

TITLE 16

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

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
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- 16-104. Projecting signs and awnings, etc., restricted.
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- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
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- 16-112. Animals and vehicles on sidewalks.
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- 16-114. Basketball goals in public right-of-way prohibited.

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. (1980 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. (1980 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. (1980 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> (1980 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 or above 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. (1980 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 law. (1980 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. (1980 Code, § 12-107)

16-107A. Litter control. (1) Purpose. The purpose of this section is to accomplish litter control in the City of Halls, Tennessee. This section is intended to place upon all persons within the City of Halls, the duty of contributing to the public cleanliness and appearance of the City of Halls in order to promote the public health, safety, and welfare, and to protect the economic interests of the people of the City of Halls against unsanitary and unsightly conditions. It is further the intent of this section to protect the people against the health and safety menace and the expense incident to littering.

(2) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

the future, and words used in the singular number include the plural number. The use of the word "shall" is always mandatory and not merely directory.

(a) "Handbill" means any printed or written matter, any sample or device, dodger, circular, flyer, leaflet, pamphlet, paper, booklet, advertisement, or any other printed or otherwise reproduced original or copies of any matter of literature, irrespective of content.

(b) "Litter" means all solid wastes, including but limited to containers, packages, wrapping, printed matter, or other material thrown or deposited as herein prohibited.

(c) "Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, shall also mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public and delivered pursuant to contract.

(d) "Person" means any person, individual, firm, partnership, association, corporation, company, entity, or organization of any kind, whatsoever.

(e) "Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, and shall include any yard, grounds, curtilage, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(f) "Public place" means any and all streets, roads, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares, spaces, grounds, and buildings.

(3) Littering prohibited. No person shall recklessly, knowingly, or intentionally place, drop, throw, deposit, discard, or otherwise dispose of litter upon any public place in the City of Halls or upon any private premises not owned by said person, or in any waters within the jurisdictional limits of the City of Halls, in any manner, whether from a vehicle, watercraft, aircraft, or otherwise, and including but not limited to any sidewalk, street, alley, highway, or park, except:

(a) When such property is designated by the State of Tennessee or the City of Halls for disposal of garbage, trash, and refuse, and such person is authorized by the proper public authority to so use such property; or

(b) Into a litter receptacle or other container in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said public place or any private property; or

(c) When such a person is the owner or does have control or custody of the property, or has prior consent of the owner or tenant in lawful possession of such property, or unless the act is done under the personal direction of said owner or tenant and provided said litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.

(4) Sweeping litter into gutter prohibited. No person shall sweep or deposit in any gutter, street, alley, or other public place the accumulation of litter from any building, lot, or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep any sidewalks in front of their premises free of litter.

(5) Throwing, distributing, or depositing handbills in public places prohibited. No person shall throw, distribute, or deposit any handbill in or upon any sidewalk, street, or other public place within the corporate limits of the City of Halls, including placing handbills on the windshields or any other portion of vehicles parked upon any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the corporate limits of the City of Halls for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it.

(6) Throwing, distributing, or depositing handbills on private premises prohibited. No person shall throw, distribute, or deposit any handbill in or upon any private premises within the corporate limits of the City of Halls, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises.

(a) Exceptions. The provisions of this section shall not apply to the distribution of mail by the United States Government which is deposited in receptacles erected for that purpose, newspapers as defined herein which are delivered pursuant to contract, official governmental notices, and notices or customer service directories of regulated or public utilities, except that such items shall be placed upon private residences or other private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, gutter, or other public place or upon private property.

(7) Presumptions. If a handbill or other object of litter is discovered deposited on the private property of a person who has not given permission for the disposal of litter, or upon any public place except property designated for that purpose, and the litter or handbill bears the name of a person, the same shall create a rebuttable presumption that the person whose name appears on the object threw, dumped, or deposited it there.

(8) Violation and penalties. Any violation of this section shall be a civil offense punishable as follows:

(a) Any person who violates the provisions of this section shall be subject to a civil penalty of up to fifty (\$50.00) dollars for each separate offense.

(b) In lieu of or in addition to the penalty imposed in the above subsection (a), and except where infirmity or age or other circumstances would create an undue hardship, any such person may be ordered by the court in which the civil penalty is levied to pick up and remove litter from public property within the City of Halls and/or private property, with prior permission of the legal owner, for a reasonable prescribed period which is to be determined in the sole discretion of the presiding judge.

(9) Enforcement officers and procedures. Enforcement of this section may be by any law enforcement officer or agency, including the building inspector, code enforcement officer, or any other sanitation officer of the City of Halls, or the Lauderdale County Department of Health. All such enforcement officers are empowered and authorized to issue citations to any persons violating the provisions of this section, and may serve and execute all warrants, citations, and other process issued by the courts. In addition, mailing by certified mail of such warrant, citation, or other process to the last know address of the offender shall be deemed as personal service upon the person charged with the violation. (as added by Ord. #03-39, Oct. 2003)

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. (1980 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. (1980 Code, § 12-109)

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 recorder. No permit shall be issued by the recorder 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. (1980 Code, § 12-110)

16-111. Operation of trains at crossings regulated. 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 ten (10) consecutive minutes. (1980 Code, § 12-111)

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. (1980 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. (1980 Code, § 12-113)

16-114. Basketball goals in public right-of-way prohibited.

(1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the Town of Halls so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball 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. #04-44, Oct. 2004)

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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1980 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. (1980 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 (\$.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. (1980 Code, § 12-203)

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 said cost. From this deposit shall be deducted the expense to the municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality 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 municipality if the applicant fails to make proper restoration. (1980 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. (1980 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 municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for promptly upon the 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 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 municipality 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 municipality, 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. (1980 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 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. (1980 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 municipality if the municipality 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. (1980 Code, § 12-208)

16-209. Supervision. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1980 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 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 (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. (1980 Code, § 12-210)