

CHAPTER 7

STREETS AND SIDEWALKS, PUBLIC WORKS

Section 701. Garrett Park Street Construction Code

(a) Sections 701 through 719 shall be known as the Garrett Park Street Construction Code and is sometimes hereinafter referred to as the "Street Code." Any Section of any ordinance passed by the Council that conflicts with the provisions of Sections 701 to 719 or prevents the enforcement of these Sections is hereby repealed.

(b) A violation of any provision of this Chapter shall be an infraction, punishable by a fine of \$100.

Section 702. Definitions

Construction: shall mean construction and reconstruction but not maintenance.

Drainage Structures: include culverts, bridges, storm sewers, catch basins, canals, ditches, sub-surface drains, and any structures or watercourses designed to carry off surface or other waters.

Dwelling Unit: shall be defined as a building or portion thereof arranged for occupancy by not more than one family for living purposes and having cooking facilities; including, but not limited to, single-family detached dwellings, town houses, and apartment units.

Service Street: as used here means any street built to substandard specifications as an exception to the Street Code primarily to expedite traffic from one point to another as opposed to a street designed to service the property facing on it.

Planting Strip: areas shall mean those strips of land in Town rights-of-way which are not paved for vehicular use and which lie between the paved portion of said streets and adjacent private property lines.

Section 703. Payment for Street Repairs

The Council member in charge of streets shall report at each meeting of the Council the work and approximate expenditures contemplated for the ensuing month for authorization.

Section 704. Construction of Streets by Person Other Than the Town of Garrett Park

(a) It shall be unlawful for any person to construct any street which has not been authorized by a permit issued by the Town.

(b) Application for such permits shall be made to the Clerk-Treasurer on such forms as he or she shall prescribe and shall be accompanied in each case by detailed plans, specifications, location and right-of-way plots, bearing the tentative approval of the Washington Suburban Sanitary Commission and the Maryland National Capital Park and Planning Commission, and concerning matters within its jurisdiction, the State Roads Commission.

(c) The Council shall approve the plans and the profiles of the proposed street construction if it finds that the plans are in accordance with all applicable specifications and further that approval is in the interest of the Town as a whole.

(d) The Clerk-Treasurer shall issue a permit to the applicant upon:

(1) Approval by the Council pursuant to Subsection (c) hereof,

(2) Payment of an inspection or engineering fee to the Clerk-Treasurer in the amount of 4% of the estimated total cost of the street construction, and

(3) The delivery to the Clerk-Treasurer of a cash or corporate bond approved by the Council in the full amount of the estimated total cost of the street construction, running to the Town, and conditioned as follows:

(3.1) That the permittee, his or her agents and servants will comply with all applicable terms, conditions, provisions, requirements, standards and specifications of this street Code,

(3.2) That the permittee, his or her agents and servants will faithfully complete the work for which the permit is issued.

(3.3) That the permittee, his or her agents and servants will save harmless the Town from any expense incurred through the failure of the permittee, his or her agents and servants to complete the work as required by this street Code, or from any damage growing out of the negligence of the permittee, his or her agents or servants.

(3.4) If a corporate bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State of Maryland.

(3.5) If a cash bond is offered, it shall be deposited with the Clerk-Treasurer of the Council, who shall give his or her official receipt therefor, reciting that said cash has been deposited in compliance with and subject to the provisions of this Chapter.

(e) Such permits shall not be transferable and shall be invalid if any provision thereof is violated. Such permit shall automatically expire six months from date of its issuance unless extended by the Council upon continued compliance with paragraph (d) above.

(f) No extension shall be granted unless the bond filed with the permit by its terms continues in full force and effect or a new bond is filed.

(g) Irrespective of plans and specifications accompanying the application, the actual construction shall conform to law and to the minimum requirements for a street of its class.

(h) There shall be an inspection of the street construction at each of the following inspection points: (1) upon completion of grading; (2) upon laying of the ballast; and (3) upon completion of the street construction. No work shall progress beyond any inspection point prior to inspection and approval by the Council or the agent designated by the Council. Notice of the completion of any of the inspection points shall be given to the Council at least 24 hours in advance of the time at which the inspection is to be made. If the Council determines upon the basis of the inspection report that the street construction fails to conform to the plans, specifications and to the minimum requirements established by this article, it shall provide the permittee and his or her surety, where a corporate bond has been posted, with a written notice describing in detail the nature of the default and directing that the construction be made to conform with the requirements within such reasonable time as the Council may specify. If the permittee fails to comply, the Council may, after notice to the permittee and his or her surety, if any, revoke the permit and complete the street construction at the expense of the permittee, charging the bond thereof.

(i) If the permittee fails to complete the street construction within the life of the permit, the Council may, after notice to the permittee and his or her surety, if any, complete the street construction at the expense of the permittee, charging the bond for it.

Section 705. Acceptance by Council

(a) Upon completion of any street construction pursuant to Section 704 the Town Council shall, within a reasonable time, determine upon the basis of the final inspection report whether the street construction conforms to the requirements of this Chapter.

(b) If the Council finds that the street construction is acceptable, it shall, by resolution in open session, accept the street as part of the Town street system to be maintained by the Town at its expense. The cash or corporate bond shall thereupon be released.

(c) If the Council finds that the street construction fails to conform to the requirements of this Article, it shall reject the street by written notice to the permittee and his or her surety, where a corporate bond has been posted, specifying the reasons for the rejection and directing the permittee or his or her surety to take the necessary steps to repair the default within such reasonable time as the Council may specify. If the permittee or his or her surety does not thereafter within the time specified, complete the construction according to the provisions of this Chapter, then the Council through its duly authorized representative shall forthwith proceed to do whatever is necessary to

cause the said construction to comply with this Article and the permittee and his or her bond shall thereupon be liable for any expense incurred thereby.

Section 706. Obstruction of Streets

(a) It shall be unlawful for any person to tear up, dig into or under or in any manner obstruct any street or right-of-way unless pursuant to a permit issued by the Clerk-Treasurer. Any person engaged in lawful parking, loading or unloading or emergency repair of a vehicle or any person awaiting emergency repair or towing service for a vehicle shall not be deemed to be obstructing a street within the meaning of this Section.

(b) The Clerk-Treasurer may issue a permit for such reasonable periods of time as may be necessary to the person(s) to conduct any activity which the Council member in charge of the Streets finds will require the tearing up, digging into or under, or temporary obstruction of a street or right-of-way and may require a deposit equal to the estimated cost of restoration of the street or right-of-way to its former condition. Each such permit shall expressly describe the nature and extent of the tearing up, digging or obstruction of the public street or right-of-way which the Council member in charge of the streets finds necessary. Any person, firm, or corporation obtaining such a permit shall upon completing the operations specified in said permit restore the street or right-of-way to a condition equal to or better than its condition at the time the operations were begun.

(c) When the Council member in charge of the Streets is satisfied that the Street has been restored to a condition equal to or better than its condition at the time operations under a permit issued under Subsection (b) above were begun, the Clerk-Treasurer, upon his or her direction, shall refund the deposit.

Section 707. Construction of Streets by the Town

(a) If it appears that the public interest may require the Town to construct any Street, the Council shall propose the particular construction by adopting a resolution which shall specify the location, extent and kind of construction proposed, the type of materials to be used, the estimated cost, and a description of the real property that there is reason to believe will be specially benefited thereby.

(b) Said resolution shall provide for a public hearing on the proposal and shall state the time and place where such hearing will be held. A copy of this resolution shall be sent by registered mail, at least two weeks before the scheduled date of the hearing, to the owners of the property abutting the proposed construction as listed in the records of the clerk. A summary of said resolution shall be published twice in a newspaper of general circulation published in Montgomery County with a statement directing where a full copy of the text of the resolution may be obtained. Any interested person shall be entitled to appear and be heard at said hearing.

(c) If, after the hearing, the Council shall find that the public interest requires that the proposed construction or any portion of it shall be carried out, it shall be by an additional resolution authorized by the Mayor to proceed with such construction or portion thereof in conformity with this Chapter. The resolution shall describe the work to be done and shall specify what portion of the cost of the construction shall be borne by the abutting property and what portion, if any, of such cost shall be borne by the Town in accordance with the provisions of this Chapter.

Section 708. Assessments of Benefits

(a) Upon completion of any street pursuant to Section 707, the Council shall by ordinance assess the cost of the project, including but not limited to the actual cost of publication of notices, the conduct of hearing, advertising for bids, engineering, construction, rights-of-way acquisition, legal expenses, and all costs of financing incurred prior to the ordinance, against all property abutting the street on the basis of linear frontage in an amount not to exceed the amount by which such property is specially benefited by the construction, or on some other equitable basis.

(1) In the case of the reconstruction and rebuilding of a street, which has been accepted for maintenance or is being maintained by the Town, such cost shall be limited to the cost of such gutters, sidewalks, and driveway entrances as may be constructed.

(2) In the case of any street which has not previously been accepted for maintenance or which is not being maintained by the Town, the cost shall include such portion of the cost of grading, drainage structures, curbs and gutters, sidewalks, returns of curbs, sidewalk and driveway entrances and paving as the Council finds to be of benefit to the abutting property.

(3) In all cases where the property to be assessed for construction hereunder is located at the intersection of two or more streets and is what is known as a corner lot, the linear frontage of such corner lot to be assessed in connection with the construction of each street abutting thereon shall be reduced to one-half of the total frontage of said lot upon the street. However, such reduction shall not exceed fifty feet on any one street. The portion of the cost of the construction which would otherwise have been assessed to such corner lots shall be added to the overall cost assessed to the remaining assessable frontage of the whole project, or, in the discretion of the Council, may be paid for in whole or in part by the Town.

(4) Property owned by the United States, the State of Maryland, or any governmental agency thereof, shall not be assessed for any portion of such cost of construction.

(5) Assessments shall be due and payable upon adoption of the ordinance, provided that the Council may provide in such ordinance that such assessments may be paid in not more than ten equal installments.

All assessments shall bear interest from the date of such ordinance, except as hereinafter provided, at the rate of 5% per annum. When such ordinance is adopted, it shall provide that the first installment shall be due and payable upon the first day of the first month of the quarter of the year second after the quarter in which such ordinance is adopted. Each subsequent installment shall be paid annually on the same corresponding day of each year thereafter until the entire amount is paid. Upon the payment of each installment, including the first, interest shall be paid on the unpaid balance of the assessment computed to the due date of the installment, provided that no interest shall be charged upon any amount paid within three months after the assessment is made, and provided further that if any installment together with the interest thereon is not paid within ninety days following its due date, there shall be charged a penalty of one-half of 1% on such installment and interest for each month thereafter that the same remains unpaid.

(6) Assessments made hereunder shall be collected in the manner in which ordinary taxes are now, or hereafter may be, collected under the provisions of the federal and local laws of the State of Maryland and Montgomery County. Upon default in the payment of any assessment the property against which any such assessment has been made shall be sold at tax sale in the same manner as real property is sold for non-payment of ordinary taxes. Upon default in the payment of any installment of an assessment, the assessed property shall be sold at tax sale for the entire unpaid balance of the assessment and interest due thereon, together with all other taxes, charges and interest due thereon, if any. The entire unpaid balance of such assessment is hereby declared to be immediately due and payable upon the day of such sale.

(7) Whenever through error, inadvertence, or oversight, any property subject to assessment hereunder has not been properly assessed, or such assessment has erroneously described the property or is made in a wrong name, is in an erroneous amount or where service upon the property owner has not been made, the Council may, upon discovery of such error, inadvertence, or oversight, correct the assessment by amendment of the ordinance. This may be done without further notice to the property owner or owners affected thereby, provided that such property owner or owners had notice of the hearing conducted pursuant to Section 707 and the error, inadvertence or oversight did not occur prior to the date of such hearing and was not contained in any notice thereof; however, if such error, inadvertence or oversight, occurred prior to such hearing or was contained in any notice thereof, it shall not be corrected unless the property owner or owners affected by such correction are given adequate notice and an opportunity to be heard.

Section 709. Waiver and Modification

(a) The Council may, by resolution in open session waive or modify any of the requirements here for good cause shown.

(b) Wherever it appears that an assessment of the entire benefit against the abutting properties is, for any reasons, inequitable, the Council may, by resolution in open session, reduce the amount of benefit to be assessed. In such event the Town will pay the amount represented by the reduction.

Section 710. Construction of Temporary Sidewalks

Whenever it appears to be in the public interest to construct a temporary sidewalk, the Council may, by resolution in open session, authorize the Mayor to proceed with such construction at the expense of the Town.

Section 711. Width of Streets

Any street constructed after April 13, 1970, within the limits of the Town shall have a minimum right-of-way of 60 feet. Paving within any such street shall be not less than 26 feet wide except when reconstructing existing streets, in which case the reconstruction may not be less than the average width of the existing pavement for the length of the reconstruction. Where any street constructed after April 13, 1970 provides access to more than seven dwelling units and is not a through street, said street shall include a cul-de-sac having a minimum right-of-way of 120 feet in diameter in its circular section, and its paved portion of which shall be not less than 86 feet in diameter; provided, however, that nothing herein shall preclude the construction of a landscaped island not exceeding 24 feet in diameter in the middle of any such cul-de-sac.

Section 712. Parking and Access Driveway Facilities

(a) Location of parking and access driveway facilities shall be selected to provide maximum safety for pedestrians, for street traffic, and for users of the driveway facilities.

(b) Finished grades for construction and reconstruction of said driveway facilities shall be set to contain stormwater within the street and facilitate its flow along the gutter line of the street as projected directly across the driveway.

(c) The Town will assist in the construction of access and parking driveway facilities by furnishing standards for finished grades and by reimbursing the party installing a driveway for the approximate cost of paving that portion extending the first 4 feet back from the edge of street pavement, with the actual amount of reimbursement to be calculated at a rate which the Council shall from time to time set as being fair and equitable; or

(d) The Town may assist by installing the entire driveway pavement when the Council or its duly appointed agent finds that it is convenient to do so as part of a larger paving project of the Town, provided that the Town is requested to do so by the owner of the land served by the driveway, and provided that the owner agrees to reimburse the Town for all expenses incurred by the Town in installing the driveway other than for that portion extending the first 4 feet back from the edge of street pavement, and further

provided that the owner agrees to save harmless the Town and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this driveway installation assistance.

(e) The Clerk-Treasurer is directed to establish and maintain records in sufficient detail to administer the development of all access and parking driveway facilities in conformance with the principles and policies established herein, and that approval of driveway locations and grades shall be made by the Council or its duly appointed agent.

(f) Nothing in this Section shall be construed as limiting any of the basic rights of the Town to use and control the Town right-of-way.

Section 713. Service Streets

All new construction on any street in Garrett Park which was constructed as a service street, width not in excess of 20 feet or less, and contiguous to existing pavement, shall provide parallel parking space on the right-of-way, the surface consisting of compacted gravel or paved surface of a depth not less than 4 inches of asphalt or other like material. In the event the property owner fails to provide the foregoing within 60 days after notice from the Town, the Council may itself proceed to construct the off-street parking and assess the cost of it against abutting property after notice.

Section 714. Specifications for Street Construction

The construction of all roads shall conform to the minimum requirement standards and specifications established by Montgomery County design standards and Montgomery County standard specifications, except as herein provided.

(a) Where there is a 50 feet dedicated right-of-way, the Council may, in its discretion, authorize the construction of a paved street less than 26 feet wide, and may authorize 6 inches of compacted bank gravel in place of eight inches of compacted bank gravel as required by the Montgomery County Code. The width of the street shall, unless otherwise authorized, measure not less than 26 feet, measuring from face of one curb to the face of the curb directly across the street, and shall include standard concrete curb and gutters, as specified in Montgomery County Road Construction Code, Section 49 of the 1984 Montgomery County Code as amended and shall conform to Montgomery County Road Construction Code regarding the type of material used and method of construction.

(b) All grading shall be done in accordance with plans and profiles approved by the Council, and the Montgomery County Road Construction Code as it appears in the 1984 Montgomery County Code, as amended.

(c) Whenever drainage structures are required for any road, such drainage structures shall be installed or constructed as are found by the Council to be necessary or appropriate.

Section 715. Landscaping, Maintenance and Use of Planting Strip of

Town Streets

(a) Residents of the Town whose property abuts Town streets dedicated for public use may landscape and maintain the unpaved street areas abutting their properties in accordance with the following standards and regulations:

(1) Landscaping may include the planting of grass, groundcover, flowers, and shrubs.

(2) On corner lots, no shrubs or planting of any kind exceeding 3 feet in height when fully grown shall be planted within 20 feet of the return of the curb line on said corner.

(3) In no case shall the unpaved street area of any Town street be landscaped in any manner that will inhibit or impede pedestrian use of a 5 foot wide walkway, sidewalk or pathway; provided, however, that this restriction shall not preclude the planting of grass or the laying of a brick walk or flagstone in such area.

(b) The planting, maintenance and removal of trees in the unpaved street areas dedicated to public use shall be the responsibility of the Council and trees may be planted in or removed from such an area only with the explicit consent of the Council.

(c) No person who landscapes or otherwise maintains an unpaved street area dedicated to public use abutting his property shall be entitled to any right, title or interest in said dedicated right-of-way nor to any remuneration from the Town because of monies expended for landscaping, and, in the event it becomes necessary to widen or otherwise improve any Town street dedicated to public use or to construct paths or sidewalks and thus to remove or destroy the trees, shrubs or other landscaping within the said area, no compensation shall be paid by the Town for such relocation or destruction of existing landscaping.

(d) Nothing in this section shall be construed as permitting, without the specific consent of the Council, the construction of buildings, fences or facilities on the unpaved street area of any Town street or the use of any such area as a public play or recreation area.

(e) Waiver. The Council may waive or grant variances from the strict application of this Section, subject to such conditions as the Council may impose, when, because of the exceptional shape of specific parcels of land or because of exceptional topographical conditions or other extraordinary situations or conditions affecting specific parcels of property, the strict application of these regulations would result in a peculiar and unusual practical difficulty to or exceptional or undue hardship upon the owner of any specific parcel.

Section 716. Preservation of Trees and Shrubbery

(a) No person shall break, wound, destroy, or in any manner injure any of the trees or shrubbery now planted and set or which may hereafter be planted and set, on any of the streets, parks, or public recreation areas in the Town.

(b) If any person (resident or others) shall receive from the Department of Natural Resources a permit to remove or prune a tree in the unpaved street area dedicated to public use, said person shall notify the Clerk-Treasurer, ten (10) days before work begins, by sending a copy of the permit of the Town office. Replacement must be on the Town's approved list, must be done at resident's own expense, and must be within six months after the tree is removed. Failure to comply with this Section shall be an infraction, punishable by a fine of fifty dollars (\$50).

Section 717. Garrett Park Arboretum and Arboretum Committee

(a) Statement of Policy

(1) History. The plan of the Town of Garrett Park was designed by William Saunders in the 19th Century to reflect the Town's sylvan setting and preserve existing woodland. Over the years, the Town has expressly recognized its distinctive arboreal resources and has taken steps to protect those resources. One of the earliest laws of the Town -- Ordinance #4, enacted May 27, 1897 -- concerns preservation of trees and shrubbery. More recently, the Town purchased land that was threatened by excessive development and established the Town as an Arboretum, including approval of a citizens advisory committee to initiate the Arboretum.

(2) Purpose. To formalize the establishment of the Town as an Arboretum and to organize the Arboretum Committee.

(b) The Arboretum

(1) There is hereby created the Garrett Park Arboretum, hereinafter known as the Arboretum.

(2) The Arboretum shall consist of all trees, shrubs, woody plants, and other herbaceous material planted or maintained by the Town on any and all public land owned by the Town, including but not limited to such material in parks, playgrounds, rights-of-way, and lands leased by the Town to others, together with such property (whether or not owned by the Town) for which the Town may from time to time have maintenance responsibility.

(c) The Committee

(1) There is hereby created a Garrett Park Arboretum Committee, hereinafter known as the Committee.

(2) The Committee shall consist of no more than seven (7) citizen members and a member of the Council.

(3) The Mayor shall appoint, with the approval of the Council, members of the Committee from among Town residents who have lived in Garrett Park for at least one year and who are qualified by special interest, knowledge, experience or training in such fields as horticulture, botany or related natural sciences, landscape architecture or design, ecology, conservation, or complementary disciplines. If feasible, one member of the Arboretum Committee shall be drawn from the membership of the Historic Preservation Committee established by Section 400 of this Code. Members shall be appointed for a term of five years, except that in making initial appointments, some appointments shall be for less than five years so that no more than two (2) terms shall have simultaneous expiration dates. The Mayor shall appoint the Council member who has responsibility for trees, and that member's term on the Committee shall be concurrent with the member's Council term, so long as the member retains the Council assignment for trees. Vacancies on the Committee that are created by the resignation or other discontinuation of a member prior to the expiration of the member's term shall be selected by the Mayor for the unexpired term of the replaced member. A member may be removed for failure to attend meetings regularly or misconduct.

(4) The members of the Committee shall serve without compensation, but they may be reimbursed for actual expenses incurred in the performance of their duties, provided such expenses are approved by the Council.

(5) The Town shall provide in its annual budget such funds as may be required for the operation of the Committee.

(6) The Chair and Vice-Chair shall be elected by the members of the Committee. The Committee may adopt such procedural rules as may be necessary or appropriate for the conduct of its business. The Committee may create a category of adjunct Committee membership to be comprised of no more than five persons, not residents of Garrett Park, whose participation on the Committee, by virtue of academic, professional or other qualification in the fields specified in Section 3.3, above, benefits the Committee and Town.

(d) Powers of the Committee

(1) The Committee, in conformity with the policy set forth in this Section of the Code, shall advise the Council with respect to all issues involving or affecting the Arboretum and its resources.

(2) The Committee may, from time to time, in coordination with the Council member with responsibility for trees, undertake educational initiatives to advance the understanding and appreciation of the Arboretum and on the other horticultural matters of general interest in the Town.

Section 718. Bell Atlantic Telephone Company

(a) Permission is hereby granted to the Bell Atlantic Telephone Company, its successors and assigns, to construct, reconstruct, maintain, and operate its posts, poles, cables, wires and all other necessary overhead apparatus, on over and along the streets and highways within the limits of the Town.

(b) All poles erected by said company shall be neat and symmetrical and shall be so located as in no way to interfere with the safety or convenience of persons traveling on or over the said streets and highways. All work shall be done under the supervision of the Council member in charge of streets. The company shall, at its own proper cost and expense, replace and properly relay that portion of any sidewalk or street pavement which may have been misplaced or damaged by it in the construction or maintenance of its above-mentioned lines. The company shall maintain all poles, cables, wire and other apparatus erected or constructed under the provision of this Section in good and safe order and condition; and shall at all times fully indemnify, protect and save harmless the said Town from and against all actions, claims, suits, damages and charges, and against all loss and necessary expenditures arising from the erection, construction and maintenance of its line aforesaid in the Town or from its neglect or failure to maintain said apparatus in good and safe order and condition.

(c) Nothing in this ordinance shall be construed to grant to the said Bell Atlantic Telephone Company any exclusive right or to prevent a grant of similar privileges to other companies.

Section 719. Excavations by Public Utilities

(a) Public Utility -- A public utility shall be defined as a privately owned and operated business whose services are so essential to the general public as to justify the grant of special franchises for the use of public property or of the right of eminent domain, in consideration of which the owners must serve all persons who apply, without discrimination.

(b) All cuts and excavations in the sidewalks, gutters, streets, alleys, roads, highways and other public places in the Town made by Public Utilities shall be filled in by them as soon as practicable. Wherever the hard surface or surfaces of streets are cut by them to install gas piping, these cuts shall be back-filled by them and allowed to remain in this condition until the earth or fill has properly settled, or puddling may be done. In any case, after a reasonable time the top of this fill shall be removed by them down to a depth corresponding to the thickness of the hard surface and the space filled with hard material mixed with an approved binder, restoring the surface to the same condition as it was prior to the time when the said cuts or excavations were made. Wherever drain piping, culverts, gutters, etc., are disturbed by Public Utilities during this operation, such items shall be suitably replaced by them using old material, if practicable, but if damaged or found not usable the Public Utility shall supply and install at its own expense suitable new material. Wherever the Public Utility shall cut the parking surface or surfaces the Public Utility shall properly backfill these cuts and allow such cuts to settle for a reasonable time, after which sod shall be replaced on such cuts by the Public Utility to restore such cuts topping cement or concrete walks, dries, etc.,

broken by said Public Utility for any purpose, the cuts shall be back-filled by said Public Utility in the manner described before and the concrete base replaced to the same thickness as existing prior to the time when the cuts were made and all topping of the square so cut shall be removed and new topping neatly laid.

(c) A Public Utility shall notify the Town of any work which is being undertaken within the Town limits and shall apply for a permit. The Public Utility shall be responsible for making any needed repairs to restore the surface of the streets and other public places in the Town which are disturbed by the Public Utility's operations.

(d) All excavations made by a Public Utility shall be properly protected and guarded to avoid accidents and shall be suitably marked by red lights at night.

(e) The Public Utility shall indemnify and hold harmless the said Town from any and all claims of any nature against said Town arising from or out of the excavation and installations permitted here and will reimburse the Town for any loss or expense, including attorneys' fees, incurred by the said Town in the defense of any claim arising out of said excavations and installations.

(f) These provisions shall inure to the benefit of and bind the successors and assigns of a Public Utility.

Section 720. Sidewalk maintenance

Owners of property and occupants of dwellings, commercial buildings and public property shall clean any sidewalk adjoining their property; keep it free from overhanging shrubbery; and within 24 hours of a snowfall or freeze, remove ice and snow to the extent necessary to provide reasonably safe pedestrian use, or when this is not practicable, spread sand on the ice and snow to provide reasonably safe pedestrian use.

[Ord. 2000-02, adopted 12/11/2000]