

ORDINANCE NO. 2009-43

AN ORDINANCE DECLARING A 90-DAY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR THE ISSUANCE OF PERMITS FOR NEW CONSTRUCTION OF FENCES LOCATED BETWEEN THE FRONT LINE OF THE PRIMARY STRUCTURE AND THE FRONT BUILDING LINE; REQUESTING THE PLANNING AND ZONING COMMISSION TO CONSIDER APPROPRIATE REGULATIONS FOR SUCH CONSTRUCTION; PROVIDING FOR A METHOD OF REPEAL OF THIS MORATORIUM; PROVIDING A PROCEDURE FOR A VARIANCE FROM THIS MORATORIUM; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.

WHEREAS, the City Council has previously requested a report and recommendation of the Planning and Zoning Commission with the purpose of considering the revision of current regulations and standards for fence construction; and

WHEREAS, the City Council desires to allow reasonable construction of fences while temporarily restricting new fence construction until such time as the city council has had a reasonable opportunity to review amendments that may be recommended by Planning and Zoning Commission and to take appropriate action as may be required to protect the public health, safety and welfare; and

WHEREAS, the City Council finds a 90 day moratorium placed on the issuance of permits for new fence construction between the front line of the primary structure and front building line is a minimally intrusive method of restricting fence construction until such review can be completed;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHOREACRES, TEXAS:

SECTION 1.

Effective immediately and for a period of 90 days, no application for a new permit shall be accepted and no permit shall be issued for new construction of fences that are located between the front building line of the primary structure and the front building line; or in the case of a vacant lot, fences that are located within twenty feet (20') of the front building line.

The term "permit" as used in this ordinance shall mean a license, certificate, approval, registration, consent, permit or other form of authorization required by law, rule, regulation or ordinance that must be obtained by a person in order to perform an action or development or initiate a project for which the permit is sought.

SECTION 2.

The purpose of this moratorium is to temporarily restrict new fence construction

until such time as the city council has had a reasonable opportunity to review amendments that may be recommended by Planning and Zoning Commission and to take appropriate action, if necessary, amended its regulations applicable to fence construction.

SECTION 3.

The City Council finds that application of the City's existing fence regulations is inadequate to prevent the new construction from being detrimental to the public health, safety or welfare of the residents of the City. The City Council finds that possible adverse effects of fence construction could occur if such construction is allowed to proceed prior to implementation of revised regulations and construction standards. These adverse effects would include the expansion or creation of structures that are incompatible with planned development within the city, which would lead to reduction in property values, impairment of economic development, urban blight, and diminishment in the quality of residential life, among other factors. By studying and adopting regulations and planning standards for fences, the City Council seeks to eliminate or minimize such potentially adverse effects on the public health, safety and welfare.

SECTION 4.

The Planning and Zoning Commission is hereby requested to consider possible amendments to the fence standards and regulations for the city and to report and make recommendations to the City Council as expeditiously as possible with regard to any such amendments.

SECTION 5.

Any property owner that believes that the imposition of this moratorium causes a unique and unreasonable hardship upon his or her property shall have the right to request a variance to the provisions of this moratorium. A property owner seeking a variance shall submit a written request to the Planning and Zoning Commission through the City Secretary's office. The request must provide the following information:

- a. A description of the property to be covered by the variance. The description shall include a site plan.
- b. A detailed description of the proposed improvements to the property.
- c. An explanation as to why the application of the moratorium is unreasonable as applied to the applicant's property.
- d. A description of any negative impacts created by the moratorium provision.

The City Secretary shall first place the request for a variance on the agenda of the Planning and Zoning Board of Adjustment for a finding as to whether a unique and unreasonable hardship exists. The applicant shall receive written notice of the date of the

proposed hearing on the variance request. The City Secretary shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the Planning and Zoning Board of Adjustment shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence on the appropriateness or inappropriateness of the variance the opportunity to appear before the Planning and Zoning Commission and present such information. At the conclusion of the hearing, the Planning and Zoning Commission, by vote, may grant or deny the variance based on the applicant's showing or failure to show a unique and unreasonable hardship, respectively.

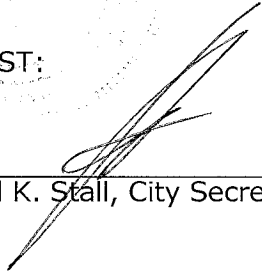
SECTION 6.

This moratorium shall remain in effect until such time as the City Council has had a reasonable opportunity to consider and act upon appropriate regulations governing fences. Upon final adoption of an ordinance adopting appropriate fence standards or regulations or upon a determination by the City Council that such amended standards or regulations are not necessary, this moratorium shall expire. This moratorium shall automatically expire ninety (90) days from the date of adoption, unless it is specifically extended by additional City Council action for an additional period of time.

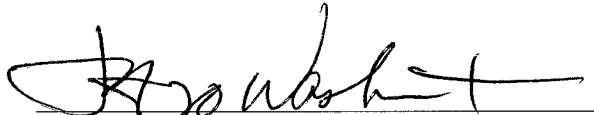
PASSED, APPROVED AND EFFECTIVE ON THIS 22nd day of June, 2009.



ATTEST:



David K. Stall, City Secretary



Jayo Washington, Mayor