

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2015-2127

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 19, SECTION 19-13, ENTITLED “TRUCK ROUTES,” BY REPEALING SAID SECTION IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 19, SECTION 19-13, ENTITLED “COMMERCIAL TRUCK ROUTES”; ESTABLISHING COMMERCIAL TRUCK ROUTES WITHIN THE CITY; PROVIDING EXCEPTIONS TO THE COMMERCIAL TRUCK ROUTES; REQUIRING SIGNS FOR COMMERCIAL TRUCK ROUTES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 311.001(a) of the Texas Transportation Code provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, on February 25, 2010, the City of the Colony, Texas (hereinafter referred to as the “City”); the City of Frisco, Texas (hereinafter referred to as “Frisco”); and the North Texas Municipal Water District entered into a Settlement Agreement (hereinafter referred to as the “Settlement Agreement”) concerning the court case *City of The Colony v. North Tex. Mun. Water Dist.*, 272 S.W. 3d 699 (Tex. App. – Ft. Worth 2008, pet. filed), its then pending appeal to the Texas Supreme Court, and related issues resolved among the parties to that lawsuit; and

WHEREAS, Section 7.i. of the executed Settlement Agreement required certain cooperation concerning Memorial Drive, and provided in pertinent part the following:

“Commercial Truck(s)” as defined in Section 4. A. of Frisco Ordinance Number 10-02-09, commonly referred to as the Truck Route Ordinance, as such ordinance is in effect at the time of execution of this Agreement, will not be allowed on the Memorial Drive/Spring Creek connection and the connection will be posted accordingly. The Colony shall take all actions necessary to amend any and all of its ordinance(s) related to prohibition of “Commercial Trucks,” as defined above, on Memorial Drive within The Colony beginning at Morning Star eastward to The Colony city limits. The only exemptions to this prohibition shall be those listed in Section 5.B.1 through 6 of Frisco Ordinance Number 10-02-09 or other exemptions specifically required by state law; and

WHEREAS, the City Council has discussed and considered such Code revisions and has determined that it is in the best interest of the City to repeal current Chapter 19, Section 19-13 of the Code, and to replace same with a new Chapter 19, Section 19-13, entitled “Commercial Truck Routes” to regulate and designate certain commercial truck routes within the City in accordance

with the Settlement Agreement and State law.

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 Chapter 19, Section 19-13, by repealing said section in its entirety and replacing it with a new Chapter 19, Section 19-13, entitled “Commercial Truck Routes,” which shall read as follows:

“Sec. 19-13. Commercial truck routes.

- (a) *Purpose.* To protect the health, safety and general welfare of the residents of the city and to preserve and protect functionality and integrity of the city’s roads, streets and highways by designating commercial truck traffic routes in the city.
- (b) *Definitions.* For purposes of this section, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this section shall be given their common and ordinary meaning.

Commercial truck. Any motor vehicle having a weight of thirteen (13) tons gross vehicle weight rating (GVWR) or more including the load carried, also including but not limited to, any vehicle carrying hazardous materials or solid waste. Commercial trucks shall not include vehicles carrying or designated to carry passengers, all governmentally owned or leased vehicles, public utility vehicles, motor homes, recreational vehicles or vehicles used exclusively to transport personal possessions or family members for non-business purposes.

Truck route. A road, street and/or highway on which commercial trucks are allowed and which is designated and posted as a “truck route.”

- (c) *Unlawful acts/exemptions.*
 - (1) It shall be unlawful to operate a commercial truck on any road, street or highway in the city except upon the following described roads, streets and highways located in the city:

Street Segment	Extent
F.M. 423	Entire city limits
State Highway 121	Entire city limits
Plano Parkway	Entire city limits
Windhaven Parkway	Entire city limits

- (2) The provisions of this section shall not apply to:
- (A) Emergency vehicles operating in response to any emergency call;
 - (B) A vehicle traveling to or from areas served directly by the roads, streets and/or highways listed in this section for the purpose of providing repair or maintenance service or loading or unloading goods, wares or merchandise, provided such vehicle is operated over the shortest possible route, and the operator of such vehicle has in his immediate possession evidence of the local destination and point of origin;
 - (C) An owner and/or operator of a commercial truck driving to and from his residence;
 - (D) Commercial trucks owned and/or operated by and/or on behalf of a governmental entity, a public utility and/or any contractor or materialman, while engaged in the repair, maintenance or construction of roads, streets and/or highways, and/or road, street and/or highway improvements and/or utilities within the city;
 - (E) Commercial trucks owned and/or operated by and/or on behalf of a governmental entity while engaging in and/or performing official, authorized government-related business; and
 - (F) Commercial trucks operating upon a city or state officially designated detour.
- (d) *Establishing truck routes.* The director of engineering, or his/her designee, shall maintain accurate maps setting out truck routes on streets upon which truck traffic is permitted. The maps shall be kept on file in the office of the city secretary and shall be available to the public. Whenever any street designated as a truck route herein is being repaired or is otherwise temporarily out of use, the director of engineering, or his/her designee is authorized to designate alternate truck routes for such period as may be necessary.
- (e) *Posting of restrictions.* Signs indicating the “truck route(s)” provided herein shall be placed or caused to be placed by the director of engineering, or his/her designee, at the most advantageous points to be conspicuous to approaching vehicular traffic. The signs shall be permanently affixed to a stationery post or installed on permanent buildings or

walls or as otherwise approved. The signs shall in no way be obstructed from view and shall comply with applicable state laws.”

SECTION 3. That 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 Code of 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 Code of Ordinances of the City of The Colony, Texas, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. That 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 Five Hundred Dollars (\$500.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 6. That this Ordinance shall become effective from and after its date of passage and publication in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 3rd day of March, 2015.

/s/ Joe McCourry, Mayor

ATTEST:

/s/ Christie Wilson, City Secretary

APPROVED AS TO FORM:

/s/ Jeff Moore, City Attorney