

## 6. PUBLIC WAYS & PROPERTY



**TITLE 6**  
**PUBLIC WAYS AND PROPERTY**

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## CHAPTER 1

**STREETS, SIDEWALKS AND PUBLIC WAYS**

## SECTION:

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6-1-1: **EXCAVATIONS:** No person shall perform an excavation or cut in a City street or alley except in accordance with the following regulations:

- A. **Permit Required:** No excavation or cut in shall be performed in a City right-of-way, street or alley except in accordance with a permit obtained from the Superintendent of Public Works.
- B. **Application For Permit:** Permit applications shall be in the form on file in the City or other form specified by the Superintendent, who may, in addition, require a drawing or sketch of the excavation or cut.
- C. **Permit Fees:** Permit applications shall be accompanied by a non-refundable permit fee as follows:
  - 1. For excavations where the paved portion of the street is to be opened by saw cut or trencher or the improved portion of the alley right-of-way is to be open by any means: Two hundred dollars (\$200.00).

2. For excavations where the paved portion of the street right-of-way is opened by any means other than saw cut or trencher: Three hundred dollars (\$300.00). (Ord. 2017-07, 5-1-2017)

3. For all other excavations in the unimproved portion of the street right-of-way or alley right-of-way or any other City property: No fee. (Ord. 2017-07, 5-1-2017; amd. 2019 Code)

- D. **Deposit Requirements:** In addition, the applicant shall pay a refundable deposit of two hundred dollars (\$200.00), or such other amount as determined by the Superintendent of Public Works, when excavating the paved portion of the street or the improved portion of the alley right-of-way, to cover the cost to the City of repairing any faulty work. The deposit will be returned when the work is approved by the Superintendent net of any material or labor costs incurred by the City, including inspection fees in the event the permittee has requested an inspection during other than normal business hours. No deposit shall be required when excavating in the unpaved portion of a street right-of-way or unimproved portion of an alley right-of-way or other City property. When circumstances would require excavations into the improved portion of the street or alley right-of-way, the City shall be notified prior to excavating the improved portion of the right-of-way, and the appropriate fees and deposit must be paid.
- E. **Backfilling Requirements:** Backfilling shall be as follows:
1. **Streets:**
    - a. When utilities are placed in or are uncovered during the excavation of a paved area, the excavation shall be backfilled with an initial layer of sand twelve inches (12") above the highest point of the exposed utility. The remainder of the area shall be backfilled with CA6 to within twelve inches (12") of the road surface, and the final twelve inches (12") shall be backfilled with flowable fill to the level of and not exceeding the street surface adjacent to the excavation.
    - b. In the event that more than one utility is exposed during the excavation, then any subsequent utility shall have twelve inches (12") of sand placed above it.
    - c. The CA6 backfill shall be compacted at least once every four feet (4') of depth, and if the final layer of CA6 is less than four feet (4'), it shall also be compacted.

d. When the unimproved portion of the street right-of-way is opened, it shall be backfilled with an initial twelve inches (12") of sand above the exposed utility on top of which may be placed any fill material approved by the Superintendent which, except in abnormal circumstances, may be the material removed in the course of the excavation.

2. Alleys:

a. Excavations in the improved portion of an alley shall be back-filled with an initial layer of sand twelve inches (12") above the highest point of the exposed utility. The remainder of the area shall be backfilled with CA6 as the sole fill material to the level of the adjacent alley surface.

b. If there is more than one utility in the excavation, then any subsequent utility shall have twelve inches (12") of sand above it.

c. When the unimproved portion of the alley right-of-way is opened, it shall be backfilled with an initial twelve inches (12") of sand above the exposed utility, on top of which may be placed any fill material approved by the Superintendent which, except in abnormal circumstances, may be the material removed in the course of the excavation.

F. Inspection:

1. The excavation shall be inspected and approved by an inspector designated by the Superintendent prior to commencement of backfilling, and may be observed by such inspector during the backfilling operation. All excavations will also be inspected upon completion of the backfill operation.

2. If inspection is done outside of business hours, the permit holder shall pay an additional inspection fee in the amount of the City's actual cost of the employees' compensation and burden.

3. If an excavation is not finished the date it is started, it shall be covered and proper barricades placed by the permit holder in a manner adequate to protect the public. (Ord. 2017-07, 5-1-2017)

6-1-2: **STREET OPENINGS:** No person shall open or allow to remain open any door, any gate, or the grating of any vault belonging to the premises occupied by him on any street, alley or sidewalk in the City

for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger. (2008 Code § 33-2-2)

6-1-3:           **STAIRWAYS INTO BUILDINGS:** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street. (2008 Code § 33-2-6)

6-1-4:           **SOLICITING ON CITY STREETS:** No person shall stand on a City street for the purpose of soliciting contributions from the occupant of any vehicle; except, that a person, firm, or corporation registered as a charitable organization as provided by "an Act to Regulate Solicitations and Collection of Funds for Charitable Purposes, providing for violations thereof and making appropriations therefor", approved by the State of Illinois July 26, 1963, as amended, may solicit donations at intersections where all traffic is required to come to a full stop, provided:

- A.     The soliciting agency is engaged in a fundraising activity throughout the City; and (2008 Code § 7-2-10; amd. 2019 Code)
- B.     The soliciting agency provides the City with proof of insurance, with liability limits of at least one million dollars (\$1,000,000.00) per person, covering the City as an additional insured, and such soliciting agency accepts liability for all injuries to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agency, its agents or employees; and
- C.     All of such soliciting agencies, agents or employees engaged in such activity are over the age of sixteen (16) years and wear high visibility vests; and (2008 Code § 7-2-10)
- D.     The soliciting agency obtains a permit from the City Council for such activity. (2008 Code § 7-2-10; amd. 2019 Code)

6-1-5:           **CERTAIN USES OF ALLEYS:**

- A.     Definitions: Whenever the following words or terms are used in this section, they shall have the following meanings:



**ALLEY:** A public way giving access to the rear or side of lots and not generally used for traffic circulation.

**COMMERCIAL VEHICLE:** Any vehicle operated for the transportation of persons or property in the furtherance of any commercial activity.

**IMPROVED SURFACE:** Any alley, the surface of which is improved with concrete, asphalt, macadam and crushed stone or gravel. (Ord. 2012-6, 2012)

- B. **Permit Required For Certain Uses:** It shall be unlawful for any person without a permit from the Director of Operations, as provided in sub-section C of this section, to drive, pull or park: 1) any commercial vehicle; or 2) any motor vehicle, trailer or equipment with a gross weight, including the load, exceeding ten thousand (10,000) pounds, on, over or across any alley within the City without first obtaining a permit to do so from the Director of Operations.
- C. **Approval Of Permit:** The Director of Operations may, in his discretion, grant a permit to approve such traffic for alleys which have an improved surface if the Director finds that such traffic will not damage the improved surface of such alley and that the person requesting such permit has made reasonable arrangements to repair any such damage. (Ord. 2012-6, 2012; amd. 2019 Code)
- D. **Exemptions:** The provisions of this section shall not apply to emergency vehicles, utility vehicles, or City or City contracted vehicles. (Ord. 2012-6, 2012)

**6-1-6: AUTHORITY TO CLOSE PUBLIC WAYS AND PLACES:**

Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner destroy, deface, or remove any such sign. (2008 Code § 33-2-7)

**6-1-7: ADVERTISEMENTS:**

- A. **Overhanging Public Ways:** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk

in the City, unless he has written approval of the City Council. (2008 Code § 33-2-8)

- B. Posting Bills, Signs And Advertisements: It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk; or upon any tree, lamp-post, utility pole, or hydrant; or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate. (2008 Code § 33-2-14)
- C. Signs On Utility And Emergency Poles: No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds, or injure or deface any such pole or post. (2008 Code § 33-2-15)

6-1-8:       **BARBED WIRE AND ELECTRIC FENCES:** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within three feet (3') of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least six feet (6') above the level of such public place. (2008 Code § 33-2-17)

6-1-9:       **BUILDING NUMBERS:** All persons who own occupied residential, commercial or industrial structures shall place or locate on said structures three inch (3") identification numbers. Those numbers shall be in compliance with the County's 9-1-1 Emergency Telephone System regulations and visible from the street. (2008 Code § 33-2-19)

6-1-10:       **ADDITIONAL PROHIBITED ACTS:**

- A. Injury To New Pavements: It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly laid sidewalk pavement while the same is guarded by a warning sign or barricade,

or to knowingly injure any soft, newly laid pavement. (2008 Code § 33-2-16)

- B. **Burning On Public Ways:** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City. (2008 Code § 33-2-18)
- C. **Undermining:** No person shall undermine in any manner any street or any other ground or real estate situated in the City or belonging to any private person. (2008 Code § 33-2-1)



**CHAPTER 1****STREETS, SIDEWALKS AND PUBLIC WAYS****ARTICLE A. STREET IMPROVEMENTS****SECTION:**

- 6-1A-1: Sidewalks
- 6-1A-2: Curbs And Gutters
- 6-1A-3: Stormwater Sewers

**6-1A-1: SIDEWALKS:**

- A. **Grade:** No sidewalk shall be built above or below the established grade of the City, and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Director of Operations and the City Council.
- B. **Construction Restrictions:** No one shall build a sidewalk unless it consists of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk.
- C. **Permit Required:** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the City Office Manager and without approval by the Director of Operations.
- D. **Exemptions:** This section is not applicable to new subdivisions. (2008 Code § 33-5-1; amd. 2019 Code)

**6-1A-2: CURBS AND GUTTERS:**

- A. **Request Required:** Any person owning property within the City who desires to have new curbs and gutters constructed along the street adjoining his premises shall file a request with the Director of

Operations giving the location of the property and the length of the curbs and gutters requested.

- B. Installation Requirements: All installations shall conform to the requirements of 65 Illinois Compiled Statutes 5/11-80-11 and the Environmental Barriers Act.
- C. Exemptions: This section is not applicable to new subdivisions. (2008 Code § 33-5-2; amd. 2019 Code)

**6-1A-3:       STORMWATER SEWERS:**

- A. Definition: Stormwater sewers are any pipe or sewer used for the carrying of surface water drainage, groundwaters, water from roof leaders, stormwaters, rainwaters, or other waters other than sanitary sewage.
- B. Supervision: The Director of Operations shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.
- C. Permit Required: Before any connection is made to the public storm-water sewers, a permit shall be applied for and approved by the Director of Operations or his designated representative.
- D. Discharges Into Stormwater Sewers: Where a stormwater sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface water drainage, groundwaters, water from roof leaders, and stormwaters shall be discharged into the stormwater sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, groundwaters, waters from roof leaders or stormwaters be permitted to flow into or be connected to the storm-water sewer, and no sanitary sewer shall be connected to the storm-water sewer system. (2008 Code § 33-5-3; amd. 2019 Code)

## CHAPTER 1

## STREETS, SIDEWALKS AND PUBLIC WAYS

**ARTICLE B. DRIVEWAYS AND CULVERTS**

## SECTION:

6-1B-1: Driveways

6-1B-2: Culverts

6-1B-1: **DRIVEWAYS:**

- A. Approval Required: No person shall construct a driveway for vehicles across any sidewalk in the City without the approval of the City. (2008 Code § 33-7-1; amd. 2019 Code)
- B. Grade And Surface Requirements:
1. No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk.
  2. The grade shall be as nearly as possible the same as that of the adjoining sidewalk.
  3. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level. (2008 Code § 33-7-2)
- C. Specifications: Driveways across sidewalks shall be constructed in compliance with the specifications required by the Director of Operations as provided by the City Engineer. (2008 Code § 33-7-3)
- D. Inspections: The Director of Operations shall inspect the construction of the driveway. (2008 Code § 33-7-1)

- E. Maintenance And Repair: It shall be the duty of the person maintaining the driveway to keep the same in good repair where it crosses the sidewalk and free from obstruction and openings. (2008 Code § 33-7-4)

6-1B-2: **CULVERTS:**

- A. Culverts Required: Culverts shall be installed where driveways or walkways cross open ditches. (2008 Code § 33-6-1)
- B. Installation And Costs: The City shall install, not to exceed twenty four feet (24'), and the applicant shall pay for the culvert; provided, however, any changes in the drainage in the City shall be reviewed by the Director of Operations and the City Engineer.
- C. Determination Of Size: The Director of Operations shall determine the size of all culverts installed. (2008 Code § 33-6-1; amd. 2019 Code)



## CHAPTER 2

**CITY PARKS; VIRDEN CITY SQUARE**

## SECTION:

- 6-2-1: Park Rules And Regulations
- 6-2-2: Permit Requirements
- 6-2-3: Park Hours
- 6-2-4: Use Of Virden City Square

6-2-1: **PARK RULES AND REGULATIONS:**

- A. Destruction Of Property: Within the City parks, no person except park personnel on official business shall:
  - 1. Cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;
  - 2. Kill, cause to be killed, or pursue with intent to kill any bird or animal except in areas where the City has authorized hunting;
  - 3. Wilfully mutilate, injure or destroy any buildings, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances. (2008 Code § 28-2-1)
- B. Littering:
  - 1. No person shall deposit any trash within the City parks except in proper receptacles where these are provided.
  - 2. Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence and shall be properly disposed of elsewhere.
- C. Water Pollution: No person shall discharge or otherwise place or cause to be placed in the waters of any fountain, lake, stream, or other body of water in or adjacent to any park or in any tributary,

stream, storm sewer or drain flowing into such waters any substance or thing, liquid or solid, which will or may result in the pollution of the waters. (2008 Code § 28-2-2)

- D. Fires: No person shall light or use any unenclosed picnic fire within the City parks. (2008 Code § 28-2-3; amd. 2019 Code)
- E. Picnics: No person shall picnic in the City parks except in areas designated for that purpose. Park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all. Visitors shall comply with any directions given to achieve this end. (2008 Code § 28-2-4)
- F. Constructing Structures: No person shall build or place any tent, building, booth, stand, or other structure in or upon any City park or other recreational facility unless he has obtained a permit to do so from the City. (2008 Code § 28-2-5)
- G. Posting Signs: No person shall place within any City park or affix to any object therein any sign or device to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the City. (2008 Code § 28-2-6; amd. 2019 Code)
- H. Animals: No person shall:
1. Bring any dangerous animal into any City park; or
  2. Permit any dog to be in any park unless such dog is on a leash; or
  3. Ride or lead any horse in any City park or recreational area except upon paths or other ways expressly provided and posted for that purpose. (2008 Code § 28-2-7)
- I. Vehicles: No person, other than City personnel on official business, shall drive or park any motor vehicle, including snowmobiles, in any City park except on a roadway or parking lot. (2008 Code § 28-2-8)
- J. Sales And Providing Amusements: Within the City parks, no person shall, without having first obtained a permit from the City:
1. Sell or offer for sale any goods or services; or
  2. Conduct any amusement for gain or for which a charge is made. (2008 Code § 28-2-9)

- K. **Group Activities:** Whenever any group or organization desires to use City park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of the group shall first apply for and obtain a permit for such activity from the Mayor. (2008 Code § 28-2-10)

6-2-2: **PERMIT REQUIREMENTS:**

- A. **Application For Permit:** Applications for all permits required by this chapter shall be made in writing to the Mayor not less than seven (7) days before the proposed date of the activity for which the permit is sought. Each application shall include the following information:
1. A statement briefly describing the nature of the proposed activity;
  2. Name, address and telephone number of the person or organization wishing to conduct such activity;
  3. The date when such activity is to be conducted;
  4. The hour when such activity will start and terminate;
  5. The park or portion thereof for which such permit is desired; and
  6. An estimate of the anticipated attendance. (2008 Code § 28-2-11)
- B. **Satisfactory Application:** After due consideration of the information contained in the permit application, but not later than seven (7) days after the application has been filed, the Mayor shall determine whether the application is satisfactory. An application shall be deemed satisfactory if:
1. The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
  2. The facilities desired have not been reserved for other use at the day and hour requested in the application;
  3. The conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;

4. The proper policing of such activity will not require the diversion of so great a number of police officers as to prevent normal protection to the remainder of the City;

5. The conduct of such activity is not reasonably likely to cause injury to persons or property or to incite violence, crime or disorderly conduct; and

6. Such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit. (2008 Code § 28-2-12)

C. Issuance Or Denial Of Permit:

1. Notification by regular mail or by telephone shall be made promptly by the Mayor to every permit applicant of the decision on his application.

2. If such decision is favorable, the Mayor shall issue the permit. As a condition of the issuance of any permit, the Mayor may require that an indemnity bond be obtained if, in his opinion, such bond is necessary to protect the City from liability or to protect City property from damage.

3. The Mayor shall inform each applicant who has been denied a permit regarding the reasons for the denial and the procedure for appeals. (2008 Code § 28-2-13)

6-2-3:       **PARK HOURS:** The City Council shall establish the hours of operation of the City parks. No one shall be in the park without the Mayor's permission after the established hours. (2008 Code § 28-2-14)

6-2-4:       **USE OF VIRDEN CITY SQUARE:**

A. Special Events License Requirements: It shall be unlawful for any person to conduct carnivals, entertainments, or amusements for the public in the Virden City Square, or the streets immediately adjacent to the same, without a Class C special events license approved by the City Council, to be obtained as follows: (2008 Code § 28-2-15)

1. Application for said license and approval thereof shall be made in the manner provided by the City.

2. Use of the same shall not be commenced prior to twelve o'clock (12:00) noon and shall close at twelve o'clock (12:00) midnight each day. All devices and equipment used therewith shall be removed by twelve o'clock (12:00) noon the day following the last day the license is in effect.

- B. **Enforcement:** The City Police Department shall have full power and authority to take and perform any and all lawful acts necessary to see that this section is enforced and that there is compliance by the parties involved. (2008 Code § 28-2-15; amd. 2019 Code)



CHAPTER 3  
**TREES AND SHRUBS**

SECTION:

- 6-3-1: Planting Trees And Shrubs  
 6-3-2: Permit To Remove Trees And Shrubs  
 6-3-3: Damage To, Protection Of Trees And Shrubs  
 6-3-4: Trimming And Removal Of Dangerous Trees And Shrubs

6-3-1: **PLANTING TREES AND SHRUBS:**

- A. **Planting Requirements:** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Director of Operations and shall be referred by him to the City Council. All trees and shrubs so planted shall be placed subject to the directions and approval of the City Council. (2008 Code § 33-3-1)
- B. **Planting In Rights-Of-Way Prohibited:** It shall be unlawful to plant any bushes, trees, shrubs or other plants on the right-of-way of any public street, including the space on the right-of-way between the sidewalk and the adjacent street pavement. (2008 Code § 33-3-2)

6-3-2: **PERMIT TO REMOVE TREES AND SHRUBS:** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Director of Operations and shall be referred by him to the City Council before permission shall be granted. (2008 Code § 33-3-3; amd. 2019 Code)

6-3-3: **DAMAGE TO, PROTECTION OF TREES AND SHRUBS:**

- A. **Injury To:** It shall be unlawful to injure any tree or shrub planted in a public place. (2008 Code § 33-3-4)

- B. Posting Advertisements Or Notices: It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place. (2008 Code § 33-3-5)
- C. Utility Wires And Poles:
1. It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council. (2008 Code § 33-3-7)
  2. Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the City shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Director of Operations so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct. (2008 Code § 33-3-7; amd. 2019 Code)
- D. Gas Pipes: Any person or company maintaining any gas pipe in the City shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs. (2008 Code § 33-3-8)

6-3-4: **TRIMMING AND REMOVAL OF DANGEROUS TREES AND SHRUBS:**

- A. Any tree or shrub which overhangs any sidewalk, street or other public place in the City at a height less than eight feet (8') or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.
- B. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. (2008 Code § 33-3-6)
- C. The Director of Operations may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be eliminated. (2008 Code § 33-3-6; amd. 2019 Code)