

BY AUTHORITY

ORDINANCE NO. 977
SERIES OF 2004

COUNCIL BILL NO. 961
COMMITTEE OF REFERENCE:
Public Works

A BILL

For an ordinance granting a revocable permit to Argus of Colorado Home Health, Inc. to encroach with conduit into the alley bounded by 16th Avenue, 17th Avenue, Race Street and Vine Street.

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

Section 1. The City and County of Denver hereby grants to Argus of Colorado Home Health, Inc., its successors and assigns ("Permittee"), a revocable permit to encroach with conduit in the following described area ("Encroachment Area"):

A STRIP OF LAND 8.00 FEET IN WIDTH LOCATED IN BLOCK 13, WYMAN'S ADDITION TO THE CITY OF DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 22, SAID BLOCK 13; THENCE IN A SOUTHERLY DIRECTION ALONG THE EAST LINE OF SAID LOT 22, A DISTANCE OF 1.26 FEET TO THE POINT OF BEGINNING; THENCE IN A NORTHEASTERLY DIRECTION, A DISTANCE OF 16.30 FEET TO THE POINT OF TERMINUS ON THE WEST LINE, SAID POINT BEING 1.85 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 16, SAID BLOCK 13, EXTENDING AND SHORTENING SIDELINES TO ELIMINATE OVERLAPS AND GAPS.

1 **Section 2.** The revocable permit ("Permit") granted by this ordinance is expressly granted
2 upon and subject to each and all of the following terms and conditions:

3 (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations
4 at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

5 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs
6 that are necessary for installation and construction of items permitted herein.

7 (c) If the Permittee intends to install any underground facilities in or near a public road,
8 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
9 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
10 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
11 232-1991.

12 (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water
13 Department and/or drainage facilities for water and sewage of the City and County of Denver due to
14 activities authorized by the permit. Should the relocation or replacement of any drainage facilities
15 for water and sewage of the City and County of Denver become necessary as determined by the
16 Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost
17 and expense of the portion of the sewer affected by the permitted structure. The extent of the
18 affected portion to be replaced or relocated by Permittee shall be determined by the Manager of
19 Public Works. Any and all replacement or repair of facilities of the Water Department and/or
20 drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee
21 shall be made by the Water Department and/or the City and County of Denver at the sole expense
22 of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water
23 Department's or the City and County of Denver's repair, replacement and/or operation of its
24 facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend,
25 indemnify and save the City harmless and to repair or pay for the repair of any and all damages to
26 said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as
27 a result of the permitted structure.

28 (e) Permittee shall comply with all requirements of affected utility companies and pay for
29 all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing
30 telephone facilities shall not be utilized, obstructed or disturbed.

31 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
32 accordance with the Building Code of the City and County of Denver. Plans and Specifications
33 governing the construction of the Encroachments shall be approved by the Manager of Public Works

1 and the Director of Building Inspection Division prior to construction. Upon completion, a
2 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the
3 Manager of Public Works.

4 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
5 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
6 installations within the Encroachment Area shall be constructed so that the paved section of the
7 street/alley can be widened without requiring additional structural modifications. The sidewalk shall
8 be constructed so that it can be removed and replaced without affecting structures within the
9 Encroachment Area.

10 (h) Permittee shall pay all costs of construction and maintenance of the Encroachment.
11 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
12 Encroachment from the Encroachment Area and return the Encroachment Area to its original
13 condition under the supervision of the City Engineer.

14 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
15 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
16 become broken, damaged or unsightly during the course of construction. In the future, Permittee
17 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
18 become broken or damaged when, in the opinion of the City Engineer, the damage has been
19 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
20 accomplished without cost to the City and under the supervision of the City Engineer.

21 (j) The City reserves the right to make an inspection of the Encroachments contained
22 within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.

23 (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the
24 City and County of Denver in exercising its right to make full use of the Encroachment Area and
25 adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in
26 exercising their rights to construct, remove, operate and maintain their facilities within the
27 Encroachment Area and adjacent rights-of-way.

28 (l) During the existence of the Encroachments and this permit, Permittee, its successors
29 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
30 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
31 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
32 those hazards normally identified as X.C.U. during construction. The insurance coverage required
33 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit

1 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
2 insurance coverage required herein shall be written in a form and by a company or companies
3 approved by the Risk Manager of the City and County of Denver and authorized to do business in
4 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager
5 of Public Works, and each such policy shall contain a statement therein or endorsement thereon
6 that it will not be canceled or materially changed without written notice, by registered mail, to the
7 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
8 material change. All such insurance policies shall be specifically endorsed to include all liability
9 assumed by the Permittee hereunder and shall name the City and County of Denver as an
10 additional insured.

11 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in
12 Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions
13 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of
14 the City and County of Denver. The failure to comply with any such provision shall be a proper basis
15 for revocation of this permit.

16 (n) The right to revoke this permit is expressly reserved to the City and County of Denver.

17 (o) Permittee shall agree to indemnify and always save the City and County of Denver
18 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and
19 privileges granted by this permit.

20 (p) The conduit burial depth must be 5 feet.

21 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
22 of the City and County of Denver shall determine that the public convenience and necessity or the
23 public health, safety or general welfare require such revocation, and the right to revoke the same is
24 hereby expressly reserved to the City and County of Denver; provided however, at a reasonable
25 time prior to Council action upon such revocation or proposed revocation, opportunity shall be
26 afforded to Permittee, its successors and assigns, to be present at a hearing to be conducted by the
27 Council upon such matters and thereat to present its views and opinions thereof and to present for
28 consideration action or actions alternative to the revocation of such Permit.

29 COMMITTEE APPROVAL DATE: N/A

30 MAYOR-COUNCIL DATE: December 14, 2004.

31 PASSED BY THE COUNCIL December 27 2004

32 Kathleen Mackey

- PRESIDENT ~~PRO-TEM~~

33 APPROVED: _____

ACTING MAYOR

12/27/04

MAYOR

Shirley Nida

2004

1 ATTEST: [Signature] - CLERK AND RECORDER,
2 EX-OFFICIO CLERK OF THE
3 CITY AND COUNTY OF DENVER
4

5 NOTICE PUBLISHED IN THE DAILY JOURNAL DECEMBER 23 2004; DECEMBER 30 2004

6 PREPARED BY: KAREN A. AVILES, ^{LA}ASSISTANT CITY ATTORNEY; 12/14/04

7 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
8 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
9 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
10 3.2.6 of the Charter.
11

12 Cole Finegan, City Attorney

13
14 BY: [Signature], Ass t City Attorney

15 DATE: 14 Dec 04
16

