

ORDINANCE NO. 256-5-2013
*(Revised Comprehensive Zoning Ordinance
Restating Ordinance 124)*

AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF SHADY SHORES AS HERETOFORE AMENDED, BY ESTABLISHING AND PROVIDING REGULATIONS FOR ZONING DISTRICTS AS SET FORTH HEREIN; PROVIDING FOR SPECIAL CONDITIONS; REVISING AND RESTATING ORDINANCE 124 IN ITS ENTIRETY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF \$2,000.00 FOR EACH OFFENSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Shady Shores Planning and Zoning Commission and the governing body of the Town of Shady Shores, in compliance with the laws of the State of Texas and the ordinances of the Town of Shady Shores have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof, and in the exercise of its legislative discretion have concluded that the Comprehensive Zoning Ordinance of the Town of Shady Shores should be amended to zone the land described herein;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Shady Shores, Denton County, Texas:

ARTICLE 1.1 DEFINITIONS

(a) Certain words used in this Ordinance are defined as follows:

Words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular. The word "shall" is mandatory and not discretionary.

(1) **Accessory Building** is a subordinate building, attached or detached, and used for a purpose customarily incidental to the main building, not involving the conduct of a business, **and not built for or used for living quarters**. An Accessory Building is located on the same lot or tract as the main building. Such as, but not limited to: a private garage or carport for automobile or boat storage, tool house, greenhouse, home workshop, children's playhouse, barn or storage building.

(2) **Adult Care Center** is a facility that provides care for six (6) or more persons

over 18 years of age who are not related by blood, marriage, or adoption to the owner or operator of the facility. The persons being cared for under this use may not use the facility as a residence.

(3) **Agricultural Building** is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public.

(4) **Airplane Hangar, Private** is an accessory structure (attached or detached) situated on the same lot, tract or parcel of land with the main building, for the storage only of airplanes and for the private use of the occupants of the premise on which it is located.

(5) **Alley** is a public or private right-of-way which extends only secondary means of access to adjacent property.

(6) **Breeze-way** is an unenclosed passage connecting two buildings or portions of a building.

(7) **Building** is a structure for the support or shelter of any use or occupancy.

(8) **Building Line or Setback Line** is the minimum distance a building may be erected from a street, alley or lot line.

(9) **Business** means commercial or mercantile activity engaged as a means of livelihood or economic dealings.

(10) **Caretaker** is a person who spends more than 50% of his time working at the residence of, and performing duties for the family occupying the premises to which the caretaker's house is an accessory building.

(11) **Caretaker's Quarters** is an accessory dwelling unit for a bona fide caretaker and his or her immediate family on a lot not less than ten acres. The Caretaker's Quarters may not exceed one half of the size of the Main Building.

(12) **Child Care Center** is a facility that provides care for seven (7) or more persons under 18 years of age who are not related by blood, marriage, or adoption to the owner or operator of the facility. The persons being cared for under this use may not use the facility as a residence.

(13) **Coverage** is that area or percentage of lot area covered by all buildings and structures. The largest of the roof, floor, or other structure is used for the calculation of lot coverage.

- (14) **Customary Home Occupation** is an occupation customarily carried on in the home by a member of the occupant's family, without structural alterations in the building or in any of its rooms, without the installation or outside storage of any machinery, equipment or materials other than that customary to normal household operations, without the employment of persons not residing in the home, without the use of a sign to advertise the occupation, without offering a commodity for sale on the premises, which does not cause the generation of additional traffic in the street, or vehicles parking at or near the residence and which does not create obnoxious conditions to neighboring properties such as noise, odor, light or smoke.
- (15) **District** means a section of the Town of Shady Shores for which the regulations governing the lot areas, building size, heights and setbacks are specified as one of the zoning districts defined in this Comprehensive Zoning Ordinance.
- (16) **Drive Approach** is the portion of the driveway extending from the right-of-way line, or private street easement line, to the main travel surface of the road.
- (17) **Driveway** is a vehicle travel way connecting the parking spaces on a lot, or tract of land, to the right-of-way or private street.
- (18) **Dwelling, Multiple** is a building which is designed to be occupied by two or more families living independently of each other.
- (19) **Dwelling, One-family** is a building having accommodations for and occupied by only one family.
- (20) **Dwelling Unit** means one or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary and sleeping facilities.
- (21) **Easement** means an interest in land owned by another that entitles its holder to a specific limited use of said land and that has been recorded in the office of the County Clerk of Denton County, Texas, or is in conformance with the lawful definition of a public prescriptive easement.
- (22) **Eaves** is the lowest border of a roof, including any overhang.
- (23) **Family** means individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.
- (24) **Farm, Ranch, Garden and Orchard** is an area of five (5) acres or more which is used for the growing of usual farm products, vegetables, fruits, trees, and/or grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and

sheep. Including the necessary accessory uses for raising, treating and storing products raised on the premise, but not including the commercial feeding of offal and garbage to swine and other animals, and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

(25) **Floor Area** is the total square feet of floor space in a building measured to the outside faces of the exterior walls.

(26) **Front Yard** is an open and unoccupied space on the same lot with a building, between the building and the property line extending across the front of the lot.

(27) **Garage, Private** is an accessory structure (attached or detached) situated on the same lot, tract or parcel of land with the main building, with capacity for not more than five (5) motor-driven vehicles, for storage only and for the private use of the occupants of the premise on which it is located.

(28) **Height** means the vertical distance measured from the average established grade at the street lot line or from the average natural ground level, if higher than the street, to:

(A) the midpoint of the vertical dimension between the lowest eaves and the highest ridge of a structure with a gable, hip or gambrel roof; and

(B) the midpoint of the vertical dimension of the dome for a structure with a dome roof; and

(C) the deck line of structures with mansard roofs; and

(D) the highest point of the structure for any other structure.

Note: in measuring the height of a building, the following structures shall be excluded: chimneys, ornamental cupolas, domes or spires, none of which shall be more than 15 feet taller than the medium height of the building.

(29) **Hobby** is an accessory use carried on by the occupant of the premise in a shop, studio or other work room, purely for personal enjoyment, amusement or recreation; provided, that the articles produced or constructed are not sold on the premise, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

(30) **Institution** is a building or buildings occupied by a non-profit organization or corporation, or any non-profit establishment for such use.

(31) **Junk** means and shall include but not be limited to: scrap iron, tin, brass, copper, lead, zinc, or any other scrap metal and their alloys; bones, rags, used cloth, rubber, tires,

rope, tinfoil, bottles, or cotton; inoperable or broken tools, machinery, appliances, fixtures, or utensils; used boxes, crates, lumber, or pipe fittings; inoperable automobiles or airplanes; and any other manufactured goods that are worn, deteriorated or obsolete so as to make them unusable in their existing condition.

(32) **Kindergarten** is a school for more than six (6) children of pre-school age in which constructive endeavors, object lessons or helpful games are prominent features of the curriculum.

(33) **Lakefront** is property on the shoreline of Lake Lewisville, which abuts land owned by the U.S. Corps of Engineers.

(34) **Lot**, is land identified by metes and bounds, or lot and block if platted, which is occupied or to be occupied by a building and its accessory building(s), and including such open spaces as are required under this Ordinance, and having frontage on a public or private street in accordance with this zoning ordinance, and the subdivision regulations of the Town.

(35) **Lot Area** The net area of the lot, exclusive of any portion of private streets, alleys, or right-of-ways.

(36) **Lot, Corner** A lot or parcel of land abutting two (2) or more streets at their intersection, or abutting two (2) parts of the same street which form an interior angle of less than 135 degrees. (Reference Figure #1, Appendix A).

(37) **Lot Coverage** The proportion of a lot or site covered, or permitted to be covered, by a building and all structures.

(38) **Lot Depth** The average horizontal distance between the front and rear lot lines. (Reference Figure #2, Appendix A).

(39) **Lot, Double Frontage:** A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot. (Reference Figure #3, Appendix A).

(40) **Lot, Flag:** A lot having access to a street by means of a parcel or portion of land having a greater depth than its frontage, and having a width less than the minimum required lot width. (Reference Figure #1, Appendix A).

(41) **Lot, Interior** A lot whose side lot lines do not abut upon any street. (Reference Figure #1, Appendix A).

(42) **Lot Line** A line dividing one lot from another, or from a street or place. (Reference Figure #4, Appendix A).

- (43) **Lot of Record** A lot which is created by an approved subdivision, the plat of which has been duly recorded in the office of the appropriate county clerk.
- (44) **Lot Width** The shortest distance between the side lot lines measured at the front building line. (Reference Figure #5, Appendix A).
- (45) **Main Building** means a building on a lot intended for occupancy by the main use.
- (46) **Main Use** means those uses defined in Article 3.2 for which a property may legally be used.
- (47) **Manufactured or Mobile Home** means a structure transportable, in one or more sections, which is built on a permanent chassis and which is designed for use, with or without a permanent foundation, when connected to the required utilities, and is in compliance with HUD requirements
- (48) **Manufactured or Mobile Home Park** means a site of 5 or more acres that has been established for the placing of Manufactured or Mobile Homes, allowing for such to be connected to utilities and used as single family dwellings.
- (49) **Non-Conforming Structure** means a structure which does not conform to the regulations of this ordinance but which was lawfully constructed under the regulations in force at the time of construction.
- (50) **Non-Conforming Use** means a use that does not conform to the use regulations of this ordinance but which was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.
- (51) **Open Storage:** The outside placement of an item, including all types of trailers, for a continuous period in excess of 24 hours. Outside placement includes storage in a structure that is open or not entirely enclosed.
- (52) **Parking Space** means open space with a surface of 4" reinforced concrete, or substitute approved by the Town engineer and the Town Council, or garage space reserved exclusively for the parking of motor vehicles that has a minimum rectangular area of nine (9) feet in width and twenty two (22) feet in length.
- (53) **Person** means any natural person, association of persons, partnership, corporation or society. The term "person" shall include both singular and plural and shall include both the feminine and masculine gender.
- (54) **Plat** A map of a subdivision or site plan that represents a tract of land showing the boundaries and location of individual properties and streets.

(55) **Rear Yard** is an open and unoccupied space on the same lot with a building, between the building and the property line extending across the rear of the lot.

(56) **Reversed Frontage** means a corner lot fronting the street which was originally platted as a side yard.

(57) **Right of Way** means an area, publically owned, dedicated to public use for pedestrian and/or vehicular movement.

(58) **Right of Way Line** is a dividing line between a lot, tract, or parcel of land and the public right-of-way.

(59) **Setback line** is the minimum distance a building may be erected from a right of way, private street, alley, or lot line. Also referred to as building line.

(60) **Side Yard** is an open and unoccupied space on the same lot with a building, between the building and the side property line extending through from the street or front property line to the rear property line. Any property line that is not a front line or a rear line shall be deemed a side line.

(61) **Signs:** Any device, flag, light, figure, picture, letter, word, message, symbol, plaque, poster, display, design, painting, drawing, billboard, or other thing visible from outside the premise on which it is located and that is designed, intended, or used to inform or advertise to persons not on that premise. Signs are regulated by separate ordinance.

(62) **Standard Masonry Construction** That form of construction composed of stone, brick, concrete, gypsum, hollow clay tile, concrete block or tile, cementitious panel boards, or other similar building materials, approved in advance by the building inspector, or combination of these materials.

(63) **Story** is that portion of a building between any two successive floors or between the top floor and the ceiling above it. A half story being under a gable, hip or gambrel roof and having wall plates on at least two exterior walls, extending not more than two feet above an adjacent full story wall.

(64) **Street,** Any public thoroughfare dedicated to the public and not designated as an alley, also known as "Public Street" or "Right of Way

(65) **Street Line:** The dividing line between the street and the abutting property.

(66) **Street, Private** is a private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of the Subdivision Ordinance.

The term “private street” shall be inclusive of alleys and is also known as “Road, Private”.

(67) **Street Right-of-way:** A street, including its pavement and all the publicly owned property adjacent to it, dedicated for street purposes.

(68) **Structural Alteration** is any change in the supporting members of a building such as bearing walls, columns, beams or girders.

(69) **Structure** is that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up composed of parts, joined together in some definite manner; excluding fences, retaining walls, sidewalks, driveways and curbs.

(70) **Sub-divider** is an individual, firm, association, syndicate, partnership, or corporation dividing or proposing to divide land so as to effect a subdivision of here-under for himself, or for itself, or for another.

(71) **Subdivision** is the division of any lot, tract or parcel of land into two or more lots or sites for the planned purpose of sale or of building development, whether immediate or future. The term includes re-subdivision, but does not include the division of land for agricultural purposes into parcels or tracts of ten acres (10) or more and not involving any new streets, alleys or easement of access. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided, in accordance with the ordinance of the Town, and the state law.

(72) **Trailer, Boat** is a vehicle without means of motivation, designed to be hauled, towed or pulled by a motor vehicle, which by design is used for the transporting of boats.

(73) **Trailer, Construction** is a vehicle without means of motivation, designed to be hauled, towed or pulled by a motor vehicle, which by design may be used for:

(A) A temporary office or storage building,

(B) The conveyance, storage or display of construction materials including, but not limited to, lumber, forms, pipe, wire, sand, rock, concrete, landscape materials or plants, or

(C) The conveyance, storage or display of construction equipment such as, but not limited to, earth moving equipment, ditching machines, generators or tools.

(D) Empty flatbed trailers, less than eighteen feet in length with two or less axles are not included within this definition.

(74) **Trailer, General purpose** is a vehicle without means of motivation, designed to

be hauled, towed or pulled by a motor vehicle, which is eighteen feet in length or less, has two or less axles, and is not being used as a construction trailer.

(75) **Trailer, Horse or Stock** is a vehicle without means of motivation, designed to be hauled, towed or pulled by a motor vehicle, which is designed for the transporting of livestock.

(76) **Trailer, Travel or Recreational** is a vehicular portable structure built on a chassis designed to be hauled, towed or pulled by a motor vehicle and designed to be used for travel and recreational purposes.

(77) **Visibility Clearance Area** is the portion of a corner lot (in all zoning districts) which is to be left open and unobstructed by fences, structures, shrubs, trees or other plant life.

(A) This area is the portion of a corner lot within a triangular area formed by connecting together the point of intersection of the adjacent street curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection. (Reference Figure #6, Appendix A).

(B) The area between two and one half feet and eight feet in height, measured from the grade of the street adjacent to the visibility triangle.

(C) Shrubs in this area must be kept trimmed so as to be shorter than two and one half feet tall and trees are to be kept trimmed so as not to have any side branches below eight feet.

(78) **Zoning Classification** is a classification assigned to a particular area of the town within which zoning regulations are uniform.

(A) **R-1350-1 District** means the residential district established under Article 2.2.

(B) **R-1500-3/4 District** means the residential district established under Article 2.3.

(C) **R-1800-1/2 District** means the residential district established under Article 2.4.

(D) **R-2000-1/2** is all property within the Town that has not been re-zoned to a R-1350-1, R-1500-3/4, R-1800-1/2, or Planned Development District, as defined in Article 2.5

(79) **Zoning District Map** is the official map upon which the zoning districts of the town are delineated.

(b) Words and terms not expressly defined above are to be construed, for purposes of this zoning ordinance, in accordance to their customary usage in the practice of municipal planning and engineering.

ARTICLE 1.2 PURPOSE

(a) Establishing of Controls and Comprehensive Plan

(1) These regulations and controls shall be known and may be cited as the "Zoning Ordinance" of the Town.

(2) The purpose of this ordinance is to prevent ill effects of urbanization by providing for the orderly, safe and healthful development of the area within the Town and within the area surrounding the Town and to promote the health, safety and general welfare of the community.

(3) These regulations are adopted under the authority granted by the laws of the State of Texas and particularly as contained in The Texas Local Government Code Chapters 211 (Municipal Zoning Authority) and Chapter 212 (Municipal Regulation of Subdivisions and Property Development).

(4) No person shall create a subdivision of land within the corporate limits of the Town or within the extraterritorial jurisdiction thereof without complying with the provisions of these regulations. All plats and subdivisions of any such land shall conform to the rules and regulations set forth herein.

(5) The Town shall have extraterritorial jurisdiction concerning land not within the corporate limits as cited by the Texas Local Government Code chapter 42 (Extraterritorial Jurisdiction of Municipalities).

(b) **Scope:** In order to implement the purpose of these regulations it shall be the intent of the controls:

(1) To ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare and to ensure against the dangers of fires, floods, erosion, landslides or other such menaces;

(2) to provide proper utilities and services for adequate drainage, water supply and disposal of sanitary and industrial waste;

- (3) to provide streets that ensure safe, convenient and functional systems for vehicular and pedestrian circulation;
- (4) to furnish adequate sites, convenient to schools, parks, playgrounds, beaches and other community services, respecting topography and existing vegetation so that the natural beauty of the land shall be preserved;
- (5) to provide adequate light and air;
- (6) to prevent the overcrowding of land;
- (7) to avoid undue concentration of population;
- (8) to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; and
- (9) to ensure that all subdivision and land development relates directly to the adopted Town Plan (Comprehensive Plan).

(c) **General:**

(1) All property not specifically zoned otherwise by city ordinance within the Town is zoned R-2000-1/2 Residential. All property to be platted or subdivided properties shall be R-2000 Residential, unless the owner applies for and is granted by the Town Council a change in zoning by Ordinance specific to that property. Subdivision and platting of the property shall comply with the Zoning District regulations on the property, and shall be platted or subdivided in accordance with the Town's subdivision ordinance and regulations. No other subdivisions will be recognized by the Town. Prior to the consideration of the plat by the Town Planning and Zoning Commission and the Town Council, the Town Engineer will check the plat and make recommendations, all in accordance with the Texas Local Government Code chapter 212 (Municipal Regulation of Subdivisions and Property Development) and the Subdivision Regulations of the Town.

(2) It shall be unlawful for any owner, or agent of any owner, to lay out, subdivide or plat any land into lots, blocks and streets within the Town which has not been laid off, subdivided and platted according to these regulations and the rules of the Town Zoning Commission.

(3) No officer or employee of the Town shall perform, or cause to be performed, any work upon any street or in any addition or subdivision of the Town, unless all requirements of these regulations have been complied with by the owner of said addition or subdivision.

(4) The Town hereby defines its policy to be that the Town will take all legal action available to the Town to prosecute illegal subdivisions, and/or any unlawful construction in the Town. No permits shall be issued, nor improvements begun, until approval has been given of any required plats, re-zoning, and permits.

(5) No construction of new buildings, structural alterations to existing buildings nor additions to existing buildings shall begin until a building permit has been issued by the Town of Shady Shores, Texas. Such permit shall be posted in a conspicuous place at the construction site until the construction is complete and final inspections have been made.

ARTICLE 2.1 ZONING CLASSIFICATIONS

(a) **Required:** The Town of Shady Shores is hereby defining districts. The use heights and regulations are uniform within each District.

R-1350-1 Residential District
R-1500-3/4 Residential District
R-1800-1/2 Residential District
R-2000-1/2 Residential District

(b) **Maps:**

(1) **Zoning Map** - Each area of land in the Town of Shady Shores zoned under this ordinance or any pre-existing ordinance shall be shown on the zoning map of the Town of Shady Shores, Texas.

(2) **Planning Map** - Town of Shady Shores, as a portion of the comprehensive plan established for planning growth and development within the Town, attached hereto is a planning map, indicating future land use and zoning within the Town.

(3) **FEMA Flood Insurance Rate Map (FIRM)** - A map created by the NFIP for floodplain management and insurance purposes. The FIRM shows the Town of Shady Shores' base flood elevations, flood zones and floodplain boundaries.

(c) **Regulations Applicable to all Areas of the Town:**

(1) All consideration possible will be given to the preservation of the natural environment. Placement of dwellings and other improvements will be planned with a minimum number of trees to be removed.

(2) **Area Regulations:**

(A) **Required front, side & rear yards:**

(i) Required front, side and rear yards must be open and unobstructed, except for fences, shrubs and trees except as otherwise provided in this section.

(ii) No covered porch, covered terrace or accessory building shall project into the required front, side or rear yard setback area of the lot.

(B) **Side Yard:** For the purpose of side yard regulations, one (1) main building and one (1) or more accessory buildings shall be considered as one (1) building when occupying one (1) lot; provided, however, there shall be a minimum of ten (10) feet between the sides of the buildings on the same lot.

(i) On corner lots there shall be a side yard of not less than fifteen (15) feet, or the minimum side yard required by the district in which the lot is located, whichever is greater, on the street side of the lot. In the case of side street or reversed frontage (where corner lot faces an intersecting street) there shall be a side yard on the street side equal to the front yard on the lots in the rear.

(ii) No accessory building on a corner lot shall be located all or in part in the front or side yard setback areas adjacent to a public street.

(C) **Setback and Side Yard Measurements:** All setback and side yard minimum requirements are measured from the property lines of the lot.

(D) **Height Limit:** No main or miscellaneous (chimneys monuments, cupolas, domes, spires, standpipes, false mansards, and other similar structures) structure shall exceed the height of thirty-five (35) feet measured from the foundation of the house on lots that are at least $\frac{1}{4}$ acre and are within 100 yards of lakefront area.

(i) **Basis of Height Measurements:** The height of a building shall be measured from the finished floor.

(E) **Lot Area:** On any lot held under separate distinct ownership from adjoining lots at the time of passage of this ordinance, such separately owned property being of record at the time, a single family dwelling may be erected even though the lot be of less area than required by the regulations relating to lot area; provided, however, that in any event the combined area of the dwelling and accessory building shall not cover more than forty (40) percent of the total area of the lot.

(F) **Drainage:** Subdivisions and lots shall have a registered engineer's storm

drainage plan prepared to provide drainage to standards required by the Town Engineer, and with the approval of the Town Council. The subdivision or lot must then be developed in strict conformity with the drainage plan, and maintained in compliance with the drainage plan by the owner.

(G) Manufactured Houses, Mobile Homes, Travel Trailers & Construction Trailers: No manufactured house, mobile home, travel trailer, construction trailer, or similar structure shall be moved into the Town of Shady Shores and used as a dwelling or otherwise unless:

- (i) The Zoning Board of Adjustments approves a variance.
- (ii) It is a manufactured house or mobile home to be located in an existing mobile home park, in compliance with Ordinance No. 188-1-2007, as amended.

(H) Parking: There shall be provided, in connection with every use permitted, off street parking spaces in accordance with the provisions of Article 3.3.

(I) Sewage Requirements: Unless served by the Lake Cities Municipal Utility Authority, each residence and each dwelling unit shall be provided with and connected to a properly constructed and adequate aerobic system or septic tank of not less than 500 gallon capacity, and with not less than 200 feet of lateral lines. And, such aerobic system shall be built and maintained in accordance with any and all rules and recommendations of the Department of Public Health of the State of Texas as authorized by the Texas Health and Safety Code, Chapter 366, and the same shall meet or exceed the minimum requirements of the Federal Housing Administration. A satisfactory percolation test is required prior to the issuance of a building permit. All must comply with Town of Shady Shores Ordinance 197-9-2007, as amended.

(J) Type of Materials:

- (i) Exterior wall construction for residential structures shall consist of a minimum of 75% standard masonry construction with no single wall face of any residence containing less than 50% of its exposed surface of standard masonry construction, excluding windows and doors, as defined in Article 1.1.
- (ii) Exterior wall construction for accessory buildings other than residential uses over 100 square feet shall meet the same requirements as residential structures.
- (iii) Airplane hangars built on residential lots shall be built using colors

to coordinate with the main structure and with the lower 1/3 of each wall, excluding doorways, to be consistent with the main structure masonry.

(iv) Agricultural buildings may be constructed of alternate materials that may not be architecturally compatible, if located on a minimum lot size of 2.5 acres or more and located a minimum of 100 feet from the nearest residential structure. Maximum structure size should not exceed 2000 square feet. All agricultural buildings must meet current building codes and must be made from new material.

ARTICLE 2.2 "R-1350-1" RESIDENTIAL DISTRICT REGULATIONS

(a) **Use Regulations:** In a R-1350-1 Residential District no land shall be used and no building erected or converted to any other use than permitted in ARTICLE 3.2.

(b) **Building Regulations:**

Minimum Size: The minimum floor area of the main building shall be one thousand three hundred and fifty (1,350) square feet living area, which excludes, porches, breezeways, and attached garages.

(c) **Area Regulations:**

(1) **Front Yards:** There shall be a front yard for every building having a depth of not less than forty (40) feet from the front property line to the face of the building.

(2) **Rear Yard:** There shall be a rear yard for every building which shall have a depth of not less than twenty-five (25) feet measured from the back of the building to the rear property line.

(3) **Side Yard:** There shall be two (2) side yards for each building, one on each side of the building. No side yard shall be less than twenty-five (25) feet, measured from the side property line to the side of the building.

(4) **Corner Lots:** refer to Article 2.1 (c) (2) (B) (i) (ii).

(5) **Lot Area:** The minimum area of any lot shall be one acre.

(6) **Lot Width:** The minimum lot width shall be one hundred and fifty (150) feet.

(7) **Lot Depth:** The minimum lot depth shall be one hundred and twenty-five (125) feet.

(8) **Lot Coverage:** The combined area of the main building and accessory buildings shall not cover more than thirty (30) percent of the total area of any lot.

ARTICLE 2.3 "R-1500-3/4" RESIDENTIAL DISTRICT REGULATIONS

(a) **Use Regulations:**

In a R-1500-3/4 Residential District, no land shall be used and no buildings be erected for or converted to any other use than permitted in ARTICLE 3.2.

(b) **Building Regulations:**

Minimum Size: The minimum floor area of the main buildings shall be fifteen hundred (1500) square feet living area, which excludes porches, breeze-ways, attached garages and caretaker's quarters.

(c) **Area Regulations:**

(1) **Front Yards:** There shall be a front yard for every building having a depth of not less than thirty-five (35) feet from the front property line to the face of the building.

(2) **Rear Yard:** There shall be a rear yard for every building which shall have a depth of not less than twenty-five (25) feet measured from the back of the building to the rear property line.

(3) **Side Yard:** There shall be two (2) side yards for each building, one on each side of the building. No side yard shall be less than twenty-five (25) feet measured from the side property line to the side of the building.

(4) **Corner Lots:** refer to Article 2.1 (c) (2) (B) (i) (ii)

(5) **Lot Area:** The minimum lot area of any lot shall be $\frac{3}{4}$ of an acre.

(6) **Lot Width:** The minimum lot width shall be one hundred and twenty five (125) feet.

(7) **Lot Depth:** The minimum lot depth shall be one hundred (100) feet.

(8) **Lot Coverage:** The combined area of the main building and accessory buildings shall not cover more than thirty percent (30%) percent of the total area of any lot.

ARTICLE 2.4 "R-1800-1/2" RESIDENTIAL DISTRICT REGULATIONS

(a) **Use Regulations:** In a R-1800-1/2 Residential District, no land shall be used and no building shall be erected or converted to any other use than permitted as per ARTICLE 3.2.

(b) **Building Regulations:**

Minimum Size: The minimum floor area of the main building shall be eighteen hundred (1,800) square feet living area, which excludes porches, breeze-ways, attached garages and caretaker's quarters.

(c) **Area Regulations:**

(1) **Front Yards:** There shall be a front yard for every building having a depth of not less than twenty-five (25) feet measured from the front property line to the face of the building.

(2) **Rear Yards:** There shall be a rear yard for every building which shall have a depth of not less than twenty-five (25) feet measured from the back of the building to the rear property line.

(3) **Side Yards:** There shall be two (2) side yards for each building, one on each side of the building. No side yard shall be less than fifteen (15) feet measured from the side property line to the side of the building.

(4) **Corner Lots:** refer to Article 2.1 (c) (2) (B) (i) (ii)

(5) **Lot Area:** The minimum area of any lot shall be ½ acre.

(6) **Lot Width:** The minimum lot width shall be one hundred (100) feet.

(7) **Lot Depth:** The minimum lot depth shall be one hundred (100) feet.

(8) **Lot Coverage:** The combined area of the main building and accessory buildings shall not cover more than thirty (30) percent of the total area of any lot.

ARTICLE 2.5 "R-2000-1/2" RESIDENTIAL DISTRICT REGULATIONS

These regulations are minimum standards to be used on all lots in the Town of Shady Shores that have not been re-zoned to a R-1350-1, R-1500-3/4, R-1800-1/2, or Planned Development District.

(a) **Use Regulations:**

In a R-2000-1/2 Residential Area, no land shall be used and no building erected or converted to any other use than permitted in ARTICLE 3.2.

(b) **Building Regulations:**

Minimum Size: The minimum floor area of the main building shall be two thousand (2,000) square feet living area, which excludes porches, breeze-ways, attached garages and caretaker's quarters.

(c) **Area Regulations:**

(1) **Front Yards:** There shall be a front yard for every building having a depth of not less than twenty five (25) feet from the front property line to the face of the building.

(2) **Rear Yard:** There shall be a rear yard for every building which shall have a depth of not less than twenty-five (25) feet measured from the back of the building to the rear property line.

(3) **Side Yard:** There shall be two (2) side yards for each building, one on each side of the building. No side yard shall be less than ten (10) feet, measured from the side property line to the side of the building.

(4) **Corner Lots:** refer to Article 2.1 (c) (2) (B) (i) (ii).

(5) **Lot Area:** The minimum lot area in the Town of Shady Shores shall be 22,000 square feet, excluding Public Right-of-Ways, alleys, and Private streets.

(6) **Lot Width:** The minimum lot width shall be one hundred (100) feet.

(7) **Lot Depth:** The minimum lot depth shall be one hundred (100) feet.

(8) **Lot Coverage:** The combined area of the main building and accessory buildings shall not cover more than thirty (30) percent of the total area of any lot.

ARTICLE 2.6 PLANNED DEVELOPMENT DISTRICTS

The provisions of Ordinance 188-1-2007, entitled "*Manufactured and Industrial Housing Regulations*" are adopted and incorporated as this Article 2.6.

ARTICLE 3.1 APPLICABLE REGULATIONS

(a) **Use:** No building or structure shall be erected, raised, moved, placed, extended, enlarged, converted, constructed, re-constructed, or structurally altered, and no building or structure shall be used or designed to be used or occupied for any purpose other than those permitted by these regulations; and no land shall be used or occupied for any purpose other than those permitted by these regulations.

(b) **Height:** No building or structure shall be erected, raised, constructed, extended, enlarged, reconstructed, or structurally altered so as to extend the height limit established by these regulations.

(c) **Area:** No lot shall be reduced or diminished so that the yards or other open spaces shall be smaller, nor shall the density of population be increased in any manner except in conformity with the regulations hereby established. No side yard areas for the building shall be included as part of the required areas of any other building. No parking area or parking space which exists at the time these regulations become effective or which subsequent thereto is provided for the purpose of complying therewith shall thereafter be relinquished or reduced, in any manner below the requirement established hereby; every building hereafter erected for human habitation shall be of standard masonry construction and shall be located on a lot as herein defined and in no case shall there be more than one building or use on one lot, except as hereinafter provided.

(d) **Rules and Regulations:** The Council shall adopt regulations governing the submittal and review of plats and subdivisions and rules of procedure to govern its actions. Such rules and regulations shall be consistent with the provisions of this ordinance.

ARTICLE 3.2 DWELLING REGULATIONS OF THE TOWN OF SHADY SHORES

(a) **Uses Permitted:**

(1) One Family dwellings

(2) Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees. Not for commercial purpose.

(3) Accessory buildings, including a private garage, garage dwelling, and caretaker's quarters, when located not less than eighty (80) feet from the front property line, provided that said accessory buildings shall not occupy in excess of thirty (30) percent of the required set back in the case of a one-story building.

(4) Home occupation, defined as business activity in the home that does not involve more than 1 other unrelated person, client visitation without appointment, operation of commercial trucks, or signage or outside storage of business-related equipment or materials.

(5) Installations of telephone companies, either publicly or privately owned; fire stations, sewage lift stations, water towers and water lines, transformer stations, and transmission lines for all public utilities, either privately or publicly owned.

(b) **Conditional Uses:** The following uses may be permitted only under Conditional Use Permits granted in the manner specified in ARTICLE 3.5 below.

(1) Airports or aircraft landing fields and airport facilities.

(2) Public buildings for use by City, County, State, or Federal Governments.

(3) Medical and dental clinics, private schools, childcare centers, adult care centers, and kindergartens which are not legally established as a residence. Must be on sites of one (1) acre or more.

(4) Institutions of religious assembly, subject to federal law regulating religion.

(5) Riding academies, public stables on tracts on sites of five acres or more.

(6) Mobile home parks or trailer courts. (See Article 2.6)

(7) Private clubs and community buildings owned and operated by non-profit organizations on sites of three (3) acres or more.

(8) Barbering and coiffuring when limited to a home owner. No signage allowed.

(9) Picnic groves and areas on sites of one (1) acre or more.

(10) Sewing, dress, and suit making where located in the home of the owner; and where operated by the home owner.

(11) Music studios, photographic studios, studios for portrait and similar painting, making of art objects, art crafts, and printing, where located in the home of the owner, and where operated by the home owner.

ARTICLE 3.3 OFF-STREET PARKING REQUIREMENTS

There shall be provided in connection with the appropriate allowable uses, off-street parking space, enclosed or open, in accordance with the requirements indicated:

(a) **Single family dwelling:** There shall be at least a single car garage with 400 square feet of defined parking space and at least 800 square feet additional parking space for non-garage.

ARTICLE 3.4 CONDITIONAL USE PERMITS

(a) **Conditional Use Permits Authorized:** The uses listed or referred to in ARTICLE 3.2 (b) may be authorized or permitted by Conditional Use Permits which may be granted, upon application to the Town Council, in the manner here in after described in this Article.

(b) **Application and Procedure:**

(1) Upon receipt of an application for a Conditional Use Permit by the Town Council, such application shall be referred to the Zoning Commission for investigation as to the effect of the proposed location and character of the Conditional Use on the Master Town Plan for the Town of Shady Shores, Texas. Application for a Conditional Use Permit does not constitute an authorization or an assurance that the use will be permitted. Each Conditional Use Permit must be evaluated as to its probable effect on the adjacent properties and the Community welfare and may be approved or denied as the findings indicate appropriate. Each Conditional Use Permit must be granted by the Town Council by separate ordinance.

(2) At the public hearing according to the law, The Zoning Commission shall report it's recommendations to the Town Council, and if such report is favorable toward the application, the Town Council may, after public notice and hearing according to law, grant such Conditional Use Permit, including therein such specific conditions of use as the Zoning Commission may deem essential to preserve the integrity of the Master Town Plan, and such additional special conditions as the Town Council may deem essential to protect neighboring property.

(3) A Conditional Use Permit shall be granted by the Town Council with or without a favorable report from the Zoning Commission as long as the council shall find from the evidence submitted that such conditional use:

(A) is consistent with the spirit, purpose and intent of these Ordinances

(B) will not substantially and permanently injure the appropriate use of neighboring property; and

(C) will substantially serve the public convenience and welfare.

(c) **Violation of Conditions:** Violation of any of the conditions contained in a Conditional Use Permit by any person, association of persons, firm or corporation using or occupying property under such permit shall constitute a violation of this Article, and any such violation shall be punishable as provided in Penalty for Violations, Article 4.4. and/or the revocation of the Conditional Use Permit.

(d) **Discontinuance of Conditional Use:** Upon the discontinuance of a conditional use on any property, the uses then permitted by ARTICLE 3.2 (a) shall apply as if such permit had not been issued.

ARTICLE 3.5 NON-CONFORMING USES

(a) **Existing Buildings, Structures, And Uses:** Except as hereinafter specified, any use, building, or structure existing at the time of the adoption of the original Zoning Ordinance of the Town may be continued, even though that use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located; provided, however, that this section shall not apply to any use, building, or structure established in violation of any ordinance previously in effect in the city, unless that use, building, or structure now conforms with this ordinance.

(b) **Conditional Uses.** Any use existing on the effective date of Ord. 242A which is listed as a conditional use in the use district where it is located shall remain a nonconforming use until a special use permit is obtained as provided in this ordinance.

(c) **Alteration of Nonconforming Uses.** No existing building or premises devoted to a use that is not permitted by this chapter in the use district in which the building or premises is located shall be enlarged or improved, except when required to do so by law or written order, unless the use thereof is changed to a use that is permitted in the district in which the building or premises is located, and except as follows.

(1) When authorized by the City Council in accordance with the provisions of this chapter, the substitution for a nonconforming use of another nonconforming use, or an extension of a nonconforming use, may be made.

(2) Whenever a nonconforming use has been changed to a conforming use, that use shall not thereafter be changed to a nonconforming use.

(3) When authorized by the City Council in accordance with the provisions of this chapter, enlargement or completion of a building devoted to a nonconforming use may be made upon the lot occupied by that building, where that extension is necessary and incidental to the existing use of the building and does not exceed 25% of its area of nonconformity, as measured by the square footage of the building or land area.

(4) When authorized by the City Council in accordance with the provisions of this chapter, a nonconforming use may be extended throughout those parts of a building which were manifestly designed or arranged for that use prior to the date on which that use of the building

became nonconforming, if no structural alterations, except those required by law, are made therein.

(d) **Cessation of Use of Building or Land.** For the purposes of the succeeding divisions, a use shall be deemed to have ceased when it has been discontinued for 12 months, whether with the intent to abandon the use, or not.

(e) **Construction Approved Prior to Ordinance.** Nothing herein shall be construed to require any change in the overall plans, construction, or designated use of any development, structure, or part thereof, where official approval and the required building permits were granted before the enactment of this chapter, or any amendment thereto, where construction thereof, conforming with those plans, shall have been started prior to the effective date of this chapter or the amendment, and where that construction shall have been completed in a normal manner within the subsequent 6-month period, with no interruption, except for reasons beyond the builder's control.

(f) **Repair Of Unsafe Buildings.** Nothing in this chapter shall be construed to prohibit the strengthening or repair of any part of any building or structure declared unsafe by proper authority.

(g) **Damage or Destruction.**

(1) Any nonconforming structure except a dwelling, which is damaged as measured by the cost to repair as more than 50% of the then appraised value for tax purposes above its foundation, by fire, flood, explosion, wind, earthquake, war, riot, or other calamity or act of God, shall not be restored or reconstructed and used as it was before that happening. If the structure is damaged less than 50% of its then appraised value for tax purposes, it may be restored, reconstructed, or used as before, provided that the restoration or reconstruction is completed within 12 months of the damaging event.

(2) Dwellings may be restored or reconstructed provided that the reconstruction or restoration is at least to the same size and quality as the damaged or destroyed dwelling.

(h) **Repairs and Maintenance.**

(1) A nonconforming structure may be repaired and maintained as necessary to keep it in sound condition, but no structural alterations shall be made unless required by law or ordinance or unless authorized by the Council.

(2) Except as otherwise provided in this chapter, the total structural repairs and alterations that may be made to a nonconforming structure shall not exceed 50% of its appraised value for tax purposes. This restriction on rebuilding does not apply to accessory dwellings or single-family residences.

(i) **Moving of Nonconforming Structure or Building.** No nonconforming building or structure shall be moved in whole or in part to any other location on the lot, or on any other lot, unless every portion of the building or structure is made to conform to all the regulations of the district where relocated.

(j) **Regulation of Non-Conforming Uses:** The right to continue a non-conforming use shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, at the discretion of the Town Council be reasonably required for the protection of adjacent property. A non-conforming use, when abandoned or discontinued, shall not be resumed. For the purpose of this Article, abandonment or discontinuance shall be defined as follows:

(1) When land being used for a non-conforming use shall cease to be used in a bona fide manner for twelve (12) calendar months;

(2) When a building or structure is designed or arranged for a non-conforming use and shall cease to be used in a bona fide manner as a non-conforming use for a continuous period of twelve (12) consecutive months;

(3) The Town Council shall have the authority in case of substantial hardship, to extend the above limits not to exceed six (6) months.

ARTICLE 3.6 COMPLETION OF EXISTING BUILDINGS

Construction:

(a) Nothing herein shall require any change in the plans, construction, or designated use of a building actually under construction at the time of the adoption of these Articles, and which entire building shall be completed within one year from the date of the passage of this ordinance.

(b) Nothing herein contained shall require any change in plans, construction, or designated use of building for which a building permit has heretofore been issued, and which entire building shall be completed within six (6) months from the date of the passage of this ordinance.

ARTICLE 3.7 BOARD OF ADJUSTMENT

(a) **Establishment.** There is hereby created a Board of Adjustment which shall be organized, appointed, and function as follows.

(b) **Organization.**

(1) The Board of Adjustment shall consist of 5 members who are residents of the city, each to be appointed by resolution of the City Council for a term of 2 years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause, in the same manner as the original appointment was made. The City Council may provide for the appointment of 2 alternate members of the Board who shall serve in the absence of 1 or more of the regular members when requested to do so by the Mayor or City Secretary, as the case may be. All cases to be heard by the Board of Adjustment will always be heard by a minimum number of 4 members. The alternate members, when appointed, shall serve for a term of 2 years, and any vacancy shall be filled in the same manner, and they shall be subject to removal the same as the regular members.

(2) The person acting as Ordinance Administrator for the city shall be an ex-officio member of the Board of Adjustment without power of vote, and as an ex-officio member of the Board shall set up and maintain a separate file for each application for appeal and variance received and shall record therein the names and addresses of all persons, firms, and corporations to whom notices are mailed, including the date of mailings and the person by whom the notices were delivered to the mailing clerk, post office, or mail box, and further keep a record of all notices published as required herein. All records and files herein provided for shall be permanent and official files and records of the city.

(3) The Board shall forthwith notify in writing the City Council, the Commission, and the City Building Inspector of each decision, interpretation, and variance granted under the provisions of this chapter.

(c) **Operational Procedure.**

(1) The Board of Adjustment shall adopt rules to govern its proceedings; provided, however, that the rules are not inconsistent with this chapter or state law. Meetings of the Board shall be held at the call of the chairperson and at other times as the Board may determine. The chairperson, or in his or her absence, the acting chairperson, may administer oath and compel the attendance of witnesses.

(2) All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(3) Appeals to the Board may be made in writing by any person aggrieved or by any municipal officer, department, or board affected by any decision of the Administrator. The appeal shall be filed with the Board by the Administrator within 15

days after the original decision rendered by the Administrator. The appeal shall be accompanied by all papers constituting the record pertaining to that appeal. Formal notice of the appeal shall be issued by the Administrator, this notice to specify the grounds upon which the appeal is made.

(4) Appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certified to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In these cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(5) Upon notice of appeal being given to the Administrator and before the appeal shall be construed as having been perfected, the applicant must file with the notice of appeal to the Board an amount of money estimated by Administrator to be sufficient to mail and publish all notices required herein, that amount in no case to be less than \$25.

(6) No appeal to the Board for the same or related variance on the same piece of property shall be allowed prior to the expiration of 6 months from the previous ruling by the Board on any appeal to that body unless other property in the immediate vicinity has, within that 6-month period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such a change of circumstances shall permit the rehearing of an appeal by the Board prior to the expiration of the 6-month period, but those conditions shall in no wise have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. The subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

(7) At a public hearing relative to any appeal, any interested party may appear in person or by agent or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any appeal. Any variance granted or authorized by the Board under the provisions of this chapter shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of 180 days from the date of the favorable action of the Board, unless the Board shall have in its action approved a longer period of time and has so shown that specific longer period of time in the minutes of its action. If the building permit or certificate of occupancy shall not have been applied for within the 180-day period or extended period as the Board may have specifically granted, then the variance shall be deemed to have been waived and all rights thereunder terminated. This termination and waiver shall be without prejudice to a subsequent appeal, and the subsequent appeal shall be subject to the same regulations and requirements for hearing as herein specified for the original appeal.

(d) **Actions of the Board.**

(1) In exercising its powers, the Board of Adjustment may, on conformity with the provisions of the statutes of this state as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such an order, requirement, decision, or determination as ought to be made, and shall have all the powers of the officer from whom the appeal is taken. The Board shall have the power to impose reasonable conditions to be complied with by the applicant.

(2) The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.

(3) Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, or board of the municipality, may present to a court of record (district court) a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of illegality. The petition shall be presented to the court within 10 days after the filing of the decision in the office of the Board and not thereafter.

(e) **Notice of Hearing Before the Board Required.** The Board of Adjustment shall hold a public hearing on all appeals made to it, and written notice of the public hearing shall be sent to the applicant and all other persons who are owners of real property lying within 200 feet of the property on which the appeal is made. This notice shall be given not less than 10 days nor more than 30 days before the date set for the hearing to all above-mentioned owners who have rendered their property for city taxes as the ownership appears on the last city tax roll. The notice may be served by depositing the same, properly addressed and postage paid, in the U.S. post office. Notice shall be given by publishing the same in official publication of the city at least 10 days and not more than 30 days prior to the date set for the hearing, which shall state the time and place of the hearing.

(f) **Authority of the Board.**

(1) A variance is an authorization by the Board of Adjustment granting relief and doing substantial justice in the use of the applicant's property by a property owner where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship.

(2) When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board may, in specific cases, after public notice and public

hearing, and subject to appropriate conditions and safeguards, authorize the following variances to the regulations herein established and take action relative to the continuance or discontinuance of a nonconforming use.

(3) (A) A variance may be granted an applicant when the Board finds:

(i) There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to that land or building and do not apply generally to lands or buildings in the same district or neighborhood, and that those circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building;

(ii) The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;

(iii) The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

(iv) The literal enforcement and strict application of the provisions of this chapter will result in an unnecessary hardship inconsistent with the general provisions and intent of this chapter, and in granting the variance the spirit of the chapter will be preserved and substantial justice done.

(B) The Board may, after public notice and hearing and subject to the conditions and safeguards herein contained, vary or adapt the strict application of any of the terms of this chapter under the power and authority herein granted.

(C) In granting any variance under the provisions of this chapter, the Board may designate conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this chapter.

(4) The Board may:

(A) Hear and decide appeals where it is alleged there is error on any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter;

(B) Interpret the intent of the Zoning Map where uncertainty exists because the physical features on the ground vary from those on the Zoning Map and none of the rules set forth herein apply;

(C) Initiate on its motion, or cause to be presented by interested property owners, action to bring about the discontinuance of a nonconforming structure or use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this chapter;

(D) Permit the change of occupancy from one nonconforming use to another nonconforming use when the extent of the second nonconforming use is found to be less detrimental to the environment than the first;

(E) Permit the enlargement of a nonconforming use only when the enlargement will not prolong the life of the nonconforming use. A specific period of time for the return to conformity can be required;

(F) Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by that building; provided the reconstruction does not, in the judgment of the Board, prevent the return of the property to a conforming use or increase the nonconformity of a nonconforming structure;

(G) Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated, or substandard; and

(H) Permit variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, or off-street loading regulations where the literal enforcement of the provisions of this chapter would result in an unnecessary hardship, and where the variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such a restricted area, shape, or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district. A modification of the standard established by this chapter shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall a modification be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the district.

(g) **Appeals from the Board.** Any person or persons, or any board, taxpayer, department, board, or bureau of the city aggrieved by any decision of the Board of Adjustment, may seek review by a court of record of that decision, in the manner provided by the laws of this state.

ARTICLE 4.1 ENFORCEMENT

Building Inspector: The provisions of these Articles shall be administered by the Building Inspector of the Town of Shady Shores, Texas or the Mayor, the Code Enforcement Officer, or the Mayor's designee.

(a) All applications for building permits shall be accompanied by a plat in triplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, its position on the lot, house plans, and such other information as may be necessary to provide for the enforcement of these regulation.

(b) A careful record of such applications, plans and plats shall be maintained by the Building Inspector.

ARTICLE 4.2 ENFORCEMENT INTERPRETATION

(a) **Uses Prohibited by Other Ordinances:** Nothing in this ordinance shall be construed as repealing any existing ordinances of the Town of Shady Shores regulating nuisances or permitting uses which are now prohibited by ordinance.

(b) **Deed Restriction:** No provision or application of these Articles shall be construed as affecting in any manner the rights of individual property owners to privately enforce deed restrictions upon the use of any property zoned under the terms of this ordinance if such restrictions are of higher or more restrictive classification than the provisions contained herein.

ARTICLE 4.3 CHANGES AND AMENDMENTS

(a) **Authority to Amend:** The Town Council may from time to time on its own action, or on petition of an interested property owner or owners, amend, supplement or change by ordinance the boundaries of the District or the regulations herein established, and may create additional Districts and establish separate regulations applicable to the additional Districts created.

(b) **Filing Petition Fee:** Each and every petition to the Town Council, as provided in subsection (a) of this Article, shall be filed with the Town Secretary prior to being presented to the Town Council, and shall be accompanied by the fee established in current ordinance, payable to the Town of Shady Shores. No part to be returned regardless of the action taken on the petition.

(c) **Referral to Zoning Commission:** Before taking any action on any proposed amendment, supplement or change, the Town Council shall submit the same to the Zoning Commission for its recommendation and report.

(d) **Public Hearing and Notice:**

(1) A public hearing shall be held by the Town Council before adopting any such amendment, supplement or change.

(2) Notice of such hearing shall be given in the manner prescribed by law, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the first date of publication.

(e) **Amendment Over Protest:** Unless such proposed amendment, supplement or change has been approved by the Zoning Commission; or if a protest against such proposed amendment, supplement or change has been filed with the Town Secretary; duly signed and acknowledged by the owners of twenty (20) percent or more either of the area or the lots included in such proposed changes, or those immediately adjacent in the rear thereof extending two hundred (200) feet there from, or of those directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite lots; such amendment, supplement or change shall not become effective except by a three-fourth (3/4) vote of all the members of the Town Council.

ARTICLE 4.4 PENALTY FOR VIOLATIONS

(a) **Violations:** Any person, association of persons, firm or corporation violating any of the provisions of this ordinance or failing to comply therewith, or with any of the requirements thereof, or building or altering any building or structure in violation of any detailed statement or plan submitted and approved hereunder, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined any sum not more than Two Thousand (\$2,000.00) dollars. Each and every day any such violation continues shall constitute a separate offense.

(b) **Persons Responsible for Violations:** The owner or owners of any building, structure or premises, or part thereof, where anything in violation of this ordinance shall be placed or shall exist, and the architect, builder, contractor, agent, person, firm, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall each be guilty of a separate offense, and upon conviction thereof, shall be fined as provided in subsection (a) of this Article.

ARTICLE 5.1 DUTIES OF BUILDING OFFICIAL (INSPECTOR)

(a) The Building Official shall receive applications required by the construction codes of the Town of Shady Shores, Texas; issue permits; and furnish the prescribed certificates. He shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of the law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the construction codes. He shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters

referred to in codes and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

(b) Inspections required under the provisions of the construction codes shall be made by the Building Official, or his duly appointed assistants, provided the person who shall make plumbing inspections shall be licensed in accordance with the Plumbing License Law of 1947. The Building Official may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provisions of the construction codes shall be issued on such reports unless the same are in writing and certified by a responsible officer of such service.

(c) The Building Official shall keep comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued.

(d) All such records shall be open to public inspection during office hours, but shall not be removed from the office of the Building Official without his written consent.

(e) The Building Official shall make written reports to the Town Council once each month, or more often if requested, including statements of permits and certificates issued, and orders promulgated.

(f) The Building Official shall perform such other duties as the Town Council shall, from time to time, impose upon the office.

ARTICLE 5.2 LIABILITY OF TOWN OFFICIALS

To the extent legally authorized, any officer, employee, or appointed official charged with the enforcement of the construction codes, acting for the Town in the discharge of his duties, shall not thereby render himself liable personally. And, he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act, required or permitted, in the discharge of his duties. Any suit brought against any officer, employee or appointed official, because of such act performed by him in the enforcement of any provision of the construction codes shall be defended by the attorney for the Town of Shady Shores, Texas, or his designee, until the final termination of the proceedings.

ARTICLE 6.1 SEVERABILITY CLAUSE

If for any reason any section, paragraph, subdivision, word, phrase, clause or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a court of competent

jurisdiction, it shall not affect any other section, paragraph, subdivision, word, phrase, clause or provision of this Ordinance. For it is the definite intent of this Town Council that every section, paragraph, subdivision, word, phrase, clause or provision of this Ordinance be given full force and effect for its purpose.

ARTICLE 6.2 REPEALING CLAUSE

All provisions of the ordinances of the Town of Shady Shores in conflict with the provisions of this ordinance are hereby, repealed, and all other provisions of the ordinances of the Town of Shady Shores not in conflict with the provisions of this ordinance shall remain in full force and effect.

WHEREAS it appears that this Ordinance needs to be adopted in order to protect the public interest, comfort, and general welfare and development of the Town of Shady Shores, Texas, creates an emergency for the preservation of the public health, safety and welfare, and requires that this Ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance, as the law in such cases provides.

PASSED AND APPROVED this the _____ day of _____, 2013 A.D. by the Town Council of the Town of Shady Shores, Denton County, Texas.

Town of Shady Shores, Texas:

Jerry Williams, Mayor

ATTEST:

Sarah Swanson, Town Secretary

APPROVED AS TO FORM:

James E. Shepherd, Town Attorney