pipeline and Manhole Design regulations, and any applicable construction specifications. The city's roadway design standards and Figures 1-3 of this chapter include specifications sheets and diagrams of detailed road cut examples with which permittee must comply. It is the responsibility of the applicant or permittee to determine which standards and specifications are applicable to the work to be done pursuant to the permit.**
- Q. Excavations must also meet the requirements of all state and federal regulations, including but not limited to those of the Occupational Safety and Health Administration (OSHA) and Colorado Department of Public Health and Environment (CDPHE).**
- R. Before beginning an excavation in any public right-of-way, a permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by Section 9-1.5-102 *et seq.*, C.R.S., make inquiries of all ditch companies, utility companies, districts, local governments 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 locates of all facilities in the area pursuant to UNCC requirements. Field locates shall be marked prior to commencing work. Applicant is responsible for all such field or utility locates and associated costs.**
- S. Adequate traffic control must be maintained at all times. Applicant or permittee shall follow the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Colorado Department of Transportation.**
- T. Dig Once Policy. It shall be the policy of the City of Leadville that, where feasible depending on trench distance, once an excavation occurs, all utilities will be located in the trench. If feasible, whenever a trench is created in the public right-of-way, the permittee shall contact all other utilities and make sure that they do not need access to or repair of their individual utility while the roadway is open.**

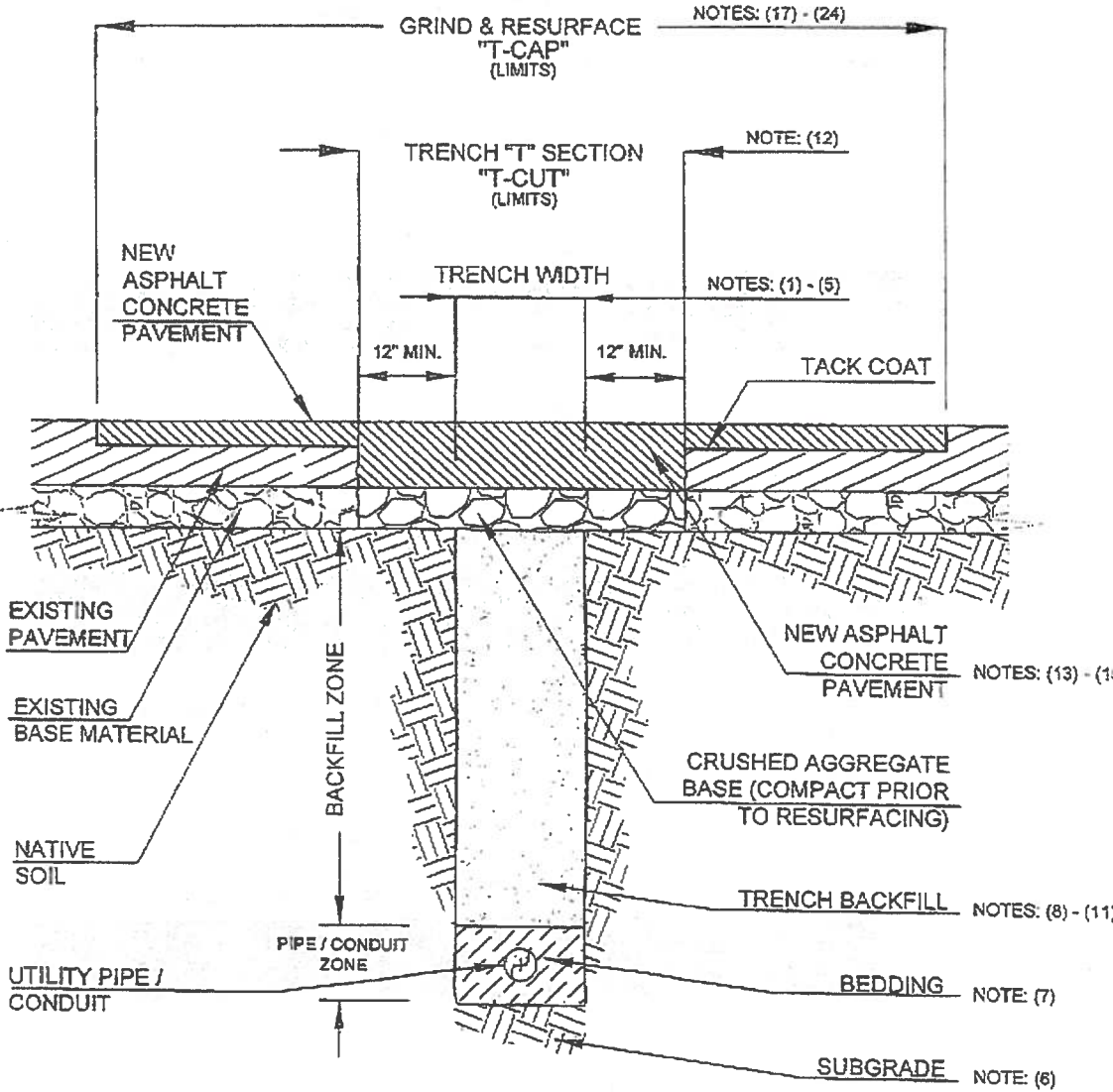


Figure 1: Examples of Grind and Resurface "T-CAP" Limits



NOT TO SCALE

Figure 2

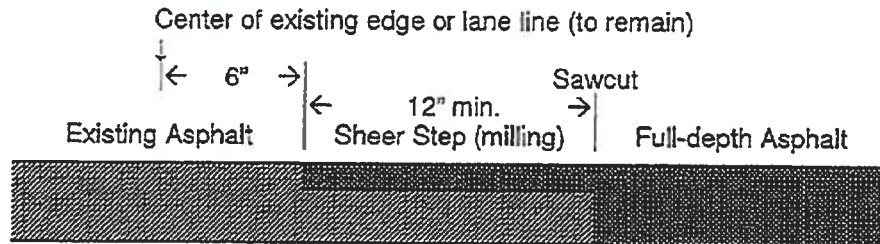


T-TRENCH AND RESTORATION DETAIL

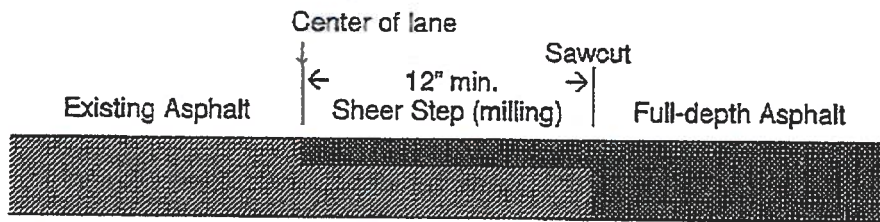
Figure 3

### Sheer Step Detail

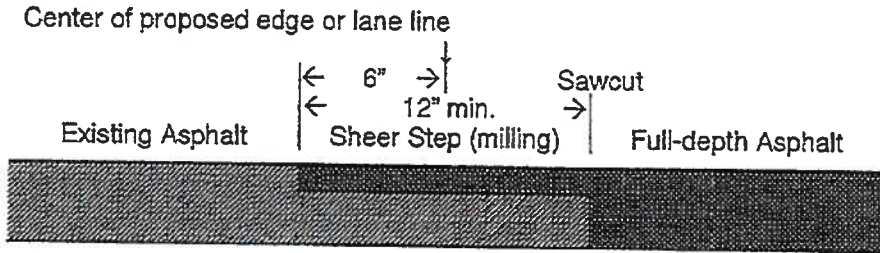
Case A – Existing edge line or lane line to remain: Mill to 6" offset short of the center of the edge or lane line that will remain.



Case B – Edge of milling at the center of the lane.



Case C – Existing edge line or lane line to be removed: Mill to 6" offset beyond the center of the proposed edge or lane line.



**Notes:**

The sawcut shall be full depth and 12" minimum from the existing edge of asphalt.

The depth of the milling shall be the same as the thickness of the top lift of asphalt – 2" minimum.

The width of the milling area shall be 12" minimum, but can be up to the full width of the existing asphalt.

Within through lanes the longitudinal seams at the edges of the milled areas shall be parallel to the direction of travel and the transverse seams at the ends of the milled areas shall be perpendicular to the direction of travel.

Within turn lanes where practical the longitudinal seams at the edges of the milled areas shall be parallel to the direction of travel and the transverse seams at the ends of the milled areas shall be perpendicular to the direction of travel.

**12.12.090130 - Safety requirements.**

It is unlawful for any person, quasi-municipal corporation or business entity to dig up or cause to be dug up any hole, drain, or ditch or perform any other excavation in any street, alley, sidewalk or other public place or public right-of-way within the city without providing a suitable barricade or temporary fence around such hole, drain, ditch or other excavation in order to prevent persons, animals, and vehicles from sustaining injury or damage. Barricade or temporary fences may be removed by the permittee during working hours provided there is a person present at the work site. During the nighttime, sufficient warning lights shall also be provided and placed to provide maximum visibility and warning. **If the city determines that an excavation site presents a danger to persons or property, the permittee shall sufficiently barricade the excavation site immediately upon receipt of notice from the city.**

**12.12.100140 - Interference with safety measures.**

It is unlawful to damage, displace, remove or interfere with any barricade, warning lights or any other safety appliance which is lawfully placed in, on, or around or about any street, alley, sidewalk, or other excavation or construction work in the city.

**12.12.110150 - Liability Indemnification.**

~~Any person or business entity who shall undertake work pursuant to a permit issued under the provisions of this chapter or perform work under contract with the city or by virtue of permission obtained from the city in accordance with the provisions adopted by the city shall be liable for all damage and personal injury to persons, animals or property by reason of intentional acts, negligence or carelessness connected with such work.~~ **Each permittee, for himself or herself and his or her related entities, agents, employees, subcontractors and the agents and employees of said subcontractors shall hold the city harmless and defend and indemnify the city, 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, including permittee's violation of any applicable laws or regulations, and reimburse the city for all its reasonable expenses, including reasonable attorney fees and costs, as incurred, arising out of any excavation and related activities in the public right-of-way, including but not limited to the actions or omissions of the permittee, its employees, representatives, agents, contractors, related entities, successors and assigns or the securing of and the exercise by the permittee of any 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 chapter or other applicable law. A permittee shall not be obligated to hold harmless or indemnify the city for claims or demands to the extent that they are due to the negligence or willful and wanton acts of the city or any of its officers, employees or agents.**

**12.12.120160 - Display of permit at work site.**

The permit required by this chapter shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any police officer or other authorized representative of the city.

**12.12.130170 - Nonliability of city.**

The city shall have no liability or responsibility for noncompliance by any person or business entity with the provisions of this chapter or any other applicable law or for any damages suffered by any person or property as a result of such noncompliance.

**12.12.140180 - Violations—Penalties.**

- A.** Any person, quasi-municipal corporation or business entity found to be in violation of the provisions of this chapter shall ~~may~~, upon conviction thereof, be punished in the manner provided in Chapter 1.20 of this code.
- B. In addition to or in lieu of the penalties set forth in subsection A hereof, the municipal court may impose the following penalties:**
- 1. A fine of five hundred dollars (\$500.00) for digging without a permit;**
  - 2. A fine of fifty dollars (\$50.00) for any violation of any patch requirements set forth in this chapter;**
  - 3. A fine of one hundred dollars (\$100.00) for completion of work outside the operating hours set forth in this chapter;**
  - 4. A fine of one hundred dollars (\$100.00) per hour if the permittee's work area requires sweeping or clearing of debris by the city;**
  - 5. A fine of one hundred dollars (\$100.00) per day for provision of insufficient traffic control in violation of this chapter; and/or**
  - 6. Suspension or revocation of a permit for any violation of this chapter or other applicable law or regulation.**
- C. The penalties set forth in this section shall not be the city's exclusive remedy for violations of this chapter and shall not preclude the city from bringing a civil action to enforce any provision of an excavation permit or to collect damages or recover costs associated with any use of the public rights-of-way. Furthermore, the enforcement of one (1) penalty shall not preclude the city from enforcing any other penalty.**

**Section 3. Remaining provisions.** Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.



**Section 4. Codification Amendments.** The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

**Section 5. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 6. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this Ordinance.

**Section 7. Emergency.** This Ordinance is necessary for the immediate preservation of the public peace, health and safety because the City requires updated and more efficient street excavation regulations prior to the beginning of the City's construction season beginning on or about **May 1, 2020**. If this Ordinance does not pass as an emergency ordinance with the required three-fourths affirmative vote of all members of City Council, but is nonetheless approved by majority vote, it shall be deemed effective as a regular ordinance with the emergency clause deemed severed from the other provisions of the Ordinance.

**Section 8. Effective Date.** This Ordinance shall be effective immediately upon adoption, if approved as an emergency measure. If this Ordinance is approved as a non-emergency ordinance, it shall be effective thirty days following final publication.

**INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 7th day April, 2020 by a vote of 7 in favor and 0 against.**

CITY OF LEADVILLE, COLORADO:

  
\_\_\_\_\_  
Greg Labbe, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Jackson, Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on this 9<sup>th</sup> day of April, 2020.

**PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED,  
with any amendments, this 21st day of April, 2020 by a vote of 7 in favor and 0  
against.**

CITY OF LEADVILLE, COLORADO:

  
\_\_\_\_\_  
Greg Labbe, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Jackson, Deputy City Clerk

PUBLISHED by title only in The Herald Democrat, a newspaper of general circulation in the City  
of Leadville, Colorado, following final reading on this 30<sup>th</sup> day of April, 2020.