

Ordinance amending Corpus Christi Code of Ordinances to add Section 49-15 authorizing execution of easement encroachment licenses as an administrative remedy

WHEREAS, under current regulations, the remedy for property owners whom accidentally encroach on City easements is to remove the encroachment or request the City to abandon the easement, or portion thereof;

WHEREAS, easement encroachment license provides an alternative administrative remedy which can be a more equitable and efficient resolution of encroachment on City easements; and

WHEREAS, an easement encroachment license that is terminable at any time by the City does not constitute an alienation or lease of City property pursuant to Corpus Christi City Charter Article IX.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. The Corpus Christi Code of Ordinances, Chapter 49 is amended by adding the following language as delineated below:

Sec. 49-15. – Easement Encroachment License.

(a) Any person that has erected, constructed or maintains an encroachment structure on a City easement may obtain an easement encroachment license therefor. An easement encroachment license may be obtained by filing a written application with the department of development services. The application shall state the name and address of the owner of the adjacent real property benefited by the encroachment and shall be accompanied by a legal description of the adjacent real property benefited by the encroachment, a one-sheet plot plan illustrating the encroaching structure and a written justification as to the need for the encroachment.

(b) Each applicant for an encroachment license shall, at the time of filing the application, pay a nonrefundable application fee of \$530.

(c) Easement Encroachment License may be granted by the City Manager or designee where with the following criteria apply:

(1) the encroachment will not be detrimental to the health, safety or welfare of the community or the surrounding property;

(2) the encroachment will not interfere with access to any public place;

(3) the encroachment does not require the relocation of public or franchise utilities and said utilities have no objections to the encroachment;

(4) all erected structures or improvements are in compliance with Unified Development Code and building code standards; and

(5) the encroachment is less than 1/3 of the total width of the easement.

(d) If the City Manager or designee finds that the encroachment meets the criteria in subsection c, they shall approve the application. If the proposed encroachment does not meet each of the criteria set out in subsection c, the City Manager or designee shall deny the license, giving their reasons in writing.

(e) Requests for an Easement Encroachment License that do not meet the criteria of subsection c may be granted by City Council.

(f) If at any time it is determined by the City Manager or designee that the encroachment structure has become detrimental to the health, safety or welfare of the community or the surrounding property, interferes with access to any public place, or if a public works project or development requires removal of the encroachment, the encroachment license granted hereunder shall be revoked by the City Manager or designee upon providing the licensee thirty days' notice thereof.

(g) Encroachment licenses shall run with the Property and be recorded in the real property records of Nueces County, Texas.

(h) No encroachment licensed under this ordinance is intended to grant any permanent right or title to all or any portion of an easement, or other City property and does not constitute alienation of the City's property right.

SECTION 2. If for any reason any section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance shall be held to be invalid or unconstitutional by final judgment of a court of competent jurisdiction, such judgment shall not affect any other section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance be given full force and effect for its purpose. The City Council hereby declares that it would have passed this Ordinance, and each section, paragraph, subdivision, sentence, clause, phrase, word, or provision thereof, irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses, phrases, words, or provisions be declared invalid or unconstitutional.

SECTION 3. Publication shall be made in the City's official publication as required by the City's Charter.

SECTION 4. This ordinance is effective immediately upon final passage.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, 2020, by the following vote:

Joe McComb	_____	Michael Hunter	_____
Roland Barrera	_____	Ben Molina	_____
Rudy Garza	_____	Everett Roy	_____
Paulette M. Guajardo	_____	Greg Smith	_____
Gil Hernandez	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____ 2020, by the following vote:

Joe McComb	_____	Michael Hunter	_____
Roland Barrera	_____	Ben Molina	_____
Rudy Garza	_____	Everett Roy	_____
Paulette M. Guajardo	_____	Greg Smith	_____
Gil Hernandez	_____		

PASSED AND APPROVED on this the _____ day of _____, 2020.

ATTEST:

Rebecca Huerta
City Secretary

Joe McComb
Mayor