

## 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, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades: regulations and permits.
- 16-111. Railroad crossings.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Street names.
- 16-115. House and building numbers.
- 16-116. No basketball goals on right-of-way.

**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 with any building or for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1976 Code, § 12-101)

**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 (14) feet or over any sidewalk at a height of less than eight (8) feet. (1976 Code, § 12-102)

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<sup>1</sup>Municipal 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. (1976 Code, § 12-103)

**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.<sup>1</sup> (1976 Code, § 12-104)

**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. (1976 Code, § 12-105)

**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. (1976 Code, § 12-106)

**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. (1976 Code, § 12-107)

**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. (1976 Code, § 12-108)

**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. (1976 Code, § 12-109)

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<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

**16-110. Parades: regulations and permits.**

(1) Definitions. As used in this section, the following terms shall mean: (a) "Parade" is defined as any organized public procession or event, of any kind, of six (6) or more persons that is held on a street, roadway, sidewalk, alley, or other public place, held for the purposes of expressing First Amendment freedoms or for recreational purposes in the City of Henderson. A funeral procession does not constitute a parade for purposes of this section.

(b) "Chief of police" means the chief of police of the City of Henderson or his/her designees.

(c) "Person" means any person, firm, partnership, association, corporation, company or, organization of any kind.

(d) "Parade permit" means a permit as required by this Chapter.

(e) "Recreational purpose" means any march or process of any kind including, but not limited to, parades, bikeathons, k-runs, processions, marathons, marches, on-street block parties, fundraising events, or any other event, unrelated to the expression of the First Amendment freedoms, that has the potential to obstruction of traffic.

(f) "Responsible representative" means that individual who applies for a parade permit, as defined by this section, from the chief of police and takes personal responsibility for compliance with this statute.

(2) Permit required. It shall be unlawful for any person to hold a parade, as defined by this section, without a responsible representative first obtaining a proper Parade permit from the chief of police at least six (6) calendar days in advance. It shall be a civil offense for any person that knowingly organizes, engages in, participates in, aids, or commences a parade without first receiving a parade permit from the chief of police in full compliance with this statute.

(3) No permit required. No parade permit shall be required for the following:

(a) The armed forces of the United States of America, the military forces of the state, or the police and fire departments of the City of Henderson acting within the scope of their duties.

(b) Funeral processions.

(c) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half (1/2) of the sidewalk, otherwise a permit will be required.

(4) Issuance of permit. (a) No permit shall be granted that will cause an unreasonable interference with the normal use of the streets, highways, and public places of the City of Henderson.

(b) No permit will be issued that would cause any violence or breach of the peace by any person engaging in the parade or persons watching the same.

(5) Parade procedure. It shall be the responsibility of the responsible representative to conduct any permitted parade to comply with the following procedures:

(a) The responsible representative shall see to the immediate clearing up of all litter that may be left on the streets, sidewalks, or other public property as a result of the lawfully permitted parade. Furthermore, it shall be unlawful for the responsible representative to fail to carry out this duty, upon which permitting of all parades is condition, by failing to clean up any litter associated with the parade.

(b) Candy, gum, beads, paper, or any other articles shall not be thrown from any type of vehicle or by a parade participant during a parade. Persons who wish to distribute candy shall be permitted to have parade participants walk along the perimeter distributing their candies and keeping spectators at a safe distance. The officially designated "Santa Claus" for the annual City of Henderson Christmas Parade shall be explicitly excepted from this subsection and be permitted to distributed candy by throwing from a motor vehicle.

(c) Parade participants, spectators, and the public are prohibited from disembarking from or attempting to board a moving vehicle during a parade.

(d) Horse and horse drawn vehicles are permitted under the following conditions:

(i) All horses must be under control at all times.

(ii) Riders may not consume intoxicating beverages before or during the parade.

(iii) Each horse must have an individual who is identified and designated as being responsible for the horse.

(e) Vehicles of any kind shall be prohibited from exceeding ten (10) miles per hour while participating in a parade. Vehicles shall not be driven recklessly. Vehicles shall only use one (1) lane of the street and shall not cross from lane to lane. The chief of police may establish other conditions as deemed appropriate.

(f) There shall be no open display or consummation of intoxicating beverages on or in floats or vehicles taking part in the parade. No person operating a vehicle of any kind within the parade shall consume intoxicating beverages during or prior to the parade, nor may any person operating a vehicle be under the influence of alcohol or a controlled substance at any time during the parade.

(g) There shall be no obscene displays or displays that promote of violence or incite criminal conduct. No floats or vehicles shall include

any acts or language that is obscene, defamatory, promotes violence, or incites criminal conduct.

(6) Application requirements. The chief of police shall review and approve or deny all parade applications. Applications shall contain the following information:

- (a) The name, address, and telephone number of the applicant and/or of any other persons on whose behalf the application is made;
- (b) The name of the responsible person for the parade;
- (c) The parade purpose;
- (d) The date requested for the parade, and the proposed schedule of start and end times;
- (e) The specific route to be travel including the starting and terminating points;
- (f) The proposed placement of event staff and equipment on the right-of-way;
- (g) The estimated number of individual persons to participate in the parade;
- (h) The estimated number of motor vehicles, horses, and/or horse drawn vehicles expected to participate in the parade; and
- (i) A signed application ensuring that the applicant understands and agrees to the parade procedures.

(7) Denial of parade permit. The chief of police shall deny a permit to any application when:

- (a) The applicant fails to provide complete information on the application as required under this section.
- (b) The movement of the parade will conflict in time and location with another parade for which a permit has previously been granted or will interfere with the orderly flow of vehicular pedestrian traffic.
- (c) The parade could damage roadways or other facilities of the city.
- (d) If the application reveals that the parade staging, parade route, and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the chief of police shall have authority to establish a reasonable alternative route and to regulate the width and duration of the parade.
- (e) Or for any other reason found to be a safety issue or if scheduling prohibits enough law enforcement officers to safely cover the parade.

(8) Revocation of permit. The chief of police shall revoke a permit when any of the following occurs:

- (a) The information contained in the application is found to be inaccurate in any material detail;

(b) The parade fails to begin within forty-five (45) minutes of the appointed times of commencement;

(c) The applicant materially misrepresents the number of participants;

(d) The chief of police has reasonable grounds to believe that the parade is being conducted in a manner that constitutes a danger to any person or property.

(9) Issuance or rejection of permit. Upon receipt of the parade application, the chief of police shall issue to the applicant, within three (3) calendar day of the application, either a parade permit or notification of denial of the parade permit. (1976 Code, § 12-110, as replaced by Ord. #538, May 2021 *Ch3\_08-12-21*)

**16-111. Railroad crossings.** (1) All railway companies owning, operating, or using roadbeds and tracks which are within the corporate boundaries of the city shall now and in the future erect, maintain, and keep in a good state of repair automatic safety gates at all points within said corporate boundaries where said roadbeds and tracks cross over municipal streets and roadways. Such railway companies as are now affected hereby are granted a period of sixty (60) days from the effective date of the provisions in this section in which to install the same. Upon application to the board of mayor and aldermen prior to the expiration of such period, an additional period of sixty (60) days may be granted, provided the applicant provides proof that such installation has begun and the additional time is needed to complete the same.

(2) All railway companies using roadbeds or tracks intersecting or crossing any public street in the city shall be obliged to give timely warning of the approach of their trains by the ringing of a bell or, in the case of eminent danger, the sounding of a whistle.

(3) All grade crossings and rights of way shall be designed, graded, and maintained so as to provide ample visibility for pedestrians and traffic on the streets crossed by railroad tracks.

(4) By reason of switching or otherwise, vehicular traffic across the railway tracks shall not be impeded by railway trains for a period of time in excess of five (5) minutes.

(5) All railroads are required to erect and maintain suitable signs, visible by day and by night, and to place suitable markings at all grade crossings requiring all vehicles to come to a full stop before entering such grade crossings, and to look and to listen before proceeding across said tracks. Said signs shall be of such size and the lettering thereon of such a character and nature that the same can be seen, read, and understood at least one hundred (100) feet therefrom when facing the same. All vehicular traffic must observe and obey said signs. (1976 Code, § 12-111, modified)

**16-112. 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. (1976 Code, § 12-112)

**16-113. 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. (1976 Code, § 12-113)

**16-114. Street names.** All of the streets, lanes, roads, thoroughfares, avenues, and alleys inside the corporate limits of the City of Henderson are hereby named in accordance with the map entitled "Henderson, Tennessee - Street Name and Property Numbering System, 1971," which is on file in the recorder's office. (1976 Code, § 12-114)

**16-115. House and building numbers.** (1) Uniform numbering system. A uniform system of numbering houses and buildings, as shown on the map, identified by the title "Henderson, Tennessee - Street Name and Property Numbering System, 1971" as amended, which is on file in the office of the recorder, is hereby adopted for use in the City of Henderson. This map, and all explanatory matter thereon, is hereby adopted and made a part of this section. On certain streets and in certain areas, the board of aldermen have given numbering responsibilities to the Chester County 911 System for assignment and maintenance of the numbering system in order to conform to the countywide system.

(2) City of Henderson system-assignment of numbers. All houses and buildings within the corporate limits of Henderson, except the streets and areas assigned to the Chester County 911 System, shall hereafter be identified by reference to the official numbering system. A separate number shall be assigned for each 25 feet of frontage. Vacant lots will not be assigned numbers until building foundations are completed and entrances can be determined.

(3) Numbers shall be posted. Numerals indicating the official number for each principal building or each front entrance to such building shall be posted in such a manner as to be visible from the street on which the property is located. Numerals shall be at least three inches high and made of reflective material.

(4) Administration. (a) The building official and/or city recorder shall be responsible for maintaining and assigning the official numbers of the City of Henderson. In the performance of this responsibility he shall be guided by the provisions of subsection (2).

(b) The city recorder shall keep a record of all numbers assigned under this section.

**16-116. No basketball goals on right-of-way.** (1) No portable or fixed basketball goal or any other athletic equipment shall be placed, erected, or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Henderson so as to allow a person or persons to play within the street. The placement of any basketball goal or other athletic equipment within the right-of-way or the presence of persons within a public street playing basketball or other sport on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #411, Nov. 2005)

## CHAPTER 2

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

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-205. Backfilling and restoration of streets, curbs and gutters, sidewalks, etc.
- 16-206. Insurance.
- 16-207. Time limits.
- 16-208. Supervision.
- 16-209. Driveway curb cuts and driveway connections.

**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. (1976 Code, § 12-201)

**16-202. Applications.** Applications for such permits shall be made to the recorder or such person as he may designate to receive such applications, 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 recorder within twenty-four (24) hours of its filing. (1976 Code, § 12-202)

**16-203. Fee.** The fee for such permits shall be one hundred dollars (\$100.00) for excavations which do not exceed fifty (50) square feet in area or tunnels not exceeding fifty (50) feet in length; and two dollars (\$2.00) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels. (1976 Code, § 12-203, as amended by Ord. #293, Jan. 1996)

**16-204. 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. (1976 Code, § 12-205)

**16-205. Backfilling and restoration of streets, curbs and gutters, sidewalks, 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. Any person, firm, corporation, association or others causing any damage or removal of any curb, gutter or sidewalk will be responsible for replacing the damaged curb, gutter or sidewalk.

All excavations or tunnels shall be backfilled from bottom to top with dry compacted 33C white gravel and left in a smooth condition. The only exception to this is that any water, sewer, natural gas or drainage pipe may be bedded in dry compacted sand but only up to 6 to 8 inches above the top of the pipe. No dirt, mud or material other than dry sand or 33C white gravel can be used as backfilling material.

In case of unreasonable delay in restoring the street, alley, or public place, the street superintendent 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. (1976 Code, § 12-206, as amended by Ord. #293, Jan. 1996)

**16-206. 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 \$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. (1976 Code, § 12-207)

**16-207. 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 recorder. (1976 Code, § 12-208)

**16-208. Supervision.** The street superintendent 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. (1976 Code, § 12-209)

**16-209. Driveway curb cuts and driveway connections.** No one shall cut, build, or maintain a driveway across a curb or sidewalk or connect a driveway to a street without first obtaining permission from the public works director. All plans for driveway connections to city streets will have to be approved by the public works director prior to being constructed. Only corrugated metal culverts, concrete culverts or smooth bore polyethylene culverts shall be used for driveway connections. Polyethylene pipe will only be allowed if enough cover can be provided over the top of pipe meeting manufacturer's specifications. The property owner is responsible for buying all necessary culverts. The public works director will approve the size of all drainage pipes including driveway connections and stormwater drains but in no case shall any pipe be less than twelve inches (12") in diameter except in unusual circumstances. The city will install one (1) twenty four foot (24') section of pipe and the necessary gravel for a driveway connection. If additional pipes are requested in the approval plan by the property owner, the city may install

them but all cost for culverts, catch basins, storm drains, gravel, etc. will be paid by the property owner.

Permission for the driveway connection plan will not be issued when the contemplated driveway including additional pipes is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic or will disrupt or restrict the natural flow of water. No driveway connection will be approved that does not conform to the regulations of the Henderson Zoning Ordinance. No driveway shall exceed thirty feet (30') 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. (1976 Code, § 12-210, as amended by Ord. #272, Sept. 1994, and replaced by Ord. #412, March 2006)