

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

#### 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, sidewalks, or other public property prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep rights-of-way, easements, and sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Responsibility for the proper maintenance of streets, drainage areas and other public ways.
- 16-114. Roadblocks.
- 16-115. Violation 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. (Ord. #02-03, Feb. 2002)

**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 over any street or alley at a height of less than fourteen (14)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

feet or over any sidewalk at a height of less than eight (8) feet. (Ord. #02-03, Feb. 2002)

**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. (Ord. #02-03, Feb. 2002)

**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.<sup>1</sup> (Ord. #02-03, Feb. 2002)

**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 town council after a finding that no hazard will be created by such banner or sign. (Ord. #02-03, Feb. 2002)

**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. (Ord. #02-03, Feb. 2002)

**16-107. Littering streets, alleys, sidewalks, or other public property prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, sidewalk, or other public property 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. (Ord. #02-03, Feb. 2002, modified)

**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 or public easement. (Ord. #02-03, Feb. 2002)

**16-109. Abutting occupants to keep rights-of-way, easements, and sidewalks clean.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet,

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<sup>1</sup>Municipal code reference

Building code: see title 12, chapter 1.

such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. The occupants of property abutting on a public right-of-way or public easement are required to keep the right-of-way or easement maintained to the edge of the pavement or public way. Public utility and drainage easements are to be maintained by the adjoining property owners in a sufficient manner as to not create a public nuisance or create a blockage to normal drainage flow. (Ord. #02-03, Feb. 2002)

**16-110. Parades, etc., regulated.** It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town clerk. (Ord. #02-03, Feb. 2002, modified)

**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 make 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. (Ord. #02-03, Feb. 2002)

**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. (Ord. #02-03, Feb. 2002)

**16-113. Responsibility for the proper maintenance of street, drainage areas and other public ways.** Except as otherwise provided in the Code of the Town of Smyrna, it shall be the responsibility of the director of public works to supervise the proper maintenance of streets, drainage areas and other public ways of the Town of Smyrna; subject to the compliance with the rules and regulations promulgated by the town council and the Code of the Town of Smyrna. In the performance of his duties the director of public works shall prepare for the town manager any studies and/or reports deemed proper and necessary by the town manager for the discharge of the duties of that position. (Ord. #02-03, Feb. 2002, modified)

**16-114. Roadblocks.** It shall be unlawful and a misdemeanor for any person to conduct a roadblock for the purpose of disseminating information or collecting funds inside the town. A roadblock is defined as standing in a public street where funds are sought from motorists on the public street. A roadblock shall be further defined as any person standing in a public street with a sign or poster for the purpose of advertising or informing the public. A roadblock does not include a public parade, which is properly authorized, and traffic stopped or controlled by the police department. (Ord. #02-03, Feb. 2002, modified)

**16-115. Violation and penalty.** Violations shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

### EXCAVATIONS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or letter of credit.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.
- 16-211. Violation and penalty.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, including utility districts 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 director of public works is open for business, and the permit shall be retroactive to the date when the work was begun. (Ord. #02-03, Feb. 2002, modified)

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<sup>1</sup>State 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 director 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 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. (Ord. #02-03, Feb. 2002, modified)

**16-203. Fee.** The fee for all permits required herein shall be a sum set by the town council in the annual fee schedule. (Ord. #02-03, Feb. 2002, modified)

**16-204. Deposit or letter of credit.** No such permit shall be issued unless and until the applicant therefor has deposited with the town a cash deposit. The deposit shall be in the sum set by the town council in the annual fee schedule 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 director 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 town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit a letter of credit from a financial institution in Rutherford or Davidson County in such form and amount as the director of public works shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (Ord. #02-03, Feb. 2002, modified)

**16-205. Safety restrictions on excavations.** Any person, firm, corporation, association, or others making any excavation, bore, 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 by the entity making excavation, bore, or tunnel to protect persons and property from injury by or because of the excavation being made and shall be in accordance with all applicable law. 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. (Ord. #02-03, Feb. 2002, modified)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation, bore, or tunnel in or under any street, alley, or public place within the town shall restore the street, alley, or public place to its original condition, in case of unreasonable delay in restoring the street, alley, or public place, the director of public works 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 town 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 town, 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, bore, or tunnel. (Ord. #02-03, Feb. 2002, modified)

**16-207. 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 director of public works in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than those limitations set forth in the Governmental Tort Liability Act, Tennessee Code Annotated, § 29-20-403. (Ord. #02-03, Feb. 2002, modified)

**16-208. 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 replaced. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the director of public works. (Ord. #02-03, Feb. 2002, modified)

**16-209. Supervision.** The director of public works or his designee shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place 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. (Ord. #02-03, Feb. 2002, modified)

**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 director of public works. Such 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 (35) feet 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 (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out onto the street. The provisions in this chapter related to deposits and letters of credit, safety restrictions, restoration, insurance, time limits, supervision, and permit fees shall also apply to cuts in this section. (Ord. #02-03, Feb. 2002, modified)

**16-211. Violation and penalty.** Violations shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.