

CHAPTER 11

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ARTICLE I

Streets and Sidewalks

Sec. 11-1-10. Repair and maintenance.

All sidewalks and curbswalks shall be maintained with an even surface in good repair and conformity with the established grade of the streets along which they are constructed. (Prior code 9-1-1)

Sec. 11-1-20. Snow and ice removal from sidewalks.

(a) The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property, and shall remove and clear away, or cause to be removed or cleared away, snow and ice from sidewalks in all business districts within the Town by four (4) business hours after the cessation of any fall of snow, sleet or freezing rain or by the beginning hours of the next business day following such fall, whichever period is shorter, and from all other sidewalks in the Town within twenty-four (24) hours of the cessation of any fall of snow, sleet or freezing rain.

(b) It shall be the duty of all owners, occupants, lessees or persons in possession or control of every premises or property within the Town to keep the sidewalks and curbswalks in front of and adjacent to the premises and property occupied by them in good repair and in a safe, unobstructed condition, free and clear of snow, ice, mud, dirt, debris, rubbish and filth. (Prior code 9-1-2; Ord. 526 §1, 2005)

Sec. 11-1-30. Encroachments prohibited.

No encroachments or obstructions whatsoever, other than those provided by law, authorized by the Board of Trustees or by ordinance of the Town, shall be made or placed upon any street, alley, sidewalk, curbswalk or other public place within the Town. (Prior code 9-1-3; Ord. 526 §1, 2005)

Sec. 11-1-40. Notice and removal of encroachments.

Whenever any encroachment or obstruction, including ice, snow, mud, dirt, debris, rubbish and filth, is made, located, permitted or maintained contrary to this Article, the Town Clerk, Chief of Police or code enforcement personnel shall give notice to the person who made, caused or permitted the same, or to the person who owns or controls the premises on which the same is located or connected, directing such person to remove such encroachment or obstruction within forty-eight (48) hours after receipt of the notice. In the event such notice shall not be obeyed, the Town Clerk, Chief of Police or code enforcement personnel may order the removal of the encroachment or obstruction, and the costs and expenses of such removal shall be assessed against the responsible person. (Prior code 9-1-4; Ord. 526 §1, 2005)

Sec. 11-1-50. Disturbance of grade stakes.

It is unlawful for any person to remove or disturb any grade or line stakes or marks set by the Town or an agent of the Town. (Prior code 9-1-5; Ord. 526 §1, 2005)

ARTICLE II

Street Design Standards

Sec. 11-2-10. Adoption of standards.

The publication entitled *Roadway Design and Construction Standards*, February 23, 1999, as published by the Town, one (1) copy of which is on file in the office of the Town Clerk, is hereby adopted in its entirety by reference as if fully set forth. (Ord. 167 §1, 1982; Ord. 526 §1, 2005)

Sec. 11-2-20. Penalties.

Any person violating or failing to comply with any of the provisions of this Article shall, upon conviction thereof, be deemed guilty of a misdemeanor and subject to the penalty set forth in Section 1-4-20 of this Code. (Ord. 167 §5, 1982; Ord. 526 §1, 2005)

ARTICLE III

Excavations

Sec. 11-3-10. Construction prior to paving.

It shall be the responsibility of the subdivider, developer or user in any new development in the Town to cause mains to be constructed and services to individual lots to be made prior to the paving of any streets. (Ord. 228 §1, 1986; Ord. 526 §1, 2005)

Sec. 11-3-20. Permit requirements.

(a) No person shall make any trench or cut as described in this Article through Town or public property without first obtaining a permit from the Town. The Director of Public Works shall, prior to issuance of the permit, determine the following:

(1) The charges to be paid in connection therewith;

(2) The proper location for the trench or cut;

(3) What inspections are necessary and when they are to be made during the course of construction; and

(4) Whether or not the cut, or any portion thereof, can be avoided by a punch and drill, in which case the applicant must punch or drill as determined by the Director of Public Works.

(b) When the Director of Public Works has made his or her determination as required in Subsection (a) above, and when the proper charges have been paid by the applicant, the permit will be issued. If, during any inspection, it is determined that the engineering or other construction requirements of the permit are not being met, a stop work order shall be issued until the necessary requirements are properly met. (Ord. 228 §2, 1986; Ord. 526 §1, 2005)

Sec. 11-3-30. Lateral service cut permit fee for sewer or water tap.

(a) In the event a lateral service must be established for a sewer, water or utility line, whereby an asphalt paved street must be cut, said service not having been installed prior to the paving of the street and the Town not being at fault, there shall be charged a lateral service cut permit fee and a concrete street cut fee as set forth in the Town of Bennett Schedule of Fees. All cuts are to be made with sawed edge or straight cut edge.

(b) The lateral service cut permit fee enumerated in Subsection (a) above shall also be paid in the event that a lateral service must be repaired or replaced, which lateral service belongs to the user or the repair or replacement thereof is the responsibility of the user.

(c) Any person making a lateral service cut upon any paved street within the municipal limits of the Town shall also be responsible to restore the surface of the street in accordance with the specifications of the Town or, in the alternative, pay for the reasonable expense of the restoration to be done by the Town as determined by the Director of Public Works. In the event such a cut is made across, through or along Town or public property which is not a paved street, the person making such cut shall not be assessed a permit fee but must obtain a permit and promptly restore the area to its original condition. (Ord. 228 §3, 1986; Ord. 526 §1, 2005; Ord. 610-10 §3)

Sec. 11-3-40. Permit fees for extension for utility conduit or pipe.

In the event any user, developer, utility or other person or party finds it necessary to extend a utility, conduit, water pipe, sewer pipe, communication conduit or cable, or for any other reason needs to make a cut across or along any paved street within the municipal limits of the Town, there shall be charged a permit fee and a concrete cut fee as set forth in the Town of Bennett Schedule of Fees. Additionally, the party must restore the surface of the street as enumerated under Subsection 11-3-30(c) above. (Ord. 228 §4, 1986; Ord. 526 §1, 2005; Ord. 610-10 §3)

Sec. 11-3-50. Responsibility.

Each and every person receiving a permit in accordance with the provisions of this Article shall warrant and be responsible for the material provided, the workmanship of the construction, the proper engineering and the quality of restoration for a period of one (1) year from the completion of construction. (Ord. 228 §5, 1986; Ord. 526 §1, 2005)

Sec. 11-3-60. Authority and supervision.

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 the Board of Trustees and shall be supervised by the Director of Public Works. (Prior code 9-1-6; Ord. 526 §1, 2005)

Sec. 11-3-70. 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. (Prior code 9-1-7)

Sec. 11-3-80. Standards, regulations and specifications.

The Public Works Department, in consultation with the Town Administrator and the Director of Public Works, shall develop standards, regulations and specifications governing access, utilization and restoration of all streets, alleys and rights-of-way within the corporate limits of the Town, which standards, regulations and specifications shall not constitute a barrier to the use and excavation of Town facilities, but shall preserve the integrity of the facilities at the least possible cost to Town taxpayers. (Ord. 526 §1, 2005)

Sec. 11-3-90. Violation, penalty.

Any person who violates any of the provisions of this Article shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 228 §6, 1986; Ord. 526 §1, 2005)

ARTICLE IV

Public Rights-of-Way

Sec. 11-4-10. Revocable permits for fences and hedges on or extending over public rights-of-way.

Property owners installing or causing to be installed a fence or hedge within or extending over the public right-of-way shall first execute a revocable license agreement on forms furnished by the Town to be filed in the office of the Adams or Arapahoe County Clerk and Recorder. Such agreement shall place full responsibility upon the property owner for any loss of life, injury or injuries or damage to any property that may be sustained by any person in connection with the erection and maintenance of such fence or hedge and shall save harmless the Town from any and all liability arising out of the erection and maintenance of the fence or hedge. All rights and privileges acquired under the provisions of permits issued under this Article for fences or hedges on or extending over public rights-of-way are merely revocable license agreements and may be revoked at any time by the Board of Trustees. The filing fee shall be set forth in the Town of Bennett Schedule of Fees, payable at the issuance of the license agreement. (Ord. 157 §1, 1981; Ord. 517 §1, 2004; Ord. 526 §1, 2005; Ord. 610-10 §3)

Sec. 11-4-20. Public right-of-way.

In all residential districts, a property owner may install, or cause to be installed, a fence or hedge on Town property in the front and/or on the side of his or her own property, provided that:

(1) Such a fence or hedge installed in front of the required front yard setback shall be installed and maintained as specified for front yard fences and fences on corner lots. Such fence or hedge back of the required front yard setback shall be installed and maintained as required for fences on corner lots, side or rear yard fences and hedges.

(2) Heights of such fences or hedges shall be measured from an elevation established by the Board of Trustees.

(3) The Board of Trustees may require additional fence or hedge setbacks when additional requirements are found to be necessary for the safety of pedestrians and traffic considerations. (Ord. 157 §2, 1981; Ord. 517 §2, 2004; Ord. 526 §1, 2005)

ARTICLE V

Park Regulations

Sec. 11-5-10. Establishment of parks.

The Town shall have authority to acquire, establish and maintain, in the manner provided for by state law, public or pleasure grounds, boulevards, parkways, avenues and roads. (Prior code 9-2-1; Ord. 526 §1, 2005)

Sec. 11-5-20. Definitions.

For the purposes of this Article, the following word, unless the context requires otherwise, shall have the following meaning:

Park means a park, open space, playground, recreation center, community center, recreation area or any other area in the Town, either now existing or which shall subsequently be acquired and either owned by or used by the Town, and devoted to active or passive recreation. (Prior code 9-2-2; Ord. 307 §1, 1993; Ord. 526 §1, 2005)

Sec. 11-5-30. Destruction of park property.

It is 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 or other structures or property within or upon park premises; or in any other way injure or impair the natural beauty or usefulness of any park or recreation area. (Prior code 9-2-3; Ord. 526 §1, 2005)

Sec. 11-5-40. Fires prohibited.

It is unlawful to light, make or use any unenclosed picnic or trash fire within the parks, parkways or other recreation facilities owned or operated by the Town; provided, however, that this Section shall not apply to authorized park employees. Fires may only be built in fireplaces or on grills constructed for that purpose. (Prior code 9-2-4; Ord. 526 §1, 2005)

Sec. 11-5-50. Livestock prohibited.

It is unlawful for any person to ride or lead any horse or other livestock in any public park. (Prior code 9-2-5; Ord. 526 §1, 2005)

Sec. 11-5-60. Glass bottles and containers.

It is unlawful for any person to bring upon, have or possess any glass beverage bottle or glass container within the boundaries of any park, for any purpose whatsoever. (Ord. 307 §2, 1993)

Sec. 11-5-70. Hours of public use.

It is unlawful for any person to be present or to remain in or upon any park within the Town including streets, parking lots and roadways located therein, from dusk until dawn the following day; provided, however, that this prohibition shall not apply to the following:

- (1) Those persons present in the park in the lawful employment of the Town;
- (2) The presence of any person who is engaged in the conduct of or who is in attendance at an event whose sponsor or organizer has obtained an after hours permit from the Town Clerk;
- (3) The presence of any person who is engaged in the conduct of or who is in attendance at a nighttime athletic event sponsored by a registered sports association during the event plus fifteen (15) minutes following the conclusion of the event, in an area of a park or recreational field set aside for such athletic events; or
- (4) The presence of any person at the Bennett Community Center who has obtained written permission from the Town Clerk to use the Center.

For the purposes of this Section, a *registered sports association* is a bona fide sports association which has submitted its rules and schedule to the Town Clerk. (Ord. 307 §2, 1993; Ord. 473 §1, 2002; Ord. 514 §1, 2004; Ord. 526 §1, 2005)

Sec. 11-5-80. Signs.

Signs shall be posted in conspicuous places on all public parks in the Town giving notice of the park restrictions imposed pursuant to Sections 11-5-60 and 11-5-70 above. (Ord. 307 §2, 1993)

Sec. 11-5-90. Reservation of park; fee.

Any person may apply to the Town Clerk for a permit authorizing the reservation by such person of all or a portion of any park within the Town for certain hours and places as specified in the permit. It is unlawful for any person to fail to observe or respect a written permit issued pursuant to this Section. When no permit has been issued, the use of such park areas shall follow generally the rule of first-come, first-served. The Town Clerk is hereby authorized and empowered to issue reservation permits upon such reasonable terms and conditions as the Town Clerk may establish and upon the payment of a fee as set forth in the Town of Bennett Schedule of Fees. (Ord. 307 §2, 1993; Ord. 526 §1, 2005; Ord. 610-10 §3)

Sec. 11-5-100. Outdoor meetings, concerts and sound systems in parks; permits required.

(a) It is unlawful for any person to organize, sponsor, hold or participate in an outdoor meeting to which the general public is invited or permitted to attend, addressed by one (1) or more speakers (expressive activity) by the use of any public address system or other amplified sound system in or upon a public park or open space within the Town under circumstances reasonably expected to be attended by ten (10) or more persons, unless and until a permit to conduct such outdoor meeting has been applied for and obtained as provided in Section 11-5-110 below and unless such outdoor meeting

is conducted in accordance with the terms set forth in such permit and as set forth in Section 11-5-120 below.

(b) It is unlawful for any person to stage a concert of live or recorded music by an individual, band or orchestra intended for or which can reasonably be expected to draw an audience of ten (10) or more persons in or upon a public park or open space within the Town unless and until a permit to conduct such concert has been applied for and obtained as provided in Section 11-5-110 below and unless such concert is conducted in accordance with the terms set forth in such permit and as set forth in Section 11-5-120 below. (Ord. 473 §1, 2002)

Sec. 11-5-110. Application for permit; forms; filing deadline; contents.

(a) Application for a permit contemplated by Section 11-5-100 above shall be made on a form prepared by the Town Clerk and filed with the Town Clerk at least fourteen (14) days prior to the outdoor meeting or concert, (collectively referred to herein as the "event"), with a copy sent to the Police Department. The application shall be signed by an individual in charge of organizing the event. If the permit requested is for a live concert, the individual performer, band leader or orchestra leader shall also sign the application. The application shall contain the following information:

- (1) The name, address and telephone number of the individual or organization sponsoring the event.
- (2) A description of the event.
- (3) The day, hour and length of the event.
- (4) The park or open space or portion thereof for which the permit is requested.
- (5) A reasonable and good-faith approximation of the number of persons expected to attend the event.
- (6) A security deposit in an amount set forth in the Town of Bennett Schedule of Fees. The Town Clerk may also return the security deposit upon the determination that it is not necessary to protect the interests of the Town.

(b) Upon a showing of good cause, the Town Clerk shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police services for the event. Good cause can be demonstrated by the applicant by showing that the circumstance that gave rise to the application did not reasonably allow the applicant to file within the time prescribed, and that the event is for the purpose of exercising the right of free speech. (Ord. 473 §1, 2002; Ord. 610-10 §3)

Sec. 11-5-120. Action on application; permit conditions.

(a) The Town Clerk shall approve, conditionally approve or deny an application on the grounds specified in Section 11-5-130 below. Such action shall be taken no later than five (5) business days after receiving a completed application and security deposit. If the application is denied or conditionally approved, the Town Clerk shall inform the applicant in writing of the grounds for denial

or the conditions on the permit and the applicant's right of appeal. If the Town Clerk relied on information about the event other than that contained in the application, he or she shall inform the applicant of such information. If the Town Clerk refuses to consider a late application, he or she shall inform the applicant in writing of the reason for the refusal, and of the applicant's right of appeal.

(b) All permits shall be in writing, signed by the Town Clerk and contain the names of all persons who signed the application and names of all organizations listed in the application, the type of event authorized and when and where it shall occur. Each permit is subject to the following conditions:

- (1) The applicant takes all reasonable steps to protect Town facilities and property, including flora and fauna, against damage;
- (2) The applicant cleans and restores the premises to a neat and orderly condition;
- (3) The applicant charges no admission for the event;
- (4) The applicant is responsible to assure that all members of any band or orchestra comply with all applicable state and Town laws; and
- (5) The applicant insists at all times that the members of the audience comply with all applicable State and Town laws. (Ord. 473 §1, 2002)

Sec. 11-5-130. Grounds for denial.

The Town Clerk shall issue the permit for the time and place set forth in the application unless he or she finds from a consideration of the application and other pertinent information that:

- (1) The proposed event would likely conflict as to time or place with another event or use for which a permit previously has been granted;
- (2) The proposed event would likely prevent the safe and orderly movement of traffic contiguous to the place of the event;
- (3) The size of the event would require diversion of so great a number of peace officers in order to properly police the event as to prevent normal police protection to the Town, considering all available police and other safety personnel; or
- (4) The size, nature or location of the event would present a substantial risk to the health or safety of the public or participants in the event or other persons. (Ord. 473 §1, 2002; Ord. 526 §1, 2005)

Sec. 11-5-140. Denial or permit conditions.

If the Town Clerk finds that the proposed event which a permit was applied for likely would cause any of the conditions specified in Section 11-5-130 above, the Town Clerk shall deny the application or shall issue a permit for a different time or place or on conditions different than proposed in the application. If the application is denied or conditionally approved, the Town Clerk shall inform the applicant in writing of the grounds for denial or the conditions on the permit and the applicant's right of appeal. (Ord. 473 §1, 2002)

Sec. 11-5-150. Appeals procedure.

Any applicant not satisfied with the action taken by the Town Clerk with regard to the application made shall have the right to take successive appeals; first to the Director of Public Works, then to the Board of Trustees and then to the Municipal Court; or the applicant may, if he or she desires, appeal directly from the Town Clerk to the Board of Trustees or directly from the Town Clerk to the Municipal Court. At any level of appeal, a notice of appeal, together with a copy of the application, the written denial and any written decision previously issued, shall be filed with the Town Clerk within two (2) business days of the action appealed from; and the Director of Public Works, Board of Trustees and Municipal Court, respectively, shall hold a hearing no later than five (5) days after the filing of the appeal and shall render a decision no later than one (1) business day thereafter. Nothing in this Article prohibits a further appeal by the applicant as may be permitted by law. (Ord. 473 §1, 2002)

Sec. 11-5-160. Commercial sales.

It is unlawful to offer any article or thing for sale within the parks or open space within the Town except by written permission from the Town Clerk. Such permission will be granted upon a showing of compliance with all applicable laws, codes, ordinances, rules and regulations and a showing that the proposed activity will not endanger the public health, safety or welfare. (Ord. 473 §1, 2002; Ord. 526 §1, 2005)

Sec. 11-5-165. Mount View Cemetery.

(a) The Board of Trustees is hereby empowered to adopt such bylaws, rules and regulations concerning the governance and operation of the Mount View Cemetery, including but not limited to granting exemptions to the plot fees and burial charges and setting forth definitions and terms and conditions of use of the Cemetery.

(b) All casket burials at Mount View Cemetery shall require use of a concrete vault, which vault shall fully enclose the casket being buried. The Director of Public Works is hereby authorized to adopt administrative rules as may be necessary to effect the requirements of this Section.

(c) The sale prices for plots at Mount View Cemetery, as well as the fees and charges for burial and other services at the Mount View Cemetery, shall be as established by resolution of the Board of Trustees. (Ord. 460 §2, 2002; Ord. 590 §§1, 2, 2009)

Sec. 11-5-170. Authority to establish and enforce.

The Town Clerk shall have authority to establish and amend rules and regulations for use of the parks and open space within the Town. All such rules and regulations shall be consistent with the provisions of this Article, all codes and ordinances supplementary thereto and state laws. Such rules and regulations may also include provisions concerning police service fees, emergency medical services, indemnification to the Town, insurance, traffic control fees and cleanup deposits. The Town Clerk shall have the nonexclusive authority to enforce all rules and regulations promulgated hereunder for the proper management, operation and control of the parks and open space within the Town. (Ord. 473 §1, 2002)

Sec. 11-5-180. Affirmative defense.

It shall be an affirmative defense to a violation of any provision of this Article that the act was committed by or with the authorization of the Adams County or Arapahoe County Sheriff's office in the lawful discharge of their duties. (Ord. 473 §1, 2002)

Sec. 11-5-190. Enforcement.

It is unlawful for any person to fail to comply with any provision of this Article or to fail to comply with the rules and regulations as established in accordance with Section 11-5-170 above. (Ord. 473 §1, 2002)