

Legislation Text

File #: BILL NO. 21-241, **Version:** 1

An Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, and Chapter 29, Traffic and Motor Vehicles, of the City Code of the City of Lee's Summit, Missouri, to provide for various devices and vehicles, certain user regulations and applicable service provider operations within the rights-of-ways and to amend the Schedule of Fees and Charges for the City of Lee's Summit to establish associated fees and charges for right of way use or infrastructure use related thereto. (PWC 11/08/21)

(First read by Council on November 16, 2021. Passed by unanimous vote.)

Issue/Request:

Consideration and adoption of an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, and Chapter 29, Traffic and Motor Vehicles, of the City Code of the City of Lee's Summit, Missouri, to provide for various devices and vehicles, certain user regulations and applicable service provider operations within the rights-of-ways and to amend the Schedule of Fees and Charges for the City of Lee's Summit to establish associated fees and charges for right of way use or infrastructure use related thereto.

Key Issues:

- The City owns rights-of-ways and is responsible for the management and care of this finite resource. Chapter 26 of the City Code pertains to the City right-of-way management. Chapter 29 pertains to traffic within the right-of-way.
- Shared-mobility service providers such as BIRD, Zipp, LIME, Lyft, JUMP, Uber, and Spin, have expressed a desire to operate a shared mobility system generally consisting of electric scooters and/or electric bicycles in the City of Lee's Summit. The City Code, unless amended, does not allow such devices to operate in the right-of-way.
- The proposed Ordinance amends Chapter 26 of the City Code to allow shared mobility operations. Shared mobility system operators would need to obtain a license from the City to use the right-of-way and City infrastructure. The proposed Ordinance amends Chapter 29 to define various micro-mobility devices, including electric assist, e-bicycles, and scooters for individual use or as part of a shared mobility operation. The amendments to Chapter 29 also provide requirements and traffic regulations for the use and operation of these devices in the right-of-way.
- The State of Missouri passed legislation effective in August 2021 regarding personal delivery devices and permitted the use of such devices on municipal roadways and sidewalks. The legislation does not consider the device to be a vehicle or motor vehicle and significantly limits the City's authority to regulate them.
- The proposed Ordinance defines personal delivery devices and makes them subject to traffic regulations consistent with a motor vehicle or pedestrian to the extent allowed by law among the amendments to Chapter 29 of the City Code.
- The City has received requests from the public to allow golf carts to be used in the right-of-way. The City has also received and observed golf carts on City streets, which is not allowed. The proposed Ordinance amends Chapter 29 of the City Code to allow golf cart use on certain streets and under certain conditions. Golf carts and

other similar slow vehicles are considered Neighborhood Vehicles for the purpose of the proposed regulations.

- The proposed Ordinance further amends Chapter 29 of the City Code to improve alignment with state and federal law, to remove conflicting or obsolete regulation and otherwise address administrative or minor corrections in language.
- The proposed Ordinance amends the Schedule of Fees and Charges to establish application fees, renewal fees, device fees and other shared mobility operational costs for use of the right-of-way or infrastructure.

Proposed City Council Motion:

I move for adoption of an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, and Chapter 29, Traffic and Motor Vehicles, of the City Code of the City of Lee's Summit, Missouri, to provide for various devices and vehicles, certain user regulations and applicable service provider operations within the rights-of-ways and to amend the Schedule of Fees and Charges for the City of Lee's Summit to establish associated fees and charges for right of way use or infrastructure use related thereto.

Background:

Rights-of-Ways (ROW):

From the beginning of statehood, cities have "owned" the rights-of-way (ROW) and had the non-delegable duty to maintain them in a safe condition for their intended use. As the entity entrusted as the "owner" of the right-of-way, the City is responsible to manage use of the ROW by others, including public use and the public improvements (e.g. roadways and sidewalks) located within the ROW for transportation. The City, within its resources and as allowed or required by law, balances the needs and uses of the entire community including adjacent landowners when acting.

Micro-Mobility Users and Shared Mobility Operations:

Utility users of the ROW are required to obtain consent from the City to install facilities and equipment within the ROW. Likewise, shared mobility operators are businesses or companies that are required to obtain consent from the City to install facilities, equipment and deploy devices for public use within the ROW. The City can grant consent through approved licensing and charge for the use of the ROW. Shared mobility operators consist of companies such as BIRD, Zipp, LIME, Lyft, JUMP, Uber, and Spin, that deploy various micro-mobility devices for rent and public use. Micro-mobility devices are generally electric assist scooters and bicycles.

Updates to Chapter 26 of the Code of Ordinances (pertaining to ROW) are proposed to allow for shared mobility operations. Updates to Chapter 29 of the Code of Ordinances (pertaining to traffic) are proposed to introduce various micro-mobility devices used in shared mobility operations as well as similar devices that may be individually or privately used upon roadways and sidewalks of the City. The proposed amendments to Chapter 29 include device requirements, user requirements, and related traffic regulations when operated within the ROW. These devices consist of electric bicycles, electric tricycles, electric assist or unassisted scooters, and similar vehicles generally used on roadways and sidewalks.

The proposed Ordinance also establishes standard terms and conditions for shared mobility operations in the right-of-way. Companies that want to deploy their devices in the ROW must apply for a license, which is subject to these terms and conditions. This proposed Ordinance and associated terms and conditions will permit the City to exercise the greatest amount of authority to carry out its responsibilities with respect to the right-of-way while supporting this

alternative mode of transportation as recommended in the City's Strategic Plan and Comprehensive Plan.

The following highlights are among the material license terms and conditions:

- Establish use areas and operational zones by device type (e.g. Lock-to devices required in the Downtown Central Business District (CBD) "Zone" with Dockless devices allowed in "Zones" outside the CBD).
- Specifies the number of devices deployed, operational conditions and hours of use (e.g. requirements of Chapter 29 in the Code of Ordinances; and restrictions from use in Frontage Zones).
- Device information (e.g. contact, user requirements, pricing, etc.).
- Design and Equipment conditions (e.g. requirements of Chapter 29 in the Code of Ordinances).
- Rules and Safety (e.g. complaint and obstruction response times).
- Parking Restrictions (e.g. Lock-to and Dockless facilities for parking, ADA conflicts, and upright device).
- Insurance, Indemnity and Bonding requirements.
- Termination Provisions
- Fees

The proposed Schedule of Fees amendment will create the following fees that the City will charge for Shared Mobility Operations:

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| - Initial Application Fee for Shared Mobility Operation: | \$10,000 |
| - Application Renewal Fee for Shared Mobility Operation: | \$250 |
| - Supplemental Application Fee for Shared Mobility Operation: | \$500 |
| - Rate per Dockless Shared Mobility Device: | \$365/per deployed device/per year |
| - Rate per Lock-To Shared Mobility Device: | \$100/per deployed device/per year |

The initial application pertains to each Company and each shared mobility operation (e.g. type of device generally) and has an associated one year term. Each subsequent renewal application provides an additional one year term. There is no limit to the number of renewals that may be submitted. The supplemental application constitutes changes in number or types of devices or changes to the zones of operation desired by the Company between initial application and renewal application or between renewal applications thereafter. These fees are consistent with peer cities and/or below value or actual costs for use of City property, management and enforcement of associated regulations, applications, and registrations. These fees do not cover the entire actual costs likely incurred by the City in reviewing applications, registrations, enforcement, and licensing of such operations and related devices or vehicles.

Neighborhood Vehicles (e.g. Golf Carts):

For years the City has received requests for golf cart use on neighborhood streets and witnessed the illegal use of such vehicles in the ROW. Proposed amendments to Chapter 29 of the Code of Ordinances provides for lawful use of golf carts and other low speed vehicles (both defined as a "neighborhood vehicle") upon residential streets. Use of neighborhood vehicles will be limited to residential streets with a speed limit of 30 mph or less. These vehicles cannot exceed 20 mph and may not be used on sidewalks. Roadway operation will require a drivers license, proof of ownership, and insurance. These regulations are modeled after similar provisions found in other cities in Missouri and as permitted under state statutes. Registration of the vehicle with the City is not proposed at this time and therefore no fee is proposed either. If the City Council desires, however, vehicle registration and associated fee(s) to aid enforcement and related cost recovery may be imposed in future amendments to Chapter 29 and the Schedule of Fees.

Personal Delivery Devices:

Earlier this year, the Missouri General Assembly adopted Senate Bill 176 (SB 176) which established Section 304.900, RSMo. and authorized the use of City ROW, particularly roadways and sidewalks, by personal delivery devices. A personal delivery device (“PDD”) is a remote operated or remote navigated device used for the delivery of goods or products.

Though the state legislation permitted the use of City ROW by PDDs, it severely restricts the City from regulating the use of its ROW by PDDs. Under Section 304.900, the City's regulatory authority is basically limited to the protection of public health, safety and welfare. Section 304.900 restricts the operation of PDDs to roadways having a speed limit of 35 mph or less and prohibits PDDs from traveling over 10 mph upon a sidewalk. Section 304.900 also prohibits PDDs from being defined as a vehicle or motor vehicle. Thus, Chapter 29 of the Code of Ordinances requires amendment for the definition of and inclusion of PDDs that are not a vehicle or motor vehicle.

Proposed amendments to Chapter 29 require PDDs to comply with traffic laws as if it were a vehicle when operated on roadways or as if it were a pedestrian when operated on sidewalks to the extent allowed by the state. Additional regulations of PDD design, cargo, or operation is not permitted beyond that described in state law. However, in the interest of public health, safety and welfare, the proposed amendments to Chapter 29 prohibit PDD use of sidewalks where such use narrows the available sidewalk in conflict with ADA minimum widths for pedestrian use in a wheelchair. There is no licensing or permitting for the use of PDD's or PDD business operations within the City ROW; so there is no fee proposed in the Schedule of Fees.

Impact/Analysis:

A matrix summary of devices and basic regulations for each is attached for reference. This table includes existing devices and proposed devices (bold), allowed operation and design/user restrictions. The inclusion of several new devices/vehicles and neighborhood vehicles (e.g. golf carts) provides a pathway for lawful use in the ROW where unlawful use already exists. It also creates the opportunity for new business and new modes of public transportation (e.g. shared mobility operations). These alternative transportation modes are supported in the City's adopted Strategic Plan and Comprehensive Plan.

Other Information:

These code amendments were reviewed by Staff from Development Services, Police Department, Public Works Department and Law Department. These regulations and related Shared Mobility Operation Terms and Conditions were also reviewed by a Shared Mobility Company. The Livable Streets Advisory Board and Public Safety Advisory Board were advised of these code amendments and provided opportunity for comment. In general, Staff, Company, and Citizen Advisories were very supportive. There were no material comments or concerns to cause further changes in the proposed code amendments. The incorporation of new technologies, devices and vehicles for transportation aligns with the City's Ignite! Strategic Plan goals and objectives.

Michael Park, PE, PTOE, Director of Public Works
Dan White, Chief Counsel of Management and Operations

Staff recommends adoption of an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, and Chapter 29, Traffic and Motor Vehicles, of the City Code of the City of Lee's Summit, Missouri, to provide for various devices and vehicles, certain user regulations and applicable service provider operations within the rights-of-ways and to amend the Schedule of Fees and Charges for the City of Lee's Summit to establish associated fees and charges for right of way use or infrastructure use related thereto, as proposed in Council's packet.

The Public Works Committee voted unanimously 4-0 to City Council for discussion an Ordinance amending Chapter 26, Streets, Sidewalks and Other Public Places, and Chapter 29, Traffic and Motor Vehicles, of the City Code of the City of Lee's Summit, Missouri, to provide for various devices and vehicles, certain user regulations and applicable service provider operations within the rights-of-ways and to amend the Schedule of Fees and Charges for the City of Lee's Summit to establish associated fees and charges for right of way use or infrastructure use related thereto, as proposed in Council's packet.