

ORDINANCE 2014-31

TO BE ENTITLED: “AN ORDINANCE TO AMEND TITLE 16 OF THE CITY OF FRANKLIN MUNICIPAL CODE TO REVISE REQUIREMENTS ASSOCIATED WITH TEMPORARY STREET CLOSURES.”

WHEREAS, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of Franklin, Tennessee the Board of Mayor and Aldermen is authorized to prescribe regulations and standards that encourage and advance the quality of life within the City; and

WHEREAS, the Police Department recommends requiring off-duty City of Franklin officers for all traffic control permits that require the use of a officers unless otherwise approved by the Chief of Police; and

WHEREAS, the use of uniformed Tennessee Highway Patrol officers shall be allowed in lieu of uniformed City of Franklin police officers on all State Routes within the jurisdiction of the City of Franklin, TN; and

WHEREAS, City of Franklin Municipal Code authorizes City police officers to enforce the law or to apprehend persons who violate the law when violations or threatened violations of the law occur in the presence of an off-duty police officer and when such actions are necessary to protect lives and property within the corporate limits of the City of Franklin, TN; and

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Title 16 – Streets and Sidewalk, Etc; Chapter 10. – Traffic Control Devices of the Franklin Municipal Code is hereby amended to read as follows:

Sec. 16-1001. Definitions.

- (1) *Entire signalized intersection* includes, but is not limited to, all roads, streets, alleys, or other public and private ways connecting and relating to the intersection. It also includes detection loops, poles, heads, cabinet, wiring, video system and interconnect, or other equipment contained within or connected to the intersection.
- ~~(2) *The Director* includes the named director or the director's designee.~~
- ~~(3)~~**(2) *MUTCD*** means the Manual on Uniform Traffic Control Devices.
- (3) *City Engineer* – Refers to the City of Franklin, City Engineer who has the authority to delegate to designated staff, which includes, but is not limited**

to, the director of engineering, director of streets and street department inspectors.

(4) Police Chief – Refers to the City of Franklin, Chief of Police who has the authority to delegate to designated staff.

Sec. 16-1002. Offense, exceptions.

(1) It shall be unlawful as an offense of tampering to do any of the following without the city's authority:

(a) Knowingly alter, injure, move, remove, knock down deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;

i. Whenever a device or part thereof is removed and replaced, it shall constitute a prima facie case of tampering when the serial numbers do not match.

(b) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is not completely dried and is marked by flags, markers, signs or other devices intended to protect it.

(c) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole, pullbox or handhole cover.

(d) Fail to apply for and/or abide by the terms of a traffic control device permit and all regulations and standards relating to traffic control devices issued by the **City Engineer, Streets Director or Chief of Police**.

(2) Exceptions. The following shall not constitute a violation of this chapter:

(a) Responding to an emergency.

(b) Work authorized by the city, its employees or its agents pursuant to a contract.

(c) Work performed on the device prior to acceptance by the city.

(d) Work performed under and within the scope and terms of a traffic **control signal device** permit.

Sec. 16-1003. Penalties; recovery of extraordinary costs.

Any violation of the requirements of this chapter shall result in a penalty of not less than as specified in appendix A, comprehensive fees and penalties, in addition to any other remedy provided by law, including but not limited to the assessment and recovery of actual expenses incurred arising out of or relating to the violation(s). Each day of the violation shall constitute a separate offense.

Sec. 16-1004. Traffic Control Device Permits and Conditions.

(1) *Authority.* The **City Engineer**~~street department director~~ shall have the authority to create and implement reasonable regulations for a Traffic Control Device Permit program in addition to the provisions of this chapter. The regulations and any amendments or subsequent revisions shall become effective after reasonable public notice and an opportunity for public comment to the department.

(2) *Permit required; application.* - In addition to any other permit that may be separately required, any person desiring to work on a traffic control device shall make a written application to the **City Engineer** ~~director of engineer~~ for a permit setting forth the location of the traffic device to be erected, reset, replaced, repaired, or altered, the character of the material of which the same is made, its height and diameter, and the kind and character of wires, cables or other instrumentalities to be carried thereon in accordance with the City's regulations and standard specifications.

(3) *Approval; denial.* If the **City Engineer** ~~Streets Department Director~~ determines an applicant is qualified to perform the requested work, the applicant will be granted a permit, subject to all of the terms and regulations therein. ~~At a minimum, an applicant must be a certified signal technician (International Municipal Signal Association Level II) before a permit will be issued. The director of engineering shall refuse to issue the permit required whenever it appears that the device sought to be erected, installed, reset, replaced or repaired is unsafe, unsuitable for the purposes to which it will be put, or not suited to the location in which it will be placed.~~

(a) At a minimum, an applicant must be a certified signal technician (International Municipal Signal Association Level II) to do any work on City of Franklin Traffic Signals.

(b) The ~~director of engineering~~ City Engineer shall refuse to issue the permit required whenever it appears that the device sought to be erected, installed, reset, replaced or repaired is unsafe, unsuitable

for the purposes to which it will be put, or not suited to the location in which it will be placed.

(c) If the approved traffic control permit requires the use of uniformed police officers then contractors, utility companies, or any other person, firm or corporation shall be required to hire uniformed City of Franklin police officers to perform all work unless otherwise approved by the Chief of Police. The use of police officers from other jurisdiction, uniformed security, or uniformed agencies shall not be allowed and shall constitute an offense under this chapter.

i. Exemption – The use of uniformed Tennessee Highway Patrol officers shall be allowed in lieu of the requirement to hire uniformed City of Franklin police officers on all State Routes within the jurisdiction of the City of Franklin, TN.

(4) Installation and modification. The standard policy for the installation and modification of traffic signal devices **and traffic control plans** shall be in accordance with the MUTCD and subject to approval and acceptance by the city. Failure to meet the MUTCD, ~~as may be modified by the director's regulations or to fall below the standard of care in any such work,~~ shall constitute an offense under this chapter. **The City Engineer and Chief of Police or their designee shall have the authority to direct corrective actions for temporary traffic control not in compliance with the MUTCD and these provisions. These actions include suspending operations and requiring removal of all equipment and materials from the right-of-way.**

(5) Request for inspection; release of surety. All work completed under a traffic control ~~device~~ permit shall be subject to inspection by the streets department. If work is not completed as permitted and required by the streets department's regulations and standards, such work shall be re-inspected by the department, and no surety shall be released, until the **City Engineer** ~~street Director~~ determines the permit terms, regulations and standards have been met.

(6) Fees.

(a) Application. Any person desiring to work on a traffic control device must submit with the permit application a nonrefundable fee as specified in Appendix A, Comprehensive Fees and Penalties. Payment of the fee does not guarantee approval of the permit.

- (b) *Re-inspection fee.* Each time a re-inspection is conducted by the department, the permittee will be assessed as specified in Appendix A, Comprehensive Fees and Penalties.
- (7) *Liability; indemnification; acceptance.* As a condition of the permit, the permittee must agree to remain solely responsible for and liable for the proper functioning of the entire signalized intersection **and temporary traffic control zone** until the work is completed and accepted in writing by the city engineer ~~director~~, including but not limited to maintenance and repair. Prior to commencing the work, permittee shall post a surety and evidence of insurance in accordance with the requirements stated in Chapter 2 of this title. Such surety and insurance shall be set in amounts sufficient to cover loss or damage that might occur within the entire signalized intersection **or traffic control zone**, to be determined by the ~~engineering department director~~ **City Engineer**.
- (8) *Removal of device.* No traffic signal device shall be removed unless authorized by the **City Engineer** ~~engineering director~~. Any device or part thereof that is removed and/or replaced as permitted shall be submitted to the **City Engineer** ~~director~~ within five business days. Any violation of this subsection shall result in a penalty as specified in Appendix A, comprehensive fees and penalties, for each device removed.
- (9) *Notice of work, contracts.* ~~Subject to the department's regulations, all permittees shall be required to log in and to notify the city of the details of the work as it occurs, including but not limited to log entry, and 24-hour contact information.~~ **No excavation may be undertaken in any street, road, alley or right-of-way or of any utility or temporary construction easement of the City of Franklin by any entity unless 72 hour notice as required herein has been given to the City of Franklin Traffic Operations Center.**
- (a) *For the purposes of this subsection, adequate notice shall be written notice providing the following information:* (1) the purpose of the excavation; (2) a description of the excavation work; (3) the expected beginning date and completion date of the excavation work; (4) the name, address and telephone number of a contact person available to provide information regarding the project and to receive complaints from the public; and (5) such other information as may be required by the City of Franklin.
- (b) *The Permit holder shall be required to erect and maintain during the time of construction a project sign which provides the same information as required in the notices.* Such signs shall be in format, quantity, location and size as specified by the City Engineer.
- (c) *In the event such construction work is for emergency repairs to a utility or other public works, the notice required herein shall be*

waived, provided, that notice shall be given as soon as practicable to the owner setting forth both the work being undertaken and the purposes for such emergency repairs.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
CITY ADMINISTRATOR

BY : _____
DR. KEN MOORE
MAYOR

PASSED FIRST READING

PASSED SECOND READING

Approved as to Form:

Shauna S. Billingsley, City Attorney