

ORDINANCE NO. 015-02

AN ORDINANCE PROHIBITING OBSTRUCTION OF VISIBILITY AT INTERSECTIONS; REGULATING THE HEIGHT AND LOCATION OF VEGETATION AND STRUCTURES WITHIN RESTRICTED AREAS; PROVIDING A PENALTY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

Whereas, the growth of shrubs, bushes and other vegetation, and the location of walls or other obstacles, in certain areas adjacent to the intersection of public streets and highways, may result in restricted visibility to motorists;

Whereas, reasonable controls and regulation of the growth of vegetation and placement of structures that restrict visibility at intersections is necessary to enhance traffic safety and protect the public health, safety and property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS, THAT:

Section 1. Restricted Areas. All of that portion of land lying within a triangular-shaped area on each street corner within the City, beginning at the precise intersection point of the curbs of each of the two intersecting streets, with two sides of such area being formed by a line extending 20 feet along each such curb line from said curb intersection point, and the third side being determined by the drawing of a straight line from and connecting the ends of each such 20 foot extension line from the curb intersection, and, where no curbs are in existence at such street intersections, said 20 foot lines shall coincide with the central flow line of the ditches or depressions paralleling such uncurbed streets. The triangular area described in the foregoing sentence (the "restricted area") is hereby restricted as provided in this ordinance. The restricted area is subject to the terms of this ordinance whether it be privately owned or street right-of-way property, regardless of the condition of such street or the volume of travel on any such street.

Section 2. Prohibited Structures. No person shall erect or maintain within any such restricted area any wall, fence or other structure, excepting authorized utility poles and governmental signs, to a height greater than three feet from the street gutter flow line.

Section 3. Height Limits On Vegetation. No person shall plant, grow or maintain in any such restricted area any plant, hedge, shrub or other growth (save and except trees as provided for in this ordinance) at a height greater than three feet from the street gutter flow line.

Section 4. Tree Limbs. Trees planted, grown or maintained in any restricted area shall not have branches or foliage extending from the trunk thereof at a height of less than eight feet above the gutter flow line. No trees shall be planted in a restricted area after the date of this ordinance.

Section 5. Street Gutter Flow. By "street gutter flow" is meant the street gutter flow line of the curb adjacent to and bordering upon each such restricted area; in the event there is not a curb, the aforesaid height restrictions shall be based upon the actual level of the paved or travelled portion of the public street adjacent to and bordering upon each such restricted area.

Section 6. Zoning Restrictions and Exemptions. The provisions of this ordinance shall apply to those areas of the City that: (a) are designated and classified by the zoning ordinance of the City; (b) are developed pursuant to a plat that provides a "set back" line; and (c) all other lots, tracts or parcels of land within the City that do not, as of the date of this ordinance, have a building or structure located within the restricted area. It is the purpose of this ordinance to cover all areas of the City; provided that an exception shall exist to assure the provisions of this ordinance do not apply to any structure presently constructed within a restricted area and that was constructed in conformance with the city ordinances in effect at the time of construction.

Section 7. City Rights-of-Way Not Affected. This ordinance shall have no bearing or effect upon the right of the City to administer and control the right-of-way of the public streets and alleys, not involved in a restricted area provided for in this ordinance. It shall be the duty and responsibility of each property owner, and the occupant of each property, that has constructed, erected, planted or installed any vegetation, structure, fence, or other obstruction, or that has suffered or permitted vegetation to grow to more than three feet in height, within a restricted area, to remove the same upon written notice from the City. The City may, but shall have no duty to, clear any obstruction prohibited by this ordinance.

Section 8. Violation - Penalty. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500.00, and each day that such structure or growth shall exist in violation of this ordinance shall constitute a separate offense.

Section 9. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof 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.

Section 10. Effective Date. This ordinance shall take effect ten (10) days from and after its publication as provided in Article VIII, Section 13, of the City Charter.

Section 3. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

Passed and adopted on first reading this 12th day of November 2002.

Finally passed and adopted on second reading this the 26th day of November 2002.

City of De Leon, Texas

Attest:

John R. Adcock, Mayor

Gail Neeley, City Secretary