

ORDINANCE NO. 06142007-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALVORD, TEXAS REGULATING CERTAIN SANITARY CONDITIONS WITHIN THE CITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR NOTICE; PROVIDING FOR HEARING; PROVIDING FOR REMOVAL OR ABATEMENT OF UNSANITARY CONDITIONS; PROVIDING A PENALTY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR NOTICE OF THIS ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Alvord, Texas adopted Ordinance No. 6-5-89 regarding certain unsanitary conditions and providing for the abatement thereof; and

WHEREAS, the City Council hereby adopts new provisions related to unsanitary conditions pursuant to Chapter 342 of the Texas Health and Safety Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVORD, TEXAS:

SECTION 1. The recitals contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2. Unlawful Conditions. The following conditions are considered to be unlawful and may not exist in the City of Alvord, Texas:

- (i) It is unlawful for any person who owns or occupies any lot in the City to permit or allow holes or places on said lots where water may accumulate and become stagnant or to be in any other condition that may produce disease, or to permit the same to remain.
- (ii) It is unlawful for any person who owns or occupies any lot in the City to permit or allow the accumulation of stagnant water thereon, or to permit the same to remain.
- (iii) It is unlawful for any person who owns or occupies any house, building, establishment, lot or yard in the City to permit or allow any carrion, filth or other impure or unwholesome matter to accumulate or remain thereon
- (iv) It is unlawful for any person who owns or occupies any lot in the City to allow rubbish, brush or any other unsightly, objectionable or unsanitary matter to accumulate on said lot.

(v) It is unlawful for any person owning, occupying or controlling any premises within the city to permit any weeds or grass to grow to a height greater than twelve inches (12") upon the premises. Any premises upon which weeds or grass are permitted to grow to a height greater than twelve inches (12") shall be deemed a nuisance or a fire hazard and as dangerous to public health. For the purpose of this section, the term "premises" means the lot, plot or parcel of land, plus the front or side parkway between the property line or sidewalk and the curb or traveled way, and the rear or side parkway between the property line and the alley.

SECTION 3. Notice. Upon the discovery of any of the unlawful conditions stated in Section 2, by any person, owning, claiming, occupying or having supervision or control of any real property or premises upon which any condition exists thereon in violation of this ordinance, as amended, the City Council, City Administrator or designee may notify such person of failure to comply and direct any person, owning, claiming, occupying or having supervision or control of any real property or premises for the correction, remedy, or remove of such condition within seven days after such notice is received. Such notice shall be sent to the owner by hand delivery or to the owner's address as recorded in the Wise County Appraisal District Records. If personal service cannot be obtained, notice may be given by publication at least once in a newspaper of general circulation within the City, by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting notice on a placard attached to a stake driven into the ground to which the violation relates. Notice can also be given by certified mail through the United States Postal Service and if 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 as delivered."

SECTION 4. Abatement. Should any owner of such lot that has places thereon where stagnant water may accumulate or which are not properly drained, or the owner of any premises or building upon which carrion, filth or other impure or unwholesome matter may be, fail and/or refuse to drain or fill the lot, or remove such filth, carrion or other impure or unwholesome matter, as the case may be, within seven days after notice to said owner to do so, in writing, or by letter addressed to such owner at his post office address or within seven days after notice by publication as many as two times within ten consecutive days in any newspaper of the City, if personal service may not be had as aforesaid, or the owner's address is not known, then the City may do such filling or draining or removal of filth, carrion, etc., or any other unsightly, objectionable, or unsanitary matter, or cause the same to be done and may pay therefore and charge the expenses incurred in doing such work or having such work done or improvements made, to the owner of such lot or real estate, and if such work is done or improvements made at the expense of the City, such expense shall be assessed on the real estate or lots upon which such expense was incurred.

SECTION 5. Abatement by City Forces. If any person notified of a violation of this ordinance fails or refuses to comply with the requirements of the City's City Council, City Administrator, or designee, as specified in such notice within seven days after notification in accordance with this ordinance, the City may enter upon the property and perform such work or make such improvements as are necessary to abate the nuisance, or cause the same to be done, and charge the expenses incurred in doing such work or having such work done or improvement made to the owner of such property. All expenses incurred by the City in performing such work, including any legal and administrative expenses, shall be charged to the owner of the property.

SECTION 6. Statement of Expenses. The Mayor, or his designee, shall file a statement of such expenses incurred under pursuant to this ordinance in the Official Records for Wise County, Texas, giving the amount of such expenses, including related administrative and legal costs, and the date on which said work was done or improvements made. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk. This statement of expenses shall establish a privileged lien for the City on such lots or real estate upon which said work was done or improvements made to secure the expenditures so made, which lien shall be second only to tax liens and liens for street improvements; and the amount shall bear ten percent interest from the date the statement is filed until the lien is released by the City for payment in full. It is further provided that for any such expenditures, and interest, as aforesaid, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the City. The statement of expenses as filed, or a certified copy thereof, shall be prima facie proof of the amount expended by the City for such work or improvements. The City Council may choose to foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

SECTION 7. Misdemeanor. Any person, firm, corporation, partnership, association of persons, owner, agent, occupant, or anyone having supervision or control over any lot, tract, parcel of land, or portion thereof, in violation of any condition declared unlawful by this ordinance and failing to abate or remove the unlawful condition within the time period provided by the City Administrator or his designee shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed five hundred dollars (\$500.00) and each and every day's violation thereof shall constitute a separate and distinct offense.

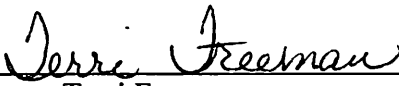
SECTION 8. Severability. It is hereby declared that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9. Repealing Conflicting Ordinances. All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith. The City Council hereby finds that Ordinance No. 6-5-89 is in conflict herewith and expressly repeal said ordinances.

SECTION 10. Publication. The City Council hereby directs the City Secretary to publish the caption of this ordinance in compliance with the requirements of the Texas Local Government Code.


SECTION 11. Effective Date. This ordinance shall take effect immediately from and after its adoption and it is accordingly so ordained.

Signed this 9th day of July, 2009.



Mayor, Terri Freeman

ATTEST:



City Secretary, Sammy Edwards