

Chapter 23 - STREETS AND SIDEWALKS

Chapter 23 - STREETS AND SIDEWALKS

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Sec. 23-1. - Procedures for changing street names.

- (a) An application requesting a street name change shall be submitted to the planning department and contain the following:
 - (1) A written petition bearing signatures of a minimum of fifty-one (51) percent of the property owners fronting the street. The property owners signing shall also constitute a minimum of fifty-one (51) percent of the linear street frontage. Linear street frontage shall include frontage of properties that abut both sides of the street right-of-way.
 - (2) Existing and proposed street names.
 - (3) Reason for requesting change.
 - (4) Map showing street or portion of street affected by change.
 - (5) A filing fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.
- (b) The application shall be processed and scheduled for public hearing as follows:
 - (1) The proposed name shall be checked by the city to ensure nonduplication.

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- (2) Public hearings before the planning commission and the City Council may coincide with the schedule for rezoning cases adopted annually by the City Council.
- (3) The city shall notify, by regular mail, all owners of record who have property fronting on the affected street, according to tax records available to the department, of the time and place of the public hearings. The postmaster shall also be notified of the hearings by regular mail.
- (4) Legal notice of the application and the date, time and place of the public hearings shall be published in the official legal organ of the city at least ten (10) days prior to the first public hearing.
- (5) The application shall be forwarded with the planning department's recommendation to the planning commission for consideration at the scheduled public hearing and then forwarded to the board with the recommendations of the planning department and the planning commission.
- (6) The final decision on the proposed change shall be made by the City Council after having held the scheduled public hearing.
- (7) Petitioners shall bear all costs necessary for street marker changes as determined by the city.
- (c) Applications affecting the same street or portion thereof shall not be submitted more than once every twenty-four (24) months.
- (d) Requests initiated by any department or agency of the city shall be submitted to the planning department. Review and processing procedures shall be the same as that of a property owner's application except that the fee and a property owner's petition shall not be required in requests of this nature.
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Sec. 23-2. - Construction work on major streets, intersections; time restrictions.

No construction work or maintenance work shall be done within the traffic lanes of major through streets or intersections thereof from the hours of 7:00 to 9:00 a.m., and 4:00 to 6:00 p.m., Monday through Friday. All underground construction work shall be paved or covered with steel plates during such rush hours or at other times when construction is not being accomplished. This section does not apply to emergency repairs.

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Sec. 23-3. - Street lighting standards—Adoption.

- (a) To ensure adequate illumination of the public rights-of-way for the promotion of safety and security for the users of these rights-of-way and adjacent properties, the American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society, 1981 edition, as approved by the American National Standards Institute, is adopted as the standard (except as noted in subsection (b) below) for the installation and operation of public right-of-way lighting in the city. Permanent copies of the standard are on file with the City Clerk and the department of Public Works.
- (b) Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with these standards. The minimum average horizontal footcandle illumination level by roadway classification shall be:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
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Major	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Local or			
residential	0.9	0.6	0.4

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of the average.

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Sec. 23-4. - Same—Compliance.

- (a) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the public works department for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the department disapprove the request to install or operate lighting fixtures within any right-of-way, the same shall be communicated in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the department may be appealed to the City Council. If any party desires to appeal an adverse decision by the department, a notice of appeal shall be filed with the department within thirty (30) days from the date following the written notice of disapproval, and it shall be the responsibility of the department to transmit forthwith to the City Council all papers and allied documents constituting the record upon which the action appealed from was taken and to ensure that the appeal is promptly placed upon the agenda of the Council for its determination. The City Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from.
- (b) Roadway or street lighting luminaires or fixtures installed within the public rights-of-way as security lights, or for the purpose of lighting areas other than the public streets, shall be mounted on the side of the pole opposite from the street and shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street, and that the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the city shall be obtained before installation of these lights.
- (c) Other lighting fixtures to be installed within or outside of public rights-of-way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights-of-way.

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Sec. 23-5. - Public transportation carrier transit bus stop shelters.

Bus stop shelters may be erected on private property, public streets, public property, or public rights-of-way by a public transportation carrier or as authorized by a public transportation carrier, subject to the following conditions:

- (1) Plans and specifications for the proposed installations shall be submitted and approved by the city in accordance with city requirements.
- (2) Bus stop shelters may be erected at any bus stop utilized by a public transportation carrier.
- (3) The owner or constructor of the bus stop shelter shall be responsible for the maintenance of the structure.
- (4) A bus stop shelter may be erected only at bus stops identified by a public transportation carrier providing service to that location. The public transportation carrier may contract with appropriate subcontractors to provide and maintain bus stop shelters at various locations.
- (5) Bus stop shelters may carry advertising placed upon them, subject to the following rules or regulations:
 - a. Such advertising matter must be attached to the shelter and not extend out beyond the parameters of the shelter;
 - b. Bus stop shelters carrying advertising matter must be constructed so as not to obstruct vision triangles at intersecting driveways and rights-of-way;
 - c. Advertising shall not violate ordinances or state law obscenity provisions;
 - d. Advertising shall not contain flashing lights or lights that would interfere with motorists on the roadway.
 - e. Comply with all city, state and federal regulations.
- (6) A bus stop shelter must conform to the reasonable rules and regulations established under this section, including the following:
 - a. Bus stop shelters should be at least forty-eight (48) inches from the curb, where no curb or gutter is present the front of the bus shelter shall be at least ten (10) feet from the edge of the main traveled roadway;
 - b. Bus stop shelters shall permit a clearance of at least forty-eight (48) inches on pedestrian paths, driveways, sidewalks, drainage structures, etc.;
 - c. Sides and/or internal dividers in shelters shall be constructed to provide visibility of waiting passengers to the oncoming traffic flow on the road, highway or street on which the shelter is located, provided, however, one double-faced panel containing advertising may be attached to the end of the shelter farthest from the traffic flow on the side of the street on which the shelter is located;
 - d. Each bus stop shelter shall be properly lighted to ensure public safety and provide complete visibility of the shelter from the abutting roadway.
 - e. Comply with all city, state and federal regulations.
- (7) On application by a public transportation carrier or a contractor authorized by a public transportation carrier to provide bus stop shelters to a public transportation carrier, a permit shall be issued to build a shelter and allow advertising thereon unless there is adequate reason for denying the permit.
- (8) Any public transportation carrier which provides more than one (1) bus stop shelter shall make application for a permit to cover each of its various locations.

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- (9) An application for a building permit for construction of a bus shelter shall be submitted and accompanied by the following:
 - a. Authorization and approval of the public transportation carrier and the Georgia Department of Transportation.
 - b. Plans and specifications for the proposed installation.
 - c. If a bus shelter is to be erected or maintained on property other than the right-of-way of a public road or street, an authorization of the owner of the property.
- (10) The public transportation carrier shall remove the shelter upon the request of the city upon the city showing that such shelter poses a traffic hazard, impediment to pedestrian traffic or other reasonable cause.
- (11) Notwithstanding any other ordinance or part of ordinance prohibited the construction of bus stop shelters or commercial advertising on public rights-of-way, a bus stop shelter complying with the provisions of this section may be constructed on public rights-of-way and have commercial advertising placed thereon and the provisions of this section shall control such construction and advertisement.
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Sec. 23-6. - Permit, franchise fee required prior to installation of poles, pipes, etc., on public roads or alleys.

- (a) No person shall install, construct, maintain or cause to be installed, constructed or maintained any pipe, main, conduit, cable, wire, pole, tower, traffic or other signal and other equipment, facilities, appliance, receptacle or sign, in, on, along, over or under the public roads or alleys of the city which are a part of the city road system without first obtaining a permit therefor and paying franchise fees hereafter provided; provided, however, that such franchise fees shall not be in excess of those as may be authorized by any federal regulatory agency where applicable.
- (b) There is assessed a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk, for the use of pipes, mains, conduits, cables, wires, poles, towers and public rights-of-way.
- (c) For each sign and each receptacle on the public right-of-way, excepting those used in connection with the collection and delivery of the United States mail, there is assessed a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.
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Sec. 23-7. - Defacing streets, sidewalks or curbs.

It shall be unlawful for any person to mark or otherwise deface any public sidewalk, street, or curb in the city by painting any numbers, symbols, or advertising thereon, regardless of the purpose. This section does not apply to public utilities and their agents, Metropolitan Atlanta Rapid Transit Authority, and other governmental agencies.

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Secs. 23-8—23-25. - Reserved.

ARTICLE II. - EXCAVATIONS

[Sec. 23-26. - Definition.](#)

[Sec. 23-27. - Applicability.](#)

[Sec. 23-28. - Federal regulations—Adopted.](#)

[Sec. 23-29. - Same—Amendments and exceptions.](#)

[Secs. 23-30—23-45. - Reserved.](#)

Sec. 23-26. - Definition.

In this article, "excavation" means the removal of earth, rock or other soil materials for the purpose of installing utility facilities, non-single-family residential building foundations, or other similar uses.

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Sec. 23-27. - Applicability.

This article applies to all excavations made for the purposes of land development, utility installations, building construction or similar activity within the city.

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Sec. 23-28. - Federal regulations—Adopted.

Any person making an excavation shall meet the requirements as set forth in the federal occupational safety and health regulations for construction, as adopted April 17, 1971, and each amendment thereafter, with the exceptions and amendments included in this article.

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Sec. 23-29. - Same—Amendments and exceptions.

The following amendments and exceptions shall apply to the development requirements adopted by [section 23-28](#).

- (1) Excavations involved in the construction of a basement or foundation for a single-family residential structure are exempt from all of these requirements, with the exception that any excavation or foundation grading on which construction does not proceed within thirty (30) days shall be fenced, so as to prevent general public entrance to the building site, or filled in. However, an extension may be allowed if justified and if approved by application to the city.

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- (2) The administration and enforcement of the provisions of this article shall be the responsibility of the department having applicable jurisdiction over the type of work involved.
- (3) Table P-2, the line reading "ten (10) to fifteen (15) feet, likely to crack" and the column "Maximum Spacing, Vertical Feet," shall contain the number "4."

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Secs. 23-30—23-45. - Reserved.

ARTICLE III. - MOVING BUILDINGS AND OTHER OVERSIZE LOADS

DIVISION 1. - GENERALLY

DIVISION 2. - PERMIT

DIVISION 1. - GENERALLY

Sec. 23-46. - Purpose.

Sec. 23-47. - Variances.

Secs. 23-48—23-60. - Reserved.

Sec. 23-46. - Purpose.

The purpose of this article is to establish uniform permitting regulations and procedures for the moving of houses and other oversize loads on city roads, streets and bridges within the city, thereby protecting private property and lives against loss and damage, protecting the public investment in rights-of-way, roadbeds, traffic signs and signalizations and other structures, controlling and regulating the flow of traffic and ensuring the safety of the public.

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Sec. 23-47. - Variances.

The public works department shall be authorized to grant a variance from the requirements of this article, but only where, by reason of the exceptional historical, architectural or social uniqueness or significance of the structure, the strict application of the provisions of this article would work an undue hardship upon the owner of the structure, and provided that the grant of any variance shall not substantially impair the intent and purpose of this article and further provided that the provisions of this article shall be complied with to the maximum extent possible.

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Secs. 23-48—23-60. - Reserved.

DIVISION 2. - PERMIT

[Sec. 23-61. - Required.](#)

[Sec. 23-62. - Application.](#)

[Sec. 23-63. - Scope limited.](#)

[Sec. 23-64. - Conditions to issuance.](#)

[Sec. 23-65. - Route approval.](#)

[Sec. 23-66. - Revocation, suspension or denial.](#)

[Sec. 23-67. - Appeals.](#)

[Secs. 23-68—23-85. - Reserved.](#)

Sec. 23-61. - Required.

No person shall move a house or other oversize load on any city road, street or bridge within the city without a permit to do so issued by the public works department.

Sec. 23-62. - Application.

- (a) All persons desiring to obtain a permit under the provisions of this article shall make application on the form prescribed by the city.
- (b) The application shall include, but shall not be limited to, the following:
 - (1) Name, address and phone number of the mover/applicant.
 - (2) Name, address and phone number of the owner of the structure.
 - (3) Address of the present location of the structure.
 - (4) Destination of the structure.
 - (5) Name and address of insurance company.
 - (6) Total height, outside width and length of vehicle and load.
 - (7) Certification that the person making application on behalf of the mover has lawful authority to execute such application and that all requirements under this section, sections [23-63](#) and [23-64](#) have been met.
 - (8) The proposed date and time of the move.
 - (9) A statement that the mover/applicant agrees to hold the city harmless from all claims or causes of action arising out of any damage to a public road or bridge, to persons, to public or private property caused by a permitted load or vehicle, or its private escort vehicle, and to recompense the city for any expenditures made by the city to repair such damages caused by the permitted vehicle or load.

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- (c) As a condition to the issuance of a permit, the city, when deemed necessary in the interest of public safety, may require the use of a front or rear escort, or both, either or both of which may be a public safety vehicle.
 - (d) All permit applications must be filed at least five (5) days prior to the date of the proposed move and shall be accompanied by a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk. If the application is not approved, the fee will be refunded to the applicant, less an administrative processing charge in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.
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Sec. 23-63. - Scope limited.

- (a) Except as authorized under [section 23-47](#), a permit under this division shall not authorize the operation of a vehicle or load with:
 - (1) Total load length exceeding seventy-five (75) feet;
 - (2) Total load width exceeding fourteen (14) feet, including mirrors and accessories attached thereto; or
 - (3) Total height exceeding thirteen (13) feet, six (6) inches.
 - (b) Notwithstanding any provision of this article to the contrary, no vehicle or load shall be operated over any bridge with a posted limit which is less than the total gross weight of the vehicle and its load or less than the total gross weight permitted under this article.
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Sec. 23-64. - Conditions to issuance.

In addition to compliance with other conditions imposed under the provisions of this division, any person receiving a permit under this division thereby certifies that such person will comply or has complied (as applicable herein) with the following conditions governing the operation of the permitted vehicle or load:

- (1) Federal and state laws and regulations.
- (2) The movement of the permitted vehicle or load will take place only on Monday through Thursday, and between 9:00 a.m. and 3:00 p.m.
- (3) The permitted load or vehicle will not be operated over any city road other than those described or allowed in the permit.
- (4) The operator of a permitted vehicle and load shall maintain fifty-foot intervals between each vehicle load. In addition, when the normal flow of traffic becomes impeded, such vehicle or load shall move off the traveled portion of the public road until such traffic congestion has been cleared. Normal movement may then be resumed until another traffic congestion occurs.
- (5) The permittee shall maintain, during the existence of the permit, public liability and property damage insurance in at least the following amounts: public liability, three hundred thousand dollars (\$300,000.00) each accident; one hundred thousand dollars (\$100,000.00) each person injured; total property damage, fifty thousand dollars (\$50,000.00); provided that nothing herein shall prevent the city from requiring any additional undertaking or security as may be deemed necessary to compensate the city for any injury to any public property therein, including a bridge. Proof of such liability insurance and other security shall accompany the permit application.

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- (6) The permittee shall ensure that the operator of a leased vehicle carries on such operator's person written proof of the identity of the lessee.
 - (7) The permittee shall not allow the permit to be used other than for the movement by the particular vehicle for which the permit was issued.
 - (8) The minimum equipment which shall be used for moving a house is: a tandem truck, one (1) set of tandem dollies in good condition, and one (1) extra skidder or wrecker in good condition and capable of moving the whole load in case of a breakdown.
 - (9) The permittee shall measure the house and, prior to applying for a permit, check the route stated in the permit application to ensure obstacle clearance and necessary places periodically to pull off the road for the purpose of preventing unnecessary traffic congestion.
 - (10) Before moving a house, all masonry shall be removed from a masonry-veneered house.
 - (11) All mailboxes, highway signs and other movable obstacles to the move of the house shall be removed as the house approaches such an obstacle and reerected immediately after the house passes such obstacle in equal or better condition than prior to removal.
 - (12) The movement shall be confined to the route stated in the application, and in no case shall exceed any straight line distance of fifty (50) miles.
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Sec. 23-65. - Route approval.

Prior to the issuance of a moving permit under this division, the transport route proposed by the mover/applicant must be reviewed and approved by the public works department and police department. Unless no other reasonable alternative route exists, only those sections of city roads designated as truck routes by the city shall be used for the moving of such structures.

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Sec. 23-66. - Revocation, suspension or denial.

- (a) The Public Works department shall be authorized to deny, suspend or revoke a permit under this division requested by an applicant or issued to a permittee. Permits may be denied, suspended or revoked for cause including, but not limited to, any of the following reasons:
 - (1) Failure to comply with the provisions of this article.
 - (2) Repeated past violations by the applicant or permittee, of a relatively minor nature.
 - (3) A single, but aggravated violation.
 - (4) A material misrepresentation made by the applicant for a permit.
 - (5) Any other facts indicating that the applicant or permittee is a poor risk with regard to the safety of the traveling public and/or damage to public property.
- (b) The city shall provide the applicant or permittee written notice of the decision to deny, revoke or suspend the application or permit. Such notice shall set forth in reasonable detail the reasons for such action and shall include notice of the right to appeal under the provisions of this division.

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Sec. 23-67. - Appeals.

An applicant or permittee under this division shall be entitled to appeal a decision of the Public Works department denying, suspending or revoking a permit, to the hearing officer, by filing a notice of appeal with the public works department within ten (10) days of the decision appealed from. The hearing officer shall schedule a hearing on the appeal to be held within thirty (30) days of the date the appeal is filed and shall provide the appellant notice of the date of such hearing.

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Secs. 23-68—23-85. - Reserved.

ARTICLE IV. - ENCROACHMENT PERMITS FOR ACTIVITIES ON CITY ROADS, RIGHTS-OF-WAY, AND PERMANENT EASEMENTS ^[80]

[Sec. 23-86. - Purpose; scope; exemption.](#)

[Sec. 23-87. - Permit.](#)

[Sec. 23-88. - Plans, specifications and responsibility.](#)

[Sec. 23-89. - Reserved.](#)

Sec. 23-86. - Purpose; scope; exemption.

(a) The purpose of this article is to:

- (1) Establish a uniform permitting and inspection process, and reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of any utility in, on, along, over, or under the public roads, rights-of-way, and permanent easements of the city, which are a part of the city road system lying within the city, hereinafter collectively referred to as "the city's public roads"; and
- (2) Establish a uniform permitting and inspection process, and reasonable regulations for encroachment permits for the construction, relocation, or removal of driveways, sidewalks, curbing, bike lanes, multi-use trails, associated drainage facilities, and landscaping construction, and maintenance in, on, along, over, or under the city's public roads; and
- (3) Efficiently manage use of the city's public roads and maintain and preserve the physical integrity and layout of its public roads; and
- (4) Ensure that work is planned and performed in a manner that does not cause damage and does not create hazardous conditions in, on, along, over, or under the city's public roads; and
- (5) Inspect and monitor work to ensure that appropriate signage, barricades, and lighting are utilized to protect the public when work is in progress; and
- (6) Inspect and monitor work so that it is performed in a safe manner that reduces the risk of injury to persons using the city's public roads; and
- (7) Inspect and monitor work to reduce damage to private property, including but not limited to cars, motorcycles, and bicycles, traveling on the city's public roads; and

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- (8) Inspect and monitor work to reduce damage to water and sewer lines, sidewalks, rights-of-way, or road surfaces; and
 - (9) Regulate the time and location of excavation and other work to preserve effective traffic flow and prevent hazardous road conditions; and
 - (10) Recover a share of the cost of processing permits, inspecting and monitoring permitted work, and the cost of increased street repair and paving resulting from repeated excavation.
- (b) All city departments and any infrastructure for city-owned facilities are exempt from compliance with the terms of this article.
 - (c) If there is a conflict between the provisions and requirements in this article, and federal law, state law, and/or any applicable state regulations adopted by the Georgia Department of Transportation ("GDOT"), as they exist now or may be amended hereafter, then federal law, state law, and/or the GDOT regulations shall govern.
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Sec. 23-87. - Permit.

- (a) It shall be unlawful for any person to perform the work listed in subsections (1) and (2) below without the prior issuance of an encroachment permit by the director of public works:
 - (1) Installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of any utility in, on, along, over, or under the city's public roads.
 - (2) Construction, relocation, or removal of driveways, sidewalks, curbing, bike lanes, multi-use trails, associated drainage facilities, and landscaping construction and maintenance in, on, along, over, or under the city's public roads.
- (b) The public works department shall develop application forms; establish, in writing, the documentation and information required for an encroachment permit application to be considered complete; develop objective, written criteria for granting, denying or revoking encroachment permits; develop guidelines listing the information required to be submitted on or with plans and specifications; promulgate all guidelines and necessary forms; and take such other administrative steps as may be necessary to enforce the provisions of this article.
- (c) All information and plans required to be submitted by applicant and the objective, written criteria for evaluating permits shall relate solely to managing the use of the city's public roads, and shall be designed solely to obtain information that furthers the stated purposes of this article as reflected in [section 23-86](#)
- (d) The application for an encroachment permit may require the applicant to describe the nature, extent, and location of the work, and may also require the applicant to furnish an indemnity bond or other acceptable security conditioned to pay for any damages to any part of the city's public roads or to any member of the public caused by work performed under authority of such permit.
- (e) Each applicant shall pay a non-refundable encroachment permit application fee in an amount established by official action of the governing authority. In addition to the non-refundable application fee, the applicant is required to pay cost recoupment fees in an amount established by official action of the City Council.
- (f) The director of public works shall determine if the proposed work can be performed under one (1) permit or will require multiple permits. At a minimum, each applicant shall be required to obtain a separate encroachment permit for work that will be performed on more than one (1) street.

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- (g) An applicant must pay the fees and submit a complete application to the director of public works. The director shall grant or deny an encroachment permit thirty (30) days from receipt of a complete application. Each encroachment permit expires six (6) months from the date of issuance by the city as reflected on the permit.
- (h) Any encroachment permit may be denied or revoked by the director of public works for a violation of this article or a failure to show compliance with the city's objective, written criteria or guidelines established pursuant to this article. The decision to deny or revoke an encroachment permit shall become effective fourteen (14) days after the date the written notice is mailed to the applicant at the address on the encroachment permit application. The applicant/permittee may contest the denial or revocation by sending written reasons to the hearing officer explaining why an encroachment permit should not be denied or revoked prior to the effective date of denial or revocation. The hearing officer shall consider the written reasons and advise the applicant/permittee of his/her decision in writing within five (5) business days of receipt. The hearing officer's decision in this regard is final. If the applicant/permittee contests the decision to deny or revoke an encroachment permit, the effective date of such denial or revocation shall be three (3) days after the date of the hearing officer's final decision.
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Sec. 23-88. - Plans, specifications and responsibility.

- (a) Plans and specifications for all work to be covered by an encroachment permit shall be submitted to the public works director, and shall show in detail all required pertinent data and features of construction.
- (b) Ground-mounted facilities shall be of a design compatible with abutting property.
- (c) All work covered by an encroachment permit shall meet and comply with all applicable city, state and federal laws, regulations, requirements and permits. including but not limited the Code, the GDOT Standard Specifications For Construction of Roads and Bridges, the GDOT Policy For Accommodation of Utilities, the National Electrical Safety Code, the American National Standards Institute Standard Code For Pressure Piping, the American Association of State Highway Transportation Officials (AASHTO) Manual, and the Georgia Sedimentation and Erosion Control Act.
- (d) Permittees shall be solely and fully responsible for any claims, actions, damages or injury related in any way to the design and construction of permitted work.
- (e) Permittees shall be solely responsible for providing adequate safety measures during all phases of permitted work.
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Sec. 23-89. - Reserved.

ARTICLE V. - SIDEWALK DISTRICTS

[Sec. 23-90. - Program established.](#)

[Sec. 23-91. - Sidewalk district requirements.](#)

[Sec. 23-92. - Application and petition.](#)

[Sec. 23-93. - Procedure.](#)

[Sec. 23-94. - Funding.](#)

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Sec. 23-90. - Program established.

There is established a residential sidewalk district program whereby eligible residential areas may petition the city to install sidewalks within their neighborhood.

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Sec. 23-91. - Sidewalk district requirements.

- (a) A sidewalk district can only be established in residentially zoned districts where the streets or roads within the proposed sidewalk district have been accepted by the city for perpetual maintenance.
- (b) Sidewalk construction must begin and end at existing sidewalks or public road intersections, or immediately across from public road intersections, but may extend past a public road intersection to complete the frontage adjoining the proposed sidewalk construction.

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Sec. 23-92. - Application and petition.

- (a) *Application.* Anyone who desires to have a sidewalk district created shall submit an application to the director of public works or designee. Said application shall be made on forms made available by the public works department and shall at a minimum contain a plat showing the area of the proposed sidewalk district and the location of the proposed sidewalks.
- (b) *Estimate of costs.*
 - (1) Based upon the plat submitted with the application, the director of public works or designee shall prepare an estimate of the total project cost and pro rata cost per property owner for the creation of the proposed sidewalk district, including the costs for the design, contracting, acquisition of rights-of-way, and inspection for sidewalk construction funded by the sidewalk district. The director of public works' estimate may not establish a limit on the amount of the project costs and may not limit the amount that may be assessed against the property owners.
 - (2) If the application is incomplete or does not contain information sufficient for the director of public works to prepare the estimate, then the director of public works shall return the application to the applicant within thirty (30) days of receipt indicating the additional information required. Otherwise, the director of public works shall prepare the estimate of costs and send the estimate to the applicant within ninety (90) days of receipt of a complete application.
- (c) *Petition.*
 - (1) *Circulation.* The applicant shall be responsible for gaining the required signatures on a sidewalk district petition from property owners within the proposed sidewalk district.
 - (2) *Contents.* The petition shall contain the name, property address within the proposed sidewalk district, mailing address, and phone number of all property owners who sign the petition. If the property owner does not reside at the property within the sidewalk district, then the petition shall contain both the property address within the district and the property owner's actual address outside the district.
 - (3) *Plat.* The petition shall have attached to it a copy of the plat submitted to the director of public works showing the boundaries of the proposed sidewalk district and a copy of the director of public works' estimate of the total project cost and the pro rata cost per property owner.

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Sec. 23-93. - Procedure.

- (a) *Return of petition.* The petition for creation of the proposed sidewalk district must be returned to the director of public works within ninety (90) days after the director of public works notifies the applicant that the preparation of the estimate of costs and pro rata costs for the project is complete; however, the director of public works has the discretion, for good cause shown, to extend the time for the return of the petition an additional thirty (30) days, for a total of one hundred twenty (120) days, when a request for such extension is made by the applicant to the director of public works before the expiration of the original ninety-day period.
- (b) *Signatures.* No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one (51) percent of the property abutting such improvements. Said consent shall be deemed to have been given if the requisite number of signatures of such abutting property owner(s) is included in the petition requesting the proposed sidewalks and the creation of the assessment district.
- (c) *Notice.* Upon the timely receipt of a petition containing the required number of signatures, the director of public works shall cause the matter to be placed upon the City Council's public hearing agenda for a hearing on the creation of the proposed sidewalk district. The director of public works or designee shall cause a notice to be published in the city's legal organ or a newspaper of general circulation in which the sheriff's advertisements are published at least once ten (10) days prior to the date of said hearing, which notice shall give a brief description of the subdivision in which the work is to be done, the nature of the improvements to be made and the beginning and terminus of the road or street upon which such improvements are to be made and such notice shall set forth the time and place of the hearing.
- (d) *Notification of decision.* Within sixty (60) days of a final decision on the petition by the City Council, the director of public works or designee shall notify by certified mail, return receipt requested, each affected property owner of the decision of the City Council. If the final decision is an approval of the petition, then the public works director shall notify each affected property owner by certified mail, return receipt requested, of a good faith estimate of the individual assessment. A final decision means the approval or denial of the petition by the City Council.

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Sec. 23-94. - Funding.

- (a) *Assessment.* Each owner of property abutting the sidewalks shall be assessed a share of the cost to be funded by the district, which cost shall be added to the ad valorem property taxes for each owner as provided in this section. No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one (51) percent of the property abutting such improvements. Abutting shall mean adjacent to, contiguous with, or adjoining.
- (b) *Pro rata costs.* Each property owner's share of the cost shall be determined as follows: The total cost of the project shall be calculated by the city, and the figure so derived shall be known as the total project cost. The city shall next determine the linear feet of sidewalk that was constructed. The total cost shall then be divided by the total linear feet of sidewalk to derive the cost per foot. Each property owner abutting the sidewalks shall then be assessed an amount that equals the linear feet of street frontage the property owner has multiplied by the cost per foot.
- (c) *Payment.* The sidewalk tax assessment shall be paid by one (1) of two (2) options, as follows:
 - (1) *Option one.* The assessment may be paid in cash by the property owner within ninety (90) days of the mailing of the assessment by the city. If paid under this option, the assessment will not

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bear an administrative fee and no lien shall be recorded against the property. Payment shall be made to "City of Brookhaven" and delivered to the public works department. If payment is not made in full within ninety (90) days of the city's initial billing of the assessment, then payment option two shall automatically take effect. Once option two is in effect, the payment via option two shall be the property owner's sole option until all assessment payments are satisfied.

- (2) *Option two.* The assessment shall be paid in five (5) equal annual installments. Payment of each such assessment shall be due and payable within sixty (60) days from the mailing by regular mail of a bill from the tax commissioner. In the event option two is selected, the cost of processing, administration, recording the lien, and satisfaction of such lien shall be added to the assessment.
- (d) The property owner shall advise any purchaser of its property within the sidewalk district of the assessment. The property owner may conduct a proration of the assessment with the purchaser. The city shall not be responsible for the proration of the assessments between sellers and purchasers nor shall the city be under any duty to notify any purchaser of the existence or liability for the assessment.
- (e) If the assessment is not paid when due, the assessment shall be collected in the same manner as delinquent ad valorem taxes and shall be subject to the same interest and penalties.
- (f) The assessment shall constitute a lien against the property and shall be recorded by the tax commissioner in the lien records of the clerk of the county superior court.
- (g) The fee for processing and administration of this option shall be established by the public works department and approved by the City Council.
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