

ORDINANCE 2013-1

AN ORDINANCE OF THE TOWN OF HOTCHKISS COLORADO REPLACING SECTIONS OF THE TOWN CODE CONCERNING THE RESPONSIBILITY OF THE PROPERTY OWNER REGARDING THE CONSTRUCTION AND MAINTENANCE AND COMMERCIAL USE OF SIDEWALKS WITHIN THE TOWN AND ESTABLISHING PROCEDURES AND POLICIES FOR REPAIR AND REPLACEMENT OF EXISTING SIDEWALKS AND FOR CONSTRUCTION OF NEW SIDEWALKS IN AREAS WHERE NONE EXIST.

WHEREAS - The Town of Hotchkiss has adopted a revision of the Hotchkiss Community Comprehensive Master Plan that identified the need for construction and maintenance of adequate sidewalks within the Town, on Town right-of-ways, to be of high concern to the citizens of the Town and has identified the establishment of a Hotchkiss Sidewalks and Trails Plan as a needed addendum to the Plan;

WHEREAS - The Town of Hotchkiss has adopted subdivision regulations requiring the construction of sidewalks within new developments and has adopted construction standards for all new sidewalks within the Town;

WHEREAS - It has been determined that the present code relating to sidewalks is outdated and does not meet the present needs of the Town, Thus, the Planning Commission and the Board of Trustees of the Town have determined that the existing code regarding the construction and maintenance of adequate sidewalks within the Town needs to be amended and expanded;

WHEREAS - The Planning Commission and Board of Trustees has determined that a fair procedure needs to be established for sharing, between the Town and property owner, the obligations and responsibilities for the construction, replacement and establishment of new sidewalks within the Town;

WHEREAS - The Trustees have determined that a reasonable use of C-1 Zone sidewalks by adjacent retail merchants is a Hotchkiss tradition and a benefit to the Town, those businesses and to the general downtown atmosphere.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Hotchkiss, Colorado, that the following Sections of the Code of the Town are hereby amended to read as follows:

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

(b) Commercial usage.

(1) Permit required. It shall be unlawful for any person, firm, corporation, transient, merchant (unless adjacent to one's own property/business in the C-1 Downtown Core Zone), church, club, charitable institution, hawker or peddler to vend,

sell, dispose of or offer to vend, sell, dispose of 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. Merchants with businesses located in the C-1 Downtown Core zone, where sidewalks a minimum of eight feet wide exist, are allowed to use a portion of the sidewalk that is adjacent to the business property upon obtaining a permit, without payment of a fee, from a designated official of the Town for display or for sales, subject, however, to requirements of the Americans with Disabilities Act, Colorado Department of Transportation requirements and all other restrictions, obligations, inspections or other requirements of the Town Code. Such permit shall be for the calendar year of application and shall automatically renew on January 1 of each year thereafter unless the Town notifies the permit holder prior thereto that the permit is not renewed.

15-2-3 Construction and Repair of Sidewalks by Property Owners and the Town Upon Town Right-of-Ways

(1) It shall be the obligation of every owner of real property within the Town to maintain any **existing** sidewalk abutting such real property in a safe and useful condition as prescribed by the Town, in accordance with the regulations, specifications, and standards adopted or prescribed by the Town unless such a sidewalk has been accepted by the Town by duly adopted resolution, as its sole responsibility. Cost sharing, if and when applicable, is detailed in Section 2 of this ordinance.

(a). **As a condition of any new residential or business construction**, new sidewalks, if none exist abutting the property or are substandard, shall be constructed/replaced at the expense of the property owner/developer, or, at the choice of the Town, adequate funds shall be placed in escrow by the property owner/developer with the Town for future construction of said sidewalk(s).

(b) **An exception** may be granted if the construction is residential and is located in an area where sidewalks are not regarded by the Town as a current need. A list of such areas of the Town where sidewalks are not considered a current need shall be maintained and periodically updated in the Town of Hotchkiss Sidewalks and Trails Plan.

(2) Cost Sharing in Construction and Repair of Sidewalks by Property Owners and the Town Upon Town Right-of-Ways

(a) **When the Town, at their option, or in agreement with property owner (s) after due notification of defect, repairs or replaces sub-standard existing sidewalks, or constructs new sidewalks in the public right-of-way in areas where none exist, but where the Town deems them necessary for the public good**, the abutting property owner(s) shall be liable for one-half of the total costs of such repair or replacement or new construction, unless the repair is of a section of less than fifteen (15) feet, in which case the property owner is liable for the full costs incurred by the Town. The property owners shall be notified by certified mail by the Town of the upcoming project as far in advance as is practical with sixty (60) days being the minimum.

(1) The said property owners shall be responsible for submitting full

payment for their allotted share within ninety days (90) of the date of the bill issued by the Town. If paid within the ninety (90) days there will be a ten (10) percent discount on the total bill. Failure to pay the full billed amount within twenty four (24) months may result in the Town certifying the balance, together with accrued and accruing interest, as a lien on the property, to the Delta County Treasurer.

(2) In the case of any new sidewalk construction by the Town, when completed, Section 1 (A) of this ordinance shall apply unless exempted by duly adopted resolution.

(3) A list of such future-needed sidewalks shall be maintained and periodically updated in the Town of Hotchkiss Sidewalks and Trails Plan.

(b). If a property owner replaces an existing, but substandard sidewalk, upon their own initiative or upon notification of defect by the Town and, in case of the former, has notified the Town at least sixty (60) days in advance of said project, has received Town approval and the portion of sidewalk to be replaced is fifteen feet (15) or longer, the property owner may, upon completion of the project, provided the Town has approved the project as meeting its standards and specifications, submit to the Town an itemization of the project costs. The Town, within forty-five (45) days, shall grant the reimbursement of the property owner, at its option, either one-half of that amount documented in the itemization of project costs or one-half of a pre-established per-foot standard, whichever is less.

(1) The costs of repairs or replacements of existing sidewalk sections of less than fifteen (15) feet shall be borne entirely by the abutting property owner unless the Board of Trustees, upon review, approves other arrangements.

(c). If a property owner constructs a new sidewalk upon the public right of way where none currently exist, upon their own initiative, in an area identified in the Hotchkiss Sidewalks and Trails Plan as being in need of such sidewalks, has notified the Town at least sixty (60) days in advance of said project, has received Town approval and the portion of sidewalk to be replaced is fifteen feet (15) or longer, the property owner may, upon completion of the project, provided the Town has approved the project as meeting its standards and specifications, submit to the Town an itemization of the project costs. The Town, within forty-five (45) days shall grant the reimbursement of the property owner, at its option, either one-half of that amount documented in the itemization or one-half of a pre-established per-foot standard, whichever is less.

(d) If a property owner constructs a new sidewalk where none presently exist upon the public right of way, on their own initiative, in an area identified in the Hotchkiss Sidewalks and Trails Plan as not currently being in need of such sidewalks, or within a new subdivision in any area of Town (See Subdivision regulation), the project expense shall be borne entirely by the property owner. Any such sidewalk(s) shall require a permit and inspection from the Town and shall meet all applicable Town regulations, standards and specifications.

(1) A list of areas of the Town where sidewalks are not considered a current need shall be maintained and periodically updated in the Town of Hotchkiss Sidewalks and Trails Plan.

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

(a) **If an existing sidewalk** is determined to be a hazard by the Town Public Works Director, or other duly authorized representative of the Town, the property owner shall, upon due notification by the Town, have one hundred and twenty days (120) to repair or replace that portion of defective sidewalk. During the interim period the property owner shall adequately sign, barricade, cover, temporarily patch or otherwise provide protection and/or notice to the public, to the satisfaction of the Town, of the hazard.

(1) Upon receiving notification of defect, if the area to be repaired/replaced is fifteen (15) feet or longer, the property owner, at his option, may contract with the Town to arrange for the repair to be done at the Town's convenience.

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

Failure to take action to repair/replace the defective portion of sidewalk or to make formal arrangements with the Town for the repair/replacement of the defective portion of sidewalk within the allotted one-hundred and twenty (120) day period may result in the Mayor ordering and the Town having the repair/replacement done. The property owner shall be responsible for **all** costs incurred by the Town and shall make payment in full to the Town within 90 days of the date of the bill issued by the Town. If not paid in full within such 90 days, the Town may certify the balance, together with accrued and accruing interest, as a lien on the property, to the Delta County Treasurer.

All other ordinances, resolutions and other provisions of the Town of Hotchkiss, Colorado, or parts whereof, in conflict or inconsistent therewith, and to the extent they are in conflict inconsistent therewith, are hereby repealed; provide however, that the repeal of any ordinance, resolution and other provisions of the Town of Hotchkiss, Colorado or parts thereof, shall not revive any other section of the same heretofore repealed and superseded.

INTRODUCED, READ, APPROVED, ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOTCHKISS, COLORADO, THIS

14 DAY OF MARCH, 2013.

TOWN OF HOTCHKISS, COLORADO

By: _____
Mayor - Wendell Koontz

ATTEST:

By: _____
Town Clerk - Marlene F. Searle

