

**Ordinance No. 387**

**AN ORDINANCE OF THE CITY OF TIOGA, TEXAS ESTABLISHING REGULATIONS FOR INSTALLATION OF CULVERTS BY PROVIDING FOR PERMITS; PROVIDING FOR MATERIALS REQUIRED; PROVIDING FOR DETERMINATION OF NECESSITY; PROVIDING FOR FACTORS IN ISSUANCE; PROVIDING FOR NOTICE OF CONSTRUCTION; PROVIDING FOR FEES AND INSPECTION; PROVIDING FOR PENALTY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has determined that in the interest of the health safety and welfare of the citizens of the City of Tioga, it is necessary to regulate the installation of culverts and/or driveways to be installed and procedures for permitting and inspections; and

**WHEREAS**, pursuant to the Texas Transportation Code Chapter 311, a general law municipality may establish that owners of property pay for materials and the process of installation and permitting fees for culverts and driveways; and

**WHEREAS**, the City Council has determined that such regulations will also assist in the goal of better drainage and reduce blockage of drainage ditches;

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

**Section 1. Preamble.**

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

**Section 2. Permit required.**

No person shall construct or reconstruct, or cause to be constructed or reconstructed, any driveway connecting private property with a public street or a culvert without first obtaining a permit therefor from the City. An application must be on a form provided by the City and accompanied by the applicable fee. The application shall include the following information.

- A. A designation of the location of the proposed culvert and/or access way,
2. The name or names of the owners of the land on which the culvert and/ or access way is to be installed/located.
- C. The diameter of the culvert and/or size of access way.
- D. The length of the culvert overall and the length of the culvert exposed on each side of the access way.
- E. A certification that the culvert to be installed is new and has not been previously used.
6. Such additional information as may be required to assure adequate drainage and/or vehicle passage.

### **Section 3. Materials required.**

The Materials that must be used are

- (1) Concrete gasketed; or
- (2) Galvanized

### **Section 4. Determination of necessity.**

Upon receipt of an application for a driveway permit, the City shall make a determination as to whether the driveway and/or culvert applied for is necessary to provide reasonable access to the private property consistent with the safety and convenience of the public, taking into account, among other conditions, the following matters:

- (1) The nature and volume of traffic on the street on which the private property abuts;
- (2) The dimensions and type of construction of the street on which the private property abuts;
- (3) The effect that the passage of vehicles to and from the private property will have on the safety of the traveling public and on the movement of traffic in the street to which the driveway connects;
- (4) The use to be made of the private property;
- (5) The dimensions of the private property and the type and location of improvements thereon or to be placed thereon;
- (6) The extent of the access which the private property has or will have to other public streets, if any; and
- (7) The impact the culvert may have on drainage affecting the applicant's property or surrounding property.

### **Section 5. Factors in issuance.**

After making such determination, the City shall grant or refuse the application in accordance with such determination and in accordance with the following rules:

- (1) A permit for a single driveway opening shall be refused unless it shall have been found to be necessary for reasonable access.
- (2) If the application is for more than one (1) driveway opening into the same premises, no more such openings than the minimum number necessary to provide reasonable access shall be allowed.
- (3) The City shall refuse to issue a permit for any driveway opening as to which it has been found that the proposed use of the driveway would create an extraordinary traffic hazard or would excessively interfere with the normal use of the street right-of-way.
- (4) Every permit issued shall specify the maximum width of the driveway opening for which the permit is granted, and such width shall be no less than Twenty (20) feet or more than Thirty (30) feet.
- (5) Every permit issued shall specify the minimum diameter of the culvert that must be used.
- (6) If a permit is granted for more than one (1) driveway opening into the same premises, it shall specify that each such opening shall be separated from the others by a distance of not less than Fifty (50) feet.

## **Section 6 Notice of construction.**

Notice of proposed construction or reconstruction of a driveway or culvert must be given by the owner of the proposed improvements or his agent to the City at least forty-eight (48) hours before construction or reconstruction begins so that inspection of plans may be made by the City or the City's appointed designee.

## **Section 7. Fees and Inspection.**

The fee for a driveway or culvert permit and required inspections shall be \$40.00. There will be an additional \$40.00 fee if a permit is granted for more than one (1) driveway opening into the same premises. Residential driveway culverts will be installed by a contractor, with the homeowner being responsible for purchasing and furnishing the culvert pipe and materials. Commercial driveway culverts will be installed by a contractor, with the business owner being responsible for purchasing and furnishing all materials and hiring the contractor to perform the work. The City, or the City's appointed designee shall inspect all driveway culvert installations. A culvert inspection shall be required prior to beginning the project, before the culvert is back filled and after completion. A driveway inspection shall be required prior to beginning the project and prior to pouring concrete or asphalt.

## **Section 8. Maintenance.**

Owners shall be responsible for all maintenance and upkeep of driveways and culverts located on their property or that provide access to their property from a public street.

## **Section 9. Penalty.**

Any person, owner, contractor, subcontractor, violating any provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a penalty in an amount not to exceed \$500.00. In addition, a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. A violation of this ordinance is deemed an immediate danger to health, safety, and welfare of the public and may be enjoined in a suit brought by the city for such purpose.

## **Section 10. Conflict.**

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

## **Section 11. Severability.**

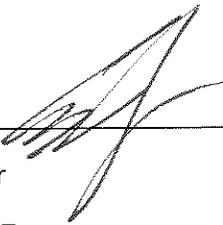
In the event any clause, phrase, provision, sentence, or part of the Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof, other than the part declared to be invalid or unconstitutional; and the City Council of the City of

Tioga, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

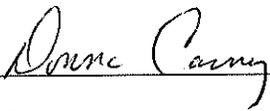
**AND IT IS SO ORDAINED.**

PASSED AND APPROVED and EFFECTIVE on the 12<sup>th</sup> day of August 2019.

APPROVED:

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary