

Ordinance No. 222-2-2010
(*Fence Regulations*)

AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS, ESTABLISHING FENCING REQUIREMENTS; PROVIDING REGULATIONS FOR FENCING IN OR NEAR DRAINAGE EASEMENTS OR WATERWAYS; REQUIRING PERMITS AND INSPECTIONS; PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE, AN EFFECTIVE DATE, AND A PENALTY CLAUSE.

WHEREAS, the town council of the Town of Shady Shores has determined that certain drainage ways and water ways within the town have been obstructed by the placement of certain man-made and natural objects, including fences, berms, and debris; and

WHEREAS, the obstruction of drainage ways within the Town creates a danger to the general health, safety, and welfare of the residents of the Town, and to their property; and

WHEREAS, the Town Council has determined that regulations for fencing are necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SHADY SHORES, TEXAS:

SECTION 1. PURPOSE:

The purpose of this Ordinance is to regulate the construction, erection, enlargement, alteration, and maintenance of all fences within the boundaries of the town in order to provide a practical safeguarding of life, health, and property from hazards that may arise from improper construction of such installations. However, this Ordinance shall not apply to fences erected or maintained on property within the town which have agricultural tax exemption status approved by the Denton County Appraisal District.

SECTION 2. PERMIT TO INSTALL OR ALTER:

- (A) It shall be unlawful for any person to install or cause to be installed, or to permit any person to install a fence, or to make any alterations, additions or changes to a fence, without first having procured a permit to do so from the building official. Notwithstanding the foregoing, a permit shall not be required for alterations, additions or changes if repairs do not exceed twenty-five (25) percent of the area of the fence over a twelve-month period.
- (B) When installing a new fence parallel to and within three (3) feet of an existing fence on the same lot, the existing fence shall be removed. The term "parallel" is defined as a corresponding fence that runs in the same direction as the existing fence but does not have to maintain a precise constant distance from one another.
- (C) The fee for permit required by this section shall be established by fee schedule and shall be paid prior to the issuance of the permit.

SECTION 3. FENCES IN OR NEAR DRAINAGE EASEMENTS, FLOODWAYS, CREEKS OR RIVERS:

No fence shall be constructed within any drainage easement in the corporate limits of the town unless the town engineer shall have first determined and advised the chief building official, in writing, that he believes such fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement. In that event, fences in or near the drainage must be constructed as set forth below:

- (A) Fences perpendicular to or crossing the drainage easement shall provide the following within the drainage easement:
1. The fence shall have a post set on each side of the easement line.
 2. No fence post or support shall be placed inside the easement without the written approval of the Town Engineer.
 3. The fence shall be constructed to span from top of bank to top of bank, or from one side of the easement to the other side, whichever distance is further.
 4. The bottom of the fence shall be not less than three inches (3") above the top of channel/swale bank.
 5. Subsections 1-4 above require the fence to be constructed in a manner leaving the drainage easement open and the flow of water unimpeded under the fence. Should the property owner desire to fence in the drainage way (area below the fence), the property owner may use:
 - (a) vertical tubular steel or similar material. The tubular steel is to be no more than one-inch (1") across, to be spaced not less than four-inches (4") apart, (no horizontal bars shall be allowed in the drainage way); or,
 - (b) 4-inch by 4-inch (4"x4") opening steel mesh, not less than one-fourth inch (1/4") thick.

The solid area of the fence in the drainage way shall not exceed twenty percent (20%) of the total area of the fence, leaving eighty percent (80%) open for the passage of water. There shall be no massing of solid fence material widths greater than one inch (1"), except for corners or posts.

6. The design and proposed materials are subject to the Town Engineer's advance written approval.
7. The completed construction is subject to inspection and approval by the town. Not obtaining written approval of the "as-built" fence is a violation of this ordinance.
8. Property owners are required to maintain the banks and contours of drainage easements which may cross their property, and to mow and keep clear of debris the drainage way.

- (B) Fences may not, without a specific building permit, be constructed between a residence and the side of a drainage easement nearest to a home. A fence may be constructed by the drainage easement if it is located within one foot of the rear property line, and does not hinder the flow of storm drainage water, and is not constricted in a drainage easement.
- (C) Any person who constructs or owns a fence, or property on which a fence or other obstruction is placed in an easement which does not comply with the terms of this ordinance, and which obstructs the flow of water in a public drainage way or easement, must remove the fence, and any obstruction, or be guilty of a violation of this Ordinance.

SECTION 4. ELECTRIC FENCES:

- (A) No fence constructed in such a manner that it may continuously conduct electrical current may be allowed in any zoning district wherein farm animals are not allowed.
- (B) Single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed only along the interior base line of an otherwise permitted fence. No permit shall be required for the erection and maintenance of such single-strand electric wires.

SECTION 5. COMPLIANCE WITH OTHER PROVISIONS:

All fences and fence locations shall conform to the requirements of the zoning ordinance of the town, and nothing in this article shall be construed as permitting construction of a fence which would violate the provisions of the zoning, swimming pool, or FEMA flood ordinances as the same now exist or may be hereafter amended.

SECTION 6. LOCATION ON OR PROTRUSION OVER TOWN PROPERTY:

No privately owned fence or guy wires, braces or any other part of a privately owned fence shall be constructed upon or caused to protrude over property owned by the town.

SECTION 7. FENCE ARMS:

Fence arms shall not be permitted in residential zoning districts.

SECTION 8. BARBED WIRE:

Barbed wire shall not be permitted except in agricultural pastures for the fencing of livestock.

SECTION 9. INSPECTION OF NEW FENCES:

When any fence for which a permit has been issued under this article is completed, it must be inspected. The chief building official's office shall be notified by the property owner within 72 hours of completion of the fence. The chief building official will issue a card of acceptance if the fence complies with the provisions of this article or reject the fence if it does not so comply. A

fence that is rejected shall be removed or reconstructed in compliance with this ordinance within the time permitted by the Town inspector, to be determined at the time of rejection.

SECTION 10. MAINTENANCE:

All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times. Such requirements include, but are not necessarily limited to, the following maintenance standards:

- (A) The fence shall not be out of vertical alignment more than one foot (1') from the vertical measured at the top of the fence. Except, however, for fencing four feet (4') or less in height, the vertical alignment shall not be more than six inches (6") from the vertical measured at the top of the fence.
- (B) Any and all broken, loose, damaged, insect damaged, or missing parts (i.e., slats, posts, wood rails, bricks, panels) having a combined total area of twenty (20) square feet or more of said fences shall be replaced or repaired within sixty (60) days of notification of non-compliance. Fences enclosing swimming pools or spas must be repaired immediately. Repairs of any nature shall be made with materials of comparable composition, color, size, shape, and quality of the original fence to which the repair is being made. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as fencing materials. Nothing herein shall be construed so as to prohibit the complete removal of a fence, unless such fence encloses a swimming pool or spa.
- (C) No fencing material and/or supports shall be located within a street or alley right-of-way.

SECTION 11. RESIDENTIAL DISTRICTS--REAR YARD OR ALLEY LINE:

No fence shall be constructed at a height exceeding eight feet (8') along the rear yard or alley line in residential districts.

SECTION 12. VERTICAL FENCES ON SIDE YARD LINE:

No fence shall be constructed at a height exceeding eight feet (8') on any side yard line in residential districts up to the building line of the house proper. All such fences constructed on side yard lines in residential districts must be vertical.

SECTION 13. PENALTY CLAUSE:

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed Five Hundred Dollars (\$500.00), plus costs of court.

SECTION 14. REPEALER CLAUSE:

All provisions of the ordinances of the Town of Shady Shores in conflict with the provisions of this Ordinance be, and the same 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.

SECTION 15. SEVERABILITY CLAUSE:

It is the intent of the Town Council that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of the Ordinance left standing.

SECTION 16. EFFECTIVE DATE:

This Ordinance shall take effect immediately from its passage and publication of the caption as the law in such cases provides.

PASSED AND APPROVED this 1ST Day of FEBRUARY, 2010.

TOWN OF SHADY SHORES, TEXAS

Olive Stephens, Mayor

ATTEST:

Angie Warner, Town Secretary

APPROVED AS TO FORM:

James E. Shepherd, Town Attorney