

ORDINANCE NO.230-12-2010
(Fireworks Prohibited)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SHADY SHORES, DENTON COUNTY, TEXAS DEFINING AND REGULATING FIREWORKS WITHIN THE TOWN; ESTABLISHING A PENALTY OF A FINE NOT TO EXCEED \$2,000 PER VIOLATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PUBLICATION CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Shady Shores, Denton County, Texas (“Town”) has determined that fireworks are a danger to the health, safety, and welfare of the Town’s residents;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SHADY SHORES, DENTON COUNTY, TEXAS as follows:

SECTION 1. DEFINITIONS. For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIREWORKS. Includes any firecrackers, cannon crackers, skyrocketes, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shell, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and shall include all articles of substances within the commonly accepted meaning of ***FIREWORKS*** whether herein specially designated or not.

PERSON. Includes any natural person, association of persons, partnerships, corporations, agent or officer of corporation, and shall also include all warehouses, common and private carriers, bailees, trustees, receivers, executors, and administrators.

SECTION 2. FIREWORKS PROHIBITED. It shall be unlawful in the Town for any person to manufacture, assemble, store, transport, receive, keep, sell, offer, or have in his or her possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action any fireworks of any description.

SECTION 3. FIREWORKS A PUBLIC NUISANCE. The presence of any fireworks within the jurisdiction of the Town, in violation of this ordinance, is hereby declared to be a common and public nuisance. The Fire Marshal or other appointed representative is directed and required to seize and cause to be safely destroyed any fireworks found within the jurisdiction in violation of this ordinance, and any police officer of the Town or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally, and to seize and destroy any fireworks found stored illegally in any building in the Town. Notwithstanding any penal provision of this ordinance, the Town

Attorney is authorized to file suit on behalf of the Town or the Fire Marshal or other appointed representative, or both, for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping, or use of fireworks within the jurisdiction of the Town and to aid the Fire Marshal or appointed representative in the discharge of his or her duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to that seizure and destruction. The Fire Marshal or other appointed representative is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of fireworks, subject to obtaining any lawfully required subpoena.

SECTION 4. APPLICABILITY. This ordinance shall be applicable and in force throughout the territory of the Town within its corporate limits.

SECTION 5. PROSECUTION; NOT NECESSARY TO NEGATE EXCEPTIONS. In any prosecution for any violation of this ordinance, it shall not be necessary for the prosecution to negate any provision or exception, but the same may be raised by the defendant by way of defense.

SECTION 6. PENALTY. Any person, firm, corporation, or organization violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction in the Municipal Court of the Town, shall be subject to a fine not to exceed the sum of \$2,000 for each offense; and each and every day the offense shall continue shall be deemed to constitute a separate offense.

SECTION 7. SEVERABILITY CLAUSE. It is hereby declared the intention of the Town Council that if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this , since the same would have been enacted by the Town Council without such unconstitutional or illegal phrase, clause, sentence, paragraph, or section.

SECTION 8. REPEALER CLAUSE. This Ordinance shall be cumulative of all provisions of ordinances of the Town except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 9. PUBLICATION. In accordance with Section 52.011 of the Local Government Code, the caption of this Ordinance shall be published either (a) in every issue of the official newspaper of the Town of Shady Shores for two days, or (b) one issue of the newspaper if the official newspaper is a weekly paper.

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective upon publication as required in Section 9 above.

PASSED AND APPROVED this the 6th day of December, 2010.

APPROVED:

_____/s/_____
OLIVE STEPHENS, MAYOR

ATTEST:

_____/s/_____
WENDY WITHERS, TOWN SECRETARY

APPROVED AS TO FORM:

_____/s/_____
JAMES E. SHEPHERD, MUNICIPAL ATTORNEY