



Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR REVOCATION OF MAJOR ENCUMBRANCE PERMIT

TO: Karen Walton, City Attorney's Office

FROM: Robert J. Duncanson, P.E.
Manager 2, Development Engineering Services

ROW NO.: 2013-0216-01

DATE: May 8, 2013

SUBJECT: Request for revocation of Ordinance #278, Series of 1989 and Ordinance #798, Series of 1989, which granted a revocable permit to the Department of the Army Corps of Engineers, their successors and assigns, to encroach into the right of way with 16-inch water line and meters at Montview Blvd and Yosemite St.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Dale Lamke for revocation of the above-subject permit. The reason for the revocation is the water line was abandoned and no longer in use.

This matter has been checked by this office and has been coordinated with DES Construction Engineering to ensure the encumbrance in question has been removed.

As a result of the investigations, it has been determined that there is no objection to revocation of the revocable permit.

Therefore, you are requested to initiate Council action for the revocation of a revocable permit granted by Ordinance # 278, Series of 1989 and Ordinance #798, Series of 1989.

RJD: VLH

cc: City Councilperson & Aides Dist 11 Herndon
City Council Staff, Gretchen Williams
Department of Law, Karen Aviles,
Department of Law, Brent Eisen
Department of Law, Karen Walton
Department of Law, Arlene Dykstra
Public Works, Alba Castro
Public Works, Stacie Loucks
Public Works Survey, Jeff Jones,
Project File-2013-0216-01

Owner:
Department of the Army
Corps of Engineers, Omaha District
ATTN: CENWO-RE-M
1616 Capitol Avenue
Omaha, Nebraska 68102-4901
c/o Dale Lamke
c/o Sheree Jamison

ORDINANCE/RESOLUTION REQUEST

Please email requests to Daelene Mix at
Nancy.khun@denvergov.org by **NOON on Monday.**

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: May 8, 2013

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. **Title:** (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

Request for revocation of Ordinance # 278, Series of 1989 and Ordinance # 798, Series of 1989, which granted a revocable permit to the Department of the Army Corps of Engineers, their successors and assigns, to encroach into the right of way with 16-inch water line and meters at Montview Blvd and Yosemite St.

3. **Requesting Agency:** PW Right of Way Engineering Services

4. **Contact Person:** (With actual knowledge of proposed ordinance/resolution.)

- **Name:** Vanessa Herman
- **Phone:** 720-913-0719
- **Email:** vanessa.herman@denvergov.org

5. **Contact Person:** (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- **Name:** Nancy Kuhn
- **Phone:** 720-865-8720
- **Email:** nancy.kuhn@denvergov.org

6. **General description of proposed ordinance including contract scope of work if applicable:**

To revoke the MEP ordinances # 278, Series of 1989 and Ordinance # 798, Series of 1989.

****Please complete the following fields:** (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)

- a. **Contract Control Number:** N/A
- b. **Duration:** permanent
- c. **Location:** Montview Blvd and Yosemite St
- d. **Affected Council District:** # 11 Herndon
- e. **Benefits:** N/A
- f. **Costs:** N/A

7. **Is there any controversy surrounding this ordinance?** (Groups or individuals who may have concerns about it?) **Please explain.**

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



EXECUTIVE SUMMARY

DENVER
THE MILE HIGH CITY

Project Title:2013-0216-01 Revocation of MEP the Army Corps of Engineers

Description of Proposed Project:

Explanation of why the public right-of-way must be utilized to accomplish the proposed project:They are revoking the old MEP. The water line is no longer in use

Has a Temp MEP been issued, and if so, what work is underway:N/A

What is the known duration of an MEP:N/A

Will land be dedicated to the City if the vacation goes through:N/A

Will an easement be placed over a vacated area, and if so explain:N/A

Will an easement relinquishment be submitted at a later date:N/A

Additional information:They are revoking the MEP from 1989 because the water line was abandoned and no longer in use.

BY AUTHORITY
ORDINANCE NO. 798
COUNCIL BILL NO. 847, SERIES OF
1989. COMMITTEE OF REFER-
ENCE: PUBLIC WORKS AND
TRANSPORTATION.

A BILL
FOR AN ORDINANCE AMENDING
ORDINANCE NO. 278, SERIES OF
1989, WHICH SAID ORDINANCE
GRANTED A REVOCABLE PER-
MIT OR LICENSE, SUBJECT TO
CERTAIN TERMS AND CONDI-
TIONS, TO DEPARTMENT OF
THE ARMY, CORPS OF ENGI-
NEERS, ITS SUCCESSORS AND
ASSIGNS, TO ENCROACH INTO
PORTION OF MONTVIEW BOULE-
VARD AT YOSEMITE STREET
WITH 16-INCH WATER LINE AND
METERS.

•••••
BE IT ENACTED BY
THE COUNCIL OF THE
CITY AND COUNTY OF DENVER:

Section 1. Section 2(g) of
Ordinance No. 278, Series of 1989,
shall be and hereby is amended and
re-enacted as amended to read as
follows:

2(g) During the existence of
said encroachment, the licensee or
permittee shall provide a Certificate
of Self Insurance to the City and
County of Denver.

Section 2. Section 2(i) of
Ordinance No. 278, Series of 1989,
shall be and hereby is amended and
re-enacted as amended to read as
follows:

2(i) The City and County of
Denver reserves the right to make an
inspection of the 16-inch water line
and meters contained within the
confines of this encroachment.

Section 3. Section 2 of Ordinance
No. 278, Series of 1989, shall be and
hereby is amended and re-enacted
as amended by adding thereto a new
Section 2(i) to read as follows:

2(i) All expenditures to be
made by the licensee or permittee
under this Section 2 shall be subject
to appropriations being available for
that purpose.

PASSED BY The Council December
26, 1989. Cathy Donohue - President.

APPROVED: Federico Pena -
Mayor, December 28, 1989. ATTEST:
Felicia Muffic - Clerk and Recorder,
Ex-Officio Clerk of the City and
County of Denver. (SEAL)

Published in the Rocky Mtn. News
December 22, 1989 and January 4,
1990

PREPARED BY: Robert M. Kelly,
Assistant City Attorney, 12/13/89.
REVIEWED BY: Patricia Wells -
Deputy City Attorney, 12/13/89.

BY AUTHORITY
ORDINANCE NO. 275
COUNCIL BILL NO. 701 SERIES OF 1989 COMMITTEE OF
REFERENCE: PUBLIC WORKS, TRANSPORTATION AND PHYSICAL
PLANT.

A BILL
FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT OR
LICENSE, SUBJECT TO CERTAIN TERMS AND CONDITIONS, TO
DEPARTMENTS OF THE ARMY OF ENGINEERS, ITS
SUCCESSORS AND ASSIGNS, TO ENCROACH INTO PORTION OF
MONTVIEW BOULEVARD AT YOSEMITE STREET WITH 14-INCH
WATER LINE AND METERS

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF
DENVER

Section 1 That the City and County of Denver hereby grants Department
of the Army, Corps of Engineers, its successors and assigns, a revocable
permit or license to encroach into portion of Montview Boulevard at
Yosemite Street with 14-inch water line and meters in the following described
area.

That part of Montview Boulevard more particularly described as follows:
Beginning at the Northeast corner of the SE 1/4 of Section 33, T.33, R.87W, of
the 4th P.M., State of Colorado; thence westerly along the north line of said
SE 1/4, 57 feet; thence northerly and parallels with the east line of said Section
33, 40 feet to a point on the north line of Montview Boulevard; thence easterly
along said north line of Montview Boulevard 42 feet; thence southerly and
parallel with the east line of said Section 33, 40 feet to a point on the north line
of said SE 1/4 extended easterly; thence westerly along said easterly extension
10 feet to the point of beginning.

Section 2 The revocable Permit or license granted by this ordinance is
expressly granted upon and subject to each and all of the following terms and
conditions:

(a) All construction in, on or over the area of encroachment shall be
accomplished in accordance with the Building Code of the City and County of
Denver, Plans and specifications, governing the construction of said water
line and meters, shall be approved by the Manager of Public Works and the
Director of the Building Inspection Division prior to construction. Upon
completion, a reproducible copy of the exact location and dimensions of the
encroachment shall be filed with the Manager of Public Works.

(b) The licensee shall pay all costs of construction and maintenance of
said water line and meters and upon revocation of permit as provided herein
or upon abandonment shall pay all costs of removing the said structures
from the encroachment area and return the street to its original condition,
under the supervision of the City Engineer.

(c) This revocable permit or license shall not operate or be construed to
abridge, limit or restrict the City and County of Denver in exercising its right
to make full use of Montview Boulevard as a public thoroughfare nor shall it
operate to restrict the utility companies in exercising their rights to construct,
remove, operate and maintain their facilities within the said street.

Any costs that are incurred relocating facilities for the utility companies
during construction within the encroachment area will have to be borne by
the licensee.

(d) The licensee is to assume full responsibility for any and all damages
incurred to facilities of the Water Department and/or drainage facilities for
water and sewage of the City and County of Denver due to activities
authorized by the permit. Any and all replacement or repair of facilities of
the Water Department and/or drainage facilities for water and sewage of the
City and County of Denver attributed to the work shall be made by the
Water Department and/or the City and County of Denver at the sole expense
of the licensee.

(e) The sidewalk and street over the encroachment area shall be capable
of withstanding an HS-20 Loading in accordance with the latest AASHTO
specifications. The installation within the said encroachment area shall be so
constructed that the paved section of the street can be widened without
requiring additional structural modifications.

The sidewalk shall be constructed so that it can be removed and replaced
without affecting structures within the encroachment area.

(f) The licensee shall agree to indemnify and always save the City and
County of Denver harmless from all costs, claims or damages arising out of
the rights and privileges granted by this permit.

(g) During the existence of said encroachment, the licensee or permittee,
its successors and assigns, at its or their expense, and without cost to the
City and County of Denver, shall procure and maintain a single limit
comprehensive general liability insurance policy with a limit of not less than
\$500,000. All coverages are to be arranged on the occurrence basis and
include coverage for those hazards normally identified as X.C.U. during
construction. The insurance coverage hereinafter enumerated constitutes a
minimum requirement and such enumeration shall in no way be deemed to
limit or lessen the liability of the licensee or permittee, its successors or
assigns, under the terms of this revocable license or permit, all of the
insurance coverage required herein shall be written in form and by a
company or companies approved by the Manager of Public Works of the
City and County of Denver and authorized to do business in the State of
Colorado. A certified copy of all such insurance policies shall be filed with the
said Manager of Public Works, and each such policy shall contain a
statement inherein endorsing hereon that it will not be cancelled or
materially changed or altered without at least thirty days prior written notice,
by registered mail, to the said Manager of Public Works at least thirty days
prior to the termination of the term; all such insurance policies shall be
specifically endorsed to include all liability assumed by the licensee or
permittee hereunder and shall name the City and County of Denver as an
additional insured.

(h) The licensee shall also remove and replace any and all street paving,
sidewalks and curb and gutter, both inside the area of encroachment and in
the area of the street adjoining thereon, that become broken, damaged or
unusable during the course of construction without cost to the City.

In the future the licensee shall also remove, replace or repair any street
paving, sidewalks and curb and gutter that become broken or damaged
when in the opinion of the City Engineer the damage has been caused by the
construction within the area of encroachment.

The work required to effect the said repairs shall be accomplished
without cost to the City and under the supervision of the City Engineer.

(i) The City and County of Denver reserves the right to make an
inspection of the said ground water monitoring wells and facilities contained
within the confines of this encroachment for which an annual fee of \$50.00
shall be assessed.

Section 3 That the revocable permit or license hereby granted shall be
revocable at any time that the Council of the City and County of Denver shall
determine that the public convenience and necessity or the public health,
safety or general welfare require such revocation, and the right to revoke the
same is hereby expressly reserved to the City and County of Denver;
provided however, at a reasonable time prior to Council action upon such
revocation or proposed revocation, opportunity shall be afforded to licensee
or permittee, its successors and assigns, to be present at a hearing to be
conducted by the Council upon such matters and therein to present its or
their views and opinions thereon and to present for consideration action or
actions alternative to the revocation of such license or permit.

Section 4 That this license or permit shall be of no force or effect until the
following steps have been done and performed:

(a) The licensee or permittee shall have filed with the Manager of Public
Works a written acceptance of the terms and conditions of this ordinance
together with a fee for filing with the Clerk and Recorder in and for the City
and County of Denver; said acceptance shall be in substantially the following
form:

Date: _____
We the undersigned do hereby accept
all of the terms and conditions recited
in Ordinance No. _____, Series of 1989
Signed _____
By: _____
(Permittee or Licensee)
By: _____
(Name of Officer)

(b) The licensee or permittee shall have filed with the Manager of Public
Works all insurance policies and certificates herein recited, and

(c) The Manager of Public Works shall have certified in writing that the
preceding requirements have been performed.

PASSED BY THE COUNCIL MAY 30, 1989, MAWAHA DAVIS, JR. - President,
APPROVED: Federico Pena - Mayor, June 3, 1989, ATTEST: Felicia Mullic
Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver.

(SEAL)
Published in the Rocky Mtn. News, May 24 and June 5, 1989
PREPARED BY: Robert M. Kopy, Assistant City Attorney, 5/17/89,
REVIEWED BY: Patricia Wells - Deputy City Attorney, 5/17/89, 4, 12.