



CITY COUNCIL MEMORANDUM

TO: City Council

FROM: Matthew R. Schmitz, MPA - City Manager

DATE OF MEETING: August 25, 2025

ITEM TITLE: First Reading of an Ordinance to add Chapter 142, Right-of-Way Obstructions, Encroachments, and Beautification to the City of Independence Code of Ordinances.

BACKGROUND:

The City's public rights-of-way (ROW) are essential for transportation, utilities, and public safety operations. Over the years, a variety of private installations—from landscaping to non-standard mailboxes—have been placed in the ROW. The City currently lacks a clear, consolidated ordinance to address these items, leading to confusion for property owners, potentially inconsistent enforcement, and potential safety hazards. Obstructions can impede pedestrian and vehicular traffic, interfere with snow removal and street maintenance, and create liability concerns for the City as we have recently seen. This proposed ordinance aims to establish clear and fair regulations for all parties.

DISCUSSION:

The proposed Chapter 142 provides a comprehensive framework for managing the public right-of-way. It balances the public's need for a safe and accessible ROW with the desire of property owners to beautify their properties. The ordinance achieves this by:

- **Defining Key Terms:** Establishes clear definitions for "boulevard," "obstruction," "encroachment," and different types of mailbox structures to ensure consistent interpretation.
- **Permitting Minor Beautification:** Allows for minor landscaping (flowers, shrubs under 36 inches, etc., up to a total of 64 square feet) and standard, breakaway-style mailboxes without a permit, provided they do not obstruct sightlines at intersections or driveways.
- **Creating a Permit Process for Major Encroachments:** Requires a permit for substantial structures like masonry mailboxes, retaining walls, or irrigation systems. The permit process ensures these structures are safely located and requires the property owner to execute and record a hold-harmless agreement, thereby indemnifying the City from liability.
- **Prohibiting Nuisances:** Expressly prohibits the placement of junk, inoperable vehicles, and certain repurposed items (e.g., tires, toilets as planters) in the ROW.
- **Establishing a Clear Enforcement Process:** Outlines a formal process for violation notices, hearings, and nuisance abatement, to be administered by the Building Official.

Following feedback from the City Council at the August 4th, 2025, Work Session, and in consultation with the City Attorney, several clarifications were incorporated into the draft ordinance. These changes are incorporated in the attached Ordinance and highlighted by being shown in red.

RESULTS:

The City has established priorities during strategic planning sessions. This item supports the Vision from that session of **supporting and enhancing City infrastructure** and **supporting high-quality City services**. This item helps achieve that vision by proactively managing the public right-of-way to protect public infrastructure, ensure the safety of both the public and City employees, and allow for more efficient City operations, particularly snow removal and utility maintenance. It provides clear, predictable, and legally sound standards for residents and staff.

FINANCIAL CONSIDERATION:

There is no direct financial impact to the City budget for the adoption of this ordinance. Enforcement will be managed by existing staff. A non-refundable application fee, to be set by a separate resolution, will cover the administrative costs associated with reviewing and processing permits for major encroachments; **however, that fee will not go into effect until January of 2026**. The ordinance includes a cost-recovery provision allowing the City to assess the costs of abating a nuisance to the property owner.

RECOMMENDATION:

Staff recommends a motion to approve the first reading of an ordinance to add Chapter 142, Right-of-Way Obstructions, Encroachments, and Beautification to the City Code.

Staff recommends a motion to suspend the statutory rule requiring an ordinance to be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed.

Staff recommends a motion to have this ordinance, which adds Chapter 142, Right-of-Way Obstructions, Encroachments, and Beautification to the City Code, placed on its final passage for adoption pursuant to Iowa Code Section 380.3 and to authorize the Mayor to sign the Ordinance. The changes will be effective upon the ordinance summary being published in the newspaper.