

CHAPTER 94: STREETS AND SIDEWALKS

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Vacation or establishment of streets by court, notice and hearings, see R.C. §§ 723.09 et seq.

GENERAL PROVISIONS

§ 94.01 CONDITIONS PRECEDENT TO IMPROVING STREETS.

No department of this municipality shall accept, lay out, open, improve, grade, pave, curb or light any street or other way, unless the street or way has been accepted or opened or otherwise has received the legal status of a public street or way prior to the effective date of this code; or unless the street or way corresponds in location and extent with a street or way shown on a recorded plat which has been legally accepted by the Legislative Authority.

Statutory reference:

Power over streets and sidewalks, see R.C. §§ 715.19, 717.01(P), 723.01, 723.011, 723.02, and 729.01

§ 94.02 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized municipal official or the authorized employees or agents of such municipal official, to make any opening in any street, alley, sidewalk, or public way of the municipality unless a permit to make the opening has been obtained prior to commencement of the work. Penalty, see § 94.99

§ 94.03 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the Mayor or other proper municipal officer. Application shall be made on a form prescribed by the Legislative Authority, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the Mayor or other proper municipal officer, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 94.04 RESTORATION OF PAVEMENT.

(A) The opening and restoration of pavement or other surface shall be performed under the direction and to the satisfaction of an authorized municipal official, and in accordance with rules, regulations, and specifications approved by the Legislative Authority.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the municipality may proceed without notice to make such fill and restoration, and the deposit referred to in § 94.03 shall be deemed forfeited. Thereupon, the deposit shall be paid into the Street Repair Fund of the municipality, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the municipality for restoration services performed by it. If the amount of such services performed by the municipality should exceed the amount of the deposit, the Clerk or other proper municipal officer shall proceed to collect the remainder due from such permittee.

#### § 94.05 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 § 94.99

#### § 94.06 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 shall install and maintain at least two illuminated warning lamps which shall be securely and conspicuously posted on, at, or near each end of such obstruction or excavation, and if the space involved shall exceed 50 feet in extent, then at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 94.99

#### § 94.07 SIDEWALK CONSTRUCTION BY THE MUNICIPALITY.

It shall be the duty of the engineer of the municipality or, if none exist, another authorized municipal official, to supervise construction or repair of sidewalks within the municipality. He or she shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the same to the Legislative Authority for approval. When the specifications are approved, the Legislative Authority shall advertise for proposals to do all the work which may be ordered by the municipality in construction and repair of sidewalks, and shall contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. The Legislative Authority, if it deems advisable, may make separate contracts for the different kinds of work with different parties.

#### *Cross-reference:*

*Legislative Authority; contracts, see §§ 32.025 et seq.*

#### § 94.08 UNLOADING ON STREET OR SIDEWALK.

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

Penalty, see § 94.99

#### § 94.09 STREET OR SIDEWALK OBSTRUCTION.

(A) No person shall obstruct any street, alley, sidewalk, public ground, or other public way within the municipality by erecting thereon any fence, structure or building, or permitting any fence, structure or building to remain thereon unless authorized by the Legislative Authority or other proper municipal official. Each day that any such fence or building is permitted to remain upon such public way shall be deemed a separate offense.

(R.C. § 5589.01)

(B) Whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 5589.99(A))

#### *Cross-reference:*

*Driving upon sidewalk prohibited, see § 72.118*

#### § 94.10 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 the same 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 § 94.99

#### *Cross-reference:*

*Placing injurious materials and litter upon streets or highways prohibited, see § 72.122*

#### § 94.11 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN OF ICE AND SNOW.

No owner or occupant of lots or lands abutting any sidewalk, curb or gutter shall fail to keep the sidewalks, curbs and gutters in repair and free from snow, ice or any nuisance, and to remove from such sidewalks, curbs or gutters all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed 12 hours after any storm during which the snow and ice has accumulated.

(R.C. § 723.011) Penalty, see § 94.99

**§ 94.12 RAMPED CURBING FOR PERSONS WITH DISABILITIES.**

All new curbs that are authorized by the municipality, and all existing curbs which are part of any reconstruction, shall have a ramp with nonslip surface built into the curb at each pedestrian crosswalk so that the sidewalk and street blend to a common level. These ramps shall be not less than 40 inches wide and shall, insofar as feasible, be constructed in accordance with the standard drawings and specifications for curb ramps of the state Department of Transportation. (R.C. § 729.12) Penalty, see § 94.99

**§ 94.13 FLAGPOLE ALONG RIGHT-OF-WAY.**

(A) A property owner in the municipality may install a flagpole between the sidewalk and curb along the right-of-way of any public street or highway adjacent to his or her property. A property owner may also install underground lighting for the display of the flag. Installation of the flagpole and holder shall meet the following specifications:

(1) The flagpole holder shall be embedded in concrete, flush with the sidewalk or sodded area, and possess a cap or cover which shall be used when the holder is not used for the purpose of displaying the American flag;

(2) The holder shall not exceed two inches in diameter and shall be installed not less than one foot from the curb;

(3) Underground lighting for the flagpole shall be situated within a reasonable distance to the holder and meet all underwriters' requirements governing installation. The highest part of the lighting fixture shall at all times be flush with the sidewalk or sodded area in which it is embedded;

(4) At no time shall the flag, flagpole, or holder limit or restrict the view of pedestrian or vehicular traffic, nor shall a flag, flagpole, or holder be installed that comes in physical contact, or is likely to come in physical contact, with overhead wiring.

(B) The municipality may require the issuance of a permit for installation of flagpoles but shall not charge the property owner a permit fee or an inspection fee in excess of \$1 per installation.

(R.C. § 723.012) Penalty, see § 94.99

**§ 94.14 ALTERING OR INJURING MARKER OR MONUMENT.**

(A) No person shall alter, deface, injure or destroy any marker or monument placed along, upon, or near a public highway by the proper authorities to mark the boundary thereof, or for any other purpose.

(R.C. § 5589.02)

(B) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 5589.99(B))

**CONSTRUCTION AND REPAIR****§ 94.25 CONSTRUCTION AND REPAIR MAY BE REQUIRED.**

In addition to the power conferred upon the municipality under R.C. § 727.01 to construct sidewalks, curbs or gutters and levy an assessment therefor, the Legislative Authority may require the construction or repair of sidewalks, curbs or gutters within the municipality by the owners of lots or lands abutting thereon, and upon the failure of such owners to construct or repair such sidewalks, curbs or gutters within the time prescribed in the resolution adopted under § 94.26, may cause such sidewalks, curbs or gutters to be constructed or repaired and assess the total cost thereof against the lots or land abutting thereon, notwithstanding the provisions of R.C. §§ 727.03 and 727.05.

(R.C. § 729.01)

**§ 94.26 RESOLUTION OF NECESSITY.**

(A) When it is deemed necessary by the municipality to require the construction or repair of sidewalks, curbs, or gutters within the municipality by the owners of the lots or lands abutting thereon, the Legislative Authority shall cause plans, specifications, and an estimate of the cost of such construction or repair to be prepared, showing the location and dimensions of such sidewalks, curbs or gutters and the specifications for the construction or repair thereof, and to be filed in the office of the Clerk of the Legislative Authority.

(B) After such plans, specifications and estimate of cost have been filed, as provided in this section, the Legislative Authority may declare the necessity for the construction or repair of such sidewalks, curbs or gutters by the adoption of a resolution which shall:

(1) Approve the plans, specifications and estimate of cost of the proposed construction or repair on file as provided by this section;

(2) Describe the lots and lands abutting upon the sidewalks, curbs or gutters to be constructed or repaired by the termini of the improvement or by the street address;

(3) Set forth that such sidewalks, curbs or gutters shall be constructed or repaired by the owners of the lots or lands abutting thereon in accordance with the specifications on file in the office of the Clerk of the Legislative Authority;

(4) Set forth the time within which such sidewalks, curbs or gutters shall be constructed or repaired by the owners of the lots and lands abutting thereon, which shall not be less than 30 days from the date of service of notice under § 94.27 on the owner of the lots or lands;

(5) State that in the event such sidewalks, curbs or gutters are not constructed or repaired by the owners of the lots and lands abutting thereon in accordance with such plans and specifications and within the time prescribed in this resolution, the municipality will so construct or repair such sidewalks, curbs or gutters and assess the costs thereof against the lots and lands abutting thereon.  
(R.C. § 729.02)

#### § 94.27 NOTICE TO CONSTRUCT OR REPAIR.

Notice of the passage of a resolution of necessity under § 94.26 shall be served by the Clerk of the Legislative Authority, or a person designated by such Clerk, upon the owners of the lots or lands abutting upon the sidewalks, curbs or gutters to be constructed or repaired in the same manner as service of summons in civil cases, or by certified mail addressed to such owner at his or her last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in a newspaper of general circulation within the municipality. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him or her shall be prima facie evidence of the service of notice under this section. The notice shall also set forth the place where the specifications governing the construction or repair of such sidewalks, curbs or gutters are on file, the time within which the owner of such lot or parcel of land may construct or repair the sidewalks, curbs or gutters, and that in the event the owner does not construct or repair the sidewalks, curbs or gutters in accordance with the specifications and within such time, the municipality will construct or repair such sidewalks, curbs or gutters and assess the costs thereof against the lot or land of the owner.  
(R.C. § 729.03)

#### § 94.28 ASSESSMENTS OF COSTS AGAINST OWNER.

(A) Upon the expiration of the time within which sidewalks, curbs or gutters shall be constructed or repaired by the owner of the lots or lands abutting thereon as set forth in the resolution adopted under § 94.26, the sidewalks, curbs or gutters not constructed or repaired by the owners of the lots and lands abutting thereon shall be constructed or repaired by the municipality in accordance with the resolution adopted under § 94.26, and the Legislative Authority shall, upon the completion of such construction or

repair, assess the costs thereof against the lots or lands abutting thereon.

(B) In anticipation of the collection of the costs of construction or repair of such sidewalks, curbs or gutters from the owners of the lots or lands abutting thereon, the Legislative Authority may provide for the issuance of bonds or notes and the proceeds thereof shall be used to pay for the construction or repair of such sidewalks, curbs or gutters.  
(R.C. § 729.04)

#### § 94.29 PROCEEDINGS MAY INCLUDE DIFFERENT OWNERS.

In all proceedings pertaining to the construction or repair of sidewalks, curbs or gutters under this subchapter or R.C. §§ 729.01 through 729.08, sidewalks, curbs or gutters upon different streets abutting upon lots or lands owned by different owners may be included in the same resolution, notice, contract, ordinance, or other proceedings.  
(R.C. § 729.05)

#### § 94.30 MAKING AND LEVYING ASSESSMENTS.

(A) *Estimated assessments.* Upon completion of the construction or repair of sidewalks, curbs or gutters under this subchapter, the total cost of such construction, repair, or installation as defined in division (B) shall be ascertained and reported to the Legislative Authority by its Clerk, and the Legislative Authority shall cause a list of estimated assessments to be prepared. Such list shall include the total cost of such construction, repair, or installation to each lot or land abutting upon such construction, repair, or installation and shall be filed in the office of the Clerk of the Legislative Authority and be available for public inspection.  
(R.C. § 729.07)

(B) *Notice of assessment; objection.*

(1) The Legislative Authority shall cause a notice to be published for three consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in R.C. § 7.16, stating that such list of estimated assessments has been made and is on file in the office of the Clerk of the Legislative Authority for the inspection and examination of persons interested therein.

(2) If any person objects to an assessment on such list, the person shall file the objection in writing with the Clerk of the Legislative Authority within two weeks after the expiration of the notice provided for in division (B)(1) of this section.  
(R.C. § 729.08) (Rev. 2012)

(C) *Assessment ordinance.* The Clerk of the Legislative Authority shall deliver the objections received under division (B) of this section to the Legislative Authority. The Legislative Authority shall review the written objections and shall adopt an ordinance levying upon the lots

and lands enumerated in the list of estimated assessments the amount set forth on such list with such changes or corrections as the Legislative Authority shall determine to be proper after consideration of the written objections filed under division (B) of this section. Such ordinance shall state the number of annual installments, not exceeding ten, over which the assessments shall be payable and shall establish a period of time during which the assessments shall be payable in cash.

(R.C. § 729.09)

(D) *Assessment proceedings.* The provisions of R.C. §§ 727.26 through 727.43, inclusive, shall apply to and govern the proceedings taken under and the assessments levied under this subchapter. The proceedings taken under this subchapter shall be construed in accordance with the provisions of R.C. § 727.40.

(R.C. § 729.10) (Rev. 1999)

**Statutory reference:**

*Assessments generally, see R.C. Chapter 727*

### CHANGES IN STREETS

#### § 94.40 CHANGE OF NAME, VACATING OR NARROWING STREETS BY PETITION.

The Legislative Authority, on petition by a person owning a lot in the municipality requesting that a street or alley in the immediate vicinity of such lot be vacated or narrowed, or the name thereof changed, upon hearing, and upon being satisfied that there is good cause for such change of name, vacation, or narrowing, that it will not be detrimental to the general interest, and that it should be made, may, by ordinance, declare such street or alley vacated, narrowed or the name thereof changed. The Legislative Authority may include in one ordinance the change of name, vacation, or narrowing of more than one street, avenue or alley.

(R.C. § 723.04)

#### § 94.41 CHANGE OF NAME, VACATING OR NARROWING STREETS WITHOUT PETITION.

(A) The Legislative Authority may, when there are two or more streets, avenues or alley of the same name in the municipality, by ordinance and without petition therefor, change the name of any such street, avenue or alley so as to leave only one to be designated by the original name.

(B) When, in the opinion of the Legislative Authority, there is good cause for vacating or narrowing a street or alley, or any part thereof, and that such vacation or narrowing will not be detrimental to the general interest, it may, by ordinance and without petition therefor, vacate or narrow such street or alley or any part thereof.

(R.C. § 723.05)

#### § 94.42 NOTICE; EXCEPTION.

Notice of the intention of the Legislative Authority to vacate any street, alley, avenue, or part thereof shall be given as provided in § 94.43, except when written consent to such vacation is filed with the Legislative Authority by the owners of the property abutting the part of the street or alley proposed to be vacated, in which case such notice shall not be required.

(R.C. § 723.06)

#### § 94.43 PUBLICATION OF NOTICE.

No street or alley shall be vacated or narrowed unless notice of the pendency and prayer of the petition under R.C. § 723.04 is given by publishing, in a newspaper of general circulation in the municipality, for six consecutive weeks preceding action on such petition, or as provided in R.C. § 7.16 preceding action on the petition. Where no newspaper is of general circulation in the municipality, notice shall be given by posting the notice in three public places therein six weeks preceding such action. Action thereon shall take place within three months after the completion of the notice.

(R.C. § 723.07) (Rev. 2012)

#### § 94.44 EFFECT OF ORDER OF VACATION.

The order of the Legislative Authority vacating or narrowing a street or alley which has been dedicated to public use by the proprietor thereof shall, to the extent to which it is vacated or narrowed, operate as a revocation of the acceptance thereof by the Legislative Authority, but the right-of-way and easement therein of any lot owner shall not be impaired by such order.

(R.C. § 723.08)

#### § 94.45 EFFECT ON PUBLIC UTILITY EASEMENTS.

When any street, alley or public highway, or a portion thereof, is vacated or narrowed by the municipality pursuant to the provisions of this subchapter or the provisions of R.C. Chapter 723, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any railroad or public utility, whether owned privately or by any governmental authority, located on, over or under the portion of the street, alley, or highway affected by such vacation or narrowing, is not required for purposes of the municipality, including urban renewal, any affected railroad or public utility shall be deemed to have a permanent easement in such vacated portion or excess portion of such street, alley or highway for the purpose of maintaining, operating, renewing, reconstructing, and removing such utility facilities and for purposes of access to such facilities.

(R.C. § 723.041)

**§ 94.99 PENALTY.**

Whoever violates any provisions of this chapter for which another penalty is not already provided shall be subject to the penalty as prescribed in § 10.99.