

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. SIDEWALK REGULATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting awnings, etc., restricted.
- 16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-106. Littering streets, alleys, or sidewalks prohibited.
- 16-107. Abutting occupants to keep sidewalks clean, etc.
- 16-108. Parades regulated.
- 16-109. Operation of trains at crossings regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Street acceptance policy.
- 16-112. Uniform numbering system for properties and buildings.
- 16-113. Regulation of use of play vehicles in business districts and other areas.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall obstruct any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (2000 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14'). (2000 Code, § 16-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, or other obstruction which prevents persons

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2000 Code, § 16-103)

16-104. Projecting awnings, etc., restricted. No person shall erect or maintain awnings or other projections which shall project from any building or structure over any sidewalk more than the width of the sidewalk. Furthermore, a clear space of not less than eight feet (8') shall be provided below all parts of awnings, or other projections. (2000 Code, § 16-104)

16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate to swing open upon or over any street, alley, or sidewalk. (2000 Code, § 16-105)

16-106. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to place, throw, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, or other objects which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (2000 Code, § 16-106)

16-107. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting a sidewalk are required to keep the sidewalk clean and unobstructed. Also, immediately after a snow such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2000 Code, § 16-107)

16-108. Parades regulated. It shall be unlawful for any person, club, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets of the city without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity and unless such representative, for an event with less than three hundred (300) participants, shall provide a certificate of insurance at the city manager's request. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out this agreement to clean up the resulting litter immediately. (Ord. #48-20, Oct. 2012)

16-109. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. (2000 Code, § 16-109, modified)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2000 Code, § 16-110)

16-111. Street acceptance policy. In order to provide for adequate street improvements, elimination of traffic congestion, and the health, safety, and general welfare of the citizens of the City of Elizabethton, Tennessee:

(1) The City Council of the City of Elizabethton, Tennessee, shall not accept as a public street any recorded right-of-way until it has met the minimum construction standards of the Subdivision Regulations¹ of the City of Elizabethton, Tennessee.

(2) Prior to final acceptance of a proposed street as a public street, the Elizabethton Regional Planning Commission shall study a plat of the proposed street and make its approval or disapproval known to the city council. (2000 Code, § 16-111)

16-112. Uniform numbering system for properties and buildings.

(1) System adopted. A uniform system of numbering properties and principal buildings, as shown on the map identified by the title Elizabethton, Tennessee - Property Numbering System which is filed in the office of the city clerk, is hereby adopted for use in the City of Elizabethton, Tennessee. This map and all explanatory matter thereon is hereby adopted and made a part of this section.

(a) All properties or parcels of land within the corporate limits of Elizabethton, Tennessee, shall hereafter be identified by reference to the uniform numbering system adopted herein, provided, all existing numbers of property and buildings not now in conformity with provisions of this section shall be changed to conform to the system herein adopted within two (2) months from the date of passage of the provisions of this section.

(b) A separate number shall be assigned according to the interval designated in the following schedule and as indicated on the accompanying maps.

Within Zone 2, a separate number shall be assigned for each fifty feet (50') of frontage.

(c) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal

¹The subdivision regulations are of record in the planning and development office.

building is occupied by more than one (1) business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(d) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. The purchase and installation of numerals shall be the responsibility of the property owner.

(2) Administration. (a) The building department shall be responsible for maintaining a record of the numbering system and coordinating such activity with and through the Carter County Emergency Communications District (911). In the performance of this responsibility the building department shall be guided by the provisions of this section.

(b) The building department shall keep a record of all numbers assigned under this section. (2000 Code, § 16-112)

16-113. Regulation of use of play vehicles in business districts and other areas. It shall be unlawful for any person to use roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels on any public street, roadway, alley, sidewalk, or in any public park, within any designated or zoned business district, except in such areas as may be specifically designated for such purpose and so identified by signage, such as upon the linear pathway. It shall be unlawful for any person to use roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels at any city owned facility, except in such areas as may be specifically designated for such purpose and so identified by signage. It shall be unlawful for any person to utilize roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels in an unlawful or reckless manner which would interfere with or inconvenience any pedestrians using such rights-of-way. The riding of roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels, on picnic tables, benches, or other park facilities is strictly prohibited. (2000 Code, § 16-113)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city engineer is open for business and said permit shall be retroactive to the date when the work was begun. (2000 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the building official, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

approved by the building official within forty-eight (48) hours of its filing. (2000 Code, § 16-202)

16-203. Fee. The fee for such permits shall be as follows:

Open cuts in pavement with maximum depth of trench to three feet (3').

Five dollars and forty cents (\$5.40) per lineal foot of horizontal pavement cut.

Open cuts in pavement with maximum depth of trench between three feet and six feet (3' and 6').

Seven dollars and twenty cents (\$7.20) per lineal foot of horizontal pavement cut.

Tunneling under pavement without affecting base, pavement, or load bearing properties of the pavement.

One dollar (\$1.00) per lineal foot of horizontal pavement tunneling.

Open cuts in nonpaved city owned public right-of-way.

One dollar (\$1.00) per lineal foot of horizontal ground cut.

In no case shall the fee exceed fifty dollars (\$50.00) for this item. (2000 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the building department a cash deposit to insure the proper restoration of the ground and laying of the pavement. The deposit shall be as follows:

Open cuts in pavement of thickness up to three inches (3") with maximum depth of trench to three feet (3').

Twenty-five dollars (\$25.00) per lineal foot of horizontal pavement cut.

Open cuts in pavement of thickness up to three inches (3") with maximum depth of trench between three feet and six feet (3' and 6').

Fifty dollars (\$50.00) per lineal foot of horizontal pavement cut.

Tunneling under pavement without affecting base, pavement, or load bearing properties of the pavement.

Twenty dollars (\$20.00) per lineal foot of horizontal pavement tunneling.

Open cuts in non paved city owned public right-of-way.

Ten dollars (\$10.00) per lineal foot of horizontal ground cut.

Cuts affecting sidewalks, curbs and/or other pavements or structures not described above.

Bond to be calculated separately.

Where a utility cut does not fit into the categories above, the building official will determine the required deposit by calculations deemed applicable by him. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the building official may increase the amount of the deposit to an amount considered by him to be adequate to cover said cost. From this deposit

shall be deducted the total expense to the city of repairing any part of the utility cut if this is done by the city or at its expense.

A portion of the balance of the deposit (no greater than fifty percent (50%)) shall be returned to the applicant without interest after the tunnel or excavation has been completely repaired to the satisfaction of the building official. The remaining balance of the deposit shall be returned to the applicant without interest after a period of one (1) year from the date the tunnel or excavation was completely repaired to the satisfaction of the building official. If additional repairs to the utility cut are needed within this one (1) year period, the applicant will be given a notice by the building official to make such repairs within a period of time designated by the building official. If the applicant fails to make such repairs within the given period of time to the satisfaction of the building official, then the city shall use the deposit to cover all costs associated with making such repairs.

In lieu of a deposit the applicant may deposit with the building department a surety bond in such form and amount as the building official shall deem adequate, based on the procedure stated above, to cover the costs to the city if the applicant fails to make proper restoration. The surety bond shall be treated in the same manner as a cash deposit as described above. (2000 Code, § 16-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (2000 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition by the standards and methods described as follows:

BACKFILLING

(1) General:

(a) After pipework and pipe bedding has been approved, backfill trenches with TYPE I, TYPE II, OR TYPE III BACKFILL, as hereinafter specified, indicated, or as authorized.

(b) Utility cuts crossing streets, roads, gravel driveways, and dirt driveways: Backfill the trenches and make the crossing usable by vehicular traffic immediately after laying pipe and obtaining approval

thereof, and maintain these crossings usable by vehicular traffic at all times. Do not under any circumstances leave street or road crossing or a private driveway unusable overnight.

(c) For each area of utility cut, allow only a minimum length of trench to remain without backfill at any time. Any area to remain without backfill overnight must be approved by building official prior to cut. Under no circumstances will a trench be allowed to stay open overnight unless proper barricading is provided and there is a legitimate reason for leaving the cut open. All unbackfilled trenches shall be provided with barricades, warning lights and flares, and other safety devices or measures when the work is not in progress.

(d) All compaction of backfill shall be subject to field density tests by the building official and/or a testing laboratory.

(e) At applicant's expense, remove, replace, and recompact all backfill which fails to comply with compaction density requirements herein specified.

(2) Type I backfill, for utility cuts under nonpaved areas, except areas within five feet (5') horizontal distance from edge of pavement, and for utility cuts where indicated or authorized:

(a) Unless otherwise indicated, specified, or authorized, place all Type I backfill from top of pipe bedding up to finished grade by approved method. Windrow suitable excess excavated materials over the trenches, and after sufficient settlement has occurred, not to exceed a two (2) week period, complete the surface dressing surplus material removal, and surface cleanup and restoration.

(b) Type I backfill materials from top of pipe bedding up to finished grade shall be any materials removed from the excavation and suitable for backfill, except do not use as backfill material any pieces of the following materials which are larger than six inches (6") in their greatest dimension: rock; stone; concrete; asphalt paving; or masonry. Other backfill materials such as crushed stone may be approved by the building official.

(c) All disturbed surfaces must be replaced with proper vegetation or ground cover.

(3) Type II backfill, for utility cut which parallels paved surfaces and which is installed within five feet (5') horizontal distance from edge of pavement and for utility cut where indicated or authorized:

(a) Unless otherwise indicated, specified or authorized, place all Type II backfill from top of pipe bedding to finished grade or paving subgrade in six inch (6") maximum thickness loose layers, and compact each layer with mechanical tampers to obtain ninety-five percent (95%) of the maximum density as determined by ASTM D698 (Standard Proctor).

(b) Backfill materials from top of pipe bedding up to finished grade or paving subgrade shall be any materials removed from the excavation and suitable for backfill, except do not use as backfill material any pieces of the following materials which are larger than six inch (6") in their greatest dimension: rock; stone; concrete; asphalt paving; or masonry. Other backfill materials such as crushed stone may be approved by the building official.

(4) Type III backfill, for utility cut under paved areas, for areas proposed to be paved, and for utility cut where indicated or authorized:

(a) Where Type III backfill is indicated, specified, or authorized, backfill trenches from top of pipe bedding to paving subgrade with granular materials compacted to one hundred percent (100%) of the maximum density as determined by ASTM D2049.

(5) Dispose of all excavated materials which are not placed as backfill in a proper manner.

(6) Final requirements. (a) Throughout construction of the project until the time of final acceptance, and also during the duration of the guarantee period: Maintain the backfilled and repaved trenches.

(b) At the applicant's expense:

(i) Refill, recompact, and smooth off as required all backfill which settles, so that all backfill finally conforms to the original grade or paving subgrade as applicable.

(ii) All pavement which may be damaged by settlement of backfill shall be removed and replaced after backfill has been repaired as specified above.

CUTTING AND REPLACING PAVEMENT AND OTHER SPECIAL SURFACES

(1) Restore to at least the conditions which existed before excavation, all surfaces which have been disturbed by the utility cut. Prior to construction, the building official will examine the existing surface in the applicant's presence, and the type of surface to be replaced in each case shall be determined by the building official.

(2) Where utility cuts are to be made among shoulder of roads and/or streets, the applicant shall repair all damage to paving which occurs as a result of the utility cut. Maintain all crossings until project completion.

(3) Prior to making any excavation, outline the limits of the proposed excavation and saw cut the pavement along the outline to a depth of at least one inch (1") to provide a smooth pavement cut line. Carefully remove the pavement between the saw cuts and avoid damage to the paved surface outside the saw cuts. Replace with new surfaces all existing surfaces which are cut, removed, or otherwise damaged by the work under this contract, as specified hereinafter.

All new surfaces shall conform accurately to the elevations and contours of the existing adjacent undisturbed surfaces.

(4) Existing gravel surfaces: Replace these with a six inch (6") thick compacted layer of new road gravel.

(5) Existing asphalt ("black top" single bituminous surfaces and double bituminous surfaces): replace these with a six inch (6") thick compacted base course of new road gravel. The 6 base course shall be considered as a temporary traffic surface and shall be maintained in good condition until paved. Maintenance shall include: filling pot holes, work necessary to confine stone to trench area by sweeping with mechanical sweeper with collection hopper and water fed brooms, and watering temporary surface daily, if necessary, for dust control. To avoid mixture of earth backfill and limestone base, all excess excavated material shall be removed from the work area prior to placing of the base course. Permanent pavement to consist of three inches (3") of Tennessee Department of Transportation, Bureau of Highways Subsection 411, Grading D, Asphaltic Concrete Surface (Hot Mix). Before laying asphaltic concrete surface course, apply a prime coat to the underlying base course, as specified hereinafter.

(6) Prime coat: This shall be one of the following types of liquid asphalt as authorized for the conditions involved: RC 70; RC 250; MC 250. Heat the priming material and apply it with a suitable asphalt distributor, at a uniform rate of 0.25 to 0.50 gallons per square yard of base, all as approved.

(7) Repair of existing concrete surfaces including roads, sidewalks, curbs, and gutters:

(a) General: Remove existing sidewalks and curbs and gutters only as required for utility cut and replace removed sidewalks and curbs and gutters with new sidewalks and curbs and gutters, which shall match existing undisturbed corresponding items in dimensions, finishes, grades, and arrangements.

(b) New concrete shall be three thousand (3,000) psi with an air entrainment value of six percent (6%) (\pm one percent (1%)). The water cement ratio shall be not greater than 0.50 by weight. Concrete slump shall be one to three inches (1" - 3").

(c) Expansion joints: Provide expansion joints on twenty foot (20') maximum centers in curbs and gutters and on thirty-five foot (35') maximum, centers in sidewalks, full depth of concrete cross section, and formed with ASTM D1751 one-half inch (1/2") thick expansion joint filler.

(8) Where utility cut is made on the shoulders parallel to asphalt, maintain ditches until they are firm and present no traffic hazard. Where authorized, place six inch (6") thick compacted layers of new road gravel. (2000 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person

applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved and in no case shall the insurance limits be less than those stated by the building official. (2000 Code, § 16-207)

16-208. Time limits. Upon approval of the utility cut permit by the building official, the applicant shall have sixty (60) days in which to begin the utility cut. After sixty (60) days the utility cut permit will be void and the applicant must reapply for a new utility cut permit.

Before beginning any utility cut the applicant must notify the building official of the exact time the utility cut will be made. This notification must be made at least five (5) hours before making the utility cut if the utility cut is to be made during normal work hours of the building official. If the utility cut is to be made at a time other than during normal work hours of the building official then the applicant must notify the building official at least seventy-two (72) hours before the utility cut is to be made. Any violation of this notification schedule will result in the applicant having to pay an additional fee equal to that of the original permit fee. Any right-of-way cuts made because of the need for emergency repairs may be performed, however, a utility cut permit must be obtained during the next business day.

The applicant for a utility cut permit must state a complete time frame for the restoration of a utility cut at the time of application. This time frame may or may not be approved by the building official. In any case a complete time frame must be agreed upon before the utility cut permit will be granted. Failure to restore the utility cut within the time frame established for the utility cut permit will result in a penalty being imposed on the applicant equal to the original fee for each complete twenty-four (24) hour period after the expiration of the time frame established for the utility cut permit. In cases where the utility cut cannot be restored within the time frame established for the utility cut permit for legitimate reasons, the applicant may request from the building official an extension on the allowed time. Such request must be made before the expiration of time on the utility cut permit. The building official shall in his sole discretion approve or reject such request based on his judgment of the merit of the request.

The building official may at any time during the utility cut process order the applicant to immediately restore the utility cut to its original condition. The building official may at any time authorize the restoration of the utility cut either by city personnel or a contractor hired by the city to perform the

restoration. If the utility cut is restored by the city or on its behalf, all costs will be paid for by the deposit or bond provided by the applicant.

In addition to the notification procedure required before beginning a utility cut, the building official shall be notified by the applicant of the time for beginning any stage of the utility cut restoration as deemed necessary by the building official for inspection purposes. Failure to notify the building official at least one (1) hour before the specified stage of the restoration process will result in a penalty, for each offense, to be paid by the contractor equal to the permit fee. (2000 Code, § 16-208)

CHAPTER 3

SIDEWALK REGULATIONS

SECTION

- 16-301. Definitions.
- 16-302. Scope.
- 16-303. Exceptions.
- 16-304. Sidewalk clearance.
- 16-305. Pushcarts.
- 16-306. Performers of sidewalk entertainment.
- 16-307. Outdoor dining areas.
- 16-308. Outdoor merchandise areas.
- 16-309. Permits or encroachment agreements required.
- 16-310. Application.
- 16-311. Term, fees, transferability, display.
- 16-312. Denial.
- 16-313. Revocation.
- 16-314. Penalties.

16-301. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "(Central) Business district." The general use zoning district defined by that name in title 14, chapter 3 of this code and outlined on the official zoning map of the city.

(2) "Merchandise." Includes, but is not limited to, plants, flowers, wearing apparel jewelry, ornaments, art work, household or office supplies, food or beverages of any kind whether or not for immediate consumption, or other goods or wares.

(3) "Outdoor dining area." An area in front of or adjacent to a restaurant and locate on a public sidewalk or square whereon tables, chairs or benches are placed for dining purposes.

(4) "Outdoor merchandise area." An area in front of or adjacent to a retail business where merchandise is located on a public sidewalk for the purpose of displaying, exhibiting selling or offering for sale merchandise.

(5) "Pushcart." A wheeled cart which may be moved by one (1) person without the assistance of a motor and which is designed and used for displaying, keeping or storing an food, beverages or other articles for sale by a vendor.

(6) "Sidewalk." All that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

(7) "Sidewalk entertainment." Non-amplified performances occurring on the sidewalk which may include, but not be limited to, music, dance, mimes,

magicians, clowns, juggler and theatrical presentations, but specifically excluding speeches, lectures, and sermons. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-302. Scope. Except as a permit may be issued pursuant to these regulations, it shall be unlawful for any person to sell, offer for sale, exhibit or demonstrate any goods, wares, merchandise, mechanical devices, animals or any article of any kind whatsoever, by whatever name called, upon any public street, sidewalk, square, avenue, alley, or city property within the corporate limits of the city. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-303. Exceptions. (1) None of the requirements of this article for permits or encroachment agreement shall apply to the sale of food and other products from pushcarts, outdoor dining areas, of outdoor merchandise areas which are otherwise part of a city approved community celebration, event, or festival.

(2) Permits issues for pushcarts and outdoor merchandise area under the provision of this article shall be temporarily suspended at locations designated for an approved community celebration, event, or festival. Permit holders may, however, continue the operation during the community celebration, event, or festival so long a written documentation of approval from the community celebration, event, or festival organizer is obtained. Permit issues for outdoor dining areas shall not be temporarily suspended in areas designated for approved community celebration, event, or festival. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-304. Sidewalk clearance. The primary purpose and intent of sidewalks in reference to these regulations is to allow for the movement of pedestrians within a specific area. The following regulations shall therefore be implemented to ensure this primary purpose.

(1) A pedestrian path through or around any pushcart, outdoor dining area, or outdoor merchandise area shall be clearly visible and remain unobstructed to all pedestrians using the sidewalk at all times. Obstructions include, but are not limited to posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, trees-wells, tree planters, canopy columns, benches, tables, chairs, umbrellas, heaters, and waste receptacles.

(2) The following table shows the minimum width of an unobstructed pedestrian path required for pedestrians to move through or around any pushcart, outdoor dining area, of outdoor merchandise area.

Sidewalk Width	Minimum Pedestrian Path Width
Less than 10 feet.	5 feet, 6 inches

Sidewalk Width	Minimum Pedestrian Path Width
Greater than or equal to 10 feet, but less than 15 feet.	6 feet, 6 inches
Greater than or equal to 15 feet.	8 feet

(3) The minimum width required for a pedestrian path shall flow fluidly and smoothly from one (1) outdoor dining area or outdoor merchandise area to another keeping the path as straight as possible and no immediate turns less than one hundred thirty degrees (130°).

(4) The pedestrian path may be narrowed to thirty six inches (36") inches for a length not to exceed two feet (2') at the discretion of the chief building official to accommodate street furniture or other similar elements or unique circumstances with no more than one narrowing per pushcarts, outdoor dining areas, or outdoor merchandise areas. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*, and amended by Ord. #55-33, Dec. 2019 *Ch2_03-11-21*)

16-305. Pushcarts. All pushcarts and their operators shall meet the following requirements:

(1) For all pushcarts, a permit and encroachment agreement shall be required.

(2) The pushcart shall not be motorized or propelled in any manner other than the walking motion of the person operating the pushcart, with the exception that persons with disabilities may use a motorized system to propel the pushcart. No motorized assistance shall be used to locate the pushcart on the sidewalk or public place, with the exception that persons with disabilities may use motorized assistance.

(3) The pushcart shall be covered with an appropriate material to prevent exposure of the food or food product to wind, dust, insects and the elements and shall meet any such other regulations as may be required by the county health department or any other applicable regulatory agency. The pushcart operator shall display, in plain view, all required permits as set forth by federal, state, and local laws and shall provide a copy of health department and other regulatory agency permits and/or licenses to the city prior to the issuance of a permit by the city for the pushcart. The pushcart operator shall continuously maintain the required approvals permits and/or licenses and provide evidence to the city of the continuous maintenance of them.

(4) The pushcart shall have attached to it or immediately adjacent to it a proper container for the collection of waste and trash. The pushcart operator shall be responsible for the proper disposal of waste and trash associated with the pushcart operation. No grease, waste, trash or other debris from the pushcart operation shall be deposited on or released onto city property, which includes the streets, sidewalk or other public place nor into the gutter or storm

drainage system. The pushcart operator shall keep the immediate area in a six foot (6') radius from the center of the pushcart clean of garbage, trash, paper, cups, cans or litter associated with the pushcart operation. Unless otherwise permitted by the city, a pushcart operator shall not use city trash receptacles, city street cans or other city waste disposal containers for the disposal of waste and trash associated with the pushcart operation.

(5) The pushcart shall not have attached to it any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers, nor shall the permit holder use any such device to attract attention.

(6) The total signage attached to pushcarts shall be less than four (4) square feet and be exempt from the requirements of title 14, chapter 5 of this code.

(7) The pushcart shall be set up only in the location set forth in the operator's permit issued by the city, and shall not impede, endanger or interfere with pedestrian or vehicular traffic.

(8) The pushcart shall be set up so that a minimum sidewalk clearance shall be provided at all times.

(9) The pushcart shall not be stored, parked or left overnight on any street or sidewalk or in any public parking space of the city.

(10) The pushcart shall operate only at times between the hours of 7:00 A.M. and 11:00 P.M.

(11) No item related to the operation of the pushcart shall be placed on the street, sidewalk, public place or anywhere other than in or on the pushcart except for a container for the collection of waste and trash.

(12) Pushcart operators shall not consume nor be under the influence of alcohol or controlled substance while operating the pushcart.

(13) The dimensions of the pushcart shall be no greater than the following:

(a) Four feet six inches (4' 6") in height as measured from the ground to the highest point of the pushcart; and

(b) Twenty four (24) square feet as measured in length and width (the overall footprint) excluding any trailer hitch; and

(c) Four feet (4') for the height of any umbrella affixed to the pushcart, as measured from the top of the cart to the highest point of the umbrella. No freestanding umbrella or canopy shall be used.

The city reserves the right to require smaller dimensions based upon such factors as, but not limited to, pedestrian and vehicular safety and adequate sight distances.

(14) The pushcart permit holder or her/his designee shall be in attendance at the pushcart at all times, except in case of an emergency.

(15) The pushcart operator shall comply with all federal, state and local laws when operating the pushcart.

(16) The applicant must provide a photograph, drawing or sketch of the design of the pushcart as part of the application for a permit. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-306. Performers of sidewalk entertainment. Performers of sidewalk entertainment shall meet the following requirements:

(1) Not violate the prohibitions on disturbing, annoying and unnecessary noise as set forth in title 11, chapter 2 of the code.

(2) Not violate the prohibitions on solicitation as set forth in city code title 9, chapter 1 and § 11-605.

(3) Not obstruct or cause to be obstructed pedestrian or vehicular traffic, including but not limited to not obstructing or causing to be obstructed sidewalks, doorways or other access areas. Performers of sidewalk entertainment must provide a minimum of six feet (6') of pedestrian path width.

(4) The sale of records, tapes or other products shall not be permitted.

(5) Perform only at times between the hours of 9:00 A.M. and 10:00 P.M.

(6) Not consume nor be under the influence of alcoholic beverages controlled substances while performing, in compliance with the Tennessee laws and regulations.

(7) Not perform any closer than two hundred (200') from another performer.

(8) Not perform at locations designated for an approved community celebration, event, or festival, unless permitted to play at the community celebration, event, or festival by the celebration, event, or festival coordinator unless permission is given in writing by the event or festival coordinator.

(9) No fixtures, items, or devices shall be attached or cause damage to the sidewalk or other public area.

(10) Comply with all federal, state and local laws when performing within the city, including but not limited to, the solicitation ordinance and the noise ordinance. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-307. Outdoor dining areas. Permit holders for outdoor dining areas and their employees shall meet the following requirements:

(1) For all outdoor dining areas, a permit and encroachment agreement shall be required, or for any condition which a fence, canopy, or other structure will overhang the sidewalk.

(2) The permit holder shall set up the outdoor dining area, including, but not limited to, the furniture, canopies, fencing and/or other accessories used for the outdoor dining area, only in the area designated by the city in the encroachment agreement or on the permit, specifically excluding roadways. The outdoor dining area shall not impede, endanger or interfere with pedestrian or vehicular traffic.

(3) Furniture, canopies, barriers, and/or other accessories used for the outdoor dining area shall be located so that the minimum pedestrian path width shall be provided at all times.

(4) The permit holder shall keep the immediate area around the outdoor dining area and the outdoor dining area clean of garbage, trash, paper, cups, cans or litter associated with the operation of the outdoor dining area. All waste and trash shall be properly disposed of by the permit holder.

(5) The permit holder shall comply with all county health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food preparation and service. The permit holder shall display in a conspicuous location all such required permits and/or licenses and shall provide copies of those permits and/or licenses to the city prior to issuance of a permit for an outdoor dining area by the city. The permit holder shall continuously maintain the required approvals, permits and/or licenses and provide evidence to the city of the continuous maintenance of them.

(6) The permit holder shall not have on the premises any bell, siren, horn loudspeaker, flashing lights, or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.

(7) Employees of the permit holder for the outdoor dining area shall not consume alcoholic beverages while working in the outdoor dining area.

(8) Barriers. (a) For any outdoor dining area where alcoholic beverages are served or where the perimeter of the outdoor dining area extends more than three feet (3') into the sidewalk from the building frontage, the full perimeter of the area shall be enclosed by a barrier apart from one (1) opening between forty-two inches and fifty four inches (42" and 54") wide. The alcohol permit holder shall comply with all state and local regulations for the sale, possession and/or consumption of alcoholic beverages and shall provide the city with a copy of any and all required permits or licenses for the sale, possession, and/or consumption of alcoholic beverages and the diagram and/or plans showing the location of the outdoor dining area which were submitted for the permit or license.

(b) Size and type. Barriers shall be between thirty-two and forty inches (32" and 40") in height, and must be free-standing, stable, and removable. Barrier segment bases should be flat with tapered edges that are no more than one-half inch (1/2") inch thick. The lowest point in the barrier shall be no more than six inches (6") from the ground. Acceptable types are portable, sectional fencing with vertical pickets placed end-to-end to create the appearance of a single fence.

(c) Color and materials. Barriers shall be composed of steel or aluminum and painted or finished in black.

(d) Barriers shall be maintained in a clean condition and free from splintering, peeling or chipping paint, rust, or signs of deterioration

or damage to the structure or finishes. The permit holder shall be responsible for the security of the barriers.

(9) Furniture and decorative elements.(a) Materials. Furniture used for an outdoor dining area shall not have frame or support made of flimsy plastic, rubber, unfinished wood, or other non-durable or light material that may easily be blown away or is not made for outdoor use. Encouraged materials include metals, finish grade wood, or sturdy composite or recycled materials.

(b) Colors. The color of furniture and other decorative owner's choice. Colors with low lightness or that match the color scheme of the business are encouraged. Where umbrellas are permitted, the color shall match the color scheme of the business or shall be natural or earth tones.

(c) Furniture or other elements shall not be tied or otherwise secured to trees, street lights, sidewalks, street signs, other street furniture, or hydrants.

(d) Other decorative elements. Umbrellas or other decorative which are used in an outdoor dining area shall be fire retardant, pressure treated securely fastened to withstand strong winds, and may only contain the logo or name of the business in which they represent which shall not be greater than a total of six (6) square feet for each umbrella. Additionally, umbrellas shall be contained within the define outdoor dining area with a height of between seven and ten feet (7' and 10') tall when open. Umbrellas shall not be permitted in outdoor dining areas underneath the East Elk A venue downtown canopies.

(e) No fixtures, furniture, umbrellas, fences, devices, or other decorative materials associated with the outdoor dining area shall be attached or cause damage to trees, street lights, sidewalks, street signs, other street furniture, hydrants, canopy columns, or other public area.

(f) Furniture and other decorative elements shall be maintained in a clean condition and free from splintering, peeling or chipping paint, rust, or deterioration or damage to the structure or finishes. The permit holder shall be responsible for the security of the furniture, accessories, and other decorative elements of the outdoor dining area and the city shall not be responsible for the same.

(10) No alterations or coverings shall be made to the outdoor dining area space. Platforms, artificial turf, paint, or carpet are strictly prohibited.

(11) The permit holder shall comply with the prohibitions on disturbing, annoying and unnecessary noises set forth in title 11, chapter 2 of the code.

(12) The applicant must provide a photograph, drawing or sketch of the design of the furniture and accessories to be used for the: outdoor dining area as part of the application for a permit.

(13) Outdoor dinning area permit holders may also use a portion of their permitted area to display merchandise of the establishment, so long as the portion of the permitted are used for display of merchandise conforms to the

regulations of outdoor merchandise areas. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*, and amended by Ord. #55-33, Dec. 2019 *Ch2_03-11-21*)

16-308. Outdoor merchandise areas. Permit holders for outdoor merchandise areas and their employees shall meet the following requirements:

(1) A permit and encroachment agreement shall be required for outdoor merchandise areas.

(2) Outdoor merchandise areas shall be located only in the area designated by the city and indicated in the encroachment agreement or on the permit, specifically excluding roadways. Merchandise and the fixtures or devices on which it is displayed shall be located so that they do not impede, endanger or interfere with pedestrian or vehicular traffic.

(3) Merchandise and the fixtures or devices on which it is displayed shall be located so that the minimum sidewalk clearance shall be provided at all times.

(4) No fixtures or devices on which outdoor merchandise is displayed shall be attached or cause damage to the sidewalk or other public area.

(5) Outdoor merchandise areas will be permitted only adjacent to the building or structure in which the retail business is located or between the sidewalk canopy columns where they exist. Outdoor merchandise areas shall not be permitted next to the curb of the street or sidewalk or in roadways or in the middle of the sidewalk where sidewalk canopy columns do not exist.

(6) Merchandise and the fixtures or devices on which the merchandise is displayed must not block regulatory signs, crosswalks or intersections and shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage alongside the outdoor merchandise area.

(7) All merchandise located within an outdoor merchandise area shall be placed so that the outdoor merchandise and the fixtures or devices on which the merchandise is displayed are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public.

(8) The lowest point on merchandise displays within the outdoor merchandise area must not exceed a height of twenty-seven inches (27").

(9) All merchandise and the fixtures or devices on which the merchandise is displayed shall be moved inside the building or structure wherein the retail business is located during hours the retail business is not operated and during inclement weather, including, but not limited to, heavy rain, wind, ice or snow.

(10) All merchandise and the fixtures, or devices on which the merchandise is displayed must be secured so that it may not be dislodged during windy or stormy weather prior to being moved inside the building or structure wherein the retail business is located.

(11) In the event of a declared emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the

sidewalk when directed to do so by any law enforcement officer, fire official or emergency medical personnel.

(12) The permit holder for the outdoor merchandise area shall be responsible for the maintenance, upkeep and security of the fixtures or devices on which the merchandise is displayed which shall not be in a state of rust, rot, or decay and the city shall not be responsible for the same.

(13) The permit holder for the outdoor merchandise area shall be responsible for keeping the outdoor merchandise area clean of garbage, trash, paper, associated with the operation of the outdoor merchandise area.

(14) The permit holder for the outdoor merchandise area shall not have on the premises any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.

(15) The total signage attached to the outdoor merchandise area shall be less than four (4) square feet and be exempt from the requirements of title 14, chapter 5 of this code.

(16) Outdoor merchandise areas shall not contain any live animals. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-309. Permits or encroachment agreements required. (1) Upon successfully completing an application and upon meeting all of the requirements in this chapter and the city code, the city clerk or her/his designee shall issue permits or execute encroachment agreements to allow outdoor dining areas, outdoor merchandise areas, or pushcarts only within the (central) business district.

(2) A separate permit or encroachment agreement shall be required for each outdoor dining area, outdoor merchandise area, or pushcart.

(3) Pushcart vendors requesting relocation to a new site must complete a new application and pay a new application permit fee for the new location. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-310. Application. Each application for a permit or encroachment agreement for an outdoor dining area, outdoor merchandise area, or pushcart shall be filed with the city clerk or her/his designee and shall include but not be limited to the following:

(1) The name, address and telephone number of the applicant.

(2) The name of the individual, business or organization making the application and the business address and telephone number.

(3) For permits to allow pushcarts, the application shall include information about the type of food or other product to be sold; proposed times and area of operation; description, drawing, sketch, or photograph of the type of pushcart to be used; and other pertinent information related to the method of doing business under the permit. For permits to allow outdoor dining areas, the application shall include a site plan showing the proposed location of

furniture, canopies, fencing and other accessories for the outdoor dining area; a description drawing, sketch, or photograph showing the design of all furniture, fencing, canopies and accessories to be used in the outdoor dining area; location for the outdoor dining area; and other pertinent information related to the use of the outdoor dining area. For permits to allow outdoor merchandise areas, the application shall include a site plan showing the location of the outdoor merchandise area, the proposed location of fixtures or devices on which the merchandise is to be displayed.

(4) For permits for pushcarts to allow the sale of food, food products and/or beverages and for permits or encroachment agreements for outdoor dining areas, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability and products and completed operations coverage in a minimum amount of one million dollars (\$1,000,000.00) per occurrence and in the aggregate, provided that those certificates may be furnished as evidence of such coverage purchased for the applicant's principal place of business for serving food, food products and/or beverages, so long as such certificates meet the minimum acceptable requirements established in this section. For permits to allow the sale of other products from pushcarts, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability in the minimum amount of twenty-five thousand dollars (\$25,000.00) per occurrence and in the aggregate. For permits or encroachment agreements for outdoor merchandise areas, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability and products and completed operations coverage in a minimum amount of one million dollars (\$1,000,000.00) per occurrence and in the aggregate, provided that those certificates may be furnished as evidence of such coverage purchased for the applicant's retail business, so long as such certificates meet the minimum acceptable requirements established in this section. All certificates shall be issued by an insurance company licensed to do business in Tennessee, shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the city. The permit holder or encroachment agreement party shall continuously maintain the insurance required by this section and shall continuously provide the city with evidence of the insurance required by this section.

(5) For permits to allow pushcarts, the application shall include the name and phone number of the sponsoring restaurant.

(6) The permit holder shall execute a statement on the permit application or encroachment agreement wherein the applicant holds harmless and indemnifies the city from any claims or causes of action arising out of or related to the permitted activity, including, but not limited to, compliance with the Americans with Disabilities Act, the Elizabethton building code and all other federal, state, and local health and safety laws and regulations.

(7) Written approval from the county health department and/or other applicable regulatory agency showing that the pushcart or outdoor dining area has been inspected and is in compliance with current requirements for food handling establishments or sale of other product.

(8) Such additional information as may be requested by the city clerk or her/his designee, which may be necessary to determine compliance with this article.

(9) Payment of the permit fee and/or encroachment fee required.

(10) The city retains the right to increase the amount of insurance required pursuant to this section or elsewhere in this chapter if deemed necessary for protection of the public and the city. (as added by Ord. #54-28, Aug. 2018 *Ch1 12-13-18*)

16-311. Term, fees, transferability, display. (1) A permit required by this article shall be issued for no greater than twelve (12) months at a time and shall expire on a day twelve (12) months from the issuance of the permit. Permit holders with no violations and in good standing may re-apply annually with no fee for two (2) consecutive years after an application fee has been paid.

(2) Permit holders shall pay the applicable fee required for a permit and/or encroachment agreement. No permit under this article shall be issued until the fee required under this code has been paid in full.

(3) The fee schedule shall be as follows:

(a) Pushcarts: \$75.00 per location

(b) Outdoor dining less than or equal to three feet (3') from the facade of the building and merchandise area less than or equal to thirty (30) square feet: \$0

(c) Outdoor dining more than three feet (3') from the facade of the building and merchandise area greater than thirty (30), but less than or equal to fifty (50) square feet: seventy-five dollars (\$75.00)

(d) Merchandise area greater than fifty (50) square feet: seventy-five dollars (\$75.00)

(4) Permits are not transferable or assignable.

(5) The permit must be conspicuously displayed by the permit holder while engaged in the activities allowed under the permit.

(6) The city shall designate locations where pushcarts, outdoor dining areas, and outdoor merchandise areas are permitted. No permit holder shall occupy more than fifty percent (50%) of the spaces designated by the city for any single category of the following:

(a) Pushcarts;

(b) Outdoor dining areas, or

(c) Outdoor merchandise areas.

Permits for the designated areas shall be issued following a process established by the planning and development department director after consulting with the regional planning commission and other applicable stakeholders.

(7) The city manager or her/his designee shall formulate any additional rules and regulations necessary for the proper administration of this chapter.

(8) Permit holders are subject to relocation, suspension, or revocation of the permit when their designated space is deemed to cause a hazard to public safety, sight distance, or vehicular congestion or other concerns by the city manager or her/his designee. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*, and amended by Ord. #55-33, Dec. 2019 *Ch2_03-11-21*)

16-312. Denial. Any applicant denied a permit under this article shall receive a statement, in writing outlining the reasons for denial of the permit. The applicant may appeal the denial of the permit to the city manager within fifteen (15) working days after the date of the written denial. The determination of the city manager shall be final. The permitting or denial of application submitted pursuant to this chapter, or the suspension or revocation of a permit, creates no property right, title, or interest related thereto and/or therein. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)

16-313. Revocation. (1) The city manager or her/his designee may suspend or revoke any permit issued pursuant to this article upon the occurrence of any or all of the following events in which the permit holder has:

(a) Provided false information or fraudulently misrepresented information in the permit application.

(b) Violated this article, any local, state, federal law or any regulations of the county health department or other applicable regulatory agency.

(c) Failed to comply with the requirements of this article or the terms of the permit issued or encroachment agreement entered into pursuant to this article.

(d) Operated under the permit in such a manner as to create a public nuisance or to constitute any hazard to the public health, safety or welfare or to damage or destroy public property.

(e) Failed to conspicuously post the permit at all times at the location where the activity is permitted.

(f) Failed or ceased to conduct the activities of a pushcart allowed in the permit for a period of seven (7) consecutive days during the period of May through September of any year.

(g) Failed to secure and maintain any other licenses or permits required by local, state or federal laws or regulations.

(2) Before the permit is suspended or revoked, the city manager or her/his designee shall notify the permit holder of the intent to suspend or revoke the permit and the reasons therefor, shall provide the permit holder a reasonable time period within which to comply with the requirements of this article or the permit, and shall afford the permit holder a reasonable

opportunity to appear and be heard on the question of such suspension or revocation. In the event that the permit holder has not satisfactorily complied with the requirements of this article or the permit within the set time period, the city manager or her/his designee may then suspend or revoke the permit.

(3) A permit may be suspended or revoked if changing conditions of pedestrian or vehicular traffic necessitate removal of pushcarts, outdoor dining areas, and outdoor merchandise areas.

(4) In cases of an emergency or for reasons of immediate safety to others or property, the city manager or their designee may suspend but not revoke a permit without notice for a period not to exceed five (5) days.

16-314. Penalties. It shall be unlawful for any person to violate any of the requirements of this article or of the permit issued under this article.

(1) Such violations shall be a misdemeanor and punishable as provided by Tennessee Code Annotated, § 16-18-302(a).

(2) In addition to and separate and apart from the other remedies set forth in this section, if any person is found to have violated any of the requirements of this article or permit issued under this article, such violations shall subject the offender to a civil penalty if the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been cited for the violation. (as added by Ord. #54-28, Aug. 2018 *Ch1_12-13-18*)