

**ORDINANCE NO. 2021**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EULESS, CHAPTER 1, GENERAL PROVISIONS, SECTION 1-12, GENERAL PENALTY, PROVIDING FOR A CULPABLE MENTAL STATE TO PROSECUTE VIOLATIONS OF THE CODE ONLY IN CERTAIN CIRCUMSTANCES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Euless, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City of Euless currently has regulations in place governing the general penalty applicable for violation of the City of Euless Code of Ordinances; and

**WHEREAS**, the City Council finds that these regulations should be amended to comply with state law and that regulations addressing these concerns are in the best interest of the health, safety, and welfare of the citizens of Euless, Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS, THAT:**

**SECTION 1.**

Chapter 1, "General Provisions", Section 1-12, "General Penalty" of the Code of Ordinances of the City of Euless, Texas is hereby amended to read as follows:

**"Section 1-12. General Penalty.**

- (a) Whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this Code or such ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine:
  - (1) Not to exceed \$500.00;
  - (2) Not to exceed \$2,000.00 if the provision violated governs fire safety, zoning or public health and sanitation, including vegetation and litter violations and the dumping of refuse; or

- (3) Fixed by state law if the violation is one for which the state has fixed a fine.
- (b) Unless otherwise specifically set forth in this Code or in state law, as adopted, allegation and evidence of a culpable mental state is not required for proof of the violation of any provision of this Code.
- (c) Notwithstanding subsection (b) herein, a culpable mental state of intentional, knowing, or reckless must be alleged in the charge of an offense if the offense is punishable by a fine exceeding five hundred dollars (\$500.00).
- (d) A person violating a provision of this Code or of any ordinance is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued or permitted, unless otherwise provided.
- (e) The owners of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be punished as provided in this section.
- (f) The penalties provided in this section shall be cumulative and not exclusive of any other rights and remedies the city may have.”

## **SECTION 2.**

**CUMULATIVE CLAUSE.** This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Euless, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

## **SECTION 3.**

**SEVERABILITY CLAUSE.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

## **SECTION 4.**

**SAVINGS CLAUSE.** All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of the City Code that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both

civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 5.**

**PUBLICATION.** The City Secretary of the City of Eules is hereby directed to publish the caption, Section 1 and effective date of this ordinance in the official newspaper of the City of Eules, as required by Section 12 of Article II of the Charter of the City of Eules.

**SECTION 6.**

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PRESENTED AND PASSED ON FIRST AND FINAL READING** at a regular meeting of the Eules City Council on the 11th day of February 2014, by a vote of \_\_\_\_ ayes, \_\_\_\_ nays and \_\_\_\_ abstentions.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mary Lib Saleh, Mayor

\_\_\_\_\_  
Kim Sutter, TRMC, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Wayne K. Olson, City Attorney