

**ORDINANCE NO. 20130808-021**

**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 submit the proposed encroachment agreement to council for its consideration if the director determines that:
- (1) the application complies with the requirements of this division; and
  - (2) the encroachment does not unduly interfere with the City's present or future use of the public right-of-way.
- (B) An encroachment agreement authorizes use of public right-of-way as long as the encroachment allowed under the agreement continues. If the encroachment terminates or is abandoned, the use of the right-of-way automatically reverts to the city.

- (C) Council must approve an encroachment agreement.
- (D) If the director determines that additional review of the encroachment is necessary, the director shall submit the proposed encroachment to the appropriate Land Use Commission for review and recommendation to council.
- (E) The director may not execute an encroachment agreement until the applicant has paid the appraised value of the encroachment and council has approved the encroachment agreement required under this division.

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

- (A) After an application for a permanent encroachment in the public right-of-way is reviewed, the director shall establish the appraised value of the affected right-of-way.
- (B) The director may use an appraisal prepared by the director or an independent appraiser engaged by the City.
- (C) To enter into an encroachment agreement, the applicant must submit to the city an amount equal to the appraised value of the affected right-of-way.

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

An encroachment agreement approved under this division must contain:

- (1) a provision describing an insurance requirement;
- (2) a provision stating that the right-of-way shall automatically revert to the City if the encroachment terminates or is abandoned;
- (3) a provision establishing a lien on the adjacent property covered by the agreement if the City incurs costs of removal or modification on termination;
- (4) a provision requiring payment of costs of repair or relocation of public infrastructure damaged or destroyed as a result of the encroachment;
- (5) a provision requiring ongoing maintenance and repair of the encroachment as required to maintain the structural integrity of the encroachment and the right-of-way;

