

**ARTICLE 911**  
**Excavations**

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**CROSS REFERENCES**

Power to regulate street excavations – See WV Code 8-12-5(2)  
Street obstructions – See TRAF. 311.01

**911.01 PERMIT.**

No person shall cut or otherwise damage, excavate, occupy or obstruct in any manner, any street, sidewalk or public place within the Town/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.

**911.02 APPLICATION FOR PERMIT.**

Any person desiring to cut, open, obstruct, occupy or excavate any street, sidewalk or public place, whether paved or unpaved, in the Town/City, for any purpose, shall apply to the Town/City for a permit to do so. The application shall be in form as prescribed by the Town/City and shall contain such pertinent information as may be required, 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, and 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.

**911.03 GRANTING OF PERMIT; CASH DEPOSIT OR BOND.**

- (a) No excavation permit shall be granted unless it appears to the satisfaction of the Maintenance Supervisor 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 (a).

- (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 Town/City in such amount as may be deemed by the Maintenance Supervisor 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 Town/City, shall have corporate surety, shall be approved by the Town/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 Maintenance Supervisor, 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 restoration by the Maintenance Supervisor shall be subject to repair by the Town/City at the expense of the permit holder.

**911.04 MANNER OF WORK; 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 Town/City.

**911.05 SAFEGUARDS; 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.

**911.06 BRIDGES OVER EXCAVATIONS IN ROADWAYS.**

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.

**911.07 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.

**911.08 HANDLING OF DIRT FROM EXCAVATIONS.**

Each person engaged in excavating or having charge or control of 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, either 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.

**911.09 RAILROADS AND PUBLIC UTILITIES.**

Nothing contained in this article shall be construed to prevent Council from entering into agreements with railroad and public utility companies which may exclude therefrom, or grant them deviations from, the provisions of this article when, in the judgment of Council, it is in the public interest to do so and the health, safety and welfare of the inhabitants of the Town/City will be adequately safeguarded.

**911.10 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 Maintenance Supervisor a permit to do so issued by competent authority of the State.

**911.11 NONLIABILITY OF CITY.**

No permit issued, inspection made or approval given by the Maintenance Supervisor, his agents or employees pursuant to this article shall be construed as imposing any liability whatever upon the Town/City for injury to any person or damages 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.

**911.99 PENALTY.**

(EDITOR'S NOTE: See Section 101.99 for general Codified Ordinances penalty.)  
(Passed 10-10-06)