

**ORDINANCE NO. 2010-20**

**AN ORDINANCE AMENDING CHAPTER 18 BUILDING AND BUILDING REGULATIONS AND ADDING ARTICLE X: FENCES, TO THE CITY OF SALLISAW CODE OF ORDINANCES AND DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF SALLISAW, OKLAHOMA.**

**SECTION 1.**

Chapter 18 of the Sallisaw Code of Ordinances be established by enacting the following sections, to-wit:

**ARTICLE X. FENCES.**

Section 18-350. Definitions.

As used in this article, unless the context otherwise indicates, the following words and phrases shall have the meanings herein ascribed to them:

- (a) Erect shall mean to build, construct, attach, hang, place or affix a fence.
- (b) Fence shall mean every fence that is permanently attached to the ground, including, but not limited to, chain link fences, redwood fences, treated fences, vinyl fences, and masonry or brick fences and any commonly approved fencing material.
- (c) Fence contractor shall mean any person engaged in the business of constructing, installing, erecting, repairing, altering or servicing fences.

Section 18-351. Location.

The location of fences is governed by the following regulations:

- (a) No person shall erect any fence of any size, kind or type on or across any city property within the City of Sallisaw unless proper permits have been obtained.
- (b) No person shall erect any fence of any size, kind or type on the City Street or right-of-way.
- (c) A fence erected or constructed within the city on commercial or industrial property may extend beyond the front building line thereof and up to the street right-of-way, provided, that said fence shall not exceed eight (8) feet in height, shall be of steel or wrought iron construction, and shall not be sight-proof in design.

Section 18-352. Encroachment on Public Property.

No person shall construct a fence, guy wire, brace or any fence post upon or protruding

over public right-of-way or property that the city or the general public has dominion and control over, owns or has an easement over, under, around or through. It is an affirmative defense to this section that the property is a utility easement and the proposed fence location is approved by the City Manager or his designee.

Section 18-353. Fence Not to Create a Traffic Hazard.

It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard. Failure of the owner, agent or occupant to remove such obstruction within ten (10) days after receipt of notice to do so is a violation of this chapter.

Section 18-354. Construction Within Easements.

- (a) Permission to build a fence upon a utility easement does not remove the obligation of the owner of the fence to remove the fence upon demand of the utility company. The owner of the fence shall remove and rebuild the fence at the owner's expense.
- (b) The owner of a fence shall be responsible for the design, construction and maintenance of the fence and shall be so as not to interfere with utility lines or normal drainage.
- (c) Permission to build a fence upon a utility easement must be granted by the City Manager or his designee.
- (d) Where a fence is to be placed in an easement containing underground utilities the owner or occupant shall sign a release indemnifying the city from any damages for removal of the fence and damage to the fence as a result of the need to repair or replaced said utilities. If the city in repairing utilities has excessive damages to property it will be the city's responsibility to repair the property.
- (e) If the fence has been constructed across the easement the property owner or occupant is required to mow the area of the easement that is fenced in.
- (f) If the fence has been constructed across the easement there shall be a clear span opening of 10' starting at the point where the easement begins, whether by gates or removable panels so there is accesses to the utilities that are in the easements.

Section 18-355. Repair and Removal.

If the building official shall find that a fence is unsafe or insecure, is falling down or otherwise dilapidated, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of the chapter, he or she shall give written notice to the owner thereof or to the person to whom the permit for such fence was issued. If the permittee or owner fails to remove or repair the fence so as to comply with the required standards within ten (10) days after such notice, the building official may cause such fence or portion thereof to be removed or altered to achieve compliance. Such action will be at the expense of the permittee or owner of the property upon which it is located. The building official shall refuse to issue permits under this chapter to any permittee or owner who has refused to pay costs as assessed. In addition to all the other remedies hereinbefore provided, the inspector may cause any fence which is an immediate peril to persons or property to be removed summarily and without notice, at the cost of the owner.

Section 18-356. Permit Required.

It shall be unlawful for any person to construct, erect, install, alter or locate any fence within the City of Sallisaw, unless a permit has been issued. The fee for this permit shall be in accordance with the Master Fee Schedule.

**SECTION 2.**

**WHEREAS**, an emergency and immediate necessity exists by reason of the health, safety and protection of the citizens of Sallisaw; therefore, an emergency is hereby declared to exist by reason whereof this Ordinance shall be in full force and effect from and after its passage and approval.

**APPROVED** this 8th day of November, 2010.

**CITY OF SALLISAW, OKLAHOMA**

By: \_\_\_\_\_

*Shannon Vann*  
SHANNON VANN, Mayor

**ATTEST:**

*Dianna Davis*  
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DIANNA DAVIS, City Clerk  
[SEAL]

