

CHAPTER XV
PUBLIC FACILITIES

Article 1 Use and Obstruction

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ARTICLE 1

USE AND OBSTRUCTION

- 15-1-1 Hazards on Sidewalks
- 15-1-2 Obstructing Sidewalks or Streets; No Business Conducted Thereon
- 15-1-3 Drainage Ditches, Drains and Cutters
- 15-1-4 Openings in Highways, Streets and Sidewalks
- 15-1-5 Trees and Shrubbery to be Trimmed
- 15-1-6 Disturbance of Grade Stakes Prohibited

15-1-1 Hazards on Sidewalks

The owner or occupant of property abutting upon a sidewalk or sidewalk area shall not permit same to become a hazard to persons using the sidewalk or sidewalk area.

15-1-2 Obstruction of Sidewalks or Streets; Commercial Usage of Sidewalks

(a) No person shall place upon, permit to be placed upon, or allow an accumulation on the sidewalks, parkways, streets and alleys of the Town of Hotchkiss any accumulation of ice, snow, mud, dirt, debris, rubbish or filth so as to unduly interfere with pedestrian traffic or other lawful traffic or parking thereon.

(b) Commercial Usage

(1) **Permit required.** It shall be unlawful for any person, firm, corporation, transient, merchant, church, club, charitable institution, hawker or peddler to vend, sell, dispose or offer to vend, sell, dispose or display any goods, wares, merchandise, produce or vegetables or serve meals or other foodstuffs on any public walk, street, alley, or anywhere within the Town, without having first obtained a permit from the Town Clerk for that purpose and having paid a license fee therefore, as provided below.

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(2) Application. Application for license to vend, sell, dispose or display merchandise, goods, wares, produce or vegetables or serve meals or other foodstuffs shall be made in writing to the Town Clerk. The application shall contain the name of the applicant, if an individual, the names of partners, if a partnership, or the names of the principal officers, if a corporation, church, club or charitable institution; shall include the location of the place or places where such merchandise, goods, wares, produce, vegetables or meals are to be so displayed and sold; written consent of the property owner(s) adjoining such location(s); dates and times of usage; type of usage proposed; and a drawing of the public right of way affected, showing area of proposed usage as it pertains to the public right of way.

(3) Permit fee.

(i) Meals or other foodstuffs. The permit fee to be charged for such application is \$2.50 for the calendar year or the balance thereof. No permit shall be valid beyond December 31 of any calendar year.

(ii) Merchandise, goods, wares, produce or vegetables. The permit shall allow usage of the public right of way for no more than five (5) consecutive days, for no more than ten (10) days during a calendar month and for no more than thirty (30) days during a calendar year. The permit fee to be charged for each period applied for is \$2.50.

(iii) No fee shall be charged for a permit issued to any non-profit or community organization.

(4) Regulations. No merchandise, foodstuff or meals offered for sale hereunder nor the facilities used by the permit tee shall block or inhibit vehicular traffic upon or through any street .or alley. At least a four (4) foot unobstructed passageway on sidewalks for pedestrians shall be left open. Merchandise shall be securely and adequately placed so that it does not endanger passersby or fall or extrude into any sidewalk, street or alley. The permitted premises shall not be operated in any manner which would cause a nuisance, or create a fire hazard. Further, all permit tees shall maintain permitted areas in a neat and attractive manner.

PUBLIC FACILITIES: Use and Obstruction

(5) Inspections. The Town Marshall (Chief of Police) shall make or cause to be made sufficient inspections to insure the compliance with the provisions of this ordinance and other applicable provisions of the Town of Hotchkiss Code by the personnel conducting such activities.

(6) Penalty. Any person, firm or corporation violating any provision of this ordinance shall be fined not more than three hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(c) In the event of any obstruction or accumulation prohibited hereunder, the Town Marshall is authorized to give notice to the person who made, caused or permitted same, or to the person who owns or controls the premises on which same is located to remove such obstruction or accumulation within forty-eight (48) hours. In the event that such notice is not obeyed, the Mayor or Town Marshall may order the removal of the obstruction or accumulation and shall order the costs and expenses assessed as though the obstruction or accumulation

15-1-3 Drainage Ditches, Drains and Gutters

No person shall place any obstruction in drainage ditches; drains or gutters along the streets and alleys of the Town, and any act which would obstruct the free flow of water therein is prohibited.

15-1-4 Openings in Highways, Streets and Sidewalks

- (a) Except as permitted herein no person shall leave an opening unattended in any highway or sidewalk or shall suffer the same to be left or kept open or left in a conditions so as to endanger passers-by.
- (b) In any case where such an opening must be left unattended, any person causing or responsible for an opening shall provide a suitable obstruction around same to prevent any persons, animals or vehicles from falling into such opening and shall provide barriers and sufficient warning lights if the opening is to be left unattended between sunset and sunrise.

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15-1-5 Trees and Shrubbery to be Trimmed

The owner of any premises abutting on any street of the Town shall trim all trees and shrubbery growing in the parking zone between the sidewalks and the roadway on any such street. All trees and shrubbery growing on any

part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys.

When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as hereinbefore required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten feet above the roadway of a street or alley, nor lower than eight feet above the sidewalk.

15-1-6 Disturbance of Grade Stakes Prohibited

No person shall remove or disturb any grade or line stake or marks set out by the Town.

ARTICLE 2

PUBLIC IMPROVEMENTS

- 15-2-1 Authority to Construct Improvements and to Assess Costs
- 15-2-2 Installation of Mains
- 15-2-3 Construction and Repair of Sidewalks by Property Owners
- 15-2-4 Grading and Construction of Alleys
- 15-2-5 Notice to Construct and Maintain Sidewalks and Alleys
- 15-2-6 Failure by Owner to Construct or Maintain Sidewalks or Alleys
- 15-2-7 Permit for Construction, Repair of Streets, Alleys, Sidewalks, etc.
- 15-2-8 Permit Fee
- 15-2-9 All Construction Etc. Under Supervision of Mayor

15-2-1 Authority to Construct Improvements and to Assess Costs

The Town shall have the authority and power, in accordance with provisions of State law to construct public works, public improvements and local improvements; to assess the cost therefore against abutting property according to the benefits received thereby; to create local improvement districts in accordance with petitions therefore or otherwise; to provide for the issuance of bonds to pay for public works, public improvements, and local improvements; and to do any other act which may be authorized by State law related to such public works, public improvements and local improvements.

15-2-2 Installation of Mains

It shall be the duty of every person to cause the installation of all mains, conduits, cables, poles, and the like which may be necessary for water, gas, sewer, storm drainage, telephone and electrical facilities prior to the installation, construction or paving of any streets, alleys, sidewalks and curbs.

PUBLIC FACILITIES: Public Improvements

15-2-3 Construction and Repair of Sidewalks by Property Owners

It shall be the duty of every owner of real property within the Town to provide, install and maintain a sidewalk, curb, and gutter, or curbside in front of and on his property. Said sidewalk, curb and gutter shall be placed and constructed under the supervision of an authorized official of the Town and in strict accordance with Town specification.

15-2-4 Grading and Construction of Alleys

(a) Grading and Paving Upon Petition of Property Owners

Whenever the owners of the majority of the frontage of the lots or land adjacent to or abutting upon any alley or designated portion thereof within the Town shall petition the Board for the grading of alley or the grading and paving of such alley, the Board shall immediately order the grading or grading and paving to be done.

(b) Compliance with Grade; Materials

All paving constructed in any of the alleys in the Town shall be constructed of either concrete or asphaltum and the same shall cover the entire surface of the alley, except as hereinafter provided, and shall be laid with a firm and permanent foundation of suitable material, according to the specifications of the Town Clerk. Such paving shall be laid upon the established grade of the alleys and in all respects be under the supervision and to the satisfaction of the Mayor. Paving shall be repaired with the same kind of material as that used in the construction thereof.

PUBLIC FACILITIES: Public Improvements

15-2-5 Notice to Construct and Maintain Sidewalks and Alleys

Whenever any person fails to construct or repair sidewalks, curbs, gutters or curbswalks, or by provisions of the Article, has become responsible for the grading and/or paving of an alley or portion thereof, the Town Clerk shall forthwith cause written notice to be served upon such person by certified mail specifying the work to be done, stating a reasonable time in which such work shall be done, and delineating the specifications therefore or stating where such may be examined. Such notice shall also state that in the event said work is not done within the time limits, the Town may undertake to do same and to assess the costs therefore against the property, together with an additional ten percent (10%) assessment for costs of collection.

15-2-6 Failure by Owner to Construct or Maintain Sidewalks or Alleys

- (a) In the event that a property owner fails to install or repair a sidewalk, curb, gutter or curbswalk or fails to grade or pave any alley after notice thereof, or after starting work thereon, fails to finish within the time limits or extensions thereof, then the Mayor may order such installation, repair, grading or paving.
- (b) As soon as the costs of installing, repairing, paving, or grading are known, the Town Clerk shall cause notice of said costs together with an assessment of ten percent (10%) of such costs, to be sent by certified mail to the responsible property owner requesting payment within thirty (30) days and stating that if said payment is not received, then said costs and the ten percent (10%) assessment shall become a lien on the property and shall be collected in the same manner as real property taxes.

PUBLIC FACILITIES: Public Improvements

- (c) Upon expiration of the thirty (30) day period without payment, the Town Clerk shall certify the costs together with the ten percent (10%) assessment and the legal description of the property abutting the improvement, to the County Treasurer for collection in the same manner as real property taxes.

15-2-7 Permit for Construction, Repair of Streets, Alleys, SideWalks, Etc.

No person shall, other than those under contract with the Town, construct, reconstruct, repair, or alter any sidewalk, gutter, curb, curbside, street or alley without first obtaining a permit and the proper specifications therefore from the Town Clerk. An applicant for said permit shall be required stating the location of the work, the date of commencement and the approximate date of completion and a statement that the work will be done in accordance with the specifications of the Town.

15-2-8 Permit Fee

A fee of five dollars (\$5.00) shall be charged for the issuance of the permit required by Section 15-2-7, provided, however, that the Town Clerk is authorized to waive such fee for minor installations or repairs.

15-2-9 All Construction Etc. Under Supervision of Mayor

All construction on or related to sidewalks, curbs, gutters, curbside, streets and alleys shall be under the supervision of the Mayor or a person designated by the Mayor.

ARTICLE 3
EXCAVATIONS

- 15-3-1 Authority
- 15-3-2 Permit
- 15-3-3 Application
- 15-3-4 Permit Fee
- 15-3-5 Bond Required
- 15-3-6 Commencement and Completion
- 15-3-7 Barricades and Lights
- 15-3-8 Width and Minimum of inconvenience to Public
- 15-3-9 Sidewalks and Gutters Clear
- 15-3-10 Cutting Pavement
- 15-3-11 Permit Form

15-3-1 Authority

All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curbside, alley or other public place shall be done only on authority of a permit issued by the Town Clerk.

15-3-2 Permit Required; Specifications

(a) It shall be unlawful for any person, other than those under contract with the Town, to excavate, cut open or trench in or under any street, sidewalk, curb, gutter, curbside, alley or other public place without having first obtained a permit from the Town Clerk. The permit shall be substantially similar to the one included in Section 15-3-11, and may be changed from time to time in order to accomplish the objectives of this Article.

(b) **Failure to Comply - Penalties:** Failure to comply with this article constitutes a criminal offense punishable by a fine of up to three hundred dollars (\$300.00), a jail sentence of up to ninety (90) days, or both.

15-3-3 Application

Every person desiring to do any of the said excavation work shall apply to the Town Clerk for a permit therefore, by filing an application stating the applicant's name, the location, length, width 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 plans, specifications, and procedures as found on the permit.

PUBLIC FACILITIES: Excavations

15-3-4 Permit Fee

The cost of the required permit shall be figured as follows: A sum equal to one dollar (\$1.00) per square foot of excavation upon unpaved public property, or one dollar and fifty cents (\$1.50) per square foot, of excavation upon paved public property.

15-3-5 Bond Required

(a) Every person applying for an excavation permit, and prior to the issuance thereof, shall file a surety bond or a cashier's check, in favor of the Town in the penal sum of Three Hundred Dollars (\$300.00) and conditioned upon the faithful performance of such work in strict compliance with this Code and other specifications, rules, regulations and ordinances of the Town and within the specified time limit; and that such person will indemnify the Town against 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. The bond shall be discharged or the cashier's check returned to the applicant upon completion of the work as set forth below, a review of said work by the Director of Public Works or his designee and a sworn statement by the applicant that he has done the work in strict compliance with this Code and other specifications, rules, regulations and ordinances of the Town of Hotchkiss.

(b) **Approval.** All excavations shall be inspected by the Director of Public Works or his designee. If the inspector approves of the excavation he shall sign off on the permit. If the inspector does not approve of the excavation and restoration he shall note specific improvements which need to be performed. The permitted excavator shall perform those improvements within 72 hours at which time the inspector shall re-inspect the excavation. Upon receipt of final written approval, the permitted excavator shall have all but fifty dollars (\$50.00) of his permit and bond fee refunded to him.

(c) **Civil Remedy.** In addition to those set forth within the remainder of this Article, the Town of Hotchkiss may maintain an action for injunctive relief or damages, or both, arising from any failure to comply with this article. In addition to recovering damages, the Town of Hotchkiss may recover all costs incurred, including reasonable attorneys fees. Further, the entire permit charge shall be retained by the Town in the event of non compliance.

PUBLIC FACILITIES: Excavations

15-3-6 Commencement and Completion

All work authorized by a permit issued pursuant to this Article 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 obstacles to the work cause it to be stopped for so long a time that public travel shall be unreasonably obstructed, the Town Mayor may order the excavation refilled and repaved as if the work contemplated in the permit was actually completed.

15-3-7 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, he shall keep such excavation properly lighted so as to warn all persons thereof.

15-3-8 Width and Minimum of inconvenience to Public

No opening or excavation shall be undercut or have a 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 a way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic.

15-3-9 Sidewalks and Gutters Clear

No person shall perform any excavation, or 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.

15-3-10 Cutting Pavement

In any excavation work on or under any paved street, the pavement must be cut with an asphalt spade. The use of a backhoe in cutting the pavement is expressly prohibited. The width of all cuts in the pavement shall be sufficient so that all excavation in or under any paved street can be accomplished without disturbing or lifting the surrounding pavement.

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15-3-11 Permit Form

The permit required by this Article shall be substantially similar to the following:

TOWN OF HOTCHKISS

PERMIT FOR EXCAVATION, CUT, TRENCH, OR OPENING IN OR UNDER ANY STREET, SIDEWALK, CURB, GUTTER, CURL3WALK, ALLEY OR OTHER PUBLIC PLACE.

PERMITTEE' S NAME:

PERMITTEE'S ADDRESS:

DATE EXCAVATION TO BEGIN:

APPROXIMATE DATE OF COMPLETION:-

LOCATION, LENGTH, WIDTH AND SQUARE FOOTAGE OF EXCAVATION:

PURPOSE OF EXCAVATION:

This permit is granted subject to the following conditions and restrictions:

1. A fee of (\$) has been paid by Permit tee.
2. Permit tee has posted a Three Hundred Dollar (\$300.00) bond or cashier's check payable to the order of the Town of Hotchkiss, which shall be forfeited if the work is not undertaken and completed under the terms of Chapter XV, Article 3, of the Hotchkiss Code and of this Permit.
3. Permit tee shall complete the work in a reasonable amount of time, or the Mayor may order the excavation refilled and repaired as if the work contemplated had been done, and the bond or certified check shall be forfeited.
4. Any excavation, cut, trench or opening in or under any paved street shall be repaired with asphalt substantially similar to that used in the original pavement of the street. The asphalt shall have a compaction of ninety percent (90%).

PUBLIC FACILITIES: Excavations

5. In any excavation work on or under any paved street, the pavement must be cut with an asphalt spade. The use of a backhoe in cutting the pavement is expressly prohibited. The width of all cuts in the pavement shall be sufficient so that all excavation in or under any paved street can be accomplished without disturbing or lifting the surrounding pavement.

6. Any person performing any permitted excavation shall be obligated as follows:

(a) Excavations shall be refilled and compacted. The top one foot (1') of all excavations shall be compacted 3/4 inch gravel.

(b) The surface of all excavations shall be returned to their original condition whether paved, graveled, sodded or otherwise.

(c) All debris, including dirt, rocks and gravel shall be removed from the excavation site after completion and disposed of at an approved location.

7. Upon completion of the work involved, the Permit tee shall so notify the Clerk of the Town of Hotchkiss. Within thirty (30) days of such notification, a designated employee of the Town of Hotchkiss shall inspect the area covered by this Permit and ascertain whether or not all the requirements of Chapter XV, Article 3, of the Hotchkiss Code and this Permit shall have been fully complied with.

8. If the Permit tee has fully complied with this Permit, and Chapter XV, Article 3, of the Hotchkiss Code, all but \$50.00 of his bond and permit fee shall be released and returned to the Permit tee within thirty-five (35) days of the original notification by Permit tee that the work was completed; the bond or certified check shall be forfeited if the work does not comply with Chapter XV, Article 3, of the Hotchkiss Code or with this Permit.

ARTICLE 4

PARKS

15-4-1	Town May Establish Parks
15-4-2	Definitions
15-4-3	Daily Park Hours
15-4-4	Overnight Campers
15-4-5	Destruction of Park Property
15-4-6	Erection of Tents and Buildings
15-4-7	Fires Prohibited
15-4-8	Riding of Animals in Public Parks
15-4-9	Huckstering Prohibited
15-4-10	Rules and Regulations

15-4-1 Town May Establish Parks

The Town of Hotchkiss is hereby granted authority to acquire, establish and maintain in the manner provided for by State law, public parks or pleasure grounds., boulevards, parkways, avenues, roads, and lands or interests in land which may be necessary, suitable or proper for the conservation or preservation of sites, scenes, open space, and vistas of recreational, scientific, historic, aesthetic or any other public interest.

15-4-2 Definitions

For the purposes of this section, the following words, unless the context requires otherwise, shall have the following meanings:

- (a) "Town" is the Town of Hotchkiss.
- (b) "Park" is a park, reservation, playground, beach, recreation center or any other area in the Town, either existing or which shall be subsequently acquired in accordance with the provisions of 15-4-1, owned or used by the Town, and devoted to active or passive recreation.

PUBLIC FACILITIES: Parks

- (c) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

15-4-3 Daily Park Hours

The parks shall be open daily to the public from five o'clock in the morning until eleven o'clock at night, and no person not an employee of the parks shall remain in them at any other time; provided, however, that the Town Clerk may by permit first having been obtained, extend or limit the time herein specified.

15-4-4 Overnight Campers

Notwithstanding the provisions of 15-4-3 above, overnight camping in a recreation vehicle is permitted within the parking area of the Town of Hotchkiss Fair-ground Park; it is provided, however, that such camping shall not be permitted for a period exceeding three (3) days and three (3) nights. Such overnight camping shall be subject to such regulations as may be from time to time promulgated by the Board of Trustees.

15-4-5 Destruction of Park Property

It shall be unlawful to cut, mark, remove, break or climb upon, or in any way injure, damage or deface the trees, shrubs, plants, turf, or any of the buildings, fences, bridges, or other structures or property within or upon Town property, or other property in which the Town has an interest or in any other way injure or impair the natural beauty or usefulness of any park, recreation or public area.

15-4-6 Erection of Tents and Buildings

It shall be unlawful to build or place any tent, building, booth, stand, or other structure in or upon any of the parks, parkways or other facilities established under this Article without having first obtained a permit to do so from the Town Clerk.

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15-4-7 Fires Prohibited

It shall be unlawful to light, make or use any unenclosed picnic or trash fire within the parks, parkways, or other facilities under this Article owned or operated by the Town; provided, however, that this section shall not apply to authorized park employees. Fires may only be built in fire places or on grills constructed for that purpose in such areas and under such rules and regulations as may be prescribed by the Board.

15-4-8 Riding of Animals in Public Parks

It shall be unlawful for any person to ride or lead any horse or other livestock in any public park or public areas except upon paths or other ways expressly provided and posted for that purpose.

15-4-9 Huckstering Prohibited

It shall be unlawful to offer any goods, services, or thing for sale within any area established pursuant to this Article, or on the streets and sidewalks within three hundred (300') feet of the boundary of the same without having first obtained a license or permit to do so in the manner and pursuant to the terms and conditions fixed by the Town Board.

15-4-10 Rules and Regulations

The Board is hereby empowered and authorized to adopt rules and regulations for the management, operation, and control of parks, parkways and recreational areas.