

Code Enforcement of Nuisances

Slater C. Elza
Underwood, Wilson, Berry, Stein & Johnson, P.C.

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Dangerous Buildings



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- A municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that is:
 - dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
 - 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; or

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- Must be boarded up, fenced, or otherwise secured in any manner if:
 - the building constitutes a danger to the public even though secured from entry; or
 - the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

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- The ordinance must:
 - establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;
 - provide for giving proper notice to the owner of a building; and
 - provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.

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- 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 proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

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- After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time.
- If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder. The municipality shall personally deliver or send by certified mail, return receipt requested, to each identified mortgagee and lienholder a notice containing:

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- an identification, which is not required to be a legal description, of the building and the property on which it is located;
- a description of the violation of municipal standards that is present at the building; and
- a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

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- Within 10 days after the date that the order is issued, the municipality shall:
 - File a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and
 - Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
 - The street address or legal description of the property;
 - The date of the hearing;
 - A brief statement indicating the results of the order; and
 - Instructions stating where a complete copy of the order may be obtained.

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- After the hearing, the municipality shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner and any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

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- In conducting a hearing authorized under this section, the municipality shall require the owner, lienholder, or mortgagee of the building to within 30 days:
 - Secure the building from unauthorized entry; or
 - 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.
- If the municipality allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the municipality shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

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- A municipality may not allow 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:
 - Submits a detailed plan and time schedule for the work at the hearing; and
 - Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

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Dangerous Buildings

- If the municipality allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work the municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality to demonstrate compliance 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 hearing official or the hearing official's designee to demonstrate compliance with the time schedules.

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- If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the municipality may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection.
- In lieu of a bond, the municipality may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the municipality issues the order.

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- In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted 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 the ordinance and the time it will take to reasonably perform the work.

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- If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

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Dangerous Buildings

- If a municipality incurs expenses, the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located.
- The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality 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 in the county in which the property is located.

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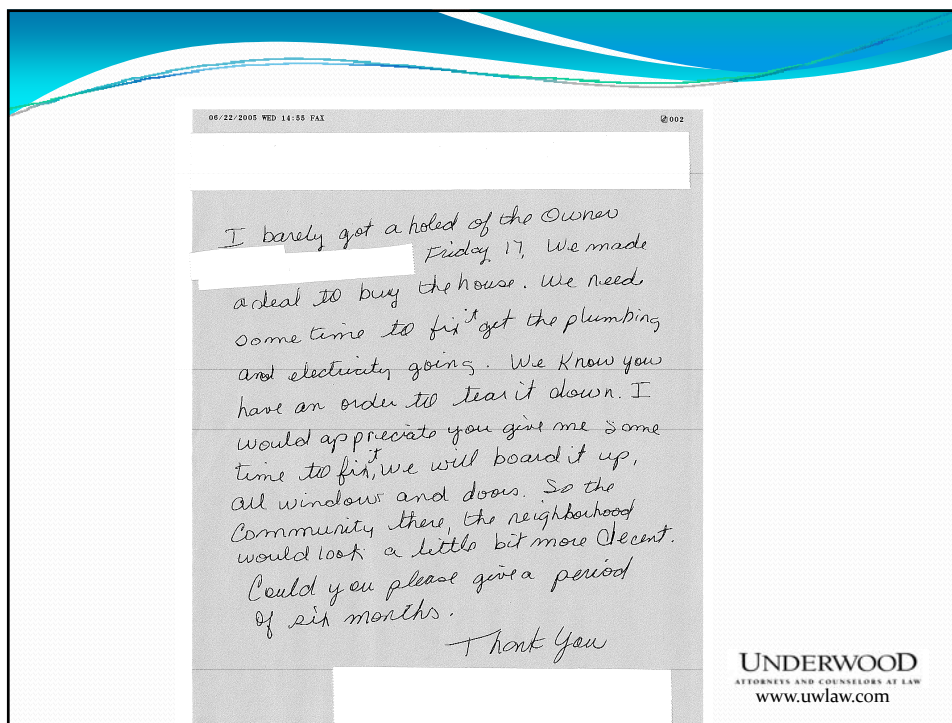
- If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder, the lien is a privileged lien subordinate only to tax liens.
- A hearing under this section may be held by a civil municipal court.

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- A municipality satisfies the requirements of this section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the municipality searches the following records:
 - County real property records of the county in which the building is located;
 - Appraisal district records of the appraisal district in which the building is located;
 - Records of the Secretary of State;
 - Assumed name records of the county in which the building is located;
 - Tax records of the municipality; and
 - Utility records of the municipality.

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- When a municipality mails a notice in accordance with this section to a property owner, lienholder, or mortgagee 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.

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§ 214.0011 ADDITIONAL AUTHORITY TO
SECURE SUBSTANDARD BUILDINGS

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- A municipality by ordinance may establish minimum standards for the use and occupancy of the buildings in the municipality regardless of the date of their construction.
- The municipality may secure a building the municipality determines:
 - Violates the minimum standards; and
 - Is unoccupied or is occupied only by persons who do not have a right of possession to the building.

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- Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:
 - Personally serving the owner with written notice;
 - Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
 - Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
 - 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.

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

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§ 214.0012 JUDICIAL REVIEW

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- Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a municipality issued under Section 214.001 may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered or mailed to them by first class mail, certified, return receipt requested, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.
- Costs may not be allowed against the municipality.

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DEMOLITION AGREEMENT

THE STATE OF TEXAS §
COUNTY OF POTTER §

WHEREAS, the undersigned, OWNER, is the owner of the following described property situated in Potter County, Texas, 80-012:

Legally described as metes and bounds; and

WHEREAS, there are situated upon the above described property certain improvements which have become in disrepair, are unsafe, are unfit for human habitation or business activity, are not repairable, and are beyond hope of renovation to habitable condition; and

WHEREAS, the undersigned has requested the City of Amarillo, Texas, and is agreeable to the City of Amarillo, Texas, coming upon the above described property and fully and completely destroying and demolishing all improvements situated thereon and removing the debris resulting from such demolition from the property; and

WHEREAS, the undersigned agrees that the demolition and removal of the existing improvements situated upon said property will not lessen the value of the property but should enhance the aesthetic appearance and value of the property;

NOW, THEREFORE, for and in consideration of the premises hereinabove recited and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, OWNER, does hereby fully agree to, consent to and authorize the City of Amarillo, Texas, its agents, employees, and personnel to come upon the above described property for the purpose of demolishing and removing all existing improvements situated upon the property and to remove the debris created thereby from said property.

The undersigned does hereby indemnify and hold the City of Amarillo, Texas, free and harmless of and from any and all claims, demands, expenses, costs, liabilities, and causes of action of any kind whatsoever arising out of the demolition of said improvements situated upon said property.

The undersigned further consents to the City of Amarillo, placing a lien upon the property to secure payment for the materials and services necessary to accomplish the actions set forth herein.

WITNESS my hand this _____ day of December, 2007.

OWNER

STATE OF TEXAS §
COUNTY OF POTTER §

This instrument was acknowledged before me on the _____ day of December, 2007, by OWNER.

Notary Public, State Of Texas

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Junked Vehicles

§ 683.072 JUNKED VEHICLES DECLARED TO BE PUBLIC NUISANCE

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Junked Vehicles

- A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:
 - Is detrimental to the safety and welfare of the public;
 - Tends to reduce the value of private property;
 - Invites vandalism;
 - Creates a fire hazard;
 - Is an attractive nuisance creating a hazard to the health and safety of minors;
 - Produces urban blight adverse to the maintenance and continuing development of municipalities; and
 - Is a public nuisance.

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“Junked Vehicle”

including a part
of a junked
vehicle!?



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Junked Vehicles

§ 683.074 AUTHORITY TO ABATE NUISANCE;
PROCEDURES

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Junked Vehicles

- A municipality may adopt procedures that conform to this subchapter for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.
- The procedures must:
 - Prohibit a vehicle from being reconstructed or made operable after removal;
 - Require a public hearing before removal of the public nuisance; and
 - Require that notice identifying the vehicle or part of the vehicle be given to the department not later than the fifth day after the date of removal.

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Junked Vehicles

- An appropriate court of the municipality or county may issue necessary orders to enforce the procedures.
- Procedures for abatement and removal of a public nuisance must be administered by regularly salaried, full-time employees of the municipality or county, except that any authorized person may remove the nuisance;
- A person authorized to administer the procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

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Junked Vehicles

- The procedures may provide that the relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

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Junked Vehicles

§ 683.075 NOTICE

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Junked Vehicles

- The procedures for the abatement and removal of a public nuisance under this subchapter must provide not less than 10 days notice of the nature of the nuisance. The notice must be personally delivered or sent by certified mail with a five-day return requested to:
 - The last known registered owner of the nuisance;
 - Each lienholder of record of the nuisance; and
 - The owner or occupant of:
 - The property on which the nuisance is located; or
 - If the nuisance is located on a public right-of-way, the property adjacent to the right-of way.

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Junked Vehicles

- The notice must state that:
 - The nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and
 - Any request for a hearing must be made before that 10-day period expires.
- If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

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Junked Vehicles

§ 683.076 HEARING

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Junked Vehicles

- If a hearing is requested by an authorized person, the hearing shall be held not earlier than the 11th day after the date of the service of notice.

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Junked Vehicles

- At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

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Junked Vehicles

§ 683.077 INAPPLICABILITY OF
SUBCHAPTER

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Junked Vehicles

- Procedures may not apply to a vehicle or vehicle part:
 - That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

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Junked Vehicles

- That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage, if any, are:
 - Maintained in an orderly manner;
 - Not a health hazard; and
 - Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

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“Antique Vehicle”

means a passenger car or truck that is at least 25 years old.



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Junked Vehicles

- “Motor Vehicle Collector” means a person who:
 - Owns one or more antique or special interest vehicles; and
 - Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

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“Special Interest Vehicle”

means a motor vehicle of any age that has not been changed from original manufacturer’s specifications and, because of its historic interest, is being preserved by a hobbyist.



**1941 CADILLAC SERIES 62
Convertible**

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Junked Vehicles

§ 683.078 JUNKED VEHICLE DISPOSAL

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- A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyards, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

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Junked Vehicles

TRANSFER OF JUNKED VEHICLE TO A DEMOLISHER

This form may be used only by a city, town or county to transfer a junked vehicle abated and removed from public or private property as a public nuisance pursuant to the provisions of a procedure adopted by each city, town or county in accordance with the provisions of §663.074 of the Texas Transportation Code. Notice of the abatement of this vehicle has been submitted to the Texas Department of Motor Vehicles on Form VTR 11-4.

Description of Vehicle Make Year Model Body Style

License Affixed to Vehicle Number Year State

Vehicle Identification Number
(Motor number required on 1955 and prior model vehicle - serial number required on all 1956 and later models and all Ford products 1932 and later year models.)

THIS IS TO CERTIFY THAT the above described vehicle is hereby transferred for processing as scrap or salvage to:

Name of Demolisher

Street Address City State

Name of City, Town or County

Street Address City State

Date Printed Name Authorized Signature Title

WARNING: In accordance with the provisions of §663.074 of the Texas Transportation Code, the vehicle described herein shall not be reconstructed or made operable - it shall be processed as scrap or salvage only.

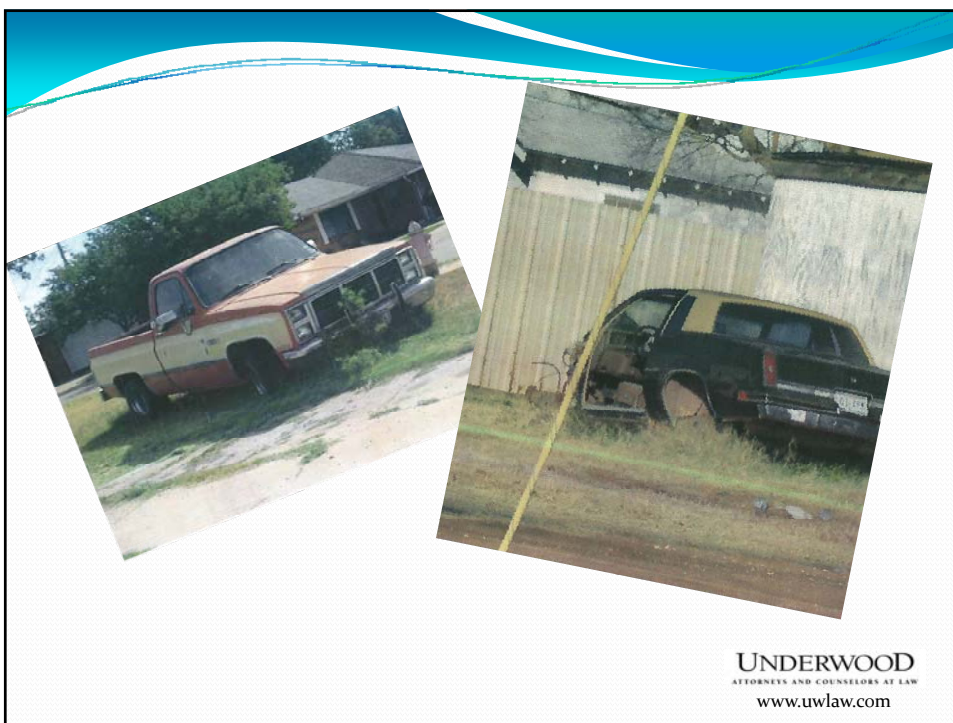
This form must be filed on the demolisher's inventory sheet and surrendered to the Texas Department of Motor Vehicles in lieu of the Certificate of Title under the provisions of the Occupations Code, Chapter 2002.

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Abandoned Vehicles

§ 683.002 ABANDONED MOTOR VEHICLE

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Abandoned Vehicles

- For the purposes of this chapter, a motor vehicle is abandoned if the motor vehicle:
 - Is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
 - Has remained illegally on public property for more than 48 hours;
 - Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
 - Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;
 - Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or
 - Is considered an abandoned motor vehicle under Section 644.153(r).

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Abandoned Vehicles

§ 683.011 AUTHORITY TO TAKE ABANDONED MOTOR VEHICLE INTO CUSTODY

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Abandoned Vehicles

- A law enforcement agency may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property.
- A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, water craft, or outboard motor taken into custody by the agency under this subchapter.

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Abandoned Vehicles

§ 683.012 TAKING ABANDONED MOTOR
VEHICLE INTO CUSTODY: NOTICE

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Abandoned Vehicles

- A law enforcement agency shall send notice of abandonment to:
 - The last known registered owner of each motor vehicle, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and
 - Each lienholder recorded under Chapter 501 for the motor vehicle or under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.

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Abandoned Vehicles

- The notice must:
 - Be sent by certified mail not later than the 10th day after the date the agency:
 - Takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or
 - Receives the report under Section 683.031;
 - Specify the year, make, model, and identification number of the item;
 - Give the location of the facility where the item is being held;
 - Inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment; and

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- State that failure of the owner or lienholder to claim the item during the period specified is:
 - A waiver by that person of all right, title, and interest in the time; and
 - Consent to the sale of the item at a public auction;
- Notice by publication in one newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this section if:
 - The identity of the last registered owner cannot be determined;
 - The registration has no address for the owner; or
 - The determination with reasonable certainty of the identify and address of all lienholders is impossible.

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Abandoned Vehicles

- Notice by publication:
 - Must be published in the same period that is required by Subsection (b) for the notice by certified mail and contain all of the information required by that subsection; and
 - May contain a list of more than one abandoned motor vehicle, watercraft, or outboard motor.

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§ 683.013 STORAGE FEES

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A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

- for not more than 10 days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- Beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.

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§ 683.014 AUCTION OR USE OF ABANDONED ITEMS

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- If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under Section 683.012:
 - The owner or lienholder:
 - Waives all rights and interests in the item; and
 - Consents to the sale of the item by public auction or the transfer of the item, if a watercraft.
 - The law enforcement agency may sell the item at a public auction, transfer the item, or use the item as provided by Section 683.016.

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- The purchaser of a motor vehicle, watercraft, or outboard motor:
 - Takes title free and clear of all liens and claims of ownership;
 - Shall receive a sales receipt from the law enforcement agency; and
 - Is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title.

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Abandoned Vehicles

§ 683.016 LAW ENFORCEMENT AGENCY USE
OF CERTAIN ABANDONED MOTOR
VEHICLES

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Abandoned Vehicles

- The law enforcement agency that takes an abandoned motor vehicle into custody that is not claimed under Section 683.012 may use the vehicle for agency purposes.
- The law enforcement agency shall auction the vehicle as provided by this subchapter if the agency discontinues use of the vehicle.
- This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.

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Weeds and Rubbish

§ 342.003 MUNICIPAL POWER CONCERNING
FILTH, CARRION AND OTHER
UNWHOLESOME MATTER

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Weeds and Rubbish

- The governing body of a municipality may regulate the cleaning of a building, establishment, or ground from filth, carrion, or other impure or unwholesome matter.

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Weeds and Rubbish

§ 342.004 MUNICIPAL POWER CONCERNING
WEEDS OR OTHER UNSANITARY MATTER

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Weeds and Rubbish

- The governing body of a municipality may require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly or unsanitary matter.

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**Rubbish,
Objectionable,
Unsightly OR
Unsanitary
Matter!?!**



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Weeds and Rubbish

§ 342.006 WORK OR IMPROVEMENTS BY MUNICIPALITY; NOTICE

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Weeds and Rubbish

- If the owner of property in the municipality does not comply with a municipal ordinance or requirement under this chapter within 7 days of notice of a violation, the municipality may:
 - Do the work or make the improvements required; and
 - Pay for the work done or improvements made and charge the expenses to the owner of the property.

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Weeds and Rubbish

- The notice must be given:
 - Personally to the owner in writing;
 - By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - If personal service cannot be obtained:
 - By publication at least once;
 - By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

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- If the Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered as delivered.

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Weeds and Rubbish

- In a notice provided under this section, a municipality may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner 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 of the date of the notice, the municipality without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted by Subsections (a)(1) and (2) and assess its expenses as provided by Section 342.007.

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Weeds and Rubbish

§ 342.007 ASSESSMENT OF EXPENSES; LIEN

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Weeds and Rubbish

- The governing body of a municipality may assess expenses against the real estate on which the work is done or improvements made.
- To obtain a lien against the property, the mayor, municipal health authority, or municipal official designated by the mayor must file a statement of expenses with the county clerk of the county in which the municipality is located. 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.

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- The lien obtained by the municipality's governing body is security for the expenditures made and interest accruing at the rate of 10% on the amount due from the date of payment by the municipality.
- The lien is inferior only to:
 - Tax liens; and
 - Liens for street improvements.
- The governing body of a municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

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Weeds and Rubbish

§ 342.008 ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS

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Weeds and Rubbish

- A municipality may abate, without notice, weeds that:
 - Have grown higher than 48 inches; and
 - Are an immediate danger to the health, life, or safety of any person.
- Not later than the 10th day after the date the municipality abates weeds under this section, the municipality shall give notice to the property owner.

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Weeds and Rubbish

- The notice shall contain:
 - An identification, which is not required to be a legal description, of the property;
 - A description of the violations of the ordinance that occurred on the property;
 - A statement that the municipality abated the weeds; and
 - An explanation of the property owner's right to require an administrative hearing about the municipality's abatement of the weeds.

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- The municipality shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the municipality a written request for a hearing.
- An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of the weeds.

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Slater C. Elza

Underwood, Wilson, Berry, Stein & Johnson, P.C.

P.O. Box 9158

Amarillo, Texas 79105-9158

(806) 379-0347

Slater.Elza@uwlaw.com

UNDERWOOD
ATTORNEYS AND COUNSELORS AT LAW
www.uwlaw.com