

CITY OF BIRMINGHAM
RIGHT-OF-WAY USE AGREEMENTS

1.
 - a. Right-of-way use agreements are needed when a privately owned object encroaches into the public right-of-way. Encroachments may take many forms including, but not limited to, underground ducts, canopies, awnings, bay windows, porches, exhaust fans, monitoring wells, pedestrian bridges, balconies, fire escapes, signs, fences, etc.
 - b. In general, encroachments should be avoided because there is no guarantee that a right-of-way use agreement will be approved. It is recommended that you discuss your specific situation with the City Engineer before it becomes a problem and not after.
2. Applying for a right-of-way use agreement starts with the City Engineer who will need the following information:
 - a. The complete legal name and mailing address of the entity (individual, sole proprietor, partnership, corporation, etc.) who will be a party to the agreement and the name of a person who can legally sign documents on behalf of the entity. This will typically be the **Owner** or **Lessee/Tenant** of the property and not the contractor doing the work. An application form is included for your use.
 - b. An accurately dimensioned sketch showing the location of the encroachment relative to the right-of-way. A sample sketch is included for your use.
 - c. Perspective views or renderings of the encroachment are helpful but not required.
3. The general process for obtaining a right-of-way use agreement is as follows:
(Please take note of the approximate amount of time required)
 - a. The City Engineer will forward the information provided by the Applicant to a Planning, Engineering and Permits (PEP) staff member who will prepare a draft agreement (typically within three days of receipt of the application).
 - b. The draft agreement is sent to the Law Department where it is reviewed, edited if necessary, and approved as to form. The Law Department returns the draft agreement to PEP (turnaround time ranges from a couple of days to several weeks depending on availability of Law Department staff).
 - c. PEP staff will forward two originals of the agreement to the Applicant for review and signature by the Owner or Lessee of the property.

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- d. The Applicant returns both signed agreements to PEP (Steps c and d can take from one to two weeks, or longer, depending on the US Mail and/or the Applicant.)
- e. PEP staff will place the agreement on the Public Improvement and Beautification Committee (PIBC) agenda regardless of whether or not the agreement is signed by the Applicant. This is done to save time. The PIBC is a subcommittee of the City Council that meets once a month on the 3rd Tuesday of each month at 4:00 p.m. The Applicant, Owner or Lessee should be present at the PIC meeting to answer any questions the Committee may have relative to the request.

Applications must be received by PEP at least two weeks prior to the regularly schedule PIC meeting to allow time for processing the application. Applications received by PEP after this time frame may be placed on the following month's PIC agenda.

- f. If PIC forwards the agreement to the City Council with a favorable recommendation, PEP staff will prepare a resolution that authorizes the Mayor to sign the agreement. The resolution may be placed on the City Council agenda as early as the Tuesday following the PIC meeting. However, it could be later. **The resolution will not be placed on the Council agenda until the agreement has been signed and returned to PEP by the Applicant, Owner or Lessee.**
- g. The Applicant, Owner or Lessee should be present at the City Council meeting to answer any questions the Council may have relative to the request.
- h. The City Council takes action on the resolution.
- i. If the resolution is approved, the City Clerk will send the Mayor a certified copy of the resolution (generally takes 10 to 14 days following Council action). The Mayor will not sign the agreement until he has received this document.
- j. The Mayor executes the agreement.
- k. PEP staff will send a fully executed original of the agreement to the Owner or Lessee/Tenant.

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APPLICATION FOR RIGHT-OF WAY USE AGREEMENT

(Please Print)

APPLICANT INFORMATION

Name: _____ Date: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: (____) _____ E-Mail Address: _____

OWNER OR LESSEE INFORMATION

Full Legal Name of Entity Requesting the Agreement: _____

Check One: Property Owner Lessee/Tenant

Mailing Address: _____

City: _____ State: _____ Zip: _____

Name of Person Who Can Legally Sign Documents on Behalf of the Entity Listed Above:

_____ Title: _____

Telephone Number: (____) _____ E-Mail Address: _____

ENCROACHMENT INFORMATION

Address of Encroachment: _____

Zip: _____

Describe the Encroachment (Attach Site Plan and Renderings): _____

Other Information: _____

Return to: City Engineer
 Room 220, City Hall
 710 North 20th Street
 Birmingham, Alabama 35203

NOTE: Incomplete or missing information may delay processing of the application.

Date Received _____

Received by _____

