

Title 13

STREETS, SIDEWALKS AND PUBLIC PROPERTY

Chapters:

- 13.04 General Provisions
- 13.08 Design and Construction of Public Improvements
- 13.10 Public Improvements by Contract
- 13.12 Street and Sidewalk Construction and Repair
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Chapter 13.04

GENERAL PROVISIONS

Sections:

- 13.04.010     Applicability.
- 13.04.020     Damages.
- 13.04.025     Use of Bicycles, Skateboards, and Similar Devices on Sidewalks Prohibited.
- 13.04.030     Street Construction Fund.
- 13.04.040     Violation--Penalty.

13.04.010     Applicability. All use of public rights-of-way shall be subject to the provisions of this Title. Use of public rights-of-way includes but is not limited to the following activities within the legal boundary of such rights-of-way.

- A.     The operation of a motor vehicle, equipment or machinery;
- B.     The operation of a nonmotorized vehicle;
- C.     Construction or reconstruction of all types;
- D.     Excavations;
- E.     Erection of any permanent or temporary structures;
- F.     Placing, displaying or storage of any substance;
- G.     Maintenance of public improvements;

H. Physical or sight obstructions.

13.04.020 Damages. Any person, firm, partnership or corporation violating any of the provisions of this Title shall be liable to the Town for any expenses, loss or damage occasioned by reason of such violation.

13.04.025 Use of Bicycles, Skateboards, and Similar Devices on Sidewalks Prohibited. Any person who knowingly operates or uses a bicycle, skateboard, roller skates, or roller blades on the sidewalks, rights-of-way, commits a non-criminal municipal offense.

13.04.030 Street Construction Fund. The street construction fund is established. The Town Council shall at least annually make a determination as to the appropriate amount of money to be deposited in said fund and spent therefrom. In determining the appropriate level of contribution to the fund, the Council shall consider the design life of the streets, the age of the streets, the replacement cost of the streets and anticipated growth as well as the financial condition of the Town.

Expenditures of street construction funds shall be limited to major repairs, construction and reconstruction of improvements situated within public rights-of-way. Appropriate expenditures of street construction funds would include plant mix overlay, installation of traffic signals, street widenings, major reconstructions and new construction of streets, storm drainage and sidewalks.

13.04.040 Violation--Penalty. Unless otherwise specified, violation of any Section of this Title shall constitute a municipal offense. Each day such violation continues shall be deemed a separate offense.

## Chapter 13.08

### DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS

#### Sections:

- 13.08.010 Surveys and Grades.
- 13.08.020 Obstructions in Rights-of-way.
- 13.08.030 Construction in Public Right-of-way.
- 13.08.040 Ascertaining Street Grade Before Construction.

13.08.010 Surveys and Grades. The location and elevation of streets, alleys, curbs and gutters and sidewalks shall be determined by the Town.

13.08.020 Obstructions in Rights-of-way. A. It shall constitute a non-criminal municipal offense to construct or place any obstruction in the public rights-of-way except as duly authorized in subsection (B) of this Section. Such obstructions may be physical barricades or impediments to free movement of pedestrian or vehicle traffic or may limit visibility of oncoming traffic.

B. The Town Council may grant a revocable permit allowing construction or placement of any obstruction in the public right-of-way. Issuance of such a permit shall be irrefutable evidence that the permittee shall indemnify the Town of any liability related to the permitted obstruction.

13.08.030 Construction in Public Right-of-way. A. It is unlawful to construct, reconstruct, excavate or cause any construction, reconstruction or excavation in public rights-of-way without having first obtained a permit from the Town to perform such work.

B. The minimum specifications for the construction of public improvements shall be determined by resolution of the Town Council.

C. Any contractor performing construction of public improvements shall expressly warrant and guarantee all such work as follows:

1. Sidewalks, curbs, gutters, driveways and other improvements constructed of concrete: two (2) years;
2. Streets and alleys including sub-base, base and wearing surface: one (1) year;
3. Sanitary services, storm sewers, domestic and irrigation water mains and appurtenances thereto: two (2) years.

Such warranty periods shall commence upon the date of acceptance by the Town, as evidenced in writing. The warranty shall include repairs made necessary by imperfections or unsuitability of material or composition, too great or too little moisture, defects of workmanship, or settling of fills or excavations or any damage done by expansion of concrete or any other failure resulting in nonconformance with the minimum specifications established by the Town.

13.08.040     Ascertaining Street Grade Before Construction. Prior to the issuance of a building permit, the Town shall determine the grade of the street, or streets, adjacent to the proposed building site.

## Chapter 13.10

### PUBLIC IMPROVEMENTS BY CONTRACT

#### Sections:

- 13.10.010      Applicability.
- 13.10.020      Public Improvements Less Than Three Thousand Dollars.
- 13.10.030      Advertisement.
- 13.10.040      Lowest Responsible Bidder.
- 13.10.050      Technical, Professional or Incidental Assistance.

13.10.010      Applicability. All work done by the Town for the construction of public improvements of three thousand dollars (\$3,000.00) or more shall be done by contract to the lowest responsible bidder on open bids after ample advertisement. No division of any construction of public works into two (2) or more separate projects for the sole purpose of evading or attempting to evade the requirements of this Chapter shall be allowed, unless the total cost of the construction would be less if divided into two (2) or more projects than if submitted to open bidding on one (1) project.

13.10.020      Public Improvements Less Than Three Thousand Dollars. All work done by the Town for the construction of public improvements of less than three thousand dollars (\$3,000.00) may in the Town Council's discretion be advertised pursuant to the provisions of this Chapter whenever practicable and in the best interest of the Town.

13.10.030      Advertisement. The Town Clerk or the Town Treasurer shall prepare and have published in a newspaper of general circulation in Moffat County an advertisement for open bids, specifying the improvement to be constructed, the anticipated commencement and completion dates, the last day for the receipt of bids, and a statement that the Town reserves the right to reject any and all bids received. All bids are to be directed to the Town Hall.

13.10.040      Lowest Responsible Bidder. The Town Council may award a contract to the person or firm who in its opinion is the lowest responsible bidder. If in the opinion of the Town Council the tendered bids are too high, or if no bids are received, the Town may enter into negotiations concerning the construction of the public improvements by contract.

13.10.050      Technical, Professional or Incidental Assistance. The Town is not required to advertise for and receive bids for such technical, professional or incidental assistance as it may deem wise to employ in guarding the interest of the Town against the neglect of contractors in the performance of such work.

## Chapter 13.12

### STREET AND SIDEWALK CONSTRUCTION AND REPAIR

#### Sections:

13.12.010	Responsibility for Maintenance.
13.12.020	Sidewalk Construction Permit.
13.12.030	Construction of Sidewalks.
13.12.040	Notice to Repair or Reconstruct Sidewalks and Curbs and Gutters.
13.12.050	Driving Across Sidewalks.
13.12.060	Snow and Ice Removal.
13.12.070	Transporting or Spilling of Substances Injurious to Pavement.
13.12.080	Placement of Debris on Streets.
13.12.090	Size, Weight and Load of Vehicle.
13.12.100	Road Damage.

13.12.010 Responsibility for Maintenance. A. Property owners shall be responsible for maintenance and reconstruction of all sidewalks, driveways, curbs, gutters or any combinations thereof, after such improvements have been accepted by the Town as properly constructed.

B. The Town shall be responsible for maintenance of streets and alleys.

C. Property owners shall be responsible for repairs to streets and alleys, sidewalks, curbs and gutters and all other public improvements when such repairs are necessary due to actions by the property owners. Such actions by the property owner include but are not limited to excavations to repair the property owner's water, irrigation or sewer service lines.

D. The Council intends by this Section, to create legally enforceable duties for the benefit of person lawfully using public sidewalks. Subject to applicable rules or law, including comparative negligence and other civil defenses, breach of these duties shall support civil recovery by injured persons lawfully using public sidewalks from each violator, joint and severally, for damages the violation proximately causes.

13.12.020 Sidewalk Construction Permit. It is unlawful to construct, remove, or in any manner disturb any sidewalk, driveway, curb, gutter or any combination thereof located in public rights-of-way without first obtaining a sidewalk construction permit.

13.12.030 Construction of Sidewalks. It is unlawful to construct any sidewalk, driveway, curb, gutter or any combination thereof of any material or size or on any line, grade or location except according to the specifications of the Town.

13.12.040 Notice to Repair or Reconstruct Sidewalks and Curbs and Gutters. If any sidewalk, driveway, curb, gutter or any combination thereof shall be in disrepair or is not constructed on the proper line and/or grade, the Mayor shall order the property owner to repair or reconstruct the improvement within thirty (30) days.

In the event the property owner fails to complete the required work within thirty (30) days, the Town shall cause the work to be completed and the costs thereof, plus eighteen percent (18%) for incidentals, to be assessed to the property owner.

13.12.050 Driving Across Sidewalks. It shall constitute a non-criminal municipal offense to drive any vehicle over any sidewalk unless such sidewalk is of the hollywood or roll-top variety intended for such use and the purpose of driving across the sidewalk is to go to a lot or structure immediately adjacent to that sidewalk.

13.12.060 Snow and Ice Removal. The property owner shall be responsible for keeping sidewalks clear of ice and snow. The property owner shall remove or cause the removal of ice and snow from sidewalks prior to eight o'clock in the morning (8:00 a.m.) following a snowfall during the previous night or within two (2) hours of a daytime snowfall. Failure to comply with this Section shall constitute a non-criminal municipal offense.

13.12.070 Transporting or Spilling of Substances Injurious to Pavement. It is unlawful to spill or allow the placement of any gasoline, oil, kerosene, benzene or other petroleum-based substance on any street unless such substance is applied by or for the Town for maintenance purposes.

13.12.080 Placement of Debris on Streets. It is unlawful to place any of the following substances on any street or alley:

- A. Glass or glass bottle;
- B. Trash;
- C. Nail or tack;
- D. Wire;
- E. Can;
- F. Snow or ice;
- G. Any substance which might reasonably be anticipated to be injurious to any person, animal, vehicle or the street or alley.

13.12.090     Size, Weight and Load of Vehicle. A. It is unlawful for any person to drive or move or, for any owner, to allow the movement of any vehicle exceeding the size, weight and load limitations set forth in the Model Traffic Code for Colorado Municipalities.

B.       The operator or driver of any laden truck or other commercial vehicle designed and used primarily for the transportation of property, while operating or moving such vehicle within the Town, shall have a gross vehicle weight slip or scale ticket evidencing the total weight of the vehicle and load being transported, issued by a properly licensed or certified scale, which gross vehicle weight slip shall be produced for inspection by any law enforcement officer of the Town. Upon being asked to stop, by a law enforcement officer of the Town, under this Chapter, any driver of such vehicle who fails or refuses to stop, or who fails or refuses to produce such gross vehicle weight slip shall be in violation of this Section, and shall be presumed to be in violation of subsection (A) of this Section.

C.       It is unlawful to drive or move any vehicle or to allow any vehicle to be driven or moved when such vehicle exceeds the posted weight limitations.

D.       Any violation of this Section shall constitute a non-criminal municipal offense.

13.12.100     Road Damage. A. No person shall operate or move on any street or road within the Town any vehicle, motor vehicle, trailer or semi-trailer, mobile machinery or self-propelled construction equipment having any metal tire (all tires the surface of which in contact with the roadway is wholly or partially of metal or other hard, non-resilient material) contact with the roadway, and no person shall drive, operate or move upon or over any street or road within the Town any vehicle, object or contrivance in such a manner so as to cause damage to said street or road.

B.       Further, in the event any law enforcement officer of the Town observes an offense of this Section, such officer shall have the right, in order to prevent further damage, to require the operator or driver of such vehicle to immediately stop such vehicle, and upon such a demand or order of such officer, said operator or driver shall immediately stop said vehicle. Any vehicle so stopped shall not be moved until it can be so moved or removed without causing any further damages to the streets or roads.

C.       Every person violating the terms of this Section shall be liable for all damages which said street or road may sustain as a result thereof. Whenever the driver of such vehicle is not the owner thereof, but is operating, driving or moving such vehicle at the express or implied consent of the owner thereof, then said owner and driver shall be jointly and severally liable for any such damage and such liability may be enforced by the Town by a civil action.

D.       No satisfaction of such civil liability shall be deemed to be a release of satisfaction of any criminal liability for violation of the provisions of this Section.



Chapter 13.16

EXCAVATIONS

Sections:

- 13.16.010 Excavation Permit Required.
- 13.16.020 Excavation Permit--Application.
- 13.16.030 Excavation Permit--Conditions for Issuance.
- 13.16.040 Obstruction of Streets.
- 13.16.050 Warning Devices Required.
- 13.16.060 Interfering with or Removing Warning Devices.
- 13.16.070 Backfill Specifications.
- 13.16.080 Insurance Required--Additional and All-Inclusive Conditions--Implied Agreement.
- 13.16.090 Bonding Required.

13.16.010 Excavation Permit Required. It shall constitute a municipal offense to dig, open, excavate or to cause to be dug, opened or excavated any street, alley, sidewalk or other public right-of-way without first having obtained an excavation permit from the Town.

Such permit shall be kept at the site of the excavation while the work is being performed and shall be exhibited upon request to any employee of the Town or any elected official of the Town.

13.16.020 Excavation Permit--Application. Application for an excavation permit shall include the following:

- A. The reason necessitating the excavation;
- B. The exact location of the excavation;
- C. The date and time when the excavation shall be made and the length of time the excavation will remain unfilled;
- D. The proposed barricading plan;
- E. Payment of the excavation permit fee in an amount set forth by resolution of the Town Council.

13.16.030 Excavation Permit--Conditions for Issuance. Excavation permits shall be subject to the following conditions:

- A. The permittee shall indemnify the Town from liability relating to the excavation;
- B. The permittee, the permittee's insurance and bonding companies and individual performing the excavation on behalf of the permittee shall be solely responsible for all costs relating to the excavation;
- C. Excavations, barricading, traffic control, backfills and public improvement repairs will be performed in accordance with the minimum specifications of the Town;
- D. Payment of the excavation permit fee in an amount set forth by resolution of the Council;
- E. No permit shall be issued for more than one (1) excavation site.

13.16.040 Obstruction of Streets. A. It shall be unlawful to block more than one (1) driving lane of any paved street without having first obtained the written permission of the Town.

B. It shall be unlawful to block a driveway overnight. A permittee shall give notice to the occupant of a residence prior to blocking any driveway in a residential area.

C. All backfilling and pavement replacement shall be done in accordance and in compliance with specifications relating to street and alley excavations adopted by resolution of the Town Council.

D. Any violation of this Section shall constitute a municipal offense.

13.16.050 Warning Devices Required. A. It is unlawful for any person to dig or cause to be dug any hole, drain, ditch or any other excavation in any street, alley, sidewalk or other public place within the Town without providing during the nighttime sufficient flares, lights or other suitable warning devices to be placed with a suitable barricade or temporary fence around such hole, drain, ditch or other excavation, including backfilled areas which have not been patched, in order to prevent persons, animals or vehicles from sustaining injury or damage.

B. During the daytime, the barricades shall be maintained, but flares are not required.

C. Every excavation shall further be protected at all times by traffic safety appliances as prescribed by the Town, in order to minimize the disruption of the flow of traffic in the vicinity of the excavation.

D. Any violation of this Section shall constitute a municipal offense.

13.16.060 Interfering with or Removing Warning Devices. It shall constitute a municipal offense to damage, displace, remove or interfere with any barricade, warning lights,

flares or any other safety appliance which is lawfully placed around or about any street, alley, sidewalk or other excavation or construction work in the Town.

13.16.070 Backfill Specifications. Backfilling of excavation shall be made in accordance with the specifications of the Town adopted by resolution of the Town Council.

In the event of settlement or subsidence of a particular excavation or part thereof, the permittee who performed the excavation work shall be responsible for all repaving costs and repair costs occasioned thereby for a period of two (2) years after the excavation is backfilled.

13.16.080 Insurance Required--Additional and All-Inclusive Conditions--Implied Agreement. Any person who shall apply for a permit to dig in, open or excavate any street, alley, sidewalk or other public place in the Town shall be conclusively deemed to have agreed to indemnify and save harmless the Town, its authorized agents, officers, representatives and employees from and against any and all claims, penalties, liability or loss resulting from claims or court action, whether civil, criminal or in equity, arising directly or indirectly out of any act or omission of the applicant, his agents, officers, representatives, or employees in digging in, opening, or excavation of such street, alley, sidewalk or other public places. The applicant shall post with the Town Clerk certification of general liability insurance covering such excavation work with minimum coverage commonly described as one hundred thousand dollars (\$100,000.00); three hundred thousand dollars (\$300,000.00); twenty-five thousand dollars (\$25,000.00); as shall be approved by the Town Attorney as to form, to insure such indemnity. Such insurance shall remain in full force and effect for a period of two (2) years from and after the date of application for each permit issued thereunder. Failure to maintain such insurance shall not relieve any applicant from liability hereunder. Such proof of insurance shall contain a clause to the effect that the Town shall be notified by the insurer not less than thirty (30) days prior to any change in or cancellation of such policy.

13.16.090 Bonding Required. Any person who shall apply for a permit or permits to dig in, open or excavate any street, alley, sidewalk or other public place in the Town shall post a bond or other performance guarantee acceptable to the Town Attorney in the sum of five thousand dollars (\$5,000.00) with the Town Clerk. The condition of such bond shall be that the permittee shall comply with all the ordinances and specifications of the Town relating to the digging in, opening or excavating, any street, alley, sidewalk or other public place in the Town. Such bond shall be approved by the Town as to sufficiency and by the Town Attorney as to form, and for each excavation shall remain in full force and effect for a period of two (2) years from and after the date any excavation made within the twelve (12) month period is backfilled.

In the event of a breach of any of the conditions of such bond, the Mayor shall give notice of same to the surety, shall cause to be remedied the condition wherein the bond is breached, and the Town Attorney shall bring action, in the name of the Town to recover the penalty of the bond, or so much thereof as may be necessary to reimburse all costs and expenses incidental thereto.

No permit shall be issued to any applicant whose bond or any portion thereof has been declared forfeited unless and until such bond shall have been reinstated or a new bond filed as provided herein.

## Chapter 13.20

### TREE PLANTING AND REMOVAL

#### Sections:

- 13.20.010 Utilities.
- 13.20.020 Public Tree Care.
- 13.20.030 Tree Topping.
- 13.20.040 Pruning for Corner Clearance.
- 13.20.050 Dead or Diseased Tree Removal on Private Property.
- 13.20.060 Removal of Stumps.
- 13.20.070 Arborists License and Bond.
- 13.20.080 Review by Town Council.
- 13.20.090 Violation--Penalty.

13.20.010 Utilities. No street trees other than those species approved by the Town may be planted under or within ten feet (10') of any overhead utility wire.

13.20.020 Public Tree Care. The Town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way of all streets, alleys, avenues, lanes, squares, as well as public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Town may remove or cause or order to be removed with approval of the Town Council, any tree or part thereof on Town property and within two (2) rights-of-way which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, disease, insect or other pest. This Section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this Chapter.

13.20.030 Tree Topping. It is unlawful as a normal practice for any person or firm to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Town Council. Town employees shall also not engage in the practices prohibited by this Section. Any violation of this Section shall constitute a non-criminal municipal offense.

13.20.040 Pruning for Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not (severely) obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet (13') above street surface or eight feet

(8') above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

13.20.050 Dead or Diseased Tree Removal on Private Property. The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the Town. The Town will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of the failure of owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal to the owner(s) of the property.

In the event said charges are not paid by the owner of such property when due, the Town Treasurer may certify the amount of the same to the County Treasurer, to be placed on the tax list for the current year, and to be collected in the same manner as other taxes are collected, with ten percent (10%) added thereto to defray the cost of collection, pursuant to Section 31-20-105 C.R.S., as amended. All laws of this State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply. In addition, the unpaid charges shall constitute a lien on the property until said charges have been paid to the Town. This lien on the property may be foreclosed by an action at law or in equity in the name of the Town in any court having jurisdiction thereof. If the Town must resort to court action for collection of amounts due under this Section, the Town shall also be entitled to its reasonable Attorney's fees and other expenses incurred in such action if the Town prevails.

13.20.060 Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

13.20.070 Arborists License and Bond. It is unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Town without first applying for and procuring a license. The license fee shall be an amount set forth by resolution of the Council; provided, however, that no license shall be required of any utility company or Town employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of twenty-five thousand dollars (\$25,000.00) for bodily injury and ten thousand dollars (\$10,000.00) property damage indemnifying the Town or any person injured or property damage resulting from the pursuit of such endeavors as herein described.

13.20.080 Review by Town Council. The Town Council shall have the right to review the conduct, acts and decisions of the Town Tree Board. Any person may appeal from any ruling

or order of the Town Tree Board to the Town Council who may hear the matter and make final decisions.

13.20.090 Violation--Penalty. Unless otherwise specified herein, any person violating any provision of this Chapter shall be deemed guilty of a municipal offense. Each day, or part thereof, that a violation continues shall be deemed a separate offense. Unless otherwise provided herein, each offense shall be deemed one of "strict liability."