

**ORDINANCE NO. 540-18**

**AN ORDINANCE AMENDING ARTICLE 12.02 TRAFFIC- CONTROL DEVICES BY ADDING SECTION 12.02.002 "OBSTRUCTIONS WITHIN PUBLIC RIGHT-OF-WAY"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Sansom Park, Texas, is a Type A General-Law municipality; and

**WHEREAS**, Section 51.001 of the Texas Local Government Code authorizes municipalities to adopt any ordinance, act, law or regulations, not inconsistent with State law, that is necessary for the government, interest, welfare or good order of the City; and

**WHEREAS**, the City Council deems it necessary to adopt this ordinance and to add a new Section to the Code of Ordinances to regulate obstructions within the public right-of-way.

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

**SECTION I  
FINDINGS OF FACT**

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**SECTION II  
SECTION 12.02.002 "OBSTRUCTIONS WITHIN PUBLIC RIGHT-OF-WAY"**

Section 12.02.002 Definitions

- a.) Obstruction means any sign, equipment, building, pole, structure, or extension, thereof, which protrudes, extends or is located within a right-of-way in the city. This regulation specifically includes, but is not limited to, the construction, installation, maintenance and/or positioning of a basketball goal in any right-of-way.
- b.) Right of way means the area in, on, above or below a public roadway, highway, street, public sidewalk, alley or easement in which the city has an interest.

Section 12.02.003 Obstruction of Right-of-way

- a.) It shall be illegal for a person/person(s) to place, construct or erect any obstruction within or across any right-of-way.

### Section 12.02.003 Removal required

Any obstruction prohibited by this Section which has been placed or constructed within a right-of-way prior to the effective date of this ordinance, and which remains in the right-of-way on the effective date of this ordinance, shall be removed by the owner or other party responsible for the obstruction. The owner or other party responsible for the obstruction shall be responsible for all costs in connection with the removal of the obstruction.

### Section 12.02.004 Penalty

A person who violates any provision of this ordinance and is found guilty of a Class C Misdemeanor and upon final conviction shall be fined an amount not to exceed \$200.00 upon the first conviction and an amount not exceeding \$500.00 upon the second and each subsequent conviction.

### Section 12.02.005 Right of the City to abate unlawful obstruction

- a.) The City Administrator or the duly appointed representative may remove or cause the removal of an obstruction necessary to obtain compliance with this ordinance.
- b.) Not later than the tenth (10) day after the date the city removes the obstruction under this section; the city shall give notice by certified mail to the person responsible for the obstruction.
- c.) The Notice shall contain:
  1. An identification, including a legal description of the property or location where violation occurred
  2. A description of the violation of this ordinance
  3. A statement of how the city abated the obstruction.
  4. An itemized statement of the charges necessary to remove the obstruction; if any applies.
  5. Notice of where to reclaim the property or obstruction. Property must be reclaimed within (10) ten days of notification. Charges for removal must be paid prior to reclaiming property.

## **SECTION III CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Sansom Park, Texas, as amended, except where the provisions are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

## **SECTION IV SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the

City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION V  
PENALTY CLAUSE**

Any person, firm or corporation, violating any of the provisions or terms of this Ordinance, or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense and each and every day such violation shall continue shall constitute a separate offense.

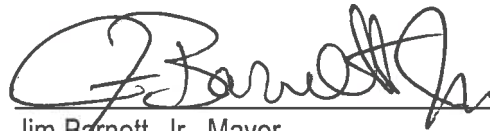
**SECTION VI  
PUBLICATION CLAUSE**

The City Secretary of the City of Sansom Park is hereby directed to publish the caption, the penalty clause and effective date clause in the official newspaper at least once within ten (10) days after the passage of this Ordinance.

**SECTION VII  
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.


**PASSED AND APPROVED** this the 3<sup>rd</sup> day of May, 2018.

  
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Jim Barnett, Jr., Mayor

**ATTEST:**

  
\_\_\_\_\_  
Wendy Blocker, City Secretary

**APPROVED AS TO FORM AND CONTENT:**

  
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D. Lee Thomas, City Attorney

