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## Ordinance 2013-1 Health and Sanitation

Chapter:

5.04 Maintenance of Real Property

5.08 Solid Waste Collection

### CHAPTER 5.04 MAINTENANCE OF REAL PROPERTY

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5.04.01 Unsightly or unsanitary conditions on property. It shall be unlawful for the owner, occupant, or person in charge of a property within the city of Lockesburg, Arkansas, whether vacant or not, to use said property for the open storage of any inoperable or abandoned vehicle, ice box, refrigerator, stove, or other appliances, glass, building material, building rubbish, and similar items, or to allow the accumulation of weeds, grass, dead trees, brush, trash, garbage, tires, standing water, and similar items that create a nuisance and blight on the community. Vehicles being restored as antique vehicles must be properly registered with the state and weeds and grass are not allowed to grow up around the vehicle being restored.

5.04.02 Definitions For the purpose of this ordinance, certain terms are defined as follows:

**Abandoned vehicle** Any vehicle which:

- A. Is in a wrecked, dismantled, discarded, or otherwise inoperable condition; or,
- B. Does not have affixed thereto an unexpired license plate and has been parked, stored, or left, whether attended or not, upon any public or private property in the city of a period of time in excess of thirty days .
- C. This term includes any boat or other recreational vehicle that is in a wrecked, dismantled, partially dismantled, discarded or otherwise inoperable condition. This term does not include any vehicle that is:

1. Enclosed within a building on private property; or

2. Held in connection with a business enterprise on property zoned for a junkyard, repair facility, or vehicle storage yard; or
3. Inoperable condition specifically adapted or designed for operation off road, or
4. Retained primarily as an antique collector's item and registered under state law an antique vehicle.

**Enforcing official** Any employee designated by the Mayor as the person to exercise the authority and perform the duties delegated by this ordinance to the enforcing official.

**Grass or weed nuisance** Any abundance of overgrown grass or weeds within the city which is to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, pests; attain such heights and dryness so as to constitute a fire threat or hazard; that cause and spread of weeds and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or being unsightly.

**Improved subdivision** A division of a tract of land or acreage into tracts or parcels and the improvements thereof by construction of streets, water lines, and, where applicable, sewer lines to serve the subdivision property.

**Natural condition** Denotes uncultivated and unseeded land, still in a state of nature, but any growth on land, once it has been cleared or plowed, is not a natural condition, even though it has not been planted, cultivated, or built upon by anyone.

**Nuisance** Conduct within the municipality which unreasonably interferes with the use and enjoyment of lands of another including conduct on the property which disturbs the peaceful quiet and undisturbed use and enjoyment of nearby property; or which use constitutes a violation of health and safety code adopted by the state of Arkansas or the municipality in which constitutes an imminent threat to the health, safety and welfare of any citizen shall constitute a nuisance unlawful personal conduct, working an obstruction or injury to the right of another or of the public, and producing material annoyance, inconvenience, discomfort or hurt to another person or senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of another.

**Owner of property** Includes legal title holder, or lessee, or occupant of property, or legal agent of legal title holder or lessee, in charge, possession or control of said property. For a building nuisance only, includes any mortgage holder of record.

**5.04.03 Unlawful nuisance** It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property under such person's ownership or control. Property under a person's ownership and control includes those areas referred to below

in "Duties of Owner". A person with a duty to abate any nuisance is liable for separate and distinct offences for each day the nuisance is allowed to remain after it has become such person's duty by notice of the enforcing official to abate it.

5.04.04 Duties of owner It shall be the duty of the owner of any real property located within the city to maintain grass or weeds growing upon said property in such a manner as not to constitute a nuisance. The duties and obligations of owner extend to and include any real property situated within a dedicated right-of-way or easement burdening the property, except to the extent that it may be impracticable to do so because of facilities located thereon. Such right-of-way and easements must be maintained by the owner in a manner consistent with the maintenance of the owners remaining property and within the requirements in this ordinance, except to the extent it may be impracticable to do so because of public facilities located thereon.

5.04.05 Maintenance practices of city The dedication and existence of a right-of-way for public road or of an easement for drainage or for public utilities represents the grant of only a limited interest in property and does not change the actual ownership of the property upon which the right-of-way or easement is located. The public authority maintains right-of-way and easements only to the extent necessary to maintain the public facility and to maintain safety. The owners of the burdened property continue to control the property, except to the extent that such control interferes with the public use. The public authority does not cut grass, weeds, and or other growth upon right-of-way easements except to the extent necessary for operations and safety purposes. All other maintenance is the responsibility of the owner of the property upon which right-of-way or easement is located.

5.04.06 Grass and weed definition and exceptions

A, **General** It shall be unlawful and a nuisance, in violation of this ordinance, for the owner of any real property situated within the corporate limits of the city to allow such real property to become overgrown with tall grass or with any weed or plant such as ragweed, cocklebur, or other weed of the like kind or any weed or other plant that is otherwise noxious, dangerous, harmful or poisonous.

B. **Exceptions** Excepted from such grass and weed requirements are:

1. Any property that is in its natural condition.
2. Any property which is located outside any improved subdivision and is located more than one hundred feet from any boundary or any lot or parcel of real estate upon which any dwelling is located and more than one hundred feet from any commercial enterprise. For good cause, the enforcement official may reduce the area subject to this ordinance to lesser distance.
3. Cultivated row crops and garden plants in their respective growing seasons, But this exception applies only to growing crops and garden plants and shall not be construed to

permit any crops or gardens to become overgrown with grass and weeds in violation of the remaining terms of this ordinance.

4. Ornamental shrubbery and ground cover, provided that such uses are part of the landscaping theme and not associated with general deterioration of the property.

5.04.07 Accumulation of debris, rubbish, etc. An accumulation or storage of debris, rubbish, brush, used building material, parts of buildings, remains from building demolition, parts of untenable or un-inhabitable structures, used machinery, used tires, used vehicles, parts of vehicles, abandoned vehicles, or any other materials which may provide a breeding place for mosquitos, harmful insects, rodents and snakes, or is unsightly as to be offensive to the surrounding are is a nuisance in violation of this ordinance.

5.04.08 Uninhabitable/ dilapidated structures, etc. Any structure, permanent or temporary in nature, without sound walls, roof, doors, windows, or utilities necessary for habitation, storage or general use due to damage caused by neglect, vandalism, fire, weather, earth movement, animals, insects or plant life.

5.04.09 Enforcement by city whenever, in the opinion of the Enforcement Officer, a nuisance exists the official shall order the owner of the property on which the nuisance is located to abate the condition. The Enforcement Officer shall give the owner written notice in person or by certified mail. The notice shall require the owner to comply with this ordinance within the time stated in the notice. The notice shall apprise the owner of the alleged nuisance and give the name of the person to whom the owner can address the complaint. For a building nuisance, the notice shall contain the names of all owners and lien holders of the property, a legal description of the property, and nature of the proceeding.

A. The notice shall be sent to the person shown by the records of the county tax collector to have been the last person assessed for payment of ad valorem tax on the property where the nuisance is situated. It shall be the responsibility of that person to promptly advise the enforcing official of any change in ownership or interest in the property. It shall be unlawful to knowingly fail to notify the Enforcing Official of any such change of ownership or interest. The Enforcing Officer shall cause a copy of each building nuisance notice to be recorded in the Recorder's office of the city of Lockesburg, Arkansas.

B. The notice shall be posted in a conspicuous place on the property, preferably within three feet on an entrance to the building or structure. If there is no entrance or no structure, notice may be posted at any location on the property.

C. The notice shall require the owner to complete abatement of any nuisance within the following periods, provided the enforcing official may stipulate additional time, but in no case more than a total of one hundred and twenty days.

1. Fourteen days from the date of notice if it is a grass or weed nuisance.
2. Ninety days from the date of notice if it is a building nuisance.
3. Thirty days from the date of notice if it is any other type of nuisance including, but not limited to, burned structures or abandoned vehicles.

5.04.10 Failure to comply If the owner fails, neglects, or refuses to comply with the notice to abate the nuisance, the enforcing official may proceed to prosecute said person for a violation of the provisions of this code. the enforcing official may use a summons and complaint or citation as provided under Ord. No. 1984-3 of the city of Lockesburg, Arkansas, to the owner of the property, requiring the owner to appear in District Court to answer charges of the violation of this ordinance. The summons and complaint shall name the party charged, the address of the property where the alleged violation is located, and the nature of the offense of violation. It shall also apprise the owner of th date, time and place at which to appear for court. The summons and complaint, returnable to the District Court, shall be served on the owner by any enforcing official, who shall forthwith appear and make oath as to the alleged offense before a judge or magistrate and making oath as to the fact and applying for a warrant with respect to any alleged offense, in lieu of issuing a summons and complaint.

All violations of the provision of this ordinance shall be punishable by:

A. After the set number of days listed above under "Enforcement by City" a fine of one hundred dollars shall be imposed. Each day thereafter that the nuisance is not removed, A fine of twenty-five dollars for each day will be imposed.

B. An order to abate the nuisance.

If the owner fails, neglects, or refuses to comply with to abate a notice of grass or weeds nuisance, the enforcing official shall cause the cutting of the offending grass or weeds. The city shall have a lien against the subject property for the cost of abating the nuisance and all expenses to collect such lien or charges for expenses of collection including the charging of said amount as a tax against the subject property.

Approved by:

Approved by:

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Mayor Danny Ruth

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Recorder/Treasurer Becky Jegstrup