

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 32, BY REPLACING THE PERTINENT SECTIONS IN ITS ENTIRETY OR IN PART OF 32-8(b); 32-12; 32-16; 32-34; 32-37; 32-40; 32-44; 32-61; 32-64(f); 32-65; 32-67; 32-68; 32-70; 32-105; 32-146; 32-149; 32-150; 32-224; 32-234; AND 32-274, RELATING TO STREETS AND SIDEWALKS.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE:

SECTION 1. That Chattanooga City Code, Part II, Chapter 32, Sections 32-8(b); 32-12; 32-16; 32-34; 32-37; 32-40; 32-44; 32-61; 32-64(f); 32-65; 32-67; 32-68; 32-70; 32-105; 32-146; 32-149; 32-150; 32-224; 32-234; and 32-274, be deleted in its entirety or in part, and substituting in lieu thereof the following:

**Sec. 32-8. Projections over sidewalks.**

(b) Applications for permits for projections over sidewalks, as authorized by this section, shall be submitted to the Transportation Department and receive its recommendation before issuing such permit.  
(Code 1986, § 32-8)

**Sec. 32-12. Parking, driving on area between sidewalk and curb.**

It shall be unlawful for any person to drive or park on any sidewalk or curb or on any landscape area between the sidewalk and curb on any street in the city.  
(Code 1986, § 32-12)

**Sec. 32-16. Definitions.**

*Building Official* - The person who is authorized to make or require inspections of any construction work to ascertain compliance with the provisions of the adopted building codes and other laws that are enforced by the Land Development Office.

*City Traffic Engineer* – The person overseeing the installation and proper maintenance of traffic control devices, signage and pavement markings for the Transportation Department.

*City Transportation Engineer* – The person serving to coordinate transportation design, review, standards, and project implementation for the Transportation Department.

*City Engineer* - The person serving to coordinate utility and stormwater design, review, standards, and project implementation for the Public Works Department.

*City Inspector* - A person employed by the City to physically inspect any excavation for conformity with the permit and other provisions of this Article.

*Emergency* - A sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.

*Excavation* - Any excavation or tunneling of any public street right-of-way including, but not limited to, excavation in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes, lines, driveways, private streets, poles, guy wires, signs, or other utilities, private structures, or facilities.

*Working Day* - Any day when City offices are open for the transaction of normal business.  
(Ord. No. 12337, 1-5-2010)

**Sec. 32-34. Obstructions to visibility at intersections.**

It shall be unlawful for the owner or occupant of any lot at any street intersection in the city to maintain any hedge, fence, shrubbery or other obstruction more than three (3) feet in height for a distance of twenty-five (25) feet back from the curb line or edge of pavement if there is no curb at such street intersection or at such distance required by the Transportation Department using adopted street design standards, and any owner or occupant of a lot at such an intersection having a fence, hedge, shrubbery or other obstruction more than three (3) feet in height shall remove the same or reduce the height thereof to not more than three (3) feet for a distance of twenty-five (25) feet back from the curb line or edge of pavement if there is no curb or at such distance required by the Transportation Department using adopted street design standards; provided that, the provisions of this section shall not apply to or affect buildings constructed on lots at street intersections.

(Code 1986, § 32-34)

**Sec. 32-37. Building materials on streets.**

(a) The portion of any street in the city which may be occupied by the material necessary for a building in course of construction, alteration or repair shall not exceed the dimensions of the front of the premises being built upon, and twelve and one-half (12 ½) feet in addition on each side and shall not exceed one-third (1/3) of the street in breadth. Such occupation of a street shall not be prolonged beyond the duration stipulated in the permit to occupy the street. All brick shall be properly stacked when deposited in the street and sufficient way shall be left unencumbered at all times between such building material and the curbstone on the side of the street opposite the building for the passage of vehicles.

(b) No material shall be placed within ten (10) feet of the track of any railroad or of any fire cistern, fireplug, pump or manhole for any sewer or conduit system or crossing, or within twelve (12) inches of any curbstone unless provision is made for the free passage of water in the gutters. A sufficient unobstructed passageway for traffic shall be maintained at all times along the street. Where it is possible so to do, as soon as any building is up to the sidewalk grade the sidewalk shall immediately be constructed and a sufficient passageway kept open at all times over the same.

(Code 1986, § 32-37)

(c) If existing pedestrian facilities are disrupted, closed, or relocated due to work in a construction zone, a temporary alternate route shall be provided that is detectable to and accessible by persons with disabilities.

**Sec. 32-40. Liability for failure to light.**

When any person neglects to comply with section 32-39 and an accident results by reason of such negligence causing damage, the person whose negligence caused the accident shall be held responsible therefor, and if the city is required to pay out any money as damages therefor, the city attorney shall prosecute the offender and bring an action against him to recover any damages that the city may have sustained by reason of his failure to comply.

(Code 1986, § 32-40)

**Sec. 32-44. Temporary use permit.**

It shall be unlawful for any person to place an obstruction on or over any City right-of-way or property unless such person has obtained a temporary use permit from the City. Applications for such permits shall be made to the Transportation Department along with a non-refundable application fee of One Hundred Ten Dollars (\$110.00).

(Ord. No. 11175, § 33, 9-11-01)

**Sec. 32-64. Application Fee.**

(f) Written notification of intent to work in a City right-of-way must be received at least 24 hours prior to beginning work, even if a permit is not required, except in emergencies. E-mail is considered a written notice. All applicants for any permits which require street or sidewalk closure should be submitted with enough written notice to comply with road closure policies administered by the Transportation Department.

**Sec. 32-65. Manner of excavating - barricades and lights.**

Any person making any excavation or tunnel shall do so according to the specifications and standards issued by the Transportation Department. In accordance with the Manual on Uniform Traffic Control Devices (MUTCD) sufficient and proper barricades, lights and other traffic control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked a temporary sidewalk shall be provided which shall be safe for travel and accessible for all users. No work shall be done which deviates from the approved plans and until a change of plans has been secured from the Building Official. All expenses of such safety measures and temporary sidewalk shall be borne by the applicant or owner.

(Ord. No. 12337, 1-5-2010)

**Sec. 32-67. Manner of excavating street.**

(a) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated materials from the trenches, must be placed where they will cause the least possible inconvenience to the public. All pavement where trench excavations are to be made shall be saw cut. Cutting the street with a jackhammer or a hoe-ram is not permitted.

(b) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. He shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the Manual on Uniform Traffic Control Devices, copies of which are on file in the Transportation Department Office, may be used as a guideline for proper positioning of signs and devices.

(c) Where difficult or potentially hazardous conditions exist, competent flagmen shall be provided to effect a safe and orderly movement of traffic. Where insufficient traffic lanes exist because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee shall be responsible for providing a flagman. In the event the Land Development Office or Transportation Department shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, it shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this Article.

(d) On main thoroughfares and in congested districts, sufficient traffic lanes shall be kept open at all times to permit substantially normal traffic flow. Unless this can be accomplished, work shall be done only during the period between 9:00 a.m. and 4:00 p.m. or between 7:00 p.m. and 7:00 a.m., as the Transportation Department may designate.

(e) For backfill in roadway areas, the contractor shall provide six-inches (6") of graded aggregate base above the utility's main line. From top of graded aggregate base backfill to within four-feet (4'-0") of the street surface, the contractor shall provide fine aggregate (crushed limestone dust no larger than 1/16"). Each lift of the fine aggregate base shall be moistened and compacted by means of a mechanical tamp. The contractor shall complete the backfill up to the bottom of the paving with flowable fill with a compressive strength of 200-250 psi in 48 hours. Flowable fill shall be placed a minimum of forty-eight (48) hours prior to the placing of the asphalt or concrete topping. Where it is impractical to use flowable fill because of terrain, slope, width of trench, or other situations, the material for the backfill in the roadway areas may be approved for cement treated aggregate base at the sole discretion of the Transportation Department. Each 8" layer of backfill shall be thoroughly compacted by means of a mechanical tamp. Other backfill materials may be acceptable, but prior approval for the substitution shall be determined by the Transportation Department.

(f) Backfill for trenches within the sidewalk areas shall be compacted graded aggregate base instead of loose washed stone. Each 8" layer of graded aggregate base shall be thoroughly compacted by means of mechanical tamp.

(g) If a perpendicular cut reaches the centerline of the roadway, the asphalt must be replaced from curb to curb and a minimum of ten (10) feet on each side of the centerline of the excavation.

(h) The proposed restoration plan shall require that permanent repairs or restoration of street cuts shall be made to match existing surfaces.  
(Ord. No. 12337, 1-5-2010; Ord. No. 12391, 4-27-10)

**Sec. 32-68. Liability and responsibility for repair.**

Any person who shall properly make any excavation or other change to the street right-of-way, and shall have same inspected by the Building Official or his designee and shall be relieved from any liability for any defects due to inadequate workmanship or defective materials provided the excavation shall remain free from defects for twelve (12) months following installation.

If a contractor, utility, or other entity makes five or more excavations within one block of a City right-of-way or within a work zone distance of 250 feet within the City right-of-way, whichever is shorter, causing disruption to any part of the pavement within five years after said right-of-way has been resurfaced or constructed, said contractor, utility or other entity shall repave the entire street for the distance of the City block or 250 feet, said distance being the distance utilized to require the repaving. Said repaving shall be done to the standards approved by the Transportation Department and shall be done under the supervision and control and at the

direction of the City. The contractor, utility, or other entity shall bear the entire cost of such repaving. In the event any such contractor, utility, or other entity fails to repave as required herein, then such contractor, utility or other entity shall be prohibited from acquiring any permits for additional excavations in any City right-of-way until such time as the repaving required by this section is completed and approved by the Transportation Department.  
(Ord. No. 12337, 1-5-2010)

**Sec. 32-70. Specification.**

Upon issuance of each permit, the Building Official shall specify minimum restoration standards applicable to the permit. The Transportation Department shall prepare and provide standard specifications for routine circumstances, which may be specifically referenced in the permit. Provided that where the work involved is greater in scope than provided for by standard specifications as determined by the Land Development Office or Transportation Department, the permittee shall be required to submit suitable plans of installation and street restoration for approval prior to issuance of a permit.  
(Ord. No. 12337, 1-5-2010)

**Sec. 32-105. Failure to construct or repair; notice authorized.**

If the owner, occupant or agent fails or refuses to construct, reconstruct or repair any required sidewalk or curbing, the Transportation Department may cause the same to be done at the expense of the property owner.  
(Code 1986, § 32-105)

**Sec. 32-146. Permits required.**

No person shall construct a driveway across any sidewalk or cut or drop any curb within the city without first obtaining a permit from the Land Development Office.  
(Code 1986, § 32-146)

**Cross reference--**Businesses, trades and occupations generally, Ch. 11.

**Sec. 32-149. When permits not to issue.**

Permits shall not be issued for any curb cut for the purpose of ingress or egress from any through street as designated by section 24-207 and section 24-501 of this Code unless the applicant shall provide adequate space and proper driveways or other such facilities for a vehicle to be turned around totally within the property to be served by the curb cut so that it will not be necessary to either back the vehicle onto the property for purposes of parking, loading or unloading, or to back a vehicle from the property into the public street; provided that, this restriction shall not apply to property used for single-family or two-family dwellings.  
(Code 1986, § 32-149)

**Sec. 32-150. Maximum width.**

The maximum width of any driveway or curb cut shall not exceed forty (40) feet from face to face of curb.

**Sec. 32-224. Sidewalk Clear Width.**

It is preferable that poles and wires be installed outside of sidewalk areas or that forty-eight (48) inches of clear width is maintained for passage on the sidewalk surface, but no pole or wire shall reduce the clear width for passage on the sidewalk surface to less than thirty-six (36) inches.

**Sec. 32-234. General provisions for telecommunications services.**

Any Provider shall comply with any special requirements of the office of the City Engineer or Transportation Department with respect to the specific location and installation of Provider's System and with respect to any other matters which affect the installation, operation and maintenance of Provider's System; to the maximum extent possible, Provider's System shall be installed underground, provided that Provider's System may be installed above ground where either telephone or electric utility facilities are above ground at the time of installation. To the extent that Provider installs its System in underground ducts, Provider shall provide to the City one duct of equal size to that of Provider's for the City's exclusive use; if Provider installs its own poles, Provider will reserve space on said poles for the City to install its own line on said poles. To the extent that Provider installs fiber optic fibers for its System, Provider agrees to provide the City with four (4) dark fiber optic fibers and access thereto (including lateral connections) on Provider's System, at no cost to the City for the City's unrestricted exclusive use; Provider shall also provide coordination and engineering assistance to the City for providing such fiber optic accesses for initial hookup as the City may desire at no cost to the City. City will not sell or lease said fibers to any competitor or potential customer of Provider during the term of any franchise to Provider for Telecommunications Services. Provider, with the prior written approval of the City Engineer and the Transportation Department, may make minor deviations from the Provider's System as shown in the map attached to Provider's franchise ordinance in the event unforeseen problems necessitate the rerouting of said System. Provider will comply with all applicable city ordinances and state laws, including but not limited to obtaining building permits, street cut permits and any other permits required by applicable law. (Ord. No. 10377, § 1, 2-6-96) (Code 1986, § 32-150)

**Sec. 32-274. Grading.**

(a) Before grading is started, the roadway construction area shall be cleared of conflicting trees, and all stumps, roots, weeds, logs, heavy vegetation, and other objectionable matter, and shall be grubbed to a depth below the proposed grade in cuts and the natural ground in fills so as to expose suitable subgrade. The cleared material shall be removed from within the right-of-way limits and disposed of in such a manner that it will not become incorporated within the fills, nor in any manner hinder proper operation of the storm drainage system.

(b) Suitable material may be used in the construction of embankments or at any other place needed. If rock is encountered, it shall be removed as determined by the geotechnical engineer. Where boulders are encountered, they should be removed 6 inches below the proposed grade. Onsite materials may be used, provided they are used according to the recommendations of the Geotechnical Engineer. If imported fill is used to construct road embankments, the materials shall meet the following requirements:

- (1) Standard Proctor Maximum Dry Density  $\geq$  100 pounds per cubic foot within the top 2 feet of finished subgrade elevation; or 95 pounds per cubic foot below the top 2 feet.
- (2) Liquid Limit  $\leq$  60.
- (3) Plasticity Index  $\leq$  35.

(Ord. No. 11451, §1, 09-02-03; Ord. No. 11882, § 1, 9-5-06)

SECTION 2. That Chattanooga City Code, Part II, Chapter 32, Section 32-61 is hereby removed and Sections 32-17 through 32-30 and Sections 32-225 through 32-230 are hereby reserved.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

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MAYOR