

ORDINANCE NO. 194

AN ORDINANCE AMENDING MOUNT CARMEL MUNICIPAL CODE TITLE 16, "STREETS AND SIDEWALKS, ETC.", CHAPTER 2 "EXCAVATION".

WHEREAS, the Town of Mount Carmel, Tennessee continues to experience problems resulting from excavations being made in the streets and rights-of-way by municipalities and public utility companies; and

WHEREAS, the full and complete cooperation of other public utility companies doing business within the rights-of-way of the Town of Mount Carmel, Tennessee, is essential for providing water, natural gas, and electrical services to the citizens of the Town of Mount Carmel, Tennessee; and

WHEREAS, to more fully enforce existing provisions of the Mount Carmel, Tennessee Municipal Code; and

WHEREAS, the public health and welfare of the citizens of the Town of Mount Carmel, Tennessee, require it;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN of the Town of Mount Carmel, Tennessee, as follows:

SECTION I. That the Mount Carmel, Tennessee, Municipal Code section 16-201 "Permit Required" shall be deleted in its entirety and in its place the following section substituted:

16-201. Permit Required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any right-of-way, street, alley, or public place, or tunnel under any right-of-way, 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 underground facilities, in or under the surface of any street, or along any right-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practically be obtained beforehand. Such person shall thereafter apply for a permit on the first regular business day on which the office of the Town of Recorder is open for business, and the permit shall be retroactive to the date when the work was done.

SECTION II. That the Mount Carmel, Tennessee, Municipal Code section 16-203 "Fee" shall be deleted in its entirety and in its place the following section substituted:

16-203. Fee. The fee for such permits which shall include the cost of inspection by the Building Inspector prior to the excavation ever being refilled shall be One Hundred Dollars (\$100.00).

SECTION III. That the Mount Carmel, Tennessee, Municipal Code section 16-206 "Restoration of Streets, etc." shall be deleted in its entirety and in its place the following section substituted:

16-206. Restoration of Streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall restore the right-of-way, street, alley, or public place to its original condition. In the case of unreasonable delay in restoring the right-of-way, street, alley, or public place, the Town Recorder shall give notice to the person, firm, corporation, association or others that unless the excavation or tunnel is refilled properly according to Town specifications within a specified reasonable amount of time, and, if applicable, the resurfacing restored to its original condition, all within a specified reasonable time period, the Town of Mount Carmel, Tennessee, may elect to do the refilling and resurfacing work and charge the expense of doing the same to such person, firm, corporation, association, or others including a twenty percent (20%) premium charge due to the administration expense and expenditure of time.

If within the specified time, the conditions of the above notice have not been complied with, the work shall be done by the Town of Mount Carmel, Tennessee, an accurate account of the expense involved shall be kept, and the total costs plus the twenty percent (20%) premium shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. This remedy may be in lieu of, or, in addition to, any other fines provided under this chapter. However, any person, firm, corporation, association, or others making any excavation or tunnel in or under any right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall notify the Building Inspector who shall inspect the excavation or tunnel and its restoration to see that such excavation or tunnel and its restoration complies with all applicable rules and regulations and to see that it is properly restored with adequate gravel, back fill, and properly resurfaced. Any such person, firm, corporation, association, or others restoring any excavation or tunnel are subject to a fine of Five Hundred Dollars (\$500.00) per day for each and every day that the excavation or tunnel is restored without the Building Inspector having approved the restoration of the excavation or tunnel.

SECTION IV. That the Mount Carmel, Tennessee, Municipal Code section 16-209 "Supervision" shall be deleted in its entirety and in its place the following section substituted:

16-209. Supervision. The person designated by the Board of Mayor and Aldermen of the Town of Mount Carmel, Tennessee, shall from time to time inspect all excavations and tunnels being made in or under any right-of-way, street, alley, or other public place in the Town and the restoration thereof and see to the enforcement of the provisions of this Chapter. Notice shall be given to him at least eight (8) hours before the work of refilling such excavation or tunnel commences.

SECTION V. That the Mount Carmel, Tennessee, Municipal Code section 16-210 "Violations" shall be added:

16-210. Violations. Any violation of any provision of this Chapter is punishable by fine of up to Five Hundred Dollars (\$500.00) for each and every violation of any provision of this Chapter. Each day of non-compliance with the provisions of this Chapter shall be deemed a separate offense under this Chapter.

SECTION VI. LEGAL STATUS PROVISIONS.

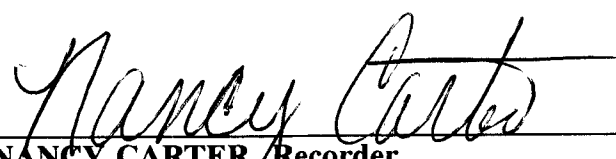
A. **Conflict With Other Ordinances.** In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Mount Carmel, the most restrictive shall in all cases apply.

B. **Validity.** If any section, clause, provision or portion of this ordinance shall be held to be in doubt or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

C. **Effective Date.** This ordinance shall become effective upon passage, the public welfare requiring it.


JAMES DEAN, Mayor

ATTEST:


NANCY CARTER, Recorder

APPROVED AS TO FORM:

Michael A. Faulk
LAW OFFICES OF MICHAEL A. FAULK

PASSED 1ST READING: 8-27-98 Ayes 5 Nays 0 Other 0

PASSED 2ND READING: 9-24-98 Ayes 4 Nays 0 Other 0

PUBLIC HEARING: —

PUBLISHED ON:	
DATE:	<u>10-6-98</u>
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