

CITY OF SANCTUARY
ORDINANCE NO. 94

**AN ORDINANCE OF THE CITY OF SANCTUARY
ENACTING AN ORDINANCE REGARDING EASEMENT
MAINTENANCE ON PRIVATE PROPERTY AS
ATTACHED IN EXHIBIT A; ESTABLISHING NUISANCE
AS AN OFFENSE; AND PROVIDING FOR FINDS OF
FACT, ADOPTION, REPEALER, SEVERABILITY, AND
ENFORCEMENT; ESTABLISHING AN EFFECTIVE
DATE; AND PROPERTY NOTICE AND MEETING.**

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapters 341, 342, 344, 361, and 365 of the Texas Health and Safety Code, as amended, the City Council wishes to establish public nuisance regulations; and of the Texas Local Government Code, the City has the authority to regulating zoning in the City; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Sanctuary to adopt an ordinance regulating the maintenance of easements and establishing a nuisance offense for violation of such regulation.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
SANCTUARY, TEXAS, THAT:**

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Ordinance No. 94, is hereby enacted to read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance and the City Code for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

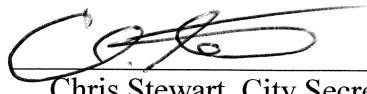
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 3 day of August, 2021, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Sanctuary, Texas.

CITY OF SANCTUARY:

by: 
Megg Galloway, Mayor

ATTEST:


Chris Stewart, City Secretary

City of Sanctuary

CODE OF ORDINANCES

ORDINANCE NO. 94

Section I, Nuisance Declared

(a) The following item(s) are declared to be nuisances.. All easements controlled by such person(s) on any yard or ground surrounding such building, or on or adjacent to right-of-way, or any property, public or private, shall be fined upon expiration of the appropriate notification for abatement, as provided in this Ordinance. The City can also use abatement by City forces, whether an emergency or not as provided for in this Chapter. Nuisances are further defined as follows:

- a. The act by any person of grading, filling, blocking, or otherwise obstructing an easement; failing to maintain any easement; or maintaining an easement in a manner that allows the easement to be clogged with debris, sediment; or vegetation creating an obstruction or threat to public health and safety; and
- b. The act by any person of grading, filling, blocking, altering, constructing, or obstructing property so that water is discharged on an adjoining property or premises to the detriment of person or property, or in a manner that causes the water to affect the safe use or stability of the adjacent property.

Section II, Violation Declared to be a Nuisance; Punishable By Fine

(a) All violations of this Ordinance shall be declared to be a nuisance. A person committing an offense of this Ordinance, and upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine, as provided for the general penalty provision found in the Texas Health and Safety Code. Said fine shall be in addition to any cost or expense that is incurred by the city to remedy the nuisance should the responsible party fail to do so after notice and demand for compliance by the City. Each and every day that a violation declared to be a nuisance continues, shall constitute a separate offense of this article.

Section III – Nuisance Abatement and Notice Procedure

(a) In the event that any person fails or refuses to take necessary action to comply with this ordinance within seven (7) days after notice of a violation, in writing, by the city, a representative of the city may:

- a. Enter upon the premises upon which the violation exists without further notice and remedy the nuisance or make the improvements required; and
 - b. Pay for all work necessary to remedy the nuisance or make a required improvement and charge all expenses and cost expended by the city to the owner.
- (b) The notice must be given:
- a. Personally, in writing, to the owner;
 - b. By letter addressed to the owner at the owner's address, as recorded in the appraisal district records of the appraisal district in which the premises is located, by certified mail; or
- (c) If personal service cannot be obtained or the premises owner's address is unknown:
- a. By publication in a newspaper of local circulation at least once;
 - b. By posting the notice on or near the front door of each building on the premises to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contain no buildings.
 - d. If the city mails a notice to a premises' owner in accordance with subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
- (d) If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city may, without notice, take any action permitted by this article and assess its expenses as provided for herein.
- (e) Notwithstanding anything stated herein to the contrary, the city shall have the right to immediately issue a citation and/or abate a condition that is an immediate danger to the health, life, or safety of any person and to charge the owner of the premises on which the condition occurred or the person who caused the condition with all expenses and costs expended by the city in the abatement.
- (f) A municipality may assess expenses and create liens as set forth in Section IV of this Ordinance.
- (g) The authority of the city under this section is in addition to any other authority granted pursuant by law.

Section IV - Assessment of Expenses; Lien

- (a) The city may assess expenses incurred under this article against the real estate on which the work to remedy the nuisance is done or improvements made.
- (b) To obtain a lien against a premises, the mayor, or municipal official designated by the mayor must file a statement of expenses with the county clerk. The lien statement must state the name of the owner of the premises or property, if known, and the legal description of the premises or property. A signature on a lien statement may be a facsimile signature as defined by Section 618.002, Government Code. The lien attaches upon the filing of the lien statement with the county clerk.

- (c) The lien obtained by the city is security for the expenditures made and the interest shall accrue at the rate of 10% for each year that the lien is in place, on the amount due from the date of payment by the city.
- (d) The lien is inferior only to:
 - a. Tax liens; and
 - b. Liens for street improvements.
- (e) The city may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (g) The remedy provided by this section is in addition to any other remedy allowed by law.
- (h) The city may foreclose a lien on a premise and/or property under this article in a proceeding relating to the property and/or premises described in Chapter 33, Subchapter E, of the Texas Tax Code.
- (i) All charges shall bear interest at the maximum legal rate per annum from the date the city incurs the expense.
- (j) The owner or any other person responsible, as provided herein, shall be jointly and severally liable for the charges.