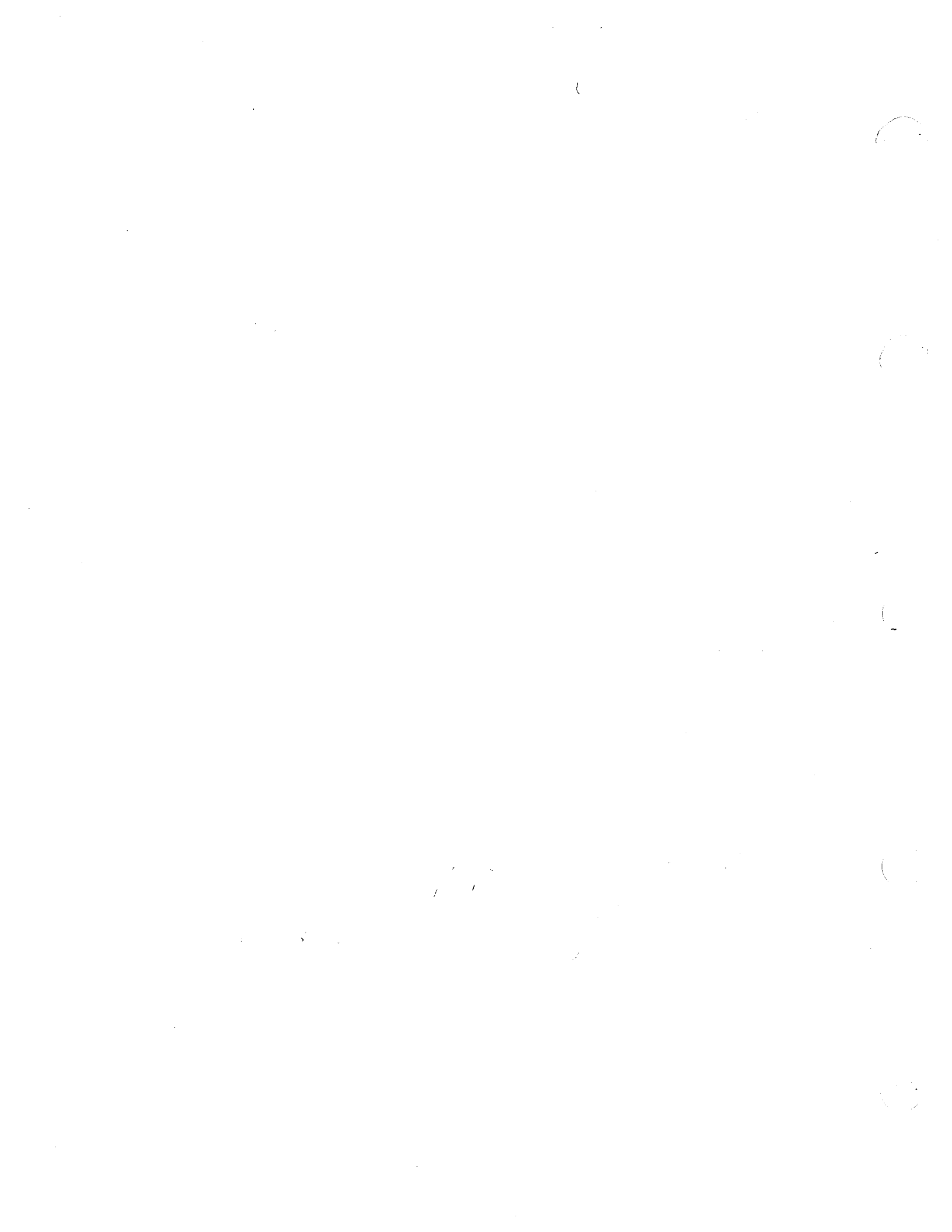


TITLE 6
PUBLIC WAYS AND PROPERTY

Subject	Chapter
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CHAPTER 1

STREETS AND SIDEWALKS

SECTION:

- 6-1-1: Dedication Of Streets And Alleys
- 6-1-2: Grade Of Streets And Sidewalks
- 6-1-3: Street Improvements
- 6-1-4: Obstruction Prohibited

6-1-1: DEDICATION OF STREETS AND ALLEYS:

- A. Declared Free And Open To Public Use: All streets and alleys within the platted portion of the town as shown on the map on file and of record in the office of the county clerk and recorder of Carbon County, and the streets and alleys of all additions which now are or hereafter may be made to the town, shall be and hereby are declared to be free and open to the use of the public. (1909 Code § 12-1-1)
- B. Closure: No street or alley shall be closed except for good and sufficient reason and then only by order of the council entered upon its minutes. (1909 Code § 12-1-2)

6-1-2: GRADE OF STREETS AND SIDEWALKS:

- A. Datum Plane Established: A place five hundred feet (500') below the bench mark on the steps of the east entrance of the stone building on lot 1, of block 3 of the original town site of the town, is hereby made and constituted as a datum plane of the town, and the initial point in determining the grades of all streets, and all numbers, fractions, and combination of numbers, used in reference to the grades of this town in ordinances, notices, records, or otherwise, unless particularly otherwise specified, be taken to mean, constitute, and construed as indications to mean distance above said datum plane. (1909 Code § 12-2-1)

- B. Survey And Recording Required: All grades of streets, alleys, sidewalks, sewers, aqueducts, or other grades established under the authority of the town shall be surveyed and recorded with reference to the elevation of the same above the aforesaid datum plane. (1909 Code § 12-2-2)
- C. Street And Avenue Grades: The grades of the following streets and avenues shall conform to the elevation hereby established at their intersections and are hereby adopted and provided as the grades of such streets, and the grades upon the point of intersection and the points hereinafter designated shall be uniform as shown on the profile maps and with elevation as follows:

<u>Location</u>	<u>Elevation</u>
Main Street at east limits of town	496.32
Main Street at Third Street	490.77
Main Street at Second Street	496.63
West 1 460	509.34
Main Street at First Street	511.03
West 1 85	511.32
Main Street at west town limits	519.51

(1909 Code § 12-2-3)

- D. Sidewalks: The grades of the sidewalks along Main Street shall conform to the grades of the streets as follows: The elevation of the edge of the sidewalk boundaries on the property line on the north side of the street at any point shall be one foot (1') above the corresponding street grade. The elevation of the edge of the sidewalk bordering on the property line on the south side of the street at any point shall be one-half foot ($\frac{1}{2}'$) below the corresponding street grades. All sidewalks shall have an inclination of two percent (2%) from the property line towards the street. (1909 Code § 12-2-4)
- E. Profile Maps: The profile maps herein referred to are maps prepared under the authority of the town and are on file and of record in the office of the town clerk-treasurer. (1909 Code § 12-2-5)

6-1-3: STREET IMPROVEMENTS:

- A. Grade Prescribed By Ordinance: All sidewalks, grading and other street improvements hereafter ordered by the council shall be

constructed under the direction and to the satisfaction of the street superintendent, and to correspond to the grade prescribed by ordinance as the established grade of the street so improved and according to the instruction of the council. The same rules and regulations shall apply to all street improvements hereafter made, whether ordered by the council or not. (1909 Code § 12-3-1)

- B. **No Grade Prescribed:** All sidewalks, paving or other improvements upon streets where no grade has been established shall be built upon the grade given therefor by the street superintendent. If any person shall build a sidewalk, paving, or other street improvement where no grade has been established without first obtaining a grade therefor from the street superintendent, or contrary to any grade established by ordinance of the town, or contrary to this chapter, he shall be subject to penalty as provided in section 1-4-1 of this code, and costs of prosecution, and shall be subject to a like fine for each day he shall fail to remove or reconstruct the same after receiving notice so to do from the street superintendent. (1909 Code § 12-3-2)
- C. **Investigation By Street Superintendent:** No sidewalk, grading, or other street improvements shall be constructed under orders of the council unless the question of such improvement shall first have been investigated by the street superintendent, and reported to the council, concerning the necessity or advisability of the same, or whether or not the street or any part thereof where the improvement is contemplated requires grading before such improvement is made, and if so, at whose expense it shall be done. The superintendent shall submit with said report an estimate of the expense of such grading (if any is required) and shall also estimate the cost of constructing such improvement. (1909 Code § 12-3-3)
- D. **Order Of Council:** When such report has been made, the council may order such improvement to be built, constructed or repaired; such order shall describe the kind of walk or improvement to be built or repaired and name the estimated cost thereof, and declare what part of the expense thereof, if any, shall be borne by the abutting property, or the property to be benefited and naming the ratio of benefit the property affected will receive from such improvement.
- E. **Notice:** After the passing of such order, the street superintendent shall forthwith notify the owner of the property affected, or any of his known agents, by serving upon him or them a notice in the manner herein provided. Such notice shall be in substantially the following form: (1909 Code § 12-3-4)

Town of Bearcreek _____, 20____.
 To _____

You are hereby notified that the Council of the Town of Bearcreek has ordered (naming the improvement as described in the order) to be constructed or repaired (according to the terms of the order) on the _____ side of _____ Street, between _____ and _____, in this Town, and upon which certain real estate owned by you abuts, to-wit: Lot _____ of Block _____ in _____ Bearcreek, Montana. Said improvements to be constructed in accordance with said order at the grades corresponding to the established grades of such street. You will be allowed until the _____ day of _____, 20____, in which to construct, repair, or build that portion of said improvement adjoining the estate owned by you, according to said order and according to a quality, manner and form acceptable to the street superintendent.

(Signed) _____
 Street Superintendent

(1909 Code § 12-3-4; amd. 2010 Code)

- F. Service Of Notice: Such notices may be served personally, or by leaving the same at the residence or place of business of such owner, or of any known agent of such owner; if no owner or agent is known to the street superintendent, then such notice may be served by posting upon the property where such improvement is to be made. (1909 Code § 12-3-5)
- G. Failure To Comply: If any such improvement shall not be constructed within the time mentioned in the notice, such failure shall be reported by the street superintendent to the council. (1909 Code § 12-3-6)
- H. Work Performed By Town; Costs: After such report has been rendered, the council may order such construction of such improvement in conformity with its original order. An accurate record shall be kept of the costs of the same and the council may order an assessment, assessing the proportionate share of the expense thereof upon the real property of the owner failing to comply with said order; and thereafter the town clerk-treasurer shall certify such assessment and said assessment shall be placed on the real estate taxes of Carbon County.

I. Repairs:

1. Notice To Repair: When any sidewalk, gutter, pavement, or other street improvement shall become broken or otherwise out of repair, the street superintendent shall give written notice to the parties or other agents liable to repair the same, in the manner hereinbefore provided that unless such sidewalk, gutter, pavement or other street improvement is repaired, to the satisfaction of the street superintendent, within thirty (30) days thereafter, he will repair the same at the expense of the property.

2. Failure To Comply; Penalty; Damages: Any person who shall refuse or neglect to make such repairs after notice shall be fined not less than five hundred dollars (\$500.00) and costs of prosecution for each day such improvements remain out of repair after the expiration of the time specified in the notice. He shall also be liable for all damages the town may incur by reason thereof, to be recovered by the town in an action therefor, in a court of competent jurisdiction.

3. Work Performed By Town: In all cases where the party shall refuse or neglect to repair as aforesaid, the same shall be repaired by the town, and the expense therefor shall be assessed against the property on the party's real estate taxes. (1909 Code § 12-3-8; amd. 2010 Code)

J. Crosswalks: The crosswalks on the line of the sidewalks shall be built by the town, and the expense thereof shall be paid out of the street fund in the town treasury. (1909 Code § 12-3-9)

K. Duty To Note And Report Defects: It shall be the duty of all town officers to take note of all defects in sidewalks and streets and report the same to the street superintendent, and in case of accidents they shall report the same to the town clerk-treasurer together with the names of any witnesses. (1909 Code § 12-3-12; amd. 2010 Code)

6-1-4: **OBSTRUCTION PROHIBITED:**

A. Prohibited: No property owner or land occupant shall maintain trees, shrubbery or other vegetation, or maintain any building or structure which will materially obstruct the view of any passenger vehicle traveling upon the streets or other public ways of the town.

B. Procedure To Remedy Obstruction:

1. Complaint: Upon the complaint by any citizen, law enforcement officer, or town employee of any existing offending vegetation, tree, shrubbery or offending building or structure, the matter will be referred to the street superintendent for review.

2. Review By Street Superintendent: The superintendent shall make a review within a reasonable time period and submit a report to the property owner or land occupant as to what steps need to be taken in order to remedy the existing obstruction. If the property owner complies with the recommendation within ten (10) days of the receipt of the report, the matter will be considered closed.

3. Failure To Comply: If the property owner or occupant fails to comply with the report, the town shall proceed to trim and prune or remove such tree, shrubbery, or other offending vegetation, or shall make arrangements to abate the offending structure. In the event the owner and/or occupant fails to do so, the town may do the removal.

4. Cost Of Removal: All actual expenses for the cost of this abatement shall be charged to the owner of the property. Failure to submit payment within thirty (30) days will cause the charges, plus a twenty five percent (25%) administrative cost to be placed on the real estate taxes. (2010 Code)