

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Trees projecting over streets, etc., may be cut.
- 16-102. Trees, etc., obstructing view at intersections prohibited.
- 16-103. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-104. Littering streets, alleys, or sidewalks prohibited.
- 16-105. Obstruction of drainage ditches.
- 16-106. Abutting occupants to keep sidewalks clean, etc.
- 16-107. Parades, etc., regulated.
- 16-108. Animals and vehicles on sidewalks.
- 16-109. Fires in streets, etc.

16-101. Trees projecting over streets, etc., may be cut. Appropriate representatives of the city are hereby authorized and empowered, whenever in their judgment it appears necessary, to cut, remove, trim, or prune any and all trees and shrubbery along any of the alleys, sidewalks, or streets in the city, whether the same be upon private property or not, which project into or over any such alley, sidewalk, or street and obstruct or interfere with any of the electric light, telephone, or telegraph wires within the limits of the city or interfere with pedestrian or vehicular traffic in any way. Such cutting, trimming, or pruning shall be done in a reasonable, careful, and prudent manner so as to interfere as little as possible with the growth and looks of such trees and shrubbery. (1971 Code, § 12-202)

16-102. 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

¹Municipal code references

Related motor vehicle and traffic regulations: title 15.

Selling merchandise, etc., from sidewalks: § 9-101.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1971 Code, § 12-203)

16-103. 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. (1971 Code, § 12-206)

16-104. 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. (1971 Code, § 12-207)

16-105. 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. (1971 Code, § 12-208)

16-106. 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. (1971 Code, § 12-209)

16-107. Parades, etc., regulated. The board of mayor and aldermen builds and maintains its streets and sidewalks for the purpose of affording pedestrians a comfortable, safe, and convenient means of going from place to place in the city for the purpose of carrying out the normal, customary, and usual pursuits of everyday life. The city builds and maintains the vehicular portions of its streets for the additional purpose of affording the public in general a comfortable, safe, and convenient means for transporting persons and property from place to place in the city, principally by vehicles, for the purpose of carrying out the normal, customary, and usual pursuits of everyday life. Use of the sidewalks and streets by any person or persons for purposes other than those above set out interferes with the right of the public in general to use said sidewalks and streets for the purposes for which they were built and are maintained and is, therefore, contrary to public convenience, is conducive to public disorder, is dangerous to public safety, and is calculated to cause breaches of the peace.

Therefore, it shall be unlawful for any person, without the written permission of the board of mayor and aldermen, to conduct or participate in any parade or marching on the sidewalks or streets of the City of Covington, Tennessee, or to walk, ride, or stand in organized groups on the sidewalks or

streets while carrying banners, placards, signs, or the like, or to sit, kneel, or recline on the sidewalks or streets of the city, or to engage in public speaking, group shouting, group singing, or any other similar distracting activity on any sidewalk or streets of the city, or to assemble in groups on any sidewalk or street in such number or manner as to block or interfere with the customary and normal use thereof by the public unless the persons so assembled in such groups are engaged in watching a march or parade authorized by the provisions hereof; provided, however, that no written permission of the board of mayor and aldermen shall be required for a bona fide funeral procession en route to a cemetery or for any parade or march by any unit of the Tennessee National Guard or the United States Army, Navy, Air Force, or Marine Corps, or by personnel of the police or fire departments of the city.

Any member of the police force or any other duly authorized law enforcement official is authorized to arrest, with or without a warrant, any person violating any of the provisions of this section. (1971 Code, § 12-210)

16-108. 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. (1971 Code, § 12-212)

16-109. 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. (1971 Code, § 12-213)

CHAPTER 2

EXCAVATIONS AND CUTS¹

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. (1) 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.

(2) Except in an emergency, no person may excavate in a street, highway, public place, or in a private easement of a utility, or demolish a building, without having first ascertained in the manner prescribed hereinafter the location of all underground utilities in the area that would be affected by the proposed excavation or demolition.

(3) No later than August 1, 1978, the City of Covington shall file a notice with the Register of Deeds of Tipton County, Tennessee, that the city has facilities in the county, and give the name of the operator and the name, title,

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).

address and telephone number of its representative, the director of public works, who is designated to receive the written or telephonic notice of intent required hereinafter in this section.

(4) Changes in filing information provided above shall be filed by the city with the Register of Deeds of Tipton County, Tennessee, within thirty (30) working days of the change.

(5) After September 1, 1978, the city shall maintain records and drawings of all changes and additions to its underground facilities.

(6) Before commencing any excavation or demolition operation designated in this section, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three (3), but not more than ten (10) full working days, unless a shorter period is provided between the person responsible for the excavation or demolition and the operator or designated representative, or the director of public works of the city.

(7) The written or telephonic notice required above must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition, and whether or not explosives are anticipated to be used.

(8) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operator notified to document compliance with the requirements of this section, and a copy of this record shall be furnished to the person giving notice of intent to excavate or demolish if requested.

(9) The city director of public works notified as provided above shall not less than two (2) working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the director of public works) furnish the following information to the person responsible for the excavation or demolition:

(a) The approximate location and description of all its known underground utilities which may be damaged as a result of the excavation or demolition;

(b) The location and description of all known utility workers indicating the approximate location of the underground utilities; and

(c) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including temporary markings or maps, if required in the judgment of the director of public works, indicating the approximate location of the underground utility in locations where permanent utility markers do not exist.

(10) For the purposes of this section the approximate location of underground utilities is defined as a strip of land at least four feet (4') wide but not wider than the width of the utility plus two feet (2') on either side of the utility. If the approximate location of an underground facility is marked with temporary markers, stakes or other physical means, the public utility shall follow the color coding prescribed as follows:

<u>Utility and Type of Product</u>	<u>Identifying Color</u>
Electric power distribution and transmission	Safety red
Municipal electric systems	Safety red
Gas distribution and transmission	High visibility safety yellow
Oil distribution and transmission	High visibility safety yellow
Dangerous materials, product lines	High visibility safety yellow
Telephone and telegraph systems	Safety alert orange
Cable television	Safety alert orange
Police and fire communications	Safety alert orange
Water systems	Safety precaution blue
Sewer systems	Safety green

(11) Compliance with the notice requirements set out above is not required of persons responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate an imminent danger to life, health or property, provided, however, that such person give, as soon as practicable, oral notice of the emergency excavation or demolition to the city director of public works, where such excavation or demolition is to be performed and requests emergency assistance from the director in locating and providing immediate protection to the city's underground utilities. An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedure provided hereinabove can be fully complied with.

(12) In addition to the notification requirements provided herein, each person responsible for any excavation or demolition shall:

- (a) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- (b) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment taking into

account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility; and

(c) Provide such support for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities.

(13) Except as provided below, each person responsible for any excavation or demolition operation designated above that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the director of public works of the city of the location and nature of the damage and shall allow the city reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(14) Each person responsible for any excavation or demolition that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid, shall, immediately upon discovery of such damage, notify the city director of public works, and the police department and fire department of the city, and take any other action as may be reasonably necessary, to protect persons and property and to minimize the hazards until arrival of the city's public works personnel or the city's police and fire departments.

(15) During initial excavation, if an underground utility is found to be unsound due to deterioration, the person responsible for excavation shall immediately notify the utility company involved and shall allow the city reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.

(16) Persons responsible for excavation and demolition as designated in this section who violate any provision of this section of the Covington Municipal Code and/or Chapter No. 692 of the 1978 Public Acts of Tennessee shall be subject to a civil penalty as provided in section 12 of said public act. (1971 Code, § 12-101)

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 to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1971 Code, § 12-102)

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 feet (25') 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. (1971 Code, § 12-103)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder 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 recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1971 Code, § 12-104)

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. (1971 Code, § 12-105)

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 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 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. (1971 Code, § 12-106)

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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person and seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for any one (1) accident, and a seventy-five thousand dollar (\$75,000.00) aggregate. (1971 Code, § 12-107, 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 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. (1971 Code, § 12-108)

16-209. Supervision. The superintendent of streets 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. (1971 Code, § 12-109)

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. (1971 Code, § 12-110)