

## CHAPTER 91: STREETS AND SIDEWALKS

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***Cross-reference:***

*Street specifications in subdivisions, see §§ 156.15 et seq.*

**GENERAL PROVISIONS****§ 91.01 ERECTION OF SIGNS, AWNINGS NEAR RIGHT-OF-WAY LINE OF CITY STREETS.**

It shall be unlawful for any person to erect or cause to be erected any sign or awning near enough to the right-of-way line of any street or road in the corporate limits which may interfere with the vision of the traveling or motoring public unless the sign or awning shall be suspended from a building and not supported by any posts whatever and the lower part of the sign or awning where it extends over or across the sidewalk shall be at least seven feet above the ground level of the sidewalks. It shall be the duty of the Chief of Police to make inspection of all or any sign or awnings over any sidewalks, near any right-of-way line in the corporate city limits or other public place and if there has been a violation of this section, the Chief of Police shall notify the owner or occupant of the property and the owner or occupant shall have a period of 30 days to correct the existing defect and if the defect is not corrected within the 30-day period of time then each day of violation thereof shall constitute a separate offense.

(Ord. passed 7-3-67) Penalty, see § 91.99

**EXCAVATIONS AND CONSTRUCTION****§ 91.15 PERMIT REQUIRED.**

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the city without having obtained a permit or without compliance with this provisions of this chapter or in violation of or at variance with the terms and provisions of any permit issued pursuant hereto.

(Ord. passed 12-4-78) Penalty, see § 91.99

**§ 91.16 APPLICATION.**

Applications for the permits shall be made to the Zoning Administrator and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, the person, firm or corporation doing the actual work and shall contain a provision that the applicant, his agents or employees shall comply with all ordinances and laws relating to the work to be done.  
(Ord. passed 12-4-78)

**§ 91.17 PERMIT FEE.**

The fee for the permit shall be \$25 for any excavation to be conducted within the right-of-way of any street within the corporate limits of the city. There shall be no fee charge for excavation to be conducted in private properties upon which the city maintains as easement for utilities.  
(Ord. passed 12-4-78) Penalty, see § 91.99

**§ 91.18 BOND REQUIREMENTS.**

No permit shall be issued for the excavation within any street or right-of-way thereof until the applicant therefore has filed with the Zoning Administrator a bond in the sum of \$15,000 conditioned to indemnify the city for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of grading or constructing any tunnel or excavation. Any bond shall have a good and adequate surety and the city may require a corporate surety bond on any bond filed pursuant hereto. No bond shall be required for excavation on private property upon which the city has a utility easement.  
(Ord. passed 12-4-78) Penalty, see § 91.99

**§ 91.19 INSPECTION OF SITE BY MAINTENANCE SUPERINTENDENT.**

No excavation shall be done on any private property upon which the city has a utility easement unless and until the person desiring to do the excavation shall have notified the Zoning Administrator of the proposed excavation and thereupon the Maintenance Superintendent shall inspect the site at which the excavation is to be conducted to ascertain if the work proposed shall interfere with or disturb any utilities located at the location.  
(Ord. passed 12-4-78) Penalty, see § 91.99

**§ 91.20 CASH DEPOSIT TO COVER COST OF RESTORATION.**

The city may require a cash deposit to be made with the Zoning Administrator for any application for a permit to do any excavation of a paved area to insure the proper restoration of the ground and laying of pavement, if any. From any deposit required and made, the city shall deduct the expense

to the city of relaying the surface of the ground or pavement and of making any refill if this is done by the city and at the city's expense. The balance, if any, shall be returned to the applicant without interest upon completion of the restoration.

(Ord. passed 12-4-78)

#### **§ 91.21 COMPLIANCE WITH PERMIT REQUIRED; NOTIFICATION OF POSSIBLE DAMAGE TO UTILITY PIPES, LINES.**

It shall be unlawful to make any excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper care shall be used to prevent the collapse of any adjoining ground. No injury or damage shall be done to any pipes, cables or conduits in making any excavation in the city and notice shall be given to the Zoning Administrator if any excavation being conducted may endanger or affect any pipes, cables or conduits within the area of excavation.

(Ord. passed 12-4-78) Penalty, see § 91.99

#### **§ 91.22 INSPECTION AND ENFORCEMENT BY MAINTENANCE FOREMAN.**

The City Maintenance Foreman shall from time to time inspect or cause to be inspected, all excavations being made in or under any public street or other public area or upon any private property upon which the city has a utility easement and shall see to the enforcement of the provisions of this chapter.

(Ord. passed 12-4-78)

#### **§ 91.23 BARRIERS AROUND EXCAVATIONS.**

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 91.99

#### **§ 91.24 WARNING LIGHTS.**

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 91.99

**§ 91.25 SIDEWALK CONSTRUCTION.**

It shall be the duty of the authorized city official to supervise construction or repair of sidewalks within the city. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the legislative body for approval. When the specifications are approved, the legislative body shall advertise for proposals to do all the work which may be ordered by the city in construction and repair of sidewalks, and shall authorize the Mayor to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall for the faithful performance of the work. The Mayor, if authorized by City Council, may make separate contracts for the different kinds of work with different parties.

***Statutory reference:***

*Sidewalks; construction along public roads; specifications, see KRS 178.290*

*Sidewalks; ramps for wheelchairs, see KRS 66.660*

**ROAD AND BRIDGE PROJECTS****§ 91.35 PUBLIC MEETING REQUIRED.**

Before the city expends state-derived tax revenues on a municipal highway, road, street, or bridge it shall provide an opportunity to the public to provide input in a public meeting for which notice has been given under KRS 61.823(2) to (4) with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(KRS 174.100)

**§ 91.36 NOTICE REQUIREMENTS; PUBLIC MAY SPEAK.**

Prior to the contemplated date of expenditure of state derived tax revenues on a road or bridge by the city, the city shall include the topic as a specific item on the public meeting agenda and shall allow any person to speak with regard to any proposed project, any project which he or she feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(KRS 174.100(1))

**§ 91.37 COMMENTS AND INPUT.**

The city shall not be bound by the comments and input provided at the meeting but shall give due consideration to them.

(KRS 174.100(2))

**§ 91.38 MEETING TO BE HELD PRIOR TO CONSTRUCTION.**

The city shall not begin construction on a road or bridge project wherein state-derived tax revenues are involved until the meeting as provided herein has been held.

(KRS 174.100(3))

**§ 91.39 SEPARATE MEETING FOR EACH PROJECT NOT REQUIRED.**

This subchapter shall not be construed to require a separate meeting for each project. A single meeting encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the meeting, shall meet the requirements of this subchapter.

(KRS 174.100(4))

**§ 91.40 EXEMPTIONS FROM MEETING REQUIREMENT.**

The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(KRS 174.100(5))

***OBSTRUCTIONS*****§ 91.50 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 91.99

**§ 91.51 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 91.99

**§ 91.52 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 91.99

***Cross-reference:***

*Littering on streets or sidewalks, see Ch. 94*

**§ 91.53 REMOVAL OF ICE AND SNOW.**

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

Penalty, see § 91.99

**§ 91.54 EXHIBITION OF MERCHANDISE ON SIDEWALK.**

It shall be unlawful for any person, firm, company or corporation to use the sidewalk for the purpose of exhibiting any wares or merchandise of any character of any kind or to place or pile or set merchandise on the sidewalks or to block the passage of the public along the sidewalks.

(Ord. passed 12-8-45) Penalty, see § 91.99

***STATE OR FEDERAL MAINTAINED HIGHWAYS*****§ 91.65 MAINTENANCE AGREEMENTS.**

Whenever the Commissioner of Highways of the Commonwealth of Kentucky, by authority of KRS 177.042 and 177.043 shall designate 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 the streets, bridges or viaducts in the manner provided by the aforesaid statutes, the Mayor of the city 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. passed - -60)

**§ 91.99 PENALTY AND ENFORCEMENT.**

(A) Any violation of this chapter may be enforced by the Benton City Police Department or Marshall County Sheriff’s Department as a misdemeanor through District Court unless a stronger penalty is allowed by the KRS.

(B) As an alternative to enforcement through District Court, any violation of this chapter shall constitute a civil offense pursuant to KRS 65.8808(1) unless otherwise prohibited by KRS 65.8808(3) and enforced by Benton’s Code Enforcement Board under Chapter 41 of the Benton Code of Ordinances with the amount of the penalties being as follows:

<i>Violation</i>	<i>Amount</i>
91.15 - Street excavation permit required	\$500
Any offense of the chapter not otherwise specifically addressed	\$100

(C) In the event a violation is enforced as a civil penalty then the same violation shall not be enforced as a criminal penalty.

(D) The city may abate the nuisance and bring the property in compliance with the provisions of this chapter. In addition to any penalties or fines for violating the provisions of this chapter, the city may charge the violator, or owner of the property where the violation occurred, with the reasonable cost of abatement. Abatement cost shall be the cost incurred for the abatement. All abatement cost can be taxed to the violator/owner and if not paid within 30 days after notice of the abatement cost incurred, a lien may be placed on the violator’s/owner’s property for the unpaid abatement cost.

(E) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.  
(Am. Ord. 23-03-03, passed 3-20-23)