

ORDINANCE 2019-39

AN ORDINANCE TO CREATE TITLE 12, CHAPTER 13 OF THE FRANKLIN MUNICIPAL CODE, ESTABLISHING LOCAL RULES APPLICABLE TO CONSTRUCTION, AND TO CREATE SECTION 12-1301 RELATING TO CONSTRUCTION WORK HOURS

WHEREAS, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of Franklin, the Board of Mayor and Aldermen of the City of Franklin is authorized to prescribe regulations and standards for the design, construction, and repair of buildings and structures within the City; and

WHEREAS, Tennessee Code Annotated Title 6, Chapter 54, Part 5 allows municipalities to adopt building codes by reference; and

WHEREAS, in its legislative judgment the Board of Mayor and Aldermen has found that building regulations and standards must be dynamic and modified from time to time to reflect changes in model codes, construction materials, recognized construction methods, and safety standards necessary to preserve and promote the private and public interest; and

WHEREAS, further defining activities during hours of construction in order to provide for times when citizens may be assured that reasonable levels of peace and quiet will prevail within the City of Franklin is in the public interest.

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

SECTION I. That Title 12 of the Code of Ordinances of the City of Franklin, Tennessee, is hereby amended to create a new Chapter 13 to be entitled Local Rules Applicable to Construction and to create Section 12-1301 regarding Construction Work Hours.

SECTION II. That Title 12, Chapter 13, Section 12-1301 is hereby created and shall be entitled Hours of Construction. Section 12-1301 shall read as follows:

Sec. 12-1301. – Hours of Construction.

(1) *Hours of Construction Regulated.*

- (a) Hours of construction restrictions apply to acts that constitute "Construction Activity," as defined in this section. These restrictions shall apply only to work that requires a permit issued by the City of Franklin but shall apply to all work done on such projects.
- (b) Construction Activity is allowed Monday through Friday, 7:00 a.m. to 6:00 p.m., and Saturday, 9:00 a.m. to 6:00 p.m.
- (c) No Construction Activity that requires a permit shall occur on Sundays and City Holidays.

(2) *Definition of Construction Activity.* For purposes of determining the application of this Section, Construction Activity includes, but is not limited to, the following:

- (a) Grading and excavating.
 - (b) Pouring and placing concrete or the presence of concrete mixing trucks or pumping vehicles/equipment.
 - (c) Operating construction-related equipment and tools, including but not limited to, pile drivers, power shovels, pneumatic hammers, power hoists, compressors, and other construction-type devices.
 - (d) Continual use of portable generators where the electric utility will connect temporary power service.
 - (e) The presence of workers performing indoor or outdoor construction, site preparation, and landscaping work, including but not limited to, demolition, alteration, or repair of any building, structure, or property. This includes, but is not limited to, electrical, building, plumbing, HVAC, roofing, siding, painting, trimming, and landscaping work.
 - (f) The presence of construction workers more than 15 minutes before and after permitted hours of construction.
- (3) *Exemptions.* The following types of activities are exempt from the requirements of this Section.
- (a) Greenfield Development and unoccupied buildings located greater than 1000 feet from a residentially-occupied building, measured in the most direct means from a construction site and/or building to a residentially-occupied building.
 - (b) Activities occurring inside occupied buildings and structures if not audible at any immediately adjacent street.
 - (c) Construction commissioned or conducted by the City of Franklin.
 - (d) Cleaning of streets (including street sweeping vehicles), trash, and maintaining/installing erosion control.
 - (e) Excavations or repairs of bridges, streets, or highways by or on behalf of the City, the County, or the State during the night, when the public welfare and convenience renders it impossible to perform such work during the day.
 - (f) Emptying and setting dumpsters and servicing portable toilets.
 - (g) Construction Activity approved in advance by the City Administrator or designee. A contractor who needs to work outside normal construction hours must submit a request for approval in advance. If the City Administrator or designee should determine that the interest of the public health and safety are served, and if the City Administrator or designee should determine that any loss of inconvenience that might result is outweighed by the public's interest in its safety and welfare, he/she may grant permission for such Construction Activity to be done between the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.
 - (h) Emergency activities of the City, the County, or the State and emergency activities of public utilities by private contractors, when they are seeking to provide electricity, water, or other public utility services, and the public health, safety, or welfare is involved.
- (4) *Accountability for Violations.*
- (a) In addition to those persons actively engaged in Construction Activity as defined above, when an infraction under this ordinance occurs the owner, developer, and general contractor may any or all of them be deemed to be in violation of this ordinance.
 - (b) Those causing work to be done may be issued citations for violations committed by their employees, subcontractors, or agents.

- (c) In addition to property owners, developers, and general contractors, citations may be issued, where appropriate, to subcontractors, suppliers of concrete, suppliers of concrete pumper trucks/equipment, and supply and rental equipment delivery companies.

(5) *Violations.*

- (a) Any violation of this Section shall be punishable by a fine as specified for violations in Appendix A, comprehensive fees and penalties.
- (b) Violators may be cited to Franklin Municipal Court, or where necessary, to other courts of competent jurisdiction in Tennessee.
- (c) In addition to all other remedies available, repeat violators may be issued Stop Work Orders by the Building Official or designee until the violation or condition is abated, for a minimum of 5 business days.

- (6) *Conflicts with other chapters and sections of the Municipal Code, including those sections of the Municipal Code which adopt the International Building Code, the International Property Maintenance Code, and all other similar code adoptions.* If at any time these requirements conflict with other requirements elsewhere in the Franklin Municipal Code or the building codes adopted therein, the more restrictive requirements shall apply.

SECTION III. That Title 11, Chapter 4, Section 11-404(3)(i) is hereby amended. Section 11-404(3)(i) is hereby deleted in its entirety and replaced with the following:

- i. *Construction or repairing of buildings.* The erection (including excavation), construction, demolition, alteration or repair of any building during times that would not be permitted for Construction Activity by Section 12-1301, Hours of Construction.

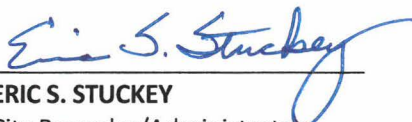
SECTION IV. *Severability.* In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in full force and effect.

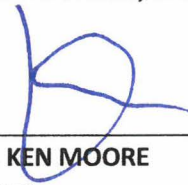
SECTION V. *Repeal and Savings Clause.* All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the City of Franklin prior to the effective date of this ordinance.

SECTION VI. **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 for the health, safety, and welfare of the citizens of Franklin, Tennessee, requiring it.

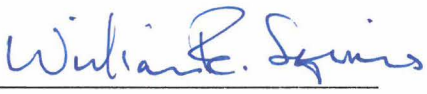
ATTEST:

CITY OF FRANKLIN, TENNESSEE:

BY: 
ERIC S. STUCKEY
City Recorder/Administrator

BY: 
DR. KEN MOORE
Mayor

Approved as to Form:


William E. Squires
Assistant City Attorney

Passed First Reading: July 14, 2020

Passed Second Reading: August 11, 2020