

Chapter 1 EXCAVATION

SECTIONS:

- 7-1-1: Permit Required**
- 7-1-2: Permit Application**
- 7-1-3: Obstructing Streets**
- 7-1-4: Settlement**
- 7-1-5: Backfill**
- 7-1-6: Sidewalk and Gutters**
- 7-1-7: Unauthorized Excavations**
- 7-1-8: Emergency Excavations¹**

7-1-1: Permit Required

- A. Permit required. It is unlawful for any person, firm, corporation, partnership, utility company, special district or other entity, unless specifically excepted, to dig, open, excavate, construct or replace sidewalks, place fill, gravel, asphalt, concrete, etc., or to cause to be dug, opened or excavated, any street, alley, sidewalk or any public right-of-way or place on Town-owned property in the Town without first having obtained an excavation permit therefor from the Town of Westcliffe. (Ord. 10-1985, 10-15-1985)
- B. Such permits shall be kept at the site of the excavation or construction activity while the work is in progress and shall be exhibited upon request by any police officer or representative of the Town. A copy of such permit shall also be maintained in the office of the Town of Westcliffe. (Ord. 10-1985, 10-15-1985)

7-1-2: Permit Application

- A. Permit application. Application for an excavation permit shall be made upon a form provided by the Town of Westcliffe and shall recite specifically and illustrate by sketch or plan the exact location, depth, length, width, surface area and nature of the excavation desired to be made, together with the location of all underground utilities within a radius of ten feet of the proposed excavation. The permit shall also state the applicant's name, address, date of commencement and completion of the work, and a statement that the work will be performed in strict compliance with the requirements

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Title 7, Chapter 1 is amended by the addition of Section 8. Ord. 1-1986, 1-6-1986.

of this ordinance. The application form shall further recite the posting of such bonds as shall be required by this ordinance, and a place for the applicant's signature shall be provided. (Ord. 10-1985, 10-15-1985)

- B. Permit conditions. All permits shall be issued according to the provisions of this, ordinance and are subject to such rules, directions and time limitations as the Town of Westcliffe may by specifications prescribe. Such permits shall be conditioned so that all work performed thereunder shall be in accordance with the specifications of the Town of Westcliffe, which shall provide for the proper care and protection of the streets, alleys, sidewalks and public rights-of-way of the Town and persons and adjacent property. Applicants shall pay such fee established by resolution of the Town Trustees prior to issuance of such permit. No permit issued under the provisions of this chapter shall be for more than one excavation project. (Ord. 10-1985, 10-15-1985)
- C. Permit - Bond required. Prior to the issuance of any excavation permit for major excavations costing in excess of \$1,000, the applicant shall post a performance bond in the minimum amount of one thousand dollars with the Town of Westcliffe. Only one bond is required for any number of permits, provided the bond has not been declared forfeit or has not been reduced by the provisions of any other section of this ordinance. The condition of such bond shall be that the Permittee shall comply with all the ordinances and specifications of the city relating to excavating or working in any street, alley, sidewalk or other public right-or-way or Town-owned property. Such bond shall be approved by the Town of Westcliffe as to sufficiency and by the Town attorney as to form, and shall remain in full force and effect for a period of two years from and after the date any excavation is made. In the event of a breach of any of the conditions of such bond, the Town of Westcliffe shall give notice of same to the surety, shall cause to be remedied the condition wherein the bond is breached, and the Town attorney shall bring action in the name of the Town to recover the penalty of the bond or so much thereof as may be necessary to reimburse all costs and expenses the Town may have incurred incidental thereto. No excavation permit shall be issued to any applicant whose bond or any portion thereof has been declared forfeit, unless and until such bond shall be reinstated or a new bond filed as provided in this ordinance. (Ord. 10-1985, 10-15-1985)
- D. Permit - Bond Not Required. In the event application for a permit to excavate is for work of the amount of \$1,000.00 or less then the applicant may enter into an agreement with the Town of Westcliffe to post a cash bond or other surety arrangement that in the opinion of the Town of Westcliffe provides adequate assurance that the Town is protected from incurring any costs incidental to excavation. (Ord. 10-1985, 10-15-1985)
- E. Permit - Insurance required. Any contractor or utility who applies for an excavation permit shall be conclusively deemed to have agreed to indemnify and save harmless the Town, its

authorized agents, officers, representatives and employees from and against any and all claims, penalties, liability or loss resulting from claims or court actions, whether at law or in equity, arising directly or indirectly out of any act or omission of the contractor, his agents, officers, representatives or employees, in digging in, opening or excavating any street, alley, sidewalk, public right-of-way or Town-owned property. The contractor shall post with the Town of Westcliffe certification of general liability insurance covering such excavation work with minimum coverages as outlined below:

a. A limit of liability of not less than three hundred thousand dollars for all damages arising out of bodily injury, including death, at any time resulting therefrom sustained by any one person in any one accident; (Ord. 10-1985, 10-15-1985)

b. A limit of liability of not less than three hundred thousand dollars aggregate for all damages detailed in subsection A above sustained by two or more persons in any one accident; (Ord. 10-1985, 10-15-1985)

c. A limit of liability of not less than one hundred thousand dollars for all property damage sustained by any one person in any one accident; (Ord. 10-1985, 10-15-1985)

d. A limit of liability of not less than one hundred thousand dollars aggregate for any property damage sustained by two or more persons in any one accident; (Ord. 10-1985, 10-15-1985)

e. All liability insurance shall be approved by the Town attorney as to form to insure such indemnity. (Ord. 10-1985, 10-15-1985)

2. All insurance policies required in this section shall include complete operation coverage for a period of two years from the date of application for each permit. Failure to maintain such insurance shall not relieve any applicant from liability. Such proof of insurance shall contain a clause that the Town shall be notified by the insurer not less than thirty days prior to any change in the policy or cancellation of such policy. (Ord. 10-1985, 10-15-1985)

7-1-3: Obstructing Streets

- A. It is unlawful, without having first obtained written permission of the Town of Westcliffe to block more than that portion of the street from the centerline to either street edge, except where the excavation is by necessity to be in the street center, in which case one lane of moving traffic shall be maintained. (Ord. 10-1985, 10-15-1985)
- B. A permittee shall give notice to the occupant prior to blocking any driveway. The driveway shall be opened and accessible to vehicular and pedestrian traffic as soon as possible upon completion of the excavation and backfill. (Ord. 10-1985, 10-15-1985)
- C. Permittee shall backfill the excavation immediately after completion of the work for which the excavation was this ordinance. (Ord. 10-1985, 10-15-1985)
- D. No longitudinal street or alley excavation shall be extended in the next succeeding block until the excavation has been backfilled. (Ord. 10-1985, 10-15-1985)
- E. Warning devices - Interfering or moving. It is unlawful to damage, displace, remove or interfere with the barricade, warning light, traffic cone or any other safety device which is lawfully placed upon or about any street, alley, sidewalk or other excavation or construction work in the Town. (Ord. 10-1985, 10-15-1985)

7-1-4: Settlement

In the event of any settlement or subsidence of a particular excavation or part thereof, the permittee who performed the excavation shall be responsible for all repair and repaving costs occasioned thereby for a period of two years after the permit is granted. In the event the permittee is unable or unwilling to repair and repave any settlement or subsidence of a particular excavation or part thereof, the Town shall take whatever measures it deems necessary to provide a safe and acceptable surface, including but not limited to calling upon the surety on the performance bond to perform repair and repaving costs or to reimburse the Town for all costs and expenses incidental to the repair and repaving made by the Town. (Ord. 10-1985, 10-15-1985)

7-1-5: Backfill

Any backfill required by excavations performed within the Town shall be made in accordance with the specifications contained in the resolutions of the council of Westcliffe relating thereto. (Ord. 10-1985, 10-15-1985)

7-1-6: Sidewalk and Gutters

Sidewalk and gutters to be kept clear. It is unlawful for any person to place any dirt or other materials upon any sidewalk or in any gutter, and work shall be performed so as to permit the free passage of water in the gutter and the passage of pedestrians on the sidewalk. All excavation work shall be performed in such a way as to cause minimum inconvenience to the public and minimum restriction to both pedestrian and vehicular traffic. (Ord. 10-1985, 10-15-1985)

7-1-7: Unauthorized Excavations

A. Unauthorized excavations. Whoever, in this Town makes or causes to be made, without lawful authority, an excavation in any highway, street, alley, sidewalk, or other public place, or otherwise digs up, or removes any stone, rock, gravel, or earth in or from any such place, or removes any stones, stakes, or other landmarks placed by any officer of said Town under authority thereof, or by any other duly authorized person, is guilty of a misdemeanor. (Ord. 10-1985, 10-15-1985)

B. Violation - Penalty. Any person convicted of a violation of this chapter or any section provision hereof shall, upon conviction, be punished by a fine of not more than three hundred dollars for any one offense, or by imprisonment for a period of not more than ninety days or both such fine and such imprisonment. The Town of Westcliffe shall refuse to issue a permit under this chapter to any person who shall have suffered two convictions hereunder within a period of five years from the date of the first or former conviction, for a period of at least one year after such second conviction. (Ord. 10-1985, 10-15-1985)

7-1-8: Emergency Excavations

Nothing in Ordinance 10 Series 1985 shall be construed to prevent the making of any emergency excavation as may be necessary for the preservation of life or property, or for the location of trouble in any conduit or pipe, or for making emergency repairs, provided that the person or entity making such excavation shall immediately apply for a permit on the first working day after such work is commenced. (Ord. 1-1986, 1-6-1986)

7-1-9: Exemption From Requirements²

The following permit application and fee schedule are established for the following utility companies:

1. Round Mountain Water & Sanitation District (Ord. 4-1987, 5-5-1987)
2. CenturyTel (Ord. 4-1987, 5-5-1987)
3. Westcliffe Cable TV (Ord. 4-1987, 5-5-1987)

These said companies may apply for a public ground or right-of-way excavation permit for a maximum period of one year. The permit, if granted by the Town of Westcliffe, shall become effective immediately upon issuance and shall expire on the day prior to the date of the first anniversary of the said permit. (Ord. 4-1987, 5-5-1987)

Excavation shall not be permitted by said companies if a permit has not been applied for and issued. (Ord. 4-1987, 5-5-1987)

²

Title 7, Chapter 1 is amended by the addition of Section 9. (Ord. 4-1987, 5-5-1987)

A fee for the permit shall not be required and the said companies shall be exempt from the requirements of posting a bond as is set out in Ordinance #10, Series 1985 (Title 7, Chapter 2, Sections 1 through 8). (Ord. 4-1987, 5-5-1987)

All other provisions of ordinance #10, Series 1985 (Title 7, Chapter 2, Sections 1 through 8), shall remain in full force and effect for said companies. (Ord. 4-1987, 5-5-1987)