

**CITY OF THE COLONY, TEXAS
ORDINANCE NO. 2019-2362**

AMENDMENT TO THE ZONING ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY AMENDING APPENDIX A, SECTION 10A-500, ENTITLED “GATEWAY STANDARDS WAIVER PROCEDURES”, AMENDING APPENDIX A, SECTION 10A-900, ENTITLED “BUILDING DESIGN STANDARDS” BY AMENDING SUBSECTION (C)(3)(C), AND AMENDING APPENDIX A, SECTION 10A-1200, ENTITLED “FENCE AND WALL STANDARDS” BY AMENDING SUBSECTION (B), BY AMENDING THE TERM “SPECIFIC USE PERMIT” TO BE “GATEWAY STANDARDS WAIVER”; 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. That 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 10A-500, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Gateway Standards Waiver Procedures,” is hereby amended to read as follows:

“10A-500. Gateway Standards Waiver Procedures.

In the event that the building and/or site cannot comply with the regulations in this section, the owner of the proposed site may request a Gateway Standards Waiver (“GSW”) before the city council.

- (a) *Process.* Upon submission of an application for a Gateway Standards Waiver, the case shall be scheduled for consideration by the development review committee ("DRC"). The DRC shall consider the case and make a recommendation to the planning and zoning commission ("commission") and the city council. The city council shall consider the case during a public meeting held in accordance with the Texas Open Meetings Act.
- (b) *Application.* An application for a Gateway Standards Waiver, any revision of a previously approved Gateway Standards Waiver application, or any reconstruction, enlargement, extension, relocation or structural alteration of an approved Gateway Standards Waiver shall be submitted in writing to the DRC, accompanied by the following:
 - (1) A complete application with applicable fees, as approved by the city council in the city's master fee schedule;
 - (2) A written statement describing the proposed use, and or deviations requested;
 - (3) A site plan in accordance with section 17, "Site Plan Approvals," of this Chapter and
 - (4) Architectural plans showing the elevations of the proposed structure, if applicable.
- (c) *Criteria for approval.* In reviewing an application for a Gateway Standards Waiver, the city council will take the following criteria into consideration:
 - (1) The DRC recommendation;
 - (2) The planning and zoning commission recommendation;
 - (3) The impact on adjacent property owners;
 - (4) The existence of a hardship that is not a result of the property owner's action;
 - (5) The appropriateness of the request in terms of location, density and height of the structure or use; and

- (6) The compatibility with the existing uses on the lot and surrounding land uses.
- (d) *Gateway Standards Waiver amendments.* A request for a change to a GSW shall be considered entirely on its own merits and the unique conditions related to the property on which the appeal is brought.”

SECTION 3. That Appendix A, Section 10A-900, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Building Design Standards,” is hereby amended by amending subsection (c)(3)(C) to read as follows:

“10A-900. Building Design Standards. . . .

- (C) The use of any form of metal roofing is prohibited unless approved with a Gateway Standards Waiver.”

SECTION 4. That Appendix A, Section 10A-1200, of the Comprehensive Zoning Ordinance of the City of The Colony, Texas, entitled “Fence and Wall Standards” is hereby amended by amending subsection (b) to read as follows:

“10A-1200. Fence and Wall Standards. . . .

- (b) *Alternate living plant screen.* A living plant screen made up of shrubs planted four feet on center with a mature height of approximately six to eight feet, along with wrought iron fence lengths no longer than eight feet each with masonry columns set a minimum of every five fence lengths, may be used in lieu of a wall or fence made of approved materials listed in 10A-1200, Table 1, on a case-by-case basis, with a separate application for a Gateway Standards Waiver.”

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. That any person, firm or corporation violating a provision of this Ordinance, upon conviction, is guilty of a misdemeanor and shall be subject to a fine in the sum not to exceed Two Thousand Dollars (\$2,000.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 8. That 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 18th day of June, 2019.

/s/Joe McCourry, Mayor

ATTEST:

/s/Tina Stewart, TRMC, City Secretary

APPROVED AS TO FORM:

/s/Jeff Moore, City Attorney