

AN ORDINANCE OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 42 "HEALTH AND SANITATION," ARTICLE II "PUBLIC HEALTH HAZARDS," DIVISION 2 "PUBLIC HEALTH NUISANCES," SECTION 42-62 "MAINTENANCE OF PREMISES" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD NEW SUBSECTIONS TO BE NUMBERED SUBSECTION (E) AND SUBSECTION (F) TO ADDRESS OPEN STORAGE OF CERTAIN PERSONAL PROPERTY, AND AMENDING CHAPTER 18 "BUILDINGS AND BUILDING REGULATIONS," ARTICLE XII "FENCING," DIVISION 1 "GENERALLY" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD A NEW SECTION TO BE NUMBERED AND ENTITLED SECTION 18-985 "MAINTENANCE" TO ESTABLISH GENERAL MAINTENANCE STANDARDS FOR FENCES; PRESCRIBING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) FOR OPEN STORAGE AND A MAXIMUM PENALTY OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) FOR FENCE MAINTENANCE; PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That Chapter 42 "Health and Sanitation," Article II "Public Health Hazards," Division 2 "Public Health Nuisances," Section 42-62 "Maintenance of premises" of the Code of Ordinances, Baytown, Texas, is hereby amended to add new subsections to be numbered (e) and (f)," which subsections shall read as follows:

CHAPTER 42 HEALTH AND SANITATION

ARTICLE II. PUBLIC HEALTH HAZARDS

DIVISION 2. PUBLIC HEALTH NUISANCES

Sec. 42-62. Maintenance of premises.

- (e) It shall be unlawful for any person owning, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits to permit or allow the open storage of personal property that is visible from the public right-of-way, except for personal property that is placed for
 - (1) collection in accordance with section 86-66, *et seq.* of this code or
 - (2) use in construction of a structure for which a valid building permit has been issued.

Personal property covered by tarps or covers will be considered to be openly stored if visible from a public way.

- (f) The following words, terms and phrases, when used in subsection (e) shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Open storage means the keeping or retaining of personal property for future use outside a structure.

Personal property means goods, appliances, equipment, and furnishings, not specifically designed and manufactured for outdoor use, including an icebox, refrigerator, stove, glass, mirror, chair, table, bookcase, clothing, building material, building rubbish, tire, auto part, container of oils, chemical, paint, box, or any item which is not made of material that is resistant to damage or deterioration from exposure to the outside environment.

Structure means a solid, complete enclosure that prohibits the introduction and collection of natural precipitation inside the enclosure and on the contents within.

Section 2: That Chapter 18 "Buildings and Building Regulations," Article XII "Fencing," Division 1 "Generally" of the Code of Ordinances, Baytown, Texas, to add a new section to be numbered and entitled Section 18-985 "Maintenance," which section shall read as follows:

CHAPTER 18. BUILDINGS AND BUILDING REGULATIONS

ARTICLE XII. FENCING

DIVISION 1. GENERALLY

Section 18-985. Maintenance.

It shall be unlawful for any person owning, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits to fail to maintain the fences constructed on such property in compliance with the following maintenance standards:

- (1) A fence shall not be out of vertical alignment by more than one foot (1') from the vertical measured at the top of the fence; provided, however, a fence of four feet (4') or less in height shall not be out of vertical alignment by more than six inches (6") from the vertical measured at the top of the fence.
- (2) Any and all broken, loose, damaged, insect damaged, or missing parts (i.e., slats, posts, wood rails, bricks, panels) of said fences shall be replaced or repaired within thirty (30) days of notification of non-compliance. Fences enclosing

swimming pools or spas must be repaired immediately in accordance with art. XII of this chapter.

- (3) Repairs of any nature shall be made with materials of comparable composition, color, size, shape, and quality of the original fence to which the repair is being made. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as fencing materials. Nothing herein shall be construed so as to prohibit the complete or partial removal of a fence, unless such fence is required by this code.

Section 3: Any person who fails to comply with Section 1 of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Any person who fails to comply with Section 2 of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 5: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or the set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

Section 6: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown, this the 27th day of October, 2016.



STEPHEN H. DONCARLOS, Mayor

ATTEST:



LETICIA BRYSCH, City Clerk



APPROVED AS TO FORM:



IGNACIO RAMIREZ, SR., City Attorney