

ORDINANCE 216A

PARKING, STRUCTURES and LANDSCAPING ON PUBLIC STREETS AND ROW

AN ORDINANCE WHICH RESTRICTS THE PARKING OF VEHICLES AND THE PLACEMENT OF STRUCTURES AND LANDSCAPING ON CITY STREETS OR CITY RIGHT OF WAYS.

WHEREAS, THE TOWN OF ENCHANTED OAKS DESIRES TO CONTINUE TO ELIMINATE PROLONGED PARKING OF VEHICLES ON THE STREETS INCLUDING ROW THAT ARE TRAFFIC HAZARDS AND BECOME EYE SORES OR NUISANCES TO THE NEIGHBORHOOD; AND

WHEREAS, THE TOWN OF ENCHANTED OAKS DESIRES TO CONTINUE TO PROHIBIT STRUCTURES OR LANDSCAPING IN THE ROW THAT OBSTRUCTS THE FREE FLOW OF WATER, IMPACTS THE MAINTAINANCE OF ROADS OR BAR DITCHES, THE VISION OR FREE MOVEMENT OF MOTORISTS, PEDESTRIANS, OR CYCLIST OR IMPACTING PUBLIC SAFETY; AND

WHEREAS, THE TOWN OF ENCHANTED OAKS DESIRES TO UPDATE AND CLARIFY THESE ORDINANCE'S BY REVISING THE PENALTY FOR VIOLATIONS TO A CLASS C MISDEMEANOR; AND

NOW THEREFORE; BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ENCHANTED OAKS AS FOLLOWS:

Section 1. Definition

- a. Street-A public or private right -of-way which afford as a primary means of vehicular access to abutting properties, whether designated as a street, drive, avenue, highway, road, boulevard, lane, place or however otherwise designated but does not include driveways to buildings.
- b. Street right of way (ROW)- A portion of the Town set aside for public use and to provide access to private property. This right -of-way is defined by the plat as recorded by the developer and is shown by the Zoning Map of the Town. The right-of -way extends between the lot lines on either side of the street and includes the paved area, the bar ditches and the access to the boat ramps.

Section 2. Parking of vehicles

- a. It shall be unlawful to leave vehicles of any kind, operable or inoperable, parked on the streets or ROW for any period in excess of twenty-four hours. Vehicles in violation will be caused to be removed by the Town at owner's expense.
- b. No vehicle shall be parked on the streets or ROW in a manner such that will restrict movement of public traffic or emergency vehicles. Vehicles in violation will be caused to be removed by the Town at owner's expense.
- c. No vehicle shall be parked on the streets or ROW in a manner such that will cause damage to the street or ROW. The cost to repair the damage caused to the street or ROW shall be paid by the owner of the vehicle.

d. No vehicle shall be parked on the streets or ROW in a manner such that will restrict the property owner's reasonable access to their property adjacent to the ROW.

e. No vehicle shall be parked on the half of ROW adjacent to a lot which contains a residence without the residence owner's approval. This does not apply to utility company service vehicles, emergency vehicles, mail and package delivery vehicles or vehicles working for or specifically authorized by the Town.

Section 3. Placement of structures or landscaping in the ROW

a. Structure – *Definition: Anything built, constructed or erected with a fixed location on, in or below ground, or attached to something having a fixed location.* It shall be prohibited for any owner, person, corporation, association to place any structure on the streets or ROW except for mailboxes.

b. Landscaping and trees - Property owners are not permitted to obstruct the public ROW with the planting of trees or shrubs, or placing landscape timbers, stones, temporary or permanent signs. Property owners must keep overhanging tree branches and growth extending from their property to a minimum height of 15 feet over the street to prevent damage to emergency vehicles and oversize vehicle traffic.

c. Mailboxes - Mailboxes must be properly installed as specified by the US Postal Service (including height and setback). Because of the safety hazard caused by brick or stone mailboxes and they limit future expansion of the paved streets they will be discouraged. If the Town, in the future, chooses to widen its paved streets the owner of the mailbox will be required to relocate the mailbox to the proper setback. The Town shall not assume any liability from damages caused from incidents involving an owner's mailbox.

d. Drainage -Any alterations of ROW by property owners which impacts the free flow or run-off of water or impacts road or bar ditch maintenance is prohibited.

e. Safety hazard -Any alteration of ROW by property owners which obstructs the vision or free movement of motorists, pedestrians, or cyclist and thereby impacting public safety is prohibited.

f. Removal -The Town of Enchanted Oaks may remove any structure or landscaping on the ROW if it deems the structure or landscaping to be detrimental to the safety and welfare of the citizens of the Town of Enchanted Oaks and the owner of the property will reimburse the Town the cost of removal. The Town of Enchanted Oaks will keep any structure that is reusable that it removes for a period of thirty (30) days after which it will be disposed of consistent with State law. Removal of the structure or landscaping by the Town does not exempt the owner from the citation or penalty.

Section 4 - Notice to Owner

a. Violations of Section 2. shall be issued a citation.

b. Violations of Section 3. shall be notified in person or writing of the non-compliance and given ten (10) days from the receipt of said notice to make the necessary corrections to be in-compliance before the issuance of a citation.

Section 5- Penalty

- (a) Any person violating any of the provisions of this Ordinance shall be deemed guilty of a class C Misdemeanor and upon conviction in the municipal court shall be subject to the maximum fine allowed by law for each misdemeanor plus court costs, but not less than \$100 per day and each day such violation continues, it shall constitute a separate misdemeanor.
- (b) The fine shall include the costs for encroachment survey and the costs to remove any structure, landscaping or vehicle that was in violation.

Section 6- Injunctive Relief

- a. In addition to and cumulative of all penalties, the Town of Enchanted Oaks shall have the right to seek injunctive relief for any and all violations of this Ordinance.

Section 7- Severance Clause

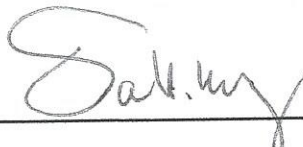
- a. Each and every section and sub-section of this Ordinance has been considered separately and passed on by the governing body of Town of Enchanted Oaks, Texas. In the event any section or sub-section of this Ordinance should be held invalid or unconstitutional through judicial action, the remainder of the ordinance shall not be invalidated and shall remain in effect.

Section 8 – Authorization

- a. The Mayor, the Mayor’s designee or the Police Chief is hereby authorized and directed to implement the applicable provisions of this Ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE TWO DAYS FROM THE DATE APPROVED BELOW AND SHALL CANCEL AND SUPERCEDE ORDINANCE 216.

PASSED AND APPROVED THIS 9th DAY OF April 2019.

/s: 

Sam McVay, Mayor

Attest:
/s: 

Pamela Foster, City Secretary