

ORDINANCE NO. 234

AN ORDINANCE AMENDING TITLE 16, "STREETS, SIDEWALKS, ETC.," CHAPTER TWO, "EXCAVATIONS" OF THE MOUNT CARMEL MUNICIPAL CODE.

WHEREAS, Mount Carmel Code Title 16, Chapter 2, provides for the Streets and Sidewalks, Etc., rules and regulations for the purpose of enforcement; and

WHEREAS, in order to comply with Article VI, Section 14 of the Tennessee Constitution by applying the standard that "no fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars"; and

WHEREAS, these changes are needed pursuant to the recent Supreme Court decision regarding Article VI, Section 14 of the Tennessee Constitution in The City Of Chattanooga v. Kevin Davis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN of the Town of Mount Carmel, Tennessee, as follows:

SECTION I. That the Mount Carmel Municipal Code be amended by deleting Title 16, "Streets and Sidewalks, Etc. " Chapter 2, Section 16-206. Restoration of Streets, etc., and in its place, substituting the following:

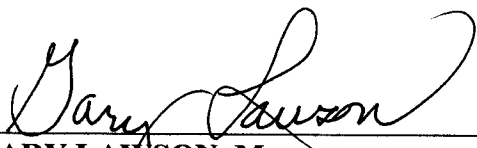
16-206 Restoration of Streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall restore the right-of-way, street, alley, or public place to its original condition. In the case of unreasonable delay in restoring the right-of-way, street, alley, or public place, the Town Recorder shall give notice to the person, firm, corporation, association or others that unless the excavation or tunnel is refilled properly according to Town specifications within a specified reasonable amount of time, and, if applicable, the resurfacing restored to its original condition, all within a specified reasonable time period, the Town of Mount Carmel, Tennessee, may elect to do the refilling and resurfacing work and charge the expense of doing the same to such person, firm, corporation, association, or others including a twenty percent (20%) premium charge due to the administration expense and expenditure of time. If within the specified time, the condition of the above notice have not been complied with, the work shall be done by the Town of Mount Carmel, Tennessee, an accurate account of the expense involved shall be kept, and the total costs plus the twenty percent (20%) premium shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. This remedy may be in lieu of, or, in addition to, any other fines provided under this chapter. However, any person, firm, corporation, association, or others making any excavation or tunnel in or under any right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall notify the Building Inspector who shall inspect the excavation or tunnel and its restoration to see that such excavation or tunnel and its restoration complies with all applicable rules and regulations and to see that it is properly restored with adequate gravel, back fill, and properly resurfaced. Any such person, firm, corporation, association, or others restoring any excavation or tunnel are subject to a fine of Fifty Dollars (\$50.00) per day for each and every day that the excavation or tunnel is restored without the Building Inspector having approved the restoration of the excavation or tunnel.

SECTION II. LEGAL STATUS PROVISIONS.

A. Conflict With Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Mount Carmel, the most restrictive shall in all cases apply.

B. Validity. If any section, clause, provision or portion of this ordinance shall be held to be in doubt or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

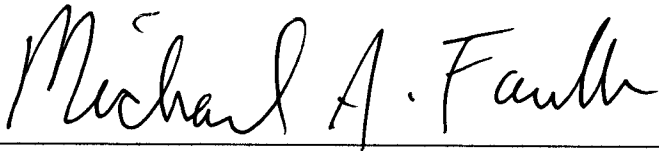
C. Effective Date. This ordinance shall become effective upon passage and publication, the public welfare requiring it.


GARY LAWSON, Mayor

ATTEST:


NANCY CARTER, Recorder

APPROVED AS TO FORM:


LAW OFFICES OF MICHAEL A. FAULK

FIRST READING	AYES	NAYS	OTHER
PAUL HALE	✓		
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
GEORGE PIERCE	✓		
GARY LAWSON, MAYOR	✓		
THOMAS WHEELER	✓		
WANDA WORLEY	absent		
TOTALS	6	0	0

PASSED FIRST READING: 11-29-01

SECOND READING	AYES	NAYS	OTHER
PAUL HALE	✓		
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
GEORGE PIERCE	✓		
GARY LAWSON, MAYOR	✓		
THOMAS WHEELER	✓		
WANDA WORLEY	✓		
TOTALS	7	0	0

PASSED SECOND READING: 12-20-01

PUBLISHED ON:

DATE:

1-9-02

NEWSPAPER:

Kingsport Times News

KINGSPORT TIMES-NEWS

PUBLICATION CERTIFICATE

Kingsport, TN

January 9, 2002

This is to certify that the Legal Notice hereto attached was published in the Kingsport Times-News, a daily newspaper published in the City of Kingsport, County of Sullivan, State of Tennessee, beginning in the issue of 01-09-02, and appearing 1 consecutive weeks/times, as per order of

Town of Mt. Carmel

Signed

Karen C. Muckey

THE following ordinances amending the Mt. Carmel Municipal Code were passed by the Mt. Carmel Board of Mayor and Aldermen at the December 20, 2001 Board meeting.

Ordinance 228, amending Title 3, "Municipal Court," Chapter two, "Court Administration"

Ordinance 229, Amending Title 18, "Water and Sewers," Chapter one, "Sewer Use"

Ordinance 230, Amending Title 18, "Water and Sewers," Chapter one, "Inspections"

Ordinance 231, Amending Title 13, "Property Maintenance Regulations," Chapter one, "In General"

Ordinance 232, Amending Title 15, "Motor Vehicles, Traffic and Parking," "Enforcement"

Ordinance 233, Amending Title 10, "Animal Control," Chapter one, "In General"

Ordinance 234, Amending Title 16, "Streets, Sidewalks, Etc. Chapter two, Restoration"

Ordinance 235, Amending Title 12, "Building, Utility, Etc. Codes, Chapter six, Substandard"

Ordinance 236, Amending Title 16, "Streets, Sidewalks, Etc. Chapter two, Excavations"

Pub. IT: 01/09/02

STATE OF TENNESSEE, SULLIVAN COUNTY, TO-WIT:

Personally appeared before me this

9th

day of

January

20 02,

Karen C. Muckey

of the Kingsport Times-News and in due form of law made oath that the foregoing statement was true to the best of my knowledge and belief.

Robert F. [Signature]

NOTARY PUBLIC

My commission expires

February 2, 2003