

WRW:lk
12-7-65

AN ORDINANCE 33928

REGULATING THE LOCATION, CONSTRUCTION, MAINTENANCE, REPAIR, AND DEMOLITION OF RETAINING WALLS AND THE USE OF GROUND WHICH DEPENDS UPON A RETAINING WALL FOR LATERAL SUPPORT; DECLARING UNSAFE RETAINING WALLS AND UNSAFE GROUND WHICH DEPENDS UPON A RETAINING WALL FOR LATERAL SUPPORT TO BE PUBLIC NUISANCES, AND PROVIDING FOR THEIR ABATEMENT; AND PROVIDING A PENALTY NOT EXCEEDING \$200.00 FOR VIOLATION OF THIS ORDINANCE.

* * * *

Whereas, it has come to the attention of the City Council that retaining walls within the City are being located, constructed, maintained, repaired, and demolished in a manner which imperils the life, safety and property of members of the public; and

Whereas, it has come to the attention of the City Council that ground depending upon retaining walls for lateral support is being used in the City in a manner which imperils the life, safety and property of members of the public lawfully upon the premises; and

Whereas, the aforesaid conditions constitute a public nuisance; and

Whereas, the City Council has authority to define and prohibit the maintenance of any nuisance within the corporate limits of the City; NOW, THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

The City Code of the City of San Antonio is hereby amended by adding the following Article ~~thereto~~: to CHAPTER 10 THERE OF:

Article VI. Location, Construction, Maintenance, Repair and Demolition Of Retaining Walls And The Use of Ground Which Depends Upon A Retaining Wall For Lateral Support.

Section 10-91. Purpose of Article.

The regulations herein established have been made in accordance with a comprehensive plan for the protection of the life, safety and property of members of the public. They have been designed to regulate the location, construction, maintenance, repair and demolition of retaining walls and the use of ground which depends upon a retaining wall for lateral support when said retaining walls are located so as to possibly endanger the life, safety or property of the public.

Section 10-92. Definitions.

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein:

- a. "City," when capitalized, is the City of San Antonio.
- b. "Director of Public Works" is the person who is performing the duties of the

Director of Public Works of the City of San Antonio (including the duties of City Engineer). The term shall include his authorized representative when not inconsistent with the context.

- c. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- d. "Abutting land" is any land which lies touching a public highway or other public place.
- e. "Retaining wall" is any wall used in whole or in part to resist the lateral displacement of any material.
- f. "Supported land" is any land depending upon a retaining wall in whole or in part for lateral support.
- g. Surcharge load means extra load above the safe load.
- h. Impact load means extra load caused by extra weight being moved unto the surface.
- i. "Premises subject to this Article" shall include all premises:
 - (1) which are located upon abutting land where by filling the level of the abutting land has been or will be raised above the level of the adjoining public street or other public place, or
 - (2) which are located upon lands which the members of the public are invited to enter upon or to place their personal property upon, and which has land depending upon a retaining wall for its support in order to keep the life, person or property of the public from being endangered.

Section 10 -93. Rules of Construction.

For the purpose of this chapter the following rules are applicable:

- a. Words, phrases, and terms defined herein shall be given the defined meaning except where the context indicates clearly a different meaning.
- b. Words, phrases, and terms not defined herein shall be given their usual and customary meaning except where the context indicates clearly a different meaning.

- c. The text of the chapter shall control captions titles, and similar parts.
- d. The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.
- e. Words used in the singular include the plural; words in the plural include the singular.
- f. Words used in the present tense include the future tense; words used in the future tense include the present tense.

Section 10-94. Construction on City Property - Consent Required.

It shall be unlawful for any person to erect, place upon, or maintain for private purposes any retaining wall or part of same upon any real estate owned or controlled by the City, except by contract with or permission given by ordinance of the City Council.

Section 10-95. Article Does Not Grant a Permit or Easement.

In the event that any person has constructed or hereafter shall construct a retaining wall which is situated in whole or in part upon real estate owned or controlled by the City, nothing contained in this Article is to be construed to grant to or to recognize in anyone any right, permit, franchise, or easement to use any public real estate of the City for private purposes.

Section 10-96. Duties of Abutting Land Owner And/Or User.

The abutting land owner as well as any person using said abutting land shall:

- a. In any case where, by filling the level of the abutting land has been raised above the level of the adjoining public street or other public place, keep soil used in so raising the level of the abutting land off the adjoining public street or other public place. The soil may be kept off the adjoining public street or other public place by a retaining wall built and maintained on said abutting land or by sloping the abutting land so as to accomplish the same purpose.
- b. In any case where the owner and/or user desires to raise the level of the abutting land by filling or otherwise, keep soil used in so raising the level of the abutting land off the adjoining public street or other public place. The soil may be kept off the adjoining public street or other public place by a retaining wall built and maintained on said abutting land or by sloping the abutting land so as to accomplish the same purpose.

- c. In any case where the owner and/or user desires to remove a retaining wall in whole or in part on the abutting land, which has been used to keep soil off the public street or other public place, immediately slope the abutting land in such a manner as to keep the soil from the abutting land off the public street or other public place.
- d. When making repairs to an existing retaining wall, make structurally sound repairs as needed and make said repairs in accordance with plans and specifications prepared by a Registered Professional Engineer; said plans and specifications shall have been approved by the Director of Public Works before a building permit will be issued on abutting land.
- e. When constructing a new retaining wall, erect a structurally sound wall in accordance with plans and specifications prepared by a Registered Professional Engineer; said plans and specifications shall have been approved by the Director of Public Works before a building permit will be issued on abutting land.
- f. Not use any supported land which could cause injury to the life, person or property of the public in any manner which shall cause a surcharge load to be placed upon said supported land. Impact load, if any, shall be considered in determining whether a surcharge load is being placed upon said supported land.

Section 10 -97. Duties of Land Owner And/Or User of Supported Land.

It shall be unlawful for the owner and/or user of any supported land which the members of the public are invited to enter upon or to place their personal property upon, to use or permit the use of said supported land in any manner which shall cause a surcharge load to be placed thereon. Impact load, if any, shall be considered in determining whether a surcharge load is being placed upon said supported land.

Section 10 -98. Design, Construction and Maintenance of Retaining Walls.

All retaining walls subject to the provisions of this Article shall be designed, constructed and maintained to resist the maximum lateral pressure of the retained material, in accordance with accepted engineering practice, when the supported land is being subjected to the maximum load which can be put upon it during its present or intended use, whichever is the greater.

Section 10 -99. Dangerous Premises - Defined.

All premises subject to this Article which have one or more of the following defects or conditions shall be deemed "dangerous premises":

- a. Any retaining wall which lists, leans, or buckles to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base or foundation, and which may reasonably be expected to fall, in whole or in part, and injure members or property of any member of the public.
- b. Any retaining wall which has become damaged or deteriorated to the extent that it may reasonably be expected to fall, in whole or in part, and injure members or property of any member of the public,
- c. Any retaining wall which was built or repaired in a manner which furnishes insufficient lateral support for the load placed thereon by any purpose for which it is used,
- d. Any retaining wall which for any reason not heretofore mentioned is unsafe or dangerous to the life, safety or property of any member of the public; or
- e. Any property in which the supported land is subject to surcharge and/or impact load or loads in excess of the safe load of the retaining wall involved which upon collapse of the wall in whole or in part, would endanger the life, safety or property of any member of the public.
- f. Any property on which there is an earth bank which upon collapse, in whole or in part, would endanger the life, safety, or property of any member of the public.

Section 10 - ¹⁰⁰~~98~~. All "dangerous premises" within the terms of Section 10 - ¹⁰⁰~~98~~ of this article are declared to be public nuisances, and shall be abated as provided herein.

Section 10 - 101. Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the Director of Public Works in ordering, repair, vacation, and/or demolition:

- a. If the retaining wall can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this article, it shall be ordered remedied or repaired.
- b. If the retaining wall is in such condition as to make the use of the supported land dangerous to the life or safety of any member or property of the public, the supported land shall be ordered vacated

back to a point where its use does not constitute a threat to the life, health or property of any member of the public.

- c. If the retaining wall was originally constructed or has been repaired in such a manner as to constitute a threat to the life, safety or property of any member of the public, it shall be ordered remedied or repaired, if economically feasible, otherwise it shall be ordered demolished.

Section 10 - ¹⁰²~~11~~. Director of Public Works; Duties.

The Director of Public Works shall:

- a. Inspect or cause to be inspected periodically all retaining walls on land abutting a public highway, street, road, sidewalk or other public place if said retaining walls are located so as to create a possible dangerous and unsafe condition imperiling life, safety, or property of anyone using said public highway, street, road, sidewalk or other public place.
- b. Inspect or cause to be inspected any retaining wall or premises subject to this Article about which complaints are filed by any person to the effect that said premises or retaining wall is or may be existing in violation of this article.
- c. Inspect or cause to be inspected any retaining wall or premises subject to this Article which he has reason to believe may be in violation of this Article.
- d. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons known by him to have an interest in said premises at last known address(es) as shown by the records of the assessor-collector of taxes of the City of San Antonio, of any premises found by him to be "dangerous premises" within the standards set forth in Section 10-99 - ~~8~~ of this Article, that:
 - (1) the owner must repair or replace with a structurally sound wall, or demolish said retaining wall in accordance with the terms of the notice and this Article;
 - (2) the owner, occupant or lessee must (1) remove immediately sufficient of the load on the supported land to prevent the retaining wall from imperiling the life, safety or property of any member of the public; and (2) when necessary erect a permanent barricade to prevent said retaining wall from being overloaded;

(3) the mortgagee, agent, or other persons having an interest in said premises may at his own risk repair or replace with a structurally sound retaining wall, or demolish said retaining wall or have such work or act done in accordance with the terms of the notice and this article; provided, that any person notified under this subsection to repair or replace with a structurally sound wall, or demolish said wall, or to vacate sufficient of the load on the supported ground of the retaining wall to relieve any overload upon the retaining wall shall be given any reasonable time, not exceeding thirty (30) days, as may be necessary to do or have done, the work or act required by the notice provided for herewith.

- e. Set forth in the notice provided for in subsection d hereof, a description of the premises deemed unsafe, a statement of the particulars which make the premises a "dangerous premises" and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding thirty (30) days as is reasonable.
- f. If the owner, occupant, mortgagee, or lessee fails to comply with the notices provided in subsections d and e above within the time given in the notice, the Director of Public Works shall report the condition to the city attorney giving him a full report including a copy of the notice described in said subsections d and e.
- g. The city attorney shall then take appropriate action to secure compliance with the order of the Director of Public Works and to abate the nuisances involved.

Section 10 - ¹⁰³~~12~~. Penalties For Violations.

It shall be unlawful for any owner, occupant, lessee, agent or any other person to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, or use a retaining wall contrary to or in violation of any of the provisions of this Article.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted, and each violation shall be punishable by a fine not to exceed two hundred (\$200.00) dollars.

Section 10 - ¹⁰⁴~~13~~. Expenses of Construction, Repair or Demolition.

The entire expenses of the construction, repair or demolition of any retaining wall located on premises subject to this Article shall be borne by the owner of said premises. The City is under no obligation to pay any part of the costs of the construction, maintenance, or demolition of such retaining wall.

Section 10 - ¹⁰⁵~~14~~. Severability of Article.

If for any reason any one or more sections, sentences, clauses, or parts of this article are held invalid, such judgment shall not effect, impair, or invalidate the remaining provisions of this article but shall be confined in its operation to the specific sections, sentences, clauses, or parts of this article held invalid and the invalidity of any section, sentence, clause, or part of this article in any one or more instances shall not effect or prejudice in any way the validity of this article in any other instance.

PASSED AND APPROVED this 9th day of December, 1965.

Wm McAllister
M A Y O R

ATTEST:

JH Inselmann
City Clerk

APPROVED AS TO FORM: *Sam S. Loef*
City Attorney

DISTRIBUTION

DEPARTMENT	DATE	ORD. OR RESOL.	CONTRACT
AVIATION DIRECTOR			
STINSON FIELD			
BUDGET	12-9		
CITY MANAGER			
ASST. CITY MGR.			
CITY PUBLIC SERVICE			
CITY WATER BOARD			
COMMERCIAL RECORDER	12-9		
FINANCE DIRECTOR	12-9		
ASSESSOR & COLL.			
CONTROLLER	12-9		
CORP. COURT			
INTERNAL AUDIT			
PROPERTY RECORDS			
PURCHASING			
FIRE CHIEF			
HEALTH DIRECTOR			
HOUSING & INSP. DIR.			
LEGAL	12-9		
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LIBRARY DIRECTOR			
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PUB. WORKS DIRECTOR	12-9		
ASST. DIRECTOR			
TRAFFIC & TRANSP. DIR.			
URBAN RENEWAL AGENCY			
OTHER:			

REMARKS:

J. H. INSELMANN,
CITY CLERK

ITEM NO. 13

ROLL CALL VOTE DEC 9 1965

MEETING OF THE CITY COUNCIL DATE: _____

MOTION BY: Premer SECONDED BY: PK

ORD. NO. 33928 ZONING CASE 651267

RESOL. _____ PETITION _____

COUNCIL MEMBER	ROLL CALL	AYE	NAY
WALTER W. MC ALLISTER PLACE No. 1, MAYOR		✓	
DR. HERBERT CALDERON PLACE No. 2		✓	
ROBERT C. JONES PLACE No. 3		✓	
S. H. JAMES PLACE No. 4		✓	
MRS. S. E. COCKRELL, JR. PLACE No. 5		✓	
JOHN GATTI PLACE No. 6, MAYOR PRO-TEM		abs	
FELIX B. TREVINO PLACE No. 7		✓	
GERALD PARKER PLACE No. 8		✓	
ROLAND C. BREMER PLACE No. 9		✓	

BRIEFED BY: Wref

ADDITIONAL INFORMATION:
for copy on 12-9
re copy on 12-9
re =

Affidavit of Publisher

65-1267

THE STATE OF TEXAS, }
COUNTY OF BEXAR
CITY OF SAN ANTONIO

Before me, the undersigned authority, on this day personally appeared _____
Mrs. Charles D. Treuter, who being by me duly sworn,
she
says on oath that ~~he~~ is one of the publishers of the Commercial Recorder
a newspaper of general circulation in the City of San Antonio, in the State and County aforesaid, and
that the An Ordinance hereto attached has been published in
every issue of said newspaper on the following days, to-wit: _____
December 10, 1965

AN ORDINANCE
AMENDING THE CITY CODE OF THE CITY OF SAN ANTONIO BY ADDING ART. VI TO CHAPTER 10 THEREOF AND REGULATING THE LOCATION, CONSTRUCTION, MAINTENANCE, REPAIR, AND DEMOLITION OF RETAINING WALLS AND THE USE OF GROUND WHICH DEPENDS UPON A RETAINING WALL FOR LATERAL SUPPORT; DECLARING UNSAFE RETAINING WALLS AND UNSAFE GROUND WHICH DEPENDS UPON A RETAINING WALL FOR LATERAL SUPPORT PUBLIC NUISANCES, AND PROVIDING FOR THEIR ABATEMENT; AND PROVIDING A PENALTY NOT EXCEEDING \$200.00 FOR VIOLATION OF THIS ORDINANCE. PASSED AND APPROVED _____
Attest: _____
Notary Public in and for Bexar County, Texas

Mrs. Charles D. Treuter

Sworn to and subscribed before me this 29th day of December, 19 65

Stella Orozco
Notary Public in and for Bexar County, Texas

STELLA OROZCO