

ORDINANCE NO. 65B

THE BOARD OF TRUSTEES OF THE TOWN OF STRATTON, KIT CARSON COUNTY, COLORADO, DOES HEREBY RESOLVE AND ORDAIN TO PROVIDE FOR AND REGULATE THE CONSTRUCTION AND REPAIR OF CURBS AND GUTTERS

Whereas, the Town of Stratton, hereinafter referred to as the "Town", in the County of Kit Carson, and the State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, Colorado Revised Statutes 31-15-702(1)(a)(IV) and (b)(I) gives to the governing body of each municipality the power to provide for and regulate curbs and gutters, and to provide for the construction and maintenance of curbs and gutters of such material and in such manner as shall be designated and to provide for paying the expenses thereof by special assessments upon the adjacent or abutting property, which assessment shall constitute a lien as provided for by Colorado Revised Statutes 31-15-401(l)(d)(I); and

Whereas, the Board of Trustees, hereinafter referred to as the "Board" wishes to repeal all previous ordinances dealing with the construction and repair of curbs and gutters, and to enact a new ordinance which access responsibility for the cost and construction of curbs and gutters, and to allow options in certain cases;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF STRATTON, COLORADO:

SECTION I - AUTHORITY TO ORDER CONSTRUCTION AND / OR REPAIR OF CURBS AND GUTTERS; NOTICE TO LANDOWNER.

Pursuant to state statute, the Town Board shall have the power and authority to order the construction, installation, repair, and maintenance of curbs and gutters within the Town of Stratton whenever the Board in its sole judgment and discretion deem such action necessary. When any curb or gutter in front of or alongside of any lot or property is required to be constructed, or existing curbs and gutters have been destroyed or are out of repair, the Board shall cause notice in writing to be served upon the owner or agent in charge of the property to construct or repair, as the case may be, such curb and gutter within thirty (30) days of the notice. If the owner is a nonresident of the Town of Stratton, or his whereabouts are unknown, such notice may be given by publication for two (2) times, a week apart, in a newspaper published in the Town. The Town Clerk, in the case of publication, shall also mail a copy of the notice to the owner's last known address as reflected in the records of the Kit Carson County Clerk and Recorder. Service of the notice shall be complete on the last date of publication.

SECTION II – CURB AND GUTTER SPECIFICATIONS.

Concrete shall be used in the construction of all curbs and gutters, which concrete shall consist of not less than one part cement and five parts gravel. Curbs and gutters shall have a base of not less than two feet (2') in width and a depth of six inches (6"), with curb upright six inches (6") high and six inches (6") wide, either of old upright type or of new sloping face.

SECTION III – STREET CURB LINE SPECIFICATIONS.

The outer line of the curb shall be located on a line established by the Board, or its designee from the street department. All curbs shall be curved at street and alley intersections. Private driveways through curbs can be constructed only by receiving special permission and / or instructions from the Board or its designee.

SECTION IV – APPROVED CONTRACTOR.

The Board reserves the right to designate the contractor who will be used by residents for the construction and / or repair of curbs and gutters. The Board may select the contractor either through low bid or outright designation, seeking both the lowest cost and a responsible contractor. The contractor shall be selected by the Board on an annual basis.

SECTION V – PERMIT REQUIRED

It shall be unlawful for any person, other than a Town employee in the course of his or her employment, to make or cause or permit to be made any construction or repair of a curb or gutter without first obtaining a permit, or to make any such construction or repair in any manner which does not comply with the issued permit. Any person desiring a permit for purpose shall make application therefore to the Town Clerk, together with any fee assessed, as adopted by the Board from time to time. The application shall state the purpose of the requested construction or repair, the size, and the limit of time for which the permit is requested. No such permit shall be issued until the Board has approved it.

SECTION VI – PROCEEDING WITH ORDERED IMPROVEMENT / EXTENSION.

When the Board has determined that construction and / or repairs should be made on curbs and / or gutters, the Board may grant a reasonable extension of time for the property owner or owners to make the ordered improvement, on good cause shown. If the owner fails to make the ordered improvement within the thirty (30) day period of time or any extension thereof granted by the Board, then the Board may order the performance of the work to be completed by Town personnel or by independent contractors, or any combination thereof. Upon completion of any ordered improvement, the Town Clerk shall

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prepare and submit to the Board a statement showing the total cost of the improvement accomplished, including an additional amount not to exceed fifteen percent (15%) of the total cost of the improvement for clerical, inspection, collection and other incidental expense. The Clerk shall also cause a lien statement to be recorded against the subject real property. The total cost shall be mailed by regular United States mail, postage prepaid, to the owner at his or her last known address and shall direct the assessment to be paid within thirty days of the date of the letter.

SECTION VII – CERTIFICATION OF COST TO THE KIT CARSON COUNTY TREASURER.

If any payment is not paid when due, the Town Clerk shall certify the full amount of such assessment to the Kit Carson County Treasurer who shall extend such assessment upon the tax roll of Kit Carson County and collect the same in the manner as other taxes assessed against the subject property and as allowed by Colorado Revised Statutes 31-15-401(l)(d)(l).

SECTION VIII – TOWN ASSISTANCE

- A. If an owner chooses to replace or repair curbs and / or gutters adjoining his or her property, the owner shall be responsible for the full cost of the new construction.
- B. If the Board directs that an owner replace or repair existing curb and gutter, the Board will offer the following assistance: The Town may loan to the owner an amount not to exceed Five Thousand Dollars (\$5,000.00) for replacement or repair of curb and gutter, or (2) may loan to the owner an amount not to exceed fifty percent (50%) of the total construction price, or Five Thousand Dollars (\$5,000.00) whichever amount is smallest. The construction price must first be acceptable to the Town if the Town's annual contractor is not doing the work. Interest shall accrue on the advance at the statutory interest rate in effect pursuant to C.R.S. 5-12-102(4) as of the date of the advance unless otherwise agreed to by the Town. Repayment shall be accomplished by the owner within twenty four (24) months of the advance in equal monthly amortized installments. Further, the loan shall be represented by a signed promissory note signed by the applicant, or applicants, payable to the Town together with the interest rate. The promissory note shall be secured by collateral offered by the owner in a value at least equal to the amount of the advance, which collateral shall be acceptable to the Board. In the event the owner fails to repay the Town for any advance made pursuant to this section the Town shall exercise all of its rights and remedies in order to collect the unpaid amount.

SECTION IX - SEPARABILITY

If any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

SECTION X - REPEALER

All acts, orders, resolutions, ordinances, or parts thereof, of the Town that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict.

SECTION XI. - ADOPTION OF ORDINANCE

Immediately upon its passage, this Ordinance shall be recorded in the Town of Stratton Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Clerk, and shall be published as required by law. This Ordinance shall take effect thirty days after publication.

Adopted and Approved this 13th day of December, 2018.

Signed *Richard C. Mann*
Mayor

(SEAL)

Attest:

Signed *Melanee Johnson*
Town Clerk



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