

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.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Parades and assemblies regulated.
- 16-109. Animals and vehicles on sidewalks.
- 16-110. Property numbers.
- 16-111. Shrubbery, trees, or hedges on right-of-way.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street or alley for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials or washing or servicing vehicles except in an emergency.

No person shall use or occupy any portion of any sidewalk or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise, or materials except that merchants having a business license may use that portion of the sidewalk or right-of-way lying between any building they own or rent and the street for such purposes so long as such use will not substantially impede the flow of pedestrian traffic. (1979 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen (14) feet. (1979 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, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1979 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> (1979 Code, § 12-105)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen. (1979 Code, § 12-106)

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. (1979 Code, § 12-107)

16-107. 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. (1979 Code, § 12-109)

16-108. Parades and assemblies 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 chief of police. No permit shall be issued by the chief of police 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.

It shall be unlawful for any group or assembly of persons whose standing, remaining, or congregating upon any public street or sidewalk in the City of Fayetteville shall obstruct, prevent, or interfere with the free or unobstructed use of said street or sidewalk by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the City of Fayetteville or other peace officer.

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

It shall be unlawful for any person, group, or assembly of persons whose standing, remaining, or congregating at or upon any entrance, alcove, or steps leading from a public street or sidewalk to the entrance or exit of any public or private building or structure in the City of Fayetteville shall obstruct, prevent, or interfere with the free or unobstructed use of said entrance or exit, or of the street or sidewalk adjacent thereto, by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the City of Fayetteville or other peace officer. (1979 Code, § 12-111)

16-109. 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 to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1979 Code, § 12-113)

16-110. Property numbers. There is hereby adopted by reference and assigned to the property and residences in the City of Fayetteville the property numbers contained in the "Telephone Street Guide and Household Directory," pages 75 to 115, inclusive, of the 1963 City Directory for Fayetteville, Tennessee, three copies of which are on file in the city clerk's office for the use and inspection of the public.

All existing numbers of property not now in conformity with the provisions of this section shall be changed to conform to the provisions herein adopted within twenty (20) days from the date of the passage of this provision.

The city clerk shall be responsible for maintaining the numbering system and shall assign new numbers to property within the city not hereinabove numbered.

If the owner or occupant of any property required to be numbered by this section shall neglect for a period of twenty (20) days to duly attach and maintain the proper number on such property, the city clerk shall serve upon him a notice requiring such owner or occupant to number the same properly and if he neglects to do so for a period of ten (10) days after the service of such notice, he shall be deemed to have violated this section. (1979 Code, § 12-114)

16-111. Shrubbery, trees, or hedges on right-of-way. No person on the public right-of-way shall plant or maintain shrubbery, trees or hedges without permission of the city, which permission shall be evidenced by a permit issued by the building official only after determining that said shrubbery, trees or hedges will not obstruct the vision of persons using driveways, alleys or public streets. Said permission may be revoked at any time by the building official on 15 days' notice and no person shall acquire any property rights by virtue of said permit. (1979 Code, § 12-115)

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 city clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1979 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the city clerk, 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 city clerk within twenty-four (24) hours of its filing. (1979 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. (1979 Code, § 12-203)

16-204. Deposit or bond. A permit shall not be issued unless and until the applicant therefore has deposited with the city clerk a cash deposit in the sum of one thousand dollars (\$1,000.00) for any excavation on public property including all public rights of way, to insure the property restoration of the ground, except that where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city clerk may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality or as 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 cash deposit the applicant may deposit with the city clerk a surety bond in the amount of one thousand dollars (\$1,000.00) to cover the costs to the municipality if the applicant fails to make proper restoration. (1979 Code, § 12-204, as replaced by Ord. #2005-07, May 2005)

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. (1979 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, utility or others making any excavation in any street, alley, or public place in this municipality shall restore said street, alley, or public place to the specifications hereinafter set out, except for the surfacing, which shall be done by the municipality, but shall be paid for by such person, firm, corporation, association, utility or others promptly upon the completion of the work for which the excavation was made. The city may authorize a duly licensed contractor who is performing excavations on the streets, alleys or public ways to complete

the surfacing to the city's specifications, provided the contractor guarantees in writing the surfacing for one year. In case of unreasonable delay in completion of work, the city shall give notice to the person, firm, corporation, association, utility or others that unless the excavation is refilled properly, within a specified period of time, the municipality will do the repair or contract said repair and charge the expense to the particular party.

Street repair specifications are as follows:

(1) From 6 inches above tops of pipe or minimum standards up to within 7 inches of finished grade. Backfill with crushed stone. Dispose of all excavated materials which are not replaced as backfill.

(2) Concrete subgrades will be used in all paved areas: A 6 inch deep slab in the complete trench width poured to within 1 inches of existing elevation. Concrete shall be 3000 psi ready mix type conforming to ASTM specification C94; composed of Portland cement, sand and coarse aggregate, mixed with clear water.

(3) Barricades shall be placed around all holes wider than 4 inches until concrete can withstand traffic.

(4) After 7 days settling, the city shall fill remaining 1 inches of trench or hole with asphalt. This asphalt shall be level with existing surface. The city shall be notified of all cuts at least weekly. (1979 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 city clerk in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1979 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 city clerk. (1979 Code, § 12-208)

16-209. Supervision. The city clerk or his designee shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the municipality and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1979 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 city clerk. 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. (1979 Code, § 12-210)