

Ordinance No. 388

AN ORDINANCE OF THE CITY OF TIOGA, TEXAS ESTABLISHING REGULATIONS FOR INSTALLATION AND CONSTRUCTION OF FENCES BY PROVIDING FOR PERMITS REQUIRED; PROVIDING FOR INSPECTION AND MAINTENANCE; PROVIDING FOR PERMIT AND INSPECTION FEES; PROVIDING FOR PROHIBITED MATERIALS; PROVIDING FOR BARBED WIRE FENCES; PROVIDING FOR CONSTRUCTION AND PROTRUSION ON PUBLIC PROPERTY; PROVIDING FOR RESTRICTIONS IN CERTAIN LOCATIONS; PROVIDING FOR CUMULATIVE REPEALER; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; 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 and construction of fences and procedures for permitting and inspections; and

WHEREAS, the City Council has determined that such regulations will also assist in the goal of preventing the blocking of alleys and easement.

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

Section 1. General.

Except as provided by other subsections of this section, a fence, wall, or hedge erected, placed, maintained, or grown along a lot line of a property shall not exceed a height of eight feet (8') above the ground level in either the side yard or rear yard of the property. Fences built in the required front yard, as defined in the zoning ordinance, shall not exceed three (3) feet in height. At least 50 percent of the fence must be of open construction (e.g. lattice, wrought iron, etc.). Fences shall be constructed of customary urban fencing materials and shall be aesthetically consistent with buildings and fences in the area.

Section 2. Permit required.

It shall be unlawful for any person to construct a fence on any property without having first obtained a fence permit from the City of Tioga. No permit is required for minor repairs which are to be determined by the City. Minor repairs must be performed within a reasonable amount of time as determined by the city. Adequate plans and specifications, as set forth by the city, must accompany

each application for a permit.

Section 3. Inspection and Maintenance

All fences must be inspected upon completion. The owner shall notify the city building official upon completion of the fence. The building official (or designee) will issue an acceptance certificate if the fence complies with the provisions of this ordinance, or it will be rejected. All fences constructed under the provisions of this ordinance shall be maintained so as to comply with the requirements of this ordinance at all times. Fences shall be maintained by the owner or person in charge of the property in compliance with this ordinance including but not limited to the following maintenance standards:

- (A) A fence shall not be out of vertical alignment more than 20 degrees.
- (B) All damaged, removed or missing portions of a fence shall be replaced or repaired with comparable materials of a comparable color to the remaining portion of a fence.
- (C) If a new fence, section of fence or fence replacement is proposed to be composed of wood, all wood elements (posts, fence panels, etc.) used shall be pressure-treated with the chemicals alkaline copper quaternary (ACO), copper azole (CA) or micronized copper quaternary (MCO). In addition, non-pressure treated cedar and redwood are acceptable.
- (D) A fence shall be maintained in sound structural condition.
- (E) A fence shall be maintained in a good state of repair with all nails, braces, bolts, frames, and fastenings free from deterioration, rot, rust, or loosening, and able to withstand the wind pressure for which they are designed.
- (F) A fence shall be regularly painted to prevent rusting, peeling, or deterioration.

Section 4. Permit and Inspection Fees.

The application fee for submitting an application for a Fence Permit shall be \$10.00. Inspection fees are in addition to the building permit fee and will apply to plan review and construction inspections needed for any new construction or remodeling or repairs to any structure that requires the issuance of a building permit, with those fees to be collected at the time of the issuance of the permit, held by the city Clerk, and such proceeds as are required to

be paid to the inspector as required in the agreement between the City and the Inspector. All fees required by this Ordinance must be paid prior to the inspections

Section 5. Prohibited materials.

- (1) No person shall build any fence composed, in whole or in part, of:
 - (A) Woven wire such as chicken wire, hog wire, and similar agricultural wires (does not include chain link);
 - (B) An electric fence;
 - (C) Galvanized sheet metal, corrugated metal, or corrugated fiberglass; or
 - (D) Materials not approved for exterior exposure.
 - (E) T-posts
 - (F) Plastic
 - (G) Used, damaged, or unsafe materials.
- (2) The following are affirmative defenses to a violation of this section:
 - (A) When mandated by state or federal statute.
 - (B) When required for public safety for local governmental facilities.

Section 6. Barbed wire fences.

- (1) Barbed or slick wired fences, along with T-posts used in conjunction with permitted agricultural and related activities and industrial districts are permitted but are expressly prohibited in all other districts except as provided in subsection (2).
- (2) Barbed wire strands may be placed on top of permitted fences and screening elements in any district for the purpose of security around public utilities provided the top strand is not higher than eight feet nor the bottom strand lower than six feet from the adjacent grade line.

Section 7. Construction or protrusion on public property.

No fence or any part of such fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a plane so as not to overhang public property.

Section 8. Restrictions in certain locations.

- (1) No fences, screen, wall or other visual barrier shall be located or placed so that it obstructs the vision of a motor vehicle driver approaching any street, alley, or drive intersection. At all street intersections clear vision shall be maintained across the lot for a distance of fifteen (15) feet back from the property corner along both streets.
- (2) No fence, screen, wall, hedge or other barrier can cover or obstruct access to a water meter.
- (3) No fence, screen, wall, hedge or other barrier can be located in a designated alley.
- (4) No fence shall be located within any easement except by prior written approval of those agencies having interest in such easement. Fences within utility, surface drainage (including inlets and concrete flumes) and maintenance easements must be constructed with ornamental iron and removable fence sections. All vertical bars must be a minimum of three inches on center and must not exceed 3-15/16 inches on center. The maximum diameter of all vertical and horizontal bars shall be two inches. The minimum clearance between the bottom of the fence and grade is two inches. Fences within drainage easements that serve underground reinforced concrete pipe (i.e.non-surface drainage) must be constructed with metal posts and with removable fence sections.
- (5) Gates. Any fence built so as to enclose an easement shall provide a gate or other opening in the fence of at least three feet in width and a minimum headroom clearance of six feet, eight inches in height.
- (6) Fences around swimming pools shall be in conformance with this section and with City Ordinance 379.

Section 9. Cumulative repealer

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of

adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

Section 10. Savings

All rights and remedies of the City of Tioga, Texas are expressly saved as to any and all violations of this provision of any other ordinance affecting fences, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

Section 11. Severability

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

Section 12. Penalty

12.01 It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, an amount not to exceed five hundred dollars (\$500.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

12.02 If the governing body of the City of Tioga determines that a violation of this Ordinance has occurred, the City of Tioga may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

Section 13. Publication.

The City Secretary of the City of Tioga is directed to publish in the official newspaper of the City, the caption, penalty clause, and effective date of this Ordinance as required by law.

Section 14. Engrossment and enrollment.

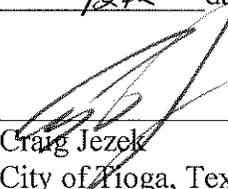
The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

Section 15. Effective date

This Ordinance shall become effective from and after its date of passage in accordance with law.

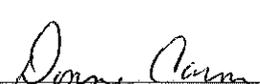
AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Tioga, Texas this
12th day of August, 2019.



Craig Jezek
City of Tioga, Texas

ATTEST:



Donna Carney, City Secretary
City of Tioga, Texas