

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO.10-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING CHAPTER 14, ENTITLED "BUILDINGS AND BUILDING REGULATIONS," SPECIFICALLY SECTION 14-541, ENTITLED "ENUMERATION"; BY AMENDING CHAPTER 34, ENTITLED "ENVIRONMENT," SPECIFICALLY SECTION 34-31, ENTITLED "DEFINITIONS," BY ADDING NEW SECTION 34-53, ENTITLED "RESIDENTIAL LANDSCAPE MAINTENANCE"; BY AMENDING SECTION 34-71, ENTITLED "DUMPING, STAGNANT WATER, TRASH, AND OTHER UNSIGHTLY OR UNSANITARY MATTER DECLARED A NUISANCE," SECTION 34-73, ENTITLED "DUMPING," SECTION 34-81, ENTITLED "PLACEMENT TIME OF WASTE AND RECYCLING RECEPTACLES," SECTION 34-82, ENTITLED "PLACEMENT TIME OF BULK WASTE," SECTION 34-91, ENTITLED "FAILURE OF OWNER TO COMPLY WITH ARTICLE PROVISIONS; ISSUANCE OF NOTICE," AND BY AMENDING CHAPTER 66, ENTITLED "TRAFFIC AND VEHICLES," SPECIFICALLY SECTION 66-174, ENTITLED "PARKING IN RESIDENTIAL DISTRICTS"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas ("Town Council") has undertaken a review of certain property maintenance standards, environmental and bulk waste provisions, and residential parking standards set forth in the Code of Ordinances of the Town of Flower Mound, Texas ("Town Code"); and

WHEREAS, the Town Council, as a result of that review, has determined that certain property maintenance standards, environmental and bulk waste provisions, and residential parking standards should be updated and amended; and

WHEREAS, the Town Council, upon due deliberation and consideration of the Town's property maintenance standards, environmental and bulk waste provisions, and residential parking standards, has determined that, in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the Town, the Town Code shall be amended to reflect changes to certain provisions in Chapter 14, Chapter 34 and Chapter 66 thereof, as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are found to be true and correct legislative and factual determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, the Code of Ordinances of the Town of Flower Mound, Texas, is hereby amended and changed in the following particulars to reflect the action taken herein, and all other existing sections, subsections, paragraphs, sentences, definitions, phrases, and words of the Code of Ordinances of the Town of Flower Mound, Texas, are not amended, as follows:

Chapter 14, entitled “Buildings and Building Regulations,” Article XIII, entitled “Property Maintenance Standards,” Division 2, entitled “Minimum Standards,” Section 14-541, entitled “Enumeration” is hereby amended by deleting subsection 4 in its entirety, and replacing subsection 4 with the following language:

Sec. 14-541. – Enumeration.

An owner and/or occupant commits an offense under this article if he fails to:

- (4) Maintain in good condition and protect all exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and from decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust and corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from all exterior surfaces; surfaces designed for stabilization by oxidation are exempt from this requirement.

Chapter 34, entitled “Environment,” Article II, entitled “Weeds and Grass and Unsightly or Unsanitary Matter,” Division 1, entitled “Generally,” Section 34-31, entitled “Definitions” is hereby amended by adding a new definition for “stump” as follows:

Sec. 34-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Stump means the part of a plant and especially a tree remaining attached to the root after the trunk is cut, or is severed by natural causes.

Chapter 34, entitled “Environment,” Article II, entitled “Weeds and Grass and Unsightly or Unsanitary Matter,” Division 2, entitled “Weeds, Grass and Other Vegetation,” is hereby amended by adding a new Section 34-53, entitled “Residential landscape maintenance” as follows:

Sec. 34-53. - Residential landscape maintenance.

- (a) Tree stumps. It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any platted real property, occupied or unoccupied, within the corporate limits of the town, to permit or allow

any dead tree as determined by the town arborist or other certified arborist, or to permit or allow a stump higher than twelve inches (12") above grade from the front building line to the curb, edge of street or pavement, or to permit or allow a stump higher than thirty-six inches (36") above grade behind the front building line to the rear property line.

- (b) It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the town, to permit or allow the landscaping and any vegetation, including but not limited to, trees, shrubbery, bushes and vines to grow on the premises so as to physically obstruct the doors, garage doors, or windows of any structure on the premises which obstruction prevents ingress or egress from the structure(s).

Chapter 34, entitled "Environment," Article II, entitled "Weeds and Grass and Unsightly or Unsanitary Matter," Division 3, entitled "Unsightly or Unsanitary Matter," Section 34-71, entitled "Dumping, stagnant water, trash, and other unsightly or unsanitary matter declared a nuisance," Section 34-73, entitled "Dumping," Section 34-81, entitled "Placement time of waste and recycling receptacles," and Section 34-82, entitled "Placement time of bulk waste" are hereby amended by adding new last sentences at the end of each section (each new last sentence beginning with the word "Notwithstanding"), as follows:

Sec. 34-71. - Dumping, stagnant water, trash, and other unsightly or unsanitary matter declared a nuisance.

It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the town, to permit or allow any stagnant or unwholesome water, refuse, rubbish, trash, debris, filth, carrion, junk, garbage, impure or unwholesome matter of any kind or other objectionable or unsightly matter of whatever kind to remain upon any such real property or within any public easement on or across such real property or upon any adjacent public street or alley right-of-way between the property line of such real property and where the paved surface of the street or alley begins. Notwithstanding any other notice provision in this chapter, a violation of this section immediately subjects the person to the enforcement and/or penalty provisions of this chapter.

Sec. 34-73. - Dumping.

It shall be unlawful and declared a nuisance for any person to dump, or permit to be dumped, knowingly or intentionally, upon any sidewalk, alley, street, into or adjacent to water, or any other public or private property, any unwholesome water, refuse, rubbish, trash, debris, filth, carrion, junk, garbage, impure or unwholesome matter of any kind or other objectionable or unsightly matter of whatever kind. Notwithstanding any other notice provision in this chapter,

a violation of this section immediately subjects the person to the enforcement and/or penalty provisions of this chapter.

Sec. 34-81. - Placement time of waste and recycling receptacles.

It shall be unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to place waste and recycling receptacles at the designated pickup location for solid waste or recycling collection prior to 8:00 a.m. on the day before pickup or to fail to remove waste and recycling receptacles by 8:00 a.m. on the day following the designated pickup day. Notwithstanding any other notice provision in this chapter, a twenty-four (24) hour notice to abate the violation shall be issued for violating this section, and the failure of the person to correct the violation within that time period subjects the person to the enforcement and/or penalty provisions of this chapter.

Sec. 34-82. - Placement time of bulk waste.

It shall be unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to place bulk waste at the designated pickup location for bulk waste prior to 8:00 a.m. on the day before pickup or, in the event such waste is not retrieved, to fail to remove such waste by 8:00 a.m. on the day following the designated pickup day. Notwithstanding any other notice provision in this chapter, a twenty-four (24) hour notice to abate the violation shall be issued for violating this section, and the failure of the person to correct the violation within that time period subjects the person to the enforcement and/or penalty provisions of this chapter.

Chapter 34, entitled “Environment,” Article II, entitled “Weeds and Grass and Unsightly or Unsanitary Matter,” Division 4, entitled “Abatement Procedure,” Section 34-91, entitled “Failure of owner to comply with article provisions; issuance of notice” is hereby amended by deleting Section 34-91 in its entirety and adding new Section 34-91, as follows:

Sec. 34-91. - Failure of owner to comply with article provisions; issuance of notice.

If any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the town, fails to comply with the provisions of this article, it shall be the duty of the town manager or his duly appointed representative to give a minimum of seven days' written notice to such person violating the terms of this article, except where such shorter notice time period or no notice time period may be otherwise specified in this article.

Chapter 66, entitled “Traffic and Vehicles,” Article IV, entitled “Stopping, Standing, Parking,” Division 2, entitled “Special Parking Regulations,” Section 66-174, entitled “Parking in residential districts” is hereby amended by deleting subsection (a)(3) in its entirety, and replacing said subsection with a new subsection (a)(3), as follows:

Sec. 66-174. - Parking in residential districts.

(a)

Parking in residential districts shall comply with the following provisions:

- (3) No automobile, truck, camper, camper top, recreation vehicle, travel trailer, boat trailer or boat, utility trailer or other trailer or vehicle shall be parked or stored on any surface not meeting the paving standards, as defined in article III of chapter 82 of this Code, unless completely screened from ordinary public view. In residential subdivisions approved prior to the adoption of required street section widths (that is, where the roadway is less than twenty four (24) feet wide from edge of pavement to edge of pavement and does not have curbs and gutters), motor vehicles may be temporarily parallel parked, for a period not to exceed twenty-four (24) hours, on an unimproved surface immediately adjacent to the roadway to allow for sufficient traffic flow and provide for safe travel on the internal residential roadways of such subdivision(s). In no event shall the closest pair of wheels of any such temporarily parallel-parked motor vehicle be situated more than three feet (3') away from the closest edge of pavement into the yard of the residence.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 14-515 of the Code of Ordinances of the Town of Flower Mound, as amended, as to violations under Chapter 14 of the Town Code; as provided in Section 34-98 of the Code of Ordinances of the Town of Flower Mound, as amended, as to violations under Chapter 34 of the Town Code; and as provided in Section 66-176 of the Code of Ordinances of the Town of Flower

Mound, as amended, as to violations under Chapter 66 of the Town Code. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 18th DAY OF MARCH, 2013.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO LEGALITY AND FORM:

Terrence S. Welch, TOWN ATTORNEY