

## **BILL NO. 18-211**

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AN ORDINANCE AMENDING CHAPTER 26. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, OF THE CITY CODE OF THE CITY OF LEE'S SUMMIT, MISSOURI, TO PROVIDE CONSISTENT MANAGEMENT OF THE RIGHTS-OF-WAY WITH RESPECT TO SMALL WIRELESS FACILITIES.

WHEREAS, the City of Lee's Summit ("City") owns rights-of-ways and is responsible for the management and care of this finite resource; and,

WHEREAS, the City is desirous of allowing use and consistent access of the rights-of-way to vehicular and pedestrian traffic and use by utility service companies under State and federal law; and,

WHEREAS, new technologies, users and service providers seek access to and use of this finite resource in number and space not requested previously; and,

WHEREAS, 2018 General Assembly of the State of Missouri adopted the Uniform Small Wireless Facility Deployment Act as set forth in House Bill 1991 and the Federal Communications Commission issued Order 18-133 preempting the City's authority to regulate the rights-of-way and other City structure with regard to small wireless facilities; and,

WHEREAS, House Bill 1991 requires the City to adopt an ordinance to make available to wireless providers rates, fees, and other terms that comply with RSMo. §§ 67.5110-67.5121, and,

WHEREAS, the City desires to adopt Code provisions that comply with the law while preserving its authority over the right-of-way through terms and conditions that protect use of the right-of-way for its original intended purpose and ensure that use by utility service providers is consistent, safe, appropriate, nondiscriminatory and competitively neutral and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. Sections 26-211, Insurance, 26-212 Bonding, and 26-213 Indemnification, of Division 10, Insurance, Bonding and Liability, of Article III, Right-of-Way Management, of Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances, are here by amended to read as set out in Exhibit A, attached and incorporated by reference as if fully set forth herein, to this Ordinance, wherein deletions and additions of language are shown.

SECTION 2. The City Council hereby adopts the *City of Lee's Summit's Standard Terms and Conditions for the Placement Of Wireless Facilities in the Right-Of-Way*, attached as Exhibit B and incorporated by reference as if fully set forth herein, and does hereby amend the Code of Ordinances by enacting a new subsection D to Section 26-134, Permit Conditions, to provide reference and reflect the adopted above referenced standards. The new subsection D to Section 26-134 shall read as follows:

D. Terms and Conditions for Small Wireless Facilities

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1. The *City of Lee's Summit's Standard Terms and Conditions for the Placement Of Wireless Facilities in the Right-Of-Way*, and its most current edition, as approved by the City of Lee's Summit City Council is hereby adopted and incorporated in this chapter as fully as if set forth herein.
2. Three (3) copies of the *City of Lee's Summit's Standard Terms and Conditions for the Placement of Wireless Facilities in the Right-Of-Way* and any amendments thereto are on file in the office of the City Clerk.

SECTION 3. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any language, act or ordinance repealed hereby. Nor shall any existing right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 4. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. Should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 6. This Ordinance shall be in full force and effect on January 1, 2019.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor *William A. Baird*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

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APPROVED by the Mayor of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Mayor *William A. Baird*

ATTEST:

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City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

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Chief Counsel of Management and Operations  
*Daniel R. White*