

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. PARADES, ETC., REGULATED.

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. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Operation of trains regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 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, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1997 Code, § 16-101)

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 over any sidewalk at a height of less than eight feet (8'). (1997 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. (1997 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 (1997 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 any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1997 Code, § 16-105, modified)

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 law. (1997 Code, § 16-106, modified)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1997 Code, § 16-107)

16-108. 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. (1997 Code, § 16-108)

16-109. 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. (1997 Code, § 16-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Operation of trains regulated. (1) No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes.

(2) It shall be unlawful to operate any train or portion thereof within the corporate limits in violation of *Tennessee Code Annotated*, § 65-12-108. (1997 Code, § 16-111)

16-111. 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 unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1997 Code, § 16-112)

16-112. 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. (1997 Code, § 16-113)

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

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

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

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, 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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1997 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications,

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).

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 doing the actual excavating, the name of 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. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1997 Code, § 16-202)

16-203. Fee. The fee for such permits shall be twenty-five dollars (\$25.00). (1997 Code, § 16-203, modified)

16-204. Bond required. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1997 Code, § 16-204)

16-205. 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 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. (1997 Code, § 16-205)

16-206. Manner of excavating--barricades and lights--temporary sidewalks. Any excavation or tunnel shall be done 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 recorder 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.

All excavation and/or construction sites shall be marked and signed as called for in the *Manual of Uniform Traffic Control* (latest edition), with signs, barricades, and flashing lights as required. (1997 Code, § 16-206)

16-207. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the municipality, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1997 Code, § 16-207)

16-208. 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 recorder shall be used to complete the work. (1997 Code, § 16-208)

16-209. 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 recorder or his designee 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 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 confirm 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 methods to prevent cutting of new pavement may be required by the recorder or his designee.

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. (1997 Code, § 16-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. 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. (1997 Code, § 16-210)

16-211. 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 recorder or his designee. From time to time, as may be ordered by the recorder 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 recorder, said work may be done by the town 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. (1997 Code, § 16-211)

16-212. 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 one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damages not less than twenty-five thousand dollars (\$25,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1997 Code, § 16-212)

16-213. 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 recorder. (1997 Code, § 16-213)

16-214. Supervision. The recorder or his designee shall from time to time inspect all excavations and tunnels being made in the town 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. (1997 Code, § 16-214)

16-215. 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.

CHAPTER 3

PARADES, ETC., REGULATED

SECTION

- 16-301. Short title.
- 16-302. Definitions.
- 16-303. Purposes.
- 16-304. Permit.
- 16-305. Application.
- 16-306. Standards for issuance.
- 16-307. Contents of permit.
- 16-308. Duties of permittee.
- 16-309. Revocation of permit.
- 16-310. Notice to town officials.
- 16-311. Violations and penalty.

16-301. Short title. This chapter shall be known and may be cited as the "Parade Chapter of the Town of Estill Springs." (Ord. #10-379, Sept. 2010)

16-302. Definitions. The following words, for the purpose of this chapter, shall have the following meanings:

- (1) "Board of mayor and aldermen" is the Board of Mayor and Aldermen of Estill Springs.
- (2) "Chief of police" is the chief of police of Estill Springs.
- (3) "Parade" is any meeting, parade, demonstration, exhibition, festival, homecoming, assembly, or other such event to be held in or upon any street, park, or other public place in Estill Springs.
- (4) "Parade permit" is a permit as required by this chapter.
- (5) "Person" is any person, firm, group, partnership, association, corporation, company, or organization of any kind.
- (6) "Recorder" is the recorder of Estill Springs.
- (7) "Town" is the Town of Estill Springs. (Ord. #10-379, Sept. 2010)

16-303. Purposes. (1) The Town of Estill Springs recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs.

(2) The town passes this chapter to regulate the time, place, and manner of parades.

(3) The town passes this chapter in the interest of all its citizens' public safety, health, welfare, comfort, and convenience.

(4) The Town of Estill Springs has limited resources and passes this chapter so that it may properly allocate these resources among its citizens.

(5) The purpose of this chapter is to promote order, safety, and tranquility in the streets of the town.

(6) This chapter is passed to help minimize traffic and business interruptions during parades. (Ord. #10-379, Sept. 2010)

16-304. Permit. (1) No person shall parade unless a parade permit has been obtained from the board of mayor and aldermen. Any parade held without the proper permit shall be unlawful.

(2) This chapter shall not apply to funeral processions, students going to and from school classes or participating in educational activities or other school activities such as sports events, providing that such conduct is under the immediate direction and supervision of the proper school authorities and a governmental agency acting within the scope of its functions and in events sponsored by the town. (Ord. #10-379, Sept. 2010)

16-305. Application. (1) Any person seeking issuance of a parade permit shall file an application with the recorder on forms provided by the recorder. The recorder shall place the request for a parade permit on the agenda of the next meeting of the board of mayor and aldermen for action by it in the normal course of business.

(2) The application for a parade permit shall be filed in writing with the recorder not less than thirty (30) days prior to the contemplated parade or five (5) days prior to any regularly scheduled called meeting of the board of mayor and aldermen. No permit shall be granted sooner than one hundred eighty (180) days prior to the contemplated parade. A copy of the application shall be given to the chief of police who shall investigate and make a report to the board of mayor and aldermen.

(3) The application for a parade permit shall set forth the following information.

(a) The name, address, and telephone number of the person seeking to conduct a parade or of the organization and its responsible heads;

(b) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

(c) The date when the parade is to be conducted;

(d) The route to be traveled, the starting point, and the termination point;

(e) The approximate number of persons who, and animals which, will constitute such parade; the type of animals and description of the vehicles;

(f) The hours when the parade will begin and end;

(g) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;

(h) The location by streets of any assembly area(s);

(i) The time at which units of the parade will begin to assemble at any assembly area(s);

(j) The interval of space to be maintained between units of the parade;

(k) If the parade is to be held on behalf of any person other than the applicant, the authorization of that person; and

(l) Whether the applicant has been convicted for the violation of the town parade ordinance of the Town of Estill Springs.

(4) The board of mayor and aldermen shall decide whether to grant the application for a permit. The board of mayor and aldermen may consult with the chief of police in making their decision.

(5) The board of mayor and aldermen in cooperation with the chief of police shall have the authority to designate the starting point, route, terminal point, or other time, place, and manner restrictions as deemed proper in consideration of minimum traffic interruption, public safety, health, welfare, convenience, peace, or order. (Ord. #10-379, Sept. 2010)

16-306. Standards for issuance. (1) The board of mayor and aldermen shall issue a parade permit upon consideration of the application and other information obtained when they find that:

(a) The conduct of the parade will not unduly interrupt the safe and orderly movement of other traffic contiguous to its route;

(b) The conduct of the parade will not require the diversion or interruption of essential or emergency municipal services, including police, fire, or ambulance services;

(c) The parade is scheduled to move from its origin to its termination expeditiously and without unreasonable delay;

(d) The applicant has satisfied the bond requirement; and

(e) No other permit has been granted for the same day.

(2) A permit shall be granted to the first person properly applying under the requirements of this chapter.

(3) No permit shall be granted for a parade except those restricted to the following time:

No earlier than 11:00 A.M. and no later than 12:00 midnight prevailing time.

(4) No permit shall be granted to any person until the applicant has posted in advance a two hundred fifty dollars (\$250.00) bond to cover the reasonable expenses incurred in the cleanup efforts after the parade.

(5) The recorder shall notify the applicant within five (5) days after the action of the board of mayor and aldermen whether the permit has been granted or denied if the permit has been denied, the recorder shall set forth the reasons why the board of mayor and aldermen denied the permit.

(6) In computing any period of time set out in this chapter, no Saturdays, Sundays, or holidays are to be computed in the time period. (Ord. #10-379, Sept. 2010)

16-307. Contents of permit. Each parade permit shall state the following:

- (1) Assembly and disassembly time and place;
- (2) Starting time;
- (3) The route and the portions of the streets to be traversed that may be occupied by the parade;
- (4) Minimum speed;
- (5) Maximum speed;
- (6) Interval of space between parade units;
- (7) The maximum length of the parade in miles or fractions thereof;

and

(8) Other information as the board of mayor and aldermen in cooperation with the chief of police shall find necessary to the enforcement of this chapter. (Ord. #10-379, Sept. 2010)

16-308. Duties of permittee. (1) A permittee shall comply with all permit application information, permit directions and conditions, and with all applicable laws and chapters.

(2) The permittee shall advise parade participants of such permit requirements.

(3) The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the parade.

(4) All permittees who hold a parade permit that includes animals shall be responsible for the clean-up after the animals immediately after the parade.

(5) The applicant shall assure the board that neither the parade nor the assembly point will interfere with or unreasonably obstruct the response capabilities of the firefighting equipment and other emergency response vehicles. (Ord. #10-379, Sept. 2010)

16-309. Revocation of permit. (1) The board of mayor and aldermen or their designee shall have the authority to revoke a parade permit issued hereunder prior to the parade upon the application of the standards for issuance as herein set forth if it is found that:

(a) Applicant materially misrepresented facts or information in the application; and/or

(b) Applicant failed to meet the standards for issuance set forth herein.

(2) The board of mayor and aldermen or their designee shall have the authority to revoke the permit during the parade and disassemble the parade if:

- (a) A public emergency arises requiring such revocation to protect the safety of persons or property; or
- (b) Disorderly conduct, riots, lawless activity, violence, or other breach of the peace, incited by parade participants, occurs. (Ord. #10-379, Sept. 2010)

16-310. Notice to town officials. Immediately upon the issuance of a parade permit, the recorder shall send a copy of the permit to the following:

- (1) The mayor;
- (2) The town attorney;
- (3) The fire chief;
- (4) The ambulance authority; and
- (5) The chief of police. (Ord. #10-379, Sept. 2010)

16-311. Violations and penalty. (1) It shall be unlawful for any person to parade without first having obtained a permit as required by this chapter.

(2) It shall be unlawful for any person to participate in a parade on the streets of Estill Springs for which a permit has not been granted.

(3) It shall be unlawful for any person to fail to comply with all directions and conditions of the parade permit.

(4) Any person violating the provisions of any section of this chapter shall, upon conviction, be fined not more than fifty dollars (\$50.00) for each violation. (Ord. #10-379, Sept. 2010)