

Chapter 22

STREETS AND SIDEWALKS*

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**ARTICLE I. ADMINISTRATIVE
PROVISIONS***

DIVISION 1. GENERAL PROVISIONS;
ADMINISTRATIVE AUTHORITY;
DEFINITIONS

Sec. 22-1. Title.

This chapter shall be known and may be cited as the "City of Tampa Streets and Sidewalks Ordinance."
(Ord. No. 89-244, § 2(34-1), 9-28-89)

Sec. 22-2. Purpose.

The city recognizes that vehicular and pedestrian traffic are vital to the operation of the city. Protection of these rights of travel and the infrastructure that supports these activities is a priority for the city government and for the citizens of this community. Therefore, it is necessary in the interest of the public health, safety and welfare to regulate the use of the streets and sidewalks of Tampa.
(Ord. No. 89-244, § 2(34-2), 9-28-89)

Sec. 22-3. Applicability.

The provisions of this chapter shall apply to the rights-of-way and any improvements thereon and any work or activity thereon within the corporate limits of the city, unless they are expressly exempted by law.
(Ord. No. 89-244, § 2(34-3), 9-28-89)

Sec. 22-4. Requirement of a franchise.

(a) No person shall use any public rights-of-way to provide any services, including, but not limited to, electrical and gas services, but excluding any communications service, unless a franchise has first been obtained by the person. Such franchise shall not take the place of any other license or permit which may be legally required of the person to conduct such a business.

(b) Any franchise granted hereunder shall be granted pursuant to an ordinance duly adopted by the city pursuant to the terms of the Charter.

***Cross reference**—Administration, Ch. 2.

(c) Any franchise granted hereunder shall allow the franchise holder to lease, construct, operate, maintain, repair, rebuild or replace the franchise holder's facilities within the public rights-of-way, subject to the terms of the ordinance adopted by the city granting the franchise and all other applicable requirements of this Code.

(d) As compensation and consideration for the use by a franchise holder of the public rights-of-way for the construction, operation, maintenance and repair of a route for the provision of such services, a franchise fee shall be imposed. The fee is in addition to any other fee that may be lawfully imposed pursuant to applicable law.

(e) Any person desiring to use any public rights-of-way to provide any communications service, shall comply with Article IV of this chapter.

(f) Any person desiring to use any public rights-of-way to provide any cable services, shall also be required to obtain a franchise from the city prior to such use to the extent such franchise requirement is consistent with applicable law.
(Ord. No. 89-244, § 2(34-4), 9-28-89; Ord. No. 2000-343, §§ 1, 2, 12-21-00)

Cross reference—Ordinances granting any right or franchise saved from repeal, § 1-12(2).

Sec. 22-5. Definitions.

For the purpose of this chapter, certain abbreviations, terms, phrases, words and their derivatives shall have the following meanings:

Cable service means the transmission of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of any such programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one (1) or more other providers of communications services. The term includes point-to-point or point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser's premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital, and music services.

Communications facility means the plant, equipment and property, including but not limited to, any and all such conduits, cables, poles, wires, supports, ducts, fiber optics, antenna and other structures, equipment, appurtenances and pathways as may be reasonably necessary to be used to provide communications services.

Communications services means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term does not include:

- (1) Information services.
- (2) Installation or maintenance of wiring or equipment on a customer's premises.
- (3) The sale or rental of tangible personal property.
- (4) The sale of advertising, including, but not limited to, directory advertising.
- (5) Bad check charges.
- (6) Late payment charges.
- (7) Billing and collection services.
- (8) Internet access service, electronic mail service, electronic bulletin board service, or similar on-line computer services.

Department means the city's department of public works (DPW).

Director means the director of the department of public works who shall be responsible for the management of the affairs of such department.

Franklin Street Mall means the area of Franklin Street lying between Cass Street to the north and Jackson Street to the south.

Franklin Street Mall Phase II District means the area of Franklin Street lying between Fortune Street to the north and Cass Street to the south, and that area of Franklin Street lying between Whiting Street to the north and Garrison Channel to the south; and the area of Fortune Street, Cass Street, Jackson Street and Whiting Street

lying between Morgan Street to the east and Tampa Street to the west; and the area of Royal Street, Harrison Street, Tyler Street, Polk Street, Zack Street, Twiggs Street, Madison Street, Kennedy Boulevard and Brorein Street lying between Franklin Street to the east and Tampa Street to the west; and the area of Royal Street lying between Florida Avenue to the east and Franklin Street to the west; and the area of Harrison Street, Tyler Street, Polk Street, Zack Street, Twiggs Street, Madison Street, Kennedy Boulevard, Cumberland Street, Brorein Street, Platt Street and Ashley Drive lying between Morgan Street to the east and Franklin Street to the west; and the area of Washington Street and Ella Mae Street lying between Morgan Street to the east and Florida Avenue to the west.

Herman C. Massey Park means the area described in Ordinance No. 9124-A.

Information service means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services, including, but not limited to, electronic publishing, web-hosting service, and end-user 900 number service. The term does not include any video, audio, or other programming service that uses point-to-point or point-to-multipoint distribution by which programming is delivered, transmitted, or broadcast by any means, including any interaction that may be necessary for selecting and using the service, regardless of whether the programming is delivered, transmitted, or broadcast over facilities owned or operated by the seller or another, or whether denominated as cable service or as basic, extended, premium, pay-per-view, digital, music, or two-way cable service.

License means a city occupational license tax receipt.

Modular news rack means a connected grouping of at least two (2) pockets within a single news rack in or upon, or projecting onto, or over, any part of the public right-of-way, and which is bolted directly to concrete surface, installed or used for the display, sale or distribution of newspapers, other periodicals or advertising circulars.

NCNB Plaza means the area described in Ordinance No. 9130-A.

News rack means any unstaffed, self-service, free, or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, or over, any part of the public right-of-way, and which is installed, used or maintained for the display, sale, or free distribution of newspapers and other publications. News rack includes modular news rack.

Owner means the person to whom a permit or license shall be issued, for example, to install, operate and maintain trash receptacles upon the sidewalks of the city.

Permit means an official document authorizing performance of a specific activity regulated by this chapter.

Provider means any person that places or seeks to place communications facilities in the public rights-of-way, or uses or seeks to use communications facilities placed or to be placed in the public rights-of-way by another person, to provide communications services.

PSC means the Florida Public Service Commission.

Public rights-of-way means the roads, streets, alleys, highways, waterways, bridges, sidewalks, and other ways or places of whatever nature, including the space above, on, at or below such rights-of-way, that are owned by the city, publicly held by the city, dedicated to the city, or otherwise controlled by the city, for public use and presently opened or to be opened for public use, including vehicular and pedestrian movement.

Sidewalk café means an outdoor dining area adjoining a restaurant, located on a public street (which is public through dedication or easement) or public right-of-way that provides waiter or waitress service and contains readily removable tables, chairs or railings, and is open to the air, except that it may have retractable awnings or umbrellas, or other nonpermanent covers.

Trash receptacle means a movable receptacle, suitable for the deposit of trash, located upon a public sidewalk of the city.

Ybor City means the area bounded on the north by the northern public right-of-way boundary of Ninth Avenue; and bounded on the south by the southern public right-of-way boundary of Seventh Avenue; and bounded on the east by the centerline of the Twenty-Second Street right-of-way; and bounded on the west by the centerline of the Nick Nuccio Parkway right-of-way.

(Ord. No. 89-244, § 2(34-5), 9-28-89; Ord. No. 92-45, § 1, 4-2-92; Ord. No. 2000-343, §§ 1, 4, 5, 12-21-00; Ord. No. 2010-60, § 1, 5-20-2010)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 22-6. Administrative authority.

The provisions of this chapter shall be administered and enforced by the official. The official may designate his authorized representative to hold the title of transportation manager. For the purpose of this chapter, the official's designee shall be the transportation manager.

(Ord. No. 89-244, § 2(34-6), 9-28-89)

Cross references—Administrative authority of the official, § 1-13; delegation of administrative authority, § 1-14.

Sec. 22-7. Alternate materials and methods of construction.

The provisions of this chapter are not intended to prevent the use of any material or method of construction not specifically prescribed by this chapter, provided any such alternate has been approved by the official. The official shall approve any such alternate, provided he finds that the alternate for the purpose intended is at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety. The official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate. If these criteria are not met, the official shall deny the request.

(Ord. No. 89-244, § 2(34-7), 9-28-89)

Sec. 22-8. Obstructing streets, sidewalks, alleys, etc.; exceptions.

(a) It is unlawful for any person to place in or upon any place, street, sidewalk, alley, landing, wharf or pier owned or controlled by the city and

located within the city limits any article or thing without a permit therefor, unless such article or thing is otherwise authorized by law.

(b) If any such article or thing shall be placed in or upon any such place, street, sidewalk, alley, landing, wharf or pier without lawful authority, the official, without notice, is authorized to cause such article or thing to be removed to some convenient place designated by him. The cost of such removal shall be charged to the owner of the article or thing or to the person responsible for placing, establishing or fixing the article or thing in violation of this section.

(Ord. No. 89-244, § 2(34-8), 9-28-89)

Sec. 22-9. Tearing down or removing barricades or signboards; driving on closed streets.

It is unlawful for any person to tear down or remove any barricade or signboard upon any street, avenue or alley or any part thereof after the same has been closed in conformity with this chapter. It is unlawful for any person to drive any vehicle upon or over any work being done upon such street, avenue or alley or any part thereof after the same has been closed to the passage of vehicles or pedestrians.

(Ord. No. 89-244, § 2(34-9), 9-28-89)

Sec. 22-10. Defacing, etc., poles.

It is unlawful for any person to willfully or maliciously deface any signal poles, utility poles or any poles used by the city for any municipal purpose or to post or tack any bills, notices or other matter on any such poles or in any manner to mutilate or injure the same.

(Ord. No. 89-244, § 2(34-10), 9-28-89)

Sec. 22-11. Gates swinging open on sidewalks prohibited.

It is unlawful for any person to erect or maintain on his premises any gate which shall, when open, swing out and away from the premises and on or across the sidewalk in front thereof on any street of the city.

(Ord. No. 89-244, § 2(34-11), 9-28-89)

Cross reference—Removal of gates opening on sidewalk, § 22-257.

Sec. 22-12. Defective sidewalks; notice to owner to repair.

Whenever a sidewalk in the city shall become so defective as to be dangerous to persons passing over the same, the occupant, owner or agent of the premises along which such defective and dangerous sidewalk may be shall be notified in writing, by the director, department of public works, that the sidewalk is dangerous and to repair the same and to place the same in a safe condition within fifteen (15) days after having received such notice. If the owner, agent or occupant refuses or neglects to repair the sidewalk within the time mentioned in this section, after having received written notice, he shall be deemed guilty of maintaining a public nuisance and, upon conviction thereof, shall be punished as provided in this Code. In such cases, the city may repair the sidewalk and bill the owner for the cost of such repairs.

(Ord. No. 89-244, § 2(34-12), 9-28-89)

Sec. 22-13. Certificates of indebtedness—For laying or repairing sidewalks.

The certificates of indebtedness issued by the city, based upon assessments made for the laying, construction or repairing of sidewalks which have been laid, constructed or repaired by the city in accordance with the provisions of section 33 of Chapter 5363, Laws of Florida, 1903, shall be for the entire cost of laying, constructing or repairing of any sidewalk which shall be assessed against the abutting property in front of which such sidewalk shall be laid, constructed or repaired and shall be payable in three (3) equal installments, in one (1), two (2) and three (3) years. Such certificates shall have annexed thereto two (2) coupons representing the respective installments of principal and annual interest payable one (1) and two (2) years after date. The installments of principal and annual interest payable three (3) years after date shall be payable only upon surrender and cancellation of the original certificate. Such certificates and coupons shall be in the form hereto annexed and identified by the signature of the city clerk on the top margin thereof, and, for the purpose of permanently preserving the form, the city clerk shall and he is hereby authorized and directed to paste such form in the ordinance

book at or immediately following the place where the ordinance from which this chapter is derived is recorded.

(Ord. No. 89-244, § 2(34-13), 9-28-89)

Sec. 22-14. Same—Interest rate; when due and payable.

The rate of interest which certificates of indebtedness provided for in this chapter shall bear and the manner in which such certificates shall be payable shall be as prescribed by the resolution or ordinance authorizing such work to be done.

(Ord. No. 89-244, § 2(34-14), 9-28-89)

Sec. 22-15. Same—Signing; affixing seal.

Before issuance, the certificates of indebtedness provided for in this chapter shall be signed by the mayor of the city, attested to by the city clerk and countersigned by the director of revenue and finance, and the corporate seal of the city shall be affixed thereto by the city clerk. The coupons thereto annexed shall bear the facsimile signatures of the officers but shall not be under the corporate seal of the city.

(Ord. No. 89-244, § 2(34-15), 9-28-89)

Secs. 22-16—22-30. Reserved.

DIVISION 2. CERTIFICATES; DOCUMENTS;
REQUIREMENTS; ETC.

Sec. 22-31. Applications, documentation.

(a) Any person legally entitled to apply for and receive a permit under the provisions of this chapter shall make such application in writing to the city on forms provided for that purpose. Every applicant for a permit shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The city may require plans, specifications or drawings and such other information as it may deem necessary and pertinent prior to the granting of a permit. If the city determines that the plans, specifications, drawings, descriptions or other information furnished by the applicant is in compliance with this chapter, the rules and regulations of any other department having jurisdiction and any other

laws, rules and regulations pertaining to work proposed to be done, it shall issue the permit applied for upon payment of the required fee.

(b) The order, sequence and prerequisites for making applications shall be as designated by the official.

(Ord. No. 89-244, § 2(34-31), 9-28-89)

Sec. 22-32. Opening, widening or extending streets—Resolution authorizing city attorney to enter condemnation proceedings.

Whenever the city council shall deem it necessary or expedient to open, widen or extend any street, avenue, alley or thoroughfare in the city and condemnation proceedings shall be deemed necessary therefor, the city council shall authorize the city attorney, by resolution, to initiate condemnation proceedings against the necessary property for the opening, widening or extending of such avenue, alley or thoroughfare.

(Ord. No. 89-244, § 2(34-32), 9-28-89)

Sec. 22-33. Same—Form of condemnation proceedings.

The city attorney shall, as soon as practicable after the passage of a resolution as provided for in this chapter, initiate condemnation proceedings against the necessary property for the opening, widening or extending of streets, alleys, avenues or thoroughfares mentioned in such resolution to the width prescribed therein. Such condemnation proceedings shall be in the manner prescribed by the statutes of the state for other condemnation proceedings.

(Ord. No. 89-244, § 2(34-33), 9-28-89)

Sec. 22-34. Application for vacating streets and alleys—Generally.

All applications for vacating of public right(s)-of-way (public street, road, alleyway, place or highway dedicated or acquired for travel or any part or portion thereof) shall be submitted to the land development coordination division (LDC). Standard application forms shall be made available in the LDC office.

(Ord. No. 89-244, § 2(34-34), 9-28-89; Ord. No. 2007-26, § 1, 2-7-08)

Sec. 22-35. Same—Form; address.

Vacating applications filed pursuant to this article shall be typewritten and shall be sworn to by the applicant and shall include the post office address of the applicant.

(Ord. No. 89-244, § 2(34-35), 9-28-89; Ord. No. 2007-26, § 2, 2-7-08)

Sec. 22-36. Same—Contents.

(a) Vacating applications filed under this article shall give an accurate legal description of the public street, road, alleyway, place of highway or any part or portion thereof applied to be vacated, closed, discontinued and abandoned. If the vacating, closing, discontinuing and abandoning of a part or portion of an alleyway desired by the applicant to be vacated, closed, discontinued and abandoned would result in the creation of a dead-end alleyway, then the applicant is required to apply to vacate, close, discontinue and abandon the entire alleyway or such part or portion thereof as will preclude the creation of a dead-end alleyway, unless the applicant provides an adequate turnaround or cul-de-sac.

(b) The applicant shall list the property owners' names, addresses and the property legal description, as reflected in the latest ad valorem tax records, of all property touching or abutting on the public street, road, alley, alleyway, place or highway or other right-of-way or any part of portion thereof requested to be vacated, closed, discontinued and abandoned.

(c) The applicant shall state the reason why the applicant desires the closing of the street, road, alleyway, place or highway or any part or portion thereof.

(d) The application shall contain a recital as follows: The applicant(s) herein named hereby waive, renounce, relinquish, absolve and discharge the city from any claim for damages of any nature and kind whatsoever that such applicant(s) may have or claim or demand, now or in the future, by reason of the vacating, closing, discontinuing and abandoning of the public street, road, alleyway, place or highway or any part or portion thereof.

(e) The application shall have attached thereto a drawing or blueprint of the subdivision in which the public street, road, alleyway, place or highway or any part or portion thereof to be vacated, closed, discontinued and abandoned is located or, if located in an unplatted area, of the streets, highways, roads, alleys and public places in the immediate area surrounding the public street, road, alleyway, place or highway or any part or portion thereof to be vacated, closed, discontinued and abandoned.

(Ord. No. 89-244, § 2(34-36), 9-28-89; Ord. No. 2007-26, § 3, 2-7-08)

Sec. 22-37. Same—Filing; number of copies required.

Four (4) copies of the vacating application required by this article shall be filed with the land development coordination division.

(Ord. No. 89-244, § 2(34-37), 9-28-89; Ord. No. 2007-26, § 4, 2-7-08)

Sec. 22-38. Same—Procedure on receipt; distribution to reviewing agencies.

Upon receipt of the vacating application, the land development coordination division shall review for completeness. If complete, the land development coordination division shall distribute a copy to the legal department and all reviewing agencies, including but not limited to all applicable city agencies, other governmental agencies, and private utilities.

(Ord. No. 89-244, § 2(34-38), 9-28-89; Ord. No. 2007-26, § 5, 2-7-08)

Sec. 22-39. Scheduling of public hearing; notice.

(a) The land development coordination division shall schedule the date for the public hearing consistent with city council rules of procedure and forward the application to the city clerk for inclusion on the requested agenda.

(b) Public notice. The procedures for required public notice are governed by section 27-394, with supplemental notice provided per sections 27-394(c)(1)a. (mailed notice to property owner), (c)(1)c. (mailed good neighbor notice) and (c)(2) (posted notice). Mailed notice to the property owner shall

include mailed notice to the owner of every parcel of land abutting on the public street, road, alleyway, place or highway or any part or portion thereof proposed to be vacated, closed, discontinued and abandoned. Per section 27-394(c)(3), the applicant shall file the required affidavit of compliance with the city clerk.

(c) When all or a majority of the alley rights-of-way within a platted subdivision or within an area of four (4) or more contiguous blocks are included in a single application, then the posting of signs, as required in section 27-394(c)(2), shall not be required for those alleys within that subdivision or for those alleys within the four (4) or more contiguous blocks referred to above. (Ord. No. 89-244, § 2(34-39), 9-28-89; Ord. No. 2002-257, § 2, 11-21-02; Ord. No. 2004-71, § 4, 3-11-04; Ord. No. 2007-26, § 6, 2-7-08; Ord. No. 2011-12, § 5, 1-20-2011, eff. 2-1-2011)

Sec. 22-40. Application of chapter to city council proceedings.

Nothing contained in this chapter shall be deemed or construed as applying to any proceedings instituted by the city council in their own discretion and on their own motion relating to the vacating, closing, discontinuing and abandoning of any public street, road, alleyway, place or highway or any part or portion thereof. (Ord. No. 89-244, § 2(34-40), 9-28-89; Ord. No. 2007-26, § 7, 2-7-08)

Secs. 22-41—22-55. Reserved.

DIVISION 3. FEE AUTHORITY AND TYPES; PERMITS; INSPECTIONS

Subdivision I. Generally

Sec. 22-56. Fees—City council to establish.

The city council shall have the authority to set fees by resolution. (Ord. No. 89-244, § 2(34-61), 9-28-89)

Sec. 22-57. Same—Types enumerated.

Fees may be charged for the following:

- (1) Vacating streets and alleys petition;

- (2) Permit issuance;
- (3) Reinspection;
- (4) Interest for certificates of indebtedness;
- (5) Application for bench permit;
- (6) Annual renewal for bench permits;
- (7) Sidewalk café permit;
- (8) Sidewalk café permit renewal;
- (9) Right-of-way permit for guardhouses and/or gates;
- (10) Modular news rack permits. (Ord. No. 89-244, § 2(34-62), 9-28-89; Ord. No. 92-45, § 2, 4-2-92; Ord. No. 99-105, § 1, 5-13-99; Ord. No. 2010-60, § 2, 5-20-2010, eff. 6-24-2010)

Sec. 22-58. Permit types.

(a) *Driveway permit.*

- (1) *Required for:* Installing or relocating driveway aprons and/or curbs between private property line and street pavement.
- (2) *May be issued to:* Owner, contractor or agent.
- (3) *Scope of work:* Forming and pouring asphalt or concrete or the placement of bricks or stone in accordance with approved plans and/or department specifications.

(b) *Right-of-way permit—Maintenance.*

- (1) *Required for:* Performing utility maintenance activity which causes any obstruction or redirection of normal traffic flow in excess of the following time periods:

Collector; major or minor arterial.....	4 hours
Local streets	8 hours
- (2) *May be issued to:* Certified/licensed contractors; utility companies.
- (3) *Scope of work:* Obstruction or redirection of traffic flow in accordance with this Code and state law.

(c) *Right-of-way permit—New construction.*

- (1) *Required for:* Performing utility construction activity which causes any obstruction or redirection of normal traffic flow.
- (2) *May be issued to:* Certified/licensed contractors; utility companies.
- (3) *Scope of work:* Obstruction or redirection of traffic flow in accordance with this Code and state law.

(d) *Right-of-way permit; miscellaneous structures.*

- (1) *Required for:* Installing or relocating miscellaneous structures on city right-of-way between the private property line and the street pavement.
- (2) *May be issued to:* Owner, contractor or agent.
- (3) *Scope of work:* Placement of miscellaneous structures on the right-of-way in accordance with approved plans and/or department specifications.

(e) *Sidewalk café permit.*

- (1) *Required for:* Operation of a sidewalk café.
- (2) *May be issued to:* Any person meeting the requirements for a sidewalk café contained in this chapter.
- (3) *Scope of work:* Operation of a sidewalk café.

(f) *Right-of-way permit for guardhouses and/or gates.*

- (1) *Required for:* The erection, operation and maintenance of guardhouses and/or gates on, in or in any manner affecting public right(s)-of-way.
- (2) *May be issued to:* A corporation or association incorporated or formed under the laws of the State of Florida whose membership is comprised of all owners of real property located in a subdivision or a clearly defined development or a community development district or special district formed for the purpose of erecting, operating and maintaining a guardhouse and/or gates at the entrance into the subdivision or development to be located on, in or in any manner affecting public right(s)-of-way and meeting the following criteria:
 - a. The public right-of-way on which the guardhouse and/or gate is erected shall not provide a means of vehicular access through the subdivision or development to any public roads or streets located outside of the subdivision or development; and
 - b. All public rights-of-way located within the subdivision or development intersecting the public right-of-way on which the guardhouse and/or gates are located shall not provide a means of vehicular access through the subdivision or development to any public roads or highways located outside of the subdivision or development; and
 - c. All other requirements contained herein in connection with the permitting, erection, operation and maintenance of the guardhouse and/or gates shall be satisfied.
- (3) *Scope of work:* The erection, operation and maintenance of a guardhouse and/or gates located in, on, or in anyway affect-

ing public right(s)-of-way subject to the standards set forth in this ordinance and any specific permit requirements.

(Ord. No. 89-244, § 2(34-63), 9-28-89; Ord. No. 92-37, § 1, 3-12-92; Ord. No. 92-45, § 3, 4-2-92; Ord. No. 99-105, § 2, 5-13-99)

Sec. 22-59. Vacating streets and alleys; payment of costs, expenses.

(a) The applicant requesting that any public street, road, alleyway, place or highway or any part or portion thereof be vacated, closed, discontinued and abandoned shall pay all costs and expenses to be incurred by the city, as follows:

- (1) For the handling and processing of the application, including the publishing of notice of the public hearing;
- (2) For the posting of signs;
- (3) For the publishing of the vacating ordinance, if the application is granted;
- (4) For the recording of a certified copy of the ordinance in the office of the clerk of the circuit court of the county;
- (5) For the review of the application.

(b) A payment in the amount as established by resolution of the city council shall be made by the applicant to the land development coordination division with the submittal of the application. A receipt showing the payment to the city shall be attached to the application. No portion of this fee shall be refunded. Should an error (by the applicant or his agent) in the original application occur that requires the filing of an amended application and readvertisement of notice of the public hearing, the additional charge and subsequent payment in the amount as established by resolution of the city council to defray additional costs and expenses shall be made by the applicant to the land development coordination division, before the amended application will be rescheduled for a public hearing. A receipt showing the payment to the city of this additional fee shall be attached to the amended application. No portion of this additional fee shall be refunded.

(Ord. No. 89-244, § 2(34-64), 9-28-89; Ord. No. 2007-26, § 8, 2-7-08)

Sec. 22-60. Installations in right-of-way.

(a) It is unlawful for any person, public or private utility or any other governmental agency or contractor to excavate, dig, blast or tunnel or to place, construct or install any facilities, structures and objects such as utility lines, telecommunication cables, culverts, etc., within any public street, alley or other right-of-way in the city unless application shall first be made to and a written permit obtained from the official, except under the following conditions:

- (1) Installation of trees or shrubbery which will not grow to a diameter in excess of twenty-four (24) inches when installed by public or private utility work crews, provided that said installations meet minimum state and federal design standards, related to roadside recovery areas, minimum site triangles and the Americans with Disability Act requirements, including amendments thereto, as said standards and requirements are adopted herein;
- (2) Installation of gas, water, sewer, electric or telephone service connection lines, not including underground main feeder lines parallel to the street, when installed by public or private utility work crews which are subject to all conditions specified in this Code.

(b) It is unlawful for any person, public or private utility or any other governmental agency or contractor working for the same to excavate, dig, blast or tunnel or to place, construct, repair or install any driveway, curb sidewalk or culvert within any public street, alley or other right-of-way in the city, unless application shall first be made and a written permit obtained in advance of beginning work.

(c) It is unlawful for any person, public or private utility or any other governmental agency or any contractor working for the same to excavate, dig, blast or tunnel for the purpose of repairs or maintenance of any existing facilities within any public street, alley or other right-of-way in the city, unless application shall first be made and a permit for the repairs or maintenance obtained in advance of beginning work; provided, however,

there is hereby excepted from this requirement public or private utility work crews which are subject to all conditions specified in this chapter when accomplishing the following work:

- (1) Removal, replacement or relocation of trees;
- (2) Repair, cleaning or replacement of gas, water, sewer, electric or telephone service connection lines, not including underground main feeder lines parallel to the street;
- (3) Raising manhole covers in conjunction with street resurfacing;
- (4) Trouble-shooting for leaks, gas, water, sewer, storm sewer, pressurized telephone and electric lines in the unimproved (no traffic or sidewalk) rights-of-way.

(d) The applicant for a permit shall determine all potential utility conflicts during the design stage and shall show same on the plan and profile drawings submitted with the application. The plan and profile drawings shall be in accordance with utility plan guidelines or as specified by the official.

(e) If the official shall determine that such work or activity within any street, alley or other right-of-way will not unreasonably interfere with the rights of the public or city, he is authorized to issue a permit for such construction work or activity upon such reasonable conditions as he shall deem necessary for the protection of the rights of the public and the city.

(f) Under all conditions prescribed in this section, the construction shall not proceed unless the statewide one-call toll-free telephone notification system or such other method established under the Underground Facility Damage Prevention and Safety Act, as now or hereafter amended, is notified not less than forty-eight (48) hours nor more than five (5) days in advance of beginning construction. Advance notification is waived when it is documented to the director that the excavation work is of an emergency nature involving the public health, safety or welfare.

(g) All applicants shall give the full name and address of the person or organization making such application, shall designate the place, extent, nature and purpose of such work or activity and, if any paving, curbing, sidewalk, sewer or water main will be disturbed by such work, the director may require that the application be accompanied by a deposit of money in such amount as shall in the opinion of the director be sufficient to pay for the expense of repairing or restoring the same. Pavement replacement shall be in accordance with the conditions set forth in the permit and other standards of the department. Failure or neglect on the part of the applicant to carry out all work in compliance with the conditions set forth in the permit and other standards of the city shall be reason for revocation of the permit.

(h) All applicants shall be notified, at the time of permit application submission, that it is their responsibility to restore the right-of-way to its previous condition.

(i) All applicants shall verify the location and elevation of all underground facilities and shall protect said facilities from damage; in the event that any facilities are damaged, the applicant or applicants shall, at their sole expense, repair or cause to be repaired the damaged facilities to the satisfaction of the owner or operator of said facilities.

(Ord. No. 89-244, § 2(34-65), 9-28-89; Ord. No. 93-178, § 1, 11-18-93; Ord. No. 97-155, §§ 1, 2, 7-24-97)

Sec. 22-61. Public service corporations; standing cash deposit or bond.

A public service corporation operating under a franchise from the city may make a cash deposit or give a bond in such amount as the official determines is sufficient to cover all expenses connected with the work, including inspection of the same; provided, however, that the official may discontinue such arrangement at any time and require a specific charge for each opening. The city shall not be liable for any interest on such deposit made.

(Ord. No. 89-244, § 2(34-66), 9-28-89)

Sec. 22-62. Railroad or railway company repairs; application; deposit.

(a) Any railroad or railway company desiring to repair its tracks shall make application as set forth in this article, and if such repairs will disturb the pavement or sidewalk, such company shall restore the pavement or sidewalk to its previous condition. The official shall collect a cash deposit that will be sufficient for the repair and upkeep of that part of the pavement which will be disturbed.

(b) Such railroad company making such application will be required to repave and maintain permanently that part of the pavement between the rails.

(Ord. No. 89-244, § 2(34-67), 9-28-89)

Sec. 22-63. Guards and danger signals; bond.

In addition to the payment required by this article, any person to whom a permit to disturb a pavement or sidewalk has been issued shall erect and maintain at his expense all necessary guards and danger signals, shall furnish all necessary watchmen to protect the public and the work during its progress, and shall assume all liability for accidents or damage to persons or property that may occur in the course of or by reason of such work. If necessary for the protection of the city, the official may require the applicant to post a bond in such amount which the official deems proper to protect the city from all loss and damage by reason of such work, because of injury to persons, property or animals.

(Ord. No. 89-244, § 2(34-68), 9-28-89)

Sec. 22-64. Display of permits; penalty.

Any person disturbing, digging up or excavating any pavement or sidewalk authorized herein shall exhibit upon demand to any officer or policeman of the city the permit for such work issued by the official, and any person failing to do so or to comply with the provisions of this article shall, upon conviction, be punished as provided in section 1-6 of this Code.

(Ord. No. 89-244, § 2(34-69), 9-28-89)

Sec. 22-65. Refilling; cleaning up; repaving.

Upon the completion of the work for which any disturbance, digging up or excavation is made, the applicant shall refill all trenches and excavations. All openings in streets must be promptly filled with suitable material, free from rubbish and perishable matter, and thoroughly and evenly compacted throughout, ramming in thin layers while being put in or by flooding with water. Upon completion of the backfill, the person to whom the permit is issued shall immediately place the pavement in a safe condition for traffic by laying a temporary pavement, properly supported, having the top of the pavement flush with the pavement surface. Immediately after completion of this work or any consecutive portion of it, the applicant shall remove from such street or sidewalk all unused material, refuse and dirt placed in the vicinity of the work resulting from its prosecution and restore the street to a condition satisfactory to the official, notifying the official of such action. In case the work is not completed within the time limited in the permit, the city may, if it deems necessary, take steps to backfill the trench and replace the pavement over the opening for which the permit has been issued. If an extension of time beyond such date is necessary for completion of the work, a new application must be obtained. All persons in charge of any work on the streets must retain and have in possession at all times while so engaged a permit as described in this division. After the person to whom the permit has been issued has complied with the foregoing sections in all respects, the holder thereof shall be relieved from all further expense for repaving the street and shall not be held responsible for the upkeep and maintenance of the pavement from and after that date, except when a defect develops by reason of improper workmanship below the pavement itself.

(Ord. No. 89-244, § 2(34-70), 9-28-89)

Sec. 22-66. Replacement of paving; removing of improper repaving.

The city shall cause each person who has cut the pavement or sidewalks or disturbed, dug or excavated the same to replace and repair such pavements and sidewalks under his supervision and inspection. Such work shall be done by or

under the direction of some person who has passed an examination given by the official and demonstrated capabilities for doing such work and is licensed by the official to do such work; provided, however, that if the official shall at any time within thirty (30) days after the sidewalks and pavement have been replaced or repaired determine that the persons mending or replacing such pavement or sidewalks so disturbed, dug up or excavated have failed and neglected to repair and replace such pavement and sidewalks in a workmanlike manner, then, and in that event, the official shall cause the sidewalks or pavement so defectively replaced and repaired to be properly replaced and repaired. All costs and expenses of so replacing and repairing such pavement or sidewalk shall be charged against the fund deposited by the person to whom the permit was granted to cut, disturb and excavate the pavement or sidewalks.

(Ord. No. 89-244, § 2(34-71), 9-28-89)

Sec. 22-67. Permit revocation.

The official may revoke permits issued by him upon finding that:

- (1) The permit was issued by mistake of law or fact;
- (2) The permit is for work which violates the provisions of this chapter;
- (3) The permit was issued upon a false statement or misrepresentation by the applicant;
- (4) The permit violates any ordinance of the city or any state or federal law, rule or regulation;
- (5) The work is not being performed in accordance with the provisions of this chapter;
- (6) The certificate of competency or license of the permittee has become invalid by reason of expiration, suspension, revocation or otherwise;
- (7) The work is not being performed under the supervision of the holder of the certificate or license upon which the same was issued;

- (8) The work is not being done in accordance with the terms of the permit, the plans or the application upon which the same was issued;
 - (9) Payment of the permit fees was not effected due to insufficient funds or any other reason; or
 - (10) The work performed under that permit is threatening or interfering with public welfare and safety.
- (Ord. No. 89-244, § 2(34-72), 9-28-89)

Sec. 22-68. Nontransferability of permits.

No permit shall be transferable from one (1) permittee to another, and the issuance of a permit for certain work shall not preclude the issuance of a subsequent permit for the same work or for the completion of the work.

(Ord. No. 89-244, § 2(34-73), 9-28-89)

Sec. 22-69. Inspections, other approvals.

Activities regulated by this chapter shall be subject at all times by inspection by the city. The official may require documents, drawings or certificates necessary to effect approval of such work.

(Ord. No. 89-244, § 2(34-74), 9-28-89)

Cross reference—Inspections generally, § 1-27.

Secs. 22-70—22-85. Reserved.

*Subdivision II. Bridges**

Sec. 22-86. Plans for bridges to be submitted to city for approval.

(a) It is unlawful for any person, including any commercial railroad or transportation company, to build, erect or construct any bridge or to rebuild or replace any bridge across the Hillsborough River within the corporate limits of the city without first submitting the plans to the city for approval.

(b) All bridge plans must be submitted to the city for approval. Plans must be signed and sealed by a structural engineer currently registered in the state. Plans must conform to the most recent

***Cross references**—Boats, docks and waterways, § 14-196 et seq.; pollution of navigable waters, § 14-236 et seq.

edition of the state department of transportation "Standard Specifications for Road and Bridge Construction." All applicable permits must be acquired by the party submitting plans for city review.

(Ord. No. 89-244, § 2(34-81), 9-28-89)

Secs. 22-87—22-100. Reserved.

Subdivision III. Sidewalks†

Sec. 22-101. Construction permit.

It is unlawful for any person to construct, build or repair sidewalks in the city without first obtaining a permit therefor from the official. Such application shall be duly filed with the official and shall specify the material with which the sidewalk is to be constructed, built or repaired.

(Ord. No. 89-244, § 2(34-86), 9-28-89)

Sec. 22-102. Specifications for construction.

All sidewalks in the city for which a permit shall be issued shall be constructed in accordance with the plans and specifications of the rules and regulations as promulgated by the official, and it shall be unlawful for any person to construct any sidewalk on any street or street area in the city which does not conform with such plans and specifications of the official.

(Ord. No. 89-244, § 2(34-87), 9-28-89)

Sec. 22-103. When new sidewalk construction is required; contributions to "sidewalk trust fund" in lieu of constructing a sidewalk.

(a) In order to provide continual access for pedestrians, sidewalks shall be required to be provided by the property owner or permit applicant in the public right of way when one (1) of the following events occur:

- (1) *Residential structure(s)/use(s) generally:* Except as provided for below, whenever a permit is issued for the construction of: (a) a new single-family or multi-family resi-

†Editor's note—This subdivision is included as part of the land development code adopted in § 17.5-17 which combines and compiles all land development regulations into a single land development code.

dential structure or use; or (b) any major renovation as defined in Chapter 27 of any existing single-family or multi-family residential structure.

- (2) *Commercial/industrial/office/mixed use and all other non-residential structure(s)/use(s)*: Whenever a permit is issued for: (a) the construction of a new commercial, industrial or office structure; or (b) any expansion of an existing structure or use (other than a residential structure or use) which results in an expansion of that structure or use in excess of twenty-five (25) percent of the existing square footage of structure area on a parcel.
- (3) *All uses*: All uses undergoing: (a) site plan controlled zoning approval; or (b) S-2 special use approval; or (c) any change in an existing use requiring twenty-five (25) percent additional parking.

Whenever sidewalk(s) is/are required above, then the sidewalk(s) shall be constructed in the public right of way along the full length of any and all streets abutting a parcel of property and parallel to the street in accordance with the Transportation Technical Manual. The location of the sidewalk in the public right-of-way shall be determined by the transportation manager or his/her designee; provided however, a construction of a sidewalk shall not be required under subsection (1) above if: (i) the permit is for construction or expansion of a single-family residential structure located on a street functionally classified as a local road; and (ii) there are no sidewalks on the local road abutting the single-family residential structure as measured linearly on the same side of the local road for the subject blockface; and (iii) the city's capital improvement plan relative to sidewalks does not include any plans for funding or construction of sidewalks on the abutting local road within three (3) blocks in either direction of the single-family residential structure as measured linearly on the same side of the road.

(b) If a sidewalk is required under subsection 22-103(a) of this Code, but the construction of the sidewalk is determined to be not practical (as determined pursuant to either subsection 22-103(c) or 22-103(d) below), then the property owner or permit applicant shall make a contribution to the applicable "sidewalk trust fund" as described in section 22-104 of this Code in lieu of constructing the required sidewalk. The amount of the contribution shall be determined by multiplying the linear feet of that parcel's street frontage(s) (minus the width of any paved driveway and/or driveway apron) times the per linear foot contribution fee established pursuant to section 22-104 of this Code.

(c) The decision of whether the construction of a sidewalk on a parcel is "not practical" shall be made by the transportation manager or his designee. In making such a decision, the transportation manager or his designee shall consider the following factors:

- (1) Whether there is no existing sidewalk to which the proposed sidewalk can connect and it is unlikely that there will be additional development nearby which will require the construction of additional sidewalk(s) (if the parcel terminates at a street intersection and a sidewalk is located across the street, then a sidewalk will be required to connect with the sidewalk located across the street); or
- (2) Whether a sidewalk cannot be constructed without removing a grand tree or a protected tree; or
- (3) Whether a stormwater drainage ditch or similar public utility facility prevents the construction of a sidewalk and neither the facility nor the proposed sidewalk can be reasonably relocated or altered to accommodate both the facility and the sidewalk; or
- (4) Whether or not other unique or peculiar circumstances exist on a given parcel or development.

(d) City council shall also have the authority to determine whether or not circumstance exist making it is "not practical" to construct a sidewalk in connection with site plan controlled rezoning, and S-2 special use petitions.

(e) Existing sidewalks adjacent to a parcel of property shall be repaired and/or replaced if the transportation manager or his designee determines that the sidewalk sections are unsafe.

(f) Ramps for the handicapped, designed to city specifications, shall be provided at all inter-sections.

(g) In the event that it is determined that the construction of a sidewalk is "not practical" (as provided for in subsection (c) or (d) above and by the city's construction services division) and the permit is being issued for a single-family residential home, the contribution to the sidewalk trust fund shall not be required in any of the following instances:

- (1) The permit is issued for an affordable housing unit. For the purposes of this subsection, an affordable housing unit shall be defined as a single-family detached residential unit which has a construction cost of one hundred fifty thousand dollars (\$150,000.00) or less (as may be adjusted per the Reed Material Construction Price Index); or
- (2) The permit is issued for: (i) construction or expansion of a single-family residential home located on a street functionally classified as a local road; and (ii) there are no sidewalks on the local road abutting the single-family residential structure as measured linearly on the same side of the local road for the subject blockface; and (iii) the city's capital improvement plan relative to sidewalks does not include any plans for funding or construction of sidewalks on the abutting local road within three (3) blocks in either direction of the single-family residential structure as measured linearly on the same side of the road.

(Ord. No. 90-110, § 1(34-88), 4-26-90; Ord. No. 2001-92, § 1, 4-19-01; Ord. No. 2006-259, § 3, 10-26-06; Ord. No. 2008-136, § 1, 8-21-08; Ord. No. 2009-174, § 1, 12-3-09; Ord. No. 2010-140, § 1, 10-7-2010)

Sec. 22-104. Sidewalk trust funds.

(a) There are hereby established six (6) separate sidewalk trust funds for each of the six (6) separate transportation impact fee districts described in section 25-71 of the Code. The sidewalk trust funds shall be used for the deposit, maintenance and distribution of all monetary contributions made in lieu of constructing a sidewalk pursuant to subsection 22-103(b) of this Code. All contributions made pursuant to subsection 22-103(b) of this Code shall be monetary payments into the sidewalk trust fund that corresponds with transportation impact fee district in which the parcel is located. All contributions made to and interest derived from any of the sidewalk trust funds shall be used solely for the purpose of constructing and replacing sidewalks along or on public streets in the transportation impact fee district in which the contribution was collected.

(b) The sidewalk trust fund fee shall be established by city council resolution. The fee shall be set on per linear foot of street frontage basis and shall be based on the average of the city's sidewalk construction costs on a per linear foot of street frontage basis.

(Ord. No. 2001-92, § 2, 4-19-01)

Secs. 22-105—22-115. Reserved.

*Subdivision IV. Benches Displaying Advertising**

Sec. 22-116. Persons permitted to place benches on sidewalks; applicability of article.

Any person duly incorporated under the laws of the state or duly authorized to transact business in the state who comply with the provisions of this article may be permitted to place and maintain within the corporate limits of the city benches for the use and convenience of the general public. Such benches may be located on city rights-of-way only where, in the determination of the city department of public works, hereinafter referred to simply as the DPW, such benches do not present a hazard to pedestrians or motorists. The provi-

*Cross reference—Removal or relocation of benches in violation, § 22-258.

sions of this article shall apply only to benches which display advertising or which are intended for the display of advertising and when such benches are to be located on the public rights-of-way or when such benches are to be located on private property

but the advertising is intended to be viewed from the public rights-of-way.

(Ord. No. 89-244, § 2(34-91), 9-28-89)

Sec. 22-117. Construction and size.

All benches placed or maintained within the corporate limits of the city as permitted under the provisions of this article shall be constructed of wood seats and backrests placed on white concrete frames. The color of the benches is to be approved by the department of public works. Other materials such as plastics, metal or fiberglass may be substituted for wood or concrete if product approval is first obtained in writing from the DPW. All wood and iron surfaces shall be painted or stained and shall have a smooth surface and be without any sharp projections or hazardous apertures. Each component of a bench shall be securely fastened to another appropriate component. The front seat and the top back edges shall be beveled or rounded, and the bench shall be so constructed as to sustain a minimum load of one thousand (1,000) pounds and shall be in all respects suitable for the safe and comfortable seating of the public. All benches placed or maintained within the corporate limits of the city under the provisions of this article shall not exceed seventy-four (74) inches in length, twenty-eight (28) inches in width and forty-three (43) inches in overall height. All benches shall have a full seatrest and backrest construction of not less than twelve (12) inches in support width for the seat and eight (8) inches for the back, running the full length of the bench; provided that any bench with a height greater than thirty-four (34) inches must have a full backrest at least twenty-four (24) inches in vertical width. Each bench shall be placed so that it is reasonably level. Any changes in the existing topography or placement of concrete pads necessary to allow a bench to be placed in a level position must be approved in writing in advance by the DPW. Each bench shall display in a conspicuous manner the name of the owner and/or sponsor of same or such other identifying symbol, mark, design or abbreviation as is acceptable by the DPW.

(Ord. No. 89-244, § 2(34-92), 9-28-89)

Sec. 22-118. Property owner's permission for placement required; permit required.

(a) Before placing any bench within the corporate limits of the city as permitted under the provisions of this article, written permission to do so shall be obtained from the owner, lessee or tenant or an authorized representative of such owner, lessee or tenant of the property upon, in front of or alongside which each such bench shall be placed. In the instance of improved residential property, permission may be obtained from any adult member of the household.

(b) Before placing any benches as provided by this article, application shall be made in writing to the director of the department of public works by the person desiring to place such benches, which application shall set out the following:

- (1) The full name and business address of such applicant and if a corporation, where incorporated, and if a foreign corporation, when authorized to do business in the state;
- (2) A description of the materials, dimensions and type of construction, together with a scaled drawing, of the benches which are proposed;
- (3) The description by street number and intersection and corner, if any, of the property upon, in front of or alongside of which it is proposed to place each bench, with a plot sketch of the location of the bench in relation to all adjacent streets;
- (4) A statement that permission has been obtained for the placement of a bench at such location and the name and address of the person who gave such permission;
- (5) A statement that the applicant will, if issued a permit, comply with all the provisions of this article in the placing and maintenance of each bench for which a permit shall be issued; and
- (6) Written consent from the owner or lessee or tenant, if any, or authorized representative of the property owner showing the address upon which the bench is located or to be located. Where placement is on a public

right-of-way, written consent shall be obtained from the owner, lessee, tenant or authorized representative of the owner, lessee or tenant of the property in front of, abutting or immediately touching the right-of-way upon which the bench is placed.

(Ord. No. 89-244, § 2(34-93), 9-28-89)

Sec. 22-119. Permit application.

(a) Upon the filing of an application to locate a bench, the director of the department of public works or his designee shall review it and determine whether the application complies with the requirements of this article and that no prior permit has been issued for a bench at each location specified.

(b) If an application is approved, the DPW shall issue a permit to the applicant for the placing of benches at the approved locations upon the furnishing of proof of insurance by the applicant as provided in this chapter hereof and upon the payment of such fees, licenses, taxes and other charges as shall be fixed and prescribed by this Code.

(c) Benches placed or maintained under the provisions of this article shall be placed and maintained in accordance with the following criteria:

(1) Except as otherwise provided in this chapter, such benches shall be located only at bus stops recognized as such by the Hillsborough Area Regional Transit Authority or as near thereto as the physical characteristics of the area and the safety of vehicular and pedestrian traffic will permit. Questions of vehicular or pedestrian safety as referred to herein shall be resolved by the appropriate city departments.

(2) Unless the permittee is specifically authorized in writing, no bench shall be placed so that the angle of its long diversion in relation to the curbline shall be greater than thirty (30) degrees. Benches shall not be placed upon any public right-of-way which is less than four and one-half (4½) feet in width. Unless specifically authorized, no bench may be placed so that it is closer than twenty-four (24) inches to the face of the curb.

(3) Not more than one (1) bench displaying advertising or intended for the display of advertising shall be permitted at a particular bus stop, except as provided in this chapter.

(4) The location of any bench shall not be approved when the bench at such location will or will tend to create a sight obstruction or otherwise impair, impede or endanger pedestrian or other traffic.

(5) Where the Hillsborough Area Regional Transit Authority places a shelter, the permit for any bus bench at that bus stop may be revoked; however, such permit may be transferred to any other eligible location as defined in this article without the payment of any additional permit fees.

(6) Benches may be placed at locations other than recognized bus stops when, in the determination of DPW, the following conditions exist at the location:

- a. There exists a need for a bench as a public convenience;
- b. The bench would not have an adverse effect on the aesthetic appeal of the area;
- c. The proposed location is not one which will be mistaken for a bus stop or will otherwise lead to the confusion of the public.

(7) Where there is no sidewalk, a minimum setback from the outer edge of the pavement of any road is five (5) feet. Where a sidewalk exists, the bench shall be set back so that a minimum of a thirty-inch path on the sidewalk is open. Benches shall be placed such distances in excess of these requirements as may be deemed necessary or desirable for the public safety, welfare or convenience.

(8) Benches may not be attached or secured to any traffic-control device.

(9) Any permission which is given to place a bench at a specific location or to place a bench in a specific manner may be revoked by the director of the DPW if in his sole discretion the need no longer exists. The

The decision of the director of the DPW, in respect to the installation and maintenance of public benches at any location, shall be final.

(Ord. No. 89-244, § 2(34-94), 9-28-89)

Sec. 22-120. Payment of application fee required; permit expiration.

Each applicant for an initial permit to locate a bench at a designated location shall, at the time of making such application, pay to the department of public works an application fee for an initial permit for each proposed location. This fee is to defray the cost of the inspection required herein and offset other expenses incurred in connection with the application. However, if the application is approved, a permit shall be issued to the applicant without further payment for the permit during the city's fiscal year in which the application is made. The expiration date of each approved permit shall be September 30, following the date of application.

(Ord. No. 89-244, § 2(34-95), 9-28-89)

Sec. 22-121. Insurance required.

(a) The permittee shall procure and maintain in effect the types and amounts of insurance shown below:

- (1) Public liability and property damage insurance covering claims for damages for bodily injury, including accidental death, as well as claims for property damage, in an amount not less than one million dollars (\$1,000,000.00) combined single limit for injuries, including accidental death, and property damage insurance in the amount of not less than one hundred thousand dollars (\$100,000.00) for any one (1) accident;
- (2) An owner's protective public liability and property damage policy of like amounts, as specified in subsection (a)(1) above, to protect the city against claims for bodily injury, including accidental death, as well as claims for property damage;
- (3) All such insurance is to be with insurance companies authorized to do business in the state and the policies countersigned

by a local resident agent of the company. The policies shall be in effect at all times the benches are in place.

(b) All insurance policies shall be issued as required by law and shall be endorsed as to provide that the insurance company shall give the city fifteen (15) days' precancellation notice if the policies are to be terminated or any changes made therein during the life of the permit. As evidence of the carriage of such insurance, the holder of the permit shall furnish the city with an original, executed certificate of such liability and property damage insurance and, if required at any time, a copy of each such policy and shall furnish to the city the original owner's protective public liability and property damage insurance policy showing the city as an additional named insured and shall also, if required, furnish to the city a receipted bill evidencing proof of payment of the premium on the policies. Failure to maintain such insurance as herein required shall be grounds for the revocation of such permit.

(Ord. No. 89-244, § 2(34-96), 9-28-89)

Sec. 22-122. Payment of business tax.

In addition to the permits required by this article, each person engaged in the business of placing benches within the corporate limits of the city, as herein provided, shall pay to the department of revenue and finance (license bureau) the annual license taxes specified in this chapter for the privilege of engaging in the business.

(Ord. No. 89-244, § 2(34-97), 9-28-89; Ord. No. 2007-200, § 3, 10-4-07)

Cross reference—Business tax receipt, § 24-101 et seq.

Sec. 22-123. Annual renewal of permit; renewal fee.

(a) The department of public works shall, as deemed necessary, inspect all benches within the city for which permits have been issued so as to determine that such benches conform to the criteria set forth in this article.

(b) An annual renewal application fee will become due and payable on October 1 for each year. Such fee shall be for each bench then under active permit and for which a permittee desires a yearly permit renewal. The permittee shall fur-

nish with the renewal application fee a list of each and every bench and its location placed by the permittee within the city and shall indicate on the list those benches for which a yearly renewal is requested. The list shall be in the manner, form and order as prescribed from time to time by the DPW.

(c) Failure to pay the fee or submit the list on or before October 1 or the failure of a bench under permit to conform to criteria set forth herein shall be grounds to reject the application for renewal. In the event of rejection, the permittee shall remove such bench within ten (10) days after the receipt of written notice by the director of the DPW or his designee.

(Ord. No. 89-244, § 2(34-98), 9-28-89)

Sec. 22-124. Objection to permit by property owner; notice to permit holder; bench to be removed; twelve-month restriction.

Upon the filing by the owner or lessee or tenant, if any, or authorized representative with the department of public works of an objection in writing to the permit issued to the applicant to install or maintain a bench upon, in front of or alongside the property of such owner, lessee, tenant or authorized representative, the permit issued to such applicant shall be revoked by DPW as to such location, and notice of such revocation shall be forthwith given by DPW to the person to whom the permit shall have been issued therefor, and it shall be the duty of such person owning such bench to remove it from such location within ten (10) days after the mailing of such notice. For a period of twelve (12) months from and after the date such revocation is filed by a property owner, lessee, tenant or authorized representative, no permit shall be issued for the placement of a bench upon, in front of or alongside of the property of such owner or authorized representative as to which such revocation pertains.

(Ord. No. 89-244, § 2(34-99), 9-28-89)

Sec. 22-125. Maintenance.

(a) All persons to whom a permit shall be issued for the placing and maintenance of benches within the corporate limits of the city as herein

provided shall, at their own cost and expense, repair, keep and maintain such benches in good condition and repair and shall replace all unsound, unsightly or damaged materials with good, sound, sightly material, and all weathered or defaced surfaces shall be restored or replaced so as to maintain such benches at all times in good, safe and sound condition and shall, without cost to the city, remove or cause to be removed from under and around each of such benches for a distance of five (5) feet therefrom all trash, dirt, rubbish or unsanitary matter and shall keep any grass and weeds within such area trimmed or mowed, and failure to do so shall be grounds for the revocation of the permit by the department of public works.

(b) Benches and advertising will be subject to inspection by the city at any time for compliance with the location requirements and bench standards on file in the DPW. Such inspection will be for the sole benefit of the city and shall not relieve the permittee of the responsibility of providing measures to ensure that the benches, advertising and placement of the benches strictly complies with this article and the bench standards set by the DPW.

(Ord. No. 89-244, § 2(34-100), 9-28-89)

Sec. 22-126. Advertising matter permitted on bench.

Each permittee shall have the right to rent and display advertising upon benches permitted pursuant to this article, subject, however, to the following criteria and exceptions:

- (1) No advertising affixed thereon shall appear other than on either the front or rear surface of the backrest area on the bench and shall not be greater than seventy-two (72) inches in length nor twenty-four (24) inches in height;
- (2) No advertising shall be of a political, scandalous, immoral or libelous nature or of an alcoholic beverage and no portion of such advertising shall be of a reflectorized material or otherwise illuminated;

- (3) No advertising shall be permitted to appear upon benches placed within the downtown business district more particularly de-

scribed as follows: that area bounded on the north by Scott Street, on the south by Brorein Street, on the east by East Street and on the west by the Hillsborough River;

- (4) No benches containing advertising shall be placed in locations which conflict with state or federal regulations controlling advertising.

(Ord. No. 89-244, § 2(34-101), 9-28-89; Ord. No. 92-169, § 1, 10-15-92)

Sec. 22-127. Right of owner of property to maintain benches on sidewalks adjacent to property.

The owner or owner's lessee, tenant or designee of the property abutting upon a sidewalk shall have the right, upon compliance with and subject to the provisions of this article, with the exception of section 22-122 hereof, to place and maintain benches upon his property or upon the sidewalk adjacent to the owner's property and to place thereon advertisement of his own business, product or service, provided that such business, product or service is conducted or offered upon such property, but no other advertising matter than that pertaining to such owner's, lessee's or tenant's business shall be permitted thereon. However, all advertising is prohibited on benches located in the downtown business district, as such district is defined in this chapter, and all other provisions of this article relating to the location and construction of benches shall apply.

(Ord. No. 89-244, § 2(34-102), 9-28-89)

Sec. 22-128. Removal of bench in case of emergency, during construction.

Whenever an emergency shall exist which, in the opinion of the city, requires the temporary removal of any bench licensed and permitted hereunder, the city shall have full power and authority, either with or without notice to the owner of such bench, to remove same temporarily to a safe location for the duration of such emergency and shall cause such bench to be returned to its location at the expense of the city after the termination of such emergency. Removal of benches during pe-

riods of construction work shall be the responsibility of the owner of such benches.

(Ord. No. 89-244, § 2(34-103), 9-28-89)

Sec. 22-129. Removal of unauthorized benches, advertising.

Any bench or advertising thereon placed or maintained within the corporate limits of the city in violation of this article or without the permits and license fees as provided by this article shall be declared a public nuisance. If it is not removed or the violation corrected within ten (10) days of written notice given by the city, it may be removed by the city and disposed of, and the costs of such removal and disposal shall be borne by the permittee of such bench.

(Ord. No. 89-244, § 2(34-104), 9-28-89)

Sec. 22-130. Notices to owner of benches.

All notices herein provided to be given to the owner of any benches within the corporate limits of the city shall be given to such owner either by delivery to such owner of a written notice or by mailing such notice to the owner at the address given in the owner's application for a permit to place the benches within the corporate limits of the city.

(Ord. No. 89-244, § 2(34-105), 9-28-89)

Sec. 22-131. Defacing, injuring or removing benches.

It is unlawful for any person to damage, deface, post bills upon or remove, without the permission of the owner, any bench lawfully placed and maintained within the corporate limits of the city which has been duly permitted and permitted hereunder; provided, however, that the city shall have the right to remove such benches whenever required or permitted hereunder.

(Ord. No. 89-244, § 2(34-106), 9-28-89)

Sec. 22-132. Revocation of bench permit.

(a) Notwithstanding the provisions contained in this article, the director of the department of public works, upon written notice to the permittee, may order removal within ten (10) days of any particular bench or advertising thereon for failure to comply with any provisions of this article or any

other provision of this Code or for any of the following reasons:

- (1) The advertising displayed on the bench is not suitable for viewing by the public as a whole;
- (2) The bench or the advertising thereon is not in the best interest of the general welfare of the neighborhood in which it is located;
- (3) The bench creates a sight obstruction for motorists or restricts the flow of pedestrian, wheeled, wheelchair, bicycle or vehicular traffic;
- (4) If, in the sole discretion of the director of the DPW, the need for the bench or special manner in which it is placed no longer exists.

(b) If the permittee fails to remove any such bench within ten (10) days of the written notice issued by the DPW, the city may remove and dispose of such bench, and the cost of such removal and disposal shall be borne by the permittee. (Ord. No. 89-244, § 2(34-107), 9-28-89)

Sec. 22-133. Relocation of benches.

Whenever bus routes are altered or abandoned and new routes are established or whenever bus stops on a given bus route are realigned so as to necessitate the relocation of permitted benches, the previously issued permits for such benches shall continue in full force and effect at the new locations, provided that the placement of such benches at the new locations conforms to the criteria set forth elsewhere herein, and provided that the department of public works has consented in writing in advance of the change of locations. Further, outstanding permits for benches at the eliminated bus stops shall be given first priority, in like number, for the placement of benches at the newly established stops. Whenever a bus stop is eliminated, any existing authorization for a bench at such stop shall become void within ninety (90) days of the date of elimination of the bus stop, unless DPW is requested and determines that the bench is a public convenience at that site, as provided for in this chapter. (Ord. No. 89-244, § 2(34-108), 9-28-89)

Sec. 22-134. Transit stop facilities required for certain developments.

(a) All residential developments of two hundred (200) dwelling units or more and all nonresidential developments of two hundred thousand (200,000) square feet or more shall propose the establishment of a transit stop when applying for commercial plan review or PD rezoning petition. The transportation division will coordinate with HART to determine the design, location, time of installation and necessity of the proposed transit stop.

(b) Transit stop facilities shall be located and designed in such a way as to ensure the safety of motorists, pedestrians and the handicapped.

(c) The design of transit stops shall include the following unless otherwise approved by the city and HART:

- (1) Each transit stop shall have shelter and seating.
- (2) Shelters shall meet HART standards.
- (3) Bus pull-out bays shall be provided when transit stops are located along a classified roadway. These bays shall be designed in accordance with city, HART, and the state department of transportation standards.

(d) All DRI level developments shall provide a major transit stop as part of their DRI application. These transit stops shall be located and designed in accordance with city and HART standards. Major transit stops shall include but not be limited to the following:

- (1) All design standards listed in subsection (c).
- (2) All stops shall be provided adjacent to a main entrance unless otherwise approved by the city and HART.
- (3) Separate loading and unloading areas shall be provided in site by the developer in accordance with city and HART standards.

(Ord. No. 90-111, § 1(34-109), 4-26-90)

Editor's note—This section is included as part of the land development code adopted in § 17.5-17 which combines and compiles all land development regulations into a single land development.

Sec. 22-135. Transit shelter advertising.

(a) Transit shelters may be permitted only in accordance with the standards contained in this Code and Florida Statutes.

(b) Transit shelters containing advertising may be permitted in any commercial, office, or industrial zoning district; or Hillsborough Area Regional Transit Authority ("HART") routes adjacent to hospitals, schools or other permitted non-residential uses in multifamily residential zoning districts, including planned development districts containing such uses. No new transit shelters containing advertising shall be permitted in the Westshore Overlay District Development Standards, per section 27-238. No transit shelters with advertising shall be permitted in single-family residential detached zoning districts, including planned developments which contain single-family detached as an allowed use, unless the transit shelter is to be located on an arterial or collector roadway. Transit shelters containing advertising shall only be constructed at approved bus stops on HART routes as approved by HART.

(c) The construction of the Transit shelters shall comply with Chapter 5 of this Code and Florida Statutes. Transit shelters containing advertising shall meet the following minimum design specifications:

- (1) Transit shelters shall be not less than seven (7) feet high (interior), no more than ten (10) feet high (exterior), and shall have a minimum of two (2) wall panels.
- (2) Transit shelters shall have seating that accommodates a minimum of two (2) persons.
- (3) Shelters shall provide protection from wind, sun and rain.
- (4) Shelters shall offer see-through visibility, except for the sign panels.
- (5) Access to shelters shall be provided at least through the front, the right-of-way side of the shelter.
- (6) Shelters shall contain display transit information, a route map, and other schedule information.

(7) Shelters shall be constructed of material designed to withstand vandalism and weathering, such as extruded aluminum with anodized finish.

(8) Transparent vertical panels shall be composed of a minimum one-quarter ($\frac{1}{4}$) inch tempered glass except that the advertising panel may be three-sixteenths ($\frac{3}{16}$) inch tempered glass. High impact strength polycarbonate may be substituted for the tempered glass.

(d) Advertising on transit shelters permitted subject to the following restrictions:

- (1) The advertising contained in the transit shelter shall be limited to the "downstream" end wall (furthest from approaching transit vehicles) for a two-sided or flared and secured panel.
- (2) Lighting of advertising materials shall be limited to back-lighting and shall comply with the lighting standards contained in City of Tampa Code of Ordinances section 20.5-[13] for on-site signs. Electronic message signs are prohibited on transit shelters.
- (3) No advertising poster shall exceed twenty-four (24) square feet in area, or be greater than six (6) feet in height and four (4) feet in width.

(Ord. No. 2007-50, § 1, 2-15-07; Ord. No. 2010-57, § 6, 5-20-2010; Ord. No. 2012-150, § 1, 12-20-2012; Ord. No. 2013-22, § 2, 2-7-2013)

Secs. 22-136—22-145. Reserved.*Subdivision V. News Racks***Sec. 22-146. Permit required.**

(a) It is unlawful for any person to install, maintain or operate a news rack upon any sidewalk or other public place of the city without first having made application for a permit to do so and having been issued a permit as herein provided.

(b) Any permit application for modular news racks shall include a dimensioned site plan of a block including location of each proposed modular news rack, sidewalks, curbs, street, street names,

driveways, trees, tree grates, fire hydrants, parking meters and utility access points. Only one (1) permit shall be required for the placement of any number of modular news racks, provided that each modular news rack is included on the site plan.

(c) Permit applications for news racks, other than modular news racks, shall include the total number of and exact location of each news rack to be permitted, as well as an affidavit from the applicant that the location meets the requirements of the Code. Only one (1) permit shall be required for the placement of any number of news racks, provided that the application clearly states the location of each.

(Ord. No. 89-244, § 2(34-121), 9-28-89; Ord. No. 2010-60, § 3, 5-20-2010)

Sec. 22-147. Approval of application; permit authorization; appeals.

(a) Upon the filing of an application to locate a news rack(s), the transportation manager or his or her designee shall review it and determine whether the application complies with the requirements of this subdivision.

(b) The transportation manager or his or her designee shall approve the application within ten (10) working days if the application complies with the requirements of this subdivision, including the furnishing of proof of insurance by the applicant.

(c) Any applicant who has been denied a permit pursuant to the provisions of this article may file an appeal. Any denial of a news rack permit may be appealed in accordance with section 1-19 of the City of Tampa Code. The decision rendered pursuant to section 1-19 may be appealed in any manner allowed by law.

(Ord. No. 89-244, § 2(34-123), 9-28-89; Ord. No. 2010-60, § 4, 5-20-2010)

Sec. 22-148. Approval of permit without charge.

No fee or charge shall be made for the permit to install a news rack, except for modular news racks as provided in sections 22-56 and [22-]57.

(Ord. No. 89-244, § 2(34-124), 9-28-89; Ord. No. 2010-60, § 5, 5-20-2010)

Sec. 22-149. Insurance required.

(a) Before placing any news rack upon the public sidewalks and other public places of the city, the owner of the news rack or the applicant shall effect, and during all periods of time during which the news rack is maintained upon the sidewalks and other public places of the city, shall maintain in force the following types and amounts of insurance:

- (1) Applicant must provide proof of insurance with companies authorized to do business in Florida, with an A.M. Best rating of B+ VII or higher (or otherwise be acceptable to the City). All liability policies shall name City of Tampa as an additional insured as to the operations of the applicant, shall provide the severability of interest provision, and the waiver of subrogation endorsement in favor of the city. The applicant shall provide proof of a commercial general liability insurance policy on the most current insurance services office (ISO) form, or its equivalent, with an amount of no less than one million dollars (\$1,000,000.00) per occurrence and a two million dollars (\$2,000,000.00) general aggregate. The insurance coverage and limits required must be evidenced by a properly executed Accord 25 Certificate of Insurance form (or its equivalent). This requirement is waived for the owner of a personal dwelling; and, city franchised utilities, the city, the state, the county, or other governmental body, board, or authority, which are self-insured in limits exceeding those set forth herein, provided further, however, that this waiver shall not be applicable to any contractor employed by the owner of a personal dwelling or any of the aforementioned governmental agencies. Thirty (30) days written notice must be given to the city of any cancellation or reduction in the policy coverage. The applicant's insurance coverage required herein is to be primary to any insurance carried by the city or any self insurance program thereof. The city reserves the

right to adjust insurance requirements based on the scope of service of the permit.

(Ord. No. 89-244, § 2(34-125), 9-28-89; Ord. No. 2010-60, § 6, 5-20-2010)

Sec. 22-150. Indemnification of city by applicant for damages.

The applicant to which a permit shall be issued shall at all times indemnify and save harmless the city, its officers and boards of and from all damages, costs and liability whatsoever arising from, growing out of or incident to or in any manner connected with the installation, maintenance or operation of each such news rack, together with all costs, charges and expenses, including reasonable attorney's fees, incurred by the city in defending any suit brought against it, either as sole defendant or joined as a defendant with the applicant. If the applicant fails to defend any such suit against the city, the city may itself defend the same and the applicant will pay to the city upon demand all costs, charges and fees incurred in connection therewith.

(Ord. No. 89-244, § 2(34-126), 9-28-89; Ord. No. 2010-60, § 7, 5-20-2010)

Sec. 22-151. Location.

(a) No news rack shall be chained, bolted or attached in any other manner to any traffic sign, utility pole, or traffic-control device.

(b) Location and placement of any news rack shall meet minimum state and federal design standards, related to roadside recovery areas, minimum sight triangles and the Americans with Disability Act requirements, including amendments thereto, as said standards and requirements are adopted herein.

(c) News racks shall be parallel to the roadway.

(d) The front of any news rack located in landscaped areas of the public right-of-way or on a public sidewalk shall face toward the sidewalk and/or away from the street.

(e) The back of a news rack shall not be located against the back of another news rack.

(f) News racks shall only be installed on any sidewalk or pedestrian path if such placement will not result in less than five (5) feet of unobstructed sidewalk or pedestrian path.

(Ord. No. 89-244, § 2(34-128), 9-28-89; Ord. No. 2010-60, § 9, 5-20-2010)

Editor's note—Ord. No. 2010-60, § 8, adopted May 20, 2010, repealed the former § 22-151, which pertained to location subject to approval of owners or lessees of property, and derived from Ord. No. 89-244, § 2(34-127), 9-28-89. Section 9 of said ordinance renumbered former § 22-152 as § 22-151, as set out herein.

Sec. 22-152. Construction details.

(a) News racks, except modular news racks shall be not more than four and one-half (4½) feet in height, two and one-half (2½) feet in width and two and one-half (2½) feet in depth when fully extended, shall be constructed of metal, shatterproof glass or similar materials and shall be movable. Each news rack shall have clearly marked thereon the applicant thereof.

(b) Modular news racks shall be not more than sixty-two (62) inches in height, seventeen and one-half (17½) inches in width and seventy-three (73) inches in length when fully extended, shall be constructed of metal, shatterproof glass or similar materials and shall be bolted directly to a concrete surface as approved by the transportation manager. Each modular news rack shall have clearly marked thereon the applicant thereof.

(Ord. No. 89-244, § 2(34-130), 9-28-89; Ord. No. 2010-60, § 11, 5-20-2010)

Editor's note—Ord. No. 2010-60, § 10, adopted May 20, 2010, repealed the former § 22-153, which pertained to amended permits, and derived from Ord. No. 89-244, § 2(34-129), 9-28-89. Section 11 of said ordinance renumbered former § 22-154 as § 22-152, as set out herein.

Sec. 22-153. Operation and maintenance.

(a) Each news rack must contain contact information for the news rack owner or the applicant, including a name and a working telephone number.

(b) After installation, the applicant shall at his own cost and expense, keep and maintain each news rack in good operating condition and repair. (Ord. No. 89-244, § 2(34-131), 9-28-89; Ord. No. 2010-60, § 12, 5-20-2010)

Editor's note—Ord. No. 2010-60, § 12, adopted May 20, 2010, renumbered former § 22-155 as § 22-153, as set out herein.

Sec. 22-154. Permit revocation, violations, removal.

(a) At any time after the installation of any such news rack, the transportation manager may review the location of news rack. The permit issued to any applicant for the installation, maintenance and operation of a news rack may be revoked at any time by the transportation manager, upon written notice to the applicant, whenever the transportation manager finds and determines that:

- (1) The applicant has failed to install such news rack in compliance with the terms and provisions of this article;
- (2) The applicant has failed to operate and maintain such news rack in compliance with the provisions and conditions hereof;
- (3) Such news rack interferes with public safety.

The applicant shall at his or her own cost and expense, within thirty (30) days from the date of the written notice, remove the news rack. Should applicant fail to remove the news rack, the transportation manager may remove the same and the applicant, upon demand of the city, shall reimburse it for all costs incurred in the connection with such removal.

(b) It is a violation of this Code to install, operate, or maintain a news rack without a permit. It is further a violation of this Code to install, operate, or maintain a news rack in a manner not in compliance with the terms and provisions of this article, regardless of whether a permit has been issued for the news rack.

(c) If the transportation manager determines that the immediate further operation or maintenance of any news rack, regardless of whether a permit has been issued for the news rack, is an immediate threat to public safety, the transportation manager may remove or move the same and the owner or applicant, upon demand of the city, shall reimburse it for all costs incurred in the connection with such removal.

(d) Revocation of a news rack permit may be appealed in accordance with section 1-19 of the City of Tampa Code. The decision rendered pursuant to section 1-19 may be appealed in any manner allowed by law.

(Ord. No. 89-244, § 2(34-132), 9-28-89; Ord. No. 2010-60, § 13, 5-20-2010)

Editor's note—Ord. No. 2010-60, § 13, adopted May 20, 2010, renumbered former § 22-156 as § 22-154, as set out herein.

Sec. 22-155. Injury, defacement, destruction, misuse or removal unlawful.

It is unlawful for any person to injure, deface, destroy or remove without the permission of the applicant any news rack lawfully placed, operated and maintained in pursuance of this article or to use the same for any purpose other than as a news rack.

(Ord. No. 89-244, § 2(34-135), 9-28-89; Ord. No. 2010-60, § 16, 5-20-2010)

Editor's note—Ord. No. 2010-60, § 16, adopted May 20, 2010, renumbered former § 22-159 as § 22-155, as set out herein.

Sec. 22-156. Abandoned news racks.

(a) A news rack shall be deemed abandoned when no publication is in the news rack for a period of more than seven (7) consecutive days. Abandonment of a news rack is a violation of this Code.

(b) A news rack shall be deemed abandoned when no contact information, as required in section 22-153, "Operation and maintenance," is provided on the news rack.

(c) In the event an applicant of a news rack desires to voluntarily abandon a news rack location, the applicant shall notify the transportation manager and completely remove the news rack. (Ord. No. 2010-60, § 17, 5-20-2010; Ord. No. 2010-183, § 1, 11-18-2010)

Sec. 22-157. Reserved.

Editor's note—Ord. No. 2010-60, § 14, adopted May 20, 2010, repealed the former § 22-157, which pertained to removal by owner, and derived from Ord. No. 89-244, § 2(34-133), 9-28-89.

Sec. 22-158. Reserved.

Editor's note—Ord. No. 2010-60, § 15, adopted May 20, 2010, repealed the former § 22-158, which pertained to removal by city, and derived from Ord. No. 89-244, § 2(34-134), 9-28-89.

Secs. 22-159—22-170. Reserved.

*Subdivision VI. Temporary Structures****Sec. 22-171. Permit authorized.**

The official is hereby authorized to issue permits to charitable, civic or nonprofit corporations, associations or organizations to install structures, stands, tables, booths, supports or objects in and upon the public sidewalks or any other public place of the city and to maintain and operate the same for the purpose of making sales of goods, wares, merchandise or items of value or receiving donations or of effecting lawful endeavors of such corporations, associations or organizations, the proceeds from which shall be devoted entirely to charitable purposes.

(Ord. No. 89-244, § 2(34-151), 9-28-89)

Sec. 22-172. Permit form.

Permits required by this article shall be issued in writing by the city.

(Ord. No. 89-244, § 2(34-152), 9-28-89)

Sec. 22-173. Time limit.

Structures, stands, tables, booths, supports and/or objects authorized under this article shall be installed, maintained and operated on public sidewalks or other public places of the city for the purposes mentioned on a temporary basis only and for a period of no more than forty-two (42) consecutive days.

(Ord. No. 89-244, § 2(34-153), 9-28-89)

Sec. 22-174. Issuance of permit; proof of charitable purpose required.

Permits required by this article shall be issued only upon proof by the applicant that it is a charitable, civic or nonprofit corporation, association or organization maintaining business offices within the city limits and that it intends to and will establish on the public sidewalk or other public place of the city structures, stands, tables, booths, supports or objects for the purpose of promoting and effecting lawful sales of goods, wares, merchandise or items of value, of receiving donations and of effecting lawful endeavors, the

*Cross reference—Building requirements for temporary structures, § 5-127.

entire proceeds of which, after deduction of reasonable expenses, will be devoted to and used exclusively for charitable purposes.

(Ord. No. 89-244, § 2(34-154), 9-28-89)

Sec. 22-175. Term of permit.

Permits required by this article shall be issued initially for a period of no more than fourteen (14) days. Permits may be renewed for no more than two (2) similar periods upon application therefor, provided such renewal is for and upon the same terms and conditions as initially issued and all requirements hereof are otherwise met.

(Ord. No. 89-244, § 2(34-155), 9-28-89)

Sec. 22-176. Liability of applicant for damages; indemnification of city.

The applicant to which a permit shall be issued pursuant to this article shall at all times indemnify and save harmless the city, its officers and boards of and from all damages, costs and liability whatsoever arising from, growing out of or incident to or in any manner connected with the installation, maintenance and operation of such structures, stands, tables, booths, supports and/or objects, together with all costs, charges and expenses, including reasonable attorney's fees, incurred by the city in defending any suit brought against it, either as sole defendant or joined as a defendant with the applicant. If the applicant fails to defend any such suit against the city, the city may itself defend the same and the applicant will pay to the city upon demand all costs, charges and fees incurred in connection therewith.

(Ord. No. 89-244, § 2(34-156), 9-28-89)

Sec. 22-177. Insurance; type and amount required.

(a) Before placing any structures, stands, tables, booths, supports and objects upon the public sidewalks and other public places of the city, the applicant shall effect and, during all periods of time during which the structures, stands, tables, booths, supports and objects shall be maintained upon the sidewalks and other public places of the city, shall maintain in force, in companies satisfactory to the city, the following types and amounts

of insurance, all such insurance to be in insurance companies duly authorized to do business in the state:

- (1) Public liability and property damage insurance covering claims for damages for bodily injury, including accidental death, as well as claims for property damage, the liability insurance to be in an amount not less than one hundred thousand dollars (\$100,000.00) for injuries, including accidental death, to any one (1) person, and subject to the same limitations for each person, in an amount not less than three hundred thousand dollars (\$300,000.00) for any one (1) accident, and property damage insurance in an amount not less than ten thousand dollars (\$10,000.00) for any one (1) accident and in an aggregate amount not less than twenty-five thousand dollars (\$25,000.00).
- (2) An owner's protective public liability and property damage policy or the equivalent thereof of like amounts as specified in subsection (a)(1) above to protect the city against claims for damages for bodily injury, including accidental death, as well as claims for property damage.

(b) All such insurance policies shall be issued as required by law and shall be endorsed so as to provide that the insurance company shall notify the city if the policies are to be terminated or any changes made therein during the life of the permit which will affect in any way the insurance requirements. As evidence of the carriage of such insurance, the applicant for the permit shall furnish the official a certificate of such public liability and property damage insurance and shall also, if required, furnish to the official a receipted bill evidencing payment of the premiums on the policies. Failure to maintain such insurance at all times shall be grounds for the revocation forthwith of any permit issued hereunder.

(Ord. No. 89-244, § 2(34-157), 9-28-89)

Sec. 22-178. Revocation of permit.

The official may revoke all permits issued without notice if it reasonably appears either that the applicant is not qualified for the permit de-

scribed herein or that the structures, stands, tables, booths, supports and/or objects authorized herein are threatening or interfering with public welfare or safety.

(Ord. No. 89-244, § 2(34-158), 9-28-89)

Secs. 22-179—22-190. Reserved.

*Subdivision VII. Moving Buildings**

Sec. 22-191. Interference with telephone, electric or other wires; deposit to cover cost of cutting, raising, etc.

If it shall appear to the city engineer that the house or building to be removed cannot be so removed without interfering with, disturbing or going into contact with any telephone, telegraph or other electrical wire, cable or conductor, no permit shall be issued for the removal of such house or building along such route until the applicant shall have made a deposit in the manner hereinafter specified of a sufficient amount of money to cover cost of cutting, raising or making such other disposition of such wires, cables or electrical conductors as may be necessary to enable such house or building to pass along such route and also to cover the cost and expense of splicing and replacing any such wire, cable or electrical conductor which it has been necessary to cut, raise or otherwise disturb.

(Ord. No. 89-244, § 2(34-171), 9-28-89)

Sec. 22-192. Determining amount of deposit.

The amount required to be deposited in such case shall be deposited, in the case of wires or electrical conductors owned or used by the city, with the city engineer, and in case of wires or electrical conductors owned or used by any person or corporation, with such person or corporation. Such amount shall not exceed the estimated actual cost of cutting, raising or making such other

***Cross reference**—Building and construction regulations, Ch. 5.

disposition as may be necessary of any such wire, cable or electrical conductor, and splicing and replacing any such wire, cable or electrical conductor which it has been necessary to cut or disturb in order to permit the passage of any house or building being removed. Such amount shall be approximated as near as may be in the case of city wires, cables or other electrical conductors by the city engineer. In the case of wires, cables and other electrical conductors owned or used by any person or corporation, such amount shall be approximated by such person or by some duly authorized officer of such corporation. If the amount so deposited is more than sufficient to pay the expense of cutting, raising or making such other dispositions as may be necessary and of replacing and splicing any such wire, cable or other electrical conductor, any amount remaining unexpended shall be forthwith returned to the person who made such deposit.

(Ord. No. 89-244, § 2(34-172), 9-28-89)

Sec. 22-193. Disputes over cost of raising or cutting wires, cables, etc.

In case a dispute shall arise between any person owning or using any such wires, cables or other electrical conductors and any licensed housemover as to the amount of money necessary to be deposited in order to cover the cost and expense of cutting, raising or making such other disposition of such wires, cables or other electrical conductors and splicing and replacing same, as hereinbefore described, the city engineer shall determine such dispute and shall fix the amount necessary to be deposited, and his decision in such cases shall be final and conclusive upon both parties.

(Ord. No. 89-244, § 2(34-173), 9-28-89)

Sec. 22-194. Notice to owner of wires of time wires to be removed.

Whenever any licensed housemover engaged in removing any house or building shall find it necessary to move such house or building through or past wires, cables or other electrical conductors owned and operated by the city or by any person and shall have secured a permit from the city engineer for such removal in accordance with the provisions of this article, he shall serve notice in writing upon the city or person owning, using or operating any such wire, cable or other electrical

conductor through which he desires to pass, specifying the time the house or building he is removing will reach such wire, cable or other electrical conductor and the time at which he desires such wire, cable or other electrical conductor to be cut or otherwise removed or disposed of so as to allow such house or building to pass. Such notice shall be served upon such person not less than twenty-four (24) hours before the time at which it is desired to cut such wire, cable or electrical conductor or otherwise dispose of same. When such notice has been served as thus provided, it is hereby made the duty of the city or the person owning, using or operating any such wire, cable or other electrical conductor to cut or otherwise remove or dispose of such wire, cable or other electrical conductor so as to allow such house or building to pass at the time specified in such notice.

(Ord. No. 89-244, § 2(34-174), 9-28-89)

Secs. 22-195—22-210. Reserved.

*Subdivision VIII. Trash Receptacles**

Sec. 22-211. Permit or license required; exception.

It is unlawful for any person to install, maintain or operate a trash receptacle upon any sidewalk or any other public place of the city without first having made application for a permit or license to do so and having been issued a permit or license as herein provided; provided, however, that nothing herein contained shall be construed as prohibiting the city from installing, maintaining and operating its own trash receptacles at locations of its own choosing.

(Ord. No. 89-244, § 2(34-181), 9-28-89)

Sec. 22-212. Permit or license application; issuance.

Any person duly authorized to do business in the state, upon making application therefor, which application shall describe in detail the material and mode of construction and shall include a detailed drawing of such trash receptacle, and upon complying with the terms, conditions and provi-

*Cross reference—Solid waste, § 26-146 et seq.

sions hereof, shall be issued a permit or license to install and after installation to maintain and operate on the public sidewalks of the city trash receptacles for the convenience and use of the public in the disposal of trash. Such application shall be made to the department of public works and shall state the approximate location at which it is proposed to install, operate and maintain each such trash receptacle. The applicant, upon the issuance of such license or permit, agrees to carry out, comply with, perform and be bound by all the terms, covenants and agreements herein contained on its part to be observed, complied with, kept and performed and shall have attached thereto the approval of the solid waste department and the approval of each owner or tenant when necessary, as herein required. Upon consideration thereof, if the official shall determine that the installation, maintenance and operation of such proposed trash receptacles will be for the convenience, health and welfare of the public, he shall approve the application by endorsing his approval on all five (5) copies thereof, which approval shall operate as a license or permit for the installation, maintenance and operation of such trash receptacles and which approval shall authorize, upon compliance otherwise with the provisions hereof, the installation within ninety (90) days thereafter of such trash receptacles and the future maintenance and operation thereof, subject, nevertheless, to the terms, provisions and conditions hereof. One (1) copy of such application, shall be filed with the DPW. (Ord. No. 89-244, § 2(34-182), 9-28-89)

Sec. 22-213. Permit fee.

So long as trash receptacles shall be kept and maintained by the owner upon sidewalks of the city, such owner shall pay to the city such permit fee as shall be levied or assessed by resolution of the city council; but no fee or charge shall be made for the license or permit to install such trash receptacles. (Ord. No. 89-244, § 2(34-183), 9-28-89)

Sec. 22-214. Insurance.

Before placing trash receptacles upon the public sidewalks of the city, the owner shall effect and during all periods of time during which the receptacles shall be maintained upon the sidewalks of

the city shall maintain in force, in companies satisfactory to the city, the following types and amounts of insurance, all such insurance to be in insurance companies duly authorized to do business in the state, and the policies issued and countersigned by a duly authorized local resident producing agent of the companies in the state:

- (1) Public liability and property damage insurance covering claims for damages for bodily injury, including accidental death, as well as claims for property damage, the liability insurance to be in an amount not less than ten thousand dollars (\$10,000.00) for injuries, including accidental death, to any one (1) person, and subject to the same limitations for each person, in an amount not less than twenty thousand dollars (\$20,000.00) for any one (1) accident, and property damage insurance in an amount not less than two thousand five hundred dollars (\$2,500.00) for any one (1) accident and in an aggregate amount not less than five thousand dollars (\$5,000.00).
- (2) An owner's protective public liability and property damage policy of like amounts as specified in (1) above, to protect the city against claims for damages for bodily injury, including accidental death, as well as claims for property damage, all of such insurance policies to be issued as required by law and to be endorsed so as to provide that the insurance company shall notify the city if the policies are to be terminated or any changes made therein during the life of the permit which will affect in any way the insurance requirements. As evidence of the carriage of such insurance, the holder of the permit shall furnish the city with a certificate of such public liability and property damage insurance and, if required at any time, a copy of each policy and shall furnish to the city the original owner's protective public liability and property damage insurance policy and shall also, if required, furnish to the city a receipted bill evidencing payment of the premiums on the policies. Failure to maintain such insurance at all times shall be grounds for the

revocation forthwith of such owner's license or permit.
(Ord. No. 89-244, § 2(34-184), 9-28-89)

Sec. 22-215. Liability of owner.

The owner to whom a license or permit shall be issued under this article shall at all times indemnify and save harmless the city, its officers and boards of and from all damages, costs and liability whatsoever arising from, growing out of or incident to or in any manner connected with the installation, maintenance or operation of each such trash receptacle, together with all costs, charges and expenses, including reasonable attorney's fees, incurred by the city in defending any suit brought against it, either as sole defendant or joined as a defendant with the owner. If the owner fails to defend any such suit against the city, the city may itself defend the same, and the owner will pay to the city upon demand all costs, charges and fees incurred in connection therewith.
(Ord. No. 89-244, § 2(34-185), 9-28-89)

Sec. 22-216. Installation and construction details.

Trash receptacles shall be installed at the sites stated in the application, not more than one (1) such trash receptacle on any one (1) side of any block, shall be of box-like construction having four (4) rectangular sides not more than four and one-half (4½) feet in height and two (2) feet in width, resting on legs not less than one (1) inch in height, and with small openings at the bottom for drainage, with hinged or easily removable covers which shall have incorporated therein hinged or spring-operated self-closing doors for the deposit of trash. They shall be of fireproof construction of heavy gauge nonreflecting aluminum, which need not be painted, or of heavy gauge steel with the exterior painted a uniform olive green or medium grey color, with the words "Deposit Trash Here" in letters not less than two (2) inches high on the exterior of the swinging doors on top of the receptacle, the letters to be black on unpainted aluminum receptacles and of a contrasting color on painted receptacles. They shall be so constructed as to be movable and easily emptied, and all exterior edges and corners shall be rounded

and there shall be no projections or protuberances extending outwardly therefrom exceeding one and one-fourth (1¼) inches.
(Ord. No. 89-244, § 2(34-186), 9-28-89)

Sec. 22-217. Operation and maintenance.

After installation, the owner shall at his own cost and expense keep and maintain each trash receptacle properly painted, clean and sanitary and in good operating condition and repair.
(Ord. No. 89-244, § 2(34-187), 9-28-89)

Sec. 22-218. Advertising matter.

Each owner to whom a permit or license to install, operate and maintain trash receptacles upon the sidewalks of the city shall be issued shall, so long as such permit or license remains in force, have the privilege of pasting or painting upon each exterior side wall of such trash receptacle commercial advertisements, leaving a margin of one and one-fourth (1¼) inches around the sides of the advertising matter, and of making and collecting charges therefor; provided that no advertising matter shall be placed on any other part or portion of such trash receptacle and provided that none of such advertising matter shall be of a political, scandalous, immoral or libelous nature, and if any advertising matter of such nature shall be placed upon any part or portion of such trash receptacle, the same shall be forthwith removed upon written notice given by the department of public works, and if not removed forthwith, the permit or license for the maintenance and operation of such trash receptacle at such location may be forthwith revoked.
(Ord. No. 89-244, § 2(34-188), 9-28-89)

Sec. 22-219. Revocation of permit or license.

The permit or license issued to any owner for the installation, maintenance and operation of any trash receptacle may be revoked at any time, after thirty (30) days' written notice to the owner, whenever it shall be found and determined that:

- (1) The owner has failed to install such trash receptacle in compliance with the terms and provisions of this article or within the period of time after date of the permit as herein specified;

- (2) The owner has failed to operate and maintain such trash receptacle in compliance with the provisions and conditions hereof;
- (3) The owner or tenant or his successor in interest of the premises whose private approval was given to the installation and maintenance of such trash receptacle has notified the mayor in writing that the private approval has been withdrawn or revoked;
- (4) Such trash receptacle is no longer serving public convenience, health and welfare;
- (5) Such trash receptacle interferes with or is inimical to public safety or the general welfare.

(Ord. No. 89-244, § 2(34-189), 9-28-89)

Sec. 22-220. Removal by owner.

Upon the revocation of the permit or license for the installation, maintenance and operation of a trash receptacle, the owner shall at his own cost and expense within thirty (30) days thereafter remove the same; provided, however, that if the department of public works shall determine that further operation and maintenance of such trash receptacle interferes with or is inimical to public safety or the general welfare, the owner shall forthwith remove the same at his own cost and expense.

(Ord. No. 89-244, § 2(34-190), 9-28-89)

Sec. 22-221. Removal by the city.

If the license or permit for any particular trash receptacle has been revoked and the owner does not remove the same within thirty (30) days after notice by the city to do so, the city may remove the same, and the owner, upon demand of the city, shall reimburse it for all costs incurred in connection with such removal.

(Ord. No. 89-244, § 2(34-191), 9-28-89)

Sec. 22-222. Injury, defacement, destruction, misuse or removal unlawful.

It is unlawful for any person to injure, deface, destroy or remove, without the permission of the owner, any trash receptacle lawfully placed, oper-

ated and maintained in pursuance of this article or to use the same for any purpose other than as a trash receptacle.

(Ord. No. 89-244, § 2(34-192), 9-28-89)

*Subdivision IX. Sidewalk Cafes**

Sec. 22-223. Administrative authority.

The transportation engineering coordinator, as defined in chapter 27, shall administer the provisions of this subdivision.

(Ord. No. 2013-66, § 1, 5-16-2013)

Sec. 22-224. Establishment authorized to operate sidewalk cafés; application criteria, review and approval procedures.

A restaurant, or retail shop (as defined in chapter 27) that complies with the provisions of this subdivision is authorized to operate a sidewalk café. Permits issued under this subdivision are valid for one (1) calendar year, commencing on July 1, with an automatic expiration date of June 30 of the following calendar year. Permits may be issued for a partial year, if the application is received subsequent to July 1; however, the expiration date remains the same as above.

- (1) *General application criteria:* Before operating a sidewalk café, application for a sidewalk café permit shall be made to the transportation engineering coordinator or designee. Such application shall include, but not be limited to, the following information:

- a. The name, address, phone number of applicant, and name of duly authorized representative;
- b. Evidence of registration of a fictitious name or trade name, if any, under which the business applicant proposes to do business or is doing business;

***Cross references**—Alcoholic beverages, ch. 3 et seq.; zoning and land development, ch. 27.

- c. Two (2) copies of a detailed, scaled site plan including, but not limited to, the following:
1. The proposed use, materials, colors and design;
 2. Relationship of the sidewalk café to the adjacent existing building and their uses and entrance locations;
 3. The location of any utilities that might effect or be affected by the proposal;
 4. The relationship of the sidewalk café to the centerline of the adjacent street, if applicable, and to any existing or proposed public improvements, including, but not limited to, benches, fire hydrants, light standards and landscaping;
 5. The total square footage and exact dimensions of the proposed sidewalk café;
 6. The existing and proposed pedestrian circulation pattern;
 7. Floor plan of the existing building and any proposed modification, showing the relationship of food preparation areas to the sidewalk café;
 8. If alcoholic beverage sales are proposed, clear reference to adopted ordinance/special use permit/approval record and classification of alcoholic beverages to be sold must be included in the application and on the site plan.
- d. The adjacent property owner's written consent for the minimum period of one (1) year if seeking to operate a sidewalk café that extends to a public right-of-way in front of an adjacent owner's property. It is contemplated hereby that an applicant and adjacent property owners may enter into an agreement for the right to extend a sidewalk café in front of an adjacent owner's property, therefore, for purposes of this subdivision, an applicant shall provide, at the applicant's option, evidence of consent by either presenting the agreement or short form agreement that, at minimum:
1. Identifies and contains the notarized signature, with two (2) witnesses, of all interested property owner(s); and
 2. Express language evidencing consent for the minimum period required by this subdivision; and
 3. An acknowledgment by the consenting party that the city shall be provided notice of any revocation or suspension of consent by registered mail, return receipt requested, within five (5) business days of exercising said revocation or suspension; and
 4. An acknowledgment that the city shall be held harmless from any and all liability arising out of the issuance of a sidewalk café permit.
- e. Plans for the operation of the sidewalk café, including, but not limited to, hours of operation, maintenance of the sidewalk café and services to be provided.
- (2) *Application criteria and method of review for sidewalk cafés in the central business district, channel district, or Historic Ybor City:*
- a. Criteria and method of review: Applications to operate a sidewalk café shall be reviewed as follows:
 1. The transportation engineering coordinator or designee shall examine the qualifications of the applicant and the applicant's plan for operation and maintenance of the sidewalk café.

2. The transportation engineering coordinator or designee shall route the application and plans to the appropriate agencies or departments for review, including but not limited to fire and risk management;
 3. The transportation engineering coordinator or designee shall approve plans, designs and specifications that do not unreasonably interfere with any of the following:
 - i. Adequate pedestrian flow;
 - ii. Access to public utilities, building entrances, crosswalks, bus stops and transient entrances;
 - iii. Pedestrian and traffic safety; and
 - iv. Aesthetic compatibility with the surrounding area.
 4. The transportation engineering coordinator or designee may advise the applicant of the revisions to the applicant's plans, designs and specifications that will result in an application that conforms to the provisions of this subdivision.
 5. The transportation engineering coordinator or designee shall deny an application for a sidewalk café permit if:
 - i. The applicant has failed to comply with any of the submission requirements contained in this section;
 - ii. The sidewalk café, as the applicant represents how it will be operated, fails to comply with the criteria set forth in this subdivision;
 - iii. Any information submitted by the applicant is found to be incorrect; or
 - iv. The transportation engineering coordinator or designee finds that the sidewalk café would create an obstruction to, or cause congestion of, pedestrian or vehicular traffic due to existing conditions on the surrounding public right-of-way so as to represent a danger to the health, safety or general welfare of the public.
- (3) *Application criteria and method of review for sidewalk cafés outside of the central business district, channel district, or Historic Ybor City:*
- a. Criteria and method of review: Refer to (2)a.1.—5. for criteria.
 - b. Furthermore, applications shall be reviewed as follows:
 1. The transportation engineering coordinator or designee shall assign a tentative public hearing date and transmit one (1) copy of the completed application to the city clerk for placement on the applicable city council agenda.
 2. The transportation engineering coordinator or designee shall route the application and plans to the appropriate agencies or departments for review, including but not limited to fire and risk management.
 3. The transportation engineering coordinator or designee shall cause an analysis to be made of the application based upon the criteria provided in subsection (2)a. of this section, and prepare a recommendation for consideration by the city council.
 4. The procedures for the public hearing and public notice shall be as follows:
 - i. *Public notice.* The procedures for required public

- notice shall be governed by section 27-149 with supplemental notice provided per section 27-149(c)(1) (mailed notice) and (c)(2) (posted notice), with the exception that said notice shall be provided no less than fifteen (15) days prior to the public hearing.
- ii. *Affidavit of compliance.* Per section 27-149(c)(3), the applicant shall file the required affidavit of compliance with the city clerk no less than five (5) days prior to the public hearing.
 - iii. The applicant shall pay a fee, as established by the city council, at the time of filing. No fees shall be refunded unless the sidewalk café application has been unnecessarily filed due to administrative error and without the applicant's fault. In such cases the city council, by a majority vote, may authorize the director of finance to refund the fee.
 - iv. If public notice is not perfected as required herein, then public hearing shall be rescheduled to a public hearing date no less than four (4) weeks from the original public hearing date, and the applicant shall be required to amend the application as provided herein. There shall only be one (1) rescheduling permitted for failure to meet the public notice requirements herein. Accordingly, in the event that public notice is not perfected on a second occasion, the application shall be deemed withdrawn and the applicant will be required to file the application anew.
- v. *Amended application.* An application may be amended to correct an error or omission. If this amendment requires new public notice, the applicant shall pay an amendment fee, as established by resolution of the city council, to cover the cost and expenses as a result of the amendment at the time the amendment is filed.
5. After completion of the public hearing, the city council shall approve, approve with conditions, or deny the sidewalk café application.
 6. The transportation engineering coordinator or designee, in the case of approval or approval with conditions, shall issue a permit in accordance with the city council's actions.
- (4) *Reapplication:* Any current holder of a sidewalk café permit shall reapply for a new permit, subject to the applicable conditions above, if changes are proposed to the permitted sidewalk café.
- (Ord. No. 92-45, § 4, 4-2-92; Ord. No. 92-75, § 2, 5-21-92; Ord. No. 97-171, § 1, 7-31-97; Ord. No. 2005-306, § 3, 11-10-05; Ord. No. 2009-174, § 2, 12-3-09; Ord. No. 2013-66, § 2, 5-16-2013)
- Sec. 22-225. Permit issuance.**
- (a) Prior to the issuance of a permit, the applicant shall furnish the transportation engineering coordinator or designee with the following:
 - (1) A completed, signed permit application.
 - (2) A copy of a valid City of Tampa business tax receipt as required by this Code;

- (3) Copies of all required health department permits to operate a sidewalk café;
- (4) Insurance with companies authorized to do business in Florida, with an A.M. Best rating of B+ or better and Class VII or higher. All liability policies shall name City of Tampa as an additional insured as to the operations of the permittee, and shall provide the severability of interest provision. In lieu of the additional named insured requirement, permittee may purchase an owner's and contractor's protective liability policy. Such policy shall be written in the name of the city at the same limit as is required for general liability coverage. The permittee shall provide proof of a commercial general liability insurance policy on the most current Insurance Services Office (ISO) form, or its equivalent, with an amount of no less than one million dollars (\$1,000,000.00) per occurrence and a two million dollar (\$2,000,000.00) general aggregate. The insurance coverages and limits required must be evidenced by a properly executed Accord 25 Certificate of Insurance form. This requirement is waived for the owner of a personal dwelling; and, city franchised utilities, the city, the state, the county, or other governmental body, board, or authority, which are self-insured in limits exceeding those set forth herein, provided further, however, that this waiver shall not be applicable to any contractor employed by the owner of a personal dwelling or any of the aforementioned governmental agencies. Thirty (30) days' written notice must be given the city of any cancellation or reduction in the policy coverages;
- (5) An agreement in a form acceptable to the City Attorney of the City of Tampa and executed by the applicant to hold the city harmless from any and all liability arising out of the issuance of a sidewalk café permit and/or execution of a sidewalk café lease; and
- (6) The sidewalk café permit fee.
- (7) Two (2) copies of a scaled site plan in compliance with section 27-224.
- (8) Written authorization (notarized) from owner(s) of property upon which the restaurant or retail shop is located, authorizing the location of a sidewalk café adjacent to such property.
 - (b) Upon approval of an application and submission of the aforesaid items, the transportation engineering coordinator shall issue a sidewalk café permit.
(Ord. No. 92-45, § 4, 4-2-92; Ord. No. 2005-306, § 4, 11-10-05; Ord. No. 2009-174, § 3, 12-3-09; Ord. No. 2013-66, § 3, 5-16-13)

Sec. 22-226. Conditions of permit.

The permit shall be issued on the form provided by the transportation engineering coordinator or designee. In addition to naming the permittee and any other information deemed appropriate by the transportation engineering coordinator or designee, the permit shall be subject to the following conditions:

- (1) *Permit period:* Each permit shall be effective for one (1) year subject to annual renewal;
- (2) *Permittee; non-transferability:* The permit shall be issued to the applicant (the "permittee") and shall not be transferable in any manner;
- (3) *Removal for right-of-way development or maintenance:* The transportation engineering coordinator or designee may require the removal, temporary or permanent, of the sidewalk café when redevelopment of the street or sidewalk, or utility repairs necessitates such action, or the permittee fails to comply with the criteria set forth in this subdivision;
- (4) *Emergency situation; removal for severe inclement weather:* Upon declaration of a state of emergency, upon the issuance of a tropical storm or hurricane warning or warning of severe inclement weather by the county, the permittee shall forthwith place indoors all tables, chairs and other equipment located on the public right of

way. The issuance of such a warning shall constitute an emergency situation, therefore, violation of this subsection may result in a fine not to exceed five hundred dollars (\$500.00). The city's officers and employees may immediately remove all or parts of the sidewalk café in an emergency situation. Any and all costs incurred by the city for removal or storage of sidewalk café tables, chairs and other equipment shall be the responsibility of the permittee. In the event the city removes sidewalk café tables, chairs and other equipment pursuant to this ordinance, the city shall provide each applicable permittee written notice of removal, notice of costs assessed or a fine, and thirty (30) days to recover all sidewalk café tables, chairs and other equipment removed pursuant to this subsection. The city is not responsible for any damages or loss of equipment removed pursuant to this subsection.

- (5) *Site plan controlled:* The permit shall be specifically limited to the area shown on the exhibit attached to and made part of the permit;
- (6) *Permit scope:* The permit covers only the public right-of-way. Tables, chairs and other equipment will be governed by other applicable regulations.

(Ord. No. 92-45, § 4, 4-2-92; Ord. No. 2005-306, § 5, 11-10-05; Ord. No. 2013-66, § 4, 5-16-2013)

Sec. 22-227. Operational guidelines.

(a) *Location requirements.*

- (1) The width of the sidewalk café is restricted as follows:
 - a. The width shall not exceed the width of the sidewalk frontage of the subject property. However, the area of the permit may be extended up to a maximum of fifty (50) feet on one (1) side of the subject location, subject to the provisions of subsection b. of this section.
 - b. An applicant for a sidewalk café permit may be permitted to extend by a

maximum of fifty (50) contiguous feet in the public right-of-way on one (1) side and/or the other side of the applicant's property so long as the applicant's property abuts the public right-of-way. In order for the subject area of the permit to extend to a public right-of-way in front of an adjacent owner's property, the applicant must obtain:

- i. Written permission (notarized) for use of such area from the adjacent property owner(s) for a minimum period of one (1) year.
- ii. Such permission shall at all times take into consideration applicable federal, state and local accessibility and safety requirements. If at any time such permission is revoked or suspended, there will be no refund granted to the permittee of the annual permit fee or any other fees paid to the city for operation of a sidewalk café.
- iii. The party revoking or suspending such permission shall have a continuing duty to inform the city, in writing, of the revocation: upon receipt of said notice the area of the permit shall be automatically constricted to exclude the area subject of the revocation.
- iv. In the event the extended area includes consent from more than one (1) adjacent owner, and the revocation by one (1) owner will result in breaking the contiguous quality of the sidewalk café area, then that entire side of the sidewalk café shall constrict to the permittee's property boundary, regardless of the continuing consent of the other property owner(s) on the af-

fected side or reinstatement of consent by the original revoking party.

- (2) A clearly marked, unobstructed, and durable pedestrian right-of-way, also known as the "pedestrian path", that meets required accessibility standards, of no less than four (4) feet shall be maintained for each sidewalk café area and shall be reviewed by the transportation engineering coordinator or designee or their designee to determine the appropriate width based on the existing and projected pedestrian demand, and shall adhere to the following standards:
 - a. The minimum distance of said path shall be measured from the portion of the sidewalk café boundary which is nearest either the curb line or the nearest obstruction.
 - b. In no event may recesses in the sidewalk café boundary be used to satisfy this unobstructed width requirement for said path, except that the corners of the sidewalk café may be rounded or mitered.
 - c. Sidewalk cafés shall maintain a clearance of four (4) feet around the corners of other sidewalk cafés measured in radius.
- (3) The pedestrian path shall maintain a minimum of four (4) feet from large obstructions. No tables, or chairs, umbrellas or other fixtures shall be permitted within four (4) feet of a pedestrian crosswalk or corner curb cut. For the purposes of this section, large obstructions shall be bus stops shelters, newsstands, existing planters or any other object greater than fifteen (15) square feet in area.
- (4) Access to fire hydrants, fire hose connections for sprinkler systems, and entrances and exits of all buildings shall not be obstructed at any time by barriers or seating. The twenty (20) feet fire lane shall not be obstructed at any time. There shall be a minimum of forty (40) inches in distance separating the edge of a table or chair to a fire department connection.
- (5) No object shall be permitted around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the free use of the tables and chairs by the general public or which would have the effect of obstructing the pedestrian path.
- (6) The operational hours of the café may be restricted, based on the location and area conditions, and shall be determined by the transportation engineering coordinator or designee through the permitting process and consultation with the transportation division, when necessary.
 - (b) *Construction; signage; maintenance and umbrella—Requirements.*
 - (1) Appropriate lighting of the sidewalk café is required.
 - (2) Use of landscaping and planters is permissible.
 - (3) All signage must be in compliance with this Code. Signs are prohibited on umbrellas, chairs, tables and other permissible fixtures which are located on the public right-of-way, except that the establishment identified on the permit and/or its logo shall be permitted on umbrellas.
 - (4) Use of removable barriers to define the sidewalk café is permissible.
 - (5) No heating, cooking or open flames are permitted in the sidewalk café. However, space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.
 - (6) No food preparation, plastic food displays, food storage, or refrigeration apparatus shall be allowed on the public right-of-way.

- (7) Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six (6) feet, eight (8) inches (eighty (80) inches) above the sidewalk.
- (8) Sidewalk café seating shall be counted in determining the requirements for parking and bathroom facilities of the subject establishment.

(Ord. No. 92-45, § 4, 4-2-92; Ord. No. 2001-210, § 1, 9-13-01; Ord. No. 2005-306, § 6, 11-10-05; Ord. No. 2009-174, § 4, 12-3-09; Ord. No. 2013-66, § 5, 5-16-2013)

Sec. 22-228. Revocation or suspension of permit.

(a) The transportation engineering coordinator or designee may revoke or suspend a permit for any sidewalk café if it is found that:

- (1) Any necessary business or health permit has been suspended, revoked or cancelled;
- (2) The permittee does not have insurance which is correct and effective in the minimum amount as required in this subdivision;
- (3) Changing conditions of pedestrian or vehicular traffic cause congestion necessitating the removal of the sidewalk café. Such decisions shall be based upon findings of the official that the existing conditions represent a danger to the health, safety or general welfare of the public;
- (4) The permittee fails to maintain or keep the sidewalk café clean;
- (5) The permittee has failed to correct violations of this subdivision within five (5) working days of receipt of the transportation engineering coordinator's notice of same delivered in writing to the permittee.

(b) Upon revocation or suspension of a permit, the transportation engineering coordinator or designee shall give notice of such action to the permittee in writing stating the action which has been taken and the reason therefor. Such revoca-

tion or suspension shall become effective within fifteen (15) days following receipt of the notice by the permittee unless appealed as provided in this Code.

(Ord. No. 92-45, § 4, 4-2-92; Ord. No. 2013-66, § 6, 5-16-2013)

Sec. 22-229. Permit renewal.

(a) The transportation engineering coordinator or designee shall, as deemed necessary, inspect all sidewalk cafés within the city for which permits have been issued to determine whether such sidewalk cafés conform to the criteria set forth in this subdivision.

(b) A sidewalk café permit renewal fee will become due and payable on July 1 for each calendar year. Such fee shall be for the sidewalk café then under an active permit for which a permittee desires a permit renewal. Together with such fee, the permittee shall provide the transportation engineering coordinator or designee with a renewal application on a form provided by the transportation engineering coordinator or designee containing the location of the sidewalk café.

(c) Failure to pay the sidewalk café permit renewal fee or submit the renewal application on or before July 1 for the existing sidewalk café permit shall deem the permit expired until such time a new application is submitted, with required fee, for review. In the event the permit expires, the permittee shall remove the sidewalk café immediately upon the expiration of the existing sidewalk café permit.

(Ord. No. 92-45, § 4, 4-2-92; Ord. No. 2009-174, § 5, 12-3-09; Ord. No. 2013-66, § 7, 5-16-2013)

Subdivision X. Guardhouses and Gates

Sec. 22-230. Permit required to erect, operate, and maintain a guardhouse and/or gates; application requirements; issuance.

(a) No guardhouse and/or gate shall be erected, operated, or maintained in, on, or in any manner affecting public right(s)-of-way in the City of Tampa unless a permit has been issued for the

erection, operation, and maintenance of the guardhouse and/or gate by the city's transportation division.

(b) The applicant shall file an application for a permit with the city's transportation division containing all of the following information:

- (1) Evidence that the applicant meets the criteria set forth in subsections 22-58(f)(2) of the Code;
- (2) A traffic study prepared in accordance with standards established by the transportation division addressing storage capacity requirements for vehicular traffic entering and exiting through the proposed guardhouse and/or gates during "a.m. peak" and "p.m. peak" hours, unless such study is waived by the city's transportation manager;
- (3) A complete description of the proposed guardhouse and/or gates including, without limitation, accurate plans of the guardhouse and/or gates and all appurtenances thereto;
- (4) An accurate legal description of any portion of a right-of-way which is or will be dedicated to the public on which the guardhouse and/or gate is proposed to be located;
- (5) The location and identity of any underground or above-ground utilities affected by the installation and operation of the proposed guardhouse and/or gate based on information provided to the applicant by "Call Sunshine," the underground utility clearance center, and a survey of the property or rights-of-way affected by the application;
- (6) Technical information regarding the mechanical operation of the gates, including, without limitation the means by which the applicant will assure that the public will have guaranteed access to any affected public rights-of-way at all times;
- (7) An agreement in a form acceptable to the City Attorney of the City of Tampa and executed by the applicant regarding the

- erection, operation and maintenance of the guardhouse and/or gates, and containing the applicant's agreement to: (a) indemnify, defend, and hold the City of Tampa, its officers, agents and employees harmless from and against any and all claims, actions, causes of action, suits, liability, and damages of any nature whatsoever (including, without limitation, legal fees and costs) in connection with the construction, operation, use, repair or maintenance of the guardhouse and/or gates by the applicant in, on or in any manner affecting public right(s)-of-way in the City of Tampa; (b) indemnify, defend and hold the City of Tampa, its officers, agents and employees harmless from and against any and all fines, penalties, liabilities, costs, and expenses (including, without limitation, legal fees and costs) arising out of or resulting from the applicant's violation of any law, ordinance, rule, or governmental regulation applicable to the activities of the applicant subject to the permit; (c) provide the City of Tampa with insurance meeting the requirements of this ordinance; (d) provide the City of Tampa an escrow to secure the applicant's compliance with the requirements of the Code, the permit and the agreement concerning the guardhouse and/or gates which escrow may be in the form of cash, a letter of credit or bond equal to one hundred ten (110) percent of the estimated cost of removing the guardhouse and/or gates or such other form of security as approved by the city attorney, unless such escrow is waived by city council as an economic hardship for the applicant in connection with the approval of the agreement; and (d) guarantee public access at all times over and across all public rights-of-way located in the subdivision or development;
- (8) Commercial general liability insurance policy: (a) naming the City of Tampa as an additional insured in the minimum amount of one million dollars (\$1,000,000.00) per occurrence covering bodily injury and property damage resulting from or related to the erection, operation and maintenance of the guardhouse and/or gates; (b) meeting such other criteria as may be established by the city's risk management department; and (c) requiring the insurer to provide the city thirty (30) days prior written notice of any proposed termination, cancellation or change in insurance coverage or limits; and
- (9) Payment of the permit fee.
- (c) After the receipt of an application containing all of the information required in section 22-230(b) above, the transportation division shall have thirty (30) days to review the application and determine whether to issue or deny a permit for the proposed guardhouse and/or gates. The transportation division shall be entitled to deny the issuance of a permit if:
- (1) Based on the information submitted in the application, the transportation division determines that the permitting of the guardhouse and/or gates would constitute a traffic hazard or otherwise negatively affect the public health, safety and welfare; or
 - (2) Based on the information submitted in the application, the transportation division determines that the permitting of the guardhouse and/or gates would materially interfere with any existing utilities located in the affected rights-of-way which utilities will not be relocated as part of the construction of the guardhouse and/or gates; or
 - (3) The transportation division determines that the proposed guardhouse and/or gates would violate any applicable federal, state or local laws, statutes, ordinances, rules, regulations or permits as may exist from time to time.
- (Ord. No. 99-105, § 3, 5-13-99)
- Sec. 22-231. Conditions of permit.**
- (a) The permit shall be issued on the form provided by the city's transportation division to the permit applicant. If the permit is issued to more than one (1) person or applicant, then all persons or applicants named on the permit shall

be jointly and severally responsible for compliance with the requirements of both the permit and this ordinance. The permit may contain such special conditions and requirements as may be deemed appropriate by the city's transportation division. In addition to the name and address of the permittee and any special conditions or requirements, each permit shall contain the following general conditions:

- (1) The permit shall be personal to the permittee named in the permit and shall not be transferable except with the written consent of the city's transportation division, which consent shall be conditioned on the proposed transferee meeting all of the requirements contained in this ordinance, including, without limitation, the execution of an agreement in accordance with section 22-230(b)(7) above and the provision of insurance in accordance with section 22-230(b)(8) above;
- (2) The permittee shall be responsible for all costs and expenses associated with erection, operation, and maintenance of the guardhouse and/or gates;
- (3) The permittee shall operate the guardhouse and/or gates so that the public shall be afforded access over and across all public rights-of-way in the subdivision or development at all times;
- (4) The permittee shall comply with all orders and directions given by law enforcement officers, City of Tampa Code Enforcement Officers, or official or employees of the city's transportation division in connection with the erection, operation and maintenance of the guardhouse and/or gates;
- (5) The permittee shall become and remain a member of "Call Sunshine," the underground utility clearance center; and
- (6) The permittee and the agents and employees of the permittee shall comply with: (a) all terms and conditions in the agreement between the City of Tampa and the permittee regarding the erection, operation and maintenance of the guardhouse and/or

gates; and (b) all applicable federal, state or local laws, rules, regulations and permits, including, without limitation, all applicable state or local traffic regulations, this ordinance and the permit issued by the City of Tampa for the guardhouse and/or gates.

(Ord. No. 99-105, § 3, 5-13-99)

Sec. 22-232. Operational requirements.

(a) In addition to the general permit conditions set forth above and any special permit conditions required by the city's transportation division, the permittee shall operate the guardhouse and/or gates in accordance with the following requirements:

- (1) The guardhouse and/or gates shall be operated in a manner so that the public will be guaranteed access at all times over and across all public rights-of-way located in the subdivision or development.
- (2) Access to the public over and across the publicly dedicated rights-of-way located in a subdivision or development shall not be denied for any reason, including, without limitation the failure of a driver of a vehicle or a pedestrian to provide his or her name or destination to a security guard at the guardhouse.
- (3) In the event that a guardhouse is unmanned or the gates are not operational for any reason, the gates shall be kept in the "up" position so that the public is afforded unimpeded access over and across all public rights-of-way located in the subdivision or development.

(Ord. No. 99-105, § 3, 5-13-99)

Sec. 22-233. Revocation of permit; removal of guardhouse and/or gates.

(a) The permit for a guardhouse and/or gate may be revoked by the City of Tampa if:

- (1) The transportation manager of the City of Tampa determines that the guardhouse and/or gates constitute a danger to the public health, safety and welfare; or

- (2) The permittee fails to comply with:
- a. The agreement between the City of Tampa and the permittee concerning the erection, operation and maintenance of the guardhouse and/or gates;
 - b. Any of the guardhouse and/or gate permit conditions (specific or general);
 - c. The operational requirements of this ordinance; or
 - d. Any other applicable federal, state or local law, statute, ordinance, regulation or permit.

(b) In the event a permit for a guardhouse and/or gate is revoked by the City of Tampa as provided above, then the permittee shall remove the guardhouse and/or gates within thirty (30) days of the date of revocation of the permit. If the permittee fails to remove the guardhouse and/or gates within thirty (30) days of revocation of the permit, the city shall be entitled to remove the guardhouse and gates. If the city removes the guardhouse and/or gates, the permittee shall be responsible for paying all costs incurred by the city in connection with such removal. Further, the City of Tampa shall be entitled to apply any escrow under the agreement between the City of Tampa and the permittee in connection with the erection, operation and maintenance of the guardhouse and/or the gates for the cost of removing the guardhouse and/or gates.
(Ord. No. 99-105, § 3, 5-13-99)

Subdivision XI. Banners

Sec. 22-234. Permit required to install and maintain banners within the public right(s)-of-way; application requirements; issuance.

(a) No banners shall be installed or maintained on light poles located in, on, or in any manner affecting public right(s)-of-way in the City of Tampa unless a permit has been issued for the installation and maintenance of the banners by the department of public works.

(b) The applicant shall file an application with the department of public works containing the following information:

- (1) The name and address of the applicant and the applicant's authorized agent, if applicable.
- (2) If the proposed banner is for an event, the name of the event and whether the event is being sponsored or cosponsored by the city. "Event," for purposes of this subdivision, is defined as any public or private happening, occurrence or program scheduled for a date and time certain.
- (3) A sketch of the banner, including the message, lettering, logo, emblems and any other representations contained thereon.
- (4) A site plan of the specific location where the banners are requested to be installed, including but not limited to the height of the banners, location of the banner supports, and the location of the light poles.
- (5) The date the banner display is requested to be installed and the date the banner display will be removed.
- (6) Evidence that the light poles and the banners to be attached thereto comply with all of the requirements contained in section 22-235 hereof.
- (7) A description of the method that will be utilized to install the banner(s) to the support structure or brackets.
- (8) Evidence of insurance as required in section 22-238 hereof.
- (9) Evidence of a written contractual agreement between the owner of the light pole and the applicant authorizing the installation of the banners.
- (10) Hold harmless and indemnification agreement as required in section 22-237 hereof.
- (11) Evidence of proper licensure for the installing contractor.
- (12) Payment of the permit fee, as established by resolution by the city council.

(c) Permit applications must be filed with the department of public works no more than one hundred eighty (180) days and not less than ninety (90) days prior to the requested date of installation. Completed permit applications will be considered in the order received. After the receipt of a completed permit application containing all of the information required in section 22-234(b) herein, the department of public works shall have thirty (30) business days to review the application and determine whether to issue or deny a permit for the proposed banners. The department of public works shall be entitled to deny the issuance of a permit if:

- (1) Based on the information submitted in the application, the department of public works determines that the permitting of the banners would constitute a traffic hazard or otherwise negatively affect the public health, safety and welfare; or
- (2) Based on the information submitted in the application, the department of public works determines that the permitting of the banners would materially interfere with any existing utilities located in the affected right(s)-of-way; or
- (3) The department of public works determines that the proposed banner display would violate any applicable federal, state or local laws, statutes, ordinances, rules, regulations or permits as may exist from time to time; or
- (4) The proposed permit does not satisfy the requirements contained in section 22-235 hereof; or,
- (5) The city, in accordance with section 22-239, has previously revoked a permit issued to the applicant and/or removed any banners installed by the applicant.

(Ord. No. 2003-322, § 4, 12-4-03)

Sec. 22-235. Installation and dimension requirements.

(a) Banners shall be permitted to be installed and maintained only on underground fed light poles that support no utility other than a street light at the following locations within the City of Tampa:

- (1) Ashley Drive between Tyler Street and Whiting Street; and
- (2) Tampa Street between Tyler Street and Whiting Street; and
- (3) Franklin Street between Tyler Street and Jackson Street; and
- (4) Florida Avenue between Tyler Street and Jackson Street; and
- (5) Madison Street between Ashley Drive and Jefferson Street; and
- (6) Jackson Street between Ashley Drive and Jefferson Street; and
- (7) Kennedy Boulevard between Hoover Avenue and Channelside Drive; and
- (8) Nick Nuccio Parkway between Nebraska Avenue and Palm Avenue; and
- (9) Channelside Drive between Franklin Street and Adamo Drive; and
- (10) Ice Palace Drive between Franklin Street and Channelside Drive; and
- (11) South Franklin Street between Whiting Street and Ice Palace Drive; and
- (12) Dale Mabry Hwy. between Interstate 275 and Hillsborough Avenue; and
- (13) 30th Street between Busch Boulevard and Fowler Avenue; and
- (14) Boy Scout Blvd between Westshore Boulevard and Dale Mabry Highway; and
- (15) Fowler Avenue between Interstate 275 and Interstate 75; and
- (16) Fletcher Avenue between Interstate 275 and Interstate 75; and
- (17) Davis Islands Boulevard between Barbados Avenue and Chesapeake Avenue.

(b) Banners shall be permitted to be installed and maintained only on light poles as described in subsection (a) herein that are affixed with brackets installed by or at the direction of the Tampa Electric Company, at no cost to the city, and installed in compliance with the current edition of the National Electric Safety Code as it may be amended from time to time; and

(c) Banners shall not exceed thirty (30) inches in width and ninety (90) inches in height; and

(d) Banners permitted to be installed and maintained shall not extend beyond the edge of pavement or the back of the curb and be a minimum of fourteen and one-half (14.5) feet in height from the grade of the street; and

(e) Banners shall be made of material commonly used in the industry capable of withstanding wind loads as prescribed by the Florida Department of Transportation and/or the owner of the light pole(s); and

(f) Sponsor identification, if any, shall not exceed ten (10) percent of the face of the banner; and

(g) Banners shall be erected by a properly licensed electrical contractor.
(Ord. No. 2003-322, § 4, 12-4-03; Ord. No. 2006-271, § 1, 11-9-06; Ord. No. 2010-68, § 1, 6-24-2010; Ord. No. 2011-123, § 1, 10-6-2011)

Sec. 22-236. Permitted areas; duration of permit; maintenance requirements; removal.

(a) Only one (1) permit may be issued per location. For purposes of this article, location is defined as the area included in the permit application.

(b) Banners authorized by this article may be installed thirty (30) calendar days in advance of an event and shall be removed within five (5) business days of the conclusion of the event. Permits for non-event related banners authorized by this article may be issued for thirty (30) calendar days and may be renewed for no more than two (2) similar periods upon application therefor, provided such renewal is for and upon the same terms and conditions as initially issued and all requirements hereof are otherwise met;

provided, such renewal was requested in writing no later than ten (10) business days prior to expiration of the permit; and, provided further that the department of public works is not in receipt of any completed permit applications which would have been approved were it not for the fact that banners were properly permitted for the location included in the subsequently received permit application(s). Non-event related banners shall be removed within five (5) business days of expiration of the permit or any renewal(s) authorized herein. Permits issued for banners which are installed by the University of South Florida, Board of Trustees, a public body corporate or other public institution on the allowable roadways identified in [subsections] (a)(15) and (16) above shall not be limited in duration, so long as the provisions of this subdivision are complied with.

(c) The permittee shall maintain the banners to conform to the condition of their original installation. Failure to maintain the banners as required herein shall result in the revocation of the permit and immediate removal of the banners.

(d) The city may require the banners to be removed, at any time, if necessary to protect the public health, safety and welfare or if the city requires use of the light poles. Any banners removed shall be forfeited by the owner and/or permittee at the discretion of the city.
(Ord. No. 2003-322, § 4, 12-4-03; Ord. No. 2010-68, § 2, 6-24-2010)

Sec. 22-237. Liability of applicant for damages; indemnification of city.

The applicant to which a permit shall be issued pursuant to this article, as a condition precedent to issuing the permit, shall execute an agreement in favor of the City of Tampa in which the applicant shall agree at all times to indemnify, defend, and hold the City of Tampa, its officers, agents and employees harmless from and against any and all claims, actions, causes of action, suits, liability and damages of any nature whatsoever (including, without limitation, legal fees and costs) in connection with the installation and maintenance of the banner display by the applicant in, on or in any manner affecting public right(s)-of-

way in the City of Tampa. If the applicant fails to defend any such suit against the city, the city may itself defend the same and the applicant will pay to the city upon demand all costs, charges and fees incurred in connection therewith.
(Ord. No. 2003-322, § 4, 12-4-03)

Sec. 22-238. Insurance; type and amount required.

The applicant is required to obtain and maintain, during all period of time during which the banners shall be permitted to be maintained in, on or within the public right(s)-of-way of the city, public liability and property damage insurance: (a) naming the City of Tampa as an additional insured in the minimum amount of one million dollars (\$1,000,000.00) per occurrence covering bodily injury and property damage resulting from or related to the installation and maintenance of the banners; (b) meeting such other criteria as may be established by the Tampa Electric Company or by the city's risk management department; and, (c) requiring the insurer to provide the city thirty (30) days prior written notice of any proposed termination, cancellation or change in insurance coverage or limits.
(Ord. No. 2003-322, § 4, 12-4-03)

Sec. 22-239. Revocation of permit; removal of banner display.

(a) Any permit authorized herein may be revoked by the City of Tampa if:

- (1) The department of public works determines that the banners constitute a traffic hazard or otherwise negatively affect the public health, safety and welfare; or
- (2) The permittee:
 - a. Included a misrepresentation or misrepresentations in the permit application, which if known by the official, would have caused the official to deny the permit application; or
 - b. Failed to maintain insurance as required in section 27-238; or

- c. Failed to comply with the any of the permit conditions, regulations or restrictions contained in this article; or
- d. Failed to comply with the permit application as submitted and approved by the department of public works; or
- e. Failed to comply with any other applicable federal, state, or local law, statute, ordinance, regulation or permit; or
- f. Failed to execute a hold harmless and indemnification agreement in favor of the City of Tampa; or
- g. Failed to maintain the banners to conform to the condition of their original installation as required in section 27-236.

(b) In the event a banner permit is revoked by the City of Tampa as provided herein, the permittee shall be required to remove the banners within three (3) calendar days of revocation of the permit. If the permittee fails to remove the banners within three (3) calendar days of revocation of the permit, the city shall be entitled to remove the banners. If the city removes the banners, the permittee shall be responsible for paying all costs incurred by the city in connection with such removal and the banners shall be forfeited to the city.

(Ord. No. 2003-322, § 4, 12-4-03)

Sec. 22-240. Reserved.

ARTICLE II. SANCTIONS; APPEALS; BOARDS

DIVISION 1. GENERALLY

Secs. 22-241—22-255. Reserved.

DIVISION 2. ACTION AUTHORIZED TO MITIGATE VIOLATIONS

Sec. 22-256. Stop work and emergency orders.

Upon notice from the official, work on any system that is being done contrary to the provisions of this chapter or in a dangerous or unsafe

manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, his agent or the person doing the work or posted at the job site and shall state the conditions under which work may be resumed. Where an emergency exists, verbal notice by the official shall be sufficient to require the stoppage of work.

(Ord. No. 89-244, § 2(34-201), 9-28-89)

Sec. 22-257. Removal of gates opening on sidewalk.

It is hereby made the duty of the official to notify in writing the owner or agent of the owner of any property in the city that gates erected on or swinging open on or across the sidewalk in front of such premises be removed or altered, so that same shall open in and toward the property and not across the sidewalk, and it shall be the duty of the owner or agent of the owner of such property to have the same altered or removed within twenty (20) days after the service of such notice. Any person violating this section after due notice shall be punished as provided in section 1-6 of this Code.

(Ord. No. 89-244, § 2(34-202), 9-28-89)

Cross reference—Gates swinging open on sidewalks prohibited, § 22-11.

Sec. 22-258. Removal or relocation of benches in violation.

Any bench placed or maintained for public use within the corporate limits of the city which is found to be in violation of this chapter shall be declared a nuisance and removed or relocated in accordance with provisions of this Code.

(Ord. No. 89-244, § 2(34-203), 9-28-89)

Cross reference—Benches displaying advertising, § 22-116 et seq.

Secs. 22-259—22-275. Reserved.

ARTICLE III. TECHNICAL PROVISIONS

DIVISION 1. AUTHORITY TO ESTABLISH/PUBLISH TECHNICAL STANDARDS

Sec. 22-276. Technical standards may be established.

The official may establish technical standards setting forth administrative guidelines governing the enforcement of this chapter and requirements not specifically addressed in this chapter.

(Ord. No. 89-244, § 2(34-216), 9-28-89)

Cross reference—Requirements not covered by Code may be required by the official, § 1-17.

Secs. 22-277—22-290. Reserved.

DIVISION 2. ADOPTION OF STANDARDS BY REFERENCE

Sec. 22-291. Technical standards adopted.

The Technical Standards set forth in the Transportation Division Technical Manual, 2009 edition, on file in the office of the city clerk, are herein adopted by reference.

(Ord. No. 89-244, § 2(34-221), 9-28-89; Ord. No. 2010-3, § 1, 1-7-10)

Secs. 22-292—22-303. Reserved.

DIVISION 3. SPECIFIC TECHNICAL REQUIREMENTS

Sec. 22-304. Functional classification of roadways.

The city transportation manager shall be authorized to establish, for purposes of this article, the functional classification of roadways within the city, in accordance with the general guidelines provided in the standard engineering manuals referenced in the Transportation Technical Manual.

(Ord. No. 2010-4, § 2, 1-7-10)

Sec. 22-305. Vitrified brick street standards.

(a) *Purpose:* The general purpose of this section is to preserve, protect, maintain and provide for the rehabilitation of existing vitrified brick streets defined herein as those streets and alleys constructed of vitrified brick. For the purposes of this section, vitrified brick is brick street pavers which have been produced through a chemical process causing the brick to be impervious to water.

(b) *Application:* Generally, local streets or portions of local streets and alleyways that are constructed primarily in vitrified brick shall be protected. In the historic districts, the protections of this provision shall apply to all streets and alleyways, paved in vitrified brick and the associated granite curbs, and the portions of sidewalks embossed with construction dates.

(c) *Exemptions:* This section shall not apply to streets roads or alleyways that are surfaced primarily in asphalt and have small, insignificant patches of vitrified brick appearing under or around the asphalt. Additionally, this section does not apply to any type of paving surface other than vitrified brick, including asphalt brick.

(d) *Standards for vitrified brick streets located in local historic districts:* All vitrified brick streets (whether local, collector or arterial and including alleyways, associated granite curbs and portions of sidewalks embossed with construction dates) shall be protected, preserved, maintained or rehabilitated (in the case of utility or road construction) as provided for herein:

- (1) The streets and alleyways that shall be protected include all of those vitrified brick streets which were identified in City of Tampa Ordinance 2001-193. All applications for designation as a local historic district, after the effective date hereof, shall include a map identifying all existing vitrified brick streets in the proposed district and this section shall be revised to include said streets and alleyways.
- (2) If a person or entity intends to pave or otherwise alter a vitrified brick street, that person or entity shall be required to obtain a certificate of appropriateness pur-

suant to chapter 27, City of Tampa Code. In making its determination, the ARC or BLC shall take into consideration the nature and purpose of the street, including the use of such streets by trucks and heavy equipment traversing the area at higher speeds. Additionally, the ARC and BLC shall take into consideration the infrastructure needs of the area including, but not limited to, water mains and sewer mains.

(e) *Vitrified brick streets located outside of a local historic district:* Outside of a local historic district, vitrified brick streets shall be preserved, protected, maintained and rehabilitated (in the case of utility or road construction) except as follows:

- (1) Local streets which are primarily asphalt or primarily covered by pavement or pavers other than vitrified brick; or
- (2) When specifically requested by a city department, other governmental agency or third party for reasons related to public health, safety and welfare or because the vitrified brick street is designated as arterial or collector or is located in an industrial area and is or will be subject to heavy equipment and trucks. City council may approve requests to impact a vitrified brick street, after a public hearing in which city council shall review the need to impact the vitrified brick street and alternatives to such impact. Notice shall be provided to all property owners abutting the vitrified brick street as provided for in section 22-39 City of Tampa Code of Ordinances.

(f) In the event that city council approves the request to impact a vitrified brick street in a manner which requires the removal of the vitrified brick, then the party responsible for the removal of the vitrified brick shall clean, palletize and deliver the vitrified brick to the City of Tampa Department of Public Works Transportation Division for use by the city at said party's sole cost and expense.

(g) In the event of an emergency, as determined by the transportation manager, every effort shall be made to minimize the impact of repairing an existing vitrified brick street and all displaced brick shall be salvaged and retained by the city. As soon as practicable after the determination of an emergency, the displaced vitrified brick street shall be rehabilitated with vitrified bricks unless the vitrified brick street is exempted from the terms of this section or a request to impact the vitrified brick street has been or is granted. In the event of an emergency, the transportation manager shall notify city council or the administrator of the ARC or BLC as applicable. For the purposes of this section, emergency shall be defined as a public health, safety or welfare emergency.

(Ord. No. 2010-4, § 4, 1-7-10)

Sec. 22-306. Placing street signs bearing other than legal name of street.

Whoever shall put up or cause to be put up any sign designating a street by a different name than that by which it is generally and legally known or who shall refuse to remove the same from his property when requested to do so by an officer of the city and whoever shall retain or allow to remain any such sign upon any building owned or occupied by him, after such request, shall be punished as provided in section 1-6 of this Code. (Ord. No. 89-244, § 2(34-226), 9-28-89)

Sec. 22-307. Injuring, defacing or removing traffic-control devices.

It is unlawful for any person to willfully injure, deface or remove any traffic-control device or barricade posted on any city street.

(Ord. No. 89-244, § 2(34-227), 9-28-89)

Cross reference—Damage to city property, § 1-21.

Sec. 22-308. Trees, shrubbery, etc., obstructing vision of drivers of motor vehicles declared in violation.

Any person who plants, fixes or maintains any tree, shrubbery or any other object upon any parkway or private property within the city adjacent to the intersection of any street or intersection of a driveway and a street or at any location along any street in the city, which obstructs the

driving vision of the operator of a vehicle or keeps the driver of a vehicle from seeing a lawfully placed traffic-control device, is hereby declared to be in violation of this chapter. Standards as to what constitutes a sight obstruction will be available for public inspection in the office of the director of the department of public works. These standards consist of the standards listed in TRR 541, 1975, by Humphreys and Moore, with minor revisions.

(Ord. No. 89-244, § 2(34-228), 9-28-89)

Cross reference—Visibility at intersections, § 27-283.5.

Sec. 22-309. Trimming branches of trees projecting over streets and sidewalks.

It is the duty of the owners of all trees, the branches of which project over or across any sidewalk or street in the city, to cause the same to be trimmed to a height of not less than eight (8) feet above the sidewalk or street over or across which the branches of such trees shall project and to keep and maintain the branches of such trees trimmed to that height above such sidewalk or street.

(Ord. No. 89-244, § 2(34-229), 9-28-89)

Sec. 22-310. Sight obstruction.

(a) Whenever the official, after investigation, shall determine that any tree, shrubbery or other object planted or fixed upon any right-of-way or private property in the city adjacent to a street intersection obstructs the driving vision of the operators of vehicles passing over or through such street intersection or is in violation of this chapter, the official shall cause to be served upon the owner or occupant of the property abutting such right-of-way or the owner of the property upon which such violation exists a written notice requiring such owner or occupant to remove such tree or shrubbery or reduce the height and width of other objects so as to comply with the provisions of this section. Such written notice shall be served upon the owner or occupant of the property herein referred to and shall require the owner or occupant to comply with the directions contained therein within fifteen (15) days after the date of the notice. During this fifteen-day notice period and until such time as the existing sight obstruc-

tion is removed, the property owner of record shall be solely liable for any damage or injury, suit or legal action resulting from any accident in which the sight obstruction is a cause.

(b) Such notice to correct a sight obstruction shall be served in accordance with this chapter. Upon failure of the owner or occupant to correct or terminate the violations delineated in the notice within the time specified in the notice and if no appeal has been taken or if an appeal has been taken and denied, the matter shall be referred to the rehabilitation officer of the city, and he shall cause the violations to be corrected or terminated through the use of city forces or by an independent contractor at the direction of the city. All costs of correction or termination, including the notice, title information, recording, advertising, if necessary, and processing and any other related costs shall be assessed against the property abutting the right-of-way or the property on which the violations existed, and this assessment shall constitute a lien on the property for the work accomplished. The procedure for declaring the assessment, reducing it to a lien and providing for payment or foreclosure thereof shall conform to the procedure delineated in this chapter. Additionally, any liability associated with the traffic hazard will be borne entirely by the property owner of record.

(Ord. No. 89-244, § 2(34-230), 9-28-89)

Cross reference—Visibility at intersections, § 27-283.5.

Sec. 22-311. Injuring trees, plants or flowers; hitching animals to trees, signboards, etc.

It is unlawful for any person to willfully injure, deface or mutilate any shade tree, plant or flower growing on any city street or to nail or affix to any such tree or to paint thereon any sign or signboard or to hitch thereto any livestock.

(Ord. No. 89-244, § 2(34-231), 9-28-89)

Cross reference—Horses or beasts of burden pulling nonmotorized vehicles, § 25-188 et seq.

Sec. 22-312. Planting of trees or shrubs between sidewalk and curbing.

No planting of trees or shrubs shall be done in the parkways lying between the sidewalk area and the street curbing on the several streets in

the city nor shall any trees or shrubs be removed from such parkways unless first approved by the parks department.

(Ord. No. 89-244, § 2(34-232), 9-28-89)

Sec. 22-313. Sight rules not to prohibit buildings.

Nothing contained in this chapter shall prohibit the owner of any property from erecting or maintaining buildings or structures as permitted by any laws or ordinances of the city.

(Ord. No. 89-244, § 2(34-233), 9-28-89)

Sec. 22-314. Driveways—Location, design and construction standards.

The following diagrams (Figures 2-1 through 2-8) shall govern the dimensional and placement standards for driveways that access local streets and alleys within the city limits:

Figure 2-1

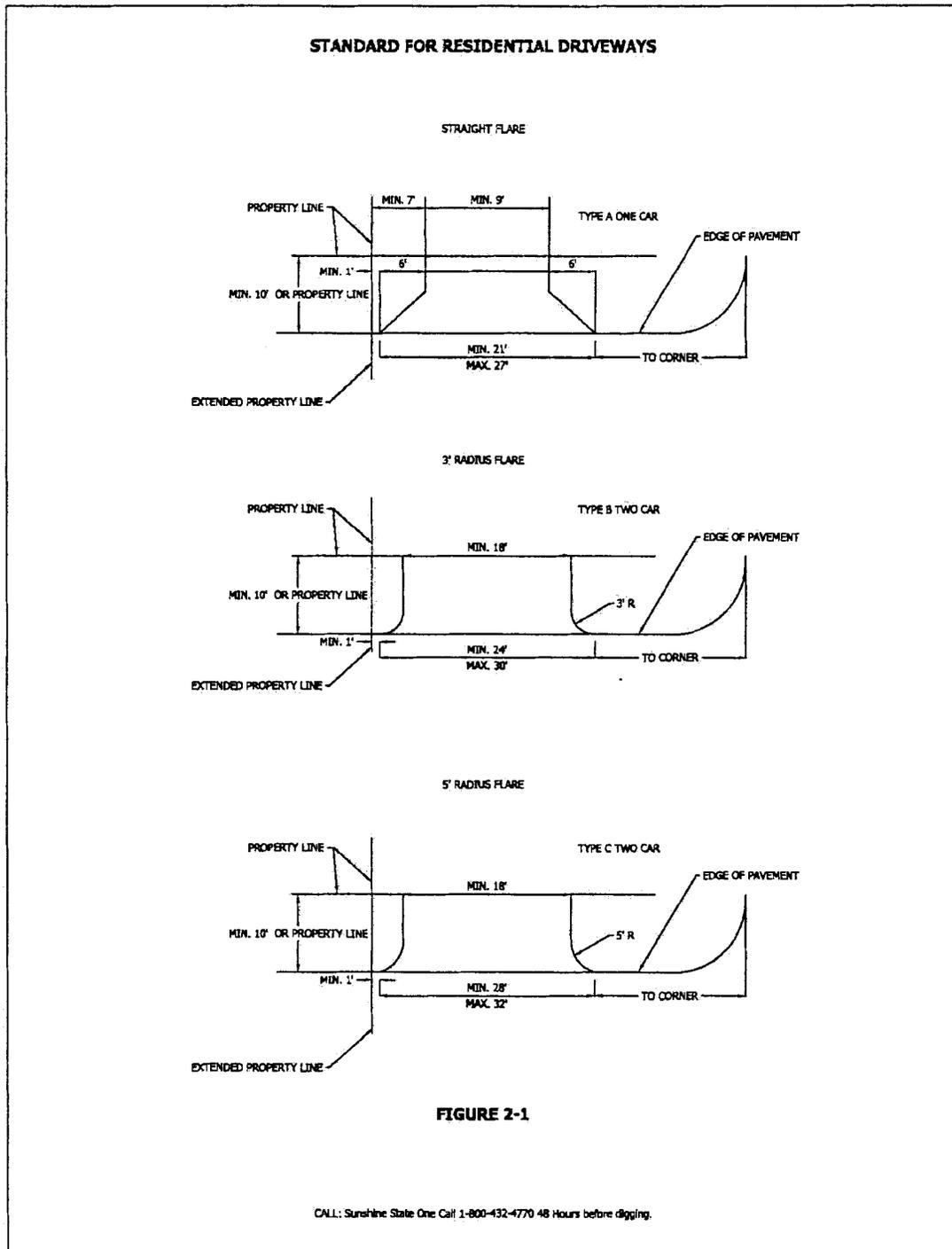


Figure 2-2

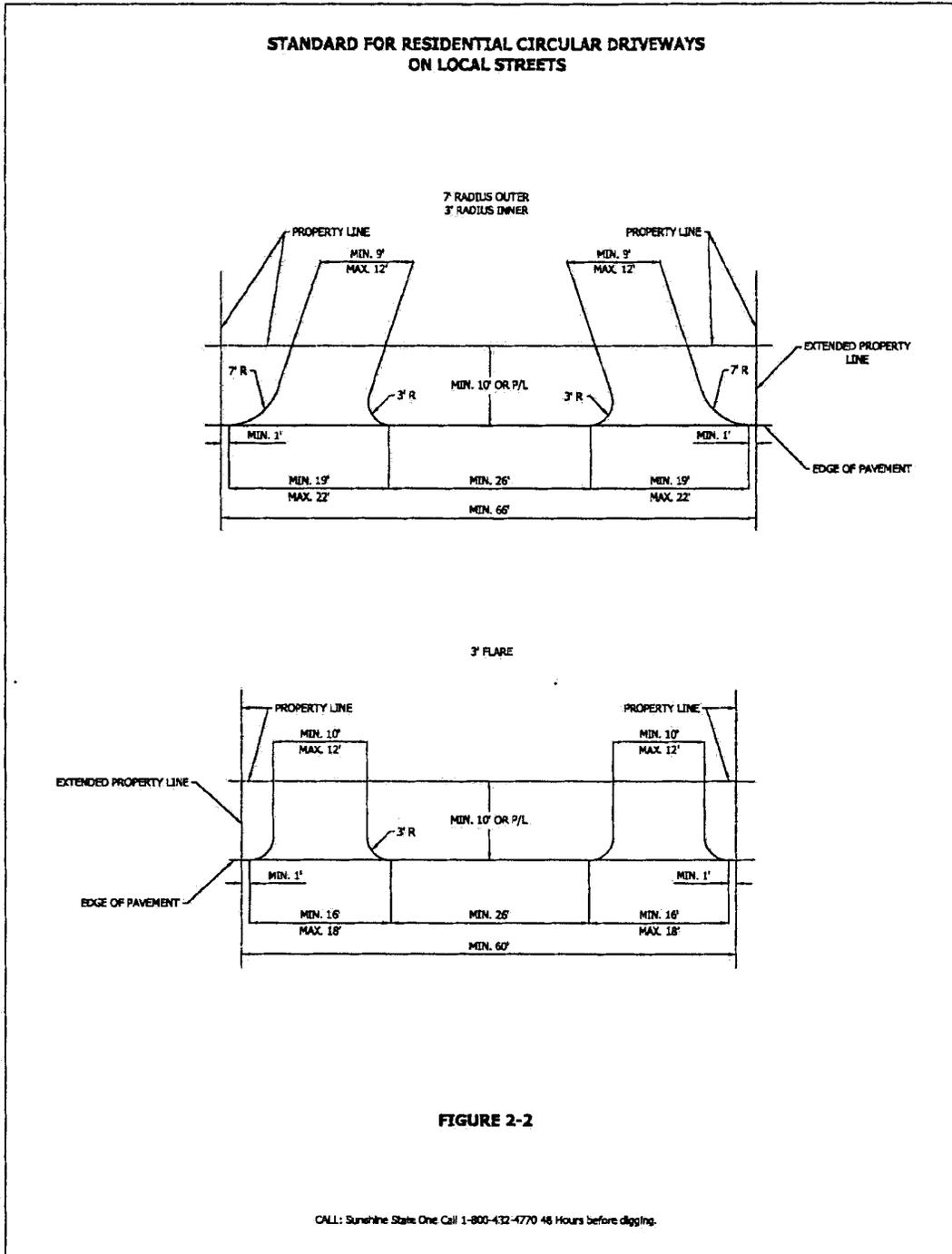


Figure 2-3

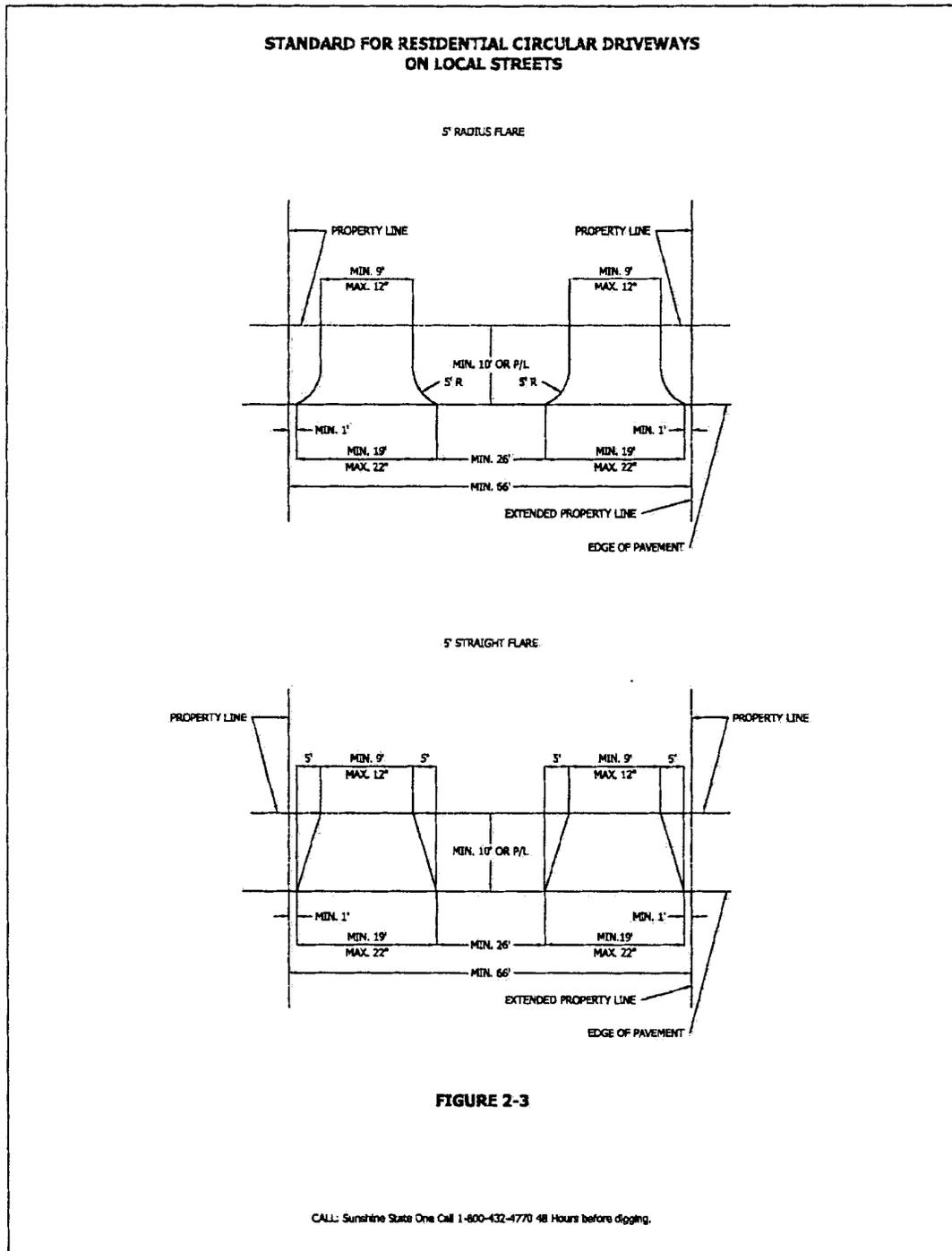


Figure 2-4

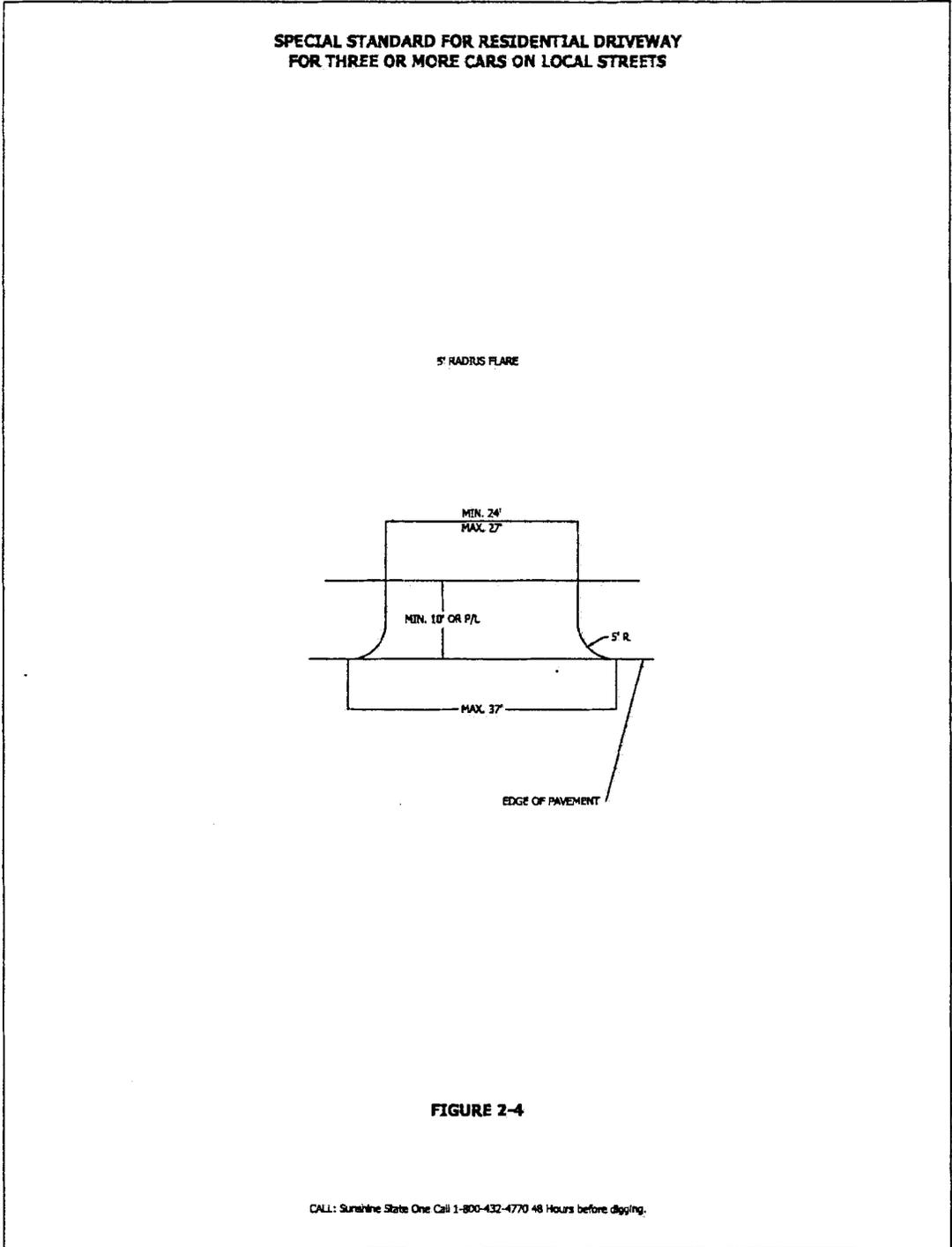


Figure 2-5

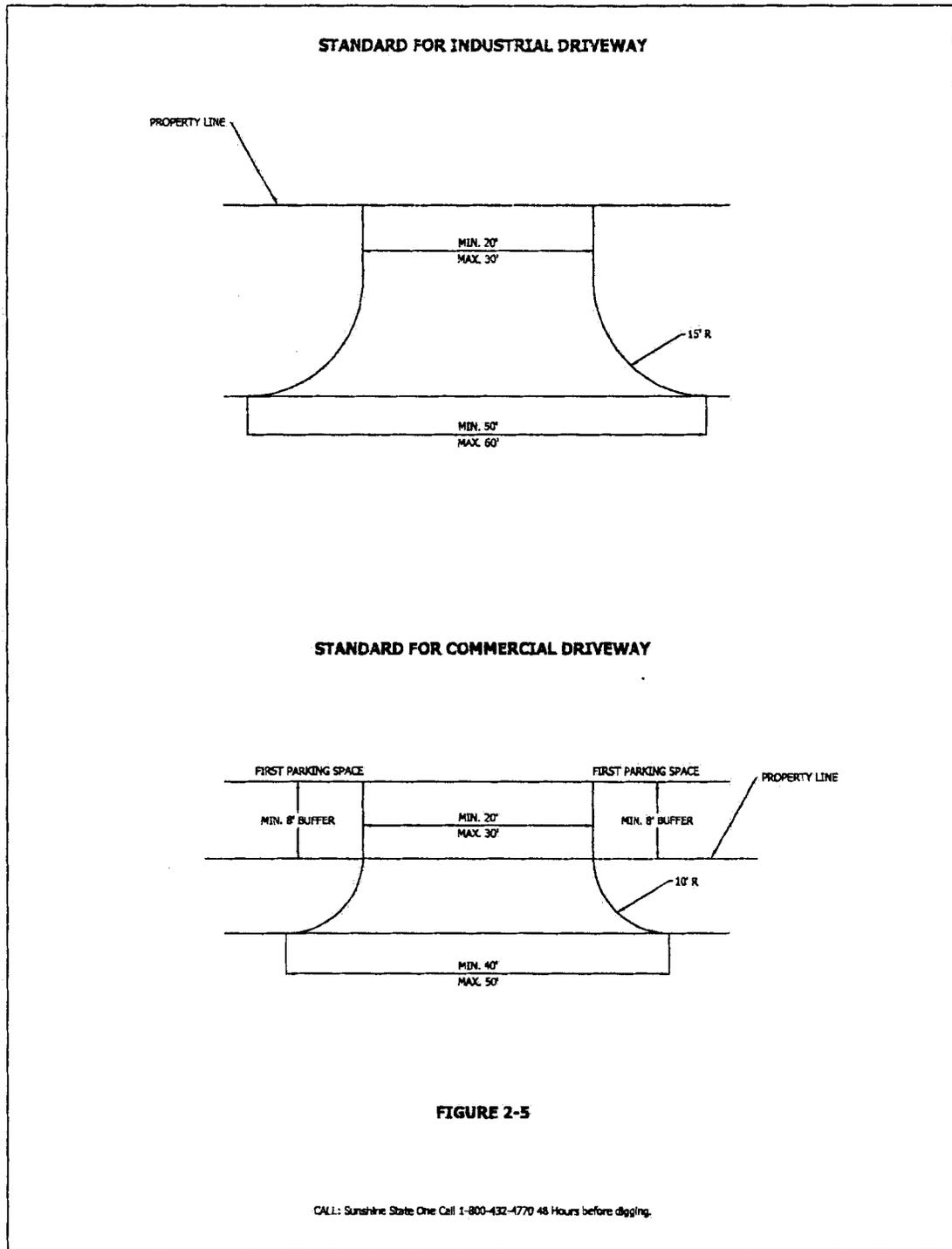


Figure 2-6

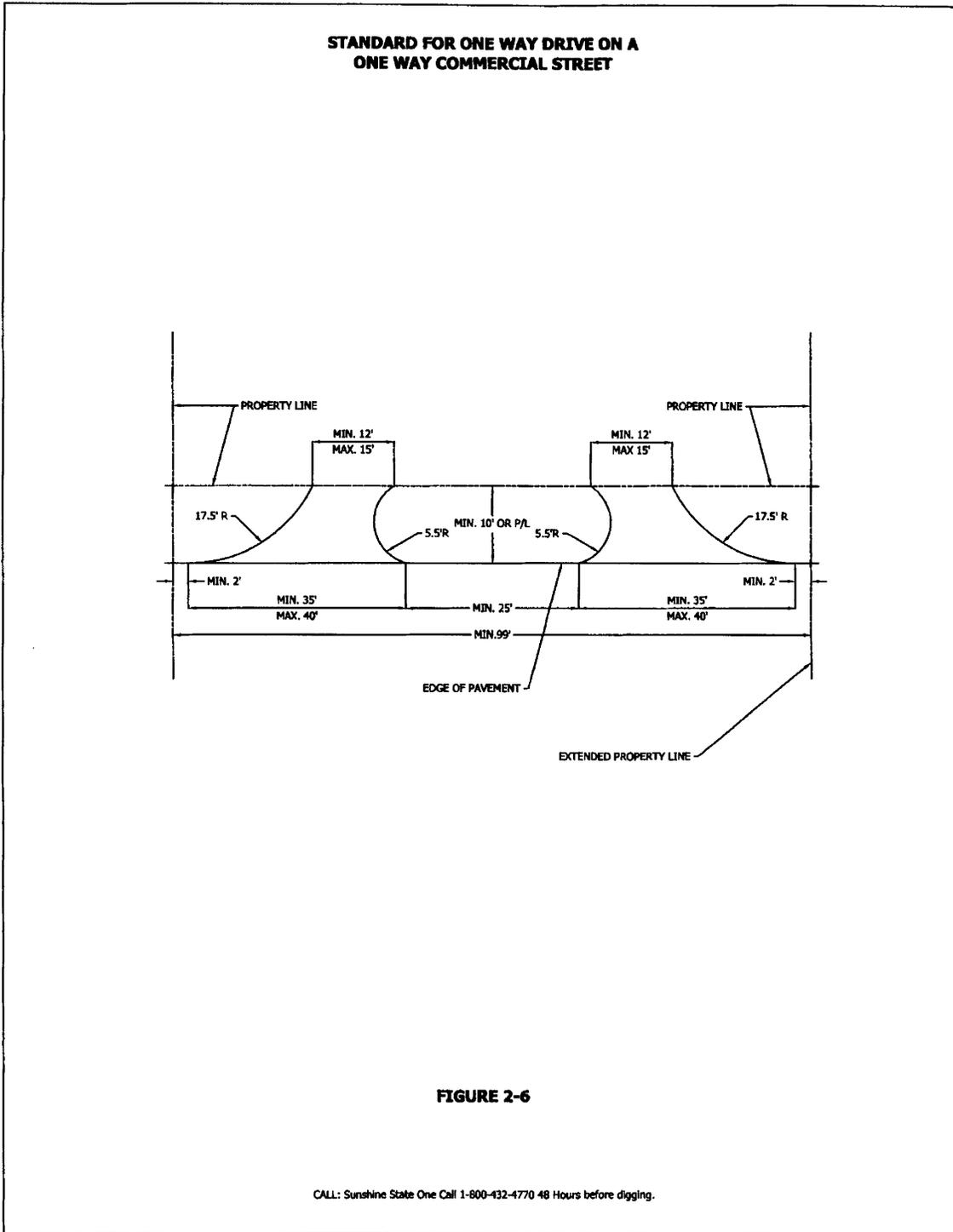


FIGURE 2-6

CALL: Sunshine State One Call 1-800-432-4770 48 Hours before digging.

Figure 2-7

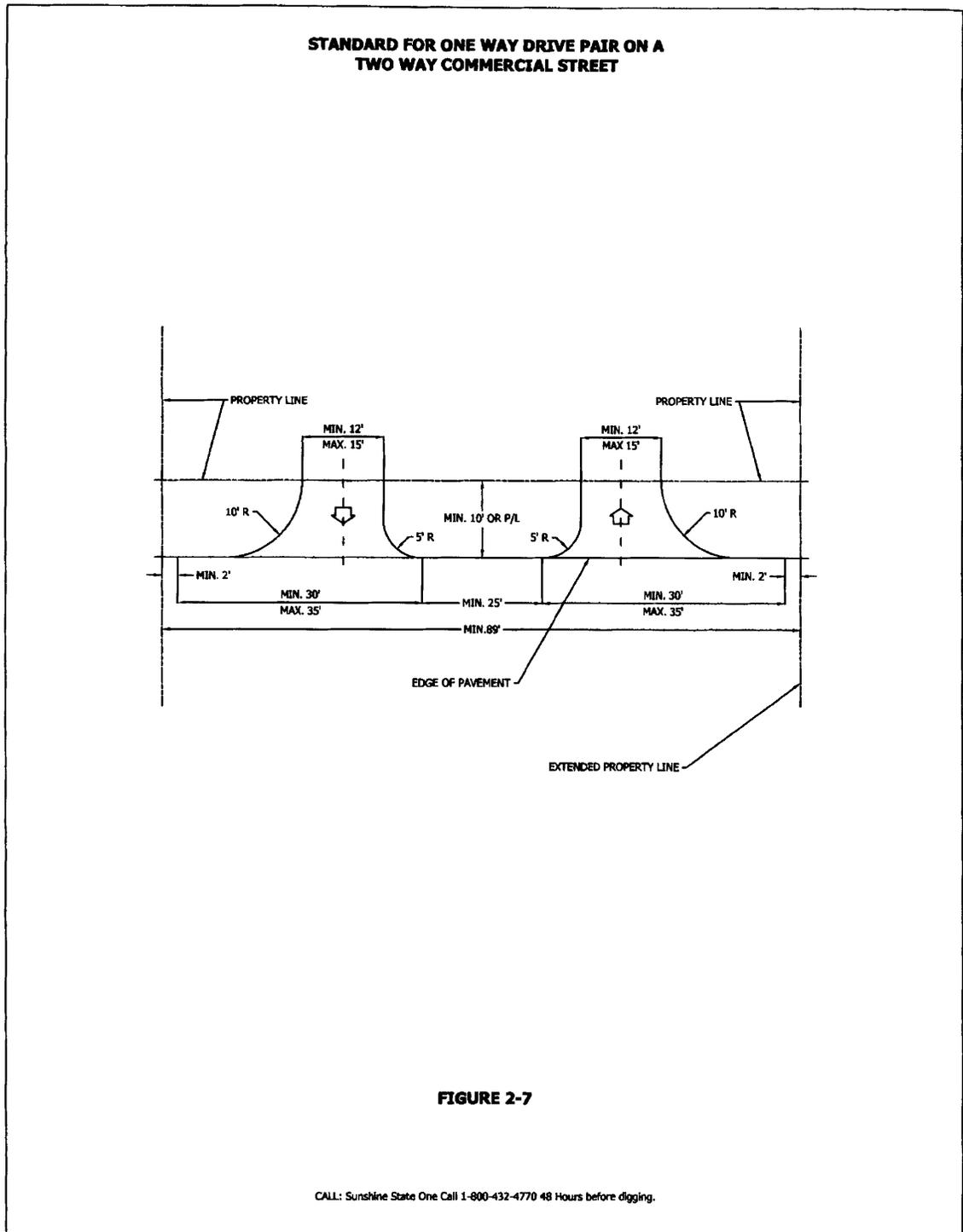
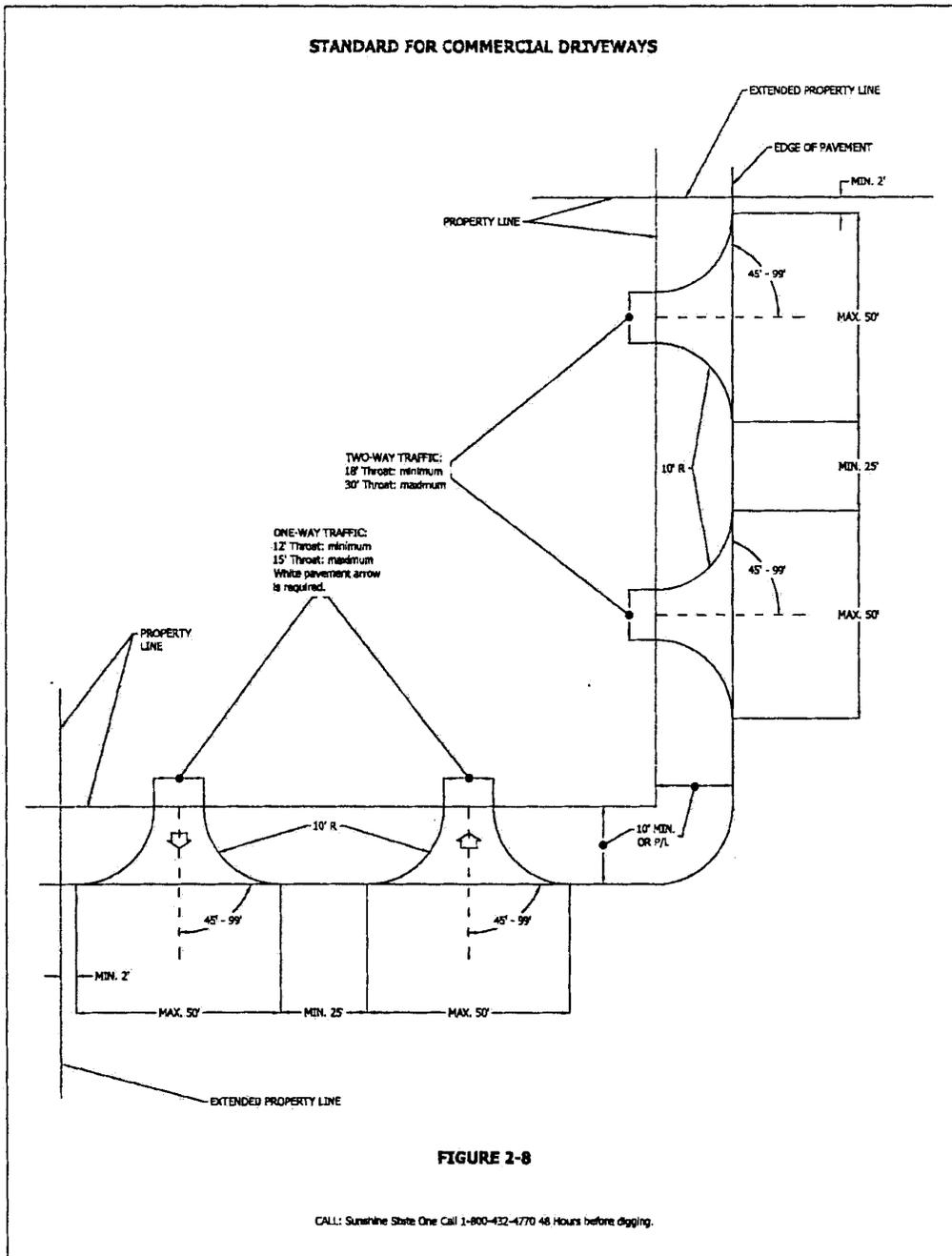


Figure 2-8



(Ord. No. 89-244, § 2(34-234), 9-28-89; Ord. No. 2010-4, § 5, 1-7-10; Ord. No. 2010-61, § 1, 6-3-2010)

Sec. 22-315. Same—Number permitted.

The number of driveways permitted to access property shall be dependent on the amount of street frontage owned by the property owner and the abutting street functional classification as defined by the city traffic engineer's office, as follows:

<i>Number of Drive-ways</i>	<i>Local Street (feet)</i>	<i>Collector Street (feet)</i>	<i>Minor Arterial Street (feet)</i>	<i>Principal Arterial Street (feet)</i>
1	0—150	0—150	0—200	0—200
2	Over 150	Over 150	Over 200	Over 200

Property having frontage on more than one (1) street may have driveways on each frontage in accordance with the provisions herein. Property having frontage on a state roadway must receive Florida Department of Transportation approval. The city traffic engineer shall coordinate with FDOT staff in the review of all applications submitted to the FDOT for curb and median cuts on state roads.

(Ord. No. 89-244, § 2(34-235), 9-28-89; Ord. No. 90-282, § 1, 12-20-90)

Sec. 22-316. Same—Minimum corner clearance.

At an intersecting street or highway, the dimension measured along the edge of the traveled way between the return radius point and the nearest point of the driveway shall meet the dimensions specified in the table below.

The city traffic engineer shall be authorized to establish, for purposes of this section, the minimum corner radius for each class of road within the city.

The minimum corner radius shown in the table below will be used when calculating the corner clearance for driveways if the corner has no radius or a radius less than the established minimum. If the actual radius is greater than the minimum dimension, the actual radius will be used to calculate the corner clearance for driveways.

<i>Type of Street Being Accessed</i>	<i>Type Street Intersecting</i>	<i>Corner Radius Minimum (feet)</i>	<i>Driveway Type</i>	
			<i>Res. (feet)</i>	<i>Commercial or Industrial (feet)</i>
Local	Local	15	25	30
Local	Collector	25	25	30
Local	Minor/principal arterial	25	25	30
Collector	Local	25	35	40
Collector	Collector	35	35	40
Collector	Minor/principal arterial	35	35	40
Minor/principal arterial	Local	25	50	50
Minor/principal arterial	Collector	35	50	50
Minor/principal arterial	Minor/principal arterial	35	50	50

(Ord. No. 89-244, § 2(34-236), 9-28-89; Ord. No. 90-282, § 2, 12-20-90)

Sec. 22-317. Same—Construction and maintenance.

All driveway approaches and curb returns which adjoin paved roadways shall be constructed of concrete or other materials approved by the director. The maintenance of driveways shall be the responsibility of the property being served. (Ord. No. 89-244, § 2(34-237), 9-28-89)

Sec. 22-318. Same—Abandonment.

At any time an existing driveway is abandoned or use of such driveway is discontinued, it shall be the responsibility of the owner of the property formerly accessed by such driveway to restore the public right-of-way to its original condition. Determination of original condition shall be made by the city transportation manager. (Ord. No. 89-244, § 2(34-238), 9-28-89)

Sec. 22-319. Alternative design exception.

(a) The transportation manager is hereby authorized to grant alternative design exceptions from strict application of the Transportation Technical Manual or any other technical standards adopted pursuant to this chapter, inclusive of approving alternative materials.

(b) All alternative design exception applications shall include documentation sufficient to justify the request and, if required, an independent evaluation of the operational and safety impacts of the alternative design. In addition, an application for an alternative design exception shall address the following issues, as applicable:

- (1) *Description:*
 - a. Project description (general information, typical section, etc.);
 - b. Description of alternative design exception (specific project conditions related to alternative design exception, controlling design element, applicable manual value, and proposed value for project);
 - c. The compatibility of the design and operation with the adjacent sections; and

- d. If the project is in an overlay or historic district, applicable City of Tampa Code of Ordinance provisions or design standards.

(2) *Operational impacts:*

- a. Amount and character of traffic using facility; and
- b. Effect on capacity of the deviation (proposed criteria vs. manual using an acceptable capacity analysis procedure and calculate reduction for design year, level of service).

(3) *Safety impacts:*

- a. Crash history and analysis (location, type, severity, relation to the design exception element); and
- b. Impacts associated with proposed criteria (annualized value of expected economic loss associated with crashes).

(4) *Benefit / cost analysis:* Calculate a benefit/cost analysis, which estimates the cost effectiveness of correcting or mitigating a substandard design feature. The benefit is the expected reduction in future crash costs and the cost is the direct construction and maintenance costs associated with the design. These costs are calculated and annualized, so that direct comparison or alternate designs can be made. The transportation manager shall determine the appropriate manner in which to calculate the benefit/cost analysis, if such an analysis is necessary.

(c) The alternative design exception application shall also contain a recommendation by the professional engineer responsible for the project design elements, unless the transportation manager determines that such a recommendation is not necessary given the scope of the request.

(d) Prior to submitting an application for an alternative design exception, the applicant must schedule a pre-application meeting with the transportation division in order to determine the scope of the request and what documentation will be necessary to support the application.

(e) The transportation manager shall have thirty (30) working days after the submission of a complete application to render a written decision on the alternative design exception. In approving an alternative design exception, the transportation manager must determine that the alternative design would not have a negative impact on the operation and safety of a City of Tampa facility and that the alternative design meets or exceeds the requirements of the applicable technical standard. In addition, the transportation manager may place appropriate conditions on any approval of an application. An applicant may submit a request for an alternative design exception concurrent with an application to the City of Tampa for the approval of a development order. The transportation division may charge a fee, as set by city council, for the review of an application for alternative design exception.

(f) An applicant shall provide a complete application to the transportation manager for review and determination, which shall include all information contained in this section.

(g) An application for an alternative review exception may be filed and reviewed as part of a site plan rezoning process. During the site plan rezoning process, city council may request the transportation manager to recommend an alternate design consistent with this section.

(Ord. No. 2010-4, § 7, 1-7-10)

Editor's note—Ord. No. 2010-4, § 7, adopted Jan. 7, 2010, repealed the former § 22-319, and enacted a new § 22-319 as set out herein. The former § 22-319 pertained to driveway variances and derived from Ord. No. 89-244, § 2(34-239), 9-28-89.

ARTICLE IV. COMMUNICATIONS RIGHTS-OF-WAY USAGE*

DIVISION 1. GENERAL PROVISIONS

Sec. 22-320. Title.

This article shall be known and may be cited as the "City of Tampa Communications Rights-of-Way Usage Ordinance."

***Editor's note**—Ord. No. 2000-343, § 7, amended Art. IV, in its entirety, to read as herein set out in §§ 22-320—22-340.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-321. Purpose.

The purpose of this article is to:

- (1) Establish a reasonable, nondiscriminatory, and competitively neutral policy for the use of public rights-of-way for the provision of communications services; and
- (2) Manage the public rights-of-way to protect the public health, safety and welfare and minimize disruption of services in the public rights-of-way by establishing reasonable, nondiscriminatory, and competitively neutral regulations governing the placement or maintenance of communications facilities in the public rights-of-way by providers of communications services, which rules are generally applicable to all persons using the public rights-of-way for the provision of communications services.

(Ord. No. 2000-343, § 7, 12-21-00)

DIVISION 2. REGISTRATION

Sec. 22-322. Authorization to place or use communications facilities in public rights-of-way.

Subject to the terms and conditions of this article, any person who complies with the provisions of this division is authorized to place or use communications facilities in the public rights-of-way for the provision of communications services. (Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-323. Registration.

Before placing or using communications facilities in the public rights-of-way for the provision of communications services, or obtaining any permits required by section 22-331 of this Code, a provider shall submit a registration therefor to

Prior to inclusion of said ordinance, Art. IV pertained to telecommunications rights-of-way usage. See the Code Comparative Table.

the official on a form provided by the official. Such registration shall include the following information:

- (1) The name of the provider;
- (2) The name, address, and telephone number of the provider's primary contact person and the person to contact in the event of an emergency;
- (3) The number of the provider's current certificate of authorization to provide communications services issued by the PSC or the Federal Communications Commission;
- (4) Evidence of the insurance coverage required under this article; and
- (5) Acknowledgment of the indemnity and other provisions of this article.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-324. Approval of registration.

Upon a finding by the official that the provider is in compliance with the registration requirements of this division, the official shall approve the provider's registration, and advise the provider, in writing, of such approval within twenty (20) working days of the official's receipt of the provider's registration.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-325. Denial of registration.

Upon a finding by the official that the provider is not in compliance with the registration requirements of this division, the official shall deny the provider's registration. The official shall advise the provider, in writing, of such denial, including the reasons therefor, within twenty (20) working days of the official's receipt of the provider's registration.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-326. Cancellation of registration.

A provider may cancel a registration upon written notice to the official that the provider will cease placing communications facilities in the public rights-of-way. Following the cancellation of a provider's registration, such provider shall sub-

mit a new registration to the official in accordance with the provisions of this division before placing communications facilities in the public rights-of-way.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-327. Transfer of registration.

If a provider transfers or assigns its registration incident to a sale or other transfer of the provider's communications facilities located in the public rights-of-way, the transferee or assignee shall comply with the provisions of this article. Written notice of any such transfer or assignment shall be provided to the official within twenty (20) days of the effective date thereof. In order for such transfer or assignment to be effective, such written notice must include a new registration form which includes the information required pursuant to section 22-323 of this Code.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-328. Registration amendments; renewal.

(a) In the event of any change to the information required pursuant to section 22-323 of this Code as contained in an approved registration, a provider shall advise the official, in writing, of such changes within twenty (20) days of the effective date thereof.

(b) In January of each year, each provider that has previously complied with the registration requirements of this division shall submit an annual registration renewal to the official on a form provided by the official.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-329. Effect of registration.

(a) The approval of a registration pursuant to this division shall neither convey any interest in public rights-of-way to a provider, nor grant a provider any right of priority over any other person with respect to the placement of any facilities in the public rights-of-way.

(b) Providers shall comply with any and all of the provisions of this Code, including, but not limited to, any and all applicable permitting and zoning requirements.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-330. Existing communications facilities in public rights-of-way.

Providers with communications facilities in the public rights-of-way on January 1, 2001, pursuant to the authority of a franchise ordinance of the city passed and ordained by the city council of the city prior to January 1, 2001, shall comply with the provisions of this article, including but not limited to, the registration requirements, by February 1, 2001.

(Ord. No. 2000-343, § 7, 12-21-00)

DIVISION 3. REQUIREMENTS FOR THE OCCUPATION OF PUBLIC RIGHTS-OF-WAY

Sec. 22-331. Permits.

(a) Prior to the installation, placement or removal of any communications facilities, or the start of any other type of construction in the public rights-of-way, a provider shall, pursuant to the requirements of existing or subsequently enacted provisions of this Code, obtain all permits from the official. Said permits shall set out the place, date and time where the communications facilities, or other form of construction, are to be installed, or removed or where the construction is to be conducted. All permit applications submitted by a provider shall contain plans showing known utility facilities and specifications prepared by a qualified engineer/technician, and letters of no conflict from other utilities having facilities located where the provider desires to place its communications facilities or begin construction. A provider cannot assert the existence of any vested rights if the official issues a permit. Further, issuance of a permit by the official shall not be construed by a provider as a warranty that the placement by the provider of its communications facilities, or the start of construction, is in compliance with any applicable rules, regulations or laws.

(b) Any communications facilities installed or placed by a provider without first having obtained the permits hereinbefore provided for shall be removed within thirty (30) days written notice by the official to remove the same and in default of compliance with such notice, such communica-

tions facilities may be removed by order of the official and the cost of removal shall be borne and paid by such provider.

(c) In the event that work to be conducted by a provider requires streets or traffic lanes to be closed or obstructed, such provider shall, pursuant to the requirements of existing or subsequently enacted provisions of this Code, obtain all permits from and obtain approval of its maintenance-of-traffic plan from, the official.

(d) In the event a provider deems the trimming or removal of any trees reasonably necessary to place or maintain its communications facilities and to maintain the integrity and safety of same it shall, pursuant to the requirements of existing or subsequently enacted provisions of this Code, obtain all permits from, the official, and comply with all other such requirements of this Code.

(e) In the event the placement or maintenance by a provider of its communications facilities requires the obstruction of city owned, metered parking spaces, such provider shall pursuant to the requirements of existing or subsequently enacted provisions of this Code, obtain all permits from the official.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-332. Placement and maintenance standards.

(a) A provider shall comply with the following provisions of this section, unless otherwise approved by the official.

- (1) All communications facilities shall be constructed underground. Communications facilities shall be placed between the property line and the curb line of all streets and avenues and shall not be within the roadway recovery area. Underground cables shall have consistent alignment parallel with the edge of pavement, a thirty-six-inch depth of cover for the paved portion of roadways, a twenty-four-inch to thirty-inch depth of cover in all areas except the paved portion of roadways, and shall have a two-foot horizontal clearance from other underground utilities and their appurtenances.

- (2) In the event poles and replacement poles are approved by the official, such poles shall be placed between the property line and the curb line of all streets and avenues and shall not be within the roadway recovery area. The lowest wire on any of such poles placed in any public rights-of-way used by vehicle traffic generally shall not be less than eighteen (18) feet from the ground and, whenever telephone and electric power wires cross each other, wires shall cross and be maintained in accordance with the National Electrical Code, the National Electrical Safety Code and the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States, as amended from time to time.

(b) A provider shall use all proper and reasonable care in connection with any work which it may do in the public rights-of-way in order to prevent harm, damage or injury to persons or property.

(c) A provider shall:

- (1) Produce and maintain a complete set of "as built" plans, including, but not limited to, horizontal and vertical profiles, within thirty (30) days after the placement of any communications facilities in the public rights-of-way;
- (2) Make said plans available to the official upon forty-eight (48) hours notice;
- (3) Comply with all applicable laws, regulations and codes promulgated for the protection of the public, including, but not limited to, the National Electrical Code, the National Electrical Safety Code, the Florida Department of Transportation Utilities Accommodation Guide, the City of Tampa Manual on Traffic Control and Safe Practices, the State of Florida Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways and such other

design or regulatory manuals which regulate the installation of structures within public rights-of-way; and

- (4) Become a member of and maintain membership in a utility notification one (1) call system operating in the City of Tampa.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-333. Restoration standards.

(a) A provider shall not in any way displace, damage or destroy any sewer, water main, pipe or any other facilities belonging to the city, or to any third party who placed such facilities therein by express authority of the official, without the consent of the official, and a provider shall be liable to the city or to the third party owner, as the case may be, for the cost of any repairs made necessary by any such displacement, damage or destruction and shall pay such costs upon demand.

(b) A provider shall, at its own cost, replace and repair without delay any sidewalk, street, alley, highway, waterway, bridge, or other public place that has been excavated, broken, removed, displaced or disarranged by such provider in the conduct of its placement, maintenance and operation of its communications facilities, or as a result of the deterioration of any portion of its communications facilities, and restore the same to as good a condition as the same existed prior to such provider commencing its work, and upon failure of such provider to do so after twenty (20) days written notice by the official, the official may make such repairs and replacements as it deems reasonably necessary, and such provider shall pay the city all costs of such repairs and replacements. Such provider shall, to the satisfaction of the official, maintain any repairs it makes pursuant to this section for a period of one (1) year following the date of such repair.

(c) A provider shall not trim, remove or damage any protected or grand tree, as defined in Chapter 13 of this Code, unless such activity is authorized by a permit issued by the city.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-334. Relocation of communications facilities.

(a) Except in an emergency, a provider shall, within thirty (30) days after receipt of written notice from the official, adjust, alter or relocate, at

its own cost and expense, any portion of its communications facilities in the event the official determines that such adjustment, alteration or relocation is necessary for the city's use of its property and public rights-of-way, or if same unreasonably interferes with the convenient, safe or continuous use, or the maintenance, improvement, extension or expansion of any public street, alley, highway, waterway, bridge, easement or other public place or public rights-of-way in the city. In the event such adjustment, alteration or relocation is incidental to work to be done by the city on a city road, such notice shall be given thirty (30) days prior to the commencement of such work by the city. In the event such a contingency occurs and such provider fails to cause the aforementioned adjustment, alteration or relocation as required herein, the city may remove such portion of such provider's communications facilities, and the total cost and expense therefor shall be charged to such provider. The official shall provide such provider with a notice and order as provided for in F.S. § 337.404, or any subsequently enacted law of the state, in the event it may charge such provider for the cost and expense of removing such portion of such provider's communications facilities pursuant to this section.

(b) In the event the official requires a provider to adapt or conform any portion of such provider's communications facilities, or in any way to alter, temporarily or permanently relocate or to change any portion of same to enable any other person to use a street, avenue, alley, sidewalk, highway, bridge, easement or other public place or public rights-of-way of the city, such provider shall be reimbursed by the person desiring or occasioning such change for any loss, cost or expense caused by or arising out of such change, alteration or relocation.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-335. Repair of communications facilities by city.

In an emergency, as determined by the official, when a provider or its representative is immediately unavailable or unable to provide the necessary immediate repairs to any portion of its communications facilities that is damaged or mal-

functioning or to any faults or settled or sunken areas that may develop in any area over, around or adjacent to same, the official, when apprised of such an emergency, shall have the right to make the repairs with the total cost of same being charged to such provider.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-336. Access to communications facilities by city.

The city shall have access at any time to the manholes of a provider in which the city has facilities, provided the city has given such provider reasonable prior notice so that such provider can have trained personnel present when the city makes its access to any such manholes. Subject to the foregoing, the city, in the proper exercise of its municipal powers and duties with respect to the public rights-of-way, shall have access to all manholes of such provider in the public rights-of-way.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-337. Joint use arrangements; coordination.

In an effort to minimize the number of facilities within the public rights-of-way, the disruption of traffic and roadway destruction, a provider shall attempt to coordinate placement and maintenance activities and enter into joint use agreements with the city and other parties who are expressly authorized by the city to use the public rights-of-way.

(Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-338. Abandonment of communications facilities.

Any portion of abandoned communications facilities of a provider found by the official to be in conflict with any planned or existing facilities of the city shall be removed by such provider at its expense within thirty (30) days after receipt of written notice from the official. Information on all abandoned communications facilities will be maintained by a provider and will be located, to the

best of such provider's ability, in the field along with active communications facilities as the result of a utility notification service contract. (Ord. No. 2000-343, § 7, 12-21-00)

DIVISION 4. INSURANCE AND INDEMNIFICATION

Sec. 22-339. Insurance.

(a) A provider shall provide, pay for and maintain with companies satisfactory to the official the types of insurance described in this section. All insurance shall be from responsible companies duly authorized to do business in the state and having a financial rating in Best's Insurance Guide of B+ Class VI or better. All liability policies shall provide that the city is an additional insured as to such provider's operations in the public rights-of-way and shall provide the severability of interest provision. The required coverages must be evidenced by properly executed certificates of insurance on forms furnished by the official. Certified copies of the policies required by this section are acceptable in lieu of such certificates of insurance and shall be furnished to the official within five (5) days of the official's request therefor. Renewal certificates shall be provided to the official at least ten (10) days prior to the expiration of the current coverages. The certificates must be manually signed by the authorized representative of the insurance company. Thirty (30) days advanced written notice by registered or certified mail must be given to the official of any cancellation, intent not to renew or reduction in the policy coverages.

(b) The limits and types of coverage of insurance required shall not be less than the following:

- (1) *Commercial general liability insurance.* Commercial general liability insurance shall be written on ISO Occurrence Form CG 00 01 or an equivalent substitute form to cover liability arising from premises and operations, independent contractors, products and completed operations, personal and advertising injury, blanket contractual, and XCU exposures, unless waived by the official. Completed operations liability coverage shall be main-

tained for a minimum of one (1) year following the cessation of the placement of communications facilities in the public rights-of-way. The combined bodily injury and property damage limit shall not be less than five million dollars (\$5,000,000.00) each occurrence and annual aggregate and shall apply specifically to the provider's activities in the public rights-of-way.

- (2) *Automobile liability insurance.* Automobile liability insurance shall be maintained in accordance with the laws of the state as to the ownership, maintenance and use of all owned, non-owned, leased and hired vehicles. The combined bodily injury and property damage limit shall not be less than five million dollars (\$5,000,000.00) each accident.
- (3) *Workers' compensation/employer's liability insurance.* Workers' compensation insurance shall cover all employees engaged in work for the provider in accordance with the laws of the state. The employer's liability limit shall not be less than five hundred thousand dollars (\$500,000.00) disease each employee, five hundred thousand dollars (\$500,000.00) disease aggregate and five hundred thousand dollars (\$500,000.00) each accident.

(c) Notwithstanding the foregoing, a provider may provide such coverage through an actuarially sound and prudent self-insurance program that is satisfactory to the official. (Ord. No. 2000-343, § 7, 12-21-00)

Sec. 22-340. Indemnification.

A provider shall indemnify and hold the city and its officers, directors, agents, servants, employees, successors, and assigns harmless of and from any and all claims for personal injury, death or property damage, any other losses, damages, charges or expenses, including attorneys' fees (whether at the trial or appellate level, or otherwise), witness fees, court costs and the reasonable value of any services rendered by any officer or employee of the city, and any orders, judgments or decrees which may be entered, which arise or are

alleged to have arisen out of, in connection with, or attributable to, such provider's acts or omissions in connection with its activities in the public rights-of-way and the placement, maintenance, relocation or removal by such provider of any portion of its communications facilities. Such provider shall undertake at its own expense the defense of any action which may be brought against the city for damages, injunctive relief or for any other cause of action arising or alleged to have arisen out of, in connection with or attributable to, the foregoing and, in the event any final judgment therein should be rendered against the city resulting from the foregoing, such provider shall promptly pay the final judgment together with all costs relating thereto; such provider being allowed, however, an appeal or appeals to the appropriate court or courts from the judgment rendered in any such suit or action upon the filing of such supersedeas bond as shall be required to prevent levy or judgment against the city during such appeal or appeals.

(Ord. No. 2000-343, § 7, 12-21-00)