

**Ordinance No. 2006.10
Village of Salado
County of Bell
State of Texas
July 6, 2006**

Low Water Crossing Ordinance

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, AUTHORIZING THE CLOSING OF CERTAIN PUBLIC STREETS IN INSTANCES OF IMPASSIBILITY DUE TO INUNDATION BY WATER; RECOGNIZING CERTAIN LOW WATER CROSSINGS AS IMMINENT DANGER TO PUBLIC HEALTH, SAFETY AND WELFARE CAUSED BY HEAVY RAINS AND FLOODING; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR EXPIRATION DATE.

WHEREAS, the Village of Salado, Texas is responsible for the maintenance and repair of the streets within corporate boundaries of the City; and

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, a general-law municipality such as Village of Salado has exclusive control over the highways, and streets of the municipality; and

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the Village of Salado has the authority to vacate, abandon, and close streets within the Village; and

WHEREAS, the Board of Aldermen finds that certain Low Water Crossings within the Village are hazardous during heavy rain events, and are unable to be traversed with any measure of safety under certain conditions; and

WHEREAS, pursuant to Chapter 51 of the Texas Local Government Code, and the Village's inherent police powers, the Village of Salado Board of Aldermen finds it to be reasonable and necessary to adopt regulations providing for the closure of certain public streets at low water crossings when necessary to protect the public.

NOW, THEREFORE, BE IT ORDAINED BY THE Board of Aldermen of the Village of Salado, Texas:

Section 1. Findings of Fact

The above Findings of Fact shall be incorporated herein as Legislative findings of the Board of Aldermen.

Section 2. Temporary Closures Authorized

- A. The Salado Police Department is hereby authorized to close certain Low Water Crossings identified in this Ordinance when, in the Department's judgment, the crossings cannot be traversed safely by pedestrian or vehicular traffic.
- B. The decision when to close one or more of the crossings shall be entirely at the Police Department's discretion.
- C. Factors that Police Department personnel shall use when determining whether a crossing should be closed include (but are not limited to) the following:
 - 1. Volume of water; and
 - 2. Velocity; and
 - 3. Visibility; and
 - 4. Amount of rain; and
 - 5. Duration of rain event; and
 - 6. Assessment of debris in the immediate vicinity.

Section 3. Signage Authorized

The Police Department is hereby authorized to utilize the following means in order to warn travelers of dangerous Low Water Crossings:

- 1. Signage; and
- 2. Pole Gauges; and
- 3. Street Markings.

Section 4. Closure Devices Authorized

The Police Department is hereby authorized to utilize the following means in order to achieve the temporary closure of dangerous Low Water Crossings:

- 1. Signage; and
- 2. Portable Barriers; and
- 3. Metal Gate that may be locked by the Police Department.

Section 5. Crossings Designated

This Ordinance shall apply to the following Low Water Crossings:

- 1. South Ridge (between Mill Creek Drive and Park Drive); and
- 2. Chisholm Trail (between O.W. Lowery and the 3900 Block of Chisholm Trail); and
- 3. Chisholm Trail (near the 3200 Block).

Section 6. Re-opening of Crossings

- A. Low Water Crossings temporarily closed by the Police Department shall be re-opened within a reasonable time after the water subsides.
- B. When circumstances allow, the gates shall be opened within five (5) hours of the water subsiding to the point the Low Water Crossing is safe to traverse.

Section 7. Prohibitions

- A. No person shall alter, deface, move, obstruct, relocate, or tamper with a device listed in Section 3, above.
- B. No person shall circumvent, disregard, or evade a device listed in Section 4, above.

Section 8. Enforcement

A. Civil & Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Chapter is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (a) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (b) a civil penalty up to one thousand dollars (\$1,000.00) per violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (c) other available relief.

Section 9. Severability

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance of the application thereby shall remain in effect, it being the intent of the Board of Aldermen of the Village of Salado, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any portion or provision.

Section 10. Repealing Conflict

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of conflict with this Ordinance.

Section 11. Publishing & Effective Date

This Ordinance shall become effective immediately upon publication.

Passed, Approved, and Adopted on this the 6th day of July, 2006.

THE VILLAGE OF SALADO, TEXAS



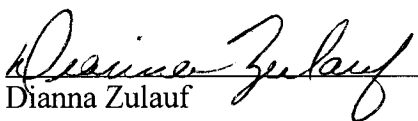
Mayor Rick Ashe

CERTIFICATE

THE STATE OF TEXAS
COUNTY OF BELL

I, Dianna Zulauf, being the current Village Secretary of the Village of Salado, Texas, do hereby certify that the attached is a true and correct copy of Ordinance No. 2006.10, passed and approved by the Board of Aldermen of the Village of Salado, Texas, on the 6 day of July, 2006, and such Ordinance was duly adopted at a meeting open to the public and notice of said meeting, giving the date, place and subject thereof, was posted as prescribed by Government Code 551.043.

Witness my hand and seal of office this 6 day of July, 2006.



Dianna Zulauf
Village Secretary

