

**TITLE 16****STREETS AND SIDEWALKS, ETC<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. SIDEWALK REPAIRS.

**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.
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- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Unlawful for business not to maintain adjacent paved areas.
- 16-115. Basketball goals and skateboard ramps within or alongside street rights-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 for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1981 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, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1981 Code, § 12-102)

<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. (1981 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> (1981 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. (1981 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. (1981 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. (1981 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. (1981 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. (1981 Code, § 12-109)

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<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

**16-110. 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 city clerk. No permit shall be issued by the city clerk 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 unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1981 Code, § 12-110)

**16-111. 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 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. (1981 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 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. (1981 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. (1981 Code, § 12-113)

**16-114. Unlawful for business not to maintain adjacent paved areas.** It shall be unlawful for any person, partnership, or corporation, or their lessees, operating a business within the City of Millington to permit the paved areas adjacent to its business location to exist in a state of disrepair that will prevent its intended use and/or the use of fire and police vehicles when necessary.

Such person, partnership or corporation and/or their lessees shall maintain said paved areas in a condition suitable for vehicular traffic.

All violations of §§ 16-101 through 16-114, inclusive, shall be civil offenses and punishable as such. (1981 Code, § 12-114)

**16-115. Basketball goals and skateboard ramps within or alongside street rights-of-way.** 1. No basketball goal or skateboard ramp, whether portable or fixed, shall be placed, erected or maintained on or alongside the right-of-way of any public street within the corporate limits of the City of Millington to allow a person or persons to play basketball or skate within the street.

2. The placement of any basketball goal or any skateboard ramp within a public right-of-way or alongside a public right-of-way or the presence of persons within a public street playing basketball on such a goal or skating on such a skateboard ramp shall be a violation of this section.

3. The violation of this section shall be punishable by a fine of fifty dollars (\$50.00). Each day that a violation continues shall constitute a separate offense. (as added by Ord. #2005-22, Nov. 2005)

## 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 city codes enforcement officer is open for business, and said permit shall be retroactive to the date when the work was begun. (1981 Code, § 12-201, modified)

**16-202. Applications.** Applications for such permits shall be made to the city codes enforcement officer, 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

<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).

ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city codes enforcement officer within twenty-four (24) hours of its filing. (1981 Code, § 12-202, modified)

**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 (\$.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. (1981 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 mayor 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 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. (1981 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. (1981 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 town, 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 city codes enforcement officer 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. (1981 Code, § 12-206, 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 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. (1981 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. (1981 Code, § 12-208)

**16-209. Supervision.** The city codes enforcement officer 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. (1981 Code, § 12-209, 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 city codes enforcement officer. 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. Driveway aprons shall not extend out into the street. (1981 Code, § 12-210, modified)

## CHAPTER 3

### SIDEWALK REPAIRS

#### SECTION

- 16-301. Maintenance of sidewalks in good repair.
- 16-302. Notice.
- 16-303. Repairs by city.
- 16-304. Assessment of repair costs against owner.
- 16-305. Handicap ramp.
- 16-306. Citizens committee to hear appeals.

**16-301. Maintenance of sidewalks in good repair.** All property owners within the City of Millington, both residential and commercial, shall keep the sidewalks, driveway aprons and inlets abutting or adjoining their property in good condition and repair. (as added by Ord. #2003-47, Feb. 2004)

**16-302. Notice.** 4. When the codes enforcement officer of the city or his authorized representative shall determine that all or any part of a sidewalk, driveway apron or inlet is in need of repair, such officer shall give written notice thereof to the owner of the abutting or adjoining property or his duly authorized agent. The codes enforcement officer shall also deliver written notice of the need for repairs to the keeper of the city's tax records, and such notice shall be filed in the tax records for the abutting or adjoining property in order to notify persons who may be purchasers of such property. This notice shall be removed from the tax records when the property owner has completed the repairs and they have been approved by the city.

5. Notice to the abutting or adjoining property owner or his agent shall be given either by personal service on, or by certified letter addressed to the last known address of, the owner or his duly authorized agent. Proof of the personal service or mailing of such notice shall be complete compliance with this provision. In the case of nonresident and/or unknown owners, publication of the notice by one insertion in a newspaper of general circulation in the city shall be complete compliance with this provision as to notice.

- 6. The notice shall specify the needed repairs and shall state that:
  - a. The repairs must conform to all standards adopted and in effect under city subdivision regulations, city building codes and other related city-adopted technical codes;
  - b. The completed work must be inspected and approved by the codes enforcement officer;
  - c. The necessary repairs must be completed within ninety (90) days after the date of personal service, mailing or publication of the notice; and

d. If the repairs are not completed within such ninety (90) days, the city will perform the necessary repairs, and the costs thereof will be assessed against the abutting or adjoining property owner. (as added by Ord. #2003-47, Feb. 2004)

**16-303. Repairs by city.** Upon the failure of the abutting or adjoining property owner to comply with the provisions of this chapter or the official notice from the city codes enforcement officer, such officer shall deliver to the city department of public works a copy of the repair notice previously sent to the property owner. The department of public works shall thereupon have the necessary repairs done either by its staff or by contract with a private vendor.

The city shall repair sidewalks that are above storm water drains and have been damaged by storm water runoff or by broken water or sewer lines. (as added by Ord. #2003-47, Feb. 2004)

**16-304. Assessment of repair costs against owner.** 1. The costs of repairs done by the city shall be assessed against the owner of the abutting or adjoining property, who shall be notified of such costs by personal service, certified mail, or publication, as provided in § 16-302. If the costs have not been paid within thirty (30) days of such notice, the department of public works shall certify the amount of costs to the keeper of the city tax records, and such costs shall be a lien on the abutting or adjoining property and may be enforced by suit in any court of competent jurisdiction. As an additional and cumulative remedy, the amount of the costs may be placed on the bill for city taxes assessed against the abutting or adjoining property, and such costs shall be a special improvement tax, to be collected in the same manner as city real property taxes are collected.

2. Costs of repairs preformed by the city and assessable to the abutting or adjoining property owner shall include the actual construction costs, including removal and disposal of old sidewalks, driveway aprons or inlets, temporary repairs and barricading, materials and labor, and administrative costs in the greater of \$100.00 or fifteen percent (15%) of the actual construction costs, plus all costs of enforcement of this chapter and of collection incurred by the city, including reasonable attorney fees. (as added by Ord. #2003-47, Feb. 2004)

**16-305. Handicap ramp.** If a sidewalk section that must be replaced is in a location where a handicap access ramp is required, the curb shall be removed and the ramp installed in accordance with applicable law and regulations at such time. The city shall pay a portion of the cost of installing handicap ramps by delivering a check in the amount of \$200.00 to the property owner after installation of the ramp; provided, however, that the city shall have no obligation to pay any part of the cost of the handicap ramp if the department of public works makes the repairs because the property owner has failed or

refused to do so within the required time. The city, at its cost, will install handicapped ramps in residential areas in accordance with applicable laws and regulations. (as added by Ord. #2003-47, Feb. 2004)

**16-306. Citizens committee to hear appeals.** The board of mayor and aldermen shall appoint a committee of citizens of the city to hear and decide appeals or hardship cases. The committee shall have the power to waive payment of administrative costs when hardship is proven. (as added by Ord. #2003-47, Feb. 2004)