

ORDINANCE NO. 2009-O-6C

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF ANGLETON AND THE STANDARD BUILDING CODE TO REGULATE CONSTRUCTION DEBRIS DURING NORMAL CONSTRUCTION ACTIVITIES AND WEATHER EMERGENCIES; PROVIDING FOR A PENALTY NOT TO EXCEED \$500 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 A SEVERABILITY CLAUSE; PROVIDING A REPEALER AND A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, there is a need to regulate construction debris during normal construction activities and during weather emergencies creating high winds such as tropical storms and hurricanes; and

WHEREAS, the City Council finds it in the public interest to amend the Angleton Code of Ordinances to regulate construction debris:

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 III “Building Construction Standards” of Chapter 5 “Buildings and Building Regulations” of the Code of Ordinances of the City of Angleton, Texas and the Standard Building Code are hereby amended to add a new Section 5 – 33 “Construction Debris” which shall read as follows:

Section 5 – 33. Construction debris.

“(1) Construction debris on all building and construction job sites within the corporate limits of the City shall be contained with either dumpsters, roll – off containers or a wire mesh fenced area with a mesh that a four inch sphere cannot pass through. The owner, contractor and all other persons on the building or construction job site shall take all reasonable measures to prevent trash or construction debris from being blown out of a dumpster, container or other confined area.

(2) When the National Weather Service, National Hurricane Center or other appropriate weather agency declares a hurricane warning for any portion of Brazoria County, Texas, all construction materials, including roof tiles, debris on all building and construction sites, equipment, or any other items likely to be blown away in high winds and not

secured, within the City, shall be secured, stored or removed so as not to create a safety hazard because of hurricane force winds.

(3) Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a hurricane warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or to any contractor responsible for the construction to secure, store or remove loose construction debris and loose construction materials against the effects of high winds.

(4) Commercial containers and portable toilets on the site shall be removed from the site or mechanically and securely tied to the ground.

(5) Debris stored in commercial containers shall be properly secured.

(6) In the event of a violation of this section, in addition to all other remedies provided in this Code of Ordinances or otherwise by law, the City may take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris including, without limitation, all roof tiles and roofing materials. In such circumstances, the City shall bill the property owner or his or her agent for all charges and expenses incurred to eliminate these potentially unsafe conditions by any means necessary. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services necessary to preserve or protect the public health or safety of the City's residents and shall not require the City to utilize a competitive bid process to select a contractor. The Building Official or his designee shall post a notice of violation at the building or construction job site and shall mail a copy of the notice to the property owner or contractor. The written notice shall constitute a stop work order and shall remain in effect until the bill is paid. Upon receipt of payment, the Building Official or his designee shall allow resumption of work. If the bill for such services remains unpaid for a period of 30 days or more, the City may assess and record a lien encumbering the property and thereafter proceed to enforce the lien in accordance with applicable law.

(7) The owner of the property and the contractor shall be jointly and severally responsible for compliance with the provisions of this section.

(8) The owner or contractor, personally or through their agent or representative, shall have the right to appeal the decision of the Building Official ordering the cessation of all work to the Board of Adjustment by notifying the City Manager or his designee, in writing, within ten days of the decision by the Building Official. The owner or contractor shall appear before the Board of Adjustment at a specified time and place to show cause why they should not be responsible for weather emergency code compliance under this section. The Board of Adjustment will hear the appeal and render its decision within 30 days from the date the City Manager receives the appeal in writing and the City Manager or his designee shall notify the appellant of the time, place and location of the hearing in writing at least ten (10) days prior to the hearing. The City Manager or his designee shall

notify the appellant of the Board of Adjustments' decision within five (5) business days of the decision.”

SECTION 3. PENALTY. Any person, firm, corporation or other legal entity violating any of the provisions of this Ordinance shall, upon conviction, be fined not more than \$500. Each day or portion of a day during which any violation continues shall be a separate offense.

SECTION 4. SEVERABILITY. If any section or portion of this Ordinance is held to be unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reason thereof shall be ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way effect, impair or invalidate the remaining portion or portions thereof, but to such remaining portion or portions, the same shall remain in full force and effect and to this end 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 the remaining provisions of the Code of Ordinances that are not in conflict with this 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