

LEGAL NOTICE

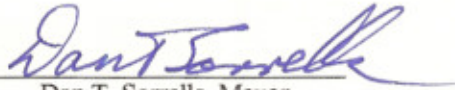
On September 6, 2000 the Board of Aldermen of The City of Uhlend, Texas adopted Ordinance No. 42 providing a penalty and with the following caption:

AN ORDINANCE CONTROLLING AND PROHIBITING THE ACCUMULATION OF TRASH, PROVIDING A PROCEDURE FOR THE CONDEMNATION OF UNSAFE OR UNSIGHTLY STRUCTURES, AND PROHIBITING THE STORAGE OF INOPERABLE MOTOR VEHICLES ON PROPERTY WITHIN THE CITY LIMITS OF ULHAND, TEXAS FIXING A PENALTY FOR THE VIOLATION OF ANY PROVISION OF THIS ORDINANCE.

This publication is made to satisfy legal requirements and notice.

Date: September 7, 2000

City of Uhlend, Texas


Dan T. Sorrells, Mayor

ORDINANCE NO. 42

AN ORDINANCE CONTROLLING AND PROHIBITING THE ACCUMULATION OF TRASH, PROVIDING A PROCEDURE FOR THE CONDEMNATION OF UNSAFE OR UNSIGHTLY STRUCTURES, AND PROHIBITING THE STORAGE OF INOPERABLE MOTOR VEHICLES ON PROPERTY WITHIN THE CITY LIMITS OF UHLAND, TEXAS FIXING A PENALTY FOR THE VIOLATION OF ANY PROVISION OF THIS ORDINANCE.

After investigations, public hearings, discussions and deliberations the Board of Aldermen of the City of Uhlend, Texas, FINDS:

1. That the accumulation and storing of trash on property is a danger to the safety, health, and public welfare of citizens, and
2. That unsafe or unsightly structures are a danger to the safety, health, and public welfare of citizens, and tend to lower property values; and
3. That parking or storing inoperable motor vehicles on property is a danger to the safety, health, and public welfare of citizens.

NOW THEREFORE:

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UHLAND, TEXAS:

ARTICLE 1. UNSAFE BUILDING ABATEMENT

Sec. 1.0. Definitions.

In this article:

Building includes all or any part of a building or structure.

Mayor means the mayor or the mayor's official designated representative.

Sec. 1.1. Scope.

This article applies equally to all buildings, regardless of the date of their construction.

Sec. 1.2. Purpose.

This article is remedial in purpose and shall be construed to secure the prevention and abatement of hazards incident to the construction, alteration, repair, removal, use and maintenance of buildings.

Sec. 1.3. Prohibited acts.

(a) It is unlawful for the owner of a building to maintain the building in a manner that allows the building to become or remain an unsafe building.

(b) It is unlawful for any person to remove any form of unsafe building notice attached to a building by the mayor.

Sec. 1.4. Unsafe building.

If a building fails to meet the following minimum standards for continued use and occupancy, it is considered an "unsafe building," and whenever the term is used in this article, it means:

- (1) The building is dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare, more specifically defined as follows:
 - a. The foundation or the vertical or horizontal supporting members are damaged or deteriorated to the extent that the building may collapse from its own weight or from the effects of wind, rain or other natural forces;
 - b. The exterior roof, walls or flooring is damaged, dilapidated or decayed to the extent that the elements and vermin are not sealed out from the building's occupants or contents;
 - c. The means of egress are manifestly unsafe or unusable;
 - d. Any part of the building is so attached that, from its own weight or from the effects of wind, rain or other natural forces, it may fall and injure occupants of the building, other persons or other property;
 - e. The condition of the electrical, gas, mechanical or plumbing system serving the building poses a manifest hazard to the building's occupants, other persons or other property; or
 - f. The building has been damaged by fire, wind, water, vandalism or other causes to the extent that it poses a hazard to the occupants of the building, other persons or other property;
- (2) Regardless of its structural condition, if the building is unoccupied by its owner, lessee 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) If the building is boarded up, fenced or otherwise secured in any manner but:
 - 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 (2) of this section.

Sec. 1.5. Inspection and initial notice.

(a) The mayor shall respond to all complaints that a building is in violation of this article by inspecting the building.

(b) After initially determining that a building is unsafe, the mayor shall issue an initial notice of unsafe building to the owner of the building. The city will use its best efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through the records of county clerks and other sources available to the city.

(c) An initial notice of unsafe building will contain the following information:

- (1) The street address of the building;
- (2) A description of the conditions that make the building an unsafe building;
- (3) A request that the building be vacated within ten days if it is occupied and cannot be repaired within that time;
- (4) A request that the owner obtain a permit within ten days for the repair or demolition of the building; and
- (5) A statement that the owner may request a public hearing on whether the building is unsafe by submitting a written request to the mayor within ten days.

(d) The initial notice will be given to the owner in one of the following ways:

- (1) By personally serving the owner with a copy; or
- (2) By certified mail, return receipt requested, addressed to the owner at the owner's post office address.
- (3) If personal service cannot be obtained and the owner's post office address is unknown:
 - a. By publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county in which the building is located; or
 - b. By posting the notice on or near the front door of the building.

Sec. 1.6. Public hearing--Notice.

(a) If the owner of a building fails to comply with a request in an initial notice to vacate or obtain a permit for a building under this article, the mayor may schedule a public hearing on the building or pursue other enforcement action regarding the building. If the owner of a building responds to an initial notice by requesting a public hearing, the mayor shall schedule a public hearing on the building.

(b) Notice of a public hearing shall be given to the owner of the building and to each mortgagee and lienholder having an interest in the building or in the property on which the building is located, in a manner described in subsection 1.5(d).

(c) The notice will contain the following:

- (1) The street address of the building;
- (2) A description of the conditions that make the building an unsafe building;
- (3) A statement that issues at the hearing shall be whether the building is an unsafe building and, if so, whether the building should be vacated, secured, repaired or demolished and, if so, within what time periods these activities should be completed;
- (4) A statement that if the building is not vacated, secured, repaired or demolished in accordance with an order entered after the hearing, the city may vacate, secure, repair or demolish the building and assess a lien for expenses incurred; and
- (5) A statement that the owner, lienholder or mortgagee shall 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.

(d) The city may file notice of the hearing in the official public records of real property in the county in which the property is located. The filing of the notice is binding on subsequent grantees, lienholders or other transferees of interest in the property, who acquire the interest after the filing of the notice, and constitutes notice of the hearing. The notice must contain the following:

- (1) 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 county clerk's office;
- (2) A legal description of the affected property; and
- (3) A description of the hearing.

Sec. 1.7. Same--Orders.

- (a) Public hearings under this article shall be held before a municipal court judge.
- (b) The issues at a hearing shall be limited to those described in subsection 1.6(c)(3). The mayor, the owner and any mortgagee or lienholder of the building and other interested persons may address these issues at the hearing.
- (c) Disputed fact issues shall be determined by a preponderance of the evidence.
- (d) If a building is found to be an unsafe building, the judge shall order that the building be vacated, secured, repaired or demolished.
- (e) The judge shall require the owner, lienholder or mortgagee of the 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 judge allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the judge 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) The judge may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 - (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) If the judge allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the judge shall require the owner, lienholder or mortgagee to regularly submit progress reports to the city to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the municipal court judge or the judge's designee.
- (i) A copy of the order will be given to the owner, lienholder or mortgagee of record of the property in a manner described in subsection 1.51(d).

- (j) Within ten days after the date the order is issued, the city will:
- (1) File a copy of the order in the city secretary's office; and
 - (2) Publish in a newspaper of general circulation in the city 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.

Sec. 1.8. Failure to comply with order; lien.

- (a) If any part of an order issued under section 1.7 is not complied with by the owner or by any mortgagee or lienholder, the mayor may cause the ordered remedial action to be taken.
- (b) Any repairs caused by the mayor shall be limited to the removal or correction of hazardous conditions and the securing of the building against unauthorized entry.
- (c) the mayor shall certify the amount of the city's expenses of remedial action to the City Secretary for billing to the owner.
- (d) The City Secretary may assess the expenses as a lien against the property on which the building is or was located, on a form approved by the city attorney. The lien is a privileged lien, subordinate only to tax liens.

Sec. 1.9. Guidelines for remedial action.

- (a) The criteria within this section are guidelines for the municipal court judge to use in determining the remedial action to be ordered for the unsafe building.
- (b) If the condition of a building poses a manifest hazard to the occupants of the building, it shall be vacated.
- (c) If the cost of repairing an unsafe building to meet all applicable standards equals or exceeds the value of the building, the building shall be demolished.
- (d) If the cost of repairing an unsafe building to meet all applicable standards is less than the value of the building, the building shall be repaired or demolished.

(e) If an unsafe building is to be repaired and is vacant, it shall be secured against unauthorized entry.

ARTICLE 2. PLACING SOLID WASTE OUTSIDE BUILDING

Sec. 1.10. Placing solid waste outside buildings.

It is unlawful for an owner or occupant of premises to:

- (1) Cause or permit any garbage or rubbish generated on the premises to be placed or to remain outside of a building on the premises unless it is inside a securely closed bag, bin or container;
- (2) Cause or permit any solid waste to be placed or to remain outside of a building on the premises in a manner that is likely to:
 - a. Create a harborage or breeding place for mosquitoes, flies or vermin; or
 - b. Allow the waste to be scattered or carried away by the elements;
- (3) Cause or permit a dead animal to be placed or to remain outside of a building on the premises unless it is contained in a bag or unless the owner or occupant has made arrangements to have the animal removed from the premises within 24 hours;
- (4) Cause or permit hazardous, infectious or toxic waste to remain outside of a building on the premise unless it is properly contained and arrangements have been made for lawful collection and disposal of the waste at the expenses of the owner or occupant.

ARTICLE 3. IN GENERAL

Sec. 1.11. Enforcement.

The mayor or the mayor's designated representative is authorized to issue municipal court citations to enforce this chapter. Violation of this section is punishable of up to \$200.00 for each day the violation continues.

ARTICLE 4. MAINTENANCE OF LOTS

Sec. 1.12. Definitions.

In this division:

Brush means all trees and shrubs under seven feet in height that are not cultivated and maintained.

Mayor means the mayor or the mayor's designated representative.

Lot means a tract of real property.

Rubbish means garbage, trash or other discarded personal property.

Stagnant water means water which stands upon a lot in a manner and for a period of time likely to create a breeding place for mosquitoes.

Weeds means grass and uncultivated vegetation, other than trees and shrubs, that exceeds 12 inches in height or that is a breeding place or harborage for mosquitoes or vermin.

Sec. 1.13. Prohibited conditions designated.

It is unlawful for an owner or occupant of a lot to cause or permit weeds, rubbish, brush or stagnant water to accumulate or remain on the lot.

Sec. 1.14. Notice to correct prohibited conditions.

(a) Except as provided in subsection (d), the mayor will provide notice to owners of lots found in violation of section 1.13 that they must correct the prohibited conditions within ten days of this notice.

(b) The mayor will give the notice:

- (1) Personally to the owner in writing;
- (2) By certified mail letter addressed to the owner at the owner's post office address; or
- (3) If personal service cannot be obtained and the owner's post office address is unknown, by:
 - a. Publication at least twice within ten consecutive days in a newspaper of general circulation in the city;
 - b. Posting the notice on or near the front door of each building on the lot to which the violation relates; or
 - c. Posting the notice on a placard attached to a stake driven into the ground on the lot to which the violation relates, if the lot contains no buildings.

(c) A notice sent to an owner under subsection (b)(2) of this section may contain a statement that if the owner commits another violation of section 1.13 that poses a danger to the

public health or safety on or before the first anniversary date of the notice, the city may correct the violation and assess the expenses against the lot without further notice to the owner.

(d) If weeds on a lot have grown higher Than 48 inches and are an immediate threat to the health, life or safety of any person, the city may correct the condition of the lot under section 1.16 without advance notice to the owner. The mayor will give the owner notice of the correction within ten days, together with notice of the owner's right to an administrative hearing under section 1.17 if requested in writing within 30 days of the correction.

Sec. 1.15. Correction of prohibited conditions by city; lien.

(a) If the owner of a lot does not comply with a notice under section 1.14, the city may:

- (1) Do the work and make the improvements required to correct the condition of the lot; and
- (2) Charge the expenses to the owner of the lot.

(b) The City Secretary will execute a statement of the costs of abatement, including an administrative fee established by the city council, and file the statement as alien with the county clerk of the county in which the lot is located. The statement must include the name of the owner, if known, and the legal description of the lot.

Sec. 1.16. Abatement hearing.

If a lot owner requests a hearing under section 1.14(d), the municipal court judge will conduct a hearing within 20 days of the request. If the judge finds from a preponderance of the evidence that weeds on the lot were higher than 48 inches and were an immediate threat to the health, life or safety of any person, the city may charge the expenses to the owner and file a lien under section 1.15. If the judge does not make this finding, the city will bear the expenses.

ARTICLE 5. JUNKED VEHICLES

Sec. 1.17. Definitions.

In this division:

Antique auto means a passenger car or truck that is at least 35 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Junked vehicle means a vehicle that is self-propelled, inoperable and:

- (1) Does not have lawfully affixed to it either an unexpired license plate or valid motor vehicle safety inspection certificate;
- (2) Is wrecked, dismantled, partially dismantled or discarded; or
- (3) Has remained inoperable for more than 45 consecutive days.

Motor vehicle means a motor vehicle that is subject to registration under the state Certificate of Title Act.

Nuisance vehicle is a vehicle that is a public nuisance under section 1.20.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic significance, is being preserved by a hobbyist.

Storage facility means a garage, parking lot or any type of facility or establishment for the servicing, repairing, storing or parking of motor vehicles.

Sec. 1.18. Enforcement.

Persons authorized under this division to administer the procedures set forth in this division may enter public or private property for the purposes specified in this division to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle and remove or cause the removal of a nuisance vehicle or vehicle part.

Sec. 1.19. Penalties.

(a) Any person who maintains, allows, causes or permits a nuisance vehicle on public or private property commits a misdemeanor and upon conviction shall be subject to a fine not to exceed \$200.00. Each day a violation continues constitutes a separate offense.

(b) Upon conviction, the court may order the removal and abatement of the nuisance vehicle.

Sec. 1.20. Junked vehicles declared public nuisance.

A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards and constitutes an attractive nuisance creating a hazard to the health and safety of minors and is detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city and is a public nuisance.

Sec. 1.21. Junked vehicles prohibited on public property.

(a) It is unlawful for a person to cause or permit a junked vehicle or part of a junked vehicle to be placed or to remain on any public property or public right-of-way.

(b) A vehicle that remains in violation of this section for a period of more than 48 hours constitutes an abandoned motor vehicle and may be dealt with under processes defined by state law for removal of abandoned motor vehicles.

Sec. 1.22. Nuisance vehicles prohibited on private property.

(a) It is unlawful for a person that owns or controls any real property to maintain, allow, cause or permit a nuisance vehicle to be placed or to remain on the property.

(b) It is unlawful for a person to maintain, allow, cause or permit a nuisance vehicle to be placed or to remain on real property without the permission of the owner of the property.

Sec. 1.23. Defenses to prosecution.

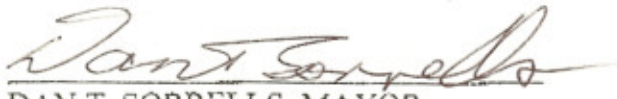
(a) The following are defenses to prosecution under section 1.22:

- (1) The vehicle or vehicle part is completely enclosed within a building and is not visible from the street or other private or public property;
- (2) The vehicle or vehicle part is stored or parked on private property in connection with the business of a licensed vehicle dealer or junkyard;
- (3) The vehicle is an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery or other appropriate means;
- (4) The vehicle is completely covered by a heavy duty, contour-fitting cover so that no part of the vehicle except the tires is exposed to public view and it is the only one on the property; or
- (5) The vehicle is in an appropriate storage facility maintained by the city or approved by the city.

(b) This section does not allow a person to leave a junked vehicle on private property without the permission of the owner of the property.

PASSED AND APPROVED SEPTEMBER 5, 2000.

ATTEST



DAN T. SORRELLS, MAYOR


KATHY LAWRENCE, CITY SECRETARY

