

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 6-20 “ASSESSMENT OF COSTS” RELATING TO CITY ASSESSMENTS AND LIENS FOR THE ABATEMENT OF HIGH WEEDS AND GRASS AND OTHER NUISANCES; AMENDING PARAGRAPH (k) OF SECTION 6-85 “EXTERIOR GROUNDS” RELATING TO THE MAINTENANCE OF FENCES; AMENDING CHAPTER 9 “MOTOR VEHICLES AND TRAFFIC,” BY AMENDING SECTION 9-2 “DEFINITIONS” BY AMENDING THE DEFINITIONS OF “CENTRAL BUSINESS DISTRICT,” “COMMERCIAL MOTOR VEHICLE,” “SERVICES VEHICLE,” AND “TRUCK-TRACTOR” AND ADDING A DEFINITION FOR “RECREATIONAL VEHICLE” BY AMENDING SECTION 9-227 “PARKING OF TRUCKS, TRACTORS, ETC., IN RESIDENTIAL DISTRICTS” RESTRICTING PARKING IN CERTAIN AREAS; BY AMENDING SECTION 9-229 “PARKING OF COMMERCIAL VEHICLES” RELATING TO THE PARKING OF CERTAIN COMMERCIAL VEHICLES; BY AMENDING SECTION 9-321 “DEFINITIONS” BY AMENDING THE DEFINITION OF “JUNKED VEHICLE;” AMENDING CHAPTER 13 “STREETS AND SIDEWALKS” BY AMENDING SECTION 13-1 “RESTRICTED AREA” PROHIBITING CERTAIN IMPROVEMENTS IN VISIBILITY TRIANGLES” AND BY AMENDING SECTION 13-15 “TREES, SHRUBS, AND PLACES” RELATING TO THE CONDITION OF CERTAIN LANDSCAPING IN AND ADJACENT TO PUBLIC RIGHTS OF WAY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE AMOUNTS SET FORTH IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Allen, Texas, has determined that it is in the best interest of the public health, safety and welfare to of the citizens of the City of Allen to amend certain regulations relating to the upkeep and maintenance of property located within the City of Allen;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 6 “Health and Environment,” Article II “Nuisance High Weeds and Grass,” Section 6-20 – Abatement by City; Assessment of Costs” to read as follows:

**Sec. 6-20. - Abatement by city; assessment of costs.**

- (a) In the event any person owning, occupying, claiming or having supervision or control of any occupied or unoccupied real property fails to comply with the provisions of this Article within seven (7) calendar days after delivery of proper notice as provided in Section 6-19, the City, or its duly authorized representative or contractor, may do the work or make the improvements required, pay for the work done or improvements made, and charge the expenses to the owner of the property pursuant to Texas Health and Safety Code §342.006, as amended. The expenses assessed to the owner of the property on such work has been performed shall be the actual expenses incurred by the

City of not less than twenty-five dollars (\$25.00), plus a special expense fee of one hundred dollars (\$150.00) to cover the City's administrative costs.

- (b) A statement of expenses which includes the administrative fees as provided in Sec. 6-20(a) shall be given to the property owner by mailing said statement to the owner's address as set forth in the records of the Collin Central Appraisal District or by such other method as authorized by Texas Health & Safety Code §342.006(b). The statement of expenses shall, in addition to giving the amount of the expenses incurred by the City, include the date upon which work was performed and a description of the property upon which the work was performed.
- (c) The City may assess a lien against the property by filing with the Collin County Clerk in the Official Public Records of Collin County, Texas, a copy of the statement of expenses provided to the property owner pursuant to Section 6-20(b), signed and acknowledged by the mayor, city manager, or chief building official, and containing the name of the owner of the property, if known, and the legal description of the property. The City shall have a privileged lien against such property upon filing the statement of expenses with the Collin County Clerk, which lien shall be inferior only to tax liens and liens for street improvements. The lien shall bear interest at the rate of ten (10) percent per annum from the date the City pay for the work performed. The City may bring a suit for foreclosure to recover the expenditures and interest due, and the statement of the expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.
- (d) For purposes of Texas Health & Safety Code §342.007(b), the City Manager and any employee of the City designated by the City Manager shall each be persons designated by the Mayor to file a statement of expense with the Collin County Clerk in accordance with Section 6-20(c), above.

**SECTION 2.** The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending subsection (k) of Chapter 6 "Health and Environment," Article IV "Property Maintenance Code," Section 6-85 "Exterior grounds" to read as follows:

- (k) *Fences.*
  - (1) All fences shall be maintained structurally sound and not be out of vertical alignment more than twelve (12) inches. from the vertical measured at the top of the fence.
  - (2) Any broken, loose, damaged, insect damaged, or missing parts (i.e., slats, posts, wood rails, bricks, panels) having a combined area of twenty (20) square feet or more of said fences shall be replaced or repaired. Repairs of any nature shall be made with materials of comparable composition, color, size, shape, and quality of the original fence to which the repair is being made. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as fencing materials. Nothing herein shall be construed as prohibiting the complete removal of a fence, unless such fence encloses a swimming pool or spa.
  - (3) A fence that has deteriorated to a condition that it is likely to fall shall be repaired, replaced, or removed.
  - (4) Fences shall not be externally braced in lieu of replacing or repairing posts, columns, or other structural members.

**SECTION 3.** The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 9 “Motor Vehicles and Traffic” as follows:

- A.** Section 9-2 “Definitions” is amended by amending the definitions of “Central Business District,” “Commercial Motor Vehicle”, “Service Vehicle”, and “Truck-tractor” to read as follows:

*Central Business District* means the area within the City located within the boundaries of the Central Business District “CBD” as set forth on the City’s Zoning District Map as adopted and amended from time to time pursuant to the Allen Land Development Code.

*Commercial motor vehicle* means any vehicle designed, intended, or used for transportation or delivery of people or property, other than private passenger vehicles and recreational vehicles. The term "commercial vehicle" shall include, but is not limited to, the following: Pole trailer, Semitrailer, Truck-tractor and Bus.

*Service vehicle* means a vehicle that has been designed or modified to support a business or commercial operation such as maintenance, installation, repairs, contracted services or similar, usually provided by a contractor, dealer, manufacturer, or agent for an offsite client. and includes, but is not limited to, any step vans, cargo vans, box trucks, flat beds, utility trucks, work trucks or pick-up trucks with modified cargo bodies, utility beds, or similar body or bed alterations.

*Truck-tractor* means a motor vehicle having four or more wheels and equipped with a fifth wheel for the purpose of drawing a semitrailer.

- B.** Section 9-2 “Definitions” is amended by adding a definition for “Recreational Vehicle” to read as follows:

*Recreational vehicle* means any motor vehicle or trailer designed or used as a travel trailer, camper, motor home, tent trailer, boat, boat trailer, camping trailer, or other similar purposes including any vehicle exclusively used to tow or haul a recreation vehicle.

- C.** Section 9-227 “Parking of Trucks, Tractors, Etc., in Residential Districts” is retitled and amended to read in its entirety follows:

**Sec. 9-227. - “Parking of Trucks, Tractors, Commercial Vehicles, etc., in Residential Districts”**

- (a) *Public streets.* It shall be unlawful for any person to park or stand any commercial vehicle, house trailer, special mobile equipment, farm tractor or implement of husbandry, service vehicle, or vehicle with more than two axles upon any public street, alley or public right-of-way within a residential area. It shall be a defense to a violation of this Sec. 9-227(a) if the person is parking or standing the vehicle for the purpose of expeditiously loading and unloading passengers, freight or merchandise, or is a contractor actively engaged in work activities. .
- (b) *Residential property.* It shall be unlawful for any person to park or stand any of the following vehicles upon property within a residential area.
- (1) Any commercial vehicle, special mobile equipment, farm tractor or implement of husbandry.
  - (2) Any service vehicle;

- (3) Vehicles parked so as to obstruct the view of traffic from adjacent driveways or streets, or obstruct public sidewalks, alleys or rights-of-way.

It shall be a defense to a violation of this Section 9-277(b) if (i) the person is parking or standing the vehicle for the purpose of expeditiously loading and unloading passengers, freight or merchandise, or is a contractor actively engaged in work activities, or (ii) the vehicle is a service vehicle parked on or adjacent to property on which is located the primary residence of the owner or operator of the service vehicle.

- (c) *Overnight parking.* It shall be unlawful for any person to park or stand any vehicle listed in (a) upon any public street, alley or public right-of-way within the City at any time from thirty (30) minutes after sunset until thirty (30) minutes before sunrise.
- (d) *Recreational Vehicles.* It shall be unlawful for any person to park any recreational vehicle upon any public street, alley or public right-of-way within the city. It shall be a defense to a violation of this Section 9-227(d) if:
  - (1) the person parked the recreational vehicle on a residential street for the purpose of loading and unloading for a period not to exceed twenty-four (24) hours; or
  - (2) the person parked the recreational vehicle on a residential street for a period not exceeding five (5) consecutive days adjacent to a residential dwelling the residents of which the person was visiting.
- (e) *Defense: Disabled Persons.* It shall be a defense to a violation of this Section 9-227 if the person parked a passenger car, pickup truck; or passenger van which displays a decal, identification card or other device bearing the International Symbol of Access consisting of a stylized wheelchair on a blue background issued in accordance with state law to any handicapped driver or a license plate issued by any state that bears the International Symbol of Access.

**D.** Section 9-229 “Parking of Commercial Vehicles” is amended to read in its entirety follows:

**Sec. 9-229. - Parking of commercial vehicles**

A person commits an offense if the person stops, parks or stands any commercial vehicle, house trailer, special mobile equipment, farm tractor or implement of husbandry, or trailer upon any public street, alley, right-of-way or public space within the City. This section shall not apply to street construction, maintenance, and repair equipment; trucks, equipment, trailers, and vehicles used by public service utility companies engaged in repairing or extending public service utilities; motor busses when taking on or discharging passengers at customary bus stops; other vehicles when actually parking at a designated loading zone, or where it is lawful to park a commercial motor vehicle for the purpose of accepting or delivering transportable goods; or a vehicle with a mechanical defect, making it unsafe to proceed further, in which event, it shall be lawful to stand or park the vehicle during the time necessary to make emergency repairs.

**E.** Article XII “Abandoned and Junked Motor Vehicles,” Section 9-321 “Definitions” is amended by amending the definition of “Junked Vehicle” to read as follows:

*Junked vehicle:* Means:

- (a) A motor vehicle as defined in Texas Transportation Code Sec. 683.001, that is self-propelled and:
  - (1) Displays an expired license plate or does not display a license plate; and,
  - (2) Is:
    - (i) Wrecked, dismantled or partially dismantled, or discarded; or
    - (ii) Inoperable and has remained inoperable for more than:
      - (a) Seventy-two (72) consecutive hours, if the vehicle is on public property; or
      - (b) Thirty (30) consecutive days, if the vehicle is on private property;
- (b) A watercraft that:
  - (1) Does not have lawfully on board an unexpired certificate of number; and
  - (2) Is not a watercraft described by Section 31.055, Parks and Wildlife Code; or
- (c) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47.

**SECTION 4.** The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 13 “Streets and Sidewalks” as follows:

**A.** Section 13-1 “Restricted Area” is amended to read in its entirety as follows:

**Sec. 13-1. – Restricted Area**

- (a) No person should erect or maintain any wall, fence, plant life, or any other structure, with the exception of utility poles or traffic control devices, in a visibility triangle, as defined by Allen Land Development Code Section 8.05.1.
- (b) A special exception to the requirements of this section may be granted when, in the opinion of the city engineer, the item will not constitute a traffic hazard.
- (c) The provisions of Sections 13-1 and 13-2 shall not apply to any business building, family dwelling or apartment house existing in the City on April 1, 1999, not in violation of any law of this state or ordinance of the city.
- (d) The provisions of Sections 13-1 and 13-2 shall not affect the City's right to administer and control the remaining portions of its public street right-of-way not involved in the triangular corner areas provided for herein.

**B.** Section 13-15 “Trees, Shrubs, and Plants” is amended to read as follows:

**Sec. 13-15. - Trees, shrubs and plants.**

Trees, shrubs or plants shall not create a hazard or an obstruction and shall be maintained within the following minimum clearances:

(1)	Overhead clearances of public sidewalks and other public pathways	Seven (7) feet vertical clearance.
(2)	Lateral clearance of public sidewalks and other public pathways	Six (6) inches from each edge of sidewalk or pathway.
(3)	Overhead clearance of streets	Fourteen (14) feet vertical clearance.
(4)	Lateral clearance of streets	No encroachment over or above the back of curb or edge of paving.
(5)	Sight clearance at intersections of city streets	Unobstructed sight distance of two hundred (200) feet.
(6)	Sight clearance for signs erected by the city	Unobstructed sight distance of one hundred (100) feet.
(7)	Overhead clearance of public alleys and easements which have been dedicated and improved for vehicular use	Fourteen (14) feet vertical clearance.
(8)	Lateral clearance of alleys and easements which have been dedicated and improved for vehicular use	No encroachment over the edge of paving nor shall any tree, shrub or similar plant extend into the alley or easement more than eighteen (18) inches, or in any way obstruct or interfere with vehicular traffic.
(9)	Overhead clearance of street at outside edge of parking lane.	Fourteen (14) feet.

Trees shrubs or plants that are dead or which are hazardous to persons or property shall be removed.

**SECTION 5.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 6.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 7.** Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the amounts established in the Code of Ordinances for such offense.

**SECTION 8.** This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28<sup>TH</sup> DAY OF AUGUST 2018.**

**APPROVED:**

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**Stephen Terrell, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**Peter G. Smith, CITY ATTORNEY**  
(kbl:8/22/18:101792)

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**Shelley B. George, TRMC, CITY SECRETARY**