

ORDINANCE NO.: 5448

**ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 14, ARTICLE 3, SECTION  
14-4-36, CITY CODE OF ORDINANCES  
(CLOSING OF ADJACENT STREETS AND SIDEWALKS)**

**WHEREAS**, the existing City Code of Ordinances, Chapter 14, Article 3, Section 14-4-36 does not adequately address the issue which deals with streets and sidewalks that are closed due to the danger of a neighboring property; and

**WHEREAS**, the proposed changes would clarify Section 14-4-36, give the City Engineer the authority to approve a plan for closure and also create a fine for owners of dangerous property that require lengthy sidewalk and street closures.

**NOW THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, That Chapter 14, Article 3, Section 14-4-36 is hereby deleted and replaced with the following:

- A. The manager of housing and code enforcement or other properly authorized city force may, when necessary for the public safety, temporarily close or partially close the sidewalks and streets adjacent to a dangerous structure or part thereof and prohibit the same from being used. The police and fire departments when called upon by the manager of housing and code enforcement to cooperate, shall enforce such orders or requirements.
- B. The owner of said dangerous structure shall bear the costs of safely and properly closing adjacent streets and sidewalks. The plan and means of closure of adjacent streets and sidewalks shall be approved by the City Engineer. Upon the failure, refusal or neglect to safely and properly close adjacent streets and sidewalks, the City Engineer is authorized to build, repair, or take such other necessary action to safeguard public safety and mitigate the danger arising from said structure. The costs of such work shall be a lien on said dangerous structure, and may be enforced by suit in any court of competent jurisdiction. As an additional and cumulative remedy, the City Engineer may certify to the City Treasurer the costs of such work. It shall be the duty of the City Treasurer to place the amount so certified on the bill for city taxes assessed against the dangerous property abutting on or adjacent to the street or sidewalk closure. This special tax may be collected in the same manner as other general taxes are collected by the city.

- C. In the event that a street or sidewalk is closed or partially closed due to a dangerous structure or part thereof, the owner of such dangerous structure shall have a grace period of up to fourteen (14) days to mitigate such dangerous structure and reopen said streets or sidewalks. In the event the street or sidewalk is closed or partially closed for more than fourteen (14) days, the owner of such dangerous structure shall be responsible to the City for a daily fine of two hundred dollars (\$200) for each separate offense. For the purposes of this provision, each day after the grace period a street is closed or partially closed represents a separate offense; each day after the grace period a sidewalk is closed or partially closed represents a separate offense; separate offenses shall cumulate until the street or sidewalk is not closed or partially closed. The owner of the property shall be responsible for said fine, regardless of whether the manager of housing or other city force orders the road closed. Further, the infliction of a fine under this provision shall not prevent the manager of housing or other city forces from taking such other actions as permitted by any other ordinance of the city.
- D. Notwithstanding the foregoing, the owner of a dangerous structure shall not be liable for a fine under this Section while such owner is making good faith efforts to mitigate the danger arising from said structure and reopen the adjacent streets or sidewalks. Good faith efforts include, but are not limited to, continuous construction activity at said dangerous structure and periodic status reports to City Engineering or other properly authorized city force regarding efforts to mitigate the danger arising from said structure.

**SECTION 2. BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 3. BE IT FURTHER ORDAINED,** That this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

THE FOREGOING ORDINANCE  
 # 5448 PASSED

1st Reading 5-1-12  
 2nd Reading 5-15-12  
 3rd Reading 6-5-12

Approved Bill Moran  
 Chairman of Council

Date Signed: \_\_\_\_\_

Approved: [Signature]  
 Mayor, City of Memphis

Date Signed: 7/9/12

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor,  
Valerie C. Sykes  
 Comptroller