

ORDINANCE NO. 2009-O-6G

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF ANGLETON TO PROHIBIT REMOVING CLEAN-OUT CAPS IN SEWER LINES; DECLARING THE REMOVAL OF CLEAN-OUT CAPS A PUBLIC NUISANCE; PROVIDING FOR EXCEPTIONS AND AFFIRMATIVE DEFENSES; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 FOR EACH VIOLATION AND MAKING EACH DAY OR PORTION OF A DAY THAT A VIOLATION CONTINUES A SEPARATE VIOLATION; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING FOR EXCEPTIONS AND AFFIRMATIVE DEFENSES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER AND A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the removal of clean-out caps on sewer lines to allow sewage to run on the ground or to allow rain water to drain into clean-outs located in sanitary sewer lines can create serious public health and safety problems, cause violations of environmental regulations and can damage the sanitary sewer system; and

WHEREAS, the City Council finds it in the public interest to amend the Angleton Code of Ordinances to prohibit the removal of clean-out caps except in certain circumstances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION 1. FINDINGS. The forgoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes as findings of fact.

SECTION 2. That Article II “Sanitary Sewer Systems”, “Division 1. Generally” of Chapter 26 “Utilities” of the Code of Ordinances of the City of Angleton, Texas is hereby amended by adding new sections 26-22 “Removal of clean-out caps prohibited”, 26-23 “Exceptions and affirmative defenses” and 26-24 “Removal of clean-out caps deemed a public nuisance” which shall read as follows:

Section 26-22. Removal of Clean-out caps prohibited.

“The sewer lines of buildings and other structures shall be maintained free from defects and leaks and be capable of performing the functions they were designed to perform. All clean-outs shall at all times be properly capped and all caps shall be free of any holes, cracks or other defects that would allow rain or storm water to enter into the sanitary sewer system or wastewater to leak from the sewer line. It shall be unlawful for any person or persons to remove a clean-out cap to allow wastewater to run on the ground or

into a drainage ditch or storm sewer, or to allow rain water from the yard or surrounding area to drain into the sanitary sewer system:

Section 26-23. Exceptions and affirmative defenses.

“It is an exception from the prohibition against removal of clean-out caps on sewer lines and an affirmative defense hereto that:

- (a) The removal of the clean-out cap is necessary for the proper maintenance or repair of the sewer line including without limitations, the removal of a clean-out cap by a licensed plumber, roto-rooter service or other similar maintenance or plumbing repair service; or
- (b) The removal of the clean-out cap is necessary to prevent damage to the sewer line or the sanitary sewer system; or
- (c) The removal of the clean-out cap is authorized by the City Manager or his designee in the case of an urgent public necessity in the interest of public safety.”

Section 26.24. Removal of clean-out caps declared a public nuisance.

- “(a) The failure to cap all clean-outs or to maintain clean-out caps free from any holes, cracks or other defects or to maintain the sewer lines of buildings within the corporate limits of the City and within 5,000 feet from the corporate limits free from defects or leaks so as to allow sewage to run on the ground and/or into a drainage ditch or storm sewer, or to allow rain water or storm water from the yard or surrounding area to drain into the sanitary sewer system, except in the circumstances set forth under Section 26-23, is a threat to public health and sanitation, is detrimental to the public health, safety and welfare and is a public nuisance.
- (b) The City shall have the right to summarily abate the public nuisance without notice and hearing due to the immediate threat such spillage of sewage or entrance of storm water into the sanitary sewer system is to the public health, safety or welfare. The City Manager or his designee shall send written notice setting forth all the city’s costs of abating the nuisance to the property owner as shown on the tax records for the City of Angleton and Brazoria County, Texas. If the offending property owner does not pay the costs of the abatement within thirty (30) days of the receipt of the notice, the City may assess all costs of abating the nuisance against the property owner, record a lien on the property in the real property records of Brazoria County, Texas and enforce the lien in accordance with applicable law.”

SECTION 3. PENALTY. Any person, firm, corporation or other legal entity violating any provisions of this Ordinance shall, upon conviction, be fined not more than \$2,000.

Each day or portion of a day during which any violation continues shall be a separate offense.

SECTION 4. SEVERABILITY. If any provision of this Ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected, the remaining provisions shall remain in full force and effect and the provisions of this Ordinance are declared to be severable.

SECTION 5. SAVINGS AND REPEALER. All provisions of the Code of Ordinances of the City of Angleton, Texas that are in conflict with the provisions of this Ordinance are repealed to the extent of that conflict only. All remaining provisions of the Code of Ordinances that are not in conflict with the Ordinance shall remain in full force and effect.

SECTION 6. OPEN MEETINGS. The City Council has found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of this meeting was given as required by the Texas Open Meetings Act, Chapt. 551, Tex. Gov't. Code, as amended, and that a quorum was present.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be effective not less than ten days from the date of its passage in accordance with the City Charter and the City Secretary is hereby directed to cause the caption of this Ordinance to be published in the official newspaper of the City at least once within ten days after the passage of the Ordinance.

PASSED AND APPROVED on the _____ day of _____, 2009.

CITY OF ANGLETON, TEXAS

By: _____
J. Patrick Henry, Mayor

ATTEST:

By: _____
Shelly Deisher, City Secretary

APPROVED AS TO FORM:

By: _____
Herbert L. Prouty, Interim City Attorney