

FRANKLIN, TN CODE OF ORDINANCES

CHAPTER 2 – EXCAVATIONS AND CUTS

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).

Sec. 16-201 – Permit required

It shall be unlawful for any person, firm, corporation, association or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun.

(1976 code, § 12-101)

Sec. 16-202 – Applications

Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the person, firm, corporation, association, or others doing the actual excavating or tunneling, the name of the person, firm, corporation, association, or others for whom the work is being done, plans in as great as detail as is required by the city recorder or his designee showing the exact location, type and scope of all work to be performed, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within ten days of its filing.

(1976 code, § 12-102)

Sec. 16-203 – Fee

The fee for a permit to excavate in, or across streets, roads, allies, sidewalks, or other public ways within the city, shall be as specified in appendix A, comprehensive fees and penalties, and shall cover the administrative costs of inspection by the city. If in the opinion of the engineering director or his designee, after appropriate inspection, any work inspected under the terms of this section fails to comply with the law, and notice is given to the permittee or his agent, and any reinspection of the same work is required, then a fee as specified in appendix A, comprehensive fees and penalties, per reinspection may be assessed against and collected from the permittee or his agent. No portion of the permitted work per shall continue without first paying the reinspection fee.

(1976 Code, § 12-103; Ord. No. 2005-66, 10-2005; Ord. No. 2010-56 § 1, 9-14-2010)

Sec. 16-204 – Surety

No permit shall be issued to any person for the excavation in or across any street, road, alley, public way, or city right-of-way until such applicant posts a surety in an amount as estimated by the street superintendent to be sufficient to ensure faithful performance of all work, payment of all fees, and restoration of all property to its original condition. An applicant may satisfy the surety requirement in any of the following ways:

1. By paying cash;
2. By posting a cashier's or certified check;
3. By providing an acceptable letter of credit;
4. By posting a surety bond.

In the event the applicant completes all work in an acceptable fashion and returns the work site to its original condition, the street superintendent will refund the money and/or release the applicant from all obligations under a letter of credit or bond. In the event the applicant fails to comply with any of the terms of the agreement, the city may use the cash or check, or call on the terms of the letter of credit or bond, to complete all work specifications and return the site to its original condition. Upon completion of this work by the city, any remaining balance shall be returned to the applicant.
(1976 Code, § 12-104)

Sec. 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, lights, and/or flagman, 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 walkway shall be provided which shall be safe for travel and convenient for personnel to insure the safety of the general public, while maintaining adequate vehicular and pedestrian traffic flow, and providing safety warnings in accordance with federal, state, and local requirements.
(1976 Code, § 12-105)

Sec. 16-206 – Restoration of streets, etc.

Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, public place, or city right-of-way in the city shall restore said street, ally, public place, or city right-of-way to its original condition or 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, public way, or city right-of-way, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.
(1976 code, § 12-106)

Sec. 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 t\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 minimum liability insurance shall be as specified in appendix A, comprehensive fees and penalties.

(1976 Code, § 12-107; Ord. No. 2010-56, § II, 9-14-2010)

Sec. 16-208 – Time limits

Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. I shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder.

(1976 Code, § 12-108)

Sec. 16-209 – Supervision

All excavations and other construction must be inspected by either the superintendent of the street department or the building and building and neighborhood services department inspector. Notice must be given to one of these officials at least ten (10) hours before any work commences except in case of emergency. No surety will be released until final restoration has been completed and inspected by one of these officials or their designated agents.

(1976 Code, § 12-109; Memo of 12-3-2013)

Appendix A – Comprehensive fees and penalties

Permit fee to excavate in, or across streets, roads, alleys, sidewalks, or public right-of-way	\$100.00
Certificate of insurance	<p><u>Liability insurance:</u> For bodily injury shall not be less than \$200,000.00 for each person and \$500,000.00 for each accident; and \$1,000,000.00 aggregate; and for property damages not less than \$500,000.00 for any one accident and a \$1,000,000.00 aggregate.</p>
Re-inspection fee	\$50.00
Violations	\$50.00 per day, per violation