

CODIFIED ORDINANCES OF SPRINGFIELD

PART NINE—STREETS, UTILITIES, AND PUBLIC SERVICES CODE

TITLE ONE—Streets and Sidewalk Areas

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CHAPTER 901
Improvements and Excavations

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CROSS REFERENCES

- Improvements, contracts—see CHTR. Sec. 41 to 46
- Power to establish and care for streets—see Ohio R.C. 715.19, 717.01, 723.01
- Openings by municipality—see Ohio R.C. 723.02
- Surface treatment—see Ohio R.C. 723.23, 723.31
- Excavation liability—see Ohio R.C. 723.49 et seq.
- Digging, excavating and piling earth on streets—see Ohio R.C. 5589.10

901.01 DEFINITION.

The streets, roads, alleys and other public ways to which this chapter shall apply are all such streets or other ways which have been dedicated for use as public ways pursuant to State law after December 7, 1960.

(Ord. 60-125. Passed 11-7-60.)

901.02 CONDITIONS FOR ACCEPTANCE AS PUBLIC WAYS.

No streets, roads, alleys or other ways, as defined in Section 901.01, shall be accepted as public ways by the City Commission until the following conditions have been complied with:

- (a) The proprietor, owner or dedicator of such streets, roads, alleys or other ways shall have submitted to the City Manager, in such form as he shall prescribe, maps, plans, profiles and specifications for the improvements essential to such streets, roads, alleys or ways including grading roadway surfacing, curbs, gutters, sidewalks, survey monuments, storm drainage facilities, sewers, water mains, fire hydrants, gas mains, street lighting facilities, electric power lines and all facilities ordinarily appurtenant to such improvements, which plans, profiles and specifications shall bear the name and seal of a professional engineer registered in the State.
- (b) The maps, plans, profiles and specifications shall have been approved by the City Manager and by the Planning Commission, after the proper procedures, as required by law and ordinances have been complied with.
- (c) The improvements other than those facilities to be installed by private utility companies shall have been fully constructed and completed according to such maps, plans, profiles and specifications, except as provided in Section 901.03, and shall have been approved as completed by the City Manager.

(Ord. 5264. Passed 12-17-51.)

901.03 BOND.

In the event that all improvements other than those facilities to be installed by private utility companies have not been completed according to such maps, plans, profiles and specifications, dedication of the same for public use may be accepted providing the proprietor, owner or dedicator thereof enters into a written agreement with the City, whereby he agrees that if such dedication is accepted, he will complete such improvements in the manner required by such plans, profiles and specifications within two years from the date of such agreement and provided further that such proprietor furnishes to the City, either:

- (a) A good and sufficient bond provided by a bonding company subject to the approval of the City Manager as to sufficiency and to the approval of the Law Director as to its form and correctness, and which bond shall be in the amount of such sum as will equal seventy-five percent (75%) of the total cost and expense of such improvements as estimated by the City Manager. Such bond shall be conditioned upon the faithful performance by the proprietor of the obligations of such agreement on his part to be performed, within the time specified in such agreement and shall run to the benefit of the City and of the owners of any property in the subdivision of which such streets, roads, alleys or ways are a part; or
- (b) A certified check subject to the approval of the City Manager as to sufficiency and to the approval of the Law Director as to its form and correctness, and which check shall be in the amount of such sum as will equal seventy-five percent (75%) of the total cost and expense of such improvements as estimated by the City Manager. When such a certified check is furnished, a

written agreement shall contain the conditions upon which the City may use the certified check to complete the improvements to be installed. The conditions shall guarantee the faithful performance by the proprietor of the obligations of such agreement on his part to be performed, within the time specified in such agreement and shall run to the benefit of the City and of the owners of any property in the subdivision of which such streets, roads, alleys or ways are a part; or

- (c) Certificates of deposit subject to the approval of the City Manager as to sufficiency and to the approval of the Law Director as to form and correctness, and which certificates of deposit shall bear evidence of a savings account in the name of the City containing such a sum as will equal seventy-five percent (75%) of the total cost and expense of such improvements as estimated by the City Manager. When such certificates of deposit are furnished, a written agreement shall contain the conditions upon which the City may use the certificates of deposit to complete the improvements to be installed. The conditions shall guarantee the faithful performance by the proprietor of the obligations of such agreement on his part to be performed, within the time specified in such agreement and shall run to the benefit of the City and of the owners of any property in the subdivision of which such streets, roads, alleys or ways are a part.

(Ord. 64-76. Passed 5-18-64.)

- (d) Security in the form of a land development mortgage loan on the real estate involved subject to the approval of the City Manager as to sufficiency and the Law Director as to form and correctness. Such loan account shall contain uncommitted funds allocated to payment for the completion of such improvements in an amount not less than seventy-five percent (75%) of the total cost and expense of such improvements as estimated by the City Manager. A written agreement between the proprietor, owner or dedicator, the lender and the City shall be executed and shall contain a commitment on the part of the lender to make all financial draws thereon subject to the prior approval of the City; a provision that the City may, without incurring any liability, draw upon the funds in such loan to complete the improvements in the event that the proprietor, owner or dedicator shall fail to complete such improvements within two years from the date of such agreement and a guarantee of faithful performance by the land owner-developer of the obligations therein on his part to be performed. Such guarantee shall run to the benefit of the City and the owners of land in the subdivision of which such streets, roads, alleys or other public ways are a part.

(Ord. 70-202. Passed 12-15-70.)

901.04 RELEASE OF PERFORMANCE BOND.

No performance bond or certified check submitted by a proprietor or dedicator and accepted by the City Commission, as provided in Section 901.03, shall be released or partially released except by a duly passed motion of the Commission upon recommendation by the City Manager.

(Ord. 60-125. Passed 11-7-60.)

901.05 APPLICATION FOR PERMIT.

Except as provided by this chapter, no person shall make any opening or excavation in any street or alley or remove any pavement from any street or alley unless that person is either in the employ of or under contract with a public utility to do such work, or is licensed

pursuant to Chapters 915, 1327 or 1367 of these Codified Ordinances, and has applied for and been issued a permit by the City Manager or his duly authorized agent. The City Manager or his duly authorized agent may require each person so applying to complete an application furnished by him for that purpose. Such application shall be signed by the person who is to do such work, and shall set forth the location, kind and extent of any pavement necessary to be removed, and the name and address of the person for whose benefit the same is to be done. Such application shall further provide that by so signing, the applicant agrees to indemnify and save the City harmless from any claim, loss or damage arising in any way out of such work, or which may result, directly or indirectly, to persons or property by reason of any such improvement, or by reason of the same not being properly guarded or protected by lights, barriers, or otherwise, so as to prevent injury therefrom.
(Ord. 78-214. Passed 6-6-78.)

901.06 PERMIT AUTHORIZING MANHOLE CONSTRUCTION.

In the event such written application calls for the construction, installation, and maintenance within any portion of any public street, alley or public ground outside the street or vehicular traveled portion thereof, of a manhole connection to any sanitary sewer lateral or main sewer with any house connection, the permit authorized by this chapter to be issued shall authorize the construction and installation of such manhole only at the specific location within the public property and outside the street portion thereof, as may be designated thereon. All such manholes shall be constructed of concrete of a mix provided by the standard specifications for manholes on files in the office of the City Engineer and shall be built in accordance with the requirements of the City as shown upon the drawing thereof.

Every such manhole and appurtenance shall be constructed and maintained subject to the further condition that every such applicant and permittee shall keep and save harmless the City from any and all damages which may arise or grow out of the construction, use and maintenance of such manhole and appurtenances, and shall defend at his or its own cost and expense, every suit which may be brought or prosecuted against the City, for the recovery of any and all damages arising from such construction, use and maintenance. The applicant or permittee upon notice from the City shall forthwith remove such manhole and appurtenances and restore the street, alley or public property to its original condition without cost to the City. All such permits to construct the manholes in such portion of the public property are made with the understanding that the occupancy of such public property by the manhole and appurtenances is permitted merely as an accommodation and that no right, title, or interest of the public is abridged thereby.

Any such manhole constructed or installed contrary to the terms of this chapter shall be subject to the penalties provided by Section 901.99 and such manhole and appurtenance ordered out of the public property at the cost of the person, firm, or corporation making such unauthorized construction.

(Ord. 3623. Passed 7-1-35.)

901.07 CONDITIONS FOR EXCAVATING UNPAVED AREAS.

If any such opening or excavation is to be made in an unpaved street or alley, such applicants shall deposit with the City Manager such sum of money as he may estimate will be required to pay the cost of issuing the permit, the filing thereof and other costs incidental thereto, and the cost of the maintenance of such street or alley at such point after the opening or excavation is backfilled until the same has thoroughly settled. Thereupon, the City Manager or his duly authorized clerk shall issue a permit to the applicant to proceed with such work. Such applicants shall thereupon proceed promptly with the work, keeping the street or alley open no longer than is reasonably required for such purpose, and shall promptly backfill the same in accordance with such rules and regulations relative thereto as may be prescribed

from time to time by the City Manager.

Such applicants shall keep any such opening or excavation at all times properly barricaded and guarded and shall save and protect the City from any or all claims, losses or damages resulting, directly or indirectly, to persons or property from the opening or excavation so made in any such street or alley of the City.

Such applicants shall, after the backfilling of any such opening or excavation in any such unpaved street or alley, cause the same to be maintained free from hillocks or depressions so that the street or alley at such point shall be free from defects as a result of such opening or excavation having been made therein and shall be safe for travel and use by the public, until such time as the backfilling is settled and compacted. In the event of their failure to do so, the City shall cause the same to be done and all the costs and expenses thereof charged to such applicants.

(Ord. 1225. Passed 4-12-20.)

901.08 CONDITIONS FOR EXCAVATING PAVED AREAS.

A person applying for a permit to make an opening or excavation in a public street or alley shall pay a permit fee and a deterioration fee to the City to provide for the cost of restoring and maintaining the street or alley, including the cost of issuing a permit, inspecting the restoration work, and providing the required labor and materials to repair and maintain the street or alley.

The permit and deterioration fees paid by an applicant are as follows:

(a) Permit Fee.

<u>Excavated Area (square yards)</u>	<u>Fee</u>
under 2	\$ 20.00
2 to 4.99	25.00
5 to 9.99	35.00
10 to 19.99	50.00
20 to 29.99	70.00
30 to 39.99	90.00
40 to 49.99	100.00
50 and over	100.00 plus \$1.00 per square yard.

(b) Deterioration Fee.

<u>Years of age of the pavement in which the opening or excavation is made, such years beginning with January 1 of the year following the year in which the pavement was installed or last reconstructed or resurfaced, whichever is later</u>	<u>Fixed fee per square yard of repavement of the street or alley excavation provided for in the permit</u>
0 through 3 years	\$25.00 per square yard for permits issued prior to January 1, 1988, and \$50.00 per square yard for permits issued on or after January 1, 1988.
3 years and one day through 6 years	\$12.50 per square yard for permits issued prior to January 1, 1988, and \$25.00

6 years and one day through 10 years	per square yard for permits issued on or after January 1, 1988. \$7.50 per square yard for permits issued prior to January 1, 1988, and \$10.00 per square yard for permits issued on or after January 1, 1988.
Over 10 years	\$5.00 per square yard

- (c) Restoration Deposit. In addition, an applicant shall deposit with the City a sum of money sufficient to restore the street or alley as nearly as is reasonably possible to a condition as good or better as existed prior to the opening or excavation of the street or alley. The City Engineer shall determine the amount of the deposit on the basis of the applicable unit prices included in the City's current service cut replacement contract. The City shall return the full amount of the deposit to the applicant if the street or alley is restored to the City's satisfaction by the applicant; otherwise, the City shall use all or any portion of the amount deposited to restore the street or alley. The City shall return to the applicant any portion of the amount deposited with the City and not used by the City in restoring the street or alley. The applicant shall pay to the City in addition to the amount deposited with the City any additional amount expended by the City in restoring the street or alley.

Upon payment of the required fees and deposit of the necessary moneys, the City Manager, or his duly authorized Clerk, shall issue a permit to the applicants to proceed with such work. Such applicants shall thereupon proceed with such work and keep such street or alley open no longer than is reasonably required for such purpose, and shall promptly refill same with good clean gravel, as hereinafter provided.

Such applicant shall refill such opening or excavation in accordance with the specifications and regulations for the repair of street openings and excavations on file in the office of the City Engineer.

(Ord. 97-217. Passed 5-27-97.)

901.09 REPEALED BY ORDINANCE NO. 98-43, PASSED FEBRUARY 24, 1998.

901.10 ESTIMATED COST SCHEDULES; FUND.

The City Manager shall from time to time prepare and place on file in his office and in the office of the Service Department, schedules of the estimated costs relating to such openings or excavations to be made in unpaved streets or alleys under Section 901.07, and of such openings or excavations to be made in paved streets or alleys as provided in Section 901.08. The deposits herein required to be made shall be based upon such schedules, provided that the City Manager may in any instance make special estimates for work or materials or costs not covered by his general schedules.

All money received under the provisions of this chapter shall be deposited with the Director of Finance and shall be placed to the credit of the fund to be known as the Special Street Opening and Repair Fund. If any such deposit shall not prove sufficient to pay the cost and expense of the labor and materials and other items required, the applicants shall be chargeable with such deficiency and shall upon demand pay the same to the City Manager.
(Ord. 1225. Passed 4-12-20.)

901.11 PERMIT SPECIFYING TIME OF OPERATION.

The permits so issued shall designate the time when such work shall commence. Such work shall be commenced at the time designated, and completed within a reasonable time thereafter. Otherwise, the permit therefor shall become void; provided that the time for commencing such work may be changed or extended by the City Manager after such default in which case such permit shall continue in force.
(Ord. 1225. Passed 4-12-20.)

901.12 APPLICATION TO REFILL AND RESTORE; LIABILITY.

When any such opening or excavation in any paved street or alley is ready for refilling, or such pavement or street surface is ready for relaying, repaving or resurfacing, written notice thereof shall be given by the person performing such work to the City Manager, who shall take charge of the work and proceed to refill such opening or excavation and to restore the pavement and street surface to its original condition. Such applicants and all others upon whose behalf such application was made, shall be liable to the City for any claim, loss or damage which may result, directly or indirectly, to persons or property by reason of any such opening or excavation being made or pavement removed, or by reason of the same being not properly guarded or protected by lights, barriers or otherwise, so as to prevent injury therefrom. Such liability shall continue until the person performing such work has received written notice from the City Manager that the City has taken over such work.
(Ord. 1225. Passed 4-12-20.)

901.13 EXCEPTIONS.

The provisions of this chapter shall not apply to any person doing work under contract with the City, including the construction of water and sewer lines which shall, upon completion, become the property of the City. The provisions shall also not apply to any person to whom a permit has been issued to do work authorized by Chapter 903 of the Codified Ordinance.
(Ord. 87-338. Passed 6-9-87.)

901.99 PENALTY.

Whoever makes any opening, or excavation in any street or alley, or removes any pavement therefrom, without first having complied with the provisions of this chapter, is guilty of a minor misdemeanor.
(Ord. 1225. Passed 4-12-20.)