

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2011-1878

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES, BY REPEALING CHAPTER 6, SECTION 6-194, AND REPLACING IT WITH A NEW CHAPTER 6, SECTION 6-194, ENTITLED “DUTY TO MAINTAIN PROPERTY IN SANITARY CONDITION,” BY REQUIRING THE MAINTENANCE OF REAL PROPERTY IN A SAFE, SANITARY CONDITION, PROHIBITING TALL GRASS, WEEDS, GARBAGE, RUBBISH, FILTH, CARRION, OR ANY OTHER UNSIGHTLY, OBJECTIONABLE MATERIAL ON PROPERTY WITHIN THE CITY, PROHIBITING THE COLLECTION OF STAGNANT WATER, PROHIBITING THE BURNING OF TRASH AND DEBRIS, PROHIBITING LITTERING, PROHIBITING ILLEGAL DUMPING, PROVIDING DEFENSES FOR TALL GRASS AND WEEDS; AMENDING THE CODE OF ORDINANCES, BY REPEALING CHAPTER 6, SECTIONS 6-196 AND 6-198 IN THEIR ENTIRETY; AMENDING THE CODE OF ORDINANCES, BY AMENDING CHAPTER 6, SECTION 6-199, ENTITLED “SAME--RESPONSIBILITY FOR MAINTENANCE,” BY REQUIRING A DUTY TO MAINTAIN REAL PROPERTY WITHIN THE CITY OF THE COLONY, TEXAS; 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, the City Council of the City of The Colony, Texas, has discussed and considered such revisions and has determined that it is in the best interest of the City to repeal in its entirety Chapter 6, Section 6-194, and replace with a new Chapter 6, Section 6-194; to repeal Sections 6-196, and 6-198 in their entirety; and to amend Section 6-199, to regulate the maintenance of real property in a sanitary condition, within the City of The Colony, Texas, in accordance with State law; and

WHEREAS, the City Council of the City of The Colony, Texas, has determined that the following regulation is necessary in order to protect public health, safety, and welfare of the citizens of the City of The Colony, Texas.

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 be, and the

same is, hereby amended by repealing Chapter 6, Section 6-194, in its entirety and replacing it with a new Chapter 6, Section 6-194, entitled “Duty to maintain property in sanitary condition,” which shall read as follows:

“Sec. 6-194. Duty to maintain property in sanitary condition.

- (a) *Maintain property in safe condition.* An owner, occupant, or other person in control of real property shall maintain the property in a safe, sanitary condition.
- (b) *Tall grass, weeds, garbage, rubbish and other unsightly, objectionable materials.* A person may not allow the following to accumulate on the person’s property or in the area from the person’s property line to the adjacent curblin:
 - (1) weeds or grass more than twelve inches (12”) tall;
 - (2) garbage, rubbish, or brush; or
 - (3) filth, carrion, or any other unsightly, objectionable, or unwholesome matter.

All vegetation, not regularly cultivated as a crop, and which exceeds twelve inches (12”) in height, shall be presumed to be objectionable and unsightly matter.
- (c) *Stagnant water.* A person may not allow stagnant water that is likely to promote disease to accumulate on the person’s property. A person shall drain, fill, or re-grade the person's property to remove or prevent a violation of this section.
- (d) *Burning of trash.* A person may not burn any trash or rubbish, brush, paper, grass, or weeds, on any private property, or in any street or public place within the city.
- (e) *Littering.* A person commits an offense if the person deposits or throws litter on a street, alley, sidewalk, premises, vacant lot, or public property, including a park or playground. In addition, a person commits an offense if the person deposits or throws litter along a street, alley, sidewalk, or public property, including a park or playground.
- (f) *Illegal dumping.* A person commits an offense by dumping, placing, or depositing of any trash, debris, garbage, oil, refuse, grass, weeds, scrap material, feces, dead animals, or junk, in or upon any private or public property within the city.
- (g) *Defense to prosecution.* It shall be a defense to prosecution that such vegetation named in subsection (b) above occurs on property consisting of five (5) acres or more; is regularly cultivated crops provided such crops are not grown within fifteen feet (15’) of any property line, within the right-of-way of any public street or easement nor do they obstruct the necessary view to and from adjacent right-of-way; and said crops are cultivated on property which has been granted an agricultural property tax exemption on the most recent tax roll as certified by the Denton County Appraisal District. Property consisting of five (5) acres or more, with no agricultural property tax exemption, is

required to mow within 150 feet of any adjacent property line which is under different ownership. Property consisting of five (5) acres or less must be mowed in its entirety. It shall also be a defense to prosecution that such vegetation named in subsection (b) above occurs on property designated as and/or required by ordinance to be maintained in its natural state.

- (h) *Penalty provision.* A person who violates this section commits a Class C misdemeanor punishable by a fine of up to \$2,000 pursuant to Section 1-5 of the Code of Ordinances.”

SECTION 3. That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by repealing Chapter 6, Sections 6-196 to 6-198, in their entirety.

SECTION 4. That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by amending Chapter 6, Section 6-199, entitled “Same--Responsibility for maintenance,” which shall read as follows:

“Sec. 6-199. Same--Responsibility for maintenance.

- (a) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city to keep and maintain the trees in the area contained in the parkway adjacent to the property line, municipal easements contained on the property in such a manner that the branches and roots do not interfere with pedestrian travel, vehicular line of sight and travel or the provision of services.
- (b) Trees shall be trimmed so as to avoid causing a hazard to public places and obstructing traffic control signage. The allowable overhang shall not be less than seven feet (7') above sidewalks, fourteen feet (14') above the street surface, and fourteen feet (14') above alley surface.
- (c) If, in the course of general maintenance and repair of municipal infrastructure or the installation of capital improvements the removal or destruction of trees, shrubs and/or any other landscaping in the parkway is caused, the city has no responsibility to replace, repair or reconstruct trees, shrubs or any other landscaping in the parkway.
- (d) The city shall make every reasonable effort to preserve and protect trees within parkways during the course of the city's normal activities; however on the date this ordinance goes into effect, no new trees or replacement of any existing trees will be permitted within the parkway.
- (e) The city may cause the removal of trees on private property or located in the parkway that are determined to be a hazard to the general safety, health and welfare of the public at the property owner's expense, as outlined in this article.
- (f) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city to

keep and maintain the trees, shrubs and other plants in such a manner that the branches shall not be located within five feet (5') of a street light fixture, and that the branches shall not obstruct a city street light fixture for illuminating a city street, alley or sidewalk.

- (g) The city shall have authority at any time to cut, trim, prune, spray or remove any tree(s), shrub(s), or other plant(s) within the lines of streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety.”

SECTION 5. 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 6. 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 7. 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 8. 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, ON THIS THE 4th day of January , 2011.

/s/Joe McCourry, Mayor

ATTEST:

/s/Christie Wilson, City Secretary

APPROVED AS TO FORM:

/s/Jeff Moore, City Attorney