

ORDINANCE 2010-56

TO BE ENTITLED: "AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE CITY OF FRANKLIN MUNICIPAL CODE, TITLE 16 – STREETS AND SIDEWALKS, ETC. RELATING TO THE CODIFYING OF VARIOUS FEES AND PENALTIES."

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, in the legislative judgment of the Board of Mayor and Aldermen the Board has found that ordinances and policies that regulate land use, guide the maintenance of the City's infrastructure, and deliver essential services must be dynamic and modified from time to time to reflect changes in best practices, model codes, land and labor costs, and safety standards necessary to preserve and promote the private and public interest; and

WHEREAS, the Board of Mayor and Aldermen has decided to create a separate title in the Franklin Municipal Code for the sole purpose of listing all the fees and penalties charged and assessed by the City, entitled Title 22 - Comprehensive Fees and Penalties.

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, Section 16-203 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** approved to read as follows:

Sec. 16-203. Fee.

The fee for a permit to excavate in, or across streets, roads, alleys, sidewalks, or other public ways within the City, shall be **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$100.00~~, 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 Title 22 – Comprehensive Fees and Penalties** ~~of \$50.00~~ 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.

SECTION II: That Title 16, Chapter 2, Section 16-207 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** approved to read as follows:

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 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 for bodily injury shall not be less than ~~\$200,000.00 for each person and \$500,000 for each accident and \$1,000,000 aggregate and for property damages not less than \$500,000.00 for any one accident, and a \$1,000,000.00 aggregate.~~ **the liability insurance shall be as specified in Title 22 – Comprehensive Fees and Penalties.**

SECTION III: That Title 16, Chapter 3, Section 16-302 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

Sec. 16-302. Application, fee, and insurance.

A person seeking issuance of a permit hereunder shall file a written application for such permit with the Chief of Police. The application shall set forth:

- (1) The kind and type of building to be moved;
- (2) The address of the final destination of the building;
- (3) The length, height and width of the building;
- (4) The highways, streets and alleys over, along or across which the building is proposed to be moved;
- (5) Any additional information that the Chief of Police shall find necessary to a fair determination of whether a permit should be issued.

The application shall be accompanied by a permit fee in the amount **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of \$50.00~~. Regardless whether a permit is actually issued, permit fees filed with the application shall not be returned.

The application shall be accompanied by a liability insurance policy issued by an insurance company authorized to do business in the State of Tennessee and approved as to form by the City Attorney, in the amount **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of at least \$50,000.00~~.

SECTION IV: That Title 16, Chapter 4, Section 16-410 (1) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (1) Every developer shall pay a road impact fee, computed by service area and by proposed land uses, ~~according to fee schedule C-1 at the end of this chapter,~~ **as specified in Title 22 – Comprehensive Fees and Penalties**, except those paying a fee by an individual assessment of road impacts provided for in § 16-411 or otherwise exempted by this chapter. The reference in the schedules to square feet refers to floor area as defined herein.

SECTION V: That Title 16, Chapter 4, Section 16-410 (7) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (7) The fees **as specified in Title 22 – Comprehensive Fees and Penalties** ~~in Schedule C-1~~ shall apply to all residential building permits issued after the effective date of November 13, 2007 Ordinance No. 2007-104.

SECTION VI: That Title 16, Chapter 4, Section 16-410 (8) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (8) Nonresidential development projects whose site plans have been approved prior to the effective date of November 13, 2007 Ordinance No. 2007-104 shall be entitled to pay the fee in effect at the time of site plan approval, for so long as the site plan is valid.

**(THIS AMENDMENT REMOVES EXHIBIT C-1 FROM THE
TEXT SECTION AND MOVES IT TO TITLE 22)**

SECTION VII: That Title 16, Chapter 4, Section 16-411 (1) (a) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (1) The road impact fee for a proposed new development shall be calculated by the use of an individual assessment of road impacts if:
 - (a) The type of new development is not of the type or reasonable equivalent thereof listed on the fee schedules ~~attached~~ **as specified in Title 22 – Comprehensive Fees and Penalties as Exhibit C-1;** or

SECTION VIII: That Title 16, Chapter 5, Section 16-506 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

Sec. 16-506. Hold harmless; liability insurance.

Applicants shall agree in writing to assume the defense of and indemnify and save harmless the City, its aldermen, boards, commissions, officers, employees and agents, from all suits, actions, damages or claims to which the City may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of or as a consequence of special event and the activities permitted in connection therewith. The City Administrator shall require the applicant to submit a certificate of insurance from a Tennessee state-licensed entity prior to the event in an amount no less than ~~\$250,000.00 per occurrence insuring the owner or operator against liability for personal injury arising from the use of an amusement attraction or amusement ride, in addition to additional coverage up to \$1,000,000.00 per person and \$3,000,000.00 per occurrence~~ **as specified in Title 22 – Comprehensive Fees and Penalties** but within the discretion of the City Administrator, depending upon the nature, size and duration of the event.

SECTION IX: That Title 16, Chapter 5, Section 16-507 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** approved to read as follows:

Sec. 16-507. Personnel cost; permit fee.

In addition to a permit fee, applicants shall pay to the City the cost of City personnel who are required by the City to work overtime hours or other than regular shift or perform duties during or because of special event. An application for a special event permit shall be accompanied by a permit review fee **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of \$100.00~~; for special events requiring a beer permit, the total fee for both the beer and special event permits shall be as set forth in title 8, chapter 2 of this Code. Governmental entities shall be exempt from permit fees.

SECTION X: That Title 16, Chapter 6, Section 16-605 (2) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** approved to read as follows:

- (2) No permit shall be issued under this chapter until the applicant for the permit provides a certificate of insurance to the **Risk Manager** ~~management director~~ of the City, showing combined single limit coverage for bodily injury and property damage **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of not less than \$1,000,000.00~~, and basic worker's compensation insurance, as provided in the laws of the State of Tennessee. The certificate of insurance shall name the City of Franklin as additional insured. If, upon consulting with the **Risk Manager** ~~management director~~, the City Administrator determines that the risks inherent in the proposed activity would not adequately be covered by the basic coverage stated herein, or determines that the proposed activity is of such limited nature that the basic coverage is excessive, the City Administrator shall specify the amount of coverage required before a permit may be granted.

SECTION XI: That Title 16, Chapter 7, Section 16-704 (3) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** approved to read as follows:

- (3) Fees. 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 Title 22 – Comprehensive Fees and Penalties** of fifty (~~\$50.00~~) dollars 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.

SECTION XII: That Title 16, Chapter 7, Section 16-706 (2) (a) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strike through~~ and inserting the text noted in **bold** is approved to read as follows:

- (a) All new development and redevelopment under the jurisdiction of this chapter as prescribed in section 16-702 of this chapter shall be required to obtain a stormwater management permit.
- (i) The director of engineering shall issue a stormwater management permit for plans that meet the guidelines of this chapter and any other provision given authority under section 16-707 of this chapter. The stormwater management permit shall include permission for grading according to plans that meet the guidelines of this chapter or reasonable standards established by the engineering or streets departments. Application for a grading permit shall be accompanied by a fee **as specified in Title 22 – Comprehensive Fees and Penalties** of ~~\$200.00~~. The fee for the stormwater management permit shall be deposited into the city's general funds

SECTION XIII: That Title 16, Chapter 7, Section 16-710 (4) (d) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strike through~~ and inserting the text noted in **bold** is approved to read as follows:

- (d) The maximum civil penalties will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.
- (i) *Development without permit* - **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$10,000.00~~. To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates, or other forms of authorization as set forth in this chapter.
- (ii) *Development inconsistent with permit* - **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$5,000.00~~. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
- (iii) *Violation by act or omission* - **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$5,000.00~~. To violate, by act or omission, any term, variance, modification,

condition, or qualification placed by the City of Franklin or its agent departments upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.

- (iv) **Illicit discharge - as specified in Title 22 – Comprehensive Fees and Penalties**
~~§5,000.00.~~ Any person, company or facility who is found to have improperly disposed of any substance that is not defined in § 16-709 or causes the city to be in noncompliance with any applicable environmental permit.

- (v) **Household products - as specified in Title 22 – Comprehensive Fees and Penalties**
~~§500.00.~~ Any person, company, or facility who is found to have improperly disposed of any substance not included in § 16-709 that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the city to be in noncompliance with any applicable environmental permit.

SECTION XIV: That Title 16, Chapter 7, Section 16-710 (5) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strike through~~ and inserting the text noted in **bold** approved to read as follows:

- (5) **Administrative penalty fee.** Any person, company or facility who undertakes any development activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to the city, in addition to any permit or inspection fee, an administrative fee **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of up to \$5,000.00.~~

SECTION XV: That Title 16, Chapter 7, Section 16-710 (12) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strike through~~ and inserting the text noted in **bold** approved to read as follows:

- (12) **Appeals.** Upon issuance of a citation or notice of violation of this article, it shall be conclusive and final unless the accused violator submits a written notice of appeal to the director of engineering within ten days of the violation notice being served. If the director of engineering does not issue a decision within ten days of the written notice of appeal then the violation is considered upheld. If the director of engineering does not reverse the decision, the aggrieved party may appeal to the transportation committee or successor, by filing a written request for hearing within ten days of the director of engineering's decision on the appeal. The request for hearing shall state the specific reasons why the decision of the Engineering Director is alleged to be in error, and shall be accompanied by a cost bond in the amount **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of \$500.00~~ with sufficient surety to secure the costs of the appeal, including the cost of court reporters, transcripts, plan reviews and other costs.

SECTION XVI: That Title 16, Chapter 8, Section 16-804 (6) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (6) Any person who disagrees with the calculation of the stormwater user's fee determined by the stormwater management coordinator, or who seeks fee adjustments or exemption, may appeal such determination to the director. An appeal shall be accompanied by a fee **as specified in Title 22 – Comprehensive Fees and Penalties** ~~of \$100.00~~, filed in writing, and include a written statement of the grounds for the appeal, with reference to the Franklin Stormwater Management Credit and Appeal Manual or other appropriate documents available from the Engineering Department. The director will review the appeal and render a decision within 30 days. The director's decision shall be in writing and mailed or hand-delivered to the address of the applicant contained in the appeal. In response to an appeal, the director may adjust the stormwater service fee applicable to a property in conformance with the general purpose and intent of this chapter.

SECTION XVII: That Title 16, Chapter 8, Section 16-804 (7) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (7) A decision of the director adverse to an appellant may be further appealed to the public transportation advisory committee, or any successor committee charged by the board with hearing stormwater matters, within 30 days of receipt of notice of the adverse decision, by filing a written request for hearing. The committee shall convene a hearing within a reasonable time thereafter. The request for hearing by the transportation committee shall state the specific reasons why the decision of the director is alleged to be in error, and shall be accompanied by a cost bond **as specified in Title 22 – Comprehensive Fees and Penalties** ~~in the amount of \$500.00~~ with sufficient surety to secure the costs of the appeal, including the costs of court reporters, transcripts, plan reviews and other costs. The cost bond shall be refunded to appellant if appellant prevails. The committee shall make its findings within five business days after the appeal hearing. The decisions of the committee are final and conclusive, but may be reviewed through appropriate court actions.

SECTION XVIII: That Title 16, Chapter 8, Section 16-806 (2) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (2) *ERU rate established.* The ERU rate to be charged for stormwater management user fees for each ERU is hereby established to be **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$3.65 per month~~, and delete the \$250,000.00 annual appropriation from the general fund.

SECTION XIV: That Title 16, Chapter 10, Section 16-1003 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

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 Title 22 – Comprehensive Fees and Penalties** ~~\$50.00~~, 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.

SECTION XX: That Title 16, Chapter 10, Section 16-1004 (6) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

(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 Title 22 – Comprehensive Fees and Penalties.** ~~of \$50.00.~~ Payment of the fee does not guarantee approval of the permit.
- (b) *Reinspection fee.* Each time a reinspection is conducted by the department, the permittee will be assessed **as specified in Title 22 – Comprehensive Fees and Penalties.**

SECTION XXI: That Title 16, Chapter 10, Section 16-1004 (8) of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

- (8) *Removal of device.* No traffic signal device shall be removed unless authorized by the engineering director. Any device or part thereof that is removed and/or replaced as permitted shall be submitted to the director within five business days. Any violation of this subsection shall result in a penalty **as specified in Title 22 – Comprehensive Fees and Penalties** ~~\$50.00~~ for each device removed

SECTION XXII: That Title 16, Chapter 11, Section 16-1102 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~strikethrough~~ and inserting the text noted in **bold** is approved to read as follows:

Sec. 16-1102. Permits and inspection fees.

Permits, inspections and fees for inspection and reinspections shall be as **specified in Title 22 – Comprehensive Fees and Penalties** ~~required below~~ and as may be required by other local, state and federal laws.

**(THIS AMENDMENT REMOVES THE TABLE INSET FROM THE
TEXT SECTION AND MOVES IT TO TITLE 22)**

SECTION XXIII: That Title 16, Chapter 11, Section 16-1103 of the City of Franklin Municipal Code is hereby amended by deleting the text noted with a ~~striketrough~~ and inserting the text noted in **bold** is approved to read as follows:

Sec. 16-1103. Violations.

It shall be unlawful for any person, firm, corporation or agent to violate or fail to comply with, or to erect, construct, alter, demolish, move or remove, in whole or in part, any street, structure, transportation improvement or related fixture in violation of any provision of the street specifications or administrative regulations. Any violations as herein adopted and modified, shall be punishable by a civil fine **as specified in Title 22 – Comprehensive Fees and Penalties** of ~~\$50.00~~, in addition to any other remedies provided by law, including but not limited to repair or replacement of facilities at the violator's expense. Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed or continued.

SECTION XXIV: 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 public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Administrator/ Recorder

BY: _____
JOHN C. SCHROER
Mayor

PASSED FIRST READING:

PASSED SECOND READING:



MEMORANDUM

July 30, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator *E. Stuckey*
Vernon Gerth, ACA - Community and Economic Development

SUBJECT: Codifying Fees: Title 16 – Streets and Sidewalks, Etc.

Purpose

This ordinance amendment is part of our ongoing work to codify all the fees and penalties located within the City of Franklin Municipal Code into Title 22 - Comprehensive Fees and Penalties. Title 16 – Streets and Sidewalks, Etc. is presented for consideration by the Board of Mayor and Aldermen (BOMA).

Background

Serving our residents is a top priority and communicating accurate information in a timely manner is essential to achieving a quality and appreciated service. With twenty-two titles in the city's Municipal Code, it is often difficult for customers and staff to identify applicable fees and penalties. A typical scenario may require a customer to visit more than one department to obtain information that should be readily available from any employee or on the City's website. Codifying fees and penalties to a single location will improve our services.

Financial Impact

The codifying effort should result in increased clarity and accuracy in the collection of various fees and penalties.

Recommendation

A motion to approve is recommended.

Attachments

- Ordinance amendment for Title 16 – Streets and Sidewalks, Etc.
- Ordinance amendment for Title 22 – Comprehensive Fees and Penalties