



**TOWN OF SHADY SHORES
KEEP SHADY SHORES BEAUTIFUL
REGULAR SESSION
OCTOBER 19, 2023; 6:00 PM
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208**

TO VIEW THE MEETING LIVE
<https://shadyshorestx.civicclerk.com/>

AGENDA

1. CALL TO ORDER
2. ROLL CALL
 - Establish a quorum
- a. MISSION AND VISION STATEMENT
3. MINUTES:
 - a. Consider an act on approval of the September 2023 minutes.
4. Review Litter Ordinance
 - a. Litter Ordinance - Conduct a worksession relative to the creation of a Litter Ordinance.
5. Guest Speaker
 - a. 2022 Concept Plan for Walking Path for Reference
6. ADJOURN

The Keep Shady Shores Beautiful Agenda was posted in accordance with Texas Open Meetings Act on _____,
_____, _____ at ____:____, ____M.

Katie Klein, Community Relations



KEEP SHADY SHORES BEAUTIFUL
SEPTEMBER 21, 2023; 6:00 PM
SHADY SHORES COMMUNITY CENTER
101 S. SHADY SHORES ROAD
SHADY SHORES, TX 76208

MINUTES

1. CALL TO ORDER

The meeting was called to order by Vice Chair, Andrea Dixson, at 6:00 pm.

2. ROLL CALL

Establish a quorum

MEMBERS PRESENT

Committee Member Bill Krueger, Committee Member Amy Whiting, Karen Thomas, Keep Shady Shores Beautiful Comt. Member Andrea Dixon, Keep Shady Shores Beautiful Comt. Member Juan Hernandez Herrera, Jr KSSB Member Maddy Haney, Alternate 2 Fredrick Dieterich

STAFF PRESENT: Katie Klein

a. MISSION AND VISION STATEMENT

3. MINUTES:

a. August 2023 Minutes

Motion to approve August 2023 Minutes

4. Worksession

Consider and take action relative to ongoing projects and new ideas.

a. Greenspace Strategic Plan Draft

The committee discussed several ideas and strategies for the upcoming year.

5. NEW BUSINESS

Discuss any new projects to be considered at the next monthly meeting

6. ADJOURN

The meeting ended at 7:49 p.m.

Passed and Approved this _____ day of _____

Chair, Keep Shady Shores Beautiful

Katie Klein, Community Relations
Staff Representative for Town of Shady Shores



AGENDA MEMORANDUM

DATE: October 19, 2023
TO: Town Council
FROM: Katie Klein, Administrative
SUBJECT: Litter Ordinance - Conduct a worksession relative to the creation of a Litter Ordinance.

BACKGROUND/INFORMATION:

Consider and act on approval of an Ordinance regulating litter, this new Ordinance is in response in part to the passage of Senate Bill 1346. The purpose of SB 1346 was to increase the ability of the district attorney to prosecute solid and liquid waste violations. This Bill does not change the rules for place, amount and kind of litter or other waste as a violation. However, the bill adds a chapter to the Penal Code adding provisions for preparing to commit the crime of littering, making it also a crime.

"An example would be a hauler of solid waste preparing to dump the waste in an area where no permit for such disposal is available."

Author's/Sponsor's Statement of Intent

Q: What does this bill do?

A: This bill allows a district attorney to prosecute anyone who orders and or conspires to illegally dump any material by improper and illegal means.

Background and Purpose:

- In recent years, Texas has seen an increase in illegal dumping and overall littering in many municipalities throughout the state.
- This influx is the direct result of corporations dumping scrap and other unwanted material in unapproved residential areas through various illegal means.
- This bill combats illegal dumping by giving local authorities the power to prosecute those who order the disposal in addition to those who are actually dumping the unwanted material."

S.B. 1346 amends current law by adding Chapter 15 of the Penal Code to the Texas Litter Abatement Act in Ch 365 of the TX Health and Safety Code. The result is the Act formerly made criminal acts of littering (as defined in the Act) ranging from the municipal court jurisdiction of Type C Misdemeanors, to and including state jail felonies. Adding Chapter 15 added preparatory crimes, meaning it is unlawful to plan or prepare to commit such crimes. The portion of the revised Texas Litter Abatement Act that applies to municipalities is for litter of five pounds or less, or five gallons or less. The state jail felony portion is the same violation, 1000 pounds or more, or has a volume of 200 cubic feet. The new ordinance defines the separation of the crimes in order to make it clear what goes to the district attorney (over five pounds or five gallons) , and what cases we have jurisdiction over in the municipal court (five pounds or less or five gallons or less).

Definitions and defenses are also included in the new ordinance, as they appear in the state law. The existing littering nuisance ordinance is not repealed. It covers the entire town, is easier to prove, and can be used where the facts of the case would be better served by doing so.

FINANCIAL IMPLICATIONS:

RECOMMENDATION/ACTION DESIRED:

ATTACHMENTS/SUPPORTING DOCUMENTATION:

1. Littering ordinance H&S Code 365.012 .2

REVIEWED BY:

Ordinance No. _____
(TEXAS LITTER ABATEMENT ACT)

AN ORDINANCE AMENDING CHAPTER 8 OF THE SHADY SHORES CODE OF ORDINANCES BY ADDING SECTION 8.09 REGARDING THE TEXAS LITTER ABATEMENT ACT; DEFINING AND PROHIBITING ILLEGAL DUMPING; DISCARDING LIGHTED MATERIALS; PROVIDING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF \$500.00 FOR EACH OFFENSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the governing body of the Town of Shady Shores, in compliance with the laws of the State of Texas and the ordinances of the Town of Shady Shores, has given requisite notice, and in the exercise of its legislative discretion has concluded that the Municipal Code of Ordinances of the Town of Shady Shores should be amended to as described herein:

WHEREAS the Town Council of the Town of Shady Shores ("Town Council") seeks to provide for the public health, safety, and welfare of its citizens; and

WHEREAS the Town Council seeks to promote orderly and safe use of property within the Town of Shady Shores, Texas ("Town"); and

WHEREAS Penal Code ch. 15 establishes the offenses of criminal attempt, criminal conspiracy, criminal solicitation, and criminal solicitation of a minor, and applicable penalties; and

WHEREAS Health and Safety Code sec. 365.012 establishes offenses of illegal dumping and discarding lighted materials, including a match, cigarette, or cigar, and applicable penalties; and

WHEREAS, the Texas Legislature, 88th session, passed legislation that provides local authorities the power to prosecute individuals who order the disposal of unwanted materials, and helping to curb illegal dumping; and

WHEREAS Senate Bill 1346 of the 88th Legislative session extends the preparatory offences definitions of Texas Penal Code Chapter 15 to the littering and waste provisions of Texas Health and Safety Code 365.012; which in part creates new class C misdemeanors subject to enforcement by municipal courts; and

WHEREAS, the Mayor and Town Council of the Town of Shady Shores, Texas desire to establish an ordinance which provides maximum protection of the lives and persons of the Town of Shady Shores, and

WHEREAS, the Town of Shady Shores, Texas, Code of Ordinances Chapter 8; Section 8.09 is hereby created by this Ordinance, and

WHEREAS, the Town Council has received input from the citizens and Town staff which supports the purpose and terms of this ordinance.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the Town has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the Town and is necessary or proper for carrying out a power granted by law to the Town; and

WHEREAS, the Town Council finds that the terms of this ordinance are reasonable, necessary, and proper for the good government of the Town of Shady Shores, and in the best interests of its residents.

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

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Chapter 8, Section 8.09 of the Code of Ordinances, Town of Shady Shores, Texas, is hereby added to the Code, as follows:

Section 8.09.01 State Law

8.09.01 Regarding Littering and Solid Waste, in accordance with the provisions of the Texas Health and Safety Code, Chapter 365, entitled the Texas Litter Abatement Act. Other Texas Codes that apply to Litter include:

- a. The pollution of water in the state is controlled by Chapter [26](#), Water Code, and other applicable law.
- b. The regulation of litter on public beaches is controlled by Subchapters [C](#) and D, Chapter [61](#), Natural Resources Code.
- c. Venue for the prosecution of a criminal offense under Subchapter B or Section [365.032](#) or [365.033](#) or for a suit for injunctive relief under any of those provisions is in the county in which the defendant resides, in the county in which the offense or the violation occurs, or in Travis County.
- d. If the attorney general or a local government brings a suit for injunctive relief under Subchapter B or Section [365.032](#) or [365.033](#), a prevailing party may recover its reasonable attorney fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.
- e. References to Chapter numbers between 360 and 369 refer to Chapters of the Texas Health and Safety Code.

Section 8.09.02. Definitions

Definitions—The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Approved solid waste site" means:

(A) a solid waste site permitted or registered by the Texas Natural Resource Conservation Commission;

(B) a solid waste site licensed by a county under Chapter [361](#); or

(C) a designated collection area for ultimate disposal at a permitted or licensed municipal solid waste site.

(2) "Boat" means a vehicle, including a barge, airboat, motorboat, or sailboat, used for transportation on water.

(3) "Commercial purpose" means the purpose of economic gain.

(4) "Commercial vehicle" means a vehicle that is operated by a person for a commercial purpose or that is owned by a business or commercial enterprise.

(5) "Dispose" and "dump" mean to discharge, deposit, inject, spill, leak, or place litter on or into land or water.

(6) "Litter" means:

(A) decayable waste from a public or private establishment, residence, or restaurant, including animal and vegetable waste material from a market or storage facility handling or storing produce or other food products, or the handling, preparation, cooking, or consumption of food, but not including sewage, body wastes, or industrial by-products; or

(B) no decayable solid waste, except ashes, that consists of:

(i) combustible waste material, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials;

(ii) noncombustible waste material, including glass, crockery, tin or aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures of 1800 degrees Fahrenheit or less; and

(iii) discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm implements, building or construction materials, appliances, and scrap metal.

(7) "Motor vehicle" has the meaning assigned by Section [541.201](#), Transportation Code.

(8) "Public highway" means the entire width between property lines of a road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, if any part of the road, street, way, thoroughfare, bridge, public beach, or park:

(A) is opened to the public for vehicular traffic;

(B) is used as a public recreational area; or

(C) is under the state's legislative jurisdiction through its police power.

(9) "Solid waste" has the meaning assigned by Section [361.003](#).

Section 8.09.03 Actions prohibited

Sec. 365.012. ILLEGAL DUMPING; DISCARDING LIGHTED MATERIALS; CRIMINAL PENALTIES. (a) A person commits an offense if the person disposes or allows or permits the disposal of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state.

(a-1) A person commits an offense if:

(1) the person discards lighted litter, including a match, cigarette, or cigar, onto open-space land, a private road or the right-of-way of a private road, a public highway or other public road or the right-of-way of a public highway or other public road, or a railroad right-of-way; and

(2) a fire is ignited as a result of the conduct described by Subdivision (1).

(b) A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.

(c) A person commits an offense if the person transports litter or other solid waste to a place that is not an approved solid waste site for disposal at the site.

(d) An offense under Subsection (a), (b), or (c) is a Class C misdemeanor if the litter or other solid waste to which the offense applies weighs five pounds or less or has a volume of five gallons or less. Class C Misdemeanors may be heard in Municipal Courts in fine only cases.

(e). Sec 365.012 also provides additional crimes for which jurisdiction is not in municipal court, and is in county or district courts

Examples are summarized as follows:

(f) An offense under Subsection (a), (b), or (c) is a Class B misdemeanor if the litter or other solid waste to which the offense applies weighs more than five pounds but less than 500 pounds or has a volume of more than five gallons but less than 100 cubic feet

(g) An offense under this section is a Class A misdemeanor if:

(1) the litter or other solid waste to which the offense applies weighs 500 pounds or more but less than 1,000 pounds or has a volume of 100 cubic feet or more but less than 200 cubic feet; or

(2) litter or other solid waste is disposed for a commercial purpose and weighs more than five pounds but less than 200 pounds or has a volume of more than five gallons but less than 200 cubic feet.

(g) An offense under this section is a state jail felony if the litter or solid waste to which the offense applies:

(1) weighs 1,000 pounds or more or has a volume of 200 cubic feet or more.

(2) is disposed of for a commercial purpose and weighs 200 pounds or more or has a volume of 200 cubic feet or more; or

(3) is contained in a closed barrel or drum.

Additional conditions and requirements for Misdemeanor A and B cases, and state jail felonies, and apply to cases brought by the District Attorney in county or district courts.

(h) If it is shown on the trial of the defendant for an offense under this section that the defendant has previously been convicted of an offense under this section, the punishment for the offense is increased to the punishment for the next highest category.

This provision (h) means the fine only jurisdiction of the municipal court would be exceeded if the defendant is a repeat offender, as the increased penalty of a Class B Misdemeanor includes up to 30 days incarceration. The municipal court would need to confirm it has the discretion to waive that additional penalty.

(i) On conviction for an offense under this section, the court shall provide to the defendant written notice that a subsequent conviction for an offense under this section may result in the forfeiture under Chapter [59](#), Code of Criminal Procedure, of the vehicle used by the defendant in committing the offense.

(j) The offenses prescribed by this section include the unauthorized disposal of litter or other solid waste in a dumpster or similar receptacle.

(k) This section does not apply to the temporary storage for future disposal of litter or other solid waste by a person on land owned by that person, or by that person's agent. The commission by rule shall regulate temporary storage for future disposal of litter or other solid waste by a person on land owned by the person or the person's agent.

(l) This section does not apply to an individual's disposal of litter or other solid waste if:

(1) the litter or waste is generated on land the individual owns;

(2) the litter or waste is not generated as a result of an activity related to a commercial purpose.

(3) the disposal occurs on land the individual owns; and

(4) the disposal is not for a commercial purpose.

(m) A municipality or county may offer a reward of \$50 for reporting a violation of this section that results in a prosecution under this section.

(n) An offense under this section may be prosecuted without alleging or proving any culpable mental state, unless the offense is a state jail felony.

(o) For purposes of a prosecution under Subsection (g), a generator creates a rebuttable presumption of lack of culpable mental state if the generator of the solid waste to be disposed of secures, prior to the hauler's receipt of the solid waste, a signed statement from the hauler that the solid waste will be disposed of legally. The statement shall include the hauler's valid Texas driver's license number.

(p) It is an affirmative defense to prosecution under Subsection (a-1) that the person discarded the lighted litter in connection with controlled burning the person was conducting in the area into which the lighted litter was discarded.

(q) The operator of a public conveyance in which smoking tobacco is allowed shall post a sign stating the substance of Subsections (a-1) and (d-1) in a conspicuous place within any portion of the public conveyance in which smoking is allowed.

(r) If conduct that constitutes an offense under Subsection (a-1) also constitutes an offense under Subsection (a), the actor may be prosecuted only under Subsection (a-1). If conduct that constitutes an offense under Subsection (a-1) also constitutes an offense under Chapter [28](#), Penal Code, the actor may be prosecuted under Subsection (a-1) or Chapter [28](#), Penal Code, but not both.

(s) On conviction of an offense under this section, the court shall require the defendant, in addition to any fine or other penalty, to perform community service as provided by Article [42A.304](#)(e), Code of Criminal Procedure.

Health and Safety code Section 365.016 created a Class C Misdemeanor which provides as follows:

(a) A person commits an offense if the person disposes litter, a dead animal, sewage, or any chemical in a cave.

(b) An offense under this section is a Class C misdemeanor unless:

(1) it is shown on the trial of the defendant that the defendant previously has been convicted once of an offense under this section, in which event the offense is a Class A misdemeanor; or

(2) it is shown on the trial of the defendant that the defendant previously has been convicted two or more times of an offense under this section, in which event the offense is a felony of the third degree.

(c) On conviction of an offense under this section, the court shall require the defendant, in addition to any fine or other penalty, to perform community service as provided by Article [42A.304](#)(e), Code of Criminal Procedure.

Health and Safety code Section 365.014 APPLICATION OF SUBCHAPTER; DEFENSES; PRESUMPTIONS provides as follows:

Defenses and Presumptions:

(a) This subchapter does not apply to farmers:

(1) in handling anything necessary to grow, handle, and care for livestock; or

(2) in erecting, operating, and maintaining improvements necessary to handle, thresh, and prepare agricultural products or for conservation projects.

(b) A person who dumps more than five pounds or 13 gallons of litter or other solid waste from a commercial vehicle in violation of this subchapter is presumed to be dumping the litter or other solid waste for a commercial purpose.

(c) It is an affirmative defense to prosecution under Section [365.012](#) that:

(1) the storage, processing, or disposal took place on land owned or leased by the defendant.

(2) the defendant received the litter or other solid waste from another person;

(3) the defendant, after exercising due diligence, did not know and reasonably could not have known that litter or other solid waste was involved; and

(4) the defendant did not receive, directly or indirectly, compensation for the receipt, storage, processing, or treatment.

For the crimes set forth above, the SB 1346, effective sept 1, 2023, added one sentence to Section 365.012 of the Health and Safety Code, as subsection (t), as follows:

“(t) Chapter 15, Penal Code, applies to an offense under this section.”

Subsection (t) added to 362.012 added Preparatory Offences to those offences in 362.012 and described above in this ordinance. The difference is the former are littering that has occurred, as defined in the statute. Chapter 15 means, as it relates to Class C Misdemeanors, the following:

Sec. 15.01. CRIMINAL ATTEMPT. (a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

(d) An offense under this section is one category lower than the offense attempted, and if the offense attempted is a state jail felony, the offense is a Class A misdemeanor.

SECTION 2. Severability. That should any word, phrase, paragraph, section or portion of this ordinance be held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining portions of the ordinance shall not be affected thereby, and each such illegal, invalid or unenforceable word, phrase, paragraph, section or portion shall not affect the ordinance as a whole.

SECTION 3. Repealer. That 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.

The Class C misdemeanor offense in the Shady Shores Municipal Code defining littering and litter as a public nuisance is not repealed.

SECTION 4. Penalty. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a Class C misdemeanor offense, and upon conviction shall be punished by a fine not to exceed the sum of \$500.00 for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense. In addition, community service may be imposed.

SECTION 5. 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. An affidavit by the printer or the publisher of the official newspaper verifying the publication shall be filed in the office of the Town Secretary.

SECTION 6. Effective Date. This Ordinance shall take effect upon publication of the caption, as the law in such case provides.

ADOPTED this ____ day of _____ 2023, by the Shady Shores Town Council.

APPROVED

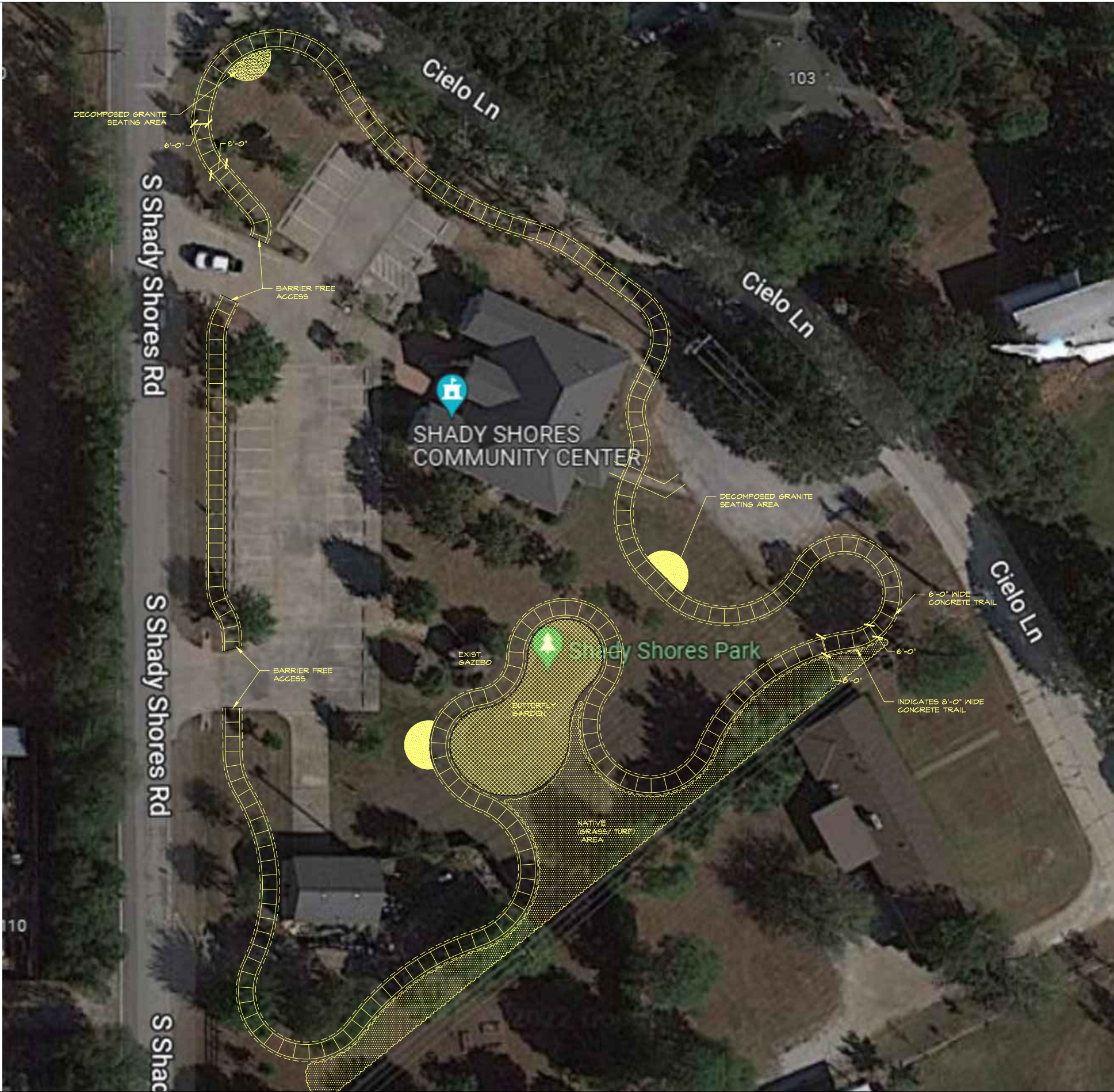
Cindy Aughinbaugh, Mayor

ATTEST:

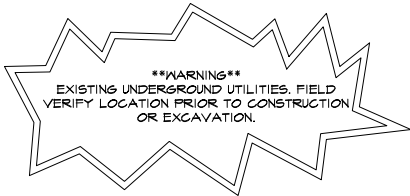
Wendy Withers, Town Secretary

APPROVED AS TO FORM:

James E. Shepherd, Town Attorney



BUDGET			
6" CONCRETE TRAIL			
1,312 LINEAR FEET (+/- 1/4 MILE)			\$41,342.00
8,232 SQUARE FEET			
8" CONCRETE TRAIL			
1,312 LINEAR FEET (+/- 1/4 MILE)			\$65,856.00
10,916 SQUARE FEET			
DECOMPOSED GRANITE SITTING AREAS			
3 - 16'0" SQ. FEET		\$450.00 EA	\$2,250.00
3 - BENCH		\$750.00 EA	\$2,250.00
3 - SHADE COVER		\$5,000.00 EA	\$15,000.00



ACCESSIBILITY GENERAL NOTES

1. ALL ACCESSIBLE ROUTES AND RAMPS SHALL CONFORM TO THE TEXAS ACCESSIBILITY STANDARDS (T.A.S.)
2. PUBLIC ACCESSIBLE ROUTES SHALL NOT HAVE A RUNNING SLOPE GREATER THAN 1:20 AND CROSS SLOPE GREATER THAN 1:50.
3. RAMPS SHALL NOT HAVE A RUNNING SLOPE GREATER THAN 1:12 AND A CROSS SLOPE GREATER THAN 1:50.
4. HANDRAILS WILL BE REQUIRED IF RAMP IS LONGER THAN 12 INCHES WITH A MAXIMUM RUNNING SLOPE OF 1:12.

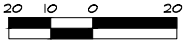
STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-633-1900
TBAE Firm #BR643

THESE DOCUMENTS ARE
FOR INTERIM REVIEW
ONLY AND NOT INTENDED
FOR CONSTRUCTION OR
BIDDING PURPOSES.

Submittal 8-2-2021


NORTH


1" = 20' - 0"

Bar is one inch on original
drawing. If not one inch on this
sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Hardscape Layout
Shady Shores City Hall
City of Shady Shores, Denton County, Texas

PLAN REVIEW REVISIONS	BY	DATE

PROJECT
CSS001

SHEET
HS1