



**TOWN OF SHADY SHORES
BUILDING AND STANDARDS COMMISSION
SPECIAL CALLED SESSION
AUGUST 13, 2019; 7:00 PM
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
 Establish a quorum
3. OATH OF OFFICE
 1. Deliver the Oath of Office to the Newly appointed Officers.
4. REGULAR AGENDA
 1. Election of a Chairman and Vice-Chairman- consider and act on the election of a member to serve as the Chairman and the Vice-Chairman.
 2. Minutes- Consider and act on approval of the July 17, 2019 Building and Standards Commission Meeting Minutes.
 3. Worksession- Conduct a worksession relative to the Dangerous Structures Ordinance.
5. NEW BUSINESS
 Discuss any new business and provide staff direction
 1. Discussion of any new business for future agenda items.
6. ADJOURN

I, _____, _____ of the Town of Shady Shores do hereby certify that the above notice of the Regular Building and Standards Commission was posted on the bulletin board at the Community Center, 101 S. Shady Shores Road, Shady Shores, Texas on _____ Day of _____, _____, at _____ .M.

Wendy Withers, Town Secretary



**TOWN OF SHADY SHORES
BUILDING STANDARDS COMMISSION
JULY 17, 2019; 7:00 PM
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208**

MINUTES

Tom Muehlenbeck	Member	Present
Frank Graham	Member	Present
Bill Emsoff	Member	Absent
Sammie Shield	Member	Present
John McKenzie	Member	Present
Mary Britton	Member-Alternate	Absent

Staff Present: Wendy Withers, Town Administrator; Amber Schuler, Deputy Town Secretary; Jim Shepherd, Town Attorney; Char Dupree, Code Enforcement Officer; Tom Newell, Mayor Pro Tem

1. CALL TO ORDER

The meeting was called to order at 7:01 pm.

2. ROLL CALL

Establish a quorum

The roll was called, and a quorum was established for the record.

3. REGULAR AGENDA

1. Training- New members will receive training and information regarding the rules of procedure for the Commission.

Town Attorney Jim Shepherd gave an overview of the Dangerous Structures Ordinance and the forms that would be used in the process.

4. NEW BUSINESS

Discuss any new business and provide staff direction

5. ADJOURN

The meeting was adjourned at 8:05 pm.

PASSED AND APPROVED THIS THE _____ DAY OF _____, 2019

APPROVED:

Chairman

Attest:

Wendy Withers, Town Administrator/Secretary



AGENDA MEMORANDUM

DATE: July 17, 2019
TO: Building and Standards Commission
FROM: Wendy Withers, Town Secretary
SUBJECT: Training- New members will receive training and information regarding the rules of procedure for the Commission.

BACKGROUND/INFORMATION:

FINANCIAL IMPLICATIONS:

RECOMMENDATION/ACTION DESIRED:

ATTACHMENTS/SUPPORTING DOCUMENTATION:

None

REVIEWED BY:

ORDINANCE NUMBER _____

***(Dangerous Structures and Building and Standards Commission
Amending Ord. No. 269-07-2014)***

AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS, AMENDING ORD. NO. 269-07-2014; PROVIDING REGULATIONS REGARDING DANGEROUS STRUCTURES AND ESTABLISHING A BUILDING AND STANDARDS COMMISSION; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALING CLAUSES; PROVIDING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF \$500 FOR EACH OFFENSE; PROVIDING CIVIL PENALTIES NOT TO EXCEED THE SUM OF \$1000 PER DAY; OR NOT TO EXCEED \$5000 PER DAY FOR WATER, STORM WATER, OR SANITARY SEWER VIOLATIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Shady Shores, Texas ("Town Council") has investigated and determined that it would be advantageous to provide regulations regarding dangerous structures;

WHEREAS, the Town Council has investigated and determined that it would be advantageous and beneficial to establish a Building and Standards Commission;

WHEREAS, the Town Council has concluded that this Ordinance should be adopted; amending and restating the provisions of Ordinance 269-07-2014 in its entirety;

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

Section 1. Recitals Incorporated and Scope of Ordinance

The above-referenced recitals are incorporated herein and are found to be true by the Town Council. The Commission established herein shall apply to:

(1) the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire

suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

- (3) relating to dangerously damaged or deteriorated buildings or improvements;
- (4) relating to conditions caused by accumulations of refuse, vegetation, or other
- (5) relating to a building code or to the condition, use, or appearance of property in a municipality;
- (6) relating to animal care and control; or
- (7) relating to water conservation measures, including watering restrictions.”

Section 2. Dangerous Structures and Building and Standards Commission.

A. Reference to State Law

This ordinance is adopted pursuant to Texas Local Government Code Chapters 54, subchapter C., and Chapter 214, subchapter A, and the Town adopts by this ordinance the powers authorized by those statutes, and all provisions of this Ordinance should be interpreted and followed in compliance with those statutes.

B. Definitions

- 1 *Dangerous Structure* means a Structure that is in an unsafe condition that could injure, hurt, or harm individuals or property. The following conditions are evidence of a “Dangerous Structure”; and one that does not meet “Minimum Standards” of structures in Shady Shores. Additional Minimum Standards are set forth in Addendum A, attached to and a part of this Ordinance. A structure having one or more of the conditions listed in b) through d) 1)– 10) does not meet Minimum Standards.

A structure having such condition(s) is in violation of this ordinance.

Conditions include, and are not limited to, the following:

- (a) Regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited Persons as a place of harborage or could be entered or used by children; or
- (b) Is boarded up, fenced or otherwise secured in any manner if the Structure constitutes a danger to the public even though secured from entry or the means used to secure the Structure are inadequate to prevent unauthorized entry or use of the Structure; or

- (c) Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare, and which:
- (1) Contains one or more interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
 - (2) Exclusive of the foundation, shows 33% or more damage or deterioration to the supporting member or members or 50% or more damage or deterioration to the non-supporting enclosure or to outside walls or coverings;
 - (3) Has one or more improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
 - (4) Has been damaged by fire, wind or other causes so as to have become dangerous to persons or property;
 - (5) Has become or is so dilapidated, decayed, unsafe or unsanitary or which utterly fails to provide amenities essential to decent living so that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health or welfare of those living therein;
 - (6) Has parts thereof which are attached in a manner that they may fall and injure persons or property;
 - (7) Has a foundation that is not so free of holes, cracks, buckling, crumbling and defects as to support adequately the Structure;
 - (8) Does not have a floor, exterior wall and roof that is so free of holes, cracks and loose, rotten, warped or protruding boards necessary to protect the Occupants of the Structure reasonably from weather elements and from danger of collapse;
 - (9) Does not have interior walls and ceilings that are so free of holes, cracks, loose plaster, loose and baggy wallpaper, defective materials and structural deterioration as to reasonably serve their purpose and as to protect the Occupants of the Structure from danger of collapse and of fire; or
 - (10) Exists in violation of any provision of any applicable building code(s) of the Town or any provision of the Town's fire code or other ordinances of the Town as such provisions relate to the minimum standards for buildings or Structures.

2. "Municipality" and "Town" shall mean Shady Shores, Denton County, Texas.

3. Occupant means any individual living or sleeping in a building or Structure or having possession of a space within a building or Structure.
4. Person means a human being, whether man, woman, or child.
5. Structure means that which is built or constructed or a portion thereof.

C. Declaration of Nuisance

All Structures that are found to be Dangerous Structures, after notice and hearing, as provided herein, are hereby declared to be public nuisances and shall be secured, repaired, vacated and/or demolished as provided herein.

D. Designation of Official

The Town Attorney, or that person's designee shall—with or without the assistance of other Town personnel, officials, or consultants—present all cases at hearings presided over by the Commission.

E. Building and Standards Commission

1. A Building and Standards Commission ("Commission") is hereby established, which shall be constituted by five members appointed by the Town Council for terms of two years, coinciding with the term of the Mayor. The Town Council may appoint up to eight alternate members, who serve for the same term as members. All appointees shall be residents of the Town of Shady Shores. Vacancies shall be filled for an unexpired term. The Town Council appoints the Chairperson of the Commission, and appoints all members and alternates. The Town Council may, at their discretion, appoint more than one panel of five members to serve as the Commission.
2. The purpose of the Commission is to hear cases under this ordinance. A majority of the regular members of the Commission must be present for a hearing. A majority of the entire regular Commission members shall adopt as necessary all rules for hearings and other Commission matters in accordance with this ordinance. The rules shall establish procedures for use in hearings, providing ample opportunity for presentation of evidence and testimony by respondents or persons opposing charges brought by the municipality or its building officials relating to alleged violations of ordinances. All meetings and hearings conducted by the Commission shall be open to the public and minutes shall be kept of all such meetings and hearings, recording the vote of each member. Said minutes shall be filed immediately in the offices of the Town as public records. A majority vote of the Commission members voting on a matter is necessary to take any action under this ordinance.

3. Meetings of the commission shall be held at the call of the chairman and at other times as determined by the commission. All meetings of the commission shall be open to the public. The chairman, or in the chairman's absence the acting chairman, may administer oaths and compel the attendance of witnesses.
4. The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The commission shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the Town Secretary as public records.

F. Building and Standards Commission Powers and Duties

1. The building and standards commission has the authority to enforce the enumerated health and safety ordinances authorized by V.T.C.A., Local Government Code chapter 54, subchapter C, as amended. Specifically, the commission may:
 - a. order the repair, within a fixed period, of buildings found to be in violation of an ordinance;
 - b. declare a building substandard in accordance with the powers granted by this subchapter;
 - c. order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
 - d. issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the commission panel. determine the amount and duration of the civil penalty the municipality may recover, not to exceed \$1000 per day, except that a civil penalty under this section may not exceed \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality.
 - f. except that a civil penalty under this section may not exceed \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer

system, including a sanitary or storm water sewer system, owned or controlled by the municipality.

2. The Town, through its Building and Standards commission, or court of appropriate jurisdiction, has the authority to enforce the enumerated health and safety ordinances authorized by V.T.C.A., Local Government Code chapter 212, subchapter A, as amended. The Town does, by this ordinance, adopt the statutory authority to require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that is:

- a. dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
- b. regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- c. boarded up, fenced, or otherwise secured in any manner if:
- d. the building constitutes a danger to the public even though secured from entry; or
- e. the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by Subdivision (2. b).

3. To further clarify the actions which may be taken pursuant to the Local Government Code Chapters 54 and 214, the commission may take action:

- a. To require the reduction in occupancy load of an overcrowded structure or vacation of a structure that is reasonably dangerous to the health, safety or welfare of the occupants.
- b. To require, as an alternative to demolition of a structure found to be an urban nuisance, the repair of the structure by the owner or by the city.
- c. To require the demolition of a structure found to be an urban nuisance.
- d. To require the removal of personal property from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personal property is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personal property. The commission may cause any personal property removed to be stored in the care and custody of a bonded warehouse facility. Cost of removal and storage are the responsibility of the owner of the personal property.

e To require a vacant structure or vacant portion of a structure constituting a dangerous condition or nuisance to be securely closed and made safe.

f To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by city forces or private contract. Costs of correction are the responsibility of the owner.

g To assess a civil penalty, not to exceed \$1,000.00 a day, against a property owner for each day or part of a day that he fails to repair or demolish a structure in compliance with a commission order issued under this article.

h To cause an act to be brought in district court in accordance with V.T.C.A., Local Government Code § 214.003, as amended, for the appointment of a receiver for property found to be an urban nuisance.

i To require relocation of the occupants of a structure found to be an urban nuisance.

j To declare a building substandard in accordance with the powers granted by V.T.C.A., Local Government Code chapter 54, subchapter C [§ 54.031 et seq.], as amended.

k To issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the city, to enforce and carry out the lawful orders or directives of the commission.

G. Notice and Order

1. A notice of a hearing sent to an owner, lienholder, or mortgagee under this section must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

2. After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The municipality also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The municipality shall personally deliver, send by certified mail with return receipt requested, or deliver by the United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice containing:

- a. an identification, which is not required to be a legal description, of the building and the property on which it is located;
- b. a description of the violation of municipal standards that is present at the building; and
- c. a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

3. Filing of Pre-Hearing Notice Binds Subsequent Owners—

As an alternative to the procedure prescribed by Subsection G.5., the municipality may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the municipality may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the municipality operates under this subsection, the order issued by the municipality may specify a reasonable time as provided by this section for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the municipality is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

4. Within 10 days after the date that the order is issued, the municipality shall:

- a. file a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and
- b. publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
 - i. the street address or legal description of the property;
 - ii. the date of the hearing;

- iii. a brief statement indicating the results of the order; and
- iv. instructions stating where a complete copy of the order may be obtained.

5. After the hearing, the municipality shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

6. Hearing and Order—

In conducting a hearing authorized under this section, the municipality shall require the owner, lienholder, or mortgagee of the building to within 30 days:

- a. secure the building from unauthorized entry; or
- b. repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

7. If the municipality allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the municipality shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

8. Order and Time for Compliance—

A municipality may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

- a. submits a detailed plan and time schedule for the work at the hearing; and
- b. establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

9. Assurances of Compliance During the Extension Period--

If the municipality allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the hearing official or the hearing official's

designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the municipality may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the municipality may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the municipality issues the order.

10. Burden of Proof—

In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

11. Failure to Comply with Order—

If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of a municipality to collect on a bond or other financial guaranty that may be required by Subsection 10.

12. Expenses-

If a municipality incurs expenses under Subsection 12., the municipality may assess the expenses on, and the municipality has a lien against, (unless it is a homestead as protected by the Texas Constitution) the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the municipality, and the balance due.

13. Privileged Lien---

If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as

authorized by Subsection (d), (e), or (g), the lien is a privileged lien subordinate only to tax liens.

14. Civil Municipal Court-- A hearing under this section may be held by a civil municipal court.

15. Due Diligence to Determine Persons in Interest--

A municipality satisfies the requirements of this section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the municipality searches the following records:

- a. county real property records of the county in which the building is located;
- b. appraisal district records of the appraisal district in which the building is located;
- c. records of the secretary of state;
- d. assumed name records of the county in which the building is located;
- e. tax records of the municipality; and
- f. utility records of the municipality.

16. Notice Delivered--

When a municipality mails a notice in accordance with this section to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

18. Pursuant to Sec. 214.0011, Texas Local Government Code, entitled ADDITIONAL AUTHORITY TO SECURE SUBSTANDARD BUILDING. The Town by ordinance has established minimum standards for the use and occupancy of buildings in the municipality regardless of the date of their construction and may adopt other ordinances as necessary to carry out this section. The Town may, and does, adopt the following authority:

- a. The municipality may secure a building the municipality determines:
 - (1) violates the minimum standards; and
 - (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.
- b. Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:
 - (1) personally serving the owner with written notice;
 - (2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;
 - (3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal

service cannot be obtained and the owner's post office address is unknown;
or

- (4) posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

c. The notice must contain:

- (1) an identification, which is not required to be a legal description, of the building and the property on which it is located;
- (2) a description of the violation of the municipal standards that is present at the building;
- (3) a statement that the municipality will secure or has secured, as the case may be, the building; and
- (4) an explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.

d. The municipality shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the municipality's securing of the building if, within 30 days after the date the municipality secures the building, the owner files with the municipality a written request for the hearing. The municipality shall conduct the hearing within 20 days after the date the request is filed.

e. A municipality has the same authority to assess expenses under this section as it has to assess expenses under Section [214.001\(n\)](#). A lien is created under this section in the same manner that a lien is created under Section [214.001\(n\)](#) and is subject to the same conditions as a lien created under that section.

f. The authority granted by this section is in addition to that granted by Section [214.001](#).

H. Expenses Related to Securing of a Structure

The Town has the same authority to assess expenses relating to the securing of a Structure as it has to assess expenses under subsection S. Remedies in Event of Noncompliance and a lien is created under this section in the same manner that a lien is created under subsection S. and is subject to the same conditions as a lien created under that subsection.

I. Seizure and Sale to Recover Expenses

The Town may foreclose a lien on property under this section:

1. In a proceeding relating to the property brought under Subsection E, Chapter 33, Tax Code (V.T.C.A., Tax Code §33.91 et seq.); or
2. In a judicial proceeding, if:
 - i. A Structure on the property has been demolished;
 - ii. A lien for the cost of the demolition of the Structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and
 - iii. Ad valorem taxes are delinquent on all or part of the property.

J. Salvage Materials

When any structure has been ordered demolished and removed, the Town shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition, removal and sale, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the owner, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

K. Judicial Review

Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the Commission may present a petition to a district court in Denton County, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed with the district court within 30 days after the date a copy of the final decision of the Commission is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice may be required to be sent under this ordinance. The procedures for any such judicial review shall be the same as set forth in Texas Local Government Code §54.039.

Section 3. Savings Clause.

All rights and remedies of the Town of Shady Shores, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting pets and/or animals which have been secured at the time of the effective date of this Ordinance; and as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances the same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 4. Severability Clause.

Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of

this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

Section 5. Repealing 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 6. Penalty Clause.

Any person, firm or corporation (collectively referred to as "Person") violating any of the provisions of this Ordinance, shall be subject to the penalty as provided herein, and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred (\$500.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense. Additional Civil Penalties not to exceed \$1,000 per day, or \$5,000 per day are authorized in accordance with V.T.C.A. Local Government Code, Chapter 54, sub. C.

Section 7. Publication of the Caption Hereof and Effective Date.

This ordinance shall be in full force and effective from and after its passage and upon the posting and/or publication, if required by law, of its caption and the Town Secretary is hereby directed to implement such posting and/or publication.

PASSED by the Town Council of the Town of Shady Shores, Texas, this _____ day of _____, 2019.

APPROVED:

Cindy Aughinbaugh, Mayor

ATTEST:

Wendy Withers, Town Secretary

APPROVED AS TO FORM:

James E. Shepherd, Town Attorney