

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Parades, etc., regulated.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. All terrain vehicles on sidewalks, alleys, and parks prohibited.
- 16-113. Violations and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk (except that not more than six feet (6') from the front of the building may be used) or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise or materials. (Ord. #831, July 2022)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14') or out over any sidewalk at a height of less than eight feet (8'). (2005 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2005 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted.

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (2005 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and commissioners after a finding that no hazard will be created by such banner or sign. (2005 Code, § 16-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (2005 Code, § 16-106)

16-107. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (2005 Code, § 16-108)

16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2005 Code, § 16-109)

16-109. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be

¹Municipal code reference

Building code: title 12, chapter 1.

unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (2005 Code, § 16-110)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2005 Code, § 16-112)

16-111. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (2005 Code, § 16-113)

16-112. All terrain vehicles on sidewalks, alleys, and parks prohibited. It shall be unlawful and a violation of the ordinances of this city for any person or persons to operate on the streets, sidewalks, alleys, or city parks of this city, any off-highway vehicle as defined in *Tennessee Code Annotated*, § 55-3-101(c)(2)(d). (2005 Code, § 16-114)

16-113. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Annual deposits.
- 16-206. Purpose.
- 16-207. Refund of special deposits.
- 16-208. Manner of excavating; barricades and lights; temporary sidewalks.
- 16-209. Restoration of streets, etc.
- 16-210. Unacceptable fill material.
- 16-211. Breaking through pavement.
- 16-212. Driveway curb cuts.
- 16-213. Clean up.
- 16-214. Insurance.
- 16-215. Time limits.
- 16-216. Supervision.
- 16-217. Violations and penalty.

16-201. Permit required. It shall be unlawful to make any excavation or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the Commissioner of Public Works (CPW)(at city hall) is open for business and said permit shall be retroactive to the date when the work was begun. The public works foreman is hereby given full authority to act in behalf of the commissioner of public works in his absence from city hall. (2005 Code, § 16-201)

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of *City of Paris, Tennessee v. Paris-Henry County Public Utility District*, 207 Tenn. 388, 340 S.W.2d 885 (1960).

16-202. Applications. Applications for such permits shall be made to the commissioner of public works or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done and that the applicant will perform all work in full compliance with the attached specifications. Such application shall be rejected or approved by the commissioner of public works within twenty-four (24) hours of its filing. (2005 Code, § 16-202)

16-203. Fee. The fee for such permits shall be five dollars (\$5.00) for excavations which do not exceed twenty-five (25) square feet or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit, however, Marion Natural Gas Systems and the South Pittsburg Board of Water Works and Sewers are expressly excused from paying any fees for permits. (2005 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the commissioner of public works a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or one hundred dollars (\$100.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the commissioner of public works may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of the restoration work if this is done by the city or at its expense. The balance shall be returned to the permittee without interest as provided herein after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the commissioner of public works a surety bond in such form and amount as the commissioner of public works shall deem adequate to cover the costs to the city if the permittee fails to make proper restoration. (2005 Code, § 16-204)

16-205. Annual deposits. In lieu of deposit or bond as set out in the § 16-204, Marion Natural Gas System and the South Pittsburg Board of Water Works and Sewers shall be required to make and maintain with the city an annual deposit in the sum of ten thousand dollars (\$10,000.00) each, beginning January 15, 1990; and the interest accrued on each deposit shall be added to each deposit. The amount of each fund shall be adjusted annually by the city. (2005 Code, § 16-205)

16-206. Purpose. Any special or annual deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good a condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. (2005 Code, § 16-206)

16-207. Refund of special deposits. Upon the permittee's completion of the work covered by such permit in conformity with this chapter as determined by the commissioner of public works, two-thirds (2/3) of such special deposit, shall be promptly refunded by the city to the permittee and the balance shall be refunded by the city to the permittee upon the expiration of a twenty-four (24) month period. (2005 Code, § 16-207)

16-208. Manner of excavating; barricades and lights; temporary sidewalks. Any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided, which shall be safe for travel and convenient for users. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit, the commissioner of public works may by written approval permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. (2005 Code, § 16-208)

16-209. Restoration of streets, etc. The permittee shall restore the excavation or tunnel in accordance with the specifications. In case of unreasonable delay in restoring the excavation or tunnel, the commissioner of public works shall give notice to the permittee that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to the permittee. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the permittee who made the excavation or tunnel. (2005 Code, § 16-209)

16-210. Unacceptable fill material. If for any reason the excavated material cannot be compacted to its original density, the material shall be removed and material acceptable to the commissioner of public works shall be used to complete the work. (2005 Code, § 16-210)

16-211. Breaking through pavement. Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

Saw cutting of portland cement concrete may be required by the commissioner of public works when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one inch (1") in depth; however, depths greater than one inch (1") may be required when circumstances warrant. Saw cutting may be required outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

Approved cutting of bituminous pavement surface ahead of excavations may be required to confine pavement damage to the limits of the trench.

Sections of sidewalks shall be removed to the nearest score line or joint.

Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

Cutouts outside of the trench lines must be normal or parallel to the trench line.

Boring or other method to prevent cutting of new pavement may be required by the commissioner of public works.

Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

In case of any conflict between the provisions of this section ("breaking through pavement") with the specifications, the conflict shall be resolved by the commissioner of public works and written decision shall be given to the permittee. (2005 Code, § 16-211)

16-212. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the commissioner of public works. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of fifteen inches (15") in diameter for metal corrugated pipe or

twelve inches (12") in diameter for concrete pipe, and twenty feet (20') in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. All installations shall be inspected by the city during installation. (2005 Code, § 16-212)

16-213. Clean up. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the commissioner of public works. From time to time, as may be ordered by the commissioner of public works and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the commissioner of public works, said work may be done by the city and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (2005 Code, § 16-213)

16-214. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-215. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the commissioner of public works. (2005 Code, § 16-215)

16-216. Supervision. The public works foreman shall from time to time inspect all excavations and tunnels being made in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (2005 Code, § 16-216)

16-217. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.