TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS.
3. DRIVEWAYS AND DRAINAGE.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing highways, passageways, sidewalks and other thoroughfares (and places where the public gathers). (1) It shall be unlawful for any person, without legal authority or privilege, to intentionally, knowingly or recklessly obstruct a highway, street, sidewalk, railway, waterway, elevator, isle or hallway to which the public, or a substantial portion of the public, has access or any other place used for the passage of persons, vehicles or

¹Municipal code reference
Related motor vehicle and traffic regulations: title 15.
conveyances, whether the obstruction arises from the person's acts alone or from
the person's acts and the acts of others.

(2) It shall be unlawful for any person to disobey a reasonable request
or order to move issued by a person known to be a law enforcement officer, a
fireman, or a person with authority to control the use of premises to prevent
obstruction of a highway or passageway, maintain public safety by disturbing
those gathered in dangerous proximity to a fire, riot or other hazard.

(3) "Obstruction" means to render passage unreasonably inconvenient,
dangerous, and/or potentially injurious to person or property.

(4) 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. Provided further, however, that
during business hours only merchants may, for the purposes of receiving, selling
or exhibiting any goods, wares, merchandise or materials place the goods, wares,
merchandise or materials against the exterior walls of their building, provided
that there is at least six (6) feet clearance between the street and/or curb and
the displayed goods, wares, merchandise or materials.

Any violation of this section shall, upon conviction, be punishable by a
fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or
both, unless a lesser fine or a lesser period of incarceration be specified for any
such offenses which may also be an offense against the laws of the State of
Tennessee, in which event such lesser fine and/or such lesser period of
incarceration shall be controlling. (Ord. #95-695, Oct. 1995, as amended by Ord.
#95-703, Nov. 1995)

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, or sidewalk at a height of less than
fourteen (14) feet. (1975 Code, § 12-402)

16-103. Obstructing view at intersections prohibited. It is hereby
declared to be the policy of the city to maintain, insofar as possible, visibility at
all intersections in the city to a point where drivers approaching the
intersections upon any street shall, upon reaching a point 20 feet from the
intersection, have a clear field of vision for traffic approaching upon the in-
tersecting street for at least 100 feet.

Whenever, by reason of any growth in the corner of an intersection,
whether said growth be cultivated or natural, or by reason of any fence or other
obstructions, the visibility described in the preceding section is not present, the
city manager shall have the power to order the owner of said property to so clear
or trim such vegetation as to create the required visibility.

Should the owner of the property after receiving such an order from the
city manager fail or refuse to comply therewith, such failure or refusal shall be
a misdemeanor.
In addition to the penalties set forth in the penalty clause for this code, upon failure to comply with the order of the city manager within 30 days, the city manager shall have the right to proceed with city forces to so clear or trim the vegetation in question or remove the obstruction, so as to create the visibility described herein. In the event such work is done by the city after a failure or refusal of the property owner to comply with a due and proper order of the city manager, the entire cost thereof shall be a legal obligation of the property owner, and shall constitute a lien upon the property in question superior to all other liens against said property except for tax liens due the United States, the State of Tennessee, or this city, with which liens it shall be a lien of equal dignity. Said lien may be enforced in the same manner as all other municipal property liens. (1975 Code, § 12-403)

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. (1975 Code, § 12-404)

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 governing body. (1975 Code, § 12-405)

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. (1975 Code, § 12-406)

16-107. **Littering streets, alleys or sidewalks prohibited.** Except in the instance of properly containerized garbage and refuse on designated pick up days, it shall be unlawful for any person to litter, place, throw, blow, discharge or rake or allow to fall on any street, alley, sidewalk, the area adjacent to any sidewalk, or gutter, any refuse, glass, tacks, garbage, debris, weeds, grass, or grass clippings.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of

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1Municipal code reference
Refuse and anti-litter regulations: title 17.
incarceration shall be controlling. (Ord. #95-697, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

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. (1975 Code, § 12-408)

16-109. Abutting occupants to keep sidewalks clean, mowed, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean, free of debris, litter, and other objects which tend to obstruct or limit or interfere in any manner with the use of the public way and places for their intended purposes and such occupants of property abutting a sidewalk adjacent to which is located a strip of grass or other vegetation are likewise required to keep the grass and vegetation mowed and in a neat and trimmed condition.

Provided further, immediately after a snow, sleet or ice storm, event or occurrence, such occupants are required to remove all accumulated snow or ice from the sidewalk abutting the property abutting such premises.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-698, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

16-110. Parades 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 manager. No permit shall be issued by the city manager 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 immediately clean up the resulting litter. (1975 Code, § 12-410)

16-111. Disrupting a meeting or procession. It shall be unlawful for any person to intentionally prevent or disrupt a lawful meeting, procession, or

1Municipal code reference
Refuse and anti-litter regulations: title 17.
gathering, if the person substantially obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-694, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

16-112. Railroad crossings. (1) Construction, maintenance of crossings. All railroad companies operating trains across the streets of the city shall lay and keep in good repair the pavement at all such street crossings as provided herein. The surface of such pavement shall be on a level with the top of the rail of the tracks, and shall be laid between the rails and for a width of one foot on the outside of each outside rail of such tracks. The whole shall be so laid as to make a smooth and even surface, and when two (2) or more tracks are closer together than twenty (20) feet, pavement shall be laid in the space between each track. Failure on the part of any railroad company to comply with this section shall be a violation of this section.

(2) Crossing regulations. All railroad companies operating trains across any of the streets of the city shall conform to the following restrictions and regulations:

(a) Not more than one train of any kind shall be moved in any direction over a street crossing at one time except scheduled passenger and freight trains in operation as through trains.

(b) All switching and irregular trains, going back or forth over street crossings, shall clear the crossing.

(c) When a train has made a crossing in any direction, it shall remain standing, before recrossing, until the crossing is cleaned of traffic.

(d) No trains of any kind shall be allowed to stop upon any street crossing, except in case of accident or clear necessity.

(3) Obstruction of traffic on streets. It shall be unlawful for any conductor, engineer, or other employee of any railroad company which maintains tracks across any street in this city to obstruct the streets or prevent the free passage of traffic for longer than five (5) minutes at any one time while operating a railroad engine or train.

(4) Whistles and bells. (a) The whistle and bell of every engine or train shall be so operated so as to safeguard the public, provided, however, that unnecessary sounding of the whistle or bell to the disturbance of the public shall be avoided.

(b) It shall be unlawful for the engineer or other person to ring the bell or blow the whistle of any railroad engine or train in the city by means of any device by which such bell may be made to continue to ring
or such whistle to blow automatically or without action on the part of the engineer or other person.

(c) It shall be unlawful for any locomotive used regularly in the city for switching cars to be equipped with any mechanical or automatic device by which the bell of such locomotive may be rung, or the whistle thereon blown, without action on the part of the engineer or other person. (1975 Code, § 12-411)

16-113. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push or place any vehicle across or upon any sidewalk in such a manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1975 Code, § 12-412)

16-114. Mailboxes, etc. No mailbox or other receptacle designed for the receipt of mail, circulars, notices, newspapers, or other similar materials shall be erected upon the right-of-way of any street or highway, or within ten (10) feet thereof unless such receptacle shall conform to the following regulations:

(1) The receptacle shall conform to all regulations of the United States Post Office Department.

(2) The receptacle shall be of metal, and shall be erected on a post or wall of proper height to be reached from the window of any vehicle driving on the street or highway.

(3) The receptacle shall bear, either upon one side, or upon a plaque or similar structure on the top thereof, the surname and street address of the person using such box, plus such additional information as the user or owner desires to put thereon.

(4) Wherever a single receptacle is used by two or more families it shall bear the surname of each family using it in addition to the street address. (1975 Code, § 12-413)

16-115. Official street map and street names. (1) The street map prepared by the city engineer, designated MP-1 and dated December 6, 1976, and showing the approval of the City Commission of the City of Red Bank and of the Chattanooga-Hamilton County Regional Planning Commission on December 7, 1976, be, and the same is hereby adopted as the official street map of the City of Red Bank, Tennessee.

(2) The list of street names prepared by the city engineer's office, and approved by the board of commissioners on December 7, 1976, and by the Chattanooga-Hamilton County Planning Commission on December 15, 1976, is hereby adopted as the official list of street names of all streets in the City of Red Bank.
A copy of the map described in subsection (1) and a copy of the street list described in subsection (2) hereof shall be attached to a copy of this chapter, and these said three documents shall be maintained together with the books of ordinances of the city at the city hall.  (1975 Code, § 12-414)

16-116. Erosion control and obstruction of streets, sidewalks and rights-of-way.  (1) No person, corporation, landlord, contractor, subcontractor, excavator, tenant, group or entity owning, controlling, working on or occupying any land, building or premises located within the city shall cause or allow to be maintained within the city any condition or occurrence whereby any dirt, gravel, mud, rock, or debris of any kind or nature deposited from the property or realty so owned, occupied, worked or maintained shall be allowed or caused to wash, fall, run, flow or occupy, either partially or completely, any city street, road, sidewalk, or public right-of-way or place, except as provided in this part.

(2) In the event of construction, driveway, hillside, yard or other erosion and/or any other prohibited deposit of debris or material whether caused naturally or by the act of any person as referenced above shall occur, the owner, tenant, contractor or such other person, corporation or entity controlling said real estate shall take such measures as are necessary to:

(a) Control and prohibit future and further erosion onto the city streets, sidewalks, or public right of way or place; and

(b) Immediately cause any existing blockage, debris and/or material deposited from the premises in question to be cleaned and removed therefrom.

(3) This part shall not apply to seasonal leaf raking and pick up activities.

(4) Boxes, barrels, merchandise, other articles. It shall be unlawful for any person to obstruct the streets or sidewalks with boxes, barrels, machinery, agricultural implements, etc., except when receiving and forwarding goods, wares and merchandise, and then only for a reasonable time.

(5) Leaving wood, lumber on sidewalks. It shall be unlawful for any person to throw and leave, or permit to be thrown and left, for more than an hour, wood or lumber of any kind on any sidewalk in the city.

(6) Dumping earth, building debris on streets. It shall be unlawful for any person to dump or deposit upon any paved street in the city or cause the same to be done, any earth, mortar or builder's rubbish of any kind intended to be conveyed from the street, until means of transportation have been procured for the removal of the same, and in no case shall it be allowed to remain upon the pavement for a longer period than five (5) hours.

(7) Building materials on streets. (a) The portion of any street in the city which may be occupied by the material necessary for a building in course of construction, alteration or repair shall not exceed the dimensions of the front of the premises being built upon, and twelve and one-half (12 1/2) feet in addition on each side and shall not exceed
one-third (1/3) of the street in breadth. Such occupation of a street shall not be prolonged an unreasonable period. All brick shall be properly stacked when deposited in the street and sufficient way shall be left unencumbered at all times between such building material and the curbstone on the side of the street opposite the building for the passage of vehicles.

(b) No material shall be placed within four (4) feet of the tracks of any railroad or of any fire cistern, fireplug, pump or manhole for any sewer or conduit system or crossing, or within twelve (12) inches of any curbstone unless provision is made for the free passage of water in the gutters. A sufficient unobstructed passageway for traffic shall be maintained at all times along the street. Where it is possible so to do, as soon as any building is up to the sidewalk grade the sidewalk shall immediately be constructed and a sufficient passageway kept open at all times over the same.

(8) Protection of streets, sidewalks on which deposits made. Any person, before depositing upon the paving of any street or sidewalk any earth, mortar or other material calculated to injure the structure or appearance of the pavement in any way, shall first lay upon the pavement such covering as may be required by the department of public works, streets and airports, of such dimensions as may be necessary to protect the surface without unnecessarily blocking the roadway or otherwise interfering with traffic.

(9) To be lighted at night. (a) It shall be unlawful for any person to place or leave any material or obstruction of any kind on the streets or sidewalks of the city at night without placing thereon a sufficient number of red lights or flares to warn all persons before reaching such obstruction that there is danger and that the street is obstructed.

(b) This section shall be construed to apply to all kinds and types of materials for constructing buildings and other structures, railroads and tracks and to rails, boxes, poles, wires, bricks, mortar, plank, sand and any other things that prevents the street or sidewalk from being clear and free from obstructions.

(c) All persons so obstructing the street or sidewalk including any contractor or his employee in charge of the obstruction shall see to it that this section is fully complied with, and that such red lights or flares are placed on such obstruction at twilight each night and kept burning until daylight.

(10) Liability for failure to light. When any person neglects to comply with § 16-416(9) and an accident results by reason of such negligence causing damage, the person whose negligence caused the accident shall be held responsible therefor, and if the city is required to pay out any money as damages therefor, the city attorney shall prosecute the offender and bring an action against him to recover any damages that the city may have sustained by reason of his failure to comply.
16-117. Tampering with construction signs and barricades; travel on closed roads. (1) Definitions. (a) "Barricade" means a barrier for obstructing the passage of motor vehicle traffic.

(b) "Detour sign" means any sign placed across or on a public road of the state, the county or a municipal authority, or by their contractors, indicating that such road is closed or partially closed, which sign also indicates the direction of an alternate route to be followed to give access to certain points.
"Fence" means a barrier to prevent the intrusion of motor vehicle traffic.

"Officially closed" means a highway or road that has been officially closed by a governmental unit, the Department of Transportation, or the city governmental unit, including the county.

"Warning sign" means a sign indicating construction work in the area.

It shall be unlawful for any person in the city to intentionally:

(a) Destroy, knock down, remove, deface or alter any lighting flasher letter or figures on a detour or warning sign set upon a highway or road in the City of Chattanooga.

(b) Knock down, remove, rearrange, destroy, deface or alter any letter or figures on a barricade or fence erected on any highway or road located in the city.

(c) Drive around or through any barricade or fence on any officially closed highway or road located in the city.

(d) To drive around such detour sign or barricade or fence or ignore or disregard a warning sign before such road has been officially opened to public traffic by the Tennessee Department of Transportation or by the county or by a municipal officer of the agency, division, department or officer responsible for constructing or maintaining such roads.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-696, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)
CHAPTER 2

EXCAVATIONS

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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).

Ordinances #99-789, July 1999, and 12-969, March 2012, (on file in the office of the city recorder) amended, replaced and/or deleted many of the original sections of this chapter.
16-201. **Short title.** This chapter shall be known and may be cited as "Street Excavation and Restoration of Paving Procedures Ordinance." (1975 Code, § 12-101, as amended by Ord. #12-969, March 2012)

16-202. **Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Applicant" is any person making written application to the city manager for an excavation permit hereunder.
2. "Building official" the person designated by the city manager who shall serve as the supervisor for the inspection or in his or her absence, the subordinate assigned or delegated direct responsibility for the administration of this chapter.
3. "City" is the City of Red Bank, Tennessee.
4. "City commission" or "Commission" is the City Commission of the City of Red Bank, Tennessee.
5. "City inspector" a person employed or otherwise engaged by the city and acting under the authority of the city manager to physically inspect any excavation for conformity with the permit and other provisions of this chapter.
6. "City manager" is the city manager of the City of Red Bank, Tennessee.
7. "Emergency" a sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.
8. "Excavation" any excavation or tunneling of any public street right-of-way including, but not limited to, excavation in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes, lines, driveways, private streets, poles, guy wires, signs, or other utilities, private structures, or facilities.
9. "Excavation work" is the excavation and other work permitted under an excavation permit and required to be performed under this chapter.
10. "Permittee" is any person who has been granted and has in full force and effect an excavation permit issued hereunder.
(11) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
(12) "Street" is any street, highway, sidewalk, alley, avenue, or other public way or public ground in the city.
(13) "Working day" any day when the city office is open for the transaction of normal business. (1975 Code, § 12-102, as amended by Ord. #12-969, March 2012)

16-203. **Permit required.** It shall be unlawful for any person to make any excavation in or to tunnel under any street, curb, alley, or public right-of-way in the city without first having obtained a permit from the building official or his designees and complying with the provisions of this chapter. It shall be unlawful to violate or to vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an excavation without a permit when emergency circumstances demand the work to be done immediately, and provided further that the person shall apply for a permit on the next working day and shall otherwise and immediately thereafter comply with all other provisions of this chapter. (1975 Code, § 12-103, as replaced by Ord. #12-969, March 2012)

16-204. **Applications.** (1) Applications for such permits shall be made to the building official and shall state thereon the location/address of the intended excavation or tunnel, the size thereof, the purpose thereof, the name of the person doing the actual excavating, and the name of the person for whom the work is being done. The application form shall contain a contractual undertaking and guaranty on the part of the applicant and, the permittee, if the permittee will comply with all the terms and provisions of this chapter and all other conditions imposed by the city with respect to the permit, whether or not the same be expressed verbatim on the face of the permit. The application shall further contain a contractual undertaking and guaranty on the part of the applicant and permittee, if the applicant and permittee, if different from the applicant, does not comply with the terms, provisions and conditions set forth, the applicant and/or permittee shall be financially liable to the city for the cost of all repairs and/or corrections made by the city and/or by its subcontractors and for all damages incurred by the city occasioned by such failure to comply. Said application shall also provide that the applicant shall guarantee the integrity of the work performed for a period of twenty-four (24) months from the date upon which the refilled excavation is accepted by the city manager or his designee.

(2) The applicant shall disclose any foreseeable lane or sidewalk closures or detours during excavation. As a condition of issuing a permit, all applicants must agree in writing as part of the application to comply with all ordinances and laws relating to the work to be done. The building official or his
designee shall consider each application for a permit filed under this article, under all facts and circumstances shall grant or refuse the permit within five (5) working days and shall endorse his action on the application. The action of the building official in granting or refusing a permit shall be final, except as it may be subject to review at law. A permit may be refused for the following reasons:

(a) The proposed excavation should be redesigned to mitigate a potential safety hazard;
(b) The proposed excavation should be redesigned to mitigate damage within the right-of-way;
(c) The proposed excavation cannot be safely made in the public right-of-way;
(d) The proposed restoration plan does not meet the minimum standards for restoration;
(e) The applicant has willfully failed to comply with conditions of prior permits issued to the applicant; provided that such disqualification shall be removed upon correction of any such defects;
(f) For failure to satisfactorily comply with any one or more of the terms, provisions or conditions of this chapter;
(g) For other good cause in the discretion of the building official.

Provided that as to an excavation done in emergency circumstances the application shall be completed on the next working day; and the building official or his designees shall review the actual work completed for conformity with the requirements hereof. (1975 Code, § 12-104, as amended by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-205. Application and excavation permit fee. Each application shall be accompanied by a fee, established initially, as follows:

(1) Permit fee of two hundred fifty dollars ($250.00) for transverse cuts in pavement, subject to the provisions of subsection (11), below.
(2) For longitudinal cuts in pavement the permit fee of one dollar ($1.00) per foot shall be charged (two hundred fifty dollars ($250.00) minimum), subject to the provisions of subsection (11), below.
(3) Permit fee of fifty dollars ($50.00) for cuts in the sidewalk, subject to the provisions of subsection (11), below.
(4) Permit fee of one hundred dollars ($100.00) for cuts in the curb and/or curb and gutter, subject to the provisions of subsection (11), below.
(5) Street cut permit is not required for cuts outside the sidewalk and street pavement.
(6) Written notification of intent to work in a city right-of-way must be received at least twenty-four (24) hours prior to beginning work, even if a permit is not required, except in emergencies. E-mail is considered a written notice.
(7) Permits for relocation or installation of fire hydrants will be required when requested by the city, but no fee (including administrative fees) will be required.

(8) Multiple cuts, each not exceeding twenty-five (25) square feet in area, when required in a single block or within a work zone distance of two hundred fifty feet (250') as part of a single project, are considered as one (1) cut. Permit and fee will be required for a single cut under these conditions. If the cut exceeds two hundred fifty feet (250'), or multiple cuts within a block or a work zone greater than two hundred fifty feet (250'), then the entire lane that is disturbed by construction shall be repaved from intersection to intersection.

(9) Neither permits or fees will be required when work in the right-of-way is conducted as part of a city street improvement project, including resurfacing, where the utility is required to move their facilities as a result of the city project nor shall fees be required for routine maintenance and repairs by the Hamilton County Water and Wastewater Treatment Authority (WWTA), provided, however, that WWTA and its authorized and approved subcontractors shall nevertheless complete an application and otherwise be subject to all other provisions of this chapter. In addition, WWTA may utilize subcontractors so long as the permit is issued to WWTA and WWTA's running bond shall stand as surety for compliance with the requests of this chapter.

(10) Fees shall not be waived under any other conditions.

(11) When it is determined that non-emergency work in the city right-of-way has proceeded without the purchase of a permit, the contractor or utility shall immediately purchase a street cut permit, and the fee for the permit shall be double the normal fee; no further permits shall be issued to the contractor or utility until such time as the improper work is removed and replaced in accordance with this code and such person shall be subject to the penal provisions of this chapter and each day of such failure or violation shall constitute a separate offense.

(12) Where work in the city right-of-way is self-performed by one of the following entities, or by one of the entity's approved contractors, the fee for each permit shall be invoiced monthly. Invoicing may be provided for:

(a) Electric Power Board of Chattanooga (EPB);
(b) Tennessee-American Water Company (TAWC);
(c) Chattanooga Gas Company;
(d) AT&T;
(e) Comcast Cable Company;
(f) Hixson Utility District (HUD);
(g) Hamilton County Water and Wastewater Treatment Authority (WWTA).

(13) The amounts of all fees herein above provided may be increased from time to time by resolution of a majority of the board of commissioners without the necessity of amending the chapter, and without prior notice to any

16-206. **Manner of excavating — barricades and lights.**  (1) Any person making any excavation or tunnel shall do so according to the specifications and standards issued by the city official. In accordance with the then currently adopted version of the Manual on Uniform Traffic Control Devices (MUTCD) sufficient and proper barricades, lights and other traffic control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked, a temporary sidewalk shall be provided which shall be safe for travel and convenient for users. No work shall be done which deviates from the approved plans and until a change of plans has been secured from the building official. All expenses of such safety measures and temporary sidewalk shall be borne by the applicant or owner.

(2) The city manager shall provide each permittee at the time a permit is issued hereunder a copy of the permit which shall include the permit number and the expiration date. It shall be the duty of any permittee hereunder to keep the permit on site of the excavation work. It shall also be unlawful for any person to produce any such permit at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit. Permits shall expire after one hundred eighty (180) days and all excavation work performed must be completed within sixty (60) days of commencing. (1975 Code, § 12-106, as replaced by Ord. #12-969, March 2012)

16-207. **Bond required.**  When permits are required to excavate or in any way obstruct any street in the city, the building official shall require from such applicant, before granting permit, a bond with good and sufficient, as may be determined from time to time by the building official, sureties acting with consent of the city manager, conditioned to secure the city against all loss, damage or injury of any kind which may result to the city by reason of such excavation or obstruction; provided, that public utilities and/or persons engaged in the business of contracting shall be allowed to giver an annual bond, instead of a bond for each obstruction such annual bond in every instance to be renewed at least once every twelve (12) months. (1975 Code, § 12-107, as amended by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-208. **Manner of excavating street.**  (1) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated material from the trenches, must be placed where they will cause the lest possible inconvenience to the public. All pavement, where trench excavations are to be made, shall be saw cut. Cutting the street with a jackhammer or a hoe-ram is not permitted.
(2) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. He shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the Manual on Uniform Traffic Control Devices, copies of which are on file in the public works department, and may be used as a guideline for proper positioning of signs and devices.

(3) Where difficult or potentially hazardous conditions exist, competent flagmen shall be provided to effect a safe and orderly movement of traffic. Where insufficient traffic lanes exist because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee shall be responsible for providing a flagman. In the event the building official shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, he shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this chapter.

(4) On main thoroughfares and in congested districts, sufficient traffic lanes shall be kept open at all times to permit substantially normal traffic flow. Unless this can be accomplished, work shall be done only during the period between 9:00 A.M. and 4:00 P.M. or between 7:00 P.M. and 7:00 A.M., as the city building official may designate.

(5) For backfill in roadway areas, the contractor shall provide six inches (6") of graded aggregate base above the utility's main line. From top of graded aggregate base backfill to bottom of paving, the backfill material shall be flowable fill with a compressive strength of 200-250 psi in forty-eight (48) hours. Flowable fill shall be placed a minimum of forty-eight (48) hours prior to the placing of the asphalt or concrete topping. Where it is impractical to use flowable fill because of terrain, slope, width of trench, or other situations, the material for the backfill in the roadway areas may be approved for cement treated aggregate base at the sole discretion of the city building official. Each eight inch (8") layer of backfill shall be thoroughly compacted by means of a mechanical tamp. Other backfill materials may be acceptable, but prior approval for the substitution shall be determined by the city building official or his designee.

(6) Backfill for trenches within the sidewalk areas shall be compacted graded aggregate base instead of loose washed stone. Each eight inch (8") layer of graded aggregate base shall be thoroughly compacted by means of mechanical tamp.

(7) If a perpendicular cut reaches the centerline of the roadway, the asphalt must be replaced from curb to curb and a minimum of ten feet (10') on each side of the centerline of the excavation. (as added by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)
16-209. Liability and responsibility for repair. (1) Any person who shall properly make any excavation or other change to the street right-of-way, and shall have same inspected by the building official or his designee and shall be relieved from any liability for any defects due to inadequate workmanship or defective materials provided the excavation shall remain free from defects for twenty-four (24) months following installation.

(2) If a contractor, utility, or other entity makes five (5) or more excavations within one (1) block of a city right-of-way or within a work zone distance of two hundred fifty feet (250') within the city right-of-way, whichever is shorter, causing disruption to any part of the pavement within two (2) years after said right-of-way has been resurfaced or constructed, said contractor, utility or other entity shall repave the entire street for the distance of the city block or two hundred fifty feet (250'), said distance being the distance utilized to require the repaving. Said repaving shall be done to the standards approved by the city building official and shall be done under the supervision and control and at the direction of the city. The contractor, utility, or other entity shall bear the entire cost of such repaving. In the event any such contractor, utility, or other entity fails to repave as required herein, then such contractor, utility or other entity shall be prohibited from acquiring any permits for additional excavations in any city right-of-way until such time as the repaving required by this section is completed and approved by the city inspector.

(3) The permit application and permit shall require, as a condition of its issuance, that the applicant and permittee, if different from the applicant, shall be responsible for all enforcement costs of the terms of the permit including attorney fees incurred by the City of Red Bank in enforcing the terms, provisions and requirements of such permit, and such application and permit form(s) shall require the signature of the applicant and permittee acknowledging and agreeing to such. (1975 Code, § 12-108, as renumbered by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-210. Inspection. It shall be the responsibility of any person granted a permit to schedule an inspection of the permit work by the city's inspector upon such conditions as may be specified in the permit. The utility or contractor making any changes to a city right-of-way, shall, at a minimum, have the following inspections performed by the city's inspector.

(1) After the repairs or installation of the new conduit or piping and before the graded aggregate base fill over the pipe has been placed;

(2) During the placement of the flowable fill or other approved fill in the sole discretion of the city inspector; and

(3) Final completion.

(4) Should inspections be required after normal working hours or on weekends, the contractor or utility making the changes to the city right-of-way, shall reimburse the city for the inspector's time at a rate to be determined in accordance with the personnel policies in effect at the time the repairs are
performed. When it is determined that improper work has been performed in
the city's right-of-way, the contractor or utility responsible for the work shall
remove improper work and reinstall the work in accordance with the city
standards. If a permit was not obtained, the contractor or utility shall purchase
a permit and the fee shall be double the normal fee. No future permits will be
issued to the violating contractor or utility until the improper work has been
corrected. (1975 Code, § 12-109, as renumbered by Ord. #99-789, July 1999, and
replaced by Ord. #12-969, March 2012)

16-211. Specification. Upon issuance of each permit, the building
official or his designees shall specify minimum restoration standards applicable
to the permit. Provided that where the work involved is greater in scope than
provided for by standard specifications as determined by the building official.
The permittee shall be required to submit suitable plans of installation and
street restoration for approval prior to issuance of a permit. (1975 Code,
§ 12-110, as renumbered by Ord. #99-789, July 1999, and replaced by Ord.
#12-969, March 2012)

16-212. Insurance. Each person applying and as applicable each
permittee if different from the applicant for a permit shall file a certificate of
insurance (or provide other proof of insurance in form and substance to be
approved by the city attorney) indicating that he is insured, or the applicant
shall provide an indemnity agreement with security satisfactory to the city
attorney, against claims of personal injury or property damage which may arise
from or out of the performance of the work, whether such performance be by the
applicant, a contractor or subcontractor, or anyone employed by him. Such
insurance or indemnity agreement shall cover collapse, explosive hazards, and
underground work by equipment on the street, and shall include protection
against liability arising from completed operations. The minimum amount of
the liability insurance for bodily injury shall not be in an amount less than three
hundred thousand dollars ($300,000.00) for each person and one million dollars
($1,000,000.00) for each accident and for property damages in an amount not
less than one hundred thousand dollars ($100,000.00), unless other higher limits
are established by the Tennessee Government Tort Liability Act, in which event
such higher limits shall automatically be controlling and shall then and
thereafter be here applicable as the minimum acceptable limit(s) of such
insurance. (as added by Ord. #12-969, March 2012)

16-213. Supervision. The building official, or his designee, shall from
time to time inspect all excavations and see to the enforcement of the provisions
of this chapter. The permittee shall give notice to the building official, or his
designee, before refilling any such excavation or tunnel and said work may not
commence until the inspector arrives at the site or otherwise gives permission
to proceed. (as added by Ord. #12-969, March 2012)
16-214. Clearance for fire equipment. The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions. (1975 Code, § 12-111, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-215. Protection of traffic. The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. All barricades and crossings shall be constructed subject to the approval of the city. (1975 Code, § 12-112, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-216. Removal and protection of utilities. The permittee shall not interfere with any existing utility without the written consent of the city manager and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timber or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage. (1975 Code, § 12-113, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-217. Sidewalk excavations. Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge, over said excavation on the line of the sidewalk, which shall be subject to the approval of the city. (1975 Code, § 12-114, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)
16-218. **Care of excavated material.** All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians, or users of the street, and so that as little inconvenience as possible is caused to those using the street and adjoining property. (1975 Code, § 12-116, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-219. **Damage to existing improvements.** All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the city manager shall have the authority to cause said necessary labor and materials to be furnished by the city and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond therefor. (1975 Code, § 12-117, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-220. **Property lines and easements.** Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and shall be the permittee's responsibility to confine excavation work within these limits. (1975 Code, § 12-118, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-221. **Clean-up.** As the excavation work progresses all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city manager. From time to time as may be ordered by the city manager and in any event immediately after completion of said work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from said work. Upon the failure of the permittee to clean up within twenty-four (24) hours after having been notified to do so by the city manager, the work may be done by the city manager. The cost thereof shall be charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided for herein. (1975 Code, § 12-119, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-222. **Protection of water courses.** The permittee shall provide for the flow of all water courses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the city manager may direct. The permittee shall not unreasonably obstruct the gutter of any street. He shall use all proper
measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from a failure to so provide. (1975 Code, § 12-120, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-223. **Breaking through pavement.** Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four (4) feet or over in depth, the pavement in the base shall be removed to at least six (6) inches beyond the outer limits of the sub-grade that is to be disturbed in order to prevent settlement, and a six (6) inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement. (1975 Code, § 12-121, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-224. **Restoration of surface.** The permittee shall restore the surface of any street broken into or damaged, as a result of the excavation work, to its original condition in accordance with the specifications of the city. The permittee maybe required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well-tamped into place and this fill shall be topped with a minimum of at least one inch of a bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the city. If in the judgment of the city manager it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions he may direct the permittee to lay a temporary pavement of wood or other suitable material designated by him over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the city to restore the street to its original and proper condition, or as near as may be.

Acceptance or approval of any excavation work by the city manager shall not prevent the city from asserting a claim against the permittee and his or its
surety under the surety bond required hereunder for incomplete or defective work if discovered within twenty-four (24) months from the completion of the excavation work. The city manager's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder. (1975 Code, § 12-123, as renumbered by Ord. #99-789, July 1999)

16-225. City's right to restore surface. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, the city manager, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof and twenty-five per cent (25%) of such cost in addition for general overhead and administrative expenses. The city shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided and the city shall also enforce its rights under the permittee's surety bond provided pursuant to this chapter.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two (2) years after restoring it to its original condition. (1975 Code, § 12-124, as renumbered by Ord. #99-789, July 1999)

16-226. Trenches in pipe laying. Except by special permission from the city manager, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the city manager. No timber bracing, lagging, sheathing or other lumber shall be left in any trench. (1975 Code, § 12-125, as renumbered by Ord. #99-789, July 1999)

16-227. Emergency action. In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to care or remedy the dangerous condition. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the city manager's office is open for business, and shall not proceed with permanent repairs without first obtaining an

16-228. **Noise, dust and debris.** Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 P.M. and 7:00 A.M. shall not use, except with the express written permission of the city manager or in case of any emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (1975 Code, § 12-128, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-229. **Excavations barred in new street improvements.** Whenever the city commission enacts any ordinance or resolution providing for the paving or repaving of any street, the city manager shall promptly mail a written notice thereof to each person owning any sewer, main, conduit or other utility in or on any real property whether improved or unimproved, abutting said street. Such notice shall notify such persons that no excavation permit shall be issued for openings, cuts or excavations in said street for a period of five (5) years after the date of enactment of such ordinance or resolution. Such notice shall also notify such persons that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than forty-five (45) days from the date of enactment of such ordinance or resolution. The city manager shall also promptly mail copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to state agencies and city departments or other persons that may desire to perform excavation work in said city street.

Within said forty-five (45) days every public utility company receiving notice as prescribed herein shall perform such excavation work subject to the provisions of this chapter, as may be necessary to install or repair sewers, mains, conduits or other utility installations. In the event any owner of real property abutting said street shall fail within said forty-five (45) days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in said street shall be forfeited for a period of five (5) years from the date of enactment of the ordinance or resolution. During said five (5) year period no excavation permit shall be issued to open, cut or excavate in said street unless in the judgment of the city manager, an emergency as described in this chapter exists which makes it absolutely essential that the excavation permit be issued.
Every city department or official charged with responsibility for any work
that may necessitate any opening, cut or excavation in said street is directed to
take appropriate measures to perform such excavation work within said
forty-five (45) day period so as to avoid the necessity for making any openings,
cuts or excavation in the new pavement in said city street during said five (5)
year period. (1975 Code, § 12-129, as renumbered by Ord. #99-789, July 1999,
and Ord. #12-969, March 2012)

16-230. Preservation of monuments. The permittee shall not disturb
any surface monuments or hubs found on the line of excavation work until
ordered to do so by the city manager. (1975 Code, § 12-130, as renumbered by
Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-231. Maintain drawings. Users of sub-surface street space shall
maintain accurate drawings, plans, and profiles showing the location and
character of all underground structures including abandoned installations.
Corrected maps, satisfactory to the city manager, shall be filed with the city
within six (6) months after new installations, changes or replacements are
made. (1975 Code, § 12-132, as renumbered by Ord. #99-789, July 1999, and
Ord. #12-969, March 2012)

16-232. Chapter not applicable to city work. The provisions of this
chapter shall not be applicable to any excavation work under the direction of
competent city authorities by employees of the city or by any contractor of the
city, performing work for and in behalf of the city necessitating openings or
excavations in streets. (1975 Code, § 12-133, as renumbered by Ord. #99-789,
July 1999, and Ord. #12-969, March 2012)

16-233. Liability of city. This chapter shall not be construed as
imposing upon the city or any official or employee thereof any liability or
responsibility for damages to any person injured by the performance of any
excavation work for which an excavation permit is issued hereunder; nor shall
the city or any official or employee thereof be deemed to have assumed any such
liability or responsibility by reason of inspections authorized hereunder, the
issuance of any permit, or the approval of any excavation work. (1975 Code,
§ 12-136, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March
2012)

16-234. Penalty. Any person, firm, corporation, entity and/or utility
violating any of the provisions of this chapter shall be liable to a fine in the
amount of not to exceed $50.00 per day, with each day that said condition or
occurrence remains uncomplied with and/or unremedied constituting a separate
offense. (as added by Ord. #99-796, Oct. 1999, and Ord. #12-969, March 2012)
CHAPTER 3

DRIVEWAYS AND DRAINAGE

SECTION
16-301. Definitions.
16-302. Purpose of chapter.
16-303. When permit required.
16-304. Prerequisites for driveway permit.
16-305. Prerequisites for drainage carrier installation permit.
16-306. When installation of drainage carriers may be required.
16-307. Driveway requirements.
16-308. City manager to promulgate rules and regulations.
16-309. Drainage tile to be furnished by or at expense of property owner.
16-310. Refusal of property owner to make required installations.
16-311. Enforcement.

16-301. Definitions. Wherever used in this chapter, the following terms shall have the meanings ascribed to them in this section, to-wit:

(1) "Driveway." Any point of entrance from any street or highway in the city into the private property of any individual, person, firm or corporation, including sidewalks, driveways, and paths whether paved or unpaved.

(2) "Permit." A permit duly issued by the city manager of the City of Red Bank, Tennessee, authorizing the construction, reconstruction or improvement of any driveway as herein defined. (1975 Code, § 12-201)

16-302. Purpose of chapter. The purpose of this chapter is to regulate the construction of driveways as herein defined so as to prevent insofar as possible the drainage of water and debris into the streets of the city, and the resulting deterioration and damage to said streets, and to require proper and adequate drainage along such streets where necessary to prevent damage. (1975 Code, § 12-202)

16-303. When permit required. No person shall construct, reconstruct, improve, alter or change any driveway entering or departing from a municipal street, nor shall any person install any tile or pipe for drainage purposes along any street, whether upon the street right-of-way or upon the private property adjoining the street right-of-way without first obtaining therefor a municipal permit. (1975 Code, § 12-203)

16-304. Prerequisites for driveway permit. Any person desiring to construct, reconstruct, improve, alter or change any driveway within the corporate limits shall apply to the city manager for a permit to do so, which application shall be made upon forms supplied by the city. In addition to the
information required upon the application, the applicant shall submit a map, sketch or drawing, showing the following information:

1. Number of lineal feet of contact between the driveway and the street.
2. The type of drainage under the driveway, and the size of tile, if any, to be used.
3. The amount of variation in elevation between the driveway and the street.
4. Wherever the elevation of the driveway is higher than the street, the per cent of grade of the driveway along its entire length.
5. Such other information as may be required by rules promulgated by the city manager. (1975 Code, § 12-204)

### 16-305. Prerequisites for drainage carrier installation permit.

Any person desiring to install drainage tile or other carriers of water in any drainage ditch along any public street, whether such ditch be located upon the street right-of-way, or upon the private property of any individual, shall make application to the city manager, upon forms provided by the city, for a permit to do so. In addition to the information required upon the application, the applicant shall submit a map, sketch or drawing showing the following information:

1. The number of lineal feet of tile or other drainage carrier to be installed.
2. The type and size of tile or drainage carrier.
3. Such other information as may be required by rules promulgated by the city manager, including a profile of the ditch showing the elevation or grade at all material points, if deemed necessary. (1975 Code, § 12-205)

### 16-306. When installation of drainage carriers may be required.

The city manager, whenever he deems it necessary for the protection of the streets of the city, may require the owner of any lot or any part of a lot in the city adjoining any public street to install tiles or other carriers of water in the drainage ditch at any point where a driveway enters the street from such lot. Such tiles shall be of a size and material prescribed by the city manager. (1975 Code, § 12-206)

### 16-307. Driveway requirements.

No driveway shall be constructed, reconstructed, improved, altered or changed unless it shall conform to the following requirements:

1. The driveway shall not extend beyond the property line between the street and the private property adjoining.
2. The drive shall be so constructed that no point at the entrance thereof to the street shall be higher than the highest point nor lower than the lowest point in the paved portion of the street upon which it abuts.
(3) Each such driveway shall have installed, at the point where it adjoins the street right-of-way, a grating, and the driveway shall be so constructed that all water draining therefrom shall drain into this grating. Provided, however, that this sub-section shall not apply to any driveway where the grade of the driveway does not exceed five per cent (5%) at any point. (1975 Code, § 12-207)

16-308. City manager to promulgate rules and regulations. The city manager shall promulgate, or cause to be promulgated, rules and regulations governing construction, reconstruction, improvement, alteration, or changing of driveways abutting upon municipal streets, and the installation of tile or other carriers of water in any drainage ditch herein above referred to. (1975 Code, § 12-208)

16-309. Drainage tile to be furnished by or at expense of property owner. With regard to the installation of tile, the property owner may, at his option, furnish the tile required, which tile will be installed by the city at no cost to the property owner, or, in the alternative, the property owner may request the city to both furnish and install the tile, in which event the property owner shall be indebted to the city for the actual cost of the tile installed, excluding labor. (1975 Code, § 12-209)

16-310. Refusal of property owner to make required installations. Whenever in the discretion of the city manager it is necessary to install tile in any drainage ditch in this city to effect the purposes of this chapter, the city recorder shall give the owner of the abutting lot or lots written notice specifically setting forth the work to be done, and the length of time in which same must be done, provided that the time fixed thereby shall not be less than thirty (30) days. If the owner of said lot or lots shall fail or refuse to build or install said tiles or other carriers of water within the time required by such notice, and in conformity with the provisions of this chapter and the rules and regulations adopted by the city manager, the city may do the work with city employees and equipment, or may contract for doing the same and pay the cost thereof out of the street fund. In the event the work is done in this manner, all mounts paid by the city for materials only shall be a lien upon such lot or property and may be enforced by attachment at law or in equity or in any other manner provided by law, or the amount may be recovered against said owner or owners by suit before any court of competent jurisdiction, and the city attorney is authorized to proceed to enforce the lien declared and fixed by law under this chapter. (1975 Code, § 12-210)

16-311. Enforcement. In addition to all other methods of enforcement authorized or described herein, the city shall have the right to correct any violation hereof by making the installations necessary, or by correcting any
construction, reconstruction, or alteration so as to make the same comply with
the provisions of this chapter, and shall have the right to recover from the
offending party, including the owner of the property and any lessee, tenant,
contractor or subcontractor, the actual amount expended by the city in
correcting the violation or bringing the construction into conformity with the
provisions of this chapter. The amounts expended by the city hereunder shall
be and constitute a lien upon such lot or property, and may to enforced either at
law or in equity by all lawful means for the enforcement of such liens, or may
be recovered by suit at law or in equity against the offending party. (1975 Code,
§ 12-211)