

Chapter 217

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Board of the Town of Pendleton: Art. I, 8-2-1938; Art. II, 4-27-1977 as L.L. No. 1-1977; Art. III, 2-5-1991; Art. IV, 3-24-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Moving of buildings — See Ch. 110.
Vehicles and traffic — See Ch. 235.

ARTICLE I Excavations [Adopted 8-2-1938]

§ 217-1. Permit required.

No person, firm or corporation shall have the right to make any opening or excavation in any street, highway, lane or alley, including any sidewalk, without a permit therefor from the Highway Superintendent of said Town of Pendleton.

§ 217-2. Application; fee. ¹

The permit application shall be filed with the Highway Superintendent, along with a fee to be set by resolution of the Town Board.

§ 217-3. Penalties for offenses. ²

A violation of this Article shall be construed and is hereby declared to be a violation and is punishable by imprisonment of not more than 15 days or by a fine of not more than \$250, or both, for each violation.

ARTICLE II Notice of Defects [Adopted 4-27-1977 as L.L. No. 1-1977]

§ 217-4. Notice required. ³

No civil action shall be maintained against the Town of Pendleton or Town Highway Superintendent for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out or repair, unsafe, dangerous or obstructed,

1. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

2. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

3. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Town Clerk or Town Highway Superintendent and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; but no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or Town Highway Superintendent and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 217-5. Duties of Town Highway Superintendent and Town Clerk.

The Town Highway Superintendent shall transmit, in writing, to the Town Clerk within five days after the receipt thereof all written notices received by him pursuant to this Article and Subdivision 2 of § 65-a of the Town Law. The Town Clerk shall cause all written notices received by him or her pursuant to this Article and Subdivision 2 of § 65-a of the Town Law to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

§ 217-6. Effect on state law.

This Article shall supersede, in their application to the Town of Pendleton, Subdivisions 1 and 3 of § 65-a of the Town Law.

ARTICLE III
Use
[Adopted 2-5-1991]

§ 217-7. Purpose.

It is the purpose of this Article to make the streets located in the Town of Pendleton safer to the general public.

§ 217-8. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

COMMERCIAL MECHANIC — A person who repairs motor vehicles for a repair shop which is licensed by the State of New York as a motor vehicle repair station.

HAZARDOUS WASTE — A waste or combination of wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human life or the environment when improperly treated, stored, transported, disposed or otherwise managed.

MOTOR VEHICLE — A device for transporting personnel or material, incorporating a

motor or an engine of any type for propulsion and with wheels, tracks, skids, skis, air cushion or other contrivance for traveling on land or through water.

ROAD TESTING — The driving of a motor vehicle for the purpose of examining the performance and/or operation of said motor vehicle before or after a repair to said motor vehicle by a commercial mechanic.

STREET — A public or private way which affords the principal means of access to abutting properties.

§ 217-9. Restrictions.

- A. No commercial mechanic may use streets in the Town of Pendleton for the purpose of road-testing motor vehicles.
- B. No person shall spill or cause to be spilled, hazardous wastes or any type of petroleum product upon the streets of Pendleton.

§ 217-10. Penalties for offenses.

Any person, firm or corporation violating any provision of this Article shall abate the same immediately upon notice from the town and shall thereafter be guilty of an offense punishable by a fine of not more than \$500 or imprisonment for not more than 15 days, or both. Each and every week that a violation of this Article is permitted to exist shall constitute a separate offense.

ARTICLE IV
Curb Cuts
[Adopted 3-24-1992]

§ 217-11. Permit required; applications.

No work shall be performed in any town right-of-way without first obtaining a Curb Cut permit from the Town Highway Superintendent. Application for such permit shall contain seven copies of the following: a survey of the property and drawings of the intended work. The Highway Superintendent shall distribute copies to the Town Board, the Planning Board, the Code Enforcement Office, the Town Engineer, the Town Assessor, the Town Clerk and the Town Highway Department.

§ 217-12. Performance standards.

- A. Work authorized by this permit shall be performed in a manner satisfactory to the Highway Superintendent. Drainage culverts shall be sized and installed according to the directions of the Highway Superintendent.
- B. The applicant shall keep in good repair all pipes, hydrants or appurtenances which may be placed within the bounds of the highway under terms of this permit and shall save the town harmless from all claims and damages which may accrue by reason of their location in the highway and, upon notice of the Highway Superintendent, agrees to make any repairs required for the protection and

preservation of the highway and further agrees that, upon the failure of the applicant to make such repairs, they may be made by the Highway Superintendent at the expense of the applicant and such expense shall be a prior lien upon the land benefited by the use of the highway for such pipes, hydrants or appurtenances.

- C. If the work performed is on a road which has been improved by state aid, in no case shall the pavement be disturbed. Upon completion of the work, the highway shall be left in as good a condition as before the work was performed and to the satisfaction of the Highway Superintendent.
- D. If the work is being performed on a county or state road, a permit must be obtained from the proper authority first. A town curb cut permit is required for work beyond the right-of-way. The applicant must show the permit from the county or state agency to obtain the town permit.

§ 217-13. Responsibilities of applicant.

The said applicant hereby agrees to hold the Town of Pendleton harmless on account of damages of any kind which may arise during the progress of the work authorized by this permit or by reason thereof. Applicant certifies all persons concerned with actual work under this permit are duly covered by workmen's compensation insurance and the Town of Pendleton shall be held harmless on account thereof.

§ 217-14. Violations.

Failure to comply with the above requirements will be considered a violation of this Article and other conditions as set forth in the approved permit.

§ 217-15. Inspections.

- A. The Highway Superintendent or his designee shall make a first inspection after the curb is cut to ensure the curb is cut properly and that driveway stone of at least six inches of no smaller than No. 3 stone for the base is installed from the road to the location of the intended site work.
- B. The Highway Superintendent or his designee shall make a final inspection after the driveway is complete to ensure all work has been satisfactorily completed.

§ 217-16. Building permit; certificate of occupancy.

- A. No building permit shall be issued without submittal of a curb cut permit with a first inspection approval.
- B. No certificate of occupancy shall be issued without submittal of a curb cut permit with a final inspection approval.

§ 217-17. Fee. [Amended Dec. 1995]

- A. Installation only, pipe at owner's expense: \$375.

B. Inspection where the pipe has been set by the contractor: \$125.