

## Title 12

### Streets and Sidewalks

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## Chapter 12.04

### Streets and Sidewalks \*

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#### **12.04.010 Sidewalk Construction – Maintenance – Notice.**

Whenever, in the opinion of the Board of Trustees, it shall be necessary to have built, extended or repaired any sidewalks within the limits of the Town, the Board of Trustees shall by resolution, so declare, and require the owner or owners of real property abutting on the street where such sidewalk is required to be built, extended or repaired, to build, extend or repair the sidewalk in front of his or their premises, within thirty days after the service of a notice so to do on such owner or owners, or in case such owner or owners cannot be found, then on the agent of such owner or owners; and if no agent of such owner or owners can be found upon whom to serve the notice, then the same may be served by posting the notice in some conspicuous place on the premises in front of which such sidewalk is required to be built, repaired or extended, and the thirty days required for notice shall begin to run from the date of posting same. Such notices shall be issued and signed by the Town Clerk and shall be served by the Chief of Police, who shall make return thereof to the Town Clerk, under oath, showing in what manner and upon whom the same was served. (Ord. 229 § 1, 1977)

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\* For statutory provisions authorizing municipalities to provide for the construction and maintenance of sidewalks, see CRS 1973 § 31-15-702(1)(b)(I) (1975 Supp.); for statutory provisions allowing municipalities to regulate the use of sidewalks, see CRS § 31-15-702(1)(a)(III) (1975 Supp.).

#### **12.04.020 Maintenance – City Action – Assessment of Property Owner.**

Whenever the Town Board directs the construction or repair of any sidewalks as provided in Section 12.04.010, the Town Clerk shall, immediately thereafter, notify all owners of property fronting on the same, their agents or persons having charge of such property, in writing, that an order has been made by the Town Board requiring construction or repair of such sidewalk. If such property owners do not construct or repair the same according to requirements of such order within fifteen days after the service of such notice upon them, the Town Board may order that such sidewalk be constructed or repaired and assess the cost thereof against the property fronting upon the sidewalks so constructed or repaired. The amount so assessed against each lot shall be the actual cost of constructing or repairing that portion of such sidewalk as each of the lots front upon, including the cost of serving such notices. The amount so assessed shall be a lien upon such property until the same is paid; provided, if failure to pay such assessment within ten (10) days after the same has been made, the Town Clerk shall prepare a notice of such assessment to be given to the owners of all such property by publication in a newspaper published within the Town for four (4) successive weeks. This publication shall contain a notice to such property owners of the amount assessed against their property and designate a time and place when the Town Board will hear any objections as to the justness and correctness of the amount so assessed. If such assessments are not paid within ten (10) days after the time fixed for hearing such objections, unless the same are sustained, the Town Clerk shall certify such assessments to the Clerk of the County of Routt, or the officer then having the custody of the tax lists for the current year, to be collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray cost of collection, as provided by the laws of the State of Colorado. (Ord. 229 § 2, 1977)

#### **12.04.030 Maintenance – Owner Responsibility.**

All sidewalks in the Town shall be constructed and maintained by the owners of property fronting upon the same, at their own expense. (Ord. 229 § 3, 1977)

#### **12.04.040 Survey – Owner Responsibility.**

In the event the Board of Trustees determines that a survey is necessary to establish right-of-way boundaries prior to the construction, extension, or repair of any sidewalks within the limits of the Town, all costs of such survey shall be paid by the owner or owners of the real property abutting on the street where such sidewalk is required to be constructed, extended or repaired. In the event the owner or owners fail to survey, the Town Board may order that such survey be made and assess the owner or owners in the same manner provided in Section 12.04.020 of this Chapter. (Ord. 229 § 4, 1977)

#### **12.04.050 Specifications.**

All sidewalks built, repaired or extended under the provisions of this Chapter shall be done in accordance with the Uniform Building Code adopted by reference on December 2, 1976, by Ordinance No. 222, codified in Chapter 15.04 of the Hayden Municipal Code, and in accordance with the director of public works with regard to the width and grade of the sidewalk. (Ord. 229 § 5, 1977)

**12.04.060 Removal of Obstructions – Generally.**

The Town Manager is authorized to order any article or thing whatsoever, including buildings, fences and other obstructions, which might encumber or obstruct any street, alley or public landing, to be removed. If such article or thing, building or fence or any other obstruction is not removed within six hours after notice to the owner or person in charge thereof to remove the same, or if the owner cannot be readily found for the purpose of such notice, the Town Manager shall cause the same to be removed to some suitable place to be designated by him, and the owner of the article so removed shall forfeit a penalty of not more than ten dollars in addition to the cost of removal. (Ord. 229 § 6, 1977)

**12.04.070 Sale of Article Removed – Proceeds.**

Any article or thing which may be moved in accordance with Section 12.04.060 above, if sufficient value to more than pay expenses thereof, shall be advertised once ten days prior to the sale and sold by the Town Manager unless the same is sooner reclaimed, and a penalty and costs paid by the owner thereof. The proceeds of the sale shall be paid in to the Town Treasurer and the balance, if any, after deducting penalty and costs, shall be paid to any person making satisfactory proof of ownership. (Ord. 229 § 7, 1977)

**12.04.080 Power of Town Marshal Relative to Obstructions.**

It shall be the duty of the Town Marshal to see to the enforcement of each of the provisions of this Chapter, and each policeman shall, whenever there is any obstruction in any street or alley or sidewalk in violation of this chapter, endeavor to remove the same; and in case the obstruction is of such character that the same cannot readily be removed, then the policeman shall report the same to the Town Manager and the Town Manager shall have the items removed. (Ord. 229 § 8, 1977)

**12.04.090 Stoops, Steps, Galleries, etc.**

The Town Manager is authorized to cause any stoops, steps, gallery, platforms, cellar doors, stairs, signposts, fruit stands or railings erected upon or over any sidewalk, street or alley in the Town to be removed within a reasonable time if notice to that effect from the Town Manager or any police officer has been served upon the owner, agent or other person in possession of the premises where the obstruction occurs, and the owner, agent or person causing the obstruction or permitting the same to remain after the notice shall be guilty of a violation of this chapter and shall pay all costs and expenses of the required removal. (Ord. 229 § 9, 1977)

**12.04.100 Snow Removal – Duty of Abutting Property Owner.**

It is unlawful for the owner, occupant or agent of any lot, parcel or tract of land to permit snow to remain on the sidewalk on the street upon which such lot, parcel or tract of land abuts for a period exceeding twenty-four hours after termination of the falling snow. (Ord. 229 § 10, 1977)

**12.04.110 Snow Removal – Default of Owner – Town May Remove.**

If, at the end of the period of twenty-four hours referred to in Section 12.04.100, the snow has not been removed from the sidewalk, the Town Manager may cause it to be removed. (Ord. 229 § 11, 1977)

**12.04.120 Snow Removal – Assessments for Removal by Town.**

If the Town Manager, pursuant to the authority granted him by Section 12.04.110 above, causes the snow to be removed from any sidewalk, the entire cost of such removal, including the cost of inspection and other incidental costs in connection therewith, shall be assessed upon the lot, parcel or tract of land abutting that sidewalk. (Ord. 229 § 12, 1977)

**12.04.130 Snow Removal – Yearly List of Assessments.**

At least once a year the Town Manager shall file with the Town Clerk a list showing the lot, parcel or tract of land, the time or times when the work of moving snow was performed, the cost of supervision and inspection of such work and the total amount to be assessed against the lot, parcel or tract of land. (Ord. 229 § 13, 1977)

**12.04.140 Snow Removal – Notice of Assessment to Owner.**

Upon receipt of the list in Section 12.04.130, the Town Clerk shall publish a notice directed to the owners of the real estate upon which assessments are to be made, without naming them, setting forth a list and notifying them that assessments will be made against such real estate unless cause is shown why such assessments should not be made at a designated regular meeting of the Town Board, to be held not less than ten (10) nor more than twenty (20) days after the date of publication of such notice. Such notice shall further state that if the proposed assessment is made by the council after hearing, it must be paid to the Town Treasurer on or before twenty (20) days after the Town Board meeting, or the assessment will be certified to the County Treasurer to be levied on such lot, parcel or tract of land, and collected as general taxes, and that ten percent will be added to the assessment to pay for the publication and cost of collection. (Ord. 229 § 14, 1977)

**12.04.150 Snow Removal – Hearing of Objections and Exceptions to Assessments.**

At the time designated in the notice required in Section 12.04.140, the Town Board shall hear all objections and exceptions to the amount proposed to be levied against each lot, parcel or tract of land as it shall deem just and proper in the premises. (Ord. 229 § 15, 1977)

**12.04.160 Snow Removal – Collection of Assessment.**

In case the owner of any lot, parcel or tract of land against which the assessment authorized in Section 12.04.120 has been made fails within twenty (20) days of the making of such assessment to make payment of the amount assessed by the Town Board against the lot, parcel or tract of land, such assessment, together with a penalty of ten percent added thereto, shall be certified by the Town Clerk to the County Treasurer, or officer having custody of the tax list at the time such certificate is made, in the same manner as sidewalk taxes are certified to that officer, and the County Treasurer shall collect all assessments in the same manner that general taxes are collected, and all the laws of the state for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments, and such assessment shall be a lien in the several amounts assessed against each lot, parcel or tract of land until paid, and shall have priority over liens, except general taxes and prior special assessments. (Ord. 229 § 16, 1977)

**12.04.170 Snow Removal – Disposition of Funds.**

All the money received by the Town Treasurer from the payment or collection of assessments made under Section 12.04.160 shall be credited to the fund out of which the expense of such improvement was paid. (Ord. 229 § 17, 1977)

**12.04.180 Assessment not to Relieve Criminal Liability.**

The fact that an assessment has been made as provided for in this chapter shall not prevent the owner, occupant, agent or lessee from being punished by fine as provided by this chapter, but such fine may be imposed upon any person found guilty of violating the provisions of any other Ordinance of the Town relating to the removal of snow from sidewalks the same as if the assessment had not been made or paid. (Ord. 229 § 18, 1977)

**12.04.190 Sidewalk Openings – Covers Supplied by Owners.**

The opening in any vault or coal hole or aperture in the sidewalk over the coal hole or vault shall be covered with a substantial iron plate with a rough surface to prevent accidents, and the entire construction of such coal holes or vaults shall be subject to the direction and supervision of the Town Manager. (Ord. 229 § 19, 1977)

**12.04.200 Sidewalk Openings – Liability of Owner.**

A. The owner or person in possession of abutting premises in front of which a coal hole, vault, or other aperture is thus permitted to be constructed shall be held responsible to the Town for any and all damages to the persons or property in consequence of any defect in the construction of the vault, coal hole or other aperture or for allowing the same, or any portion thereof, to remain out of repair, and such owner shall be required to keep such vault or coal hole, its walk and covering in good order at all times.

B. The person in possession of any premises abutting on such vault, coal hole or other aperture shall be held responsible to the Town for any and all damages occasioned to persons or property in consequence of the aperture in a sidewalk being lifted, exposed or uncovered, or in consequence of the covering thereof being lifted, insecure or unfastened. (Ord. 229 § 20, 1977)

**12.04.210 Correcting Unsafe Conditions.**

Whenever any coal hole, vault or elevator under any sidewalk or aperture constructed in any sidewalk is not covered or secured as provided in Sections 12.04.190 and 12.04.200, or in the opinion of the Town Manager is unsafe or inconvenient for the public travel, the Town Manager may order the same to be placed in a safe condition satisfactory to him; and, if the same shall not be done within two days from the service of notice on the owner or person in possession of the premises, the Town Manager may make changes, and the expenses thereof shall be paid by the Owner or person in possession of the premises. (Ord. 229 § 21, 1977)

**12.04.220 Responsibility of Owner for Cleaning Sidewalk.**

The owners or agents of the owners of vacant lots, and the owners or agents or occupants of houses, warehouses, stores or tenements and grounds belonging thereto or occupied by them shall keep the sidewalks in front of and adjoining such property clean. Any violation of this section shall result in the penalty specified in Section 12.04.240. (Ord. 229 § 22, 1977)

**12.04.230 Use of Skateboards, Bicycles, Roller Skates and Ski Skates on Sidewalks and Roads.**

A. No person shall operate a skateboard, bicycle, roller skates, in-line skates, skis, toboggans, coasting sleds, or similar devices, coasters, scooters, motorized scooters, all terrain vehicles, motorized skateboards, toy vehicles or similar devices on the sidewalks of the Town on Jefferson Avenue between Poplar Street and Spruce Street and on Walnut Street between Washington Avenue and Jefferson Avenue.

B. Notwithstanding the provisions of Section 12.04.240 of this chapter, the Town Parks and Recreation Director may permit the use of such a vehicle or device on any property under the jurisdiction of the parks and recreation department if the director approves such use and posts a notice in the area where the activity is permitted, describing the area of permitted use and all other terms and conditions of such use.

C. The parent of any child or guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provision of this section. (Ord. 564 § 1 (part), 2005)

**12.04.240 Violation – Penalty.**

Any violation of this chapter shall be punished in accordance with the provisions of Chapter 1.08 of this code. (Ord. 564 § 1 (part), 2005; Ord. 229 § 23, 1977)

**Chapter 12.05**

**Vacation of Streets and Alleys**

**12.05.010 Vacation of Streets and Alleys.**

**12.05.020 Procedure for Street and Alley Vacations.**

**12.05.030 Data to Be Submitted With Petition.**

**12.05.040 Fee for Street/Alley Vacation Petition.**

**12.05.010 Vacation of Streets and Alleys.**

For the purpose of establishing and maintaining a sound transportation system within the Town of Hayden, the vacating of streets and alleys is to be discouraged and allowed only under certain circumstances as provided hereafter. This policy is based on the opinion of the Town Board of Trustees that the Town's street and alley plan is the result of a detailed and comprehensive appraisal of the Town's recent and future needs regarding the proper and effective flow/movement of vehicles and pedestrians in, through and out of the community. A street or alley vacation shall only be allowed if the applicant/petitioner demonstrates by clear and convincing evidence that said vacation is necessary because of one or more of the following reasons:

A. The street or alley to be vacated was platted in error and, as presently existing, is inconsistent with the policies and goals of the Town's comprehensive plan.

B. The land surrounding the vacated street or alley has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development.

C. The proposed vacation is necessary in order to provide land for a community related use which was not anticipated at the time of the adoption of the Town's comprehensive plan, and that such vacation will be consistent with the policies and goals of the comprehensive plan.

D. Due to severe environmental constraints, such as steep slopes (20% plus grade) and other naturally occurring geological hazards, a street or alley cannot be built in the subject right-of-way which meets current municipal construction standards and specifications.

This declaration of standards for vacating streets and alleys shall not control vacation which occurs incidental to a major revision of the Town's zoning map and/or comprehensive plan. (Ord. 288 (part), 1980)

#### **12.05.020 Procedure for Street and Alley Vacations.**

Any person petitioning or requesting for a street or alley vacation shall submit a petition to the Town Board of Trustees through the Town Clerk.

A. Planning Commission Advisory Report. Any proposed change in the Town's street and alley plan, when initiated by individual petition, shall be referred first to the Planning Commission for an advisory report thereon.

B. Procedure Before Planning Commission. Before giving an advisory report or initial recommendation on any proposed street or alley vacation, the Planning Commission shall first conduct a public meeting thereof. Notice of the time and date of such meeting and a brief summary or explanation of the subject matter of the hearing shall be given by adequate notice. A certified notice shall be mailed to all adjoining property owners of said vacation report.

C. Procedure Before the Town Board of Trustees. After receiving the advisory report from the Planning Commission, the Town Board of Trustees shall hold a public hearing before acting upon the vacation request. Notice of the time and place of the public hearing before the Town Board shall be given by the Town Clerk by one publication of the same at least ten (10) days prior to hearing in a newspaper of general circulation in the Town of Hayden. (Ord. 288 (part), 1980)

#### **12.05.030 Data to Be Submitted With Petition.**

Prior to any consideration for a street or alley vacation, the petitioner shall file the following data with the Planning Commission at least ten (10) days prior to the scheduled date of the Planning Commission review and public hearing:

A. An official letter stating the specific reason(s) for the desired vacation, as well as a statement on why an unnecessary burden is being experienced by and will continue to be experienced by the petitioner.

B. A certified improvements survey and legal description by a registered land surveyor in the State of Colorado.

C. A site plat and vicinity map with appropriate photographs of the immediate surrounding area. The site plat shall include all pertinent information relative to the vacation request, such as existing right-of-way(s), actual width of neighboring streets and alleys, utilities (water, sewer, electric, gas, phone) present and proposed, existing land use in the area, as well as any proposed land use changes (zoning present and future); and finally, all structures, businesses, accessory buildings, public facilities, etc. (Ord. 288 (part), 1980)

#### **12.05.040 Fee for Street/Alley Vacation Petition.**

A processing fee of one hundred dollars (\$100.00) is hereby established to offset expenses incurred by the Town of Hayden in the proper processing and review of the vacation request, expenses including, but not limited to, ordinance preparation, quit claim deed preparation, attorney fees, engineering review, specific site review, and any professional services associated with review and evaluation of future land use in the affected area. This processing fee is not to be construed as part of the selling price of that property transferred as a result of a street or alley vacation. This fee is not refundable if the vacation request is ultimately denied by the Hayden Board of Trustees. (Ord. 288 (part), 1980)

### **Chapter 12.06**

#### **Trees**

- 12.06.010 Purpose.**
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- 12.06.110 Protection of Trees.**
- 12.06.120 Appeals.**
- 12.06.130 Interference.**
- 12.06.140 Penalties.**

#### **12.06.010 Purpose.**

It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Town of Hayden. (Ord. 574 § 1 (part), 2005)

#### **12.06.020 Definitions.**

"Large trees" means those trees attaining a height of forty-five feet or more.

"Tree lawn" means that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. (Ord. 574 § 1 (part), 2005)

#### **12.06.030 Tree Board.**

There is hereby created and established a Tree Board or the Town which shall consist of at least three members but no more than five members, citizens and residents of this Town, who shall be appointed by the Town Board. Members of the Board shall serve without compensation. The term of the Tree Board shall be three years, except that the term of one member appointed to the first Board shall be only one year and the term for the next two members of the first Board shall be for two years and the term for any members appointed shall be three years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The Tree Board will assist the parks and recreation department in the development of a comprehensive plan for the Town, including planning, tree planting, and maintenance programs for all public trees. The Board will promote the goals of the tree program. (Ord. 574 § 1 (part), 2005)

#### **12.06.040 Town Forester.**

The Town shall appoint a Town Forester, urban forester, or arborist. This individual shall be employed by the parks department. The urban forester shall have the following general powers and duties: (1) to direct, manage, supervise, and control the Town street program to include all planting, removal, maintenance, and protection of all trees and shrubs on public areas; (2) to guard all trees and shrubs within the Town to prevent the spread of disease or pests and to eliminate dangerous conditions that may affect the life, health, or safety of persons or property; (3) such other powers and duties as are provided by the laws of Colorado, by ordinance of the Town and by the Hayden Tree Board. (Ord. 574 § 1 (part), 2005)

#### **12.06.050 Authority.**

The Town Forester shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to ensure safety or preserve or enhance the aesthetics of such public sites. The Town Forester shall have the authority to supervise or inspect all work done under a permit issued in accordance with terms of this chapter. The Town Forester shall have the authority to formulate and publish a master tree plan with the advice, hearing, and approval of the Tree Board. (Ord. 574 § 1 (part), 2005)

#### **12.06.060 Permits.**

No person shall plant, spray, fertilize, preserve, prune, remove, cut above or below ground, or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the Town Forester or otherwise specified municipal authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Town Forester. The Town Forester shall have the authority to

require posting of a bond adequate to fully repay the Town for any and all costs attendant to the completion of the work under the permit. In addition, the contractor is required to show adequate insurance coverage from potential damages during the execution of the work. (Ord. 574 § 1 (part), 2005)

**12.06.070 Maintenance.**

All trees planted shall have trunks not less than one-half inch in diameter at six inches above the ground. No tree shall be planted closer than three feet from the curblineline or outer line of the sidewalk. All trees shall be planted in line with each other and at a spacing of forty to sixty feet depending on the species planted or in groupings using the equivalent number of trees, as approved by the Town. No street tree shall be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground utility wire. No trees shall be planted within thirty lateral feet from corners or intersections. All trees and shrubs on public or private property, which have branches overhanging a public street or sidewalk, shall have said branches trimmed to a clearance height of fourteen feet on the street side and ten feet on the sidewalk side. All public trees designated for removal shall be completely removed from the growing site and disposed of in an authorized manner. (Ord. 574 § 1 (part), 2005)

**12.06.080 Species, Cultivars and Varieties.**

The Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes: small, medium, and large. A list of tree species not suitable for planting as street trees will also be created and enforced by the Tree Board. (Ord. 574 § 1 (part), 2005)

**12.06.090 Obstruction.**

It shall be the duty of any person or persons owning or occupying real property bordering on any street, upon which property there may be trees, to prune such trees in a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten feet over sidewalks and fourteen feet over all streets. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Town to prune such trees with the cost assessed to the owner, as provided by law for in special assessments. (Ord. 574 § 1 (part), 2005)

**12.06.100 Nuisance and Condemnation.**

All street trees planted in violation of, or not maintained in strict compliance with the provisions of this chapter, or that are dead or dangerous are declared to constitute a public nuisance. The Town Forester or code enforcement officer shall cause written notice to be served on the property owner requiring such nuisances to be corrected within thirty days or the cost of correction will be assessed against the property owner. (Ord. 574 § 1 (part), 2005)

**12.06.110 Protection of Trees.**

During development, redevelopment, razing, or renovating, no more than fifty percent of the trees shall be cut, damaged, or removed, except by specific permit. No person shall excavate any ditches,

tunnels, trenches, or lay any drive within a radius of twenty feet from any tree. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, chemical, or solid substance that is harmful to such trees to come in contact with them; or set fire or permit fire to burn when such fire or the heat will injure any portion of any tree. Tree topping is not allowed on any publicly owned tree. (Ord. 574 § 1 (part), 2005)

#### **12.06.120 Appeals.**

Any person who receives an order from the Town Forester or code enforcement officer and objects to all or a part thereof, may, within ten days of receipt thereof, notify the Town Forester and Town Board, in writing, of the nature of the objection and request a hearing thereon. The hearing shall be held within twenty-one days of notice to the appellant. Within ten days after such hearing, the Mayor shall notify the appellant and the Town Forester of the final decision. (Ord. 574 § 1 (part), 2005)

#### **12.06.130 Interference.**

No person shall prevent, delay, or interfere with the Town Forester or code enforcement officer in the execution or enforcement of this chapter. (Ord. 574 § 1 (part), 2005)

#### **12.06.140 Penalties.**

Any person or firm, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one dollar, nor more than one thousand dollars, or may be imprisoned for a term not exceeding ninety days, or both. (Ord. 574 § 1 (part), 2005)

## **Chapter 12.08**

### **Excavations**

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**12.08.010 Definition.**

"Person" includes a firm, partnership, corporation, association or other organization acting as a group or unit as well as an individual. (Ord. 182 § 11, 1972)

**12.08.020 Authority and Supervision.**

All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place within the Town shall be done only on authority of a permit issued by the Town Clerk and under the supervision of the Public Works Officer of the Town. (Ord. 182 § 1, 1972)

**12.08.030 Permit – Required.**

It is unlawful for any person, other than the Town and those under contract with the Town, to excavate, cut, open or dig a trench in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place within the Town without having first obtained a permit from the Public Works Officer. (Ord. 182 § 2, 1972)

**12.08.040 Permit – Application.**

Every person desiring to do any of the excavation work shall apply to the Town Clerk for a permit therefore on a form provided by the Town, stating the applicant's name and address, the location, length, width, surface area, and purpose of the proposed excavation, the dates of commencement and completion of the work, and a statement that the work will be performed in strict compliance with the requirements of this Chapter, and in accordance with the reasonable directions of the Public Works Officer consistent with the provisions of this Chapter. (Ord. 182 § 3, 1972)

**12.08.050 Permit – Fee.**

A fee of eight dollars (\$8.00) per square yard, or fraction thereof, of surface area of the proposed excavation (but not less than twenty-five dollars (\$25.00)) shall be paid to the Town Clerk prior to the issuance of any excavation permit in a paved location. A fee of twenty-five dollars (\$25.00) shall be paid to the Town Clerk prior to the issuance of any excavation permit in an unpaved location. (Ord. 182 § 4, 1972)

**12.08.060 Bond Required.**

Every person applying for an excavation permit, and prior to the issuance thereof, shall file with the Town Clerk a surety bond in favor of the Town in the penal sum of one thousand dollars (\$1,000.00), and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the Town, and within the specified time limits, and that such person will indemnify and save harmless the Town against and from any and all damages or claims for damages, losses, costs, charges or expenses that may be brought against it by any person by reason of such work. (Ord. 182 § 5, 1972)

#### **12.08.070 Commencement and Completion.**

All work authorized by a permit issued pursuant to this chapter shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law, or any other unexpected obstacle causes work to be stopped for so long a time that public travel shall be unreasonably obstructed, the Town Public Works Officer may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed. (Ord. 182 § 6, 1972)

#### **12.08.080 Barricades and Lights.**

Every person making or causing to be made any excavation shall keep the excavation barricaded at all times; and between the hours of sunset and sunrise, shall keep such excavation properly lighted so as to warn all persons thereof. (Ord. 182 § 7, 1972)

#### **12.08.090 Sidewalks and Gutters to Be Kept Clear.**

It is unlawful for any person performing any excavation work to place any dirt or other materials upon any sidewalk or in any gutters, and such work shall be performed so as to permit the free passage of water along the gutters. (Ord. 182 § 8, 1972)

#### **12.08.100 Width and Minimum Inconvenience to Public.**

No opening or excavation shall be undercut or have greater width at the bottom than at the top. In no case shall more than one-half of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half is restored for safe use. All such work shall be performed in such way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic. (Ord. 182 § 9, 1972)

#### **12.08.110 Backfill Specifications.**

All such excavations, cuts, openings or trenches will be backfilled in conformity with the specifications set forth in the following Sections 12.08.120 through 12.08.150. (Ord. 182 § 10, 1972)

#### **12.08.120 Backfill – Paved Locations.**

Excavations in paved locations shall be filled to within three or nine inches, as the case may be, below actual pavement surface with a granular material. Where, in the opinion of the Town's Public Works Officer, it is deemed necessary to return and maintain the street to and in its original condition, a six-inch slab of concrete shall be poured in place on top of the granular material, the top of the concrete slab to be three inches below the actual pavement surface. A three-inch thick asphalt wearing surface shall be poured over the granular backfill material or concrete slab and such additional amount of asphalt as necessary to bring the roadway surface even with the unexcavated portion thereof. (Ord. 182 Appendix (part), 1972)

#### **12.08.130 Backfill – Unpaved Locations.**

A. Excavations in unpaved locations shall be filled to actual surface level with granular material.

B. Additional amounts of such asphalt or granular material shall be added by the permittee upon the order of the Town's Public Works Officer, as may be necessary to compensate for any irregularity in the pavement surface that may occur due to settling in the area of excavation during the six months' period next following the closing of the excavation. (Ord. 182 Appendix (part), 1972)

**12.08.140 Backfill – Placement.**

A. Granular Backfill. Granular backfill material shall be deposited and spread without particle segregation in loose layers not to exceed six inches in depth. Each layer shall be thoroughly compacted to eighty percent relative density as determined by the Standard Bureau of Reclamation "relative density tests for cohesion less free draining soil." This material shall not be placed upon a soft, spongy or frozen subgrade or subbase, or other subgrade or subbase which has an unsuitable stability in the opinion of the Town's Public Works Officer.

B. Concrete. The concrete slab and any asphalt replacement pavement shall extend a minimum of six inches on each side of the excavation, and the entire length of the excavation. (Ord. 182 Appendix (part), 1972)

**12.08.150 Backfill – Materials.**

A. Granular Backfill. Granular backfill material shall consist of hard, durable particles or fragments of stone or gravel crushed to the required size, and a filler of sand or other finely divided mineral matter. The material shall be free from vegetable matter and lumps or balls of clay and which when placed and compacted will result in a firm, dense, unyielding foundation. Granular backfill material shall meet the following grading requirements:

<i>Standard Size of Sieve</i>	<i>Percent by Weight Passing Sieve</i>
3/4-inch	100 percent
No. 4	30-60 percent
No. 10	25-50 percent
No. 200	5-12 percent
Liquid Limit	25 max.
Plastic Limit	6 max.

B. Concrete. Concrete shall have a minimum compressive strength of three thousand pounds per square inch after twenty-eight days. Not less than six ninety-four pound sacks of cement shall be used per cubic yard of concrete. Concrete shall have a slump of not less than two inches nor more than four inches. (Ord. 182 Appendix (part), 1972)

**12.08.160 Violation – Penalty.**

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not to exceed three hundred dollars (\$300.00) or by imprisonment in the county jail for a period of not to exceed ninety (90) days, or by both such fine and imprisonment. (Ord. 182 § 13, 1972)

