

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2023-2517**

**ZONING TEXT AMENDMENT- MINOR AND  
MAJOR GATEWAY STANDARDS WAIVERS**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING APPENDIX A, SECTION 10A OF THE CODE OF ORDINANCES OF THE CITY OF THE COLONY, TEXAS, BY AMENDING SECTION 10A-500, GATEWAY STANDARDS WAIVER PROCEDURES PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 211.006(a) of the Texas Local Government Code requires the City of The Colony, Texas, to publish notice of a public hearing concerning a zoning amendment before the 15th day before the date of the public hearing; and

**WHEREAS**, Appendix A, Section 24-101(d) of the Code of Ordinances of the City of The Colony, Texas, provides the following “[a] public hearing shall be held by City Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given per the publication policy of the city, stating the time and place of such hearing, and shall be published a minimum of 15 days prior to the date of the public hearing;” and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of The Colony, Texas, is of the opinion and finds that said changes should be granted, and that the Code of Ordinances should be amended.

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

**SECTION 1.** 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, is hereby amended by amending Appendix A, Section 10A of the Code of Ordinances of the City of The Colony, Texas, by amending Section 10A-500, Gateway Standards Waiver Procedures which shall read as follows:

***“Purpose & Applicability***

1. *Purpose. Establishes a provision for Alternative Compliance associated with the review and approval of a development or redevelopment project, including improvements to existing on-site structures or existing site features.*
  
2. *The purpose of the Alternative Compliance process is to ensure that:*
  - a. *A proposed project is in compliance with this Gateway Overlay District (GWY) to the greatest extent appropriate for the improvements to be undertaken.*
  
  - b. *A proposed project meets requirements that are appropriate for lots or sites and site-specific development or redevelopment challenges by applying a flexible approval procedure.*
  
  - c. *Allows for different standards that are in agreement with the City’s adopted Comprehensive Plan and produce an equal or enhanced level of results as intended by the original development standards.*
  
3. *Applicability.*
  - a. *A request for Alternative Compliance from certain provisions are specifically cited within this Gateway Overlay District and may be submitted for review and approval along with the project’s initial development application (as applicable for the project). All Alternative compliance requests must be clearly delineated graphically or in narrative format including a reference to the specific section within this Gateway Overlay District that allows consideration of alternative standard(s).*
  
  - b. *The applicable zoning district standards for a project are not to be reduced or varied using the Alternative compliance process unless standard is specifically cited as qualifying for Alternative compliance consideration in its respective section of this Gateway Overlay District.*
  
4. *Responsible Official. The Planning Director is the official responsible for processing a request for Alternative compliance consideration.*
  
5. *Alternative Compliance Evaluation Criteria*

- a. *The Alternative Compliance standard(s) sought by the applicant must be in agreement with, and promote, the recommendations and policies within the City's adopted Comprehensive Plan.*
- b. *The proposed standard(s) must not reduce a standard unless it is, to the greatest extent practical, equally mitigated or improved by increasing standards of other requirements.*
- c. *The proposed standard(s) must not modify the land uses allowed in the zoning district in which the subject property is located, nor add a land use not normally allowed in the zoning district.*

## 6. Appeal

*If the Planning Director denies an Alternative Compliance [Minor Waiver] request, the applicant may seek an appeal from the City Council.*

**Minor (Minor Waiver):** *A change to the standards of this district that is not contrary to the stated goals and intent of the District as interpreted and authorized by the Director.*

- *Any Waiver must be specifically requested by the applicant. No Waivers to standards will be considered approved if not specifically identified in the request for approval of a Gateway Standards Waiver application.*
- *[Minor] Waivers may be approved administratively by the Director. These are specifically sanctioned waivers; a predefined list of acceptable waivers from the Gateway Overlay District.*
  - *The minimum percentage of interior landscaping area may be reduced by 25% provided all perimeter, transitional and right-of-way buffers are at their fullest extent and planted at a rate of 1.5 times the original required.*
  - *The substitution percentage may be increased by a maximum of 30% provided that for each increment of 15% (or fraction thereof) above the minimum, an additional item from the amenity list is incorporated into the site.*
  - *Interior parking islands may substitute the large canopy tree for a cluster of three (3) small ornamental trees not to exceed 25% of the number of large canopy trees required within the planting islands.*
  - *The required 25-foot wide SH 121 landscape buffer may be reduced by 20% with an increase of buffer materials at a rate of 1.5 times the original required.*

- The required 20-foot wide 423 landscape buffer may be reduced by 25% with an increase of buffer materials at a rate 1.5 times the original required.
- The required 15-foot wide landscape buffer along all other non F.M. 423 and SH 121 may be reduced by 40% with an increase of buffer materials at a rate 1.5 times the original required.
- One (1) large canopy tree spacing may be increased up to an additional 10 feet, with the incorporation of six (6) ornamental trees for every 50 linear feet of street frontage.

*Major (Major Waiver): [Major] Gateway Standards Waivers are material and substantial changes to the design standards in the Gateway Overlay District, or changes which may initially appear to be in conflict with the goals and intent of this District. Major Waivers may only be approved by the City Council, following a recommendation by the Planning Director and the Planning Commission.”*

**SECTION 3.** 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 4.** 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 5.** 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 6.** This Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 20<sup>th</sup> DAY OF JUNE, 2023.**

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/s/Richard Boyer, Mayor  
City of The Colony, Texas

**ATTEST:**

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/s/Tina Stewart, TRMC, CMC, City Secretary

**APPROVED AS TO FORM:**

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/s/Jeffrey L. Moore, City Attorney