



# STAFF REPORT

## ATTORNEY/CLIENT PRIVILEGE

City of Dripping Springs

PO Box 384

511 Mercer Street

Dripping Springs, TX 78602

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**Submitted By:** Laura Mueller, City Attorney

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**Council Meeting Date:** November 10, 2020

**Agenda Item Wording:** Discuss and consider approval of an ordinance amending Article 28.04 Site Development adding Section 28.04.025 License to Encroach including establishing the fee for License to Encroach applications.

**Agenda Item Requestor:** Bill Foulds, Jr., Mayor

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**Summary/Background:** This ordinance is designed to assist property owners who desire or have already placed some equipment in easements that are platted, but may not be needed by the City or any utility provider.

Recently, the City moved building permits and plan review in house. Once the Planning Department and Residential Building Inspector began reviewing building permits, it was revealed that builders in certain subdivisions, such as Caliterra, Arrowhead, and Reunion Ranch, have been placing air conditioning units and other equipment in platted utility easements. The previous building inspector, a third party Bureau Veritas, had not stopped this from occurring. The easements in question run along the sides of the platted lots and to the City's knowledge contain no utility lines. The City began stopping building permits and began receiving calls and emails from various property owners, home builders, and developers complaining of the new enforcement of the easements.

Because the easements are platted, and the City does not allow building in easements, and had no process for encroachments or variances, the planning department, building official, and I determined that a solution was needed. Based on a review of what other cities do in the area, and city council direction at the October Council meeting, staff determined that a license to encroach process was most appropriate.

### License to Encroach Ordinance and Process

A property owner can apply for a license to encroach into an easement if:

1. Utilities that use or could use the easement consent;
2. Only for certain items such as air conditioning units and sheds, but not dwellings or buildings, can encroach; and

3. The owner acknowledges that if an easement holder ever needs to use the easement they will have to move their encroachments at their own expense.

The procedure will be available for any easements at any time.

Current encroachments will need to be addressed if a property owner requests a change to their property that creates a new encroachment or expands an existing encroachment.

The Fee for this License is \$200 based on the proposed fee schedule amendment on this Agenda.

**Other Option: Replatting**

We are also recommending that if an owner can replat to remove the easements, they should do so. This also requires utility consent but would prevent any future issue with the encroachment.

**Commission  
Recommendations:**

N/A

**Recommended  
Council Actions:**

Approve License to Encroach ordinance.

**Attachments:**

License to Encroach Ordinance; License to Encroach Application; Fee Ordinance

**Next Steps/Schedule:**

If approved, the Planning Department, Building Department, and I will reach out to the property owners and developers to make them aware that the process exists. The City will then begin to process these licenses, granting them when appropriate.