

ORDINANCE NO. 2001-16

AN ORDINANCE OF THE TOWN OF TALTY, TEXAS, REGULATING OFFENSIVE CONDITIONS ON REAL PROPERTY INCLUDING STAGNANT WATER, HIGH GRASS AND WEEDS, RUBBISH, BRUSH, AND OTHER OBJECTIONABLE OR UNSIGHTLY MATTER, AND ACCUMULATIONS OF GARBAGE, TRASH AND DEBRIS; PROVIDING FOR ABATEMENT AND REMOVAL BY THE TOWN; PROVIDING FOR THE CHARGING OF EXPENSES TO THE OWNER OF THE PROPERTY; PROVIDING FOR NOTICE; PROVIDING FOR ASSESSMENT OF EXPENSES AS A LIEN ON REAL ESTATE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Talty, Texas, finds that the conditions and effects of urban blight and the detrimental conditions of property within the Town may depress surrounding property values, invite vandalism and crime, and pose a significant threat to the public health, safety, and welfare; and,

WHEREAS, the Town Council of the Town of Talty, Texas, finds that it is in the best interests of the citizens of the Town of Talty and the public health, safety and welfare that nuisances be enumerated and that procedures for abatement and enforcement be established; NOW, THEREFORE,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TALTY, TEXAS:

SECTION 1. That there is hereby adopted regulations relating to the abatement of offensive conditions and public nuisances on real property situated within the Town of Talty, said regulations to read in their entirety as follows:

“OFFENSIVE CONDITIONS ON REAL PROPERTY

Section 1.00 *Definitions*

As used in this ordinance, the following terms shall have the respective meanings ascribed to them in this section:

Town means the Town of Talty, Texas.

Occupant means a person who resides, holds possession of, or occupies property in the Town.

Owner as used herein shall mean, in addition to the legal owner of such property, any person, firm, association or corporation in charge of, having control of or having the right of control of any property within the Town, including tenants, lessees and occupants, except where specifically stated otherwise. The term “owner” shall also include any mortgage company or other mortgagee who, by foreclosure or other operation of law has acquired any legal or equitable right in and to property.

Property shall mean any lot, parcel or tract of land within the corporate limits of the Town of Talty and includes the non-buildable portions of such lots, parcels or tracts encumbered by easements or public rights-of-way.

Section 1.02 *Unlawful Conditions On Property*

The owner or occupant of any property within the corporate limits of the Town, whether the same be occupied or unoccupied, shall keep such property free of any of the following conditions which

hereby constitute nuisances and offensive conditions:

- a) stagnant water;
- b) accumulations of trash, garbage, or debris including solid waste consisting of dirt, concrete, rocks, bricks, or other similar construction or building waste materials;
- c) filth, carrion, or other impure or unwholesome matter;
- d) grass, weeds and vegetation growing to a height of more than twelve (12) inches, excepting regularly cultivated crops not growing within a public right-of-way;
- e) rubbish, brush, and other objectionable, unsightly, or unsanitary matter; or
- f) any other condition found by the Town's building inspector, code enforcement officer, health officer, the county health officer, state health officer, or other authorized person to be unsanitary or unwholesome or a condition that may produce disease.

Section 1.03 *Inspections; Notice; Violation Of Chapter*

- a) When any duly authorized officer of the Town discovers property in the Town which is being maintained in violation of any of the provisions of this ordinance, he shall issue and serve a notice of such as follows:
 - 1. delivered personally to the owner or occupant in writing;
 - 2. by letter addressed to the owner or occupant at the owner's or occupant's post office address, last known address, or property address where the violation exists; or

3. if personal service cannot be obtained or the owner's or occupant's post office address is unknown:

- i) by publication in the Town's official newspaper at least twice within ten consecutive days;
- ii) by posting the notice on or near the front door of each building on the property to which the violation relates; or
- iii) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no building.

b) If the owner or occupant of the property does not comply with the notice and this ordinance within seven (7) days of notice of the violation given as stated above, the Town may, on written request, with good cause demonstrated, grant up to 21 additional days for correction of the violation, or may:

1. issue a citation charging such owner or occupant with a violation of this ordinance;
2. do the work or make the improvements required; and
3. pay for the work done or improvements made and charge the expenses to the owner of the property.

c) The Town may assess expenses incurred under this section against the real estate on which the work is done or improvements made in accordance with the provisions of Section 1.04 below.

d) The notice of violation described in the preceding subsection a) of this section may inform the owner or occupant by certified mail, return receipt requested, that if the owner or occupant commits another violation of the same kind or nature that poses a danger to the

public health and safety on or before the first anniversary date of the notice, the Town may, without further notice, correct the violation at the owner's or occupant's expense and assess the expense against the property. If such violation occurs within the one-year period set forth in the notice and the owner or occupant has failed to notify the Town of a change in ownership, then the Town may without further notice proceed with enforcement, correction and assessment as provided for herein.

Section 1.04 *Assessment Of Expenses; Lien*

- a) To obtain a lien against the property, the mayor or his designee, including any other designated Town official, must file a statement of expenses with the County Clerk of Kaufman County. The statement of expenses must identify the name of the owner, if known, and the legal description of the property.
- b) The lien obtained by the Town is security for the expenditures made and interest accruing at the rate of ten (10%) percent per annum on the amount due from the date of payment by the Town for the work done or improvements made.
- c) The lien is inferior only to tax liens and liens for street improvements.
- d) The Town may authorize a suit for foreclosure in the name of the Town of Talty to recover the expenditures and interest due.
- e) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the Town in doing the work or making the improvements.
- f) The remedy provided in this section is in addition to any fine which may be imposed for a violation of this ordinance and is cumulative of and in addition to any other remedies which may be provided for by the Ordinances of the Town of Talty or other law, whether civil or criminal.

Section 1.05 *Penalties*

Notwithstanding any other provision of the ordinances of the Town of Talty or of this ordinance, any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the Town of Talty, Texas, shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, except however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law. Each and every day said violation is continued shall constitute a separate offense. The remedies provided for herein shall not be exclusive but shall be cumulative of and in addition to each other and of any other remedies which may be provided for by law, whether civil or criminal.”

SECTION 2. That all ordinances of the Town of Talty in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance, and the remaining provisions and ordinances of the Town shall remain in full force and effect.

SECTION 3. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the ordinances of the Town of Talty, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That if any section, paragraph, sentence, clause, phrase, or provision of this ordinance shall be adjudged or held to be invalid, illegal, or unconstitutional, the same shall not affect the validity of this ordinance or the ordinances as a whole or any part or provision thereof, other than the part so decided to be invalid, illegal, or unconstitutional, and the provisions hereof are declared to be severable.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

DULY PASSED by the Town Council of the Town of Talty, Texas, this the _____ day of _____, 2001.

APPROVED:

MAYOR

ATTEST:

TOWN SECRETARY

APPROVED AS TO FORM:

TOWN ATTORNEY

(40922)

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THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SAVINGS
CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN
EFFECTIVE DATE.**

DULY PASSED by the Town Council of the Town of Talty, Texas, on the _____ day of _____, 2001.

APPROVED:

MAYOR

ATTEST:

TOWN SECRETARY