

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2011-1900**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 10B-600, ENTITLED "STANDARDS FOR DETACHED PATIO COVERS, ARBORS, GAZEBOS AND PERGOLAS," BY ADDING A SUBSECTION (J), ESTABLISHING REGULATIONS FOR ENCLOSURES OF DETACHED PATIO COVERS, GAZEBOS, AND PERGOLAS; AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 10B-700, ENTITLED "STANDARDS FOR ATTACHED PATIO COVERS," BY ADDING A SUBSECTION (J), ESTABLISHING REGULATIONS FOR ENCLOSURES OF DETACHED PATIO COVERS, GAZEBOS, AND PERGOLAS; AMENDING THE CODE OF ORDINANCES, APPENDIX A, SECTION 10B-1700, ENTITLED "ILLUSTRATIONS," BY REMOVING THE PICTURE ENTITLED "ENCLOSED-EXTERIOR WALLS" FROM THE EXAMPLES OF UNACCEPTABLE PATIO COVERS, GAZEBOS, AND PERGOLAS; 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(4) of the Code of Ordinances of the City of The Colony, Texas, provides the following, "A public hearing shall be held by the governing body before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City of The Colony stating the time and place of such hearing which time shall not be earlier than fifteen (15) days from the date of publication;" 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 Appendix A, Section 10B-600, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, is hereby amended by adding a new subsection (j) which shall read as follows:

“(j) *Enclosure of detached patio covers, gazebos and pergolas.* One (1) story detached patio covers, gazebos and pergolas, up to the maximum height allowed by this ordinance, may be enclosed with insect screening or translucent or transparent plastic not more than 0.125 inch (3.2 millimeters) in thickness or any combination of thereof. Detached patio covers, gazebos and pergolas must also meet the following criteria:

- (1) The enclosed patio covers, gazebos and pergolas shall only be used for recreational, outdoor living purposes and not for carports, garages, storage room or habitable rooms; and
- (2) Any solid wall constructed as part of detached patio covers, gazebos and pergolas enclosure must not exceed two (2) feet in height from adjacent grade.”

**SECTION 3.** That Appendix A, Section 10B-700, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, is hereby amended by adding a new subsection (j) which shall read as follows:

“(j) *Enclosure of attached patio covers.* One (1) story attached patio covers, up to the maximum height allowed by this section, may be enclosed with insect screening or translucent or transparent plastic not more than 0.125 inch (3.2 millimeters) in thickness or any combination of thereof. Attached patio covers must also meet the following criteria:

- (1) The enclosed patio cover shall only be used for recreational, outdoor living purposes and not for carports, garages, storage room or habitable rooms;
- (2) Any solid wall constructed as part of attached patio cover enclosure must not exceed two (2) feet in height from adjacent grade; and
- (3) Where openings for emergency egress from the dwelling to the attached patio enclosure exist, the attached patio enclosure must also have exterior openings meeting the requirements of the adopted building code.”

**SECTION 4.** That Appendix A, Section 10B-1700, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, is hereby amended by removing the picture entitled “Enclosed-Exterior Walls” from the examples of unacceptable patio covers, gazebos, and pergolas:

The following are examples of UNACCEPTABLE Patio Covers, Arbors & Gazebos:

	 <p data-bbox="948 562 1333 594">Substandard Material or Work</p>
 <p data-bbox="310 921 716 953">Non-Retractable Fabric/Canvas</p>	 <p data-bbox="948 921 1333 953">Substandard Material or Work</p>

**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, THIS 3<sup>rd</sup> day of MAY, 2011.**

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/s/Joe McCourry, Mayor

**ATTEST:**

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/s/Christie Wilson, City Secretary

**APPROVED AS TO FORM:**

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/s/Jeff Moore, City Attorney