

## Legislation Details (With Text)

**File #:** BILL NO. 21-197  
**Name:**  
**Type:** Ordinance  
**Status:** Passed  
**File created:** 8/31/2021  
**In control:** City Council - Regular Session  
**On agenda:** 9/21/2021  
**Final action:** 9/21/2021  
**Title:** An Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Lee's Summit, Missouri, regarding management of the rights-of-way with respect to administrative processes and approvals. (PWC 9/13/21)  
**Sponsors:** Public Works Admin & Engineering

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Chapter-26 - Articles I and III, 3. ROW - Ordinance-Summary

Date	Ver.	Action By	Action	Result
9/21/2021	1	City Council - Regular Session	for second reading	Pass
9/21/2021	1	City Council - Regular Session	adopted and numbered	Pass
9/13/2021	1	Public Works Committee	recommended for approval	Pass

An Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Lee's Summit, Missouri, regarding management of the rights-of-way with respect to administrative processes and approvals. (PWC 9/13/21)

Issue/Request:

An Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Lee's Summit, Missouri, regarding management of the rights-of-way with respect to administrative processes and approvals.

Key Issues:

- City Staff was asked to update Chapter 26 of the Code of Ordinances (Right of Way) and the Encroachment Policy for the following:
  - Provide allowances and guidance for certain furnishings within the downtown right of way that are currently prohibited;
  - Maintain public safety and accessible routes;
  - Manage risk to the City; and
  - Develop an administrative process to approve license agreements.
- Proposed changes to Chapter 26 of the Code of ordinances will:
  - Incorporate the Encroachment Policy by reference.
  - Allow placement of certain outdoor furnishings within the Central Business District right-of-way.
  - Authorize the City Engineer, with legal support and City concurrence of general terms/conditions of agreement, to perform administrative review and recommendation for City Manager approval of many routine license agreements.

Proposed Committee Motion:

I move to recommend to City Council approval of an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Lee's Summit, Missouri, regarding management of the rights-of-way with respect to administrative processes and approvals.

Background:

The Right of Way (ROW) Ordinance outlines uses of public ROW and authorizes City staff to manage the ROW to promote safety, reduce risk, and ensure public use as intended. Last year, the ordinance was updated to promote better customer service to our residents, promote better quality of work in the ROW, and improve safety of both workers and the traveling public. Since that time, there has been an increase in requests for license agreements and the desire for downtown businesses to use the ROW for various uses currently prohibited.

The Encroachment Policy relies on the ROW ordinance in the Code of Ordinances to govern the general use and ROW permit requirements. The policy established non-allowed uses, conditional use and allowed use categories. The different types of uses are classified based on risk to the City and the need for the City to manage and maintain infrastructure.

City staff could review specific requests to place non-allowed items in the ROW, such as a fence or HOA monument. The review process is generally technical; to perform a traffic safety review, ADA compliance review, infrastructure and public risk assessment. These tasks are typically performed by the Public Works Department and Law Department. Due to the technical nature and routine application, Public Works Committee directed staff to develop an administrative process to review and approve these license agreements. In doing so, the review and approval process may be expedited and improve customer service.

The proposed ordinance changes would designate the City Engineer with the authority to review and recommend approval of a license agreement to the City Manager. The City Engineer is designated by ordinance with the role of managing public ROW. By Charter, the City Manager is authorized to sign contracts on behalf of the City. In the case of a license agreement, the City pays no fee. The City is not seeking an application fee either. Instead, the applicants are providing appropriate levels of insurance and indemnity to the City as recommended by the City's Law Department. Some license agreements are part of development projects that must require a development agreement subject to the review and approval of the Planning Commission and City Council. Those license agreements are exceptions to this proposed administrative process and would continue to follow that existing process where stipulated in a development agreement.

The other component in these proposed changes is to allow certain activities, such as outdoor dining, in the downtown area. Following COVID business restrictions, the City provided emergency authorization for outdoor dining or other temporary furnishings in the ROW in the downtown area. When the emergency declaration expired, those outdoor activities were no longer compliant with local codes and ordinances. These encroachments are currently not allowed. Moreover, certain encroachments such as awnings overhanging the ROW are also not allowed under the right-of-way ordinance, but have existed for many years.

The downtown merchants approached City staff and elected officials with requests to make provisions for certain furnishings to support activities in the right of way within the Central Business District, such as outdoor dining, decorations, awnings, etc. The changes in this ordinance would incorporate the encroachment policy changes and authorize City Staff to manage the types and location of furnishing in a lawful manner.

The City's main concern in managing the downtown ROW is to ensure rights-of-ways remain available for its intended purpose and the ADA compliant accessible route is maintained at all times. If approved, City staff is prepared to initiate work to clearly delineate the ADA accessible route that cannot be obstructed. For example, tables and chairs for outdoor dining could not encroach on the accessible route, and they would have to be detectable by a visually impaired person using a caning technique to move about.

Updates to the encroachment policy have been proposed to allow tenants or property owners to place certain items in the right of way under specific standards and conditions. The proposed changes to this ordinance would incorporate by reference the standards and conditions set forth in the Encroachment Policy.

Michael Park, Director of Public Works

Staff recommends approval.

Committee Recommendation: The Public Works Committee voted unanimously 4-0 to recommend to City Council approval of an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Lee's Summit, Missouri, regarding management of the rights-of-way with respect to administrative processes and approvals.