

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 94, SECTION 94-1, OBSTRUCTIONS AND ENCROACHMENTS OF THE CODE OF ORDINANCES OF THE CITY OF DEER PARK, TEXAS, PROVIDING FOR AMENDED TRAFFIC REGULATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:**

**1.** The City Council of the City of Deer Park, Texas hereby finds again and now as set forth in Chapter 94, Section 94-1 of the Code of Ordinances of said City, adopted September 15, 2015 shall be amended as follows:

- (a) It shall be unlawful for any person to erect, place, build, construct or maintain any fence, barricade, gate, pole, post, sign, building or other obstruction or encroachment upon any public street, or any portion of a public street within the city, or to cause any of such things to be done except as authorized in this Code. The enumeration of certain types of obstructions and encroachments shall not limit the scope and effect of this section, but the enumeration of certain types of obstructions and encroachments shall be construed to prohibit and forbid every type and kind of obstruction or encroachment upon any public street, of whatever nature or character.
- (b) It shall be unlawful to plant any tree, shrub or plant, other than grass, upon any public street right-of-way or easement within the city.
- (c) Any existing trees, shrubs, plants, grass or other vegetation in the right-of-way between the abutting property owner's lot and the edge of the street shall be maintained by the abutting property owner.
- (d) It shall be unlawful for every owner of any building, lot, parcel of land, grounds, yard, or any other place or portion thereof in the city to allow any tree, shrub, vine, palm or any similar plant of any description or kind to be grown, maintained or cultivated on private

property in such a manner that any portion of such tree, shrub, vine, palm or any similar plant may overhang or obtrude upon or cover any sidewalk, city right-of-way or easement in the city, unless there is eight feet of clearance, or any street in the city, unless there is fourteen feet of clearance, between the surface of all portions of such sidewalk or street and the overhanging tree, limb, shrub, vine, palm or plant.

- (e) It is unlawful for any owner or occupant to willfully refuse to remedy any condition referred to in subsections (c) and (d) of this section, after notice thereof as provided in such section.
- (f) Upon such failure, a code enforcement officer of the city may order such work done by the city, or cause the work to be done by a private contractor. If a private contractor is used, the city shall pay for the work. Any expense the city has incurred in doing or having such work done or improvements made, as heretofore set out, shall be charged to the owner or occupant of such property. The expenses shall be billed with the tax statement to the owner or occupant. In addition, the expenses thereof may be assessed against the real estate or lots upon which such expense is incurred. This shall be done by filing with the county clerk a statement of such expenses signed by the mayor or health officer, as provided for in V.T.C.A., Health and Safety Code § 342.007. The city shall have a privileged lien upon such property inferior only to tax liens and liens for street improvements to secure the expenditure so made and ten percent interest on the amount from the date of such work. The city may institute suit and recover such expense and foreclose such lien in any court of competent jurisdiction and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter. This section is cumulative of all other ordinances on the same subject.

2. This Ordinance applies only to offenses committed on or after its effective date, and an action for an offense committed before this Ordinance's effective date is governed by the Ordinance existing before the effective date, which Ordinance is to be continued in effect for this purpose as if this Ordinance were not in force.

3. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

4. It is officially found and determined that the meeting at which this Ordinance was adopted was open to the public; and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the \_\_\_\_ day of \_\_\_\_\_, 2021 **by a vote of** \_\_\_\_\_ **"Ayes" and** \_\_\_\_\_ **"Noes"**.

\_\_\_\_\_  
Mayor, City of Deer Park

**ATTEST:**

\_\_\_\_\_  
City Secretary

**APPROVED:**

\_\_\_\_\_  
City Attorney