

**CITY OF THE COLONY, TEXAS**  
**ORDINANCE NO. 2020-2416**

**APPENDIX A, SECTION 18, 22, 23 AND 25 ORDINANCE AMENDMENTS**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING APPENDIX A, SECTION 18 OF THE CODE OF ORDINANCES OF THE CITY OF THE COLONY, TEXAS, BY REPEALING IN ITS ENTIRETY SECTION 18, ENTITLED "FENCE AND WALL REGULATIONS," AND REPLACING IT WITH A NEW SECTION 18, ENTITLED "FENCE AND WALL REGULATIONS;" AMENDING APPENDIX A BY REPEALING IN ITS ENTIRETY SECTION 22, ENTITLED "CERTIFICATE OF OCCUPANCY AND COMPLIANCE"; AMENDING APPENDIX A BY REPEALING IN ITS ENTIRETY SECTION 23, ENTITLED "COMPLETION OF BUILDING UNDER CONSTRUCTION"; AND AMENDING APPENDIX A BY AMENDING SECTION 25, ENTITLED "DEFINITIONS"; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of The Colony, Texas, is of the opinion that Appendix A, Section 18, entitled "Fence and wall regulations" should be amended, Section 22, entitled "Certificate of occupancy and compliance" should be repealed in its entirety, Section 23, entitled "Completion of building under construction" should be repealed in its entirety, and Section 25, entitled "Definitions" should be amended.

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

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the Code of Ordinances of the City of The Colony, Texas, be, and the same is, hereby amended by amending Appendix A, section 18 by repealing in its entirety Section 18, and replacing it with a new Section 18, entitled "Fence and wall regulations" which shall read as follows:

**"SECTION 18. – Fence and wall regulations**

**18-100. Definitions.**

As used in this section, the following terms shall have the respective meanings ascribed to them:

*Above-ground/on-ground pool:* See Swimming pool.

*Barrier:* A fence, wall, building wall or combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

*Corner lot:* A lot situated at the junction of two or more dedicated public streets.

*Fence:* Any wall or structure more than 24 inches in height constructed for the purpose of enclosing, screening, restricting access to, or decoration of, any lot, building or structure.

*Fence angle arms:* Angle arms attached to the top rail of a fence for the purpose of attaching barbed wire, razor wire and similar materials. Fence arms may be permitted on fences located in industrial districts so long as they do not extend beyond the property line.

*Front yard:* An open, unoccupied space on a lot facing a street and extending from the front of the lot to the front of the principal building, between the side lot lines.

*Hot tub:* See Swimming pool.

*In-ground pool:* See Swimming pool.

*Rear yard:* A space unoccupied by the principal structure extending for the full width of the lot between a principal structure and the rear lot line.

*Repair:* The construction, repair or replacement of less than 50 percent of the perimeter of an existing fence within a 12-month period.

*Residential:* That which is situated on the premises of a detached one- or two-family dwelling or a one-family town house not more than three stories in height.

*Retaining wall:* A wall designed to resist the lateral displacement of soil or other materials.

*Reverse frontage corner lot:* A corner lot where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line.

*Side yard:* An open unoccupied space on the same lot with the building, situated between the building and the side line of the lot, and extending from the front yard to the rear yard.

*Spa, portable:* A nonpermanent or permanent, portable or nonportable structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are connected or part of such structure.

*Swimming pool:* Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

## **18-200. Permit-required.**

It shall be unlawful for any person to construct or have constructed any type of fence or retaining wall, without first having secured a permit from the city. Provided however, a permit shall not be required to repair less than fifty percent (50%) of an existing fence per annum or to construct a retaining wall less than four feet in height measured from bottom of footing to the top of wall. Any stone, masonry or brick wall or fence constructed of similar materials greater than four feet in height shall be engineered, designed and the plans sealed by a state professional engineer.

### **18-300. Fee and application.**

(18-301) *Fee.* Prior to the issuance of any building permit required by this section, a fee as established by resolution of the city council shall accompany the application for such permit, payable to the city, for the issuance of the permit and the inspection to be made upon completion of the fence or retaining wall.

18-302 *Application.* Any person must supply the following information when applying for a permit to erect a fence or retaining wall under this section:

- (A) Applicant's name and address; and if the person represents a company or corporation, the name and address of the foreman of the company or corporation together with the name of the president of the same shall be supplied.
- (B) Name of owner of the property.
- (C) Local address where fence is to be erected.
- (D) Materials of construction.
- (E) Height of fence.
- (F) Graphic outline of the property to be fenced, with the fence signified by distinctive lines which delineate the location of such fence.
- (G) Approximate value.
- (H) If required, plans and structural drawings shall be stamped and signed by a professional civil or structural engineer.

### **18-400. Inspection.**

Upon completion of installation of any fence or retaining wall, or as needed to verify compliance with the applicable codes and/or approved design, the building official shall be called upon for inspection thereof. The building official or the building official's designee will then issue a certificate of acceptance or a rejection slip indicating the defects. All fences and retaining walls constructed under the provisions of this section shall be maintained in proper working condition and in good repair and so as to comply with the requirements of this section at all times.

### **18-500. Public property.**

No fence or guy wires, braces or posts of such fence shall be constructed upon or caused, allowed or permitted to protrude over property that the city or the general public has dominion and control over, owns or has an easement over, under, around or through, except upon utility easements which are permitted to be fenced.

### **18-600. General standards.**

18-601 *Fence materials and types.*

- (A) Except as otherwise stated herein, fences shall be constructed of stone, masonry, brick, wood, vinyl, chain link, wrought iron or other materials listed for that use that the chief building official determines have the same quality, appearance and durability. Products manufactured for other uses such as but not limited to plywood, corrugated steel, tarping material or fiberglass panels are prohibited fence materials.
- (B) In order to allow ingress and egress of fire department and police department personnel there must be at least one gate no less than three feet wide on each fence that is adjacent or parallel to a public alley or utility easement.
- (C) Any fence erected or maintained in the city shall not be electrically charged or barbed wire unless approved by the building official.

18-602 *Rear yard requirements.* It shall be unlawful to erect a fence at a height exceeding eight feet, six inches in any rear yard or along any rear yard lot line.

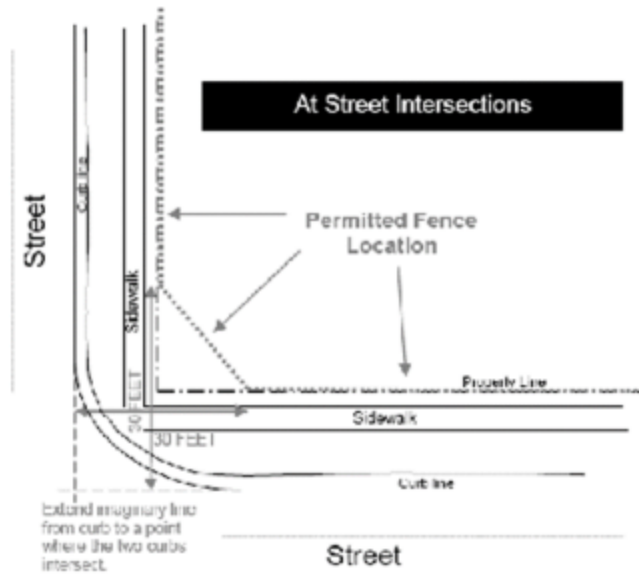
18-603 *Side yard requirements.* It shall be unlawful to erect a fence at a height exceeding eight feet six inches in any side yard or along any side lot line.

18-604 *Front yard requirements.* No fence shall be constructed or maintained within a front yard from the front building line to the front lot line, or in the required front yard area of an unimproved lot within the city, except in residential zoning districts, decorative fences meeting the following conditions may be erected in front yards:

- (A) No fence shall be erected to a height greater than four feet above the finished lot grade.
- (B) The solid area of the fence shall not exceed 50 percent of the total area of the fence.
- (C) Wood, wrought iron or plastic products, which are specifically designed for fence construction, shall be permitted. The building official shall approve samples of all other materials to be used. Materials or products such as chain link, mesh, rope, string, wire and wire products including, but not limited to, barbed wire, razor wire, chicken wire, wire fabric and welded wire fabrics, chain, netting, cut or broken glass, paper, corrugated metal panels and plywood are prohibited.

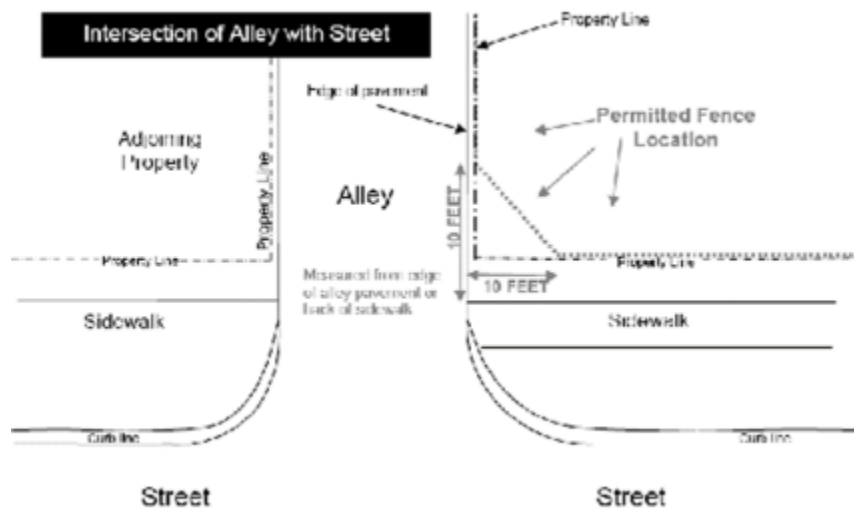
18-605 A fence or wall shall not be located within sight visibility triangles as follows:

- (A) At street intersections, a triangle with 30-foot sides starting at the corner where two curb lines intersect and extending out away from the corner for a distance of 30 feet where the two points will intersect to make a triangle as depicted in the following graphic:



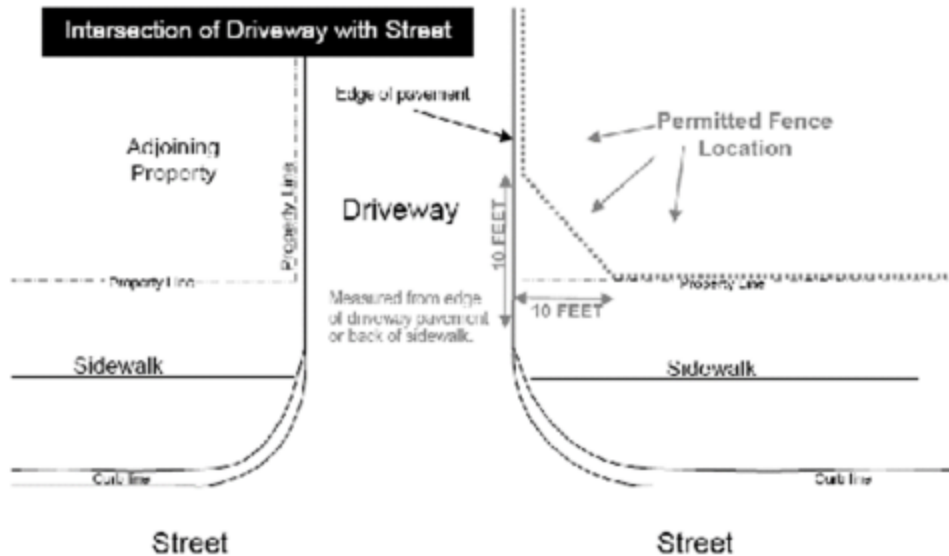
#### Permitted Fence Location at Street Intersections

- (B) At intersections of alleys with streets, a triangle created from extending from the back of the sidewalk a distance of ten feet and extending from the edge of pavement within the alley a distance of ten feet and connecting the two points as depicted in the following graphic:



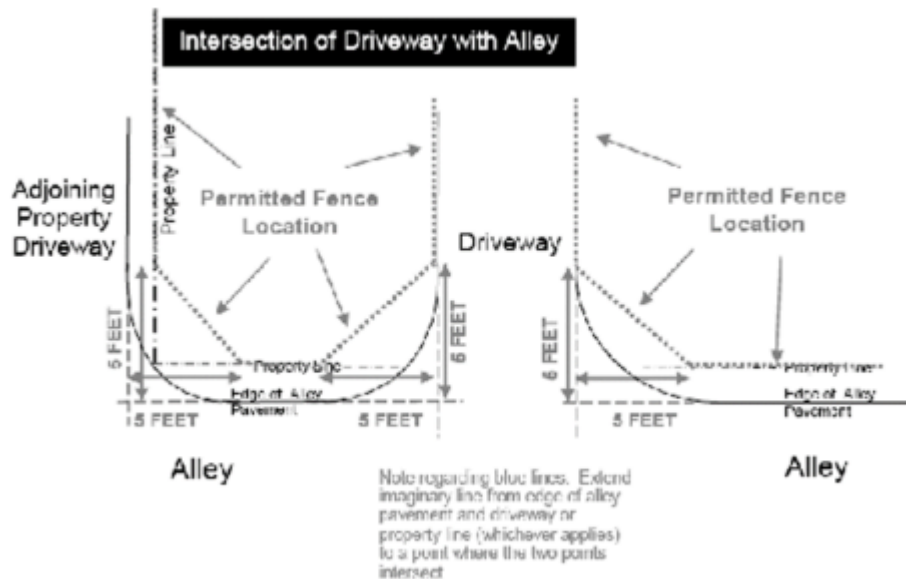
#### Permitted Fence Location at Intersection of Alley with Street

- (C) At intersections of driveways with streets, a triangle created from extending from the back of the sidewalk a distance of ten feet and extending from the edge of driveway pavement a distance of ten feet and connecting the two points as depicted in the following graphic:



Permitted Fence Location at Intersection of Driveway with Street

- (D) At intersections of driveways with alleys, a triangle created from extending from the edge of alley pavement a distance of five feet and extending from the edge of driveway pavement a distance of five feet and connecting the two points as depicted in the following graphic:



Permitted Fence Location at Intersection of Driveway with Alley

- (18-606) *Fence height.* Fences shall be measured from the interior adjacent finished grade to the highest portion of the fence. Fences, which are constructed on top or in conjunction

with a retaining wall, shall be measured from the top of the wall to the highest portion of the fence provided the interior finished yard grade is level with the top of the retaining wall. All rear and side yard fences shall not exceed eight feet, six inches in height. All front yard fences shall not exceed four feet in height.

#### **18-700. Swimming pool barriers.**

(18-701) Indoor and outdoor swimming pools, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier, which shall comply with the following adopted codes:

- (A) *Residential swimming pools:* Most recently adopted edition of the *International Swimming Pool and Spa Code*.
- (B) *Public swimming pools:* Most recently adopted edition of the *International Swimming Pool and Spa Code* and state Health and Safety codes.

#### **18-800. Maintenance.**

(18-801) All fences and retaining walls shall be maintained so as to comply with the requirements of this section at all times. Such requirements include, but are not limited to, the following maintenance standards.

- (A) *Vertical alignment.* All fences shall not be out of vertical alignment more than one and one-half inches per foot of fence height.
- (B) *General maintenance.*
  - (1) Any and all broken, loose, damaged, rotting, or missing parts (i.e., slats, posts, rails, panels, gates) must be repaired or replaced with materials permitted by this article or the fence and its posts completely removed. Any fence enclosing a swimming pool or spa must be repaired immediately.
  - (2) A fence that has deteriorated to a condition that is unsafe shall be repaired, replaced or removed. Removal shall consist of all and any fence materials (i.e., slats, posts, rails, panels). Nothing herein shall be construed so as to prohibit the complete removal of a fence, unless such fence encloses a swimming pool or spa.
  - (3) Fences shall not be externally braced with guy wires or any other material that may be viewable from a public street, right-of-way, alleyway or property and easements over which the city or the general public has dominion and control.
  - (4) Retaining walls shall be maintained in a structurally sound condition and not extend beyond the property line of the premise into the public right-of-way. Structurally sound condition shall be determined by a certified structural engineer.

#### **18-900. Screening walls or visual barriers and open storage.**

Any screening wall or fence required under the provisions of the specific use permit, planned development district, site plan approval or other requirement shall be constructed of masonry or with a concrete or metal frame supporting a permanent masonry type wall material which does not contain openings constituting more than forty (40) square inches in each one (1) square foot of wall or fence surface, and the surface of such wall or fence shall constitute a visual barrier. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence.

### **18-1000. Appeals procedures.**

All appeals requested for this section must be filed in accordance with section 21 of the zoning ordinance and chapter 211 of the local government code.”

**SECTION 3.** That the Code of Ordinances of the City of The Colony, Texas, be, and the same is, hereby amended by repealing in its entirety Appendix A, Section 22, entitled “Certificate of occupancy and compliance.”

**SECTION 4.** That the Code of Ordinances of the City of The Colony, Texas, be, and the same is, hereby amended by repealing in its entirety Appendix A, Section 23, entitled “Completion of building under construction.”

**SECTION 5.** That the Code of Ordinances of the City of The Colony, Texas, be, and the same is, hereby amended by amending Appendix A, Section 25, entitled “Definitions,” which shall read as follows:

### **“Section 25. - Definitions**

**25-100.** Certain words in this section of ordinance are defined as follows:

- (1) *Accessory use (permanent)* means a use that is customarily incidental, appropriate and subordinate and incidental to the principal use of land or buildings and that is located upon the same lot/tract therewith.
- (2) *Accessory building (residential)* means, in a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental and secondary to the main structure but does not change the character of the principal use and/or involve the conduct of a business. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse, home workshop, children's playhouse, storage building, garden shelter, etc.
- (3) *Alley:* A public way which affords only secondary means of access to property abutting thereon.
- (4) *Apartment:* A room or suite of rooms in a multifamily dwelling or apartment house arranged, designed or occupied as a place of residence by a single family, individual or group of individuals.



- (5) *Apartment house*: Any building or portion thereof which is designed, built, rented, leased or let to be occupied as three (3) or more dwelling units or apartments or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units.
- (6) *Area of the lot*: The area of the lot shall be the net area of the lot and shall not include portions of streets and alleys.
- (7) *Automobile*: A four-wheeled, self-propelled vehicle designed for passenger transportation, including electric or natural gas automobiles that run on electricity or natural gas.
- (8) *Basement*: A building story which is partly underground, but having at least one-half ( $\frac{1}{2}$ ) of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.
- (9) *Block*: An area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two (2) streets which intersect said street on said side.
- (10) *Board of adjustment*: Zoning board of adjustment as provided for in Section 21.
- (11) *Building*: Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- (12) *Building line*: A line parallel or approximately parallel to the street line at a specified distance therefrom making the minimum distance from the street line that a building may be erected.
- (13) *Building official*: The person designated to enforce the zoning and building regulations of the City of The Colony.
- (14) *Cargo container* means a premanufactured structure, of metal construction, that is delivered to a site as a fully contained unit. This shall include a container that is designed as a shipping container and used for portable storage; but shall exclude storage sheds that are assembled at the site. A cargo container, as defined herein, shall be considered a structure for purposes of the International Building Code.
- (15) *Cellar*: A building story with more than one-half ( $\frac{1}{2}$ ) its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.
- (16) *Certificate of occupancy and compliance*: An official certificate issued by the city through the enforcing official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.
- (17) *City council*: The governing body of the City of The Colony, Texas.
- (18) *City manager*: Chief administrative officer of the City of The Colony, Texas.

- (19) *Court*: An open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.
- (20) *Coverage*: The per cent of a lot or tract covered by the roof or first floor of a building. Roof eaves to the extent of four (4) feet from the walls of a building shall be excluded from the coverage computations.
- (21) *Depth of lot*: The mean horizontal distance between the front and rear lot lines.
- (22) *District*: A section of the City of The Colony for which the regulations governing the area, height or use of the land and buildings are uniform.
- (23) *Dwelling unit*: A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.
- (24) *Family*: Any number of individuals living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage or adoption.
- (25) *Floor area*: The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, carports or garages.
- (26) *Heavy load vehicle*: A self-propelled vehicle having a manufacturer's recommended gross vehicle weight rating (GVWR) of greater than 10,000 pounds, such as tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.
- (27) *Height*: The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs or (3) to the mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet in height. If the street grade has not been officially established, the average front yard grade shall be used for a base level.
- (28) *Light load vehicle*: A self-propelled vehicle having no more than two axles such as a pick-up truck or van but excluding recreation vehicles and vehicles designed for commercial hauling or for the moving of home furnishings and similar articles.
- (29) *Living unit*: The room or suite of rooms occupied by a family and must include cooking facilities to qualify as a living unit.
- (30) *Lodging house*: A building where lodging for four (4) or more persons is provided for compensation.
- (31) *Lot*: Land occupied or to be occupied by a building and its accessory building, and including such open spaces as are required under this ordinance and having its principal frontage upon a public street or officially approved place and complying with Section 16 of this ordinance.
- (32) *Lot depth*: The mean distance between the front and rear lot lines.

- (33) *Lot lines*: The lines bounding a lot as defined herein.
- (34) *Lot of record*: A lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of Denton County.
- (35) *Lot width*: The width of a lot at the front building line. (See Appendix Illustration 1.)
- (36) *Main building* means the building or buildings on a lot/tract which are occupied by the primary use.
- (37) *Motel*: An inn or group of cabins designed for occupancy by paying guests, a hotel.
- (38) *Nonconforming use*: A building structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is situated.
- (39) *Occupancy*: The use or intended use of the land or buildings by proprietors or tenants.
- (40) *Open space*: Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves and porches but not including dedicated streets or other dedicated public space.
- (41) *Parking space*: An enclosed or unenclosed all-weather surfaced area of not less than one hundred eighty (180) square feet (measuring approximately 9 feet by 20 feet) not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street or alley permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use.
- (42) *Planning and zoning commission*: The agency appointed by the city council as an advisory body to it relative to zoning matters and the physical development of the city and its environs.
- (43) *Portable accessory building*: An accessory structure.
- (44) *Residence*: Same as dwelling; also when used with "District," an area of residential regulations.
- (45) *Room*: A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.
- (46) *Rooming house*: (See *Lodging house*.)
- (47) *Sexually oriented business*: An inclusive term used to describe collectively the following businesses: adult arcade, sexually oriented media store, adult cabaret, adult motel, adult motion picture theatre, adult theatre, escort agency, sex shop, nude model studio, or sexual encounter center.
- (48) *Sign*: An outdoor advertising device that is a structure or that is attached to or painted on a building or that is leaned against a structure or displayed on the premises to promote a person, group, commodity or item or to attract attention to the premises or some object or item.
- (49) *Story*: The height between the successive floors of a building or from the top floor to the roof. The standard height for a story is eleven (11) feet six (6) inches.

- (50) *Story, half*: The space between the top floor and the roof which may be used for residence purposes but which, because of roof slope and structural design, does not cover more than fifty (50) per cent of the area of the ground floor of the building.
- (51) *Street*: Any thoroughfare or public driveway, other than an alley, more than thirty (30) feet in width and which has been dedicated or deeded to the public for public use.
- (52) *Street line*: A dividing line between a lot, tract or parcel of land and a contiguous street, the right-of-way line.
- (53) *Structural alterations*: Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.
- (54) *Structure*: (Same as Building.)
- (55) *Thoroughfare*: (Same as Street.)
- (56) *Yard*: An open space other than a court, on the lot in which a building is situated and which is not obstructed from a point thirty (30) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features.
- (57) *Yard, front*: An open, unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located. (See Appendix Illustrations 3 and 5.)
- (58) *Yard, rear*: An open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated. (See Appendix Illustration 3.)
- (59) *Yard, side*: An open, unoccupied space or spaces on one or two (2) sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a side line. (See Appendix Illustrations 3 and 4.)
- (60) *Zoning district map*: The official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of the zoning ordinance.”

**SECTION 6.** If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 7.** That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 8.** Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

**SECTION 9.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 1<sup>ST</sup> day of DECEMBER, 2020.**

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/s/Joe McCourry, Mayor

**ATTEST:**

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/s/Tina Stewart, TRMC, CMC City Secretary

**APPROVED AS TO FORM:**

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/s/Jeff Moore, City Attorney