

CHAPTER 41: STREETS AND SIDEWALKS

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ARTICLE I. STREET CONSTRUCTION AND MAINTENANCE

41.001 *Mayor authorized to contract for street construction and maintenance.*

Whenever the commissioner of highways of the Commonwealth of Kentucky by the authority of KRS 177.020 and 177.047 designated any streets or portions thereof, including viaducts and bridges, as connecting links of state or federal maintained highways, or necessary feeder streets thereto and thereby undertakes the future maintenance, repair, construction or reconstruction of such streets, bridges or viaducts in the manner provided by the aforesaid statutes, the Mayor is hereby expressly authorized, instructed and directed to enter into any and all contracts and agreements with the Department of Highways necessary to carry out the purposes and provisions of the statutes.

(Ord. 58-4 §§ 1, 2, 1958; Amended during 1993 codification)

41.002 *Sidewalk Defined*

(Amended by ordinance ## *****, effective Month day, year)

A "sidewalk" means the portion of the street intended for the use of pedestrians, unless the street area has been designated as a pedestrian mall, or unless the entire street has been designated primarily for pedestrian use, for the purpose of this Chapter,

"sidewalk" is that part of a street on the side thereof intended for the use of pedestrians, improved by surfacing.

41.003 Planting and Parking Strip Defined.

(Amended by Ordinance # *****, effective month, day year.)

"Planting Strip" and "Parking Strip" means the area between the curb, or in the case where there is no curb the edge of the roadway and the abutting property line not improved by surfacing that is intended for the use of pedestrians. Any openings made in a surfaced area between the roadway and the abutting property line for the purpose of planting trees or other vegetation shall be considered part of the pre-approved planting or parking strip. Grates or other coverings of said areas shall not be considered as surfacing intended for the use of pedestrians

41.004 Owner Defined.

"Owner" means the owner of the real property or the contract purchaser of real property of record as shown on the last available assessment roll in the office of the county assessor.

ARTICLE II SIDEWALK CONSTRUCTION AND MAINTENANCE

41.100 Sidewalk Maintenance

All sidewalks shall be inspected by and approved for public use and structural integrity annually by the designated City Inspector. After the inaugural inspection of all sidewalks and curbs the City will make the necessary upgrades and repairs as needed to meet inspection standards, at which point the sidewalks and curbs will become the owners' responsibility to maintain and meet inspection standards. After a sidewalk has passed inspection, been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed shall be responsible for maintaining such sidewalk and curb in good repair. If the City Inspector finds that any such sidewalk or curb needs repair, he or she shall post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) which shall in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City. The City Inspector shall send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known, or if the post office address is unknown, the notice shall be directed to the owner or agent at the address where the notice was posted. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address shall not invalidate said notice, but in such case the posted notice shall be sufficient.

(A) Responsibility of Owner. The abutting property owner of any damaged, defective, or unsafe sidewalk should report it immediately to the proper city authorities. It shall be the abutting property owners' responsibility to also report any sidewalk that has

been damaged due to negligence or unauthorized activity and may present a hazard or safety issue for pedestrian traffic.

(B) Notice to Repair. Upon inspection by the designated City Inspector and or if it is determined that any section or portion of any sidewalk is not in a reasonably safe condition for pedestrian traffic, due to negligence, vandalism or unauthorized use upon notice thereof by the city, the abutting property owner or responsible party causing the defective sidewalk shall repair or reconstruct the sidewalk within thirty (30) days from notice thereof in a manner so directed by the city.

(C) Failure to Comply. If and when any portion of any sidewalk in the corporate limits is deemed by the city to be unsafe for pedestrian traffic and so notifies the responsible party for damage and the responsible party fails or refuses to comply with the orders of the board then in that event the city may cause or contract for the repair and reconstruction of the sidewalk. In the event the owner or responsible party causing the damage to property abutting the sidewalk fails, upon notice, to make the necessary repairs and the repairs are made by the city, the owner or responsible party shall be personally liable for the cost of the repairs, including penalties, interest and other charges, and the city may bring a civil action against the responsible party and shall have the same remedies as provided for the recovery of a debt owed.

(D) Failure to Pay; Penalty. If the owner or responsible party fails to pay for the improvement within sixty (60) days from completion of the work, or to have negotiated a payment arrangement, they will be responsible for all charges incurred including interest on the amount due until paid.

~~(Ord. 54-5 (part), 1954; Amended during 1993 codification)~~

41.101 MAINTENANCE OF SIDEWALK AREA

(A) Construction Standards. It shall be unlawful for any person, firm or abutting property owner to lay or construct any sidewalk on the public streets or ways without laying or constructing same on the alignment, grade, width and thickness authorized by the city in each particular case, which authorization shall be made upon application filed with the city and meeting all State and Federal standards. With the abutting property owners consent if applicable, and a permit issued by the designated City Inspector for the improvement upon the alignment and grade, etc., authorized by it therein.

(B) Planting and Dumping Prohibited. It shall be unlawful for any person, firm or abutting property owner to plant trees, shrubs or rank growing woody vegetation upon any unimproved sidewalk area or ditches or shoulders of the public streets or ways of the city in undesignated areas; or to dump or place rock, brush, ashes, cinders, earth, waste paper, litter or other material or obstruction on the aforesaid improved or unimproved sidewalk area, ditches or shoulders of the public streets or ways of the city; or to empty or release polluted water, fluid or liquid garbage on the above said area or in the ditches of the public streets or right of ways owned and maintained by the city.

(C) Compliance with Removal Notice. No person or firm shall suffer or permit any of the materials described in (B) above and placed thereon by him or them, to remain on the area described in (B) after thirty (30) days' notice to remove same from the city or its authorized representative.

(D) Property Owner Responsible for Snow and Ice on Sidewalks. The owner(s) and/or occupant(s) of land adjacent to any street in the City will be responsible for snow and ice removal if desired, from sidewalks abutting or immediately adjacent to such land, notwithstanding any time limitations at their discretion.

(E) Sewer Construction. Upon application to and under the direction of the city, sewer tile or pipes may be laid in the ditch lines of the streets, provided that grating or water vents shall be installed connected to the sewer tile, etc. to catch surface water; alignment, depth, and size of the drain tile to be authorized by the Morgantown Utilities Commission board.

(Ord. 54-10 §§ 1-4, 1954; Amended during 1993 codification)

Cross reference: Penalty for violation, see § 41.999

(F) Driveway Construction. Upon appropriate application and payment or fees, for a driveway the City Zoning Administrator may issue a permit to construct a driveway in the street area subject to the following conditions:

- All driveways shall be constructed according to plans, specifications, regulations and any special conditions fixed by the City of Morgantown and the Kentucky Department of Transportation.

(G) After Construction Driveways Deemed Part of Sidewalk. After a driveway has been constructed, it shall be deemed a part of the sidewalk whether or not there is a sidewalk improvement extending along the balance of the frontage property, for all purposes of repair or reconstruction. Requirements relating to construction or reconstruction of a sidewalk as provided in this ordinance shall be applicable to reconstruction of a driveway, except that the property owner shall have no option to petition for a local improvement solely for such purpose.

ARTICLE III EXCAVATIONS

41.200 DIGGING; NOTIFICATION REQUIRED

It shall be unlawful for any person to dig on any of the rights-of-way and roadways within the city be they state, county or city roads or to dig upon private property wherein the city utilities commission, namely, water and gas, have rights-of-way over and under roadways, rights-of-way and private property without first notifying the appropriate management officer of the utilities commission at city offices and to notify the utilities commission of the exact location of where such construction or dig work shall be and to

acquire from the utilities commission representative written consent to perform the work in conjunction with KRS 367.4901 to 367.4917.

(Ord. 81-2 (part), 1981)

Cross-reference:

Penalty for violation, see § 41.999(B)

ARTICLE IV STREET AND SIDEWALK USE REGULATIONS

41.300 LEAVING ITEMS ON SIDEWALK PROHIBITED

(A) No person, firm or corporation doing business within the city limits shall place, display or leave any unapproved merchandise, hardware, appliances, fixtures or other items acquired or used in his or its business upon the sidewalk, street or alley within the city limits.

(B) Exception. Businesses or approved special events may request an exemption or waiver from the city for use of the sidewalk as described in (A) above, and it does not present a hazard or safety issue for pedestrian traffic.

(Ord. 66-1 §§ 1, 2, 1966)

Cross-reference: Penalty for violation, see § 41.999(C)

41.301 DELIVERY BOXES ON RIGHT-OF-WAY

(A) *Prohibited.* No person, persons, corporations, governments or businesses shall place, drive, establish or post any sign boxes for the purpose of any delivery of any nature or any kind: ~~paper boxes, rural mailboxes or any signs of any advertisement within twenty-five (25) feet of the right-of-way on either side of the road, street, highway or alley within the city limits.~~

(B) *Exceptions.* This section does not apply to any signs or notices pertaining to the operation of motor vehicles on the various streets, highways, roads and alleyways or to any preexisting signs in and on the rights-of-way, area setbacks.