



**TOWN OF SHADY SHORES  
BUILDING AND STANDARDS COMMISSION  
SPECIAL CALLED SESSION  
DECEMBER 4, 2024; 6:00 PM  
SHADY SHORES COMMUNITY CENTER  
101 S. SHADY SHORES ROAD  
SHADY SHORES, TX 76208**

**AGENDA**

1. CALL TO ORDER
2. OFFICER OATHS
3. ROLL CALL  
    Establish a quorum
4. Pledge of Allegiance to the United States Flag and the Texas Flag
5. Worksession
6. REGULAR AGENDA
  1. Rules of Procedure-
  2. MEETING SCHEDULE for 2025
7. FUTURE AGENDA ITEMS AND STAFF DIRECTION  
    Discuss any new business and provide staff direction
8. 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

**ARTICLE 3.03**  
**DANGEROUS STRUCTURES**

**§ 3.03.001. Scope.**

The building and standards commission established below in § 3.03.006 may hear and determine cases concerning alleged violations of ordinances:

- (1) 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;
- (6) Relating to animal care and control; or
- (7) Relating to water conservation measures, including watering restrictions.  
(Ordinance 393-10-2024 adopted 10/14/2024)

**§ 3.03.002. Reference to state law.**

This article is adopted pursuant to Texas Local Government Code chapter 54, subchapter C and chapter 214, subchapter A. 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 393-10-2024 adopted 10/14/2024)

**§ 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.

- (1) A structure that:
  - (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 nonsupporting 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) Is so dilapidated, decayed, unsafe, or unsanitary, or utterly fails 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;
  - (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.

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

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

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

Town. Shady Shores, Denton County, Texas.  
(Ordinance 393-10-2024 adopted 10/14/2024)

#### **§ 3.03.004. Declaration of nuisance.**

Any dangerous structure is hereby declared to be a nuisance.  
(Ordinance 393-10-2024 adopted 10/14/2024)

#### **§ 3.03.005. Designation of official.**

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.  
(Ordinance 393-10-2024 adopted 10/14/2024)

#### **§ 3.03.006. Building and standards commission.**

- (a) A building and standards 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. 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.
- (c) The town council may appoint 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. Alternate members serve for the same term as members, are subject to removal in the same manner as the regular members and shall be residents of the town. Vacancies shall be filled for an unexpired term.
- (d) The town council appoints the chairperson of the commission or of each panel of the commission if the town council appoints multiple panels.
- (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, 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 members shall adopt rules for hearings and other commission matters. 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 town or its 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 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.
- (h) 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. Said minutes and records shall be filed immediately 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.

(Ordinance 393-10-2024 adopted 10/14/2024)

**§ 3.03.007. Same—powers and duties.**

- (a) The commission or a panel of the commission has the authority authorized by V.T.C.A., Local Government Code chapter 54, subchapter C, as amended. Specifically, the commission may:
  - (1) Order the repair, within a fixed period, of buildings found to be in violation of 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 to enforce and carry out the lawful orders or directives of the commission; and
  - (5) 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 town may recover pursuant to V.T.C.A., Local Government Code, section 54.017. 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.
- (b) Pursuant to V.T.C.A., Local Government Code chapter 214, subchapter A, as amended, the town adopts the statutory authority to require the vacation, relocation of occupants, securing,

repair, removal, or demolition of a dangerous structure.  
(Ordinance 393-10-2024 adopted 10/14/2024)

**§ 3.03.008. Notice of hearing.**

- (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. Town staff shall make a diligent effort to discover each owner, mortgagee, lienholder, and registered agent having an interest in the building or in the property on which the building is located. Town staff 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, before conducting the public hearing, notice of the hearing and their opportunity to comment therein.
- (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 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 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) Town staff. Town staff 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 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.
- (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 the county;
  - (2) Appraisal district records of the county appraisal district;
  - (3) Records of the secretary of state;
  - (4) Assumed name records of the 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.
- (Ordinance 393-10-2024 adopted 10/14/2024)

**§ 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.
- (d) Within 10 days after the date that the order is issued, town shall:

- (1) File a copy of the order in the office of the town secretary; and
  - (2) Publish in a newspaper of general circulation in town a notice containing:
    - (A) The street address or legal description of the property;
    - (B) The date of the hearing;
    - (C) A brief statement indicating the results of the order; and
    - (D) Instructions stating where a complete copy of the order may be obtained.
- (e) Hearing and order. In conducting a hearing authorized under this section, 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.
- (f) If the owner, lienholder, or mortgagee is allowed more than 30 days to repair, remove, or demolish the building, the commission 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.
- (g) Order and time for compliance. An 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.
- (h) Assurances of compliance during the extension period. If 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 owner, lienholder, or mortgagee shall regularly submit progress reports to the 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. An order may require that the owner, lienholder, or mortgagee appear before the commission or the 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 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 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 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 commission issues the order.

- (i) 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.
- (j) 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, 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 town to collect on a bond or other financial guaranty that may be required by subsection (f) above. [sic]
- (k) Collection of expenses and penalties.If town incurs expenses under subsection (g) or assess civil penalties under 3.03.007(a)(5), town may assess the expenses or penalties 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 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 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.
- (l) 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, the lien is a privileged lien subordinate only to tax liens.  
(Ordinance 393-10-2024 adopted 10/14/2024)

### § 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:
  - (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 nonsupporting 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
- (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.

(Ordinance 393-10-2024 adopted 10/14/2024)

**§ 3.03.011. Securing substandard buildings.**

- (a) Town may secure a building 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.
- (b) Before the 11th day after the date the building is secured, 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 the 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 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 town's securing of the building.
- (d) The commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to town's securing of the building if, within 30 days after the date town secures the building, the owner files with the town secretary a written request for the hearing. 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 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.

(Ordinance 393-10-2024 adopted 10/14/2024)

**§ 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.

(Ordinance 393-10-2024 adopted 10/14/2024)



Town of Shady Shores, Texas  
Building and Standards Commission  
Rules for Hearings and Other Commission Matters

[DATE]



## **ARTICLE 1- AUTHORITY**

The Building and Standards Commission ("Commission") shall be constituted, have the powers and duties, and conduct all activities in accordance with Chapters 54 and 212 of the Texas Local Government Code, Chapter 3 of the Code of Ordinances ("Code") of the Town of Shady Shores, Texas ("Town"), and these adopted Rules. Conflicts between these Rules and the Code shall be governed by the Code. Conflicts between these Rules and the Local Government Code shall be governed by the Local Government Code.

References in these Rules to the Commission includes every individual panel of the Commission appointed by the Town Council pursuant to Code Section 3.03.006(a) should the Town Council appoint more than one panel. References in these Rules to the Chair mean the chairperson of the Commission or of a panel of the Commission appointed by the Town Council pursuant to Code Section 3.03.006. References to the Chair incorporate an acting Chair acting in the stead of the appointed Chair.

## **ARTICLE 2 - MEETINGS**

A. Meetings shall be held pursuant to the Code, and all meetings shall be held as posted in the public notice.

B. The Town Secretary's office shall post the agendas for all regular, special, workshop, and committee meetings of the Commission in accordance with the procedure outlined in Government Code Chapter 551 "Open Meetings." (The Texas Attorney General produces an Open Meetings Handbook, the 2024 version of which may be accessed at:

[https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings\\_hb.pdf](https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings_hb.pdf)

for further information.)

C. Special meetings or workshops of the Commission may be called by the Chair. At a workshop, the Commission may not discuss any specific property, nor may the Commission take any action.

D. Each member shall be sent a written notice or an email notice of the meetings which shall include an agenda listing all matters to be heard, discussed, or considered by the Commission. Notices of the meetings shall be sent to each member sufficiently in advance of each meeting to ensure determination of the presence of a quorum of

the Commission's members and to permit study of the agenda by the members of the Commission.

E. Meetings shall be conducted in accordance with the procedure outlined in Government Code Chapter 551 "Open Meetings."

F. A Commission meeting may be cancelled by the Chair if not needed or if a quorum will not be met. All members of the Commission will be notified of the cancellation.

G. 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.

### **ARTICLE 3 - RULES OF ORDER**

A. Quorum/Alternates

1. A quorum at any meeting shall consist of three (3) commission members as required by the Code. If any member of the Commission is absent at the time designated for the commencement of the meeting, the Chair may request that his or her place be filled by an alternate Commission member.
2. Any member of the Commission who feels he or she has a conflict of interest or is disqualified from voting in a particular matter pursuant to Article 10 of these Rules shall provide an affidavit stating the nature of such conflict or disqualification with the attorney for the Town assigned to the Commission. Said attorney shall convey the affidavit to the Town Secretary for filing as a public record. The member shall refrain from all discussion of the matter addressed by the affidavit and may not vote on the matter addressed by the affidavit.
3. In the event that a member of the Commission has filed an affidavit concerning a conflict of interest or disqualification with any issue on the Agenda for a meeting, the Chair may request that the member withdraw from participation in the entire meeting and request that one of the alternate Commission members sit in his or her place for the duration of the

meeting.

B. Voting

1. In the conduct of its affairs in regular and special meetings of the Commission involving official action of the Commission, every member of the Commission shall vote, including the Chair, unless abstaining from voting.
2. Any vote less than a unanimous vote shall be recorded such that the vote of each Commissioner is identified.
3. In the event of an abstention, the name of the abstaining member and the reason for said abstention shall be specified and made part of the minutes.
4. Any action taken by a majority of the commission members voting on a matter shall constitute an official action of the Commission.

C. Decorum

1. Any Commission member or other individual wishing to speak or question witnesses during a meeting must have permission from the Chair.
2. Any Commission member that is not abstaining from discussion and voting, including the Chair, may make a motion or a second. Prior to a vote on the motion, a motion or a second may be withdrawn by the member making it.
3. Any witness wishing to address the Commission must have permission from the Chair. All witnesses shall address the Commission directly and shall not other members of the audience or Town Staff. Any witnesses wishing to speak must do so from the podium. All witnesses must refrain from personal attacks on members of the Commission, Town staff, or other witnesses.
4. Before a Town employee may testify, the employee must provide his or her name, title, and the address of the office in which he or she works. Before any other witness may testify, the witness must provide his or her name, residence address, and interest in the case (e.g. owner, tenant, neighbor, relative, etc.).

5. It is the responsibility of the Chair to ensure that decorum is maintained. If testimony becomes repetitive, the Chair may impose reasonable restrictions (such as a three-minute time limit to wrap up). The Chair may ask a witness to leave after a violation of these Rules or if, in the Chair's judgment, the witness is disruptive or his or her presence interferes with the Commission's ability to conduct its business. If a witness becomes repetitive, discusses items that are off topic, or otherwise engages in excess, the Chair may impose a three-minute time limit for the witness to complete his or her testimony.
6. Any procedural decision of the Chair may be overruled by a majority of the Commission. If a motion is made to overrule a decision of the Chair, and receives a second, the Chair shall immediately call for a vote.
7. The Commission shall not be bound by any strict rules of evidence or procedure other than those set forth in these Rules and the Code. With regard to decorum and procedure, when these Rules or the Code are silent, Robert's Rules of Order shall serve as a guide. However, flexibility is permissible and deviation from Robert's Rules of Order shall not affect the validity of a decision of the Commission.

#### **ARTICLE 4 - ELECTION OF OFFICERS**

- A. At their first regular meeting each fiscal year the Commission shall install new members as appointed by the Town Council and may nominate and elect such officers as the Commission shall determine appropriate and necessary to supplement the appointed position of Chair.
- B. Nomination for elective officers of the Commission may be made by any member or members at the call of the presiding Chair. The election of new officers shall be by acclamation unless an election by ballot is requested by any member. Upon such request, the Chair shall order an election by ballot, appoint a teller to distribute ballots, collect and tabulate them and announce the results of the election. A simple majority of the votes cast will determine the elected officer.

#### **ARTICLE 5 - DUTIES AND RESPONSIBILITIES OF OFFICERS AND STAFF**

A. The Chair:

1. Shall preside over the meetings of the Commission;
2. Shall appoint committees;
3. Shall sign all documents of the Commission;
4. Shall appoint an acting Chair in the event the Chair is unavailable to preside over a meeting of the Commission; and
5. Shall see that all actions of the Commission are properly taken.

B. The Departments of Building, Code, and Fire Services shall function as staff to the Commission.

C. The Code Enforcement Officer or designated representative shall meet and work with the Commission and shall assist in gathering data and see that all necessary documents are transmitted to the Chair or to the proper committee.

D. The Code Enforcement Officer or designee shall serve as secretary to the Commission and see that the minutes are properly recorded, maintained, and conveyed to the Town Secretary. The Code Enforcement Officer or designee shall see that any conflict of interest affidavits are properly received, recorded, and conveyed to the assigned attorney and the Town Secretary.

E. If the Chair is not present and no acting Chair has been appointed, staff will request that the member of the Commissioner or the panel who has served longest act as Chair.

## **ARTICLE 6 – NOTICE OF PROCEEDINGS**

A. Notice of all proceedings before the Commission panels must be given pursuant to Chapter 3 of the Code, as amended.

## **ARTICLE 7 - SUBMISSION OF DOCUMENTS AND PREHEARING PROCEDURES**

A. If an Interested Party (to include a property's owner, lienholder, or mortgagee, or a registered agent) desires to submit evidence, including estimates, photographs, or other documentation to the Commission, they must provide ten (10) physical copies of such evidence to the Code Enforcement Officer or designee within the deadlines set forth below. Alternatively, they may provide the evidence in digital form 1) by email to the Code Enforcement Officer or designee if the documentation is less than

20 MB in size, or 2) in a publicly accessible file sharing link emailed to the Code Enforcement Officer or designee if the evidence is 20 MB or larger in size. All evidence to be submitted to the Commission must be provided to the Code Enforcement Officer or designee as follows:

- 1) For an initial hearing, or a subsequent hearing that is less than fifty (50) calendar days from the preceding hearing, evidence must be provided at least three (3) business days before the hearing.
- 2) For a subsequent hearing that is at least fifty (50) calendar days after the preceding hearing, evidence must be provided at least seven (7) business days before the hearing.
- 3) For any hearing, if the deadline to submit evidence falls on a day when Town Hall is closed, the deadline shall be the next day that it is open.

B. The Commission shall refuse to consider any evidence offered by an Interested Party in violation of these Rules unless it passes a motion to suspend these Rules and accept the evidence. The Commission may but is not required to reset the hearing and order the Interested Party to comply with these rules. A motion to suspend these Rules and allow the consideration of evidence offered in violation of these Rules requires a vote of four (4) Commissioner members to pass.

C. The Chair may issue subpoenas to compel the attendance of witnesses at hearings conducted under these Rules. Applications for subpoenas shall be submitted to the Code Enforcement Officer or designee not less than 1 calendar week prior to the scheduled hearing date.

D. The Code Enforcement Officer shall distribute copies of all submitted evidence to the members of the Commission (or to the members of the specific panel hearing the case) and to the attorney for the Town assigned to the Commission within twenty-four (24) hours of receipt.

## **ARTICLE 8 – HEARING PROCEDURES**

A. The Chair will call a case by street address and any known property owner, identify all Interested Parties and witnesses who will testify for either side, and swear in the Interested Parties and witnesses.

B. The attorney for the Town assigned to the Commission or designee will be given 5 minutes to present the Town's cases. The Interested Parties for the property will then be given a cumulative 5 minutes to present their case. The Chair may extend

these time limits if necessary in order to provide the Town or any Interested Party with a fair opportunity to present a case.

C. In addition to its presentation time, the Town, through its attorney, and any Interested Party will be allowed 3 minutes for cross-examination and shall be given the opportunity to cross-examine all witnesses who appear to testify for the opposing side. Commission members may ask questions of each witness after the Town, through its attorney, and the Interested Parties have concluded their questioning of the witness. The Chair may extend this time limit, if necessary, in order to provide the Town or any Interested Party with a fair opportunity to present a case.

D. After both parties have concluded their case presentations, the Chair will call on any other persons present who wish to provide relevant, non-cumulative, eyewitness testimony. All such persons shall be sworn in as witnesses prior to addressing to the Commission any comments about the property that is the subject of the hearing. Both parties may cross-examine all such persons, and Commission members may ask questions of all such persons.

E. The Chair may excuse any witness or other person providing testimony or wishing to provide testimony whenever it appears that the person's testimony is irrelevant, immaterial or cumulative of matters already discussed.

F. The Chair will give Any Interested Party three (3) minutes in conclusion to summarize his or her case.

G. The Chair may permit the attorney for the Town to present rebuttal after the conclusion of the evidence offered by the Interested Parties.

H. The Chair will close the evidence and Commission members will reach a decision in the case. Before its final vote the Commission may in its discretion consult the parties about any objections they may have to the final form of the order to be voted upon.

I. *Ex Parte Communications:* Evidence and argument pertaining to cases scheduled for hearings before the Commission shall be submitted only through the Code Enforcement Official or designee, or to the Commission at a public meeting of the Commission.

J. *Testimony by Parties:* An appearing property owner, lienholder, mortgagee, or registered agent shall not be required to be sworn in as a witness if he or she does not seek to testify, identify documents, or otherwise present factual information to the Commission. If during a hearing it becomes evident that a party to the hearing who was not sworn in as a witness is seeking to offer factual testimony, identify documents, or otherwise provide evidence in any way other than through the

testimony of another witness present at the hearing, the Chair shall immediately stop the party and give him/her the choice of being sworn in as a witness or ceasing to offer the evidence or testimony. The Commission shall disregard unsworn statements by any party.

K. *Testimony by Witness*: No person shall attempt to present evidence or any information whatsoever to the Commission about a property that is the subject of a hearing unless that person has been sworn in by the Chair, has come forward to the witness area designated by the Chair, and has been recognized to speak by the Chair. The Commission shall disregard unsworn statements by any person.

L. *Evidence—General*: Evidence may be admitted in a hearing conducted under these Rules so long as it is:

1. Considered admissible evidence pursuant to the Texas Rules of Evidence or

2. Necessary to ascertain facts not reasonably susceptible of proof under the Texas Rules of Evidence, not precluded by statute; and of a type on which a reasonably prudent person commonly relies on the conduct of the person's affairs.

M. *Evidence Required in Certain Cases*: This rule applies to a property owner who desires to repair a structure that has been scheduled for a demolition or would exceed a repair timeframe of 90 days. The property owner shall submit the following documents to the Code Official prior to the hearing or the Commission at the hearing:

1. An engineer's or architect's sealed drawings OR a contractor's estimate of required work to be accomplished; and

2. A formal breakdown of costs, including supplies and labor; and

3. A letter from a financial institution approving the required funds or other proof of funding source; and

4. An established time frame by which all work will be accomplished.

The Commission may in its discretion accept alternative forms of evidence.

N. *Continuances*: After conducting a hearing, the Commission may defer taking final action whenever it concludes that additional evidence is needed or alternative solutions need further study. When deferring action after a hearing, the Commission shall clearly state the date on which the hearing will be resumed, and the issues and evidence that will be considered.

## **ARTICLE 9 - ORDERS**

A. All final decisions of the Commission shall be issued in the form of an Order signed by the Chair, and shall be based on findings of fact made by the Commission based on evidence and testimony introduced at a hearing. With the approval of this rule, the Commission requires each of its orders to include the provisions described in this rule, when applicable.

B. *Required Fact Findings:* Before requiring the repair or vacation of a dangerous structure, the Commission shall find the following, along with any required supporting facts:

1. That notice of the date, time and place of the hearing was provided by certified mail, posting and publication, on or before the 10th day before the hearing date, as required by these Rules and state law.

2. That the person to whom the Commission's order will be addressed is the owner of the property that is the subject of the hearing.

3. That the property that is the subject of the hearing is dangerous and a public nuisance because of the existence of specific stated conditions that violate Chapter 3 of the Code of Ordinances of the Town of Shady Shores, Texas.

C. Before imposing a civil penalty, the Commission shall also find the following in addition to the requirements in Paragraph B, above, along with any required supporting facts:

1. That the person upon whom the Commission will impose a civil penalty received actual notice of ordinance requirements relative to the property that is the subject of the hearing.

2. That after receiving actual notice of the ordinance requirements, the person upon whom the Commission will impose a civil penalty committed acts in violation of the ordinance and/or failed to take action necessary for compliance with the ordinance.

3. That the civil penalty in question will not exceed \$1,000 a day for a violation of an ordinance, except that such civil penalty will 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 Town.

D. *Time Granted to Complete Work Ordered by Commission:* The Commission

shall not allow a property owner, lienholder, or mortgagee more than 30 days to complete work required by an order of the Commission unless the property owner, lienholder, or mortgagee establishes at the hearing that the required work cannot reasonably be performed within 30 days. If the Commission allows the property owner, lienholder, or mortgagee more than 30 days to complete required work, the Commission 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. In that event that the Commission grants the property owner, lienholder, or mortgagee more than 90 days to complete the required work, the Commission shall not grant such extension unless the property owner, lienholder, or mortgagee submits, at the hearing, a detailed plan and time schedule for the work and establishes at the hearing that the work cannot reasonably be completed with 90 days because of the scope and complexity of the work. If the Commission allows the property owner, lienholder, or mortgagee more than 90 days to complete required work, the Commission shall require the property owner, lienholder, or mortgagee to submit regular progress reports to demonstrate compliance with time schedules established by the Commission. The Commission may require the property owner, lienholder, or mortgagee to appear before Code Enforcement Official or designee to demonstrate compliance with time schedules established by the Commission.

E. *Required Actions for All Commission Orders:* When applicable, the following provisions are required in each Commission Order:

1. Permits

a. Prior to conducting work required by a Commission Order, the property owner, lienholder, mortgagee, or representative must obtain any permit required by City Code.

b. After work that is subject to a permit is complete, the property owner, lienholder, mortgagee, or representative must pass all required inspections.

2. Demolition

a. When the Commission authorizes the Town to demolish a structure or structures, all portions of the structure, including items in and around the structure, are debris and should be disposed as such.

b. The Commission authorizes the Town to recover expenses incurred to demolish the structure(s) and to dispose of the debris.

c. The Commission authorizes the Town to assess its expenses against the property and, unless the property is exempt under the Texas Constitution, file a lien

for all expenses incurred in the deed records of the appropriate county.

### 3. General

a. All work required by a Commission Order must meet or exceed the requirements of all applicable codes.

b. When an order is filed in the deed records, the execution of the Order is not affected by transfer of the property. A person acquiring an interest in the property after an Order has been filed is subject to the Order.

c. Prior to an inspection by the code official, any work required by the Commission's Order must pass all permit-related inspections.

d. A property owner or the owner's representative must schedule an inspection with the code official to determine that the property complies with the Commission's Order.

e. The Commission authorizes a peace officer of the state to enforce and carry out the lawful orders or directives of the Commission.

## **ARTICLE 10 – CONDUCT OF COMMISSION MEMBERS**

A. *Compulsory Disqualification from Voting When Interested:* A member shall disqualify himself or herself from voting whenever he or she has a personal or monetary interest in the property that is the subject of hearing, whenever he or she will be directly affected by the decision of the Commission, or if he or she is otherwise disqualified by state law or city ordinance.

B. *Compulsory Disqualification from Voting After Inappropriate Investigation:* Members shall not investigate any case scheduled for a hearing before the Commission, except for a routine visit to view the site without comment or discussion by any person. A member shall be disqualified from voting in any case in which he or she violates this rule or intentionally receives material information regarding the case prior to the scheduled hearing.

C. *Elective Disqualification from Voting:* Any member may disqualify himself or herself from voting when any party to a hearing has sought to influence the vote of that member, other than through evidence, testimony or argument presented at the hearing. A member who inadvertently receives information regarding a case prior to the scheduled hearing may participate in the consideration of the case, provided that he or she publicly discloses such information and its source prior to the start of the hearing.

D. *Recommendation for Removal:* The Commission may recommend to the Town Council removal of any its members for cause, including repeated failure or refusal to comply with these Rules or other applicable law.

**ARTICLE 11 - CHANGES IN RULES**

These Rules may be amended at any regular or special meeting, when properly posted, by a majority vote of the Commission members voting on the Rules. All previously adopted rules and regulations of the Commission shall be and the same are hereby expressly repealed

**ARTICLE 12 - FILING OF GUIDELINES**

These Rules and any subsequent amendments thereto, upon approval, shall become part of the public record of the Commission meetings at which they are adopted.

Adopted on this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Building and Standards Commission Chair