



SHADY SHORES TOWN COUNCIL
WORK SESSION
OCTOBER 14, 2024; 6:00 PM
101 S.SHADY SHORES ROAD
SHADY SHORES, TX 76208

CALL TO ORDER

ROLL CALL

Establish a quorum.

1. Dangerous Structures- Conduct a work session relative to the Dangerous Structures Ordinance.
2. Swimming Pool Ordinance- Conduct a work session relative to the Ordinance regulating swimming pools and spas.
3. Shady Shores Municipal Court Confidentiality Training- Conduct confidentiality training with the Shady Shores Town Council.

ADJOURN

The Town Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberation about Real Property), 551.073 (Deliberation about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.087 (Economic Development).

I, Wendy Withers, Town Administrator of the Town of Shady Shores do hereby certify that the above notice of the Regular Town Council Meeting was posted on the bulletin board at the Community Center, 101 S. Shady Shores Road, Shady Shores, Texas on 7th Day of October 2024, at 8:54 A .M.

Wendy Withers
Wendy Withers, Town Administrator

ARTICLE 3.03 DANGEROUS STRUCTURES

§ 3.03.001. ~~Recitals incorporated and s~~Scope.

~~The reference recitals to Ordinance 324-06-2019 are incorporated herein and are found to be true by the town council. The Building and Standards commission-Commission established herein below in § 3.03.006 shall apply to may hear and determine cases concerning alleged violations of ordinances:~~

- (1) ~~The For 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 matter that creates breeding and living places for insects and rodents;
- (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.~~
- ~~(7) (Ordinance 324-06-2019 adopted 6/10/19)~~

§ 3.03.002. Reference to state law.

This article is adopted pursuant to Texas Local Government Code ~~e~~Chapters 54, ~~subchapter Subchapter C,~~ and ~~chapter Chapter~~ 214, ~~subchapter-Subchapter A,~~ and ~~the t~~The Town adopts by this article the powers authorized by those statutes, and all provisions of this article should be interpreted and followed in compliance with those statutes.

~~(Ordinance 324-06-2019 adopted 6/10/19)~~

§ 3.03.003. Definitions.

~~Commission. The Building and Standards Commission. Should the Town council appoint more than one panel of five members to the Commission, "Commission" should be read to include each individual panel of five members appointed by the Town council to serve as the Building and Standards Commission.~~

~~Dangerous building. See "Dangerous structure."~~

~~Dangerous structure. A structure that:~~

- ~~(1) A structure that is in an unsafe condition that could injure, hurt, or harm~~

Commented [KH1]: Needs to be Section 001

~~individuals or property. The following conditions are evidence of a “dangerous structure”; and one that does not meet “minimum standards” of structures in town. Additional minimum standards are set forth in addendum A, attached to Ordinance 324 06 2019 and a part of this article. A structure having one or more of the conditions listed in subsections (2)(B) through (2)(C)(i) (x) does not meet minimum standards.~~

~~(2)(1) — A structure having such condition(s) is in violation of this article. 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;
- (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 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) Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare, and which has one or more of the following defects making it violative of the minimum standards for the continued use and occupancy of a building regardless of the date of its construction:
 - (i) Contains one or more interior walls or other vertical structural members that list, lean, or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base;
 - (ii) 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;
 - (iii) 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;
 - (iv) Has been damaged by fire, wind, or other causes so as to have become dangerous to persons or property;
 - (v) ~~Has become or is~~ so dilapidated, decayed, unsafe, or unsanitary, or ~~which~~ utterly fails to provide amenities essential to decent living so that the ~~y~~ structure is unfit for human habitation or ~~are~~ likely to cause sickness or disease so as to ~~work~~ cause injury to the health or welfare of those living therein;
 - (vi) Has parts thereof which are attached in a manner that they may fall and injure persons or property;
 - (vii) Has a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to support adequately the structure;
 - (viii) 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;

- (ix) 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
- (x) 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 public health, safety, and welfare or the health, safety, and welfare of occupants~~the minimum standards for buildings or structures.~~

A dangerous structure may include structures on property that has been bid off to the Town under Section 34.01(j), Tax Code.

Municipality and town. Shady Shores, Denton County, Texas.

Occupant. Any individual living or sleeping in a building or structure or having possession of a space within a building or structure.

Person. A human being, whether man, woman, or child.

Structure. That which is built or constructed or a portion thereof.

Town. Shady Shores, Denton County, Texas.

(Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.004. Declaration of nuisance.

All ~~Any dangerous~~ structures that are found to be dangerous structures, after notice and hearing, as provided herein, are ~~is~~ hereby declared to be public a nuisances and shall be secured, repaired, vacated and/or demolished as provided herein.

(Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.005. Designation of official.

The town ~~An~~ attorney for the town, 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~~ Commission. (Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.006. Building and ~~standards~~ Standards commission ~~Commission~~.

(a) A ~~building~~ Building and ~~standards~~ Standards ~~commission~~ Commission ("commission") is hereby established, which shall be constituted by five members appointed by the T town council for terms of two years, coinciding with the term of the mayor. Vacancies shall be filled for an unexpired term. All appointees shall be residents of the Town. The town council may, at their discretion, appoint more than one panel of five members to serve as the Commission.

(b) The Town council may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the Town council must hold a public hearing on the matter if requested by the commission member subject to the removal action.

Commented [KH2]: This is authority under LGC 217 to declare nuisances. Under that same chapter, once we've declared, we may abate, remove, and punish by fine a nuisance.

(c) ~~The town council may appoint up to eight or more alternate members of the Commission who shall serve in the absence of one or more regular members when requested to do so by the Mayor or Town Administrator. who Alternate members serve for the same term as members, are subject to removal in the same manner as the regular members, and All appointees shall be residents of the town. Vacancies shall be filled for an unexpired term.~~

(a)(d) ~~The town council appoints the chairperson of the commission Commission or of each panel of the Commission if the Town council appoints multiple panels, 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.~~

(e) ~~The purpose of the commission is to hear cases under this article. All cases to be heard by the Commission may be heard by any panel of the Commission. A majority of the regular members of the commission Commission, or of a panel of the Commission if the Town council appoints multiple panels, must be present for a hearing.~~

(f) ~~A majority of the entire regular commission Commission members shall adopt as necessary all rules for hearings and other commission matters in accordance with this article. 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 Town or its building officials relating to alleged violations of ordinances.~~

(g) ~~Meetings shall be held at the call of the chairperson and at other times as determined by the Commission. All meetings and hearings conducted by the commission Commission shall be open to the public. The Commission chairperson or in the chairperson's absence each acting chairperson, may administer oaths and compel the attendance of witnesses.~~

(b)(h) ~~and m 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. shall be kept of all such meetings and hearings, recording the vote of each member. Said minutes and records shall be filed immediately in the offices of the town with the Town Secretary as public records. A majority vote of the commission members voting on a matter is necessary to take any action under this article.~~

(e) ~~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.~~

(d) ~~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.~~

(Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.007. Same-Powers and duties.

(a) ~~The building and standards eCommission or a panel of the 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 Commission may:~~

- (1) Order the repair, within a fixed period, of buildings found to be in violation of ~~this article~~ an ordinance;
- (2) Declare a building substandard in accordance with the powers granted by this article or the powers granted by V.T.C.A., Local Government Code Chapter 54, Subchapter C, as amended;
- (3) 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 this article, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
- (4) 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~~ Commission panel; and—
- (4)(5) Determine Pursuant to the authority of V.T.C.A., Local Government Code, Section 54.036(5), determine the amount and duration of the civil penalty the municipality Town may recover pursuant to V.T.C.A., Local Government Code, Section 54.017, not to exceed \$1,000.00 per day, except that a civil penalty under this section may not exceed \$5,000.00 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 stormwater sewer system, owned or controlled by the municipality. An abstract of judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property for such penalties.;
- (5) Except that a civil penalty under this section may not exceed \$5,000.00 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;
- (b) ~~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 Pursuant to V.T.C.A., Local Government Code chapter 212.214, subchapter A, as amended. The town does, by this article, adopt the statutory authority to require the vacation, relocation of occupants, securing, repair, removal, or demolition of a dangerous structure. building that is:~~
 - (1) ~~Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;~~
 - (2) ~~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~~
 - (3) ~~Boarded up, fenced, or otherwise secured in any manner if:~~
 - (A) ~~The building constitutes a danger to the public even though secured from entry; or~~
 - (B) ~~The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (b)(2).~~

Commented [KH3]: Reference to the state statute is necessary because there are standards for assessing a civil penalty included in 54.017 that were absent from our ordinance. I'd prefer the Commission review the state statute requirements before assessing a civil penalty.

(e) To further clarify the actions which may be taken pursuant to the Local Government Code chapters 54 and 214, the commission may take action:

- (1) 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.
- (2) 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.
- (3) To require the demolition of a structure found to be an urban nuisance.
- (4) 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.
- (5) To require a vacant structure or vacant portion of a structure constituting a dangerous condition or nuisance to be securely closed and made safe.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) To require relocation of the occupants of a structure found to be an urban nuisance.
- (10) 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.
- (11) 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.

§ 3.03.008. Notice of Hearing and order.

- (a) 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 this article and the time it will take to reasonably perform the work.
- (b) After the public hearing, if a building is found in violation of standards set out in this article, 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

Commented [KH4]: This language appears in Richardson's Code, Lucas's Code, and Balch Springs's Code. These are all HOME RULE cities who have the authority to extend additional powers to a created board or commission. We are not, and I cannot find where these duties can be granted to a BSC in a Type 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 owner, mortgagee, and lienholder, and registered agent 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 owner, mortgagee, and lienholder a notice containing, before conducting the public hearing, notice of the hearing and their opportunity to comment therein.~~

~~(c) An identification, which is not required to be a legal description, of the building and the property on which it is located;~~

~~(d) A description of the violation of municipal standards that is present at the building; and~~

~~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.~~

~~(b) Notice of all proceedings before the Commission must be given:~~

~~(1) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the records owners of the affected property, to each mortgagee, and to each holder of a recorded lien against the affected property, as shown by the records in the office of the Denton County clerk if the address of the mortgagee or lienholder can be ascertained from the deed of trust establishing the mortgage or lien or other applicable instruments on file in the office of the Denton County clerk; and~~

~~(2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.~~

~~(c) The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the Commission and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the Town on one occasion on or before the 10th day before the date fixed for the hearing.~~

~~(d) Filing of prehearing notice binds subsequent owners. As an alternative to the procedure prescribed by subsection (c) below, 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 shall 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 from a reasonable search of the instruments on file in the office of the Denton County clerk, 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.~~

- (e) Town satisfies the requirement to make a diligent effort, to use its best efforts, to make a reasonable effort, and to exercise due diligence to determine the identity and address of each owner, lienholder, mortgagee, and registered agent if Town searches the following records:
 - (1) County real property records of Denton County;
 - (2) Appraisal district records of the Denton County Appraisal District;
 - (3) Records of the secretary of state;
 - (4) Assumed name records of Denton County;
 - (5) Tax records of the Town; and
 - (6) Utility records of the Town and any utility authority including the Town.
- (f) Notice delivered. When Town mails a notice in accordance with this article 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.

§ 3.03.009. Hearing and Order.

- (a) All proceedings before the Commission shall be conducted in accordance with the rules adopted pursuant to § 3.03.006(f).
- (b) A majority vote of the Commission members voting on a matter is necessary to take any action under this article.
- (c) After the public hearing, if a building is found in violation of standards set out in this article, the commission 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 commission also may order that the occupants be relocated within a reasonable time. After the hearing, Town staff 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 each owner of the building, to each lienholder and mortgagee of the building, and to each registered agent. Town shall include in its mailing to the each owner, lienholder, and mortgagee a notice containing:

- (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 municipal standards that is present at the building;~~
- (3) ~~A statement that Town 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;~~
- (4) ~~A reasonable time 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~~
- (5) ~~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.~~

(b) Within 10 days after the date that the order is issued, ~~the municipality~~ Town shall:

- (1) File a copy of the order in the office of the ~~municipal~~ Town Secretary ~~or clerk, if the municipality has a population of 1.9 million or less;~~ and
- (2) Publish in a newspaper of general circulation in ~~the municipality~~ Town ~~in which the building is located~~ a notice containing:
 - (1) The street address or legal description of the property;
 - (2) The date of the hearing;
 - (3) A brief statement indicating the results of the order; and
 - (4) Instructions stating where a complete copy of the order may be obtained.
- (3) ~~After the public hearing, if a building is found in violation of standards set out in this article, 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. 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.~~

(c) **Hearing and order.** In conducting a hearing authorized under this section, ~~the municipality~~ the commission shall require the owner, lienholder, or mortgagee of the ~~dangerous~~ building to within 30 days:

- (1) Secure the building from unauthorized entry; or
- (2) 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.

(e)(g) If ~~the municipality allows~~ the owner, lienholder, or mortgagee ~~is allowed~~ more than 30 days to repair, remove, or demolish the building, the ~~commission~~ 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.~~

~~(f)~~(h) Order and time for compliance. ~~An municipality may not allow the~~ owner, lienholder, or mortgagee ~~may not be allowed~~ 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:

- (1) Submits a detailed plan and time schedule for the work at the hearing; and
- (2) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

~~(g)~~(i) Assurances of compliance during the extension period. ~~If the municipality allows~~ the owner, lienholder, or mortgagee ~~is allowed~~ 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 shall~~ regularly submit progress reports to the ~~municipality code enforcement officer~~ to demonstrate compliance with the time schedules established for commencement and performance of the work. ~~The code enforcement officer will forward such reports to the commission. The An~~ order may require that the owner, lienholder, or mortgagee appear before the ~~hearing official~~ ~~commission~~ or the ~~hearing official's designee~~ ~~code enforcement officer~~ 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 \$100,000.00 in total value, the ~~municipality commission~~ 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 commission~~ 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 commission~~. 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 commission~~ issues the order.

~~(h)~~(j) Burden of proof. In a public hearing to determine whether a building ~~or structure~~ complies with the standards set out in this article 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 this article and the time it will take to reasonably perform the work.

~~(i)~~(k) 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 Town~~ 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 Town~~ to collect on a bond or other financial guaranty that may be required by subsection ~~(if)~~ above.

~~(j)~~(l) Collection of Expenses and Penalties. If ~~a municipality Town~~ incurs expenses under subsection ~~(mh)~~ or ~~assess assess~~ civil penalties under 3.03.007(a)(5), ~~the municipality Town~~ may assess the expenses ~~or penalties~~ on, and ~~the municipality Town~~ 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 Town~~ for the expenses ~~or pays the penalties~~. 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 ~~Denton county County clerk 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~~ Town, and the balance due.

~~(k)(m)~~ (m) **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.

~~(l)~~ (l) **Civil municipal court.** A hearing under this section may be held by a civil municipal court.

~~(m)~~ (m) **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:

- ~~(1)~~ (1) County real property records of the county in which the building is located;
- ~~(2)~~ (2) Appraisal district records of the appraisal district in which the building is located;
- ~~(3)~~ (3) Records of the secretary of state;
- ~~(4)~~ (4) Assumed name records of the county in which the building is located;
- ~~(5)~~ (5) Tax records of the municipality; and
- ~~(6)~~ (6) Utility records of the municipality.

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.

§ 3.03.010. Minimum Standards.

(a) Pursuant to section 214.0011, Town adopts the following minimum standards for the use and occupancy of buildings in Town regardless of the date of construction of the building. A building or structure within Town must not: 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:

- (1) Contain one or more interior walls or other vertical structural members that list, lean, or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base;
- (2) Exclusive of the foundation, show 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) Have 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) Have been damaged by fire, wind, or other causes so as to have become dangerous to persons or property;
- (5) Be so dilapidated, decayed, unsafe, or unsanitary, or utterly fail to provide amenities essential to decent living so that the structure is unfit for human habitation or likely to cause sickness or disease so as to cause injury to the health or welfare of those living therein;
- (6) Have parts thereof which are attached in a manner that they may fall and injure persons or property;
- (7) Have a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to support adequately the structure;
- (8) Fail to 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) Fail to 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
- (3) ~~(10)~~ Exist 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 public health, safety, and welfare or the health, safety, and welfare of occupants.

§ 3.03.011. Securing Substandard Buildings.

(a) ~~The municipality~~ Town may secure a building ~~the municipality~~ Town determines violates one or more of the minimum standards in Section 3.03.010 and is unoccupied or is occupied only by persons who do not have a right of possession to the building.;

~~Violates the minimum standards; and~~

~~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~~ Town 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 Denton County 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~~Town 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 before the commission about any matter relating to ~~the municipality~~Town's securing of the building.

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

(e) If Town incurs expenses under this section, Town may assess the expenses on, and Town 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 Town 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 Denton County Clerk. 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 Town, and the balance due. 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.

The authority granted by this section is in addition to that granted by section 214.001. (Ordinance 324-06-2019 adopted 6/10/19)

~~(7) § 3.03.009. 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 [section 3.03.008] and a lien is created under this article in the same manner that a lien is created under subsection S. [section 3.03.008] and is subject to the same conditions as a lien created under that section. (Ordinance 324-06-2019 adopted 6/10/19)~~

§ 3.03.010. 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:~~

~~(A) A structure on the property has been demolished;
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~~

~~(B)(A) Ad valorem taxes are delinquent on all or part of the
property. (Ordinance 324-06-2019 adopted 6/10/19)~~

§ 3.03.011. 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.

(Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.012. 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 the 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 article. The procedures for any such judicial review shall be the same as set forth in Texas Local Government Code §54.039.

(Ordinance 324-06-2019 adopted 6/10/19)

§ 3.03.012. Municipal Court proceedings.

Nothing in this article shall affect the ability of Town to proceed under the jurisdiction of the Town Municipal Court.

Commented [KH5]: State law provides us this authority to foreclose. We don't need to also adopt it as an ordinance locally.

Commented [KH6]: This is actually 117.4 of the ICC Existing Building Code. If we have the authority to adopt the existing building code and it's already in it, we don't need it again. But neither 54 nor 214 gives this authority, so I'd rather it not be in this ordinance here.

Commented [KH7]: It is not necessary for our ordinance to advertise the judicial review. It already exists in state law. Judicial review is now 1.5 pages of state law – rather than make this section read as the current state law, we don't need it and should just delete it.

§ Swimming pool. A structure intended for swimming or recreational bathing that contains water over twenty-four inches (24") (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools; hot tubs; portable and nonportable spas; and fixed-in-place wading pools

Swimming pools—portable. A structure intended for swimming or recreational bathing that contains water over twenty-four inches (24") (610 mm) deep and is a temporary structure not permanently attached to water or electrical services. A portable swimming pool is disassembled and stored when not in use.

3.06.001. Penalty.

Any violation of the provisions of this article shall be punishable by a fine not to exceed five hundred dollars (\$500.00), and each day such violation shall continue shall constitute a separate offense.

(Ordinance 76-98, sec. 4, adopted 6/1/98; Ordinance 176-12-2005, sec. 4, adopted 12/5/05)

§ 3.06.002. Abandoned, neglected, inoperable or hazardous pools, hot tubs and spas.

(a) It is the purpose of the following provisions to recognize an outdoor swimming pool as a potentially attractive nuisance and to promote the safety and enjoyment of property rights by establishing rules and regulations governing the location and improvement of swimming pools whether privately, publicly, or commercially owned or operated.

(b)

(1) Swimming pools.

No swimming pool shall be constructed or used until a swimming pool building permit has been issued. No building permit shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and state health department regulations.

(2) Swimming pools - portable.

A swimming pool - portable does not require a swimming pool permit.

Any pool, hot tub, or spa, whether privately, publicly, or commercially owned or operated, permitted or unpermitted, shall not remain in a condition so as to create a public health hazard or a nuisance to the general public. Any time a public or semi-public pool, hot tub or spa contains any amount of water it shall:

- (1) Maintain water clarity so all parts of the pool, hot tub or spa bottom can be easily seen.
- (2) Maintain a fence or barrier that:
 - (A) Is not less than five feet tall;
 - (B) Has no vertical members more than four inches apart;
 - (C) Does not apply [allow] the bottom of the fence or barrier to be more than four

Commented [WW1]: what defines a swimming pool as portable?

Commented [KK2R1]: definition added

Commented [AS3]: These regulations only apply to public swimming pools not private?

Commented [KK4R3]: ?? swimming pools whether privately, publicly, or commercially owned or operated.

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Commented [KK6R3]: Found it! See if that addition fixed it. That was our old ordinance.

inches above ground grade; and

(D) Has no general structure that makes the fence or barrier easily climbable or accessible by toddlers.

(3) Maintain all gates in a manner that they are properly self-closing and self-latching, opening outward away from the pool yard.

(4) Lock and chain all gates if no permit has been issued or if the permit has been suspended.

(5) The gate latch must be at least three inches below the top of the gate with no opening greater than one-half inch in any direction within 18 inches from the latch (including the space between the gate and the gate post).

(Ordinance 76-98, sec. 1, adopted 6/1/98; Ordinance 176-12-2005, sec. 1, adopted 12/5/05)

(6) Operable windows having a sill height of less than 48" above the indoor finished floor and doors shall have an alarm that produces an audible warning when the window, door, or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017.

(7) P-Trap and Gas Line - All pools that have Lake Cities Municipal Utilities sewer provided on the property must have a P-trap. A permanent drain line must be run from the pool pump to the P-trap to allow for the drainage of the pool (Sec. 26-136(j)) All pools that have City sewer provided on the property require a P-trap and a permanent drain line (backwash line). No exceptions are given for special filters (such as cartridge filters). No portion of the P-trap or backwash line may be covered until the inspection has been approved.

(8) All pools shall meet the standards set forth in the Town of Shady Shores Code of Ordinances and the International Swimming Pool and Spa code as adopted by the Town of Shady Shores.

§ 3.06.003. Enclosures.

(a) Every person in possession of land within the corporate limits of the town, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool, hot tub or spa shall at all times maintain upon the lot or premises on which the swimming pool, hot tub or spa is located, and completely surrounding the swimming pool, hot tub or spa, lot or premises, a fence (constructed of approved fencing materials), wall or other solid structure. The fence, wall or solid structure shall comply with the construction requirements of section 3.06.002 and any additional requirements set forth in this section.

(b) A building permit shall be required for the construction of swimming pools, hot tubs or spas within the limits of the town, and plans for each swimming pool, hot tub or spa shall show compliance with the requirements of this section, and final inspection of such swimming pool, hot tub or spa shall be withheld until compliance with the requirements of this section has been obtained.

- (c) The fence or other solid structure required by this section shall be so designed to prevent small children from inadvertently wandering into the pool, and shall not be less than five (5) feet in height, with no openings therein other than doors or gates larger than four inches square, measured in any direction, except that measurement for a picket fence or picket type fence (one composed primarily of vertical members) shall be measured in a horizontal direction between members. All such doors opening directly into such enclosure shall be equipped with self-closing and self-latching devices designed to keep and capable of keeping such door or gates securely closed at all times when not in actual use, such latching device to be attached to the upper quarter of such door or gates; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure required by this section need not be so equipped.

(Ordinance 76-98, sec. 2, adopted 6/1/98; Ordinance 176-12-2005, sec. 2, adopted 12/5/05)

§ 3.06.004. Pool, hot tub and spa location on property.

- (a) The pool is not located in any front or side yard. No pool or equipment shall be located in any floodway, utility easement or any other easement.
- (b) The waters edge of the pool shall be:
 - (1) A minimum of five (5) feet from the property line.
 - (2) A minimum of one (1) foot for each foot of depth of the pool at the waters edge near the foundation of the home. A three foot depth would require not less than the waters edge being three feet away from the home's foundation.
 - (3) An owner with a pool design that does not comply with subsection (2) above shall have the pool designed and certified by a registered professional engineer as to it's compliance with engineering standards and subsection (e), below.
- (c) The decking of the pool may extend to within two feet (2) of the property line, so long as drainage from the pool decking is not allowed to flow across the property line onto the neighboring property.
- (d) The pool and pool equipment shall not be located over any easements.
- (e) Spas and hot tubs shall not be located less than five (5) feet from the property line.
- (f) Other requirements for the construction and location of a residential swimming pool, hot tub or spa shall comply with section 3.02.251 of this code, adopting the International Swimming Pool and Spa Code.
- (g) All lighting of the pool shall be shielded or directed to face away from adjoining residences. If lights are not individually shielded, they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible for adjacent properties;

(Ordinance 357-08-2022 adopted 8/8/22)

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- (c) The fence or other solid structure required by this section shall be so designed to prevent small children from inadvertently wandering into the pool, and shall not be less than five (5) feet in height, with no openings therein other than doors or gates larger than four inches square, measured in any direction, except that measurement for a picket fence or picket type fence (one composed primarily of vertical members) shall be measured in a horizontal direction between members. All such doors opening directly into such enclosure shall be equipped with self-closing and self-latching devices designed to keep and capable of keeping such door or gates securely closed at all times when not in actual use, such latching device to be attached to the upper quarter of such door or gates; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure required by this section need not be so equipped.

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 - (3) An owner with a pool design that does not comply with subsection (2) above shall have the pool designed and certified by a registered professional engineer as to it's compliance with engineering standards and subsection (e), below.
- (c) The decking of the pool may extend to within two feet (2) of the property line, so long as drainage from the pool decking is not allowed to flow across the property line onto the neighboring property.
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- (e) Spas and hot tubs shall not be located less than five (5) feet from the property line.
- (f) Other requirements for the construction and location of a residential swimming pool, hot tub or spa shall comply with section 3.02.251 of this code, adopting the International Swimming Pool and Spa Code.
- (g) All lighting of the pool shall be shielded or directed to face away from adjoining residences. If lights are not individually shielded, they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible for adjacent properties;
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