



Allegheny County Council

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Legislation Details (With Text)

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On agenda: 6/18/2024 **Final action:**
Title: An ordinance amending ordinance 37-23-OR in order to clarify the authorization granted to the Department of Public Works to take certain actions on behalf of County Council with respect to the issuance of temporary occupancy permits, highway occupancy permits, the grant of certain licenses, rights of entry and easements, and the amicable acquisition of certain real estate affecting County public work projects and other matters for calendar years 2024 and 2025.
Sponsors: Sam DeMarco, Bethany Hallam, Bob Macey

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Date	Ver.	Action By	Action	Result
6/18/2024	1	County Council	Referred by Chair	

An ordinance amending ordinance 37-23-OR in order to clarify the authorization granted to the Department of Public Works to take certain actions on behalf of County Council with respect to the issuance of temporary occupancy permits, highway occupancy permits, the grant of certain licenses, rights of entry and easements, and the amicable acquisition of certain real estate affecting County public work projects and other matters for calendar years 2024 and 2025.

Whereas, Article IV, Section 2 (k) of the Allegheny County Home Rule Charter (the “Home Rule Charter”) vests County Council with the power and duty by ordinance to permit the use of County land, buildings and other real or personal property owned by the County; and,

Whereas, beginning with Ordinance No. 29-01-OR, enacted April 3, 2001, County Council has adopted ordinances delegating a portion of this authority to the Department of Public Works, such that the Department was authorized to grant various licenses, rights-of-way, utility easements, and other uses of County real property; and,

Whereas, in 2023, the County Council desired to continue this practice in order to reduce the time needed for routine approvals of certain occupancy and uses affecting County real estate, mitigate project schedule delays, and reduce inconvenience to the public and higher costs of administration, and therefore renewed the delegation to the Department of Public Works via enactment of ordinance 37-23-OR; and,

Whereas, it is the desire of Council to clarify the extent of the delegation undertaken pursuant to the terms of ordinance 37-23-OR.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Amendment of Ordinance 37-23-OR.

Sections 2 and 3 of ordinance 37-23-OR are hereby amended as follows:

SECTION 2. Authorization to Grant Highway Occupancy Permits for Use of Work Performed on County Roads and Bridges.

No person, public utility, private company, municipality or municipal authority shall occupy ~~or~~ and perform any work upon or under a County highway or bridge without first securing a highway occupancy or bridge occupancy permit. County Council does hereby authorize the Department of Public Works to grant such highway and bridge occupancy permits so long as such actions shall promote public safety and welfare and shall not interfere with any existing or anticipated County governmental function. All such grants shall be consistent with solid engineering practices and the regulations of the Department of Public Works in effect on the date hereof or that may be hereafter adopted. County Council does further authorize the Director of the Department of Public Works, or his designee, to take any and all further actions as may be necessary or proper to carry out the authorization granted herein, including, but not limited to, the execution of the permits identified in this section. Notwithstanding the foregoing, County Council shall have the right to rescind or revoke any action taken under the authority granted herein. Nothing contained within this Section shall be deemed to delegate any authority or discretion to the Department to grant highway occupancy permits for any function other than performing work on or under a County owned road or bridge.

SECTION 3. Authorization to Grant Temporary Occupancy Permits, Easements, Rights of Entry and Licenses for the Use of County Real Estate.

A. County Council does hereby authorize the Department of Public Works to grant easements, rights of entry and licenses for the use of County-owned real estate so long as such actions authorized by the Department are necessary to undertake repair, maintenance, or improvements to County-owned infrastructure, facilities, or real property, and to the extent that such actions shall promote public safety and welfare and shall not interfere with any existing or anticipated County governmental function.

B. The authorization granted herein shall ~~include, but not be~~ limited to; execution of license agreements, rights of entry, authorizations to enter County owned property, cooperation agreements with municipalities and third parties, utility easements, right-of-way agreements, reimbursement agreements and other instruments that may affect County owned real estate, solely to the extent that such agreements or other instruments meet the

conditions established under the terms of this Section.

C. Notwithstanding the above, all such actions shall be subject to approval of the County Solicitor.

D. County Council does further authorize the Director of the Department of Public Works, or his designee, to take any and all further actions as may be necessary or proper to carry out the authorization granted herein, including, but not limited to, execution of any writings or instruments identified in this section.

E. Notwithstanding the foregoing, County Council shall have the right to rescind or revoke any action taken under the authority granted herein.

F. For the purposes of this Section, a use shall only be deemed necessary if a given repair, maintenance, or improvement activity could not be completed safely and at a reasonable cost without authorizing such use.

G. The provisions of this Section shall not be read or interpreted to authorize any activity not specifically delineated herein to the Department of Public Works or any other County department, official, or employee.

SECTION 3. Effect on In-Force Contracts.

Nothing contained within the terms of this ordinance or ordinance 37-23-OR shall be deemed to invalidate, alter, or otherwise have any effect upon any contract, memorandum of understanding, or other agreement to which the County is a party and which was executed prior to the effective date of this ordinance.

SECTION 4. Effective Date and Term of Ordinance.

The provisions of this ordinance shall become effective immediately upon the date of final approval. Ordinance 37-23-OR shall remain effective as of January 1, 2024 and shall expire on December 31, 2025.

SECTION 5. Severability.

If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

SECTION 6. Repealer.

Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.