

AGENDA ITEM SUMMARY

March 21, 2017

City Council

STAFF

Helen Matson, Real Estate Services Manager

SUBJECT

First Reading of Ordinance No. 050, 2017, Amending Section 23-116 of the Code of the City of Fort Collins Regarding Permits and Licenses to Enter on Real Property.

EXECUTIVE SUMMARY

The purpose of this item is to amend Section 23-116 of the City Code to authorize the City Manager to grant a permit or license for the use or occupation of any real property owned in the name of the City for a period of up to five years. The existing language in the City Code specifies that the City Manager may grant a permit or license for a period of up to one year.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

In October 2009, Council adopted Ordinance No. 092, 2009, which authorized the City Manager to grant licenses or permits for the use of any real property owned by the City for a period of time up to one year, subject to revocation by the City Manager. Five years later, Council adopted Ordinance No. 085, 2014, which granted authority to the City Manager to approve leasing of City property for a period of five years or less. Currently, leases for more than five years and licenses for more than one year require City Council approval.

A license or permit is a temporary use of City property which can be terminated at the will of the City and does not give exclusive use of the property. A lease does grant exclusive use of a property and may not be terminated at will. The City Manager's authority is inconsistent between a license and a lease.

The City receives requests to use City property for more than one year. Currently, the City Manager needs to receive authorization from City Council for these requests, even though the City Manager is authorized to approve a lease of City-owned property for up to five years.

City staff recommends that this inconsistency in City Manager's authority under the City Code be corrected by amending Section 23-116 of the City Code to allow the maximum length of a permit or license approval from one year to five years.

Per Section 23-116, the City Manager's authority to issue a permit or license is not intended to take the place of other administrative processes for approving the use of City property provided for in the Charter, City Code or Land Use Code

CITY FINANCIAL IMPACTS

There will be no financial impact to the City from this change. The change would reduce the amount of staff time required to process requests for permits longer than one year.

ORDINANCE NO. 050, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 23-116 OF THE CODE OF THE CITY OF FORT COLLINS
REGARDING PERMITS AND LICENSES TO ENTER ON REAL PROPERTY

WHEREAS, Article XI, Section 10 of the City Charter authorizes the City Council to grant a permit for the use or occupation of any street, alley or public place, with such permit being revocable by the City Council at its pleasure; and

WHEREAS, on October 6, 2009, the City Council approved Ordinance No. 092, 2009, giving authority to the City Manager to grant licenses or permits for the use or occupation of any real property owned in the name of the City, on certain terms and conditions, for up to one year, subject to revocation at the pleasure of the City Manager; and

WHEREAS, on July 1, 2014, the City Council approved Ordinance No. 085, 2014, which granted authority to the City Manager to lease, for a definite term of five years or less, any interest in real property owned in the name of the City; and

WHEREAS, a license or permit is a less significant right to use property than a lease, because a license does not grant exclusive use of a property the way a lease does, and a license can be terminated at the will of the property owner; and

WHEREAS, the City often receives requests for a license or permit to use a portion of City property for more than one year, which requests must currently be approved by the City Council, even though the City Manager could approve a more significant lease without City Council approval; and

WHEREAS, in order to correct this inconsistency in the City Manager's authority under the City Code and facilitate the approval of minor licenses and permits for use of City property, City staff is recommending that Section 23-116 of the City Code be amended to increase the maximum length of a permit or license the City Manager can grant from one year to five years; and

WHEREAS, the City Council finds it is in the best interests of the City to make the City Manager's authority to grant licenses and permits for the use of City property consistent in duration with the City Manager's authority to lease property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 23-116 of the City Code is hereby amended to read as follows:

Sec. 23-116. - Permits and licenses to enter on real property.

(a) The City Manager is authorized to grant a permit or license for the use or occupation of any real property owned in the name of the City, provided such use or occupation:

- (1) will be completed no later than ~~one (1)~~ **five (5)** years from the effective date of the permit;
- (2) does not involve the installation of any permanent fixtures or improvements on the property; and
- (3) cannot be authorized entirely through other administrative processes provided for in the Charter, Code or Land Use Code.

(b) Any such permit or license may include such conditions and requirements as the City Manager deems necessary and appropriate to protect the interests of the City, and shall be revocable at the pleasure of the City Manager, whether or not such right to revoke is expressly reserved in such permit or license.

(c) The City Manager shall promptly notify the City Council of the granting of any permit or license pursuant to this Section.

Introduced, considered favorably on first reading, and ordered published this 21st day of March, A.D. 2017, and to be presented for final passage on the 18th day of April, A.D. 2017.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of April, A.D. 2017.

Mayor

ATTEST:

City Clerk