

ORDINANCE NO. 143

AN ORDINANCE, REPEALING ORDINANCES NO. 98 AND 125., TO PROTECT THE PUBLIC HEALTH AND PROMOTE THE PUBLIC WELFARE OF THE CITY OF TIOGA, TEXAS, BY PROVIDING FOR THE FILLING OR DRAINAGE OF ALL LOTS THAT MAY HAVE ACCUMULATED STAGNANT WATER; PROVIDING FOR KEEPING ALL LOTS FREE FROM WEEDS, RUBBISH, BRUSH AND OTHER UNSIGHTLY OR UNSANITARY MATTER; PROVIDING FOR AUTHORITY TO ENFORCE THE ORDINANCE; PROVIDING FOR NOTICE TO OWNERS OF PROPERTY OR PREMISES IN CASE OF FAILURE OF OWNER TO MAKE LOTS AND OR PREMISES SANITARY AND SIGHTLY THAT THE SAME MAY BE DONE AT THE EXPENSE OF THE CITY OF TIOGA; PROVIDING FOR FIXING A LIEN AGAINST SUCH LOTS FOR SUCH IMPROVEMENTS; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, it is deemed by the City Council of the City of Tioga, Texas, that it is dangerous to the public health for lots in the City of Tioga to have places thereon where stagnant water may accumulate and for filth, carrion or other impure and unwholesome matter to accumulate on lots in said City and that it is dangerous to public health and constitutes a fire hazard to have weeds, brush, rubbish, and other unsightly and unsanitary matter on lots in the City of Tioga, and;

WHEREAS, It is expressly provided by the provisions of V.T.C.A., Local Government Code, Section 54.012 and V.T.C.A. Health and Safety Code, Section 342.004, that cities shall have the power to correct the evils hereinbefore stated;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS:

Section 1 That it shall be unlawful for any person, firm or corporation who shall own or occupy any lot or lots in the City of Tioga, Texas, to permit or allow holes or places on said lots where water may accumulate and become stagnant, or to permit same to remain.

Section 2 It shall be unlawful for any person, firm or corporation who shall own or occupy any lot or lots in the City of Tioga, Texas, to permit or allow the accumulation of stagnant water thereon, or to permit same to remain.

Section 3 It shall be unlawful for any person, firm, or corporation who shall own or occupy any lot or lots in the City of Tioga, Texas, to allow weeds, rubbish, brush or any other unsightly, objectionable or unsanitary matter to accumulate or grow on said lot or lots.

Section 4 Growth Limitations

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied within the City to permit weeds, Johnson grass, brush, or any objectionable or unsightly matter to grow to a height greater than twelve (12) inches upon such real property within one hundred fifty (150) feet of any property line which abuts street right of way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

Section 4-A

Duty to cut and remove.

It shall be the duty of any person owning, claiming, occupying, or having supervision or control of any real property, to cut and remove all such weeds, brush, and other objectionable or unsightly matter as often as may be necessary.

Section 4-B

Certain areas to be kept free and clear.

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to keep the real property, and any area of public property that is adjacent to and within ten (10) feet outside the property line of such real property and not maintained, mowed, cut or clipped by any public authority, free and clear of all tall grass, weeds, Johnson Grass, brush or any other plants and weeds other than trees, ornamental bushes, flowers or other ornamental plants; Provided, however, that if the adjacent public property is an alley or alleyway that is not open to public traffic, the center line for the purposes of this Ordinance. All vegetation not regularly cultivated and which exceeds twelve (12) inches in height shall be presumed to be objectional and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement, but shall be kept mowed. It shall be unlawful for any person described herein to fail to cut and remove the matter referred to in Section 4 from the areas described herein, and such failure shall constitute a violation hereof upon the terms and conditions of this Section.

Section 4-C

Notice to cut and remove.

In the event that any condition described in this ordinance is found to exist on any property within the City, the person owning, claiming, occupying, or having supervision or control of said property shall be notified by the City in writing to correct, remedy or remove the condition within ten (10) days after such notice is sent to the last known address of the person owning, claiming, occupying or having supervision or control of the property. Notice is considered to be given when it is mailed.

Section 5

Cutting and removal by the City.

If any person fails, or refuses to comply with the provisions of this Ordinance within ten (10) days after date of notification the City may go upon such property and do or cause to be done, the work necessary to obtain compliance with this article.

The expense incurred in correcting the condition of such property shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuses to pay such expenses within thirty (30) days of the day the work is done, the City shall file with the County Clerk a statement of the expenses incurred in correcting the conditions on the property. When such statement is filed, the City shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure payment of the amount so expended. Such amount shall bear interest at the rate of ten (10) percent per annum from the date the City incurs the expense. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City. The statement of expense filed with the County Clerk, or a certified copy thereof shall be prima facie proof of the amount expended in such work as improvement or correction of the property, all as more particularly specified in V.T.C.A., Health and Safety Code, Section 342.007, which is hereby adopted.

Section 6

The Mayor of the City of Tioga, Texas, shall file a statement of such expenses incurred under Section 5 of this Ordinance, giving the amount of such expenses, the date on which said work was done or improvements made, with the County Clerk of Grayson County, Texas, and the lots or real estate upon which said work was done or improvements made, with the County Clerk of Grayson County, Texas, and the City of Tioga, Texas shall have a privileged lien on such lot or lots or real estate upon which said work was done or improvements made to secure the expenditures made, in accordance with the provisions of said V.T.C.A., Health and Safety Code, Section 342.007, which said lien shall be second only to tax liens and liens for street improvements; and said amount shall bear ten (10) percent interest from the date the City incurs the expense. It is further provided that for any such expenditures and interest, as aforesaid, suit may be instituted and recovery and foreclosure of said lien may be had in the name of the City of Tioga, Texas; and the statement of expenses, so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

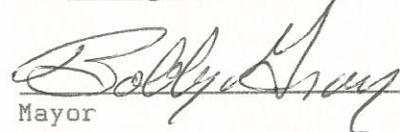
Section 7

The violation of this ordinance involving fire safety and public health and sanitation, any person, firm or individual who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be fine in any sum not exceeding Two Thousand Dollars (\$2,000), and each and every day's violation shall constitute a separate and distinct offense, in case the owner or occupant of any lot, lots or premises under the provisions of this Ordinance shall be a corporation, and shall violate any provision of this Ordinance, the President, Vice-President, Secretary, Treasurer of such Corporation, or any manager, agent or employee of such corporation shall also be severally liable for the penalties herein provided.

Section 8 That if any part of this Ordinance is, or should be held invalid for any reason, then, that fact shall not invalidate the entire Ordinance, but the balance thereof shall remain in full force and effect.

Section 9 The City Council for the City of Tioga, Texas, having determined, for the safety and welfare of the citizens of the City of Tioga, Texas, a necessity exists and an emergency is hereby declared. This Ordinance shall be in full force and effect upon passage.

PASSED AND APPROVED on this the 11th day of December, 1995.



Mayor

ATTEST:



City Secretary

