

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
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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. (Code of 1977, § 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 out over any sidewalk at a height of less than eight (8) feet. (Code of 1977, § 12-102)

¹See title 15 in this code for related motor vehicle and traffic regulations; see title 20, chapter 1 for the establishment for the Town of Selmer, Tennessee, of a Public Works Department.

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. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 or over any street, alley, or sidewalk except when required by statute. (Code of 1977, § 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. (Code of 1977, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (Code of 1977, § 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 or ice from the abutting sidewalk. (Code of 1977, § 12-109)

16-110. Parades regulated.¹ (1) Definitions. For purposes of this section, a parade is defined as any organized public procession on a street or roadway for

¹The parade permit application is available in the recorder's office.

the purpose of celebrating an event or occurrence or for the purpose of public demonstration. A funeral procession does not constitute a parade for purposes of this section.

(2) Parade application procedure. All individuals, groups, or entities, "applicant," that propose to conduct a parade upon any street within the city limits of the Town of Selmer shall comply with the following procedures:

(a) The application shall be submitted to the chief of police no less than thirty (30) calendar days or more than sixty (60) calendar days prior to the date and time of the commencement of the parade.

(b) The police chief, fire chief and mayor will review and either approve or deny the permit. Upon their approval, the parade permit application will be submitted to the mayor and board of aldermen for final approval.

(c) It shall be a civil offense for an individual, group or entity to knowingly organize, engage in, participate in, aid or commence a parade upon any street of the town without making written application for and receiving a parade permit and complying with this section.

(d) No parade permit shall be required for the following:

(i) The armed forces of the United States of America, the military forces of the state and the forces of the police and fire departments acting within the scope of their duties.

(ii) Funeral processions proceeding by vehicle by the most reasonable route from a funeral home, church or residence of a deceased to the place of service or place of interment.

(iii) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half (½) of the sidewalk.

(e) Candy, gum, beads, paper or any other article(s) shall not be thrown from any type of vehicle during a parade. This shall include, but not be limited to, persons on horseback.

(f) Parade participants, spectators, and the public are prohibited from disembarking from or attempting to board a moving vehicle during a parade.

(3) Application requirements. (a) The application shall contain the following information and shall be signed by the applicant:

(i) The name, address and telephone number of the applicant and of any other persons, organizations, firms or corporations on whose behalf the application is made;

(ii) Date requested for the parade and the proposed schedule of start and stop times;

(iii) The specific route (include a map) to be traveled including city, county, highway numbers, and physical location, and the starting and termination points;

(iv) A brief description of the proposed activities, including the proposed placement of event staff and equipment on the right-of-way;

(v) Staging areas for the start of the parade and disassembly areas at the termination point must be designated and fully described. Applicant must sign a statement that all staging and disassembly areas on private or public property have been approved by the owner/management of the property. The name, address and phone numbers for the owner/manager authorizing the use of property must be included in the application, including without limitation public rights-of-way and property operated by the town, if applicable;

(vi) The estimated number of persons to participate in the parade. Marching units or organizations shall require an individual count for each member. The total number of people shall be included;

(vii) The estimated number, if any, of animals without riders, animals with riders, animal-drawn vehicles, floats, motor vehicles, motorized displays.

(viii) A signed statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of two (2) stationary performances at a specified and approved location during the parade route. The marching unit or organization shall then continuously march along all other portions of the parade route;

(ix) A signed statement that sponsors will ensure that assembly and disassembly of the parade will be directed and orderly so as not to block or interfere with traffic flow;

(x) A signed statement ensuring that the applicant will be responsible for the ground maintenance of the assembly and disassembly areas that occur in public rights-of-way including without limitation cleaning and removal of animal droppings.

(xi) A signed statement ensuring that the Applicant understands the following:

(A) Horse units. Horse units may be permitted under the following conditions:

(1) All horses must be under control at all times.

(2) Riders may not consume intoxicating beverages immediately before or during the parade.

(3) There must be an individual unit following horse formation to clean up the debris from the horses on the parade route.

(4) Each horse must be identified by a responsible person.

(B) Motorized units. All motorized units shall not exceed ten (10) miles per hour while on the parade route. No motorized units shall be driven in a reckless manner. All units shall use only one (1) lane of the street and shall not cross from lane to lane. The police and fire chief may establish other conditions as deemed appropriate.

(C) Parade floats. Any float either pulled or self-propelled will be approved by the fire chief one (1) hour prior to the start of parade.

(D) Intoxicating beverages. There shall be no open display or consumption of intoxicating beverages on or in floats or units. No person operating a motor vehicle within the parade shall consume intoxicating beverages during the parade or at any time two (2) hours prior of the parade, or be under the influence of alcohol or a controlled substance at any time during the parade.

(E) Obscene and vulgar displays. No floats or units shall include any vulgar or obscene act, shall contain vulgar, obscene, or offensive language, contain anything defamatory or otherwise offensive to the general members of the community. No person shall use vulgar, obscene or derogatory language while on a float or unit.

(F) Issuance of parade permit. Upon receipt of the parade application, the chief of police shall normally furnish to the applicant, within fifteen (15) working days, excluding Saturdays, Sundays and legal holidays, appropriate approval or denial of the application. Approval or denial of the application may be delayed if the applicant fails to give complete information, if the proposed route requires staff research, or if other aspects of the application require staff review that exceeds the normal process.

In the event the application reveals that the parade staging, parade route and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the police chief, fire chief and mayor shall have authority to establish a reasonable alternate route and to regulate the width and the duration of the parade.

(G) Denial of parade permit. The police chief, fire chief and mayor shall deny an application (permit) when:

(1) The Applicant fails to provide complete information on the application required under this section.

(2) The movement of the parade will conflict in time and location with another parade for which a permit has previously been granted.

(3) The parade could damage roadways or other facilities of the town.

(4) The applicant refuses to sign a statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of two (2) stationary performances at a specified and approved location during the parade route.

(5) The applicant refuses to sign a statement ensuring that appropriate property owner/managers have authorized their property for use as staging and disassembly areas.

(6) The applicant refuses to sign a statement ensuring that the parade assembly and disassembly will be directed and orderly so as not to block or interfere with traffic flow.

(H) Revocation of permit. (1) The police chief shall revoke a parade permit when the information contained in the application is found to be inaccurate in any material detail.

(2) The police chief may revoke the parade permit if the parade fails to begin within thirty (30) minutes of the appointed time of commencement.

(3) The police chief may revoke the parade permit if the applicant misrepresents the number of participants in the parade and/or does not provide a final parade participation count at least seven (7) days before the date of the parade.

(4) The police chief shall revoke a parade permit based on reasonable grounds to believe that the parade is being conducted in a manner constituting a danger to any person or property.

(5) The police chief shall revoke a parade permit for failure to comply with this section.

(I) Indemnification. An applicant and or the sponsors, and or any other individual or entity reasonable required by the town must execute a written indemnity agreement, in the form and substance required by the town, indemnifying and holding harmless, the town and its officers and employees and parties in interest with the town against all claims, damages, or causes of action arising from

the parade resulting in injury, damage or death to persons or property, whether public or private. The applicant shall take all reasonable measures necessary to protect the parade participants. Insurance shall be furnished prior to the parade in the form, substance, and limits required by the town. (Code of 1977, § 12-110, as replaced by Ord. #567, Oct. 2007, and amended by Ord. #579, Aug. 2008)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law, nor shall he make such crossing at a speed in excess of forty (40) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than seven (7) consecutive minutes. Be it further ordained that the town shall require crossing gates at all intersections of the railroad and public streets. (Code of 1977, § 12-111, as amended by ord. #414, Sept. 1992)

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. (Code of 1977, § 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. (Code of 1977, § 12-113)

16-114. Public parks, recreation centers, etc. (1) All persons using or occupying any public park or other recreational facility shall be governed by the following provisions:

(a) All fires shall be carefully extinguished by any person igniting such fire before such person leaves the area.

(b) All debris, paper, bottles, containers, etc., shall be placed in refuse containers by any person who has discarded such material.

(c) No person in any park or recreation area shall wear a swimming or bathing suit except in a swimming pool or such area as has been provided for bathers.

(d) No person shall change from street clothes to swimming or bathing suits or from swimming or bathing suits to street clothes except in areas provided for such changes.

(e) All parties or groups of persons desiring the use of park facilities shall first obtain a permit from the chief of police.

(f) Food served at picnics, luncheons, etc., shall be consumed only in areas officially designated for such purposes.

(g) In those areas designated for picnics, no person or group shall have priority over any other person or group and no person or group shall occupy such area for an unreasonable length of time.

(2) It shall be unlawful for any person who uses or occupies any public park or recreation center to commit the following offenses while in such park:

(a) To pollute or contaminate any swimming pool, stream, pond or water fountain within such park or recreation center,

(b) To fail to deposit his or her refuse, garbage, etc., in containers designated for that purpose.

(c) To fly any model airplane within a public park or recreation center.

(d) To drive or park any motor vehicle within any public park or recreation center.

(e) To bring any dangerous animal into any public park or recreation center or bring any dog that is not on a leash which is not more than six (6) feet in length.

(f) To sell, peddle or solicit sales of any article within any park or recreation area.

(g) To eat, drink or smoke at any public swimming pool in any park or recreation center.

(h) To possess, use or consume any alcoholic beverage, controlled substance or legend drug within any public park or recreation area. (Code of 1977, § 12-114)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Application.
- 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.
- 16-211. Notification of utility department.

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 of office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. (Code of 1977, § 12-201)

16-202. Application. 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

¹Sections 16-201 through 16-209 in this chapter were taken substantially from the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 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. (Code of 1977, § 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 (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (Code of 1977, § 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 recorder 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. (Code of 1977, § 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. (Code of 1977, § 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 by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the

street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the 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. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 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. (Code of 1977, § 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. (Code of 1977, § 12-210)

16-211. Notification of utility department. In addition to the other requirements of this chapter, all persons, firms, corporations, associations, or others engaged in excavation, trenching, drilling, or digging operations shall notify the Selmer Utility Department prior to conducting operations of this nature within the corporate limits. (Code of 1977, § 12-211)