

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 14-11 RELATED TO ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 14-11-1(A) (*Application Required*) is amended to read as follows:

§ 14-11-1 APPLICATION REQUIRED.

- (A) Except as provided in Chapter 14-7 (*Sustainable Urban Agriculture*) and Section 14-11-2 (*Exceptions For Certain Uses Of Public Property*), a person must submit an application to the director of the Public Works Department to obtain a release of a public easement, license for the private use of public property, an agreement for a permanent encroachment in a public right-of-way, or vacation of a public right-of-way.

PART 2. City Code Chapter 14-11 is amended to add a new Division 4 (*Permanent Encroachment of Public Right of Way*) to read as follows and to renumber subsequent divisions:

Division 4. Permanent Encroachment of Public Right of Way

§ 14-11-51 APPLICATION AND APPROVAL.

- (A) After receiving an application and an application fee for the encroachment by a permanent private structure in a public right-of-way, the director shall review the application and, if it meets the requirements of this division, submit the proposed encroachment agreement to council for its consideration.
- (B) An encroachment agreement authorizes use of public right-of-way as long as the use permitted under the agreement continues. If the permitted use terminates or is abandoned, the use of the right-of-way automatically reverts to the city.
- (C) Council must approve an encroachment agreement.

- 1 (D) The director may not execute an encroachment agreement until the applicant
2 has paid the appraised value of the encroachment and council has approved
3 the encroachment agreement required under this division.

4 **§ 14-11-52 APPRAISAL OF PROPERTY.**

- 5 (A) After an application to permanently encroach a public right-of-way is
6 approved, the director shall establish the appraised value of the affected
7 right-of-way.
- 8 (B) The director may use an appraisal prepared by the director or an independent
9 appraiser engaged by the City.
- 10 (C) To enter into an encroachment agreement, the applicant must submit to the
11 city manager an amount equal to the appraised value of the affected right-of-
12 way.

13 **§ 14-11-53 CONTENTS OF ENCROACHMENT AGREEMENT.**

14 An encroachment agreement approved under this division must contain:

- 15 (1) a provision describing an insurance requirement;
- 16 (2) a provision allowing termination for abandonment or change in use;
- 17 (3) a provision establishing a lien on the adjacent property covered by the
18 agreement if the City incurs costs of removal or modification on termination;
- 19 (4) a provision requiring payment of costs of repair or relocation of public
20 infrastructure damaged or destroyed as a result of the encroachment;
- 21 (5) a provision requiring ongoing maintenance and repair of the encroachment as
22 required to maintain the structural integrity of the encroachment and the
23 right-of-way; and
- 24 (6) other provisions that the city manager determines are necessary.
- 25
- 26

PART 3. This ordinance takes effect on _____, 2013.

PASSED AND APPROVED

_____, 2013 §
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_____, 2013 §

Lee Leffingwell
Mayor

APPROVED: _____ **ATTEST:** _____
Karen M. Kennard Jannette S. Goodall
City Attorney City Clerk