

ORDINANCE NO. O-2014-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 18, "CODE ENFORCEMENT", ARTICLE I., "MISCELLANEOUS", SECTION 18-1 "FENCES AND WALLS, MAINTENANCE STANDARDS", DESIGNATING THE POLICE CHIEF AS LEAD AUTHORITY AND REMOVING REFERENCES TO THE SOLID WASTE DIRECTOR IN ARTICLE I., SECTIONS 18-3 AND 18-4 AND ARTICLE IV. SECTION 18-41 AND 18-42.; ADDING FILING FEES TO THE LIST OF COSTS CONNECTED TO CODE ENFORCEMENT LIENS FILED AND ADDING "MOWING" LIENS TO THE LIST OF THOSE WHICH MAY ACCUMULATE ANNUAL INTEREST WHEN LEFT UNPAID IN ARTICLE II, SECTION 18-24; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code provide the City authority to adopt ordinances for the good government, peace, order, and welfare of the municipality; and

WHEREAS, Texas Local Government Code Section 54.004 provides that a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and

WHEREAS, Texas Local Government Code Section 217.042 (a) and (b) provide that a municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits, and that a municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance;

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

PART 1: That Tyler City Code Chapter 18 "Code Enforcement", Article I., "Miscellaneous", is hereby amended by amending Section 18-1 to read as follows:

Sec. 18-1. Fences and Walls, Maintenance Standards

a. Any person, firm, corporation, partnership, association of persons, owner, agent, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the City limits shall:

1. maintain a fence so that it is not out of vertical alignment more than one foot from the vertical, measured at the top of the fence, for a fence over four feet high, or more than six inches from the vertical, measured at the top of the fence, for a fence not more than

four feet high, except that this provision does not apply to a masonry wall unless the wall encloses:

- (a) a multi-tenant property; or
- (b) a single-family or duplex property where the wall is not shared with another property;

2. Repair or replace any and all missing, rotted, fire-damaged, or broken wooden slats and support posts;

3. Repair or replace any and all missing, broken or bent metal posts and torn, cut, bent, or ripped metal fencing materials; and

4. Repair or replace any and all missing, bricks, stones, rocks, mortar, and similar materials on any masonry wall that encloses:

- (a) a multi-tenant property; or
- (b) a single-family or duplex property where the wall is not shared with another property. (0-2009-15, 2-25-09)

b. any person, firm, corporation, partnership, association of persons, owner, agent, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof with a fence or wall that is in violation of sub-section a. of this Section, may upon approval by the City remove the fence or wall, provided that a fence or wall is not otherwise required to buffer any residential use or zoning from commercial and industrial properties, or is not otherwise required by any other provision of this Code. (Ord. No. 0-2014-10; 1/22/14)

PART 2: That Tyler City Code Chapter 18, "Code Enforcement", Article I., "Miscellaneous", is hereby amended by amending Sections 18-3 and 18-4 to read as follows:

Sec. 18-3. Graffiti-Declared a nuisance; Penalty set forth in State law; Abatement.

a. The creation of graffiti on any tangible property in the City limits, or within 5,000 feet thereof, and without lawful authority, is declared a public nuisance, is unlawful and is subject to the penalties set forth in State law.

b. The Code Enforcement Department, Peace Officers and Public Service Officers of the Tyler Police Department, or other persons designated by the Police Chief are authorized to remove and obliterate graffiti appearing on any part of any public street, sidewalk, pavement or curbstone, and it is unlawful to interfere with such action by any City employee or authorized person. (Ord. 0-98-27, 3/25/98)(Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2000-20, 3/22/00)

c. Employees of the Code Enforcement Department, Peace Officers and Public Service Officers of the Tyler Police Department, or other persons designated by the Police Chief, are authorized to enforce the provisions of this Section.

1. Whenever a violation of this Article occurs within the extraterritorial jurisdiction of the City / five thousand (5,000) feet of the City limits, the Police Chief shall have discretion as to whether inspection and/or enforcement shall occur.

2. Whenever graffiti, as defined herein, exists on property within the City limits or within 5,000 feet thereof, the Code Enforcement Department employee or other authorized persons shall make or cause to be made an inspection. In making any inspection under this Section the Code Enforcement Department employee or other authorized persons may enter, examine, take photographs, and survey tangible property having suspected graffiti violations.

Subsections d., e., f., and g.-- No changes. (Ord. No. 0-2014-10; 1/22/14)

Sec. 18-4. Code Enforcement.

The Police Chief, Code Enforcement Department Code Officers, Peace Officers and Public Service Officers of the Tyler Police Department and other City employees as designated in writing by the Police Chief are authorized to enforce Tyler ordinances currently being enforced by the Development Services, Environmental, Neighborhood Services, Planning, and Engineering & Streets departments, to issue municipal court citations for violations of those ordinances, and to make any inspection, enter, examine, take photographs, post notices, and survey any premises to verify compliance with any of those ordinances. Whenever a violation of this Article occurs on City owned property outside the City limits but within the extraterritorial jurisdiction of the City, the Police Chief shall have discretion as to whether or not inspection and/or enforcement action shall be taken by their respective employees. (Ord. 0-2007-12, 1/24/07) (0-2007-103, 9/12/07) (Ord. No. 0-2009-16, 2/29/09) (Ord. No. 0-2014-10; 1/22/14)

PART 3: That Tyler City Code Chapter 18, "Code Enforcement", Article II "Weeds and Debris", is hereby amended by amending Section 18-20 to read as follows:

Sections a., b., c., d., e., f., g., h.—no changes.

i. Enforcement. Employees of the Code Enforcement Department, Peace Officers and Public Service Officers of the Tyler Police Department, or other persons designated by the Police Chief are authorized to enforce the provisions of this Article. In making any inspection under this Article, the Code Enforcement Department employee or other authorized persons may enter, examine, take photographs, tag, and survey any premises to verify compliance with this Article. Whenever a violation of this Article occurs within five thousand (5,000) feet of the City limits, the Police Chief shall have discretion as to whether inspection and/or enforcement shall occur. (Ord. No. 0-2014-10; 1/22/14)

PART 4: That Tyler City Chapter 18, "Code Enforcement", Article II., "Weeds and Debris", is hereby amended by amending Section 18-24 to read as follows:

Sec. 18-24. Assessment of City's expenses; billing; lien.

a. Schedule of City costs. If the notice requirements of Sections 18-21 and 18-22 have been met, the City's expenses to correct any violation under this Article may be assessed against or otherwise charged to, the owners of all outstanding interest in the tract involved at the following rate:

For major equipment (tractor and mower), \$75.00/hr. x no. hrs.=\$_____ per hour

For equipment operators, laborers, \$30.00 x no. hrs. =\$_____ per hour

Fee for program administration \$90.00

Fee for transporting waste to landfill, per cubic yard transported \$14.60

Late fee for failure to pay bill within 15 days of receipt \$100.00

Tire disposal (per tire) \$3.00

Battery disposal (per battery) \$2.00

Appliance/furniture/junk/rubbish disposal (per appliance/item) \$10.00

Filing Fee, if filing lien against property = Cost to City for filing lien based on current County fee schedule.

Penalty fee for each subsequent corrective work by City after first violation One hundred percent (100%) of the above rates, excluding Late Fee and Filing Fee.

Subsections b., c., and d.—No changes.

e. Filing of statement of costs. The City Manager is hereby authorized to designate an appropriate person as the City employee responsible for filing vegetation/debris liens. If a bill remains unpaid, that designated person may file a statement of such bill and the reasons therefore with the County Clerk. Said statement of bill of costs shall only include the City's actual expenses for correcting violations of the Article, as well as any interest thereon as authorized by this section and State law. Said statement of bill of costs shall not include the amount of any late fees or other penalty fees assessed under this Article. From the date of such filing, City shall have a lien on the lot or parcel upon which such expenses are incurred second only to tax liens and liens for street improvements. The amount of debt on liens for mowing, rubbish, trash, garbage, refuse, junk, and debris violations only shall accumulate interest at the rate of ten (10) percent per annum from the date on which payment was due. For any debt and interest, suit may be instituted and recovery and foreclosure had in the name of the City. In such suits the aforementioned statement, or certified copy thereof, shall be deemed *prima facie* evidence of the debt and interest thereon. (Ord. No. 0-2014-10; 1/22/14)

PART 5: That Tyler City Code Chapter 18, "Code Enforcement," Art. IV., "Anti-Litter Regulations, is hereby amended by amending Sections 18-41 and 18-42 to read as follows:

Sec. 18-41. Dumping on vacant lots prohibited; declared a nuisance.

a. It is unlawful for any person to dump, throw, or in any way deposit or allow the throwing, dumping or other deposit of litter, refuse, or other solid or liquid waste in or upon any vacant lot or other open or vacant private or public property within the City or within five thousand (5,000) feet thereof, or upon City owned property outside the City limits but within

the extraterritorial jurisdiction of the City, whether or not owned by the person. Whenever a violation of this section occurs within five thousand (5,000) feet of the City limits, the Police Chief shall have discretion as to whether or not inspection and/or enforcement action shall be taken by their respective employees. (Ord. No. 0-2014-10; 1/22/14)

Sections b., and c.—No changes.

Sec. 18-42. Enforcement.

Employees of the Code Enforcement Department and police officers of the Tyler Police Department are authorized to enforce the provisions of this Article. Whenever a violation of this Article occurs on City owned property outside the City limits but within the extraterritorial jurisdiction of the City, the Police Chief shall have discretion as to whether or not inspection and/or enforcement action shall be taken by their respective employees. (Ord. No. 0-2014-10; 1/22/14)

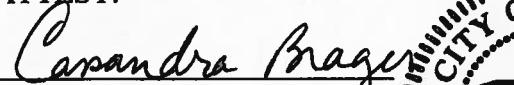
PART 6: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 7: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until it is published in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be January 24th, 2014.

PASSED AND APPROVED this the 22nd day of January, 2014.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

 APPROVED:
CASSANDRA BRAGER, CITY CLERK  DEBORAH G. PULLUM, CITY ATTORNEY

