

CHAPTER SIX

PUBLIC STREETS, THOROUGHFARES, AND SEWERS

ARTICLE ONE

IN GENERAL

6-101. Obstructions on streets and thoroughfares; penalties.

If any person shall dig into, or fence, or obstruct, or cause to be obstructed, any street, alley, sidewalk, crossing, gutter, drain or highway within said town without special permission of council, except in cases of emergencies by special permission of the Mayor, or by permission of the Street Commissioner for the purpose of making connection with a sewer as provided by Section 2-712 of this code, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars. Every day said obstruction shall be suffered to remain by said person creating the same, or by the parent or guardian of any such minor child after such parent or guardian shall have been notified thereof, shall constitute a separate offense and a further fine of not more than one hundred dollars may be imposed for each and every separate offense; provided, that any person loading or unloading any goods, wares, merchandise, provisions, produce or fuel shall have reasonable time to remove the unavoidable obstructions occasioned thereby. (See West Virginia Code §8-12-5(1), (2), (3))

6-102. Removal of obstructions by the town. The Street Commissioner is hereby authorized where any such obstructions exist to have the same removed, either by filling up, unfencing, or clearing away as the nature of the obstruction may require, and for this purpose may employ such aid as may be reasonable, at the expense of the town; and the person causing any of the obstructions by this code prohibited, or willfully permitting them to remain longer than a reasonable time when the same have been caused by any minor aforesaid, after notice of the same, shall be liable to pay the town such sum as it shall have paid, or become liable to pay, for the removal of such obstruction.

6-103. Cuts and excavations for utilities. Any person or incorporated company, having first obtained permission therefor from the council, or as otherwise provided by Section 6-101 of this article, may make cuts and excavations in any public street, alley, or road of the town, for the purpose of laying gas, water mains, or sewers, or for the purpose of repairing the

same; but such cuts and excavations shall be filled and repaired by said person or company and any street, gutter or sidewalk injured by such work and not repaired within a reasonable time shall be repaired by the town under the direction and supervision of the Street Commissioner, or such other person appointed therefor by the council, and the costs of filling such cuts and excavations and making such repairs shall be assessed against the person or corporation or company making such cuts, excavations, or repairs. Any person or incorporated company failing or neglecting to comply with any provision of this section shall be fined, upon conviction thereof, not more than one hundred dollars.

6-104. Putrid substances left in streets or streams, penalties. No person shall cast or leave exposed in any street, alley, lot, common, or on the bank of any stream, or into the river or any creek or drain, within the corporate limits of the town, the dead carcass of any animal or any putrid or unsound beef, pork, or fish, or any other putrid or unsound substance that may become prejudicial to the public health or comfort. For every such offense, the offender, upon conviction thereof, shall be fined not to exceed five hundred dollars.

6-105. Littering, penalties. If any person shall cast, place, deposit, dump or throw, or cause to be cast, placed, deposited, dumped or thrown, any earth, brick, stone, manure, filth, ashes, lime, mortar, shavings, junk, paper, rubbish, or any other thing offensive in nature, or which may dangerously affect the health or safety of the public, on any square, street, alley, or road, or shall permit the same to remain upon his own premises after having been notified by the Mayor, Chief of Police, or Street Commissioner to remove the same, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars, and such nuisance may be abated at the expense of the person creating the same.
(See West Virginia Code §20-7-26, Section amended 1989)

6-106. Vehicles blocking thoroughfares; penalties. If any person shall intentionally stop any horse, wagon, cart, dray, carriage, or any vehicle, motor driven or otherwise, on any street, road, alley, public ground, sidewalk or crosswalk within the town, or suffer the same to remain thereon when not in use, and shall thereby obstruct the free passage of pedestrians or any vehicular traffic, he shall be guilty of a misdemeanor and shall, upon conviction, pay a fine of not more than one hundred dollars for each offense, and each day such obstruction shall remain thereon shall constitute a separate offense.

6-107. Erecting posts on thoroughfares. If any person erect upon any of the streets, alleys, gutters, or sidewalks of said town a horse-rack, hitching post, sign or sign post, or anything of the kind for the purpose named or for any other purpose, without the consent of the council, he shall be fined not to exceed one hundred dollars.

6-108. Abandoned or junked motor vehicles, penalties. No person shall, within the corporate limits of the Town of Sutton, abandon any motor vehicle or place or deposit any junked motor vehicle or any major part thereof upon the right-of-way of any road, street, alley, or sidewalk, or upon any other public property, or upon any private property which he does not own, lease, rent, or otherwise control unless it be at a licensed salvage yard or at the business establishment of a demolisher. When and if the council has determined that such vehicle has been so abandoned and desires the same to be removed from the place where found, the council shall give notice in writing to the owner of such vehicle to remove the same from such place within ten days after and upon receipt of such notice, and upon failure to do so, council may order such vehicle removed at the expense of the owner thereof, and in addition thereto such owner shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one hundred dollars.

ARTICLE TWO

ROADS, STREETS, AND ALLEYS

6-201. Street names. The streets and alleys of the town shall be known by the names by which they are now designated on the plans and plats of the town, until the same shall be changed by ordinance.

(See West Virginia Code §8-12-5(4), (5), (6))

6-202. Water in the streets. No person shall be permitted to turn water or to knowingly allow water to flow directly into any street or alley of said town in such quantity or in such manner that it shall become a nuisance; on conviction of every such offense said person shall be fined not more than one hundred dollars and costs; and every day such nuisance is continued shall constitute a separate offense.

6-203. Merchandise in street. No person shall set or place any goods, wares, merchandise or other thing, by way of exposing the same for sale, in any street or alley or on the sidewalk of any such street or alley without special permission from the council, and in no case shall such goods or wares be placed so as to project more than thirty inches from the property line into the street. If any person shall violate the provisions of this section, he shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars.

6-204. Building materials set on street. It shall be lawful for any person in building or repairing any business or residential building to occupy as much space of any sidewalk, street, or alley adjacent to said building as is reasonably necessary, but in no case more than is authorized by the building or improvement permit, with the materials necessarily used in making such building or repairs or for the safety of the public, for such time as is specified in said permit. If any person so occupy said area for a longer time he shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one hundred dollars for every day such occupancy shall continue; provided, however, that if the council shall deem it expedient it may grant a longer time for the use of the part of the sidewalk, street, or alley as aforesaid.

6-205. Loaded wagons to be secured. The owner of every cart, wagon, carriage, or vehicle, motor driven or otherwise, employed in carrying or removing any sand, dirt, gravel, loam, filth,

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earth, manure, stone, brick, mortar, or coal or any other substance over any of the streets, roads, alleys of the town shall have and keep the same in such tight and secure condition that the material or thing being carried shall not be scattered or suffered to fall on any of the streets, roads, or alleys of the town. Any person violating the provisions of this section shall, upon conviction, be fined not more than one hundred dollars for every such offense.

6-206. Damage to street. If any person drive any vehicle, motor driven or otherwise, or drag logs, heavy timber, or any other thing upon or over any of the roads, streets, or alleys of the town which, because of the nature thereof, is likely to damage such roads, streets, or alleys, he shall be fined not more than one hundred dollars.

6-207. Street paving. Upon the petition, in writing, of the persons owning the greater amount of frontage of the lots abutting on both sides of any street or alley, between any two cross streets or between a cross street and an alley, the council, by a lawful majority thereof, may order such part of any street or alley to be paved or repaved between the sidewalks with concrete, brick, Belgian blocks, asphaltum, or any other suitable material, from one of such cross streets to the other, under such regulations as may be fixed by order duly passed by the council. In the event that a foreign railway or other foreign corporation is the owner of property abutting upon such street or alley, notice shall be given to such corporation in manner provided by the statutes of the State of West Virginia before the enactment of any order or resolution relating to such work or improvement or declaring the necessity or purpose thereof, which said notice shall set forth substantially the nature of the work to be proposed, the extent thereof, its location, and the manner of paying for the same, and no order or resolution shall be binding upon any such railway or other foreign corporation unless such notice shall have been so given. Two-thirds of the cost of such paving or repaving shall be assessed to the owners of the lots or fractional parts of lots abutting on the part of the street or alley so paved, and the remaining one-third of the cost of such paving or repaving shall be paid by the town. In making such assessments, the basis shall be said two-thirds cost of paving or repaving that part of the street or alley on which the property lies included between the adjoining cross streets or alleys; and the proportion of said basis to be assessed against the owner of each such lot or fractional part of a lot shall be the proportion which the frontage of such lot or part of a lot bears to the whole length

of paving or repaving such street or alley between such cross streets or alleys aforesaid.

6-208. Violations and penalties. Any person violating any of the provisions and sections of this article for which a penalty is not provided therein shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars for each such offense.

6-209. Closure or abandonment or unused streets or alleys. The town council is hereby authorized to close, abandon or surrender to the adjacent property owners any real estate previously designated for use as a road, street or alley within the town and not then being used as such according to the terms of the ordinance passed by the council April 10, 1986, designed and intended to empower the council to perform the said function. (Section Added 1989)

ARTICLE THREE

SIDEWALKS, WALKWAYS, AND GUTTERS; VIOLATIONS AND PENALTIES

6-301. Property owner to keep sidewalk clean. It shall be the duty of the owner of any sidewalk or gutter in the town, or of the owner or occupant of the real property next adjacent thereto, to keep the same clean and free from obstruction; and upon receiving notice from the street Commissioner to do so, such owner or occupant shall, within twenty-four hours thereafter, remove any and every such obstruction mentioned in preceding sections of this code as may be found lying between the center of the street or alley and the front line of such real property; and if the owner of such real property shall not be a resident of the town, such notice may be given to the agent of such owner or the occupant of said real property.

If, upon receiving the said notice, such owner or occupier shall not, within twenty-four hours thereafter, remove or cause to be removed every such obstruction therein required, it shall be the duty of the council to take proper legal action to cause said property owner to remove such obstruction.
(See West Virginia Code §8-12-4(4), (5))

6-302. Enclosing sidewalk for building or repairs. It shall be lawful for any person employed in building or repairing any residential or business building to enclose the front part hereof, provided the enclosure does not project more than four feet on the foot way, or remain longer than the time specified on the building or improvement permit authorized by council. Any person offending against the provisions of this section shall be fined not more than one hundred dollars.

6-303. Measurements of sidewalk. The sidewalks on any street or alley shall be of such width as may be prescribed by the council. All curb stones used for securing pavements on the sidewalks shall be at least three feet long, at least five inches thick, and at least twenty inches deep, unless for good and sufficient reasons the council shall otherwise order at the time, and the said curb stones shall be so set as to show at least six inches above the ground on the side next to the street or alley; but in all cases where practicable, a properly constructed concrete curb may be used with the consent of council.

6-304. Materials to be used for sidewalk. The pavements of the sidewalks shall be of a uniform grade with the street or alley,

and shall rise from the curbstone or water table at an angle of one-quarter inch in every foot in width thereof. They shall be constructed of good hard brick, well fitted, or of concrete, and shall be of the full width of the sidewalk unless otherwise permitted by council.

6-305. Paving sidewalks, records to be kept. Whenever the council shall require the owner of any sidewalk, or the owner or occupier of any real property next adjacent thereto, to pave such sidewalk, the council shall cause an order to be entered in the minute book and a copy thereof served upon such owner or his agent or the occupant of such property, requiring him to pave the sidewalk in the manner prescribed by this code within twenty days after the service of such copy.

6-306. Assessment for paving. Whenever the owner of any sidewalk, or of the real property next adjacent thereto, shall fail or refuse to pave the same in front of said property in the manner and within the time required by the council, it shall be the duty of the Street Commissioner to cause the said sidewalk to be paved upon the most reasonable terms and to furnish and file with the Recorder of the town a correct account containing a statement of the expenses incurred. Thereupon it shall be the duty of the council to assess the amount of such expense upon the owner or occupant of such property, and require the same to be collected by the Chief of Police in the manner required by law for the collection of town taxes, or the same may be collected by a civil proceedings against the owner of such property.

6-307. Repair of sidewalks. Whenever in the opinion of the council the pavement of any sidewalk shall need any necessary repairs, the council shall give at least fifteen days notice to the owner of the real property next adjacent thereto or to his agent to make or cause to be made such repairs, and if the said owner or his agent shall not make the required repairs within the time limited in said notice, it shall be the duty of the council to take proper legal action to cause said property owner to make such repairs.

6-308. Cleaning of sidewalks. Whenever in the opinion of the council, or of the Mayor or Street Commissioner, the pavement of any sidewalk shall need cleaning, the said commissioner shall give to the owner or occupant of the real property next adjacent thereto at least twenty-four hours notice requiring such sidewalk to be cleaned; and if the owner or occupant of such property shall not clean such pavement within the time

prescribed in said notice, it shall be the duty of the council to take proper legal action to cause said owner to clean said sidewalk; provided that, if the condition of said sidewalk requiring cleaning shall constitute a hazard to the health or safety of the public, the Street Commissioner, on the instruction of the Mayor or council, shall take such immediate action as needed to remove said public hazard.

6-309. Construction of driveways. Any person desiring a driveway across the sidewalk into his premises shall first obtain a permit for such from the council; the application for permit, and the permit if granted, shall specify the location of said driveway in relation to the frontage of the lot where located, the manner and materials for construction of said driveway, and the time during which the sidewalk may be blocked for said construction. Such person shall cause that portion of said driveway which passes over or through the sidewalk to be paved with the same type of paving as the remainder of the sidewalk and shall further, when required by council, replace the curb stone that may be injured or destroyed by the use or construction of such driveway. If any person shall violate the provisions of this section, he shall, upon conviction, be fined not more than one hundred dollars for each violation.

6-310. Riding or driving on sidewalk. If any person shall ride upon any sidewalk of the town, or shall drive or back any vehicle or wagon upon any sidewalk when the same is liable to damage or injure said sidewalk, without having first fully covered with boards the part of such sidewalk over which he so rides, so drives, or so backs such wagon or vehicle, so as to fully protect the same, he shall be fined, upon conviction, not more than one hundred dollars.

6-311. Planting of trees. No person shall plant any tree at any distance closer than six feet from the nearest right-of-way line of any highway, street, or alley in the town. If any person shall violate the provisions of this section, he shall, upon conviction, be fined not more than one hundred dollars and council shall take such legal action as required to cause such trees to be removed.

6-312. Backing over sidewalks. If any person shall carelessly back any wagon or other vehicle against any sidewalk or curb, or carelessly drive such wagon or other vehicle against the same, so as to injure, break down, destroy or do any damage to the same, he shall be liable for the cost of repair of the same, and

in addition shall be fined not more than one hundred dollars for each separate offense.

6-313. Violations and penalties. Any person violating any of the provisions and sections of this article for which a penalty is not provided therein shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars for each offense.

ARTICLE FOUR

SEWERS

6-401. When sanitary sewage disposal facilities are required. Any building or structure wherein people live, are employed, or congregate must be equipped with such sanitary facilities for sewage disposal as are prescribed by this article.
(See West Virginia Code §8-12-5(6), (7), (8), (23), (32), (33))

6-402. Responsibility for installation and maintenance of facilities. The owner of any property required by this article to have sanitary facilities for sewage disposal shall be responsible for the proper installation of such facilities. The occupant or person having immediate use and control of such property shall be responsible for maintaining the facilities in a sanitary and usable condition unless by contractual arrangement between the parties the owner expressly agrees to retain such responsibility.

6-403. When a connection to the sanitary sewer is required. Any building or structure within the meaning of Section 6-401 and located on land which abuts upon a street or other public way containing a sanitary sewer must be equipped with sanitary sewage disposal facilities connected to such sanitary sewer.

6-404. When a septic tank is required. Other such buildings and structures within the fire limits but not located on land abutting on a street or other public way containing a sanitary sewer must be equipped with sanitary sewage disposal facilities connected to a septic tank approved by the county health officer.

6-405. Use of other than prescribed facilities prohibited. Where this article requires a particular type of sewage disposal facility the use of any other type, or disposal by any other means, is hereby expressly prohibited unless approved by the county health officer and not inconsistent with the laws of the State of West Virginia.

6-406. Stoppage of sewers. If any person shall willfully stop or obstruct the passage of water or sewage into or through any common sewer or storm drain, he shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars.

6-407. Sewer connections. Every person owning or occupying private property within the town or any other person who shall hereafter make connection for the purpose of drainage with any sewer in or upon any road, street, or alley of the town, or cause the same to be done, shall first apply to the council for a permit and pay the appropriate fee, if any, as determined by proper order of council. Said connection shall be made in the manner approved by, and under the supervision of, the Street Commissioner as authorized by and stated in such permit. If any person shall make or cause to be made such sewer connection except by complying with and in the manner provided by this section, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars for each offense, and each day that such connection is continued shall constitute a separate offense under this section.

6-408. Damage to public sewers, repairs. In the event of damage to any public sewer, or any other condition requiring repairs to be made, the owner or occupant of the real property immediately affected by said damage or repairs shall first notify the council so that inspection of the condition may be made. If said condition shall constitute an emergency, notification may be made to the Mayor or the chairman of the committee of roads, streets and alleys. No repairs or any other action shall be made upon the sewers without prior notification of the council or the appropriate town official. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one hundred dollars.

6-409. Broken lines to be repaired, penalties. No person shall permit or suffer waste water or sewage to escape from a sewer line or septic tank on his premises, whether the same remains on his premises alone or flows onto the property or another or in or onto any public road, street, or alley. When the owner or occupant of such property discovers such situation or is made aware thereof by any citizen or officer of the town, he shall within seventy-two hours of such notification take proper action to correct said offensive condition. If said owner or occupant shall fail to initiate and continue the necessary corrective action, he shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than ten nor more than fifty dollars for each offense; and, after the initial seventy-two hours following notification, each subsequent twenty-four hour period shall constitute a separate offense.

6-410. Violations and penalties. Any person violating any of the provisions and sections of this article for which a penalty is not provided therein shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars for each offense.