

ORDINANCE NO. 087-068

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 10, OFFENSES-MISCELLANEOUS, OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, PROHIBITING NUISANCE LOCATED UPON EASEMENTS; PROVIDING FOR DUTIES OF ABUTTING PROPERTY OWNERS AND OCCUPANTS; PROVIDING AUTHORITY OF CITY TO ABATE NUISANCES; PROVIDING FOR EXPENSES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That Chapter 10 of the Code of Ordinances, Town of Addison, Texas, is hereby amended by amending Sec. 10-24 to read as follows:

Sec. 10-24. Nuisance Located Upon Easements; Duties of Abutting Property Owners and Occupants.

For purposes of this ordinance, the term "easement" shall mean a right, vested in the public generally or in the community as a whole, to use and enjoy the land of another person for a special purpose. Such term shall include, but not be limited to, all drainage and floodway dedications or easements located within the corporate limits of the Town of Addison. In the event that a nuisance, as defined hereinabove at Sec. 10-17, is found to exist upon any easement within the City, or in the event that any person, firm or corporation whose property is burdened by any easement within the city limits, fails to comply with the foregoing provision of this article, the City Manager or his duly appointed representative may give a ten (10) day official notice to such person, firm or corporation which is creating

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such nuisance or is violating the terms of this article. If such person, firm or corporation fails or refuses to comply with the provision of sections 10-18 through 10-20 within the ten (10) days following notification, they shall be considered to be in violation and subject to a fine as provided in Chapter 1 of this Code. The provisions of this section shall apply only to the owner of the servient estate or the property burdened by the easement and shall not apply to the grantee or holder of such easement.

Property owners and occupants shall be jointly responsible for nuisances and abatement thereof under this article up to the curb or sidewalk, and between the curb and sidewalk, of the streets and to the pavement of alleys on abutting property they own or occupy. Existing drainage areas and creeks traversing drainage and floodway easements within the City shall remain as open channels (unless required to be enclosed by other ordinances) at all times and shall be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage and floodway easements. The City shall not be responsible for maintenance or operation of said creeks or drainage or for any damage or injury to private property or person that results from the flow of water along said creek or drainage, or for the control of erosion. Each property owner shall keep the natural drainage area channel and creek traversing the drainage and floodway easements adjacent to his property clean and free of debris, silt, growth, vegetation, weeds, rubbish, refuse, matter and any substance which would result in unsightly or unsanitary conditions or obstruct the flow of water. The City shall have the right, but not the obligation, to enter upon the easements at any point or points with all rights of ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions which may occur.

SECTION 2. That Chapter 10 of the Code of Ordinances, Town of Addison, Texas, is hereby amended by amending Sec. 10-26 to read as follows:

Sec. 10-26. Authority of City to Abate Nuisance. The City shall have the right, but not the obligation, to go upon the property described in the preceding two sections and hire a private contractor and cause to be done the work necessary to abate the nuisance if the person fails or refuses to comply with the provisions of Secs. 10-17 through

10-20 within ten (10) days following official notification. Nothing herein shall be construed to place the burden of maintenance of any easement, as defined herein, including, but not limited to, drainage and floodway easements, on the City.

SECTION 3. That Chapter 10 of the Code of Ordinances, Town of Addison, Texas, is hereby amended by repealing Sec. 10-27.

SECTION 4. That Chapter 10 of the Code of Ordinances, Town of Addison, Texas, is hereby amended by amending Sec. 10-28 to read as follows:

Sec. 10-28. Expenses. The expense incurred pursuant to Secs. 10-26 and ~~10-27~~ in correcting the condition of property, the costs of inspection, the cost of publishing notice in the newspaper and a Fifty and no/100 Dollars (\$50.00) administrative fee, shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuse to pay such expense within thirty (30) days after the first day of the month following the month in which the work was done, the City shall file with the County Clerk a statement of the expenses incurred in correcting the condition of the property.

SECTION 5. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

Section 7. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty of fine only not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

Section 8. The fact that the present code of Ordinances does not provide for nuisance abatement on certain easements and is therefore, inadequate to properly safeguard the general public health and safety, creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

DULY PASSED by the City Council of the Town of Addison, Texas, this the 13th day of October, 1987.

APPROVED:



MAYOR

ATTEST:



CITY SECRETARY