

ORDINANCE NO. 2009-O-5E

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS, AMENDING CHAPTER 14 “MANUFACTURED HOMES AND MANUFACTURED HOME PARKS” TO PROVIDE FOR CHANGES IN DEFINITIONS, RESTRICTIONS ON LOCATION AND OTHER CHANGES TO CONFORM TO THE REQUIREMENTS OF THE TEXAS MANUFACTURED HOUSING STANDARDS ACT; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 FOR EACH AND EVERY OFFENSE AND MAKING EACH DAY OR PORTION OF A DAY AN OFFENSE CONTINUES A SEPARATE VIOLATION; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 21, 1996 the City Council adopted Chapter 14 “Manufactured Homes and Manufactured Home Parks” of the Code of Ordinances of the City of Angleton, Texas (City Code); and

WHEREAS, since that time the Texas Legislature has enacted and/or amended the Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code (Tex. Occup. Code Ann.) which requires amendments to Chapter 14 of the City Code; and

WHEREAS, at its regular meeting of April 14, 2009 the City Council adopted a new Comprehensive Zoning Ordinance which requires amendments to Chapter 14 to conform to the zoning districts and requirements of the new Zoning Ordinance; and

WHEREAS, the City Council finds that it is in the public interest to approve these amendments to Chapter 14.

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

SECTION 1. FINDINGS.

The foregoing 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 I. “In General” of Chapter 14 “ Manufactured Homes And Manufactured Home Parks” of the City Code is hereby amended to change Sections 14 – 1 through 14 – 8 to read as follows:

Sec. 14 – 1. Mobile homes prohibited.

No mobile home shall be permitted within the city limits of the City of Angleton, Texas used for a residential dwelling outside of the following zones: MH by special use permit only. Any mobile home located in the city legally, prior to the enactment of this Chapter on May 21, 1996 and used or occupied as a residential dwelling shall be allowed to remain, but may not be replaced by another mobile home unless otherwise allowed by this Chapter.

Sec. 14 – 2. Definitions.

(a) “HUD – code manufactured home”: (A) means a structure: (i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; (B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and (C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8 (g).

(b) “Manufactured home” or “manufactured housing” means a HUD – code manufactured home or a mobile home.

(c) “Mobile home”: (A) means a structure: (i) constructed before June 15, 1976; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and (B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(d) Other terms defined herein shall have the meanings defined in other ordinances of the city and the Texas Manufactured Housing Standards Act, Section 1201.003 of the Texas Occupations Code (Tex. Occup. Code Ann.)

Sec. 14 – 3. Location of manufactured homes.

(a) No manufactured home used as a residential dwelling shall be located

in the City of Angleton outside of a Manufactured Housing District (MH) except as otherwise provided in this Chapter.

(b) No manufactured home, regardless of use, shall be located in the city outside of the zoning districts that allow such manufactured homes for the particular use in accordance with Chapter 28 of the Code of Ordinances, the Zoning Ordinance of the city (Ordinance 2009-0-4A) , as amended, hereafter referred to as the zoning ordinance.

(c) However, the following exceptions are allowed:

- (1) A HUD - code manufactured home may be located temporarily in any zone for construction use as provided and regulated by this chapter and the zoning ordinance of the city.
- (2) A manufactured home in transit may be located in the city in any zone for not more than 24 hours.
- (3) HUD – code manufactured homes may be displayed for sale in any zone where automobile sales lots may be lawfully located. A HUD – code manufactured home may be permanently used as a sales office for selling other HUD – code manufactured homes lawfully displayed on the same tract of land as a sales office. Unoccupied HUD – code manufactured homes lawfully displayed for sale on such a lot are exempt from this chapter except as otherwise provided herein.
- (4) If a mobile home is replaced by a HUD – code manufactured home, the city shall grant a permit for the use of the manufactured home as a dwelling in the city if the application for a permit meets the requirements of section 14 – 4 (d) (3) of this chapter.

(d) No manufactured home park shall be located outside of a Manufactured Home District (MH) and shall fully comply with this chapter and section 26, “MH – Manufactured Home District” of the zoning ordinance except as otherwise provided herein.

(e) No manufactured home park shall be developed, built, altered, expanded, redeveloped or rebuilt, except according to this chapter and section 26 and other applicable provisions of the zoning ordinance, except as otherwise provided herein.

Sec. 14 – 4. Existing manufactured homes.

This chapter does not make unlawful any mobile home or manufactured home or manufactured home park that was already in place and complying with

all laws when this chapter was enacted on May 21, 1996 and became effective. However after the effective date of this chapter:

- (a) Each such nonconforming manufactured home or manufactured home park and the owners or occupants thereof shall comply with all the provisions of this chapter and section 26 of the zoning ordinance, except as otherwise provided hereunder.
- (b) If any mobile home or HUD – code manufactured home is removed from its location, the following shall apply:
 - (1) As to mobile homes, the provisions of section 14 – 1 shall apply and the mobile home shall not be allowed to be relocated within the city limits of the City of Angleton except as otherwise provided herein; and
 - (2) All provisions of this chapter pertaining to manufactured homes shall apply.
- (c) Any lawful nonconforming use shall cease, and the manufactured home shall be removed upon any of the following:
 - (1) The manufactured home is sold separately from the land upon which it is located, or is removed from this land;
 - (2) The manufactured home is not occupied or not used for 90 continuous days;
 - (3) The manufactured home is destroyed (but not intentionally destroyed by the owner or occupant or anyone acting at his discretion). “Destroyed” herein means damage such that repairs would cost more than 60 percent of the total appraised value of the manufactured home, as determined by the Brazoria County Central Appraisal District, immediately before the damage, in order to restore the manufactured home to the condition it was in immediately before the damage. Any destroyed manufactured home may be repaired, rebuilt or replaced only in conformance with the standards of this chapter and the zoning ordinance.
 - (4) A manufactured home park ceases to exist, as defined herein. and the license or permit for such park is deemed invalid or to have expired.
- (d) Notwithstanding the provisions of this chapter, the zoning ordinance or any other provision of this Code of Ordinances:

- (1) In the event that a manufactured home occupies a lot in the city, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided the replacement is a newer manufactured home and is as large in living space as the prior manufactured home.
- (2) The owner shall have the right to replace a manufactured home as a result of damage caused by a fire or natural disaster. In all other circumstances the right of an owner to replace his manufactured home is limited to a single replacement and must be replaced by a manufactured home built on or before July 15, 1994.
- (3) The owner of a HUD – code manufactured home for use as a dwelling shall apply to the building official for a permit to install the home in a MH District on a form provided by the city which shall contain the following:
 - (i) The name, address and telephone number of the applicant.
 - (ii) A legal description and street address of property where the HUD – code manufactured home will be located.
 - (iii) A site plan or other document acceptable to the building official showing the home space on the property, storage and other structures, parking areas and surface, underground and other utilities or easements, and any other information deemed necessary by the building inspector.
 - (iv) The application shall be signed by the applicant.

An application to install a HUD – code manufactured home, that includes all of the above information and is considered a complete application by the building official, is considered to be granted unless the building official denies the application in writing and states the reason for denial not later than the 45th day after the date the application is received. The applicant may appeal a decision of the building official to deny the application to the city council by notifying the city secretary in writing within ten days of the receipt of the denial of the application. The city council shall hear the appeal within 45

days after the receipt of the notice of appeal.

- (e) Nothing in this chapter shall affect the validity of a deed restriction that prohibits or otherwise limits or regulates the location of a manufactured home on specific property in the city.
- (f) In the event that a noncomplying manufactured home park ceases to exist, the license of the park shall be deemed invalid and to have expired unless, within 180 days from the date the park ceases to exist, the park is found by an inspection of the building official or his designee to be in compliance with all the provisions of this chapter pertaining to manufactured home parks. Compliance with all the provisions of this chapter will be required prior to the issuance of another license.
 - (1) A manufactured home park ceases to exist when, for any reason, 75 percent or more of the manufactured home spaces, as indicated in the scale site plan of the park contained in the application for a license, become vacant at any one time.
 - (2) A manufactured home that is not occupied or used for 90 days or is destroyed, as defined in subsection (c) (3) above, shall be considered to be a vacant space.
- (g) Each person, entity or association maintaining or operating a manufactured home park when this chapter took effect shall have 180 days from the effective date of this chapter to make application for the license required by section 14 – 21. Failure to make application within the prescribed time may subject such person, entity or association to the penalties described in section 14 – 8.

Sec. 14 -5. Inspection.

Officials of the city may enter the premises of any proposed or existing manufactured home park or of any place where a manufactured home park is located, in order to inspect for compliance of this chapter.

Sec. 14- 6. Nonliability.

The city and its officers, agents, and employees shall have no liability of any nature for any actions, omissions, or other matters in any way concerning the subject matter of this chapter.

Sec. 14 – 7. Other ordinances and laws.

The zoning ordinance and all other ordinances, regulations and laws of the city shall apply according to their terms to the subject matter of this chapter, except as this chapter expressly and specifically conflicts with these other ordinances, regulations and laws. In the event of such conflict this ordinance shall control but only to the extent of such conflict. The fact that this chapter specifically invokes some other laws and ordinances shall not mean that still other laws and ordinances not specifically invoked do not apply.

Sec. 14 – 8. Violations and penalties.

Any person or corporation violating any of the provisions of this chapter, including - without limitation - providing false information to a city official concerning licensing under this chapter or compliance with this chapter, shall, upon conviction, be fined not more than \$2,000. Each day or portion of a day during which any violation occurs or continues shall be a separate offense.

SECTION 3.

That all references in Article III “Regulations For Manufactured Homes” and Article IV “Regulations For Manufactured Home Parks” of Chapter 14 “Manufactured Homes And Manufactured Home Parks” to the “Texas Manufactured Housing Code” are hereby amended and replaced by the “Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code”, and all references to the “Commission of the Texas Commission of Licensing and Regulations” are hereby amended and replaced and “Manufactured Housing Board within the Texas Department of Licensing and Community Affairs”.

SECTION 4. SEVERABILITY.

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof 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 hereby repealed to the extent of that conflict only. All the remaining sections, provisions, sentences and clauses 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 of the City Council 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 26th day of May, 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