

ORDINANCE NUMBER 2016-023

TO BE ENTITLED: "AN ORDINANCE TO AMEND TITLE 16, CHAPTER 2 OF THE FRANKLIN MUNICIPAL CODE RELATING TO STREET OCCUPANCY, OBSTRUCTIONS, AND EXCAVATIONS."

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 for the location, design, construction, and maintenance of buildings and structures within the City; and

WHEREAS, the Board of Mayor and Aldermen found that ordinances that regulate land use, development, and building construction must be dynamic and modified from time to time to reflect changes in best practices, model codes, building materials, land labor costs, and safety standards necessary to preserve and promote the private and public interest; and

WHEREAS, the Board of Mayor and Aldermen found that in order to effectively promote the public health, safety, comfort, convenience, and general welfare of the people of Franklin, Tennessee, guidelines should be established to regulate the use, temporary obstruction, and/or construction within the public right-of-way.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE AS FOLLOWS:

SECTION I. That Title 16, Chapter 2 of the Franklin Municipal Code is hereby amended to add the following text in **bold**, delete text shown by strikethrough, and is approved to read as follows:

CHAPTER 2. – **STREET OCCUPANCY, OBSTRUCTION, EXCAVATIONS, AND CUTS**

- Sec. 16-201. - Permit required.
- Sec. 16-202. - Applications.
- Sec. 16-203. - Fee.
- Sec. 16-204. - Surety.
- Sec. 16-205. - Manner of excavating—Barricades and lights—Temporary sidewalks.
- Sec. 16-206. - Restoration of streets, etc.
- Sec. 16-207. - Insurance.
- Sec. 16-208. - Time limits.
- Sec. 16-209. - Supervision.

CHAPTER 2. – **STREET OCCUPANCY, OBSTRUCTION, EXCAVATIONS, AND CUTS**

- Sec. 16-201. - Permit required.

It shall be unlawful for any person, firm, corporation, association or others, **to occupy or obstruct any public street, alley or sidewalk, for the purpose of placing thereon construction equipment, scaffolding, non-licensed vehicles, material or rubbish for or from building operations, or** to make any excavation in any street, alley, **sidewalk** 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.

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,~~ **City** and shall state thereon the location of the intended **occupation, obstruction,** excavation, or tunnel, the person, firm, corporation, association, or others doing the actual **construction, activity,** 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~~ **five (5) working** days of its filing.

Sec. 16-203. - Fee.

The fee for a permit **to occupy or obstruct any street, alley or sidewalk, for the purpose of placing thereon construction equipment, scaffolding, non-licensed vehicle, material or rubbish for or from building and/or landscaping operations,** or to excavate in, or across streets, roads, alleys, 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~~ **Street Department 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 shall continue without first paying the reinspection fee.

Sec. 16-204. - Surety.

No permit shall be issued to any person for the **occupation, obstruction, or** excavation in or across any street, road, alley, **sidewalk**, public way, or **City** right-of-way until such applicant posts a surety in an amount as estimated by the ~~Street superintendent~~ **Department Director or his designee** 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~~ **depositing** 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~~ **Department Director or his designee** 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.

Sec. 16-205. - Manner of excavating—Barricades and Lights—Temporary sidewalks.

Any person, firm, corporation, association, or others **occupying or obstructing any public street, alley or sidewalk, for the purpose of placing thereon construction equipment, scaffolding, non-licensed vehicle, material or rubbish for or from building and/or landscaping operations, or** 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, **signage**, and/or flagman, shall be maintained to protect persons and property from injury by or because of the **occupation, obstruction, activity, or** 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 users. No work shall be performed in or about a manhole or other confined space without sufficient 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.

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

Any person, firm, corporation, association, or others **occupying or obstructing any street, alley or sidewalk, for the purpose of placing thereon construction equipment, scaffolding, non-licensed vehicle, material or rubbish for or from building and/or landscaping operations, or** making any excavation or tunnel in or under any street, alley, **sidewalk**, public place, or **City** right-of-way in the **City** shall restore said street, alley, **sidewalk**, public place, or **City** right-of-way to its original condition or promptly upon the completion of the work for which the **occupation, obstruction, or** excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, **sidewalk**, public way, or **City** right-of-way, the ~~recorder~~ **City** shall give notice to the person, firm, corporation, association, or others that unless the **occupation or obstruction is removed, or** 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.

Sec. 16-207. - Insurance.

In addition to making the deposit or **submitting a** bond hereinbefore required to insure that proper restoration is made, each person applying for a **Street Occupancy 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. The amount of the insurance shall be prescribed by the ~~recorder~~ city 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**.

Sec. 16-208. - Time limits.

Each application for a **Street Occupancy 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. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the ~~recorder~~ **City**.

Sec. 16-209. - Supervision.

All excavations and other construction must be inspected by either the ~~superintendent of the Street~~ **Department Director or their designee** or the ~~Building and building~~ **and Neighborhood Services Department Director or their designee**. 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.

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST: CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
City Administrator/ Recorder

By: _____
DR. KEN MOORE
Mayor

Approved as to form by:

Shauna R. Billingsley
City Attorney

PASSED FIRST READING: _____

PASSED SECOND READING: _____