

CODIFIED ORDINANCES OF NUTTER FORT
PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

CHAPTER ONE - Streets and Sidewalk Areas
Art. 905. Sidewalks and Curbs.
Art. 909. Abandonment of Streets, Alleys or Public Ways.
Art. 911. Excavations.

ARTICLE 905
Sidewalks and Curbs

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CROSS REFERENCES

General powers relative to sidewalks, curbs - see W.Va.
Code 8-12-5(1) et seq.
Low cost improvements - see W.Va. Code Art. 8-17
Sidewalk assessments - see W.Va. Code Art. 8-18

905.01 MAINTENANCE OF SIDEWALKS.

All sidewalks shall be kept clean and in good order by the owner or occupant of the real property abutting thereon and whenever in the opinion of the Council any sidewalk or sidewalks need cleaning, Council shall give the owner or occupant of the abutting real property at least forty-eight hours' notice requiring such sidewalk to be cleaned, and if the owner or occupant of the abutting real property shall fail or refuse to clean such sidewalk in the manner prescribed in such notice and within the time required by the notice, the same may be done by the City and the cost and expense thereof shall be assessed by Council against such owner or occupant of the abutting real property and may be collected in the same manner as fines and taxes are collected or by an action at law in the name of the City against such owner or occupant for the amount expended by the City in cleaning the sidewalk. All owners or occupants of property abutting a sidewalk must clean sidewalk twenty-four hours after a snowfall, if they fail to do so, the same may be done by the City and cost be assessed against owner or occupant.
(Passed 1-9-68)

905.02 ORDER TO CONSTRUCT SIDEWALK; CURB.

Whenever Council, pursuant to the authority granted by State law, shall require the owner or occupant of the real property abutting on any sidewalk to curb, recurb, pave, repave, repair or construct such sidewalk or curb, it shall cause an order to be entered in its minutes and a copy thereof to be served upon such owner or occupant of such abutting property, requiring him to curb, recurb, pave, repave, repair or construct, as the case may be, such sidewalk and curb in the manner and form prescribed in this article within thirty days from the service of the copy of such order. Such order of Council shall, in conformity with the provisions of this article, designate the kind of material to be used, the dimensions, grade line and location of such sidewalk and curb affected.

(1978 Code Sec. 17-2.)

905.03 CONSTRUCTION BY CITY.

Whenever the owner or occupant of the real property abutting on any sidewalk shall fail or refuse to curb, recurb, pave, repave, repair or construct the same and all necessary curbing adjacent thereto in the manner and in the time required by Council, it shall be the duty of Council to cause such sidewalk to be paved, repaved, repaired and constructed and necessary curbing or recurbing done upon the most reasonable terms, and shall cause an itemized statement of the expense thereof to be entered in the minutes of Council; and Council shall assess the amount of such expense and cost against the owner or occupant of the real property abutting such sidewalk and shall certify such assessment to the Recorder for collection and require the same to be collected by the Recorder in like manner as fines and taxes are collected. A copy of such order shall be certified by the Recorder to the Clerk of the County Court. The expense and cost incurred in the paving, repaving, repair or construction of such sidewalk, or the curbing or recurbing adjacent thereto shall constitute a lien upon the abutting property. The City may, at its election, sue such owner or occupant of such abutting real property at law for the amount due for such construction or repair of the sidewalk and curbing, or may institute a suit in chancery to enforce the lien created by the paving, repaving, repair or construction of such sidewalk and curbing or recurbing adjacent thereto against such abutting real property in the same manner prescribed by law for the enforcement of liens for State taxes.

(1978 Code Sec. 17-3.)

905.04 COSTS.

All sidewalks shall be curbed, recurbed, paved, repaved, repaired and constructed by the owner or occupant of the real property abutting thereon at the cost and expense of such owner or occupant of the abutting real property. (1978 Code Sec. 17-4.)

905.05 STANDARDS.

(a) All sidewalks shall be constructed of good concrete, with a proper rock or stone base, and shall be constructed by capable workmen according to modern and improved methods of engineering and construction. All curbs shall be constructed of good concrete by capable workmen according to modern and improved methods of engineering and construction. Sidewalks shall be not less than three feet in width.

(b) All sidewalks and curbs shall be of uniform grade with the street or alley abutting thereon, which such grade, if not already established, shall be so established by proper order of Council prior to construction of any sidewalk or curb abutting thereon.

- (c) All sidewalks shall be constructed one foot distant from the abutting property line and parallel thereto where possible.
(1978 Code Sec. 17-5 to 17-7.)

905.06 PERMITS.

- (a) Any person desiring to curb, re-curb, pave, repave, repair or construct any sidewalk within the limits of the City shall secure a permit to do so from Council before commencing such work and it shall be unlawful to commence or proceed with such work unless such permit shall first be obtained.
- (b) Any person desiring to secure such a permit from Council shall make application in writing to Council. Such application shall contain the following information: Name of abutting property owner or occupant, location of sidewalk, length of sidewalk, material of which it is to be constructed, estimated cost to complete, whether or not grade and street line has been obtained from Council, amount of grading or excavating necessary to conform to proper street grade, estimated cost of necessary grading or excavating, and depth of concrete and rock or stone base.
- (c) No such permit shall be granted until the application is passed upon by Council in regular session. No permit shall be issued for the construction or repair of any sidewalk or curb which would violate any of the terms and provisions of any of the sections of this article.
- (d) Each and every permit issued under the provisions of this article shall be subject to revocation by Council whenever it appears that the work for which the permit has been issued is being conducted to violate any of the terms of this article or any law relating to the same subject matter. The revocation of the permit in every instance shall be in writing and shall be served upon the abutting property owner or occupant, or the person who has charge of the work, and from and after such revocation of such permit and the serving of such notice, all labor shall be discontinued on the sidewalk for which such permit was granted.
(1978 Code Secs. 17-8 to 17-11)

905.07 DUTIES OF STREET AND WATER COMMISSIONER.

The Street and Water Commissioner whenever he observes a sidewalk or curb in the process of construction or repair shall ascertain if a permit to do so has been procured, and, if none has been procured, shall require a cessation of the work thereon and immediately report the same to Council, and, if required by Council, immediately cause a prosecution to be instituted for violation of this article. It shall also be his duty to inspect all sidewalks and curbs for which a permit has been issued during the continuation of work thereon, to see that the terms and provisions of this article are complied with, and whenever in his opinion the work thereon is being conducted so as to violate any of the terms of this article or any law relating to the same subject matter, he shall submit his findings to Council for such action as it may deem advisable under the terms and provisions of this article.
(1978 Code Sec. 17-12.)

905.08 STREET OBSTRUCTIONS.

(a) "Street" as used in this section means any public thoroughfare, paved or unpaved, within the City upon which vehicular traffic may move and is intended to move, including alleys.

(b) In the event that travel in and upon the City streets is obstructed, impeded, hindered, interfered with, or otherwise rendered unsafe in the manner provided herein, notice shall be given to the offending person of such violation, and it shall be the duty of such person to forthwith remove or otherwise do away with such obstruction, impediment, hindrance, interference, or unsafe condition; and if such person shall fail or refuse to do so, the City shall have the right to have such obstruction, impediment, hindrance, interference, or other unsafe condition removed or otherwise done away with, and to charge to and collect from such person the cost thereof.

(c) No person shall plant, grow, maintain, suffer, or permit to remain within the City any tree, bush, shrub, vine, or other growing matter which obstructs, impedes, hinders, interferes with, or otherwise renders unsafe travel in and upon the City streets.

(Passed. 9-13-72)

905.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty.)