



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter IX - Highways and Roads

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Chapter IX - Highways and Roads

Obstructing Water Drainage

Private Acts of 1923 Chapter 467

SECTION 1. That it shall be unlawful for any person or persons to obstruct any ditch, drain or natural outlet for water from any public road or natural outlet for water from any public road in counties of the State having a population of not more than Ten Thousand and Seventy and not less than Ten Thousand according to the Federal Census of 1920 or any subsequent Federal Census.

SECTION 2. That the term "obstruction" as used in this Act shall be held to include any brush, timber, soil or refuse or other matter which may interfere with the free passage of water from the road-bed.

SECTION 3. That any person or persons violating the provisions of this Act or causing the same to be violated shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Fifty Dollars nor less than Ten Dollars.

SECTION 4. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 31, 1923.

Road Law

Private Acts of 1945 Chapter 309

COMPILER'S NOTE: See also Private Acts of 1974, Chapter 196, which is amendatory to this and provides for the issuance of work permits and authorizes the County Road Superintendent to designate the maximum weight of vehicles using the county roads.

SECTION 1. That in the Counties of the State of Tennessee having a population of not less than nine thousand nine hundred twenty-five (9,925) nor more than nine thousand nine hundred thirty (9,930), according to the Federal Census of 1940, or any subsequent Federal Census, there is hereby created the office of Superintendent of Roads, who shall be the executive head of the Department of Roads in said Counties.

The qualifications of said Superintendent of Roads shall be that he is a resident and qualified voter of the County to which this Act applies, of good moral character, over the age of twenty-five years, a competent road and bridge builder, and shall have at least a practical education equivalent to eight years elementary school work.

SECTION 2. That the Superintendent of Roads in the County to which this Act applies shall, before entering upon the duties of said office, take and subscribe to an oath that he will support the Constitution of the United States and the Constitution of the State of Tennessee, and that he will faithfully, impartially, diligently, and to the best of his ability and skill, perform all duties required of him as such Superintendent of Roads, and account for all moneys and property coming into his hands as such Superintendent. He shall also execute and file in the office of the County Court Clerk a good and sufficient bond in the penal sum of Ten Thousand (\$10,000.00) Dollars, which shall be approved by the County Judge or Chairman, payable to the State of Tennessee for the use and benefit of the County to which this Act shall apply, conditioned upon his faithful performance of his duties as Superintendent of Roads, as prescribed by the provisions of this Act, and the faithful accounting of all moneys and property belonging to said County, which may come into his hands as such official. Said bond may be executed with some incorporated bonding company authorized to do business in this State, as surety thereon, and in such event the premium of such bond shall be paid out of the Road Fund of said County, as other disbursements are made.

SECTION 3. That the salary of such Superintendent of Roads shall be the same as that set forth as maximum compensation in Section 8-2403 [8-24-102], Tennessee Code Annotated, for the Clerks of the County and Probate Courts in the class applicable to any County to which this Act applies.

As amended by:

- Private Acts of 1949, Chapter 818
- Private Acts of 1951, Chapter 198
- Private Acts of 1953, Chapter 152
- Private Acts of 1963, Chapter 237
- Private Acts of 1967-68, Chapter 421

SECTION 4. That the Superintendent of Roads shall have jurisdiction over the expenditure of all Road Funds belonging to the County, including the proceeds of the State Gasoline Tax allocated to such County, subject to the provisions of this Act. He shall have general, complete and exclusive control over the laying out, construction, repairing and maintenance of all public roads and bridges in his County, except such roads and bridges as are under the supervision of the Department of Highways and Public Works of the State of Tennessee. He shall have the right and authority to employ persons to do work in laying out, constructing, repairing and maintaining all public roads and bridges in his County; to employ machenic (sic) when necessary to repair the County road machinery and tools and keep same in proper working condition; to employ a bookkeeper or clerk, to assist in keeping the records of said office in an orderly and proper manner, and to render general clerical assistance; and to fix the wages and compensation to be paid such employees, which wages or compensation shall be such hourly rate as fixed at the time of employment by the Superintendent of Roads and approved by the County Judge of said county, for the period of actual employment, and shall be paid out of the Road Funds of the County.

As amended by:

Private Acts of 1947, Chapter 276

Private Acts of 1949, Chapter 874

Private Acts of 1951, Chapter 205

Private Acts of 1953, Chapter 203

Private Acts of 1965, Chapter 81

SECTION 5. That all expenditures or disbursements of the Road Funds of the County to which this Act applies shall only be made in the following manner: The Superintendent of Roads shall issue warrants, countersigned by the County Judge or Chairman, to the County Trustee, which warrants shall bear consecutive serial numbers and show on their face the purpose for which payment is being made. No single warrant shall be drawn for funds or amounts due or going to more than one person; that is, a separate warrant shall be drawn for every person who is to receive any of said road funds. Upon receipt of a warrant drawn, on the Road Funds of the County, strictly in compliance with the foregoing provisions, such warrant shall be paid by the County Trustee out of said County Road Funds; but the Trustee shall not pay any warrant drawn on the said Road Funds of the County that does not fully comply with all of the requirements set forth in this Section of this Act.

SECTION 6. That before countersigning any warrant drawn on the County Road Funds, the County Judge or Chairman shall make a sufficient investigation to determine that such warrant is correct and proper in every way, and a valid expenditure of the County Road Funds to the amount of such warrant; otherwise he shall not countersign such warrant.

SECTION 7. That the Superintendent of Roads shall have the supervision, charge of and exclusive control over all machinery, equipment, tools, supplies and materials, owned by the County and used in the construction, repairing and maintenance of the public roads and bridges in said County, together with the supervision and control of all garages, shops and other buildings, owned or held by the County for use in connection with the public road system, its operation and maintenance.

Within thirty days after taking office under this Act, the Superintendent of Roads shall make a complete inventory of all the machinery, equipment, tools, supplies and materials, belonging to the County and used for road purposes, and file a copy thereof with the County Court Clerk. Thereafter, on the first day of September of each year he shall file a complete inventory with said County Court Clerk of all such machinery, equipment, tools, supplies and materials, under his control.

SECTION 8. That said Superintendent of Roads shall install a daily card checking system upon which the name of each employee shall appear, and the amount of work done, where done, and the actual hours employed.

SECTION 9. That the Superintendent of Roads shall keep and maintain in his office a permanent record of all inventories and reports herein required to be made by him, and of all warrants drawn by him on the County Road Funds, showing every expenditure made of said funds, including the amount, date, payee, and for what purpose expended.

The Superintendent of Roads shall submit to each quarterly session of the County Court a full and complete report of his activities as such Superintendent of Roads, showing in each report the amount of road funds on hand at the beginning of the quarter, together with the amounts expended for labor, salaries, gasoline, oil, supplies, materials and articles purchased, the number of laborers employed, the number of miles of roads constructed or repaired and where located, during the quarter for which the report is made.

SECTION 10. That the Superintendent of Roads shall keep a strict account of all gasoline and oil purchased and delivered to him for use in connection with the construction and maintenance of the roads and bridges of his County, and of the use and disposition of such gasoline and oil. He shall require a written receipt to be personally signed by each and every person receiving or using any of said gasoline

and oil, which receipt shall show the amount of gasoline and/or oil so received or used (sic), and the date thereof, which receipts shall be preserved by him as permanent records of his office.

SECTION 11. That the Superintendent of Roads is hereby expressly forbidden to expend any funds or to incur any obligations in excess of the road revenues for the current quarters, and the surpluses carried forward from previous quarters, or to incur any anticipated road revenues except those accruing during the current quarter. Provided, that in case of emergency, the Quarterly County Court in such County, by a roll call vote of its members, may authorize the purchase of road equipment, machinery or materials, on the installment plan and the incumbrance of anticipated revenues for such purposes only.

SECTION 12. That all machinery, tools, equipment, trucks, tractors, gasoline, oils, automobiles, supplies and materials of every kind, that are to be acquired for use by the Superintendent of Roads and/or for the construction and maintenance of the roads and bridges of such County, and for the proper operation of the highway and road system of the County under this Act, shall be purchased by the Purchasing Commission of such County in accordance with the Act creating such Purchasing Commission; and it shall be unlawful for the Superintendent of Roads to make any of such purchases without complying strictly with this provision of this Act; provided in case of emergency, the Superintendent of Roads, by and with the approval of the County Judge or Chairman, may purchase materials for repairing any of the machinery, tools, equipment, trucks, tractors, and automobiles, not exceeding One Hundred (\$100.00) Dollars in cost, but no further or otherwise.

As amended by: Private Acts of 1947, Chapter 276

SECTION 13. That neither the Superintendent of Roads, nor any assistant, clerk, bookkeeper, laborer, or other employee, working under his direction, shall be financially interested in, or have any personal beneficial interest, either directly or indirectly, in the purchase of any equipment, machinery, tools, trucks, tractors, automobiles, gasoline, oil, supplies or materials for said Department of Roads, nor in any firm, corporation, partnership, association or individual furnishing any of said items. Nor shall the Superintendent of Roads, nor any assistant, clerk, bookkeeper, laborer, or other employee, working under his direction, accept or receive, directly or indirectly, from any person, firm, corporation, partnership, or association, to whom any contract may be awarded, by rebate, gift, or otherwise, any money or thing of value whatsoever, or any promise, obligation or contract for future reward or compensation.

Any violation of this Section of this Act is hereby declared to be a misdemeanor, and, upon conviction, the guilty person shall be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars.

SECTION 14. That the County Superintendent of Roads shall have the power and authority to remove, or cause to be removed, any fence, gate or other obstruction, from the roads or ditches of said county. If any person shall place or maintain any obstacle or obstruction upon the right of way of any road of said County, and shall refuse to remove the same upon the demand of the Superintendent of Roads, such person shall be guilty of a misdemeanor and punishable accordingly.

It shall be a misdemeanor to place a post, pole, brush, timber, or any other obstruction, upon the right-of-way of any road, or the ditches thereof, in such County, provided that electric transmission lines, telephone or telegraph poles, may be placed thereon, under the direction of the Superintendent of Roads, with the approval of the Quarterly County Court.

SECTION 15. That before any new road shall be built, or the construction thereof begun, the course of said road shall first be definitely decided upon, and the right-of-way absolutely acquired and paid for.

SECTION 16. That the Superintendent of Roads shall have the authority to contract with any State or Federal agency by which the road funds of the County may be supplemented or augmented, or by which additional employees may be employed on road work or road construction or repairs, or whereby additional repair and maintenance of such roads may become available. Provided, that such contract shall not incur any liability to the County above the current revenues for the current quarter or quarterly period as hereinabove provided.

SECTION 17. That the method of opening, closing or changing the location of any public road in said county, as provided for in Sections 2731-2741 [54-9-202 through 54-9-212] of the Code of Tennessee, shall not be changed or abridged by this Act, but the same shall remain in full force and effect in said county.

SECTION 18. That when it becomes necessary to do so, in order to carry out efficiently the work on the public roads as provided for by this Act, the Superintendent of Roads, with the written approval of the County Judge or Chairman, may institute condemnation proceedings for the purpose of condemning land for road purposes, chert or gravel beds, rock quarries, or other road building material or rights-of-way necessary for the construction and maintenance of the public roads in such County. Provided, however, that no such condemnation proceeding shall be instituted involving expenditures in excess of revenues for

the current year. Said condemnation proceedings shall be instituted in the manner provided by law for the condemnation of land for public purposes under the laws of eminent domain. The damages assessed against the County in all such cases shall be paid out of the Road funds of the County, upon warrant of the Superintendent of Roads, countersigned by the County Judge or Chairman, as hereinabove provided.

SECTION 19. That the Superintendent of Roads shall lay out and classify all public roads of the County, fixing and showing by his permanent records the width and length of the various public roads, the terminal of same, and the identification of such roads either by name or number, and he will make, or have made, and kept as a part of the permanent records of his office, a map or maps of all of said public roads, highways and bridges of the county.

SECTION 20. That the Superintendent of Roads, with the approval and consent of the County Judge or Chairman, may have an automobile purchased by the County Purchasing Commission for his use in carrying out his duties under this Act as Superintendent of Roads, and the cost of such automobile, together with the proper and necessary expenses of the upkeep and/or maintenance of same, shall be paid out of said County road funds by warrant drawn by the Superintendent of Roads and countersigned by the County Judge or Chairman, in the same manner as other expenditures of said road funds are made as herein-above provided. But such automobile shall not, under any circumstances, be used by the Superintendent of Roads upon any private business or for pleasure and shall only be used while he is actually engaged in directing and supervising the construction, repair and maintenance of the public roads and bridges of the County. A strict account shall be kept of all gasoline and oil used in the operation of such automobile, with the Superintendent of Roads being required to personally sign receipts for all such gasoline and oil used in the operation of said automobile from any supplies or stocks thereof belonging to the County; and the Superintendent of Roads will show in each of his quarterly reports to the Quarterly County Court the amount of gasoline and oil used by him in the operation of said automobile during the preceding quarter; also the number of miles travelled, and the cost of the upkeep and maintenance of same.

Any use of said automobile referred to in this section of this Act, other than herein expressly authorized, is hereby declared to be a misdemeanor and punishable as such.

As amended by: Private Acts of 1947, Chapter 276

SECTION 21. That the Superintendent of Roads in such County shall devote his entire time and attention to the discharge of the dutieh (sic) of his office under this Act, and he shall not hold any other office or position, or engage in any other business or employment, either directly or indirectly, during the term of his office as fixed by this Act. Any violation of this section of this Act shall be grounds for removal of said Superintendent of Roads from his office.

SECTION 22. That the Superintendent of Roads, by and with the consent and approval of the County Judge or Chairman, may use the machinery, equipment, tools, and materials owned by the County for road purposes, and also may use the laborers and employees employed by the County Road Department, when such does not interfere in any manner with the proper operation and maintenance of the County Public Road System, to grade, construct or repair any private road on the private property of any person in the County; provided, that the owner of such private road or roads shall pay adequate compensation for the use of such machinery, tools, equipment and materials, and for the services of the laborers and employees so rendered. The compensation to be paid by the owner of any private road for any such services rendered and work done thereon by the County Road Department shall be fixed and determined by the Superintendent of Roads and the County Judge or Chairman, and shall be paid to the Trustee of the County and by him credited to said County Road Department by placing same in the Road Fund of the County. Nothing in this Act shall be construed as requiring the County Road Superintendent to have any work done on any private road in the County, but simply to permit to do such work or have same done, by contract with the owner of such private road, and on the conditions and subject to the provisions hereinabove set out.

As amended by: Private Acts of 1947, Chapter 276

COMPILER'S NOTE: Section 22 is in direct conflict with the general law found in T.C.A. 54-7-202, which prohibits use of trucks, road equipment, rock, crushed stone or any other road materials of the county highway department for private purposes.

SECTION 23. [Deleted by Private Acts of 1974, Chapter 194]

SECTION 24. That it shall be the duty of the County Judge or Chairman, and the County Finance Committee, to make an audit of the books, records and reports of said Superintendent of Roads at the end of each quarter, and make a report thereon at the following session of the Quarterly County Court. Said audit shall not only cover the financial transactions of the office of Superintendent of Roads, but shall include the checking and reporting upon the amount of gasoline and oil purchased for use by the County Road Department or the Superintendent of Roads, the use or disposition made of such gasoline and oil,

and whether or not proper receipt were executed by all parties receiving or using such gasoline and oil, and whether or not said receipts have been properly recorded and kept on file in the office of said Superintendent of Roads, as required by this Act. The report of said County Judge or Chairman and said County Finance Committee, to be made and submitted at the regular sessions of the Quarterly County Court, as herein directed, shall also show whether or not the Superintendent of Roads has properly made all reports and kept the records of the transactions of his office as required by this Act.

SECTION 25. That any violation of any provision, section or part of this Act, by the Superintendent of Roads, and especially of Section 12, Section 13, Section 20, Section 21, Section 22, and Section 23, hereof, is hereby declared to be official misconduct, and to constitute a misdemeanor in office, punishable by fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office as provided by Section 1877 et seq., of the Code of Tennessee.

SECTION 26. That there shall be elected by the qualified voters of said County, at the regular August election in 1946, and at such biennial election thereafter, a suitable person as Superintendent of Roads, who shall possess all of the qualifications set forth in Section 1 of this Act. The person so elected to said office of Superintendent of Roads shall take office on the first day of September following such election, and shall hold the same for a term of four years, and until his successor is duly elected and qualified.

As amended by: Private Acts of 1955, Chapter 234

SECTION 27. That in the event of a vacancy in the office of Superintendent of Roads, the Quarterly County Court of such County shall, either at a regular session or a properly called special session thereof, and by a roll call vote of its members, elect a suitable and qualified person as such Superintendent of Roads to serve in compliance with the provisions of this Act for the balance of the unexpired term, and until his successor shall have been duly elected and qualified as herein provided.

SECTION 28. That in order that the provisions of this Act may be immediately effective and administered for the public convenience and welfare, George B. Vanhook, a suitable person, who is possessed of the qualifications set forth in Section 1 of this Act, is hereby designated and shall be the first Superintendent of Roads, under the provisions (sic) of this Act, and who shall hold said office until September 1, 1946, and until his successor shall have been duly elected and qualified as provided for elsewhere in this Act.

SECTION 29. That the provisions of this Act are hereby declared to be severable; and that, if any section, provision, exception, sentence, clause, phrase, or part of this Act, be held unconstitutional or void, the remainder of the Act shall continue in full force and effect, it being the Legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void matter had not been included in the same.

SECTION 30. That all other Acts and laws or parts of Acts and laws in conflict with the several provisions of this Act be and the same are hereby repealed.

SECTION 31. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 21, 1945.

Private Acts of 1974 Chapter 196

SECTION 1. That Chapter 309 of the Private Acts of 1945, and all Acts heretofore passed amendatory thereto, be and are hereby amended as provided herein.

SECTION 2. Any person, firm, partnership, or corporation desiring to engage in or do any work which requires or necessitates any change, alteration of (sic) damage to any of the public roads or highways of the County which are operated and maintained by Cheatham County, including the macadam of such roads and highways and the shoulders, ditches, drains, and foundations thereof, and also including the placing of side drain culverts along the sides thereof, shall, before any such work is done, apply for and obtain from the County Road Superintendent, or his duly appointed representative, in the manner and form as may be required by the County Roads Superintendent, a permit granting such person, firm, partnership, or corporation, the right and privilege to perform such work. The County Road Superintendent may require the applicant to show the location, nature and extent of the work to be performed.

SECTION 3. The County Road Superintendent of Cheatham County shall have authority to require any such person, firm, partnership, or corporation applying for such permit to enter into a reasonable and proper bond, approved by the Superintendent, in such amount as the Superintendent may consider sufficient and proper, conditioned to insure that any damage occasioned to such public roads and highways by such work will be repaired and the said roads and highways restored to as good condition as

they are in before such work is done.

SECTION 4. No person, firm, partnership or corporation shall do any work upon, under, across, along, or beside any of said public roads or highways of the County which will result in any change, alteration or damage thereto, without securing a permit and executing a bond, if required, as herein provided. Any person, firm, partnership, or corporation violating the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$50.00 for each violation. Each day such permit is not obtained and such bond, if required, is not executed, after such work is begun shall constitute a separate offense and violation.

SECTION 5. The County Road Superintendent shall have the authority to designate the maximum tonnage or weight of automobiles, trucks, and other vehicles that are permitted to travel over and upon such public roads, highways, and bridges which are maintained by Cheatham County; in case of a violation of the regulations prescribed in such instances, the person, firm, partnership, or corporation violating the same shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$50.00 for each violation.

SECTION 6. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly Court of Cheatham County at or before the next regular meeting of the Court occurring more than thirty (30) days after its passage. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 7. This Act shall take effect from and after its passage and approval, the public welfare requiring it.

Passed: February 14, 1974.

Private Acts of 1987 Chapter 68

SECTION 1. In addition to the powers given by Tennessee Code Annotated, Title 54, Chapter 10, relative to the establishment of county roads, the county legislative body of Cheatham shall have the powers and duties specified in this Act.

SECTION 2. For the purpose of this Act, the following terms shall be defined as follows:

- (1) "Public road" means any road laid out, appointed or recognized by law as a way open to all the people, without distinction, for passage and repassage at their pleasure.
- (2) "County road or county highway" means a public road in the county designated by the county legislative body as having sufficient use and importance so that the county highway department should endeavor to maintain the road, where such public road is not maintained directly by a municipal government, or the state or federal government.
- (3) "County road list" means a list of public roads in the county designated as county roads by the county legislative body.
- (4) "Developer" means a person or legal entity who subdivides a tract of land for resale as residential lots.
- (5) "Chief administrative officer" means the chief administrative officer of the county highway department as defined in Section 54-7-103.
- (6) "Interested property owner" means a person or legal entity who owns real property adjacent to a public road or person who has access to the public road by way of easement or right of way.

SECTION 3.

(a) In addition to the survey provided by Tennessee Code Annotated, Section 54-10-105, the chief administrative officer shall review the status of public roads and county roads prior to January of each year and shall make recommendations to the county legislative body as to what roads should be designated as county roads and any public roads which should be closed.

(b) After receiving the recommendations of the chief administrative officer, the county legislative body shall designate and update previous designations of county roads at the regular January meeting. The county clerk shall prepare a county road list from the designations adopted by the county legislative body. The classification of each county road shall be entered on the county road list. The current county road list shall be kept in the office of the county clerk, and a copy of such list shall be delivered to the chief administrative officer by the county clerk.

(c) The county legislative body may add a public road to or remove a public road from the county road list whenever in its discretion it deems that the public welfare demands such action. The

removal of a public road from the county road list or the fact that a public road is not designated as a county road shall not impair its public character allowing all the people, without distinction, to pass over such road, but the removal of a public road from the county road list shall remove any obligation of the county to maintain that public road.

SECTION 4. The chief administrative officer shall develop a classification system for the county roads based upon width of right of way and roadbed as provided for in Tennessee Code Annotated, Section 54-10-103, and type of roadbed and surface, subject to the approval of the county legislative body. Upon approval of a classification scheme, all county roads shall be classified in accordance thereto, and a copy of the classification shall be filed in the office of the county clerk and delivered to the chief administrative officer by the county clerk. The classifications shall be updated at least annually in conjunction with the designation of county roads with the chief administrative officer making classifications subject to the approval of the county legislative body.

SECTION 5. The county legislative body shall have the power to appropriate county highway and general funds for the purpose of building, repairing, and maintaining roads and bridges designated as county roads and to operate ferries connecting county roads or connecting a county road with any other public road. The county legislative body may exercise the power of eminent domain for these purposes and shall award appropriate damages in accordance with Tennessee Code Annotated, Title 29, Chapter 17.

SECTION 6.

(a) The chief administrative officer may employ surveyors, engineers, mappers and other professionals to survey, inspect, and classify all county roads and other public roads and to make maps and charts of the same, subject to budgetary limitations.

(b) The chief administrative officer and the county legislative body by resolution, may recommend changes or improvements to county roads. The chief administrative officer shall ascertain, through the assistance of professionals where necessary or appropriate, and report in detail the probable or approximate cost of making any improvement or change. This report shall be spread on the minutes of the county legislative body.

SECTION 7.

(a) In addition to the provisions of Tennessee Code Annotated, Section 54-10-201, relative to opening, closing, or changing roads by application of an individual applicant, the county legislative body shall have power to open, close or change a county road or a public road not maintained by any governmental entity. The county legislative body shall also have power to accept a subdivision road or a public road not maintained by a governmental entity as a county road. However, no such change shall occur before a public hearing is conducted according to the standards delineated in this Act. This process of opening, closing, changing or accepting roads shall begin by resolution of the county legislative body upon its own motion, or in response to an application made by any interested property owner in the county or the chief administrative officer.

(b) All applications under this section to open, close, or change a county road or a public road not maintained by any governmental entity or to accept a subdivision or some other public road as a county road shall be made by written petition, signed by the applicant, stating the exact nature and extent of the proposed change and the reason for the change, and listing the names and addresses of interested property owners. The written petition shall be delivered to the chief administrative officer, who shall forward a copy to a three (3) or more member committee of the county legislative body. This commission or committee shall examine the petition, investigate the situation, and report within sixty (60) days to the full county legislative body with a recommendation to hold a hearing on the subject or dismiss the petition as without merit. The county legislative body shall act to hold a public hearing on the question or dismiss the petition.

SECTION 8.

(a) Whenever a public hearing is held to consider action on opening, closing, changing or accepting a road, the special committee appointed or elected pursuant to Section 7, shall conduct the hearing.

(b) The county clerk shall give public notice of the hearing in a newspaper of general circulation in the county at least seven (7) days prior to the hearing date. Written notice of the hearing shall be sent by the county clerk by registered or certified mail to all known landowners affected by the petition at least seven (7) days prior to the hearing date. The notices shall state the time, place and purpose of the hearing.

(c) The commission or committee shall cause a copy of the petition to be forwarded to the regional planning commission for the county, in sufficient time for the planning commission to investigate the merits of the petition before the hearing. The regional planning commission shall examine the

merits of the petition and report their recommendations and reasoning to the commission or committee at the hearing. Further, the hearing shall be conducted so as to give affected landowners and other members of the public the opportunity to comment on the petition. The commission or committee shall summarize the hearing proceedings in a report to the county legislative body and recommend action on the petition within sixty (60) days. In the case of accepting new county roads, the commission or committee shall inform the county legislative body on whether the roads conform to any adopted standards for new county roads. The county legislative body shall consider the report and shall resolve that the petition be granted in whole or in part, or denied.

(d) The county legislative body shall have the power of condemnation and shall assess damages to be paid out of the county general fund in accordance with Tennessee Code Annotated, Title 29, Chapter 17.

(e) Any person considering himself aggrieved by the action of the county legislative body under this Act may appeal to the chancery court and from there to the appellate courts. The chancery court shall uphold the resolution of the county legislative body unless the court determines that the action of the county legislative body was arbitrary and capricious on the issue of granting the petition. However, in exercising the power of condemnation, the issue of damages shall be subject to the same standard of review employed generally in condemnation cases. All costs of appeal shall be paid by the losing party or prorated as justice demands. Costs against the county shall be paid out of the general funds.

SECTION 9.

(a) The county legislative body shall have power to adopt regulations and specifications to govern the county's acceptance of a road as a county road. Any regulations and specifications adopted shall be placed on record in the office of the county clerk, and a copy shall be maintained in the office of the chief administrative officer.

(b) Before any lot that is part of a subdivision as defined in Tennessee Code Annotated, Section 13-3-401, may be sold by the developer, the owner or developer must have the subdivision road from the lot to the connecting county or state maintained road in compliance with the county's regulations and specifications for new county roads or post bond or other adequate security payable to the county in an amount sufficient to reimburse the county for the cost of bringing the road into compliance with the county regulations and specifications. The amount of the bond or security shall be set by the chief administrative officer, subject to approval by the county executive. The bond shall be delivered to the county clerk. The bond or security shall be canceled by the chief administrative officer with the approval of the county executive when the terms of the bond have been met. The bond or other security shall become due and the proceeds shall be paid into the county highway fund to construct the designated subdivision road if the road is not brought into compliance within one (1) year of the date of delivery to the county clerk.

SECTION 10. The provisions of this Act shall supersede any private acts in conflict with this Act, but shall not supersede any provision of the general law, it being intended to supplement, amplify, and enhance the provisions of the general law in Cheatham County, recognizing that the county has paramount authority in the acceptance and regulation of roads for which it will be responsible.

SECTION 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications to the act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 12. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Cheatham County before October 1, 1987. Its approval or nonapproval shall be proclaimed by the presiding officer of the Cheatham County commission and certified by him to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Passed: April 16, 1987.

Highways and Roads - Historical Notes

Road Law

The following is a listing of acts which once had some effect upon the county road system in Cheatham County, but which are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1859-60, Chapter 114, required the county court to classify roads into three different classes and to assess property and poll taxes for the purpose of upkeeping and repairing these public roads in Cheatham County.
2. Acts of 1907, Chapter 487, authorized Cheatham County to establish and maintain free ferries across any stream or streams running through the county, the cost of which was to be paid from the county general fund. This has been superseded by the general statute found in T.C.A. 54-11-301.
3. Private Acts of 1917, Chapter 519, was the first general road law for Cheatham County. This act established a Board of Road Commissioners, with three members between the ages of twenty-one and sixty-five years, to be elected by the quarterly county court. The Board of Road Commissioners was given general power and control over the county roads, and were authorized to hire district road supervisors to oversee the maintenance of the roads and to supervise road duty by the county residents. This act was amended by Private Acts of 1919, Chapter 696, to allow the Board of Road Commissioners to borrow not more than \$40,000 for road purposes, \$15,000 of which was to be spent on the Memphis-Bristol Highway. The original 1917 act was again amended in 1921 by Private Acts of 1921, Chapter 863, to change the method of delegating authority in the county road department. This amendatory act provided that the Board of Road Commissioners were to appoint one overseer for each civil district, and he might then appoint local overseers as they were required. This 1921 amendment also provided that at least six days written or printed notice was to be given county residents before they were required to serve road duty. All of these acts were repealed by Private Acts of 1927, Chapter 775.
4. Private Acts of 1923, Chapter 436, designated the route of the Memphis-to-Bristol state highway through Cheatham County, but this act was repealed by Private Acts of 1925, Chapter 11.
5. Private Acts of 1927, Chapter 775, was the next general road law for Cheatham County, creating the position of Supervisor of Public Roads. The Road Supervisor was to be appointed by the quarterly county court for a term of two years and was to have general authority over all public roads, highways, bridges and culverts in Cheatham County. He was also authorized to lay out and plan the public road system, to employ all personnel and to have charge of all supplies and machinery. This act also contained provisions levying a wheel tax on the residents of the county, but these provisions were repealed by Private Acts of 1931, Chapter 715. Private Acts of 1933, Chapter 22, also amended the road law by removing the requirement that persons owning teams and/or wagons furnish them for four days road duty each year. All of these acts were repealed by Private Acts of 1939, Chapter 442.
6. Private Acts of 1939, Chapter 442, in addition to repealing the 1927 road law was also the next general road law for Cheatham County. This act created a County Highway Commission of six members, elected for two year terms by the voters. The County Highway Commission was authorized to hire a County Road Supervisor for a term of two to four years, who was to be of "good reputation, of business ability and experience, and shall possess a reputation of abstaining from the use of intoxicating liquors..." The Road Supervisor was to supervise the county roads, employ road hands and was to have exclusive control of the road machinery. Private Acts of 1943, Chapter 69, amended the 1939 act to raise the salary of the Road Supervisor from \$125 to \$150 per month. These acts were repealed by Private Acts of 1945, Chapter 310.

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