

## CHAPTER 11

### Streets, Sidewalks and Public Property

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**ARTICLE I**

**Streets**

**Sec. 11-1. Permit required.**

(a) It shall be unlawful for any person to do any of the following acts without first having obtained a permit for such acts from the Street Commissioner:

(1) To excavate, cut, open, tunnel, trench, repair, improve, alter or otherwise perform any work in, under, upon or above any public street, road, shoulder, drainage ditch or right-of-way within the Town.

(2) To make any curb cut or otherwise to abut, adjoin or connect any road, street, driveway, sidewalk, pathway or other means of access to any public street or road within the Town.

(b) The Street Commissioner is hereby vested with the authority to issue any permit required by this Article, subject, however, to the requirement that any permit issued for any of the purposes enumerated in Subsection (a)(2) above shall also first be approved by three-fourths ( $\frac{3}{4}$ ) of the Trustees before it may validly be issued. The permit may contain such restrictions and conditions as the Street Commissioner may require to insure faithful compliance with this Article and with any applicable state or federal laws. The permit shall be kept by the applicant at the job site during the time that work is progressing. (Prior code V-1-1; Ord. 194 §1, 1995)

**Sec. 11-2. Application and fees.**

(a) Application for a permit required by Section 11-1 above shall be made in writing to the Street Commissioner and it shall contain the following:

(1) The name and address of the applicant and a statement of his or her experience and qualifications (such applicant must be the person who will actually be doing the work for which the permit is sought);

(2) The name and address of the person for whom such work is to be done;

(3) A detailed description of the nature, specifications, plans, extent and location of the work to be done, including such drawings as may be required;

(4) The reason and necessity for such work;

(5) When such work is to commence and when it will be completed;

(6) An agreement that the applicant will comply with and be bound by all of the terms, provisions and recitations of his or her application, any permit issued by the Street Commissioner and this Article; and

(7) Such other material as may be requested by the Street Commissioner in order to insure compliance with this Article.

(b) A separate application must be made for each location upon which work is proposed to be done. With each application, a permit fee of twenty-five dollars (\$25.00) or one dollar (\$1.00) per linear foot of excavation on the public right-of-way, whichever is greater, shall be paid to the Town, together with an additional fee sufficient to cover the cost of the inspection of such work by an engineer selected to represent the Town if, in the discretion of the Street Commissioner, it is determined that an engineer is to be selected pursuant to Section 11-8 of this Article. To prevent manifest hardship or inequity or when the work is done pursuant to franchise, contract or similar general agreement, the Street Commissioner may waive part or all of the twenty-five-dollar permit fee per permit for matters of a minor nature or when one (1) project requires multiple applications for permits. (Prior code V-1-2)

#### **Sec. 11-3. Bonds and insurance.**

Every applicant shall, prior to the issuance of a permit, provide to the Town the following:

(1) A performance bond, good for one (1) year, in favor of the Town in a sum satisfactory to the Street Commissioner and conditioned upon the faithful performance of such work in strict compliance with the terms, conditions and representations of the application, the permit and this Article;

(2) A certificate evidencing that the applicant is insured against claims for damage for personal injury and for property damage which may arise from or out of the performance of the work, whether

such performance is by himself or herself, his or her subcontractors or anyone directly or indirectly employed by him or her and that he or she has adequate workmen's compensation insurance and motor vehicle insurance. The insurance shall be in such amounts as may be set from time to time by the Street Commissioner.

(3) An indemnification and hold harmless agreement protecting the Town and its employees against and from any and all damage or claim for damage, loss, costs, charges or expenses that may be brought or asserted against the Town or its agents or employees by any person by reason of or arising out of or in connection with such work. (Prior code V-1-3)

#### **Sec. 11-4. Street cut repair.**

(a) Backfill. All backfill material shall have good compaction properties (plasticity index of 20 or below). The fill shall be compacted in layers not to exceed twelve (12) inches each, except the top twelve (12) inches shall be in six-inch layers. The last eight (8) inches below normal street grade shall consist of gravel. All compaction shall be done by mechanical compactors. All material shall be compacted to a ninety-five-percent Standard Proctor.

(b) Asphalt surfacing. All asphalt surfacing material shall consist of standard hot mix asphalt put down in a workmanlike manner and rolled or vibrated for compaction. A sufficient tack-coat will be applied to a well-compacted gravel base and to the edges of the adjoining pavement to achieve a permanent bond between the

edges of the old and the new pavement. The asphalt shall be the same thickness as the adjoining pavement, but in no case less than two (2) inches thick, well-rolled to the same level as the adjacent pavement. If hot mix asphalt is not available because of season, a temporary cold mix patch will be required to be installed and maintained and within thirty (30) days after hot mix is locally available, a permanent hot mix patch shall be installed. (Prior code V-1-4)

#### **Sec. 11-5. Drainage ditches.**

It shall be unlawful to fill in or to alter the shape and configuration of any drainage ditch in any public right-of-way or to plant any trees or shrubs in any public right-of-way unless a written permit is first obtained from the Street Commissioner setting forth with specificity what is permitted. There shall be a metal culvert under each driveway or other obstruction in a drainage ditch, the size of which shall be determined by the Street Commissioner. (Prior code V-1-5)

#### **Sec. 11-6. Preference for tunneling.**

To the extent that it is possible and feasible to do so, all work on, about or under the streets and roads of the Town shall be done without cutting, opening or otherwise altering the surface of such roads and streets and access under such roads and streets shall be done by tunneling. (Prior code V-1-6)

#### **Sec. 11-7. Performance.**

(a) The applicant must comply with all rules, regulations and specifications as may be promulgated from time to time by the

Street Commissioner, and the Street Commissioner is hereby expressly authorized to promulgate rules, regulations and specifications to implement the provisions of this Article.

(b) The applicant must commence work promptly after receipt of his or her permit and must pursue his or her work diligently until completed.

(c) All work must be done in a careful, adequate and workmanlike fashion.

(d) If it is necessary to obstruct surface traffic, the work shall be pursued, if at all possible, so as to obstruct no more than one-half ( $\frac{1}{2}$ ) of the width of such road or street at any given time, so that traffic can continue to pass on the other half of such road or street.

(e) Work shall be scheduled and pursued so that no resident in the Town is at any time denied access to his or her property.

(f) All open excavations, holes and ditches shall be barricaded and, during the hours from sunset to sunrise, shall further be protected with blinking lights. It shall be unlawful for anyone to remove, tamper with or impair such barricades and lights as are required by this Section.

(g) The applicant must restore the roads, streets, shoulders, drainage ditches and public ways to good and sufficient repair and condition promptly upon completion. All waste material, leftover dirt and other debris shall promptly be removed from the Town limits. (Prior code V-1-7)

**Sec. 11-8. Inspection and approval.**

The Street Commissioner is hereby authorized to engage an engineer to represent the Town to inspect and approve the work of the applicant when, in his or her opinion, such inspection and approval by an engineer is desirable. In each instance where an engineer is appointed, the engineer shall advise the Street Commissioner from time to time whether such work is being done in compliance with the requirements of this Article. If any work is determined not to be in compliance with this Article, the person or firm holding the permit shall promptly take such steps as required by the Street Commissioner to bring such work into compliance with this Article. (Prior code V-1-8)

**Sec. 11-9. Town liability.**

This Article shall not be construed as imposing upon the Town or any official or trustee of the Town any liability or responsibility for damages to any person or property injured by, or by reason of, the performance of any work within the Town, or under a permit issued pursuant to this Article; nor shall the Town or any official or trustee of the Town be deemed to have assumed any such liability or responsibility therefor by reason of inspection authorized hereunder, the issuance of any permit or the approval of any work. (Prior code V-1-9)

**Sec. 11-10. Enforcement.**

The provisions of this Article may be enforced in the following ways (with each of the following being deemed cumulative rather than mutually exclusive):

(1) The Street Commissioner may revoke the permit if, in his or her opinion, the public health, safety and welfare require it or if the applicant has violated the rules, regulations and specifications established by the Street Commissioner, or terms, conditions or representations in his or her application, the permit or applicable federal, state and municipal laws and regulations;

(2) Violation of this Article may be punished as set forth in Section 1-72 of this Code;

(3) In any court of competent jurisdiction, the Town may seek civil damages, a temporary restraining order, preliminary injunction or permanent injunction directed against any person violating this Article. (Prior code V-1-10; Ord. 194 §1, 1995)

**Sec. 11-11. Intersections of West Stanford and West Union with Sheridan Boulevard and of Cimarron with Bow Mar Drive.**

The Board of Trustees has determined that if West Stanford Avenue and West Union Avenue were permitted to connect with Sheridan Boulevard or if Cimarron were permitted to connect with Bow Mar Drive, there would result from any such intersections a substantial increase in the flow of traffic within the Town which would (a) overextend the Town's ability to provide adequate police protection, (b) unreasonably burden the Town's road maintenance program, and (c) generally adversely affect the safety and welfare of the residents of the Town, and said Board of Trustees has further determined that such intersections

are not necessary for the proper flow of traffic or for the adequate fire or police protection within and between the surrounding communities; and, therefore, the intersection of such roads is hereby prohibited and the Street Commissioner is hereby authorized and directed to cause such barricades to be erected as may be necessary or desirable to prevent the intersection of such roads within the limits of the Town. (Prior code V-3-1)

**Sec. 11-12. Other street intersections prohibited.**

The Board of Trustees has further determined that any other intersections or connections of streets to any streets within the Town are undesirable and would result in increased traffic flow which would (a) overextend the Town's ability to provide adequate police protection, (b) unreasonably burden the Town's road maintenance program, and (c) generally adversely affect the safety and welfare of the residents of the Town, and accordingly, any such further intersections are hereby prohibited. (Prior code V-3-2)

**Sec. 11-13. Obstruction of view or traffic.**

It shall be unlawful to plant or maintain any tree, bush or other vegetation or to erect or maintain any structure that unreasonably obstructs any view or restricts the flow of any traffic necessary or desirable to allow safe passage of vehicles, bikes and pedestrians within and on the streets and rights-of-way of the Town. (Ord. 159 §1, 1988)

**Sec. 11-14. Abatement of obstructing vegetation.**

The Street Commissioner shall have the authority, after giving seven (7) days' written notice to the affected landowner, to trim, cut or remove any tree, bush or other vegetation or structure that violates Section 11-13 of this Article. All such trimming, cutting and removal shall be at the expense of the affected landowner upon whose property such trees, brushes, vegetation or structures are located. (Ord. 159 §2, 1988)

**Sec. 11-15. Abatement of encroaching vegetation.**

The Street Commissioner shall have the authority, after giving seven (7) days' written notice to the affected landowner, to trim, cut or remove any tree, bush or other vegetation or structure that encroaches into or protrudes into or over any public street or right-of-way within the Town. All such trimming, cutting and removal shall be at the expense of the affected landowner. (Ord. 159 §3, 1988)

**Sec. 11-16. Landscaping in easements.**

(a) Placement by adjacent property owners of right-of-way vegetative and non-vegetative ground cover materials upon Town easements must be approved by the Board of Trustees following submission of plans for such placement to the Town Clerk.

(b) Nonvegetative ground cover materials must be kept uniformly distributed. (Ord. 194 §1, 1995)

**Sec. 11-17. Violation.**

Violation of any provision of this Chapter shall be punishable as set forth in Section 1-72 of this Code. (Ord. 159 §4, 1988; Ord. 194 §1, 1995)

**Secs. 11-18--11-30. Reserved.****ARTICLE II****Parks****Sec. 11-31. Greenbelt parks established on Bow Mar Drive.**

A greenbelt park is hereby established within the Town, consisting of a two-foot wide strip of land hereinbefore comprising the most easterly two (2) feet of the right-of-way of Bow Mar Drive extending first in a southerly direction and then in an easterly direction along such right-of-way of Bow Mar Drive from that point adjacent to the southernmost point of Lot 10, Block 110, Bow-Mar, Arapahoe County, Colorado, to that point where Bow Mar Drive passes outside the boundaries of the Town, which park abuts or lies west of Lot 9, Block 1, Hillside Manor; Cimarron Road; Lots 1 through 9, inclusive, Block 1, Bow Mar Knolls; and a tract of land described as follows: Beginning at a point 135 feet north of the SW corner of the NE  $\frac{1}{4}$ , Section 18, Township 5 South, Range 68 West of the 6th P.M., thence north 225 feet along the north-south center line of said Section 18, thence east 204.35 feet, thence south 325 feet and parallel with the north-south center line of said Section 18, thence northwesterly along the arc of a curve to the right with a radius of 100 feet, a distance of 157.1 feet to the point of beginning. (Prior code V-2-1)

**Sec. 11-32. Greenbelt parks established on South Sheridan Boulevard.**

A greenbelt park is hereby established within the Town consisting of a ten-foot wide strip of land commencing at a point which is the northwest corner of Lot 17, Block 101, Bow-Mar Third Filing, thence north along the east boundary line of the Town of Bow Mar which line is 30 feet east of and parallel to the east line of Section 12, Township 5 South, Range 69 West of the 6th P.M., to a point which is 30 feet east of the NE corner of said Section 12; thence west 10 feet; thence south along a line which is 28 feet east of and parallel to the east line of said Section 12 to a point which is 28 feet east of the NE corner of the SE  $\frac{1}{4}$  of said Section 12; thence east 10 feet to the point of beginning, said described 10-foot park lying generally to the west of (but not necessarily abutting upon) Tract C, Pinehurst Estates; Lots 1 through 13, inclusive, Pinehurst Estates South; Stanford Avenue; Lot 1, Block 10, Pinehurst Estates South; Lot 1, Block 29, Bow-Mar Heights Filing No. 2; Lots 1 through 8, inclusive, Block 28, Bow-Mar Heights Filing No. 2; West Union Avenue; and Lot 1, Block 18, Bow-Mar Heights Filing No. 2. (Prior code V-2-2)

**Sec. 11-33. West Greenbelt Park.**

A greenbelt park is hereby established within the Town consisting of the westernmost twenty (20) feet of property located within the Town of Bow Mar, Colorado, in Jefferson County commencing at a point 1036 feet south of the N  $\frac{1}{4}$  corner of Section 12, Township 5 South, Range 69 West of the 6th P.M., and running first southerly and then southeasterly along the western boundary of the Town of Bow Mar, following the course of the bridle path plotted in the Bow-Mar, Jefferson County, Colorado,

plat filed on January 13, 1947, and recorded at Book 7, Page 24 of the Jefferson County Clerk and Recorder's Office, Reception Number 406484, together with an adjoining 20-foot wide parcel of land consisting of the westernmost 20 feet of land in the Town of Bow Mar, Colorado, located in Arapahoe County commencing 1847.6 feet north of the southeast corner of Section 12, Township 5 South, Range 69 West of the 6th P.M. and running south for 745 feet so that such parcel of land abuts and extends between the paved portions of Bow Mar Drive and Pinyon. (Prior code V-2-3)

**Sec. 11-34. Purpose of parks.**

The above-described greenbelts shall be considered to be parks and shall be used only for the purpose of planting and maintaining trees and other vegetation, and they shall not be used for any purposes of transportation or for any vehicular traffic of any nature whatever. (Prior code V-2-4)

**Secs. 11-35–11-50. Reserved.**