

## RECORD OF PROCEEDINGS

100 Leaves

FORM 50 C. F. HOECKEL B. B. & L. CO.

### Ordinance No. 297

AN ORDINANCE RELATING TO STREETS AND SIDEWALKS, EXCAVATIONS THEREIN, PERMITS AND BONDS THEREFOR.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. Definitions. As used herein, the following words shall have the following meanings:

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

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

Section 2. Excavations - Permit Required. It shall be unlawful for any person, other than an officer or employee of the town in the course of his employment, to make or cause or permit to be made any excavation or opening in or under the surface of any street, alley, sidewalk, or other public place, without first obtaining a permit therefor, or to make any such excavation in any manner which does not comply with the permit issued therefor.

Section 3. Application for Permits. Any person desiring a permit to excavate in any street, alley, or sidewalk area shall make application therefor to the Superintendent of Streets upon blanks furnished for that purpose at least 24 hours before the time set for beginning the proposed work.

Section 4. Deposit Required of Applicant. Before a permit for excavation shall be issued, the Superintendent of Streets shall require that the applicant pay to the Town Clerk a deposit of such sum of money as shall be deemed by him sufficient to cover and pay all the expenses for making inspections and furnishing such material, doing such work, and taking such means as shall be required properly to restore and to secure against settlement of the street and sidewalk, pavement, curb and gutter necessary to be replaced in consequence of making such an excavation, opening or disturbance. The sum or sums of money so collected and deposited shall be used for the purpose of paying for the repairing and replacing of any such pavement or surface broken into or disturbed for any of the purposes mentioned herein; provided, however, that any public utility to which a yearly or specific permit has been issued under Section 7 of this Ordinance, in lieu of making such deposit, may deposit with the Town Clerk a purchase order upon such company in favor of the Town for the payment of such company to the Town, when determined, of all costs and expenses provided in this section. After the expense of such repair has been definitely determined, any excess deposit shall be returned to the applicant.

Section 5. Bond Required of Applicant. Every person applying for a permit for excavation shall file with his application a surety bond, good for one year, to the Town, approved as to form by the Town Attorney, and in the penal sum of \$1,000.00. Such bond shall be conditioned for the faithful performance of the work covered by the permit in accordance with the rules, regulations and ordinances of the Town and within the time fixed by the Superintendent of Streets in the permit; for



the cost of restoration of any street, alley, sidewalk or other public place in which the excavation or opening shall be made by such person to its original condition; for the cost of maintenance of such condition for a reasonable length of time as shall be required by the Superintendent of Streets, and that such person will indemnify and save harmless the Town against and from any and all damages or claims for damages, loss, costs, charges or expense that may be brought against it by any person for or on account of injury to persons or property resulting from or occasioned by reason of the negligence or any such person making such excavation. Such person shall also file with his application a certificate of public liability insurance showing coverages of at least \$50,000.00 and \$100,000.00 for personal injury and \$25,000.00 for property damage.

Section 6. Fee for Permits. A fee of \$1.00 shall be charged for an excavation permit issued for an excavation of 25 feet or less in length, and an additional fee of \$1.00 shall be charged for each 25 additional feet or fraction thereof.

Section 7. Annual Permit for Public Utilities. Any public utility operating under the jurisdiction and control of the Colorado Public Utilities Commission, upon written application made upon a form provided for that purpose, and upon filing an annual bond and the payment of an annual fee of \$100.00, shall be granted a permit under the provisions hereof for the installation, maintenance or repair of any public utility installations in the public streets, good for a period of one year from the date thereof. Every such utility performing any construction work thereunder, at the end of each week or whenever required by the Superintendent of Streets, shall file a written report showing all construction work performed by it within the Town during such period under the provisions of such permit. Such annual permit shall not authorize any opening in any concrete, asphalt or other permanent pavement without the specific permission of the Superintendent of Streets in each case, but it shall relate only to the payment of the fee.

Section 8. Openings Controlled by Superintendent of Streets. All openings made in any street shall be made under the supervision of the Superintendent of Streets and he shall have the right to prescribe the method to be used in the excavation, the width thereof, and any other reasonable conditions for the protection of utilities or the public, or for minimizing the interference with vehicular or pedestrian traffic.

Section 9. Barricades and Lights Required. Any person making or causing to be made any excavation or opening in any street or other public place, or within five feet of the line of any public right-of-way, shall keep the excavation barricaded at all times, and between sunset and sunrise on every day that the same remains open or danger exists therefrom, he shall keep such excavation or opening properly lighted so as to warn all persons of such danger. All barricades and lights shall be of substantial construction and shall be furnished by the person doing the work.

Section 10. Restoration of Paving. All restoration of paving surfaces after an opening or excavation has been made shall be made in accordance with Town specifications and the entire work of restoration, including back filling, repaving, surfacing and pouring the base, shall be performed directly by the street department, except in specific cases where the Superintendent of Streets shall deem it necessary to do the restoration by contract or to permit public utilities to do the work with their own forces.



In the replacement or restoration of the permanent pavement, the Town shall have the right and authority to remove the old concrete for an area extending at least one foot in all directions beyond the edge of the original cut, and replace it with new reinforced concrete, not less than six inches thick, but equal in thickness to that of the adjacent pavement, made in accordance with the latest Town specifications for a permanent foundation. The new wearing surface shall extend at least six inches beyond the joint in the foundation of the pavement and be laid with the same care and in the same manner as the original pavement. If any part of a slab of sidewalk is cracked or damaged in any way, the entire slab shall be replaced.

Section 11. Injury to Streets or Sidewalks. It shall be unlawful for any person to injure, cut, mutilate, destroy or deface any street, sidewalk, curb or gutter, the paving or other surface thereof, the trees or plants located therein, or any property maintained or used in connection therewith.

Section 12. Obstructions Prohibited. Except as otherwise provided in the Ordinances of this Town, it shall be unlawful for any person to obstruct a street or sidewalk with any debris, lumber, sand, gravel, dirt, abandoned or wrecked automobiles, or other material or substance without first obtaining a permit from the Street department. Such permits may be granted only where the obstruction is necessary for the construction, alteration or repair of the adjoining property and such permitted obstructions shall be limited to as short a time as is reasonably possible. Each day that such an unlawful obstruction is permitted to exist shall constitute a separate and distinct offense.

Section 13. Dangerous Places Fenced. All holes, depressions, excavations or other dangerous places within the Town that are below the natural or artificial grades of the surrounding or adjacent highway or street shall be properly enclosed with fences or walls, or be filled up so as to prevent persons and animals from falling into them. The Superintendent of Streets shall notify the owner or occupant of premises on which such dangerous places exist to cause fences or walls to be built around them or to cause fences or walls to be built around them or to cause the same to be filled up. It shall be unlawful for any owner or occupant so notified to fail to comply with such notification forthwith.

Section 14. Duty to Construct Walkway. Whenever in the construction, rebuilding or repairing of any building it becomes necessary to blockade, obstruct or remove the sidewalk, the person in charge of such work shall build and maintain a good and substantial walkway, to be approved by the Superintendent of Streets, around the obstructed portion of such sidewalks.

Section 15. Any person who shall be convicted of a violation of this Ordinance shall be fined in a sum of not less than One (\$1.00) Dollar, now more than Three Hundred (\$300.00) Dollars, or imprisoned for a term not exceeding ninety (90) days, for each offense. Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense.

Section 16. The Board of Trustees herewith finds, determines and designates that this Ordinance is necessary for the immediate preservation of the public peace, health and safety,

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and whereas in the opinion of the Board of Trustees an emergency exists, this Ordinance shall take effect and be in force five (5) days agter its final passage, adoption and publication.

Attest:

Viola Barrowman  
Town Clerk

Thomas C. Bean  
Mayor

Adopted October 8, 1963.