

ORDINANCE NO. 94-09

AN ORDINANCE OF THE VILLAGE OF JAMAICA BEACH, TEXAS DECLARING SUBSTANDARD STRUCTURES A PUBLIC NUISANCE; ESTABLISHING PROCEDURES FOR DECLARING SUBSTANDARD STRUCTURES; ESTABLISHING STANDARDS; ESTABLISHING PROCEDURE FOR FAILURE TO OBEY ORDER OF THE GOVERNING BODY; ESTABLISHING PENALTIES; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, the Village of Jamaica Beach, Texas, is a general law municipality with a substantial number of waterfront properties requiring bulkheads; and

WHEREAS, many bulkheads are in disrepair causing endangerment to life and property; and

WHEREAS, the seventy-third legislature recently passed S. B. No. 631 giving authority to the Village of Jamaica Beach, Texas, to regulate such bulkheads and other substandard structures. NOW, THEREFORE

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF JAMAICA BEACH, TEXAS:

SECTION I: SUBSTANDARD STRUCTURES CONSTITUTED AND DEFINED

A. The following structures shall be deemed to be substandard and subject to this Ordinance:

All fences, sheds, awnings, bulkheads or other shoreline protection or other structures, or parts of a structure which are so structurally deteriorated that they are in danger of collapse and endanger persons or property, or so constructed as to endanger persons or property. Previously bulkheaded properties where the bulkhead has been removed by deterioration or design are specifically included.

B. Definitions:

1. Bulkheads or other shoreline protection as used herein shall mean an upright partition, gabion, or a retaining wall located at the edge of a body of water.
2. Owner as used herein shall mean the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located.
3. Governing body as used herein shall mean the Board of Aldermen of the Village of Jamaica Beach, Texas.

4. Shed as used herein shall mean a small structure for shelter or storage.
5. Awning as used herein shall mean a structure, as of canvas, extended before a window, door, etc. as a protection from the sun or rain.

SECTION II: DECLARING SUBSTANDARD STRUCTURES A PUBLIC NUISANCE

All substandard structures within the terms of this ordinance shall constitute a menace to the health, safety or general welfare of its occupants or of the public and are declared to be public nuisances and shall be ordered repaired or removed as hereinafter provided.

SECTION III: PROCEDURES FOR DECLARING SUBSTANDARD STRUCTURES

A. When it shall come to the notice of the Building Official that a structure is substandard under the terms of this Ordinance, the Building Official may cite the owner of the structure to appear before the governing body and show cause why he/she should not be ordered to repair or remove such structure. The date of the hearing shall not be less than ten (10) days after such citation shall have been made.

B. Such citation may be served by United States Certified Mail or by delivery of a copy thereof to the owner or if the owner cannot be located after diligent search, by attaching a copy of such citation in a place of prominence on such structure.

C. On the day set in such citation for hearing, hearing shall be had and on the basis of such hearing the governing body shall determine whether or not such structure is a substandard structure; and if it is determined that such is a substandard structure, then, in that event the governing body shall issue such orders as shall appear reasonably necessary to prevent the said structure from being a hazard to life or property and eliminate the structure's substandard qualities.

SECTION IV: STANDARDS TO BE FOLLOWED

The following standards may be followed in substance by the governing body in ordering repair or removal:

A. If the structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this ordinance, it shall be ordered repaired.

B. In all cases where a structure cannot be repaired so that its existence will no longer be in violation of this ordinance

it shall be removed and, if its removal causes a hazard to life or property, it shall be ordered replaced.

SECTION V: PROCEDURES FOR FAILURE TO OBEY ORDER OF THE GOVERNING BODY

Should the orders of the governing body not be followed or carried out within the time limitations stated in the order, the governing body may do whatever it deems necessary to make repairs or otherwise remove or remedy the condition, or cause the same to be done, and charge the expenses incurred thereby to the owner of such property or premises and such expenses shall be assessed against the real estate upon which the work was done. The doing of such work and the charging and assessing of the expenses thereof against the owner shall not relieve the owner or occupant of any such premises from prosecution for violation of this ordinance.

The Mayor shall file a statement of expenses incurred in repairing, removing or otherwise remedying the condition as previously set forth in the order of the governing body, giving the amount of such expense and the date on which the work was done or the improvements made, with the County Clerk of Galveston County, Texas, and the Village shall have a privilege lien on such lot or real estate upon which the work was done or the improvements made to secure the expenditures so made, which lien shall be second only to the tax liens and liens for street improvements. The amount of such expenses shall bear interest at 1 1/2 times the prime rate from the date such statement is filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be made in the name of the Village, and the statement of expenses so made, or certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

Neither the Village of Jamaica Beach nor any authorized agent acting under the terms of this Ordinance shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this Ordinance.

Notice of such assessment shall be made to the owner by United States Certified Mail or if, after diligent search, the owner cannot be located, by single publication of such notice in a newspaper of general circulation in Galveston County, Texas.


SECTION VI: PENALTIES

Any person who fails to comply with an order issued by the governing body shall be deemed guilty of a misdemeanor and, shall be subject to a fine of not less than \$100.00 per day not to exceed \$500.00 per day, and each and every days' violation shall constitute a separate and distinct offense.

SECTION VII: SEVERABILITY

If any section, sub-section, paragraph, sentence, clause, phrase or word in this ordinance or application thereof to any person or circumstances is held invalid, such holding shall not affect the validity of the remaining portions of the ordinance and the governing body hereby declares it would have passed such remaining portions of the Ordinance despite such validity.

PASSED AND APPROVED ON this the 17 day of October, 1994.



Kenneth Dennis, Mayor
Village of Jamaica Beach, Texas

ATTEST:

T. D. White