

ORDINANCE NO. 2017-146

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING CERTAIN PROVISIONS OF CHAPTER 1 AND CHAPTER 17 OF THE DENTON CODE OF ORDINANCES, THE DENTON PROPERTY MAINTENANCE CODE, INCLUDING SECTIONS 1-11, 17-2, 17-37, 17-42, 17-112, 17-121, AND 17-124 AND ADDING SECTION 17-3 TO PROVIDE FOR CODE ENFORCEMENT OFFICER AUTHORITY; PROVIDING FOR A SEVERABILITY CLAUSE, SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas has previously implemented Chapter 1 and Chapter 17, "Property Maintenance Code" of the Code of Ordinances of Denton Texas; and

WHEREAS, it is the intention of the City to further refine and enhance the enforcement capabilities of the City's Code Enforcement Officers to better enforce minimum standards and abate public nuisances in order to serve the citizens of the City of Denton; and

WHEREAS, the City is authorized to adopt these enforcement provisions by virtue of its Home-Rule authority, the Texas Constitution, Chapters 54.035 and 214 of the Tex. Loc. Gov't Code, and Chapters 341-342 of the Tex. Health & Safety Code; and

WHEREAS, the Council finds that it is necessary to declare the full jurisdictional authority of the City's Code Enforcement Officers for all purposes and such amendments are in the best interest of the citizens of the City of Denton; **NOW THEREFORE;**

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals contained herein are made a part of this Ordinance as if set forth at length herein.

SECTION 2. Chapter 1, Section 1-11 and Chapter 17 "Property Maintenance" of the Code of Ordinances of Denton, Texas is hereby amended by amending Sections 17-2, 17-37, 17-42, 17-112, 17-121, and 17-124 and by adding Section 17-3 "Enforcement" as stated herein.

SECTION 3. Chapter 1, Section 1-11 is hereby amended as underlined:

"The City Manager is hereby authorized to issue citations into municipal court for any violation of this Code. Such authority is in addition to and cumulative of other enforcement remedies provided for in this Code or by law. It shall be unlawful for a person or corporation to intentionally and knowingly fail to appear in accordance with the terms of a citation issued hereunder, which was personally served on the person or corporation failing to appear."

SECTION 4. The following sections of Chapter 17 of the Code of Ordinances of the City of Denton is hereby amended as underlined:

a. In Section 17-2, the definition of "code official" is deleted and substituted therefor with the following definition:

“Code Official means the Building Official of the City of Denton or his/her designee charged with the administration and enforcement of this Chapter. Code Official does not include Code Enforcement Officer.”

b. In Section 17-2, the following definition is added as follows:

“Code Enforcement Officer means an officer employed by the City who engages in Code Enforcement to prevent, detect, investigate, and enforce violations of laws regulating public nuisance, health, safety and welfare as specifically delegated by the City.”

c. In Section 17-37, the words “code official” is deleted and substituted therefore with “Code Enforcement Officer”.

d. In Section 17-112(d), the words “code official” is deleted and substituted therefore with “Code Enforcement Officer”.

e. In Section 17-121, the words “code official” is deleted and substituted therefore with “Code Enforcement Officer”.

f. In Section 17-124(e)(1), the words “code official” is deleted and substituted therefore with “Code Enforcement Officer”.

g. In Section 17-42, the section shall be deleted and substituted therefore as follows:

“Maintenance of Trees in Right of Way and Irrigation.

(a) It shall be unlawful for any owner or occupant of any property within the City to have trees and shrubs which have branches overhanging a public street or sidewalk. Trees along public rights-of-way shall be trimmed to a clearance height of 15 feet on the street side and 10 feet on the sidewalk side. This is measured from the curb line to the canopy branch. Trees may not constitute an obstruction to the vision of traffic.

(b) It shall be unlawful for any owner or occupant of any property within the City to knowingly make, cause, or permit a use of water contrary to the Land and Landscape Irrigation and Water Waste Ordinance, as amended.”

h. In Section 17-62, the section shall be deleted and substituted therefore as follows:

“Solid Waste Container Maintenance.

The Code Enforcement Officer shall enforce Chapter 24, Article 1, of the Code of Ordinances of the City of Denton, as amended.”

i. Section 17-3 shall be added and state as follows:

“Sec. 17-3. Enforcement.

a. Code Enforcement Officers of the City of Denton are hereby authorized and directed to enforce only the following provisions in this Chapter: Sections 17-21, 17-34, 17-35, 17-37, 17-40, 17-41, 17-42, 17-50, 17-60, 17-61, 17-62, 17-70, 17-80, 17-90, 17-100, 17-101,

17-112, 17-121, 17-122, 17-124, Chapter 17, Article XIII, Division 2, and Chapter 24, Article I. Code Enforcement Officers shall also have the authority to interpret these provisions and apply such interpretations to these provisions in the interest of public safety, health, and general welfare. Code Enforcement Officers shall not have the authority to waive structural, fire or sound engineering requirements relative to public safety. Code Enforcement Officers shall not have the authority to inspect properties for compliance with Denton Development Code rules and regulations or Chapter 28 of the Code of Ordinances for the City of Denton.

b. Code Enforcement Officers shall make, or cause to be made all of the inspections required to enforce the provisions in 17-3(a). Whenever necessary to make an inspection to enforce any of these provisions or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in any structure or upon any premises any condition or violation which makes such structure or premises unsafe by virtue of violations of these provisions, the Code Enforcement Officer, as authorized by law, may enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Code Enforcement Officer under this section. If such structure or premises is occupied, he/she shall first present proper credentials and request entry, and if such structure or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having care or control of the structure or premises and request entry. If such entry is refused, the Code Enforcement Officer shall have recourse to every remedy provided by law to secure entry.

c. Enforcement shall be in compliance with Sec. 17-196 herein. The imposition of penalties prescribed shall not preclude the City from instituting appropriate action to restrain, correct, or abate any violations of this Chapter.”


SECTION 5. Chapter 19, Section 19-5 (“Authority to issue citations”), is hereby amended by deleting it in its entirety, as it conflicts with Chapter 1, Section 1-11 (“Procedures for enforcement of Code”).

SECTION 6. If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions despite any invalidity.

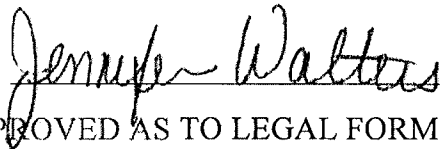
SECTION 7. Save and except as amended hereby, all of the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 8. This Ordinance providing for a penalty shall become effective 14 days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas within 10 days of the date of its passage.

PASSED AND APPROVED this the 9 day of MAY, 2017.


CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY: 