

Legislation Text

File #: BILL NO. 18-19, **Version:** 1

AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 26, STREETS, SIDEWALKS AND OTHER PLACES, OF THE CITY CODE OF THE CITY OF LEE'S SUMMIT, MISSOURI TO PROVIDE FOR CONSISTENT MANAGEMENT WHILE PRESERVING THE CITY'S AUTHORITY OVER THE USE OF ITS RIGHTS-OF-WAYS.

(Note: First Reading by City Council on February 1, 2018.)

Proposed City Council Motions:

I move for adoption of AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 26, STREETS, SIDEWALKS AND OTHER PLACES, OF THE CITY CODE OF THE CITY OF LEE'S SUMMIT, MISSOURI TO PROVIDE FOR CONSISTENT MANAGEMENT WHILE PRESERVING THE CITY'S AUTHORITY OVER THE USE OF ITS RIGHTS-OF-WAYS.

Issue/Request

Consideration and adoption of AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 26, STREETS, SIDEWALKS AND OTHER PLACES, OF THE CITY CODE OF THE CITY OF LEE'S SUMMIT, MISSOURI TO PROVIDE FOR CONSISTENT MANAGEMENT WHILE PRESERVING THE CITY'S AUTHORITY OVER THE USE OF ITS RIGHTS-OF-WAYS.

Key Issues:

- The City has the primary responsibility for the maintenance and managing uses of the City's rights-of-way under State and federal law
- The last major update of Chapter 26 to deal with managing the right-of-way occurred in 2009 with passage of Ordinance No. 6869
- Federal and State law changes have occurred since 2009 and staff recommends updating Article III to reflect those changes
- The entities seeking to use the rights-of-way and the technologies that would be installed or constructed in the rights-of-way have also changed since 2009
- The City has authority to manage its rights-of-way in a manner that treats similarly situated competitors in a competitively neutral and nondiscriminatory way
- Adoption of the Ordinance will provide a framework to treat all users of the rights-of-way in a consistent manner while recognizing private property rights

Background:

Cities “own” rights-of-way in trust for the public and have a nondelegable duty to maintain them in a safe condition for the travelling public. Utility users of the right-of-way are required to obtain consent from the City to install facilities and equipment within the rights-of-way. The right-of-way is a finite resource that the City invests millions of dollars in to construct and maintain it for its intended uses. As the entity entrusted with management and the “owner” of the right-of-way, it falls to the City within its resources and as allowed or required by law to balance the needs and uses of the entire community including adjacent landowners when acting. The City does not have in place any telecommunications franchises. This Ordinance will allow users to obtain a “license” agreement when applying for and accepting a permit for work on the right-of-way. A user may also file an acknowledgement on a form approved by the City Attorney. This proposed Ordinance will permit the City to exercise the greatest amount of authority to carry out its responsibilities with respect to the right-of-way. The PowerPoint which was presented at the Council’s meeting of January 18, 2018, is attached to provide additional background information.

At the January 18, 2018 meeting, Council requested that staff bring back an ordinance as discussed in the presentation for its consideration and possible adoption. The attached ordinance is presented in response to that direction.

Presenter: Nancy K. Yendes, Chief Counsel, Infrastructure and Planning

Recommendation: Staff recommends adoption of the proposed ordinance in Council’s packet.