

## Streets and Sidewalks

### CHAPTER 17.

#### STREETS AND SIDEWALKS .

*For state law as to authority of city relative to streets, sidewalks, etc., generally, see W. Va. Code, § 8-12-5(1), (2), (3), (4) and (5). As to authority of city to provide for regulation and control of acquisition, care, management and use of streets, avenues, etc., see W. Va. Code, § 8-12-2(a) (5). As to low cost street and sidewalk improvements generally, see W. Va. Code, § 8-17-1 et seq. As to assessments to improve streets and sidewalks generally, see W. Va. Code, § 8-18-1 et seq.*

*As to buildings generally, see ch. 5 of this Code. As to garbage and refuse generally, see ch. 8. As to motor vehicles and traffic generally, see ch. 11. As to nuisances generally, see ch. 13. As to parades, picketing, demonstrations, etc., generally, see ch. 15. As to water and sewers generally, see ch. 18.*

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Article I. In General.Sec. 17-1. Construction of private drives, alleys, roadways or streets intersecting public street or alley.

(a) In any and all instances in which any person proposes to construct a private drive, alley, roadway or street so as to intersect with any public street or alley, it shall be necessary to apply for and obtain a permit therefor.

(b) All such applications shall be made upon a form provided for that purpose, shall state precisely where the intersection is to be made and shall be accompanied by a sketch showing the location of the same.

(c) In every such case, any such person shall be responsible for properly installing any and all required culverts or other drains reasonably necessary to carry surface water drainage, and in no instance shall existing ditch lines be destroyed or blocked.

(d) No person shall install or permit to be installed a private drive, alley, roadway or street in such a way as to intersect with any existing public street or alley without first having obtained a permit therefor.

(e) The penalty for violation of this ordinance shall be a fine of one hundred dollars and costs for every such offense.

(f) If the driveway entering the street or road is on an incline or on a hill that water would drain down the surface of the driveway, it must have an iron grading across the driveway emptying into the drain or tile before the driveway enters the street or roadway. (2-7-80.)

Secs. 17-2 to 17-5. Reserved.

Article II. Excavations.Sec. 17-6. Permit--Required.

It shall be unlawful for any person to cut into or otherwise damage or excavate any street, sidewalk or public place within the city for the purpose of connecting property with water, sewer or gas lines thereunder, or for any other purpose, except pursuant to a permit as provided in this article.

*As to licenses generally, see ch. 9 of this Code.*

Sec. 17-7. Same--Application.

Any person desiring to cut, open or otherwise excavate any street, sidewalk or public place, whether paved or unpaved, in the city, for any purpose, shall apply to the superintendent of public works for a permit so to do. The

application shall be in a form as prescribed by the superintendent of public works and shall contain such pertinent information as may be required by him, including but not limited to the following: The purpose of the proposed excavation; the site at which the work is to be done; the date work is to begin and the expected duration of the work; and the name and address of the person for whose benefit the proposed work is to be done and who shall be responsible for all required safeguards, the diligent prosecution of the work, the restoration of the surface, the payment of all expenses incurred and compliance with all requirements of this article. The application shall be signed by such person or by someone authorized by him, or by the plumber or other contractor employed by him to do the work.

Sec. 17-8. Same--Determination of necessity of excavation prerequisite to granting; cash deposit or bond.

(a) No excavation permit shall be granted unless it appears to the satisfaction of the superintendent of public works that the excavation is necessary for the health, safety or welfare of the person upon whose behalf the excavation is to be made; and the connection of property to a water, sewer or gas main shall be deemed sufficient under this subsection.

(b) No excavation permit shall be granted until the applicant therefor, or someone on his behalf, has made a cash deposit or given bond to the city in such amount as may be deemed by the superintendent of public works sufficient to cover the cost of safeguards, disposal of excavated dirt, etc., and restoration of the surface of the place of excavation to as good condition as it was prior to the making of the excavation. Each such bond shall be payable to the city, shall have corporate surety, shall be approved by the city attorney and shall be conditioned that the work be diligently and skillfully prosecuted, subject to foreseeable circumstances beyond control of the person doing the work, that all necessary safeguards be maintained, that all excavated materials not required for refill be disposed of as provided in this article, that the surface of the place of excavation and not less than ten feet in all directions from the outer perimeter thereof be placed in as good condition as it was immediately prior to the commencement of the work and to the reasonable satisfaction of the superintendent, that all requirements of this article be complied with and that any defective work which appears within five years from the day of acceptance of such restoration by the superintendent shall be subject to repair by the city at the expense of the permit holder.

Sec. 17-9. Manner of work generally; materials and methods used in restoration of surface.

Any person making an excavation shall do the work in a careful, workmanlike manner and shall diligently prosecute such work to completion without undue delay. Materials used and methods employed in filling, tamping and closing excavations and in restoring the surface shall comply with all requirements of the city.

Sec. 17-10. Required safeguards generally; footbridges.

All excavation sites shall be provided with all necessary safety devices to protect persons and animals from falling into ditches or pits. Such devices shall include, but not exclusively, warning signs, lamps and barricades and, where practicable, secure planking for pedestrians to cross upon, which shall be well lighted the entire way between the period from sunset to sunrise.

Sec. 17-11. Lighting of bridges over excavations.

Between the hours of sunset and sunrise, upon bridges for maintaining traffic over excavations, the roadway shall be indicated by a sufficient number of green lights, so as to clearly identify the course of the roadway and the edges thereof, and the edges of the bridge itself shall be indicated by red lights.

Sec. 17-12. Safeguards relating to sidewalk excavations.

All persons causing any excavations to be made for sidewalks shall have the place of excavation properly graded and protected and shall properly barricade such place for the protection of the public. Whenever necessary, they shall, at their own expense, properly erect masonry or steel construction or a sufficient retaining wall to properly support the adjoining earth. Such retaining wall shall be properly coped or provided with an iron railing to guarantee safety to the public.

Sec. 17-13. Handling, conveyance and disposition of dirt, etc.

Each person engaged in excavating or having charge or control of any excavation, or who may be engaged in or may have charge or control of conveying material from excavations, shall exercise reasonable care to prevent the deposit, in any manner, upon the surface of a sidewalk or any paved street or other public place, by placing, spilling, dropping or tracking from wheels of vehicles or from the feet of animals any earth, clay, mud, sand, gravel or other excavated material; and all such excavated materials spilled or dropped upon any street, sidewalk or other such place from any such vehicle or tracked thereon from wheels of vehicles or the feet of animals shall be removed without delay by the driver of the vehicle or animal involved.

The excavations referred to in this section include those made in private property as well as in public property.

Sec. 17-14. Special agreements with railroads and public utilities.

Nothing contained in this article shall be construed to prevent the city council from entering into agreements with railroad and public utility companies which may exclude them from or grant them deviations from the provi-

sions of this article when, in the judgment of the council, it is in the public interest so to do and the health, safety and welfare of the inhabitants of the city will be adequately safeguarded.

Sec. 17-15. When state permit required.

No permit shall be granted under this article to excavate within any street or right-of-way which is a part of the state highway system, except upon display to the superintendent of public works of a permit so to do issued by competent authority of the state.

Sec. 17-16. Nonliability of city.

No permit issued, inspection made or approval given by the superintendent of public works, his agents or employees pursuant to this article shall be construed as imposing any liability whatever upon the city for injury to any person or damage to any property which may occur by reason of any wrongful or negligent act or omission during the progress of any work under this article.

