

## TITLE 16

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

## CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 16-101. Obstructing public ways and places.
- 16-102. Display of merchandise on sidewalks prohibited.
- 16-103. Trees projecting over streets, etc., regulated.
- 16-104. Trees, etc., obstructing view at intersections prohibited.
- 16-105. Projecting signs and awnings, etc., restricted.
- 16-106. Banners and signs across streets and alleys restricted.
- 16-107. Attachment of posters and banners to utility poles regulated.
- 16-108. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-109. Littering streets, alleys, or sidewalks prohibited.
- 16-110. Obstruction of drainage ditches.
- 16-111. Abutting occupants to keep sidewalks clean, etc.
- 16-112. Parades, etc., regulated.
- 16-113. Application for parade permit.
- 16-114. Issuance of parade permit.
- 16-115. Revocation of parade permit.
- 16-116. Operation of trains at crossings regulated.
- 16-117. Animals and vehicles on sidewalks.
- 16-118. Fires in streets, etc.

16-101. Obstructing public ways and places.<sup>2</sup> It shall be unlawful for any person to place upon any of the streets, alleys, sidewalks or pavements of the city, any wood, lumber, barrels, packages or other obstructions, or to suffer the same to remain on said streets, alleys, and sidewalks. Provided, that this section shall not be construed as to prevent persons from erecting scaffolds for building purposes, or using a reasonable portion of the street for the reception

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

<sup>2</sup>Municipal code reference

Interference with traffic: title 11, chapter 8.

of building materials while a house is in a process of building or repairs, after permission for the use of such streets or sidewalks or alleys has been obtained from the city clerk. (1983 Code, § 12-101)

16-102. Display of merchandise on 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 except under the following conditions:

(1) Merchants may display and sell their goods and wares on and from the streets and/or sidewalks on such special event days or at other times as are specifically authorized by the mayor and city council and under such circumstances and conditions that the mayor and city council deem appropriate. Displays may not unreasonably restrict pedestrian and vehicular traffic.

(2) News racks or news vending machines may be placed on the sidewalks for sale or dispensing of newspapers at such specific locations are authorized by the mayor and city council upon application to the city. In granting permits for the placement of news racks or news vending machines on the public sidewalks, the city shall endeavor to minimize their effect on the flow and safety of pedestrian and vehicular traffic.

(3) Members of nonprofit, charitable organizations may conduct bake sales, sidewalk sales, bazaars, and other activities on public streets, alleys, sidewalks and rights of way within the city limits of the City of Winchester after obtaining approval of the Chief of Police of the City of Winchester, or his designee. Such approval shall specify the location of the activity and its duration.

(4) Benches may be placed on sidewalks after obtaining a permit from the city. Benches shall be no longer than seventy-two inches (72") nor wider than thirty inches (30"). Permits shall specify where the benches are to be placed. The bench design and style must be acceptable to the city.

(5) All items referenced above shall be placed so as to allow unobstructed minimum passage for pedestrians of forty-eight inches (48") on the sidewalks.

(6) Violations of the above will be subject to removal by the city at a cost to the violator of one hundred dollars (\$100.00) or actual cost to remove (whichever is greater). (1983 Code, § 12-102, as replaced by Ord. #903, Feb. 2009)

16-103. 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) feet or over any sidewalk at a height of less than eight (8) feet. (1983 Code, § 12-103)

16-104. 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, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1983 Code, § 12-104)

16-105. 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. (1983 Code, § 12-105)

16-106. 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 city council after a finding that no hazard will be created by such banner or sign. (1983 Code, § 12-106)

16-107. Attachment of posters and banners to utility poles regulated.

(1) The city council considers it unsightly and expensive for posters and banners to be attached to the utility poles within the City of Winchester. The city council considers it the responsibility of the person or organization whose interest is promoted by such posters or banners to remove the same as soon as their purpose has been served.

(2) Any person or organization who desires to attach posters or banners to utility poles within the city shall first obtain a permit from the city authorizing it to do so. Before such a permit is granted, the city will require such person or organization to make a deposit of \$100.00 to be held until the posters and banners are removed. It shall be the responsibility of the person or organization whose interest is promoted by the poster or banner to have them removed from all utility poles within one week after the election or event for which they are posted. If all posters and banners are so removed, the deposit will be returned.

(3) It is hereby declared a misdemeanor for any posters or banner to remain attached to a utility pole for more than one week after the election or event which is promotes.

(4) The city will retain the \$100 deposit posted by any person or organization if any of their posters or banners remain attached to the utility poles for more than one week following the event for which they were posted. These deposits will help defray the expense of the city incurred by removing such posters. The forfeiture of the deposit shall be in addition to any fine imposed for the violation of this chapter. (1983 Code, § 12-107)

16-108. 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. (1983 Code, § 12-108)

16-109. 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. (1983 Code, § 12-109)

16-110. 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. (1983 Code, § 12-110)

16-111. 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. (1983 Code, § 12-111)

16-112. 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 city clerk. No permit shall be issued by the city clerk unless such activity will not unreasonably interfere with traffic. (1983 Code, § 12-112)

16-113. Application for parade permit. Application for a parade, procession or assembly may be made by any person having charge of such activity. Application shall be filed with the city clerk at least 24 hours (excluding Sundays and holidays) prior to the time of such activity.

The application must include the following information:

- (1) The number of persons to participate in the activity.
- (2) The route the parade shall follow.
- (3) The starting time.
- (4) The time the parade will end (within 15 minutes).
- (5) The number and type of vehicles to be parked.
- (6) The approximate rate of march.
- (7) The number of persons to march abreast in the widest rank of marchers.
- (8) A list of any bands, or noise making apparatus.
- (9) Any police escort requested.

A permit fee of five dollars (\$5.00) shall be paid on making application. (1983 Code, § 12-113)

16-114. Issuance of parade permit. The city clerk will issue the permit on filing of the application and payment of the fee unless, in his opinion, the

proposed parade, procession, or assembly would seriously interfere with the peace and welfare of the city. (1983 Code, § 12-114)

16-115. Revocation of parade permit. The chief of police may revoke the permit if it becomes clear to him that such an activity would result in a serious disturbance of peace and welfare of the city, or that there is not substantial compliance with all statements made in the application.

Revocation of the permit will not entitle the applicant to a refund to the permit fee paid. (1983 Code, § 12-115)

16-116. Operation of trains at crossings regulated. 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 also 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. (1983 Code, § 12-116)

16-117. 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. (1983 Code, § 12-117)

16-118. 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. (1983 Code, § 12-118)

## CHAPTER 2

EXCAVATIONS AND CUTS<sup>1</sup>

## SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

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 city clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1983 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the city clerk, 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

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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).

to the work to be done. Such application shall be rejected or approved by the city clerk within twenty-four (24) hours of its filing. (1983 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet 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. (1983 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city clerk a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) 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 city clerk may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city 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 with the city clerk a surety bond in such form and amount as the city clerk shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1983 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making 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. (1983 Code, § 12-205)

16-206. 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 city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the city clerk 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 city 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 city, 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. (1983 Code, § 12-206)

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 city clerk in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1983 Code, § 12-207)

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 put on by the city if the city 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 city clerk. (1983 Code, § 12-208)

16-209. Supervision. The city clerk 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 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. (1983 Code, § 12-209)

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 city clerk. 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 (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 to separate said driveways. Driveway aprons shall not extend into the street. (1983 Code, § 12-210)