

ORDINANCE 2014-1

AN ORDINANCE TO REVOKE AND REPLACE ORDINANCE 2002-6; AN ORDINANCE ADDRESSING UNSIGHTLY OR UNSANITARY CONDITIONS ON REAL PROPERTY LOCATED INSIDE THE CITY LIMITS OF DOVER, ARKANSAS AND PROVIDING A PENALTY FOR THOSE IN VIOLATION OF SAID ORDINANCE

WHEREAS, the City of Dover, Arkansas has an interest in addressing unhealthy and unsanitary conditions that exist within its city limits; and,

WHEREAS, there does not exist an Ordinance to punish those who allow unsanitary or unhealthy conditions to exist upon their real property within the city limits of Dover, Arkansas; and

WHEREAS, Ordinance 2002-6 does not by its terms provide for any punishment of those who allow unsanitary or unhealthy conditions nor does it operate to prevent those who allow unsanitary or unhealthy conditions to exist upon their real property within the city limits of Dover, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DOVER, ARKANSAS:

SECTION 1. Unsightly or Unsanitary Conditions on Real Property. It shall be unlawful for any person, firm, corporation, partnership, association or persons, owners, agents, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof occupied or unoccupied, improved or unimproved within the city limits of the city of Dover, Arkansas to allow or permit any of the following conditions:

- A. Grass, weeds, or any other plant that is not cultivated, to grow to a greater height than eight (8) inches on an average of an individual lot, tract, parcel, or to grow in rank profusion upon the premises.
- B. Rubbish, brush, dead trees, or any objectionable, unsightly or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract or parcel of land.
- C. Grass, weeds or any plants that are not cultivated, to grow in rank profusion, or otherwise, in, along, upon or across the abutting sidewalk or parkway, to a height of more than six (6) inches on the average.
- D. The storage of a junk and/or abandoned automobile for a period not to exceed thirty (30) days unless it is in connection with an automotive sales or repair business enterprise which is located in a properly zoned area. "Abandoned automobile" is defined as any motorized vehicle not regularly used or operable which is objectionable and unsightly and which is not serving the purpose for which it was created. "Automobile" is not limited to cars and trucks, but includes motorcycles, go-carts or golf carts. This is not an exhaustive list. It is the intent of this portion of this Ordinance to address those situations and to eliminate them where an automobile may be on blocks, in parts, or is not operable as it sits, unless it is an automotive sales or repair business located in a properly zoned area.
- E. The open storage of iceboxes, refrigerators, or any other appliances for a period not to exceed thirty (30) days and during storage period, all doors, latches and locks are to be removed or made inoperative in a manner to insure the safety of

all citizens, unless it is in connection with an appliance sales or repair business enterprise which is located in a properly zoned area.

- F. The use of any steam or drainage way for the purpose of throwing or placing of stumps, brush, litter, rubbish, or any other liquid or solid material within or along the banks of any such stream or natural drainage way unless required permits have been obtained.
- G. The accumulation of the stagnant pools of water or allowing any form of vessel that might accumulate water in which mosquitoes or other insects may breed.
- H. The property to be used for illegal dumping of any solid or liquid, household, commercial, industrial, construction, or demolition waste, including but not limited to garbage, trash, tin cans, bottles, rubbish, refuse, and lumber, whether dumped, thrown, burned, spilled, or abandoned, unless permits and permission have been obtained.

With the exception of anything in violation of federal and state law, this Ordinance does not apply to those areas zoned agriculturally.

SECTION 2. Notice Required. Notice of Violation. Whenever the Mayor or his duly authorized agent or representative determines that there are reasonable grounds to believe there has been a violation of any provisions of this Code, he shall give notice of such alleged violation to the person responsible therefore, that such alleged violation shall constitute a nuisance. Such notice shall:

- A. Be put in writing;
- B. Include a statement of the reasons why it is being issued, and the sections of the Ordinance that are alleged to be in violation;

- C. Allow a maximum of ten (10) days for performance of any act it requires; and
- D. Further state that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the Mayor or his duly authorized agent or representative shall institute legal proceedings, charging the persons or persons, firm, corporation, or agent with a violation of this Ordinance.

The person responsible for the violation shall be notified by one or more of the following methods:

- A. By delivery to the owner, agent, or responsible person personally;
- B. By leaving the notice at the usual place, abode, or business of the owner, agent or responsible party with a person of suitable age and discretion; or
- C. By depositing the notice in the United States Post Office, addressed to the owner, agent, or responsible party, at his last known address by certified mail, postage paid thereon; or
- D. By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice in a conspicuous place on the premises alleged to be in violation.

SECTION 3. Penalties. Any person, firm, corporation, partnership, association or persons, owner, occupant, agent or anyone having supervision or control who shall violate a provision of this Code, or fail to comply therewith, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed or continued. Upon conviction

of such violation, such person shall be punished by a fine, not to exceed \$300.00 for the first offense, and not more than \$200.00 for each of day of offenses of a continuing nature.

Violation of the provisions of this ordinance may be prosecuted by the issuance of a civil warrant or by the issuance of a citation by a law enforcement officer as required by law.

SECTION 4. Requirement to Remove Debris After Disaster. If any property owner shall suffer the loss, either total or partial, of a house by fire or tornado, it shall be the duty of the Mayor or his designated agent, which can include the city attorney, to immediately notify, in writing, the property owner to remove all debris from the lot. It shall be the duty of the property owner, within thirty (30) days from receipt of said notice, to remove all debris or refuse on said lot.

SECTION 5. Notification. It shall be the duty of the Mayor of the City of Dover, Arkansas, or his designated agent, such as the city attorney, to notify, in writing, all property owners who own lots on which debris or refuse is situated due to the destruction of houses by fire or tornado, and on other lots which have accumulated such unsightly debris or refuse, whether caused by fire or otherwise, and it shall be the duty of the property owner to remove such debris or refuse within thirty (30) days after receipt of notice from the City of Dover, Arkansas.

SECTION 6. Penalty. If any property owner shall fail or refuse to remove such debris or refuse as mentioned above within the time fixed by this portion of this ordinance after receiving such notice from the City of Dover, Arkansas, he shall, upon conviction, be punished by fine not to exceed \$300.00 for the first offense and not more than \$200.00 for each day of offenses of a continuing nature. Each day that such property owner refuses to comply with this portion of the ordinance, after the expiration of the time limit provided, shall be considered a separate offense.

SECTION 7. This Ordinance hereby revokes and replaces Ordinance 2002-6.

SECTION 8. Lien. (A) If the owner or owners of any lot or other real property within the City of Dover, after the giving of seven (7) days' notice in writing by the City Clerk, shall refuse or neglect to perform the duties in connection with his/her or their property as specified in Sections 1 and 4 above, the City is hereby authorized to enter upon the property said weeds, rank grass or other vegetation cut and removed, or eliminate any unsanitary or unsightly condition, and the cost thereof, in addition to any attorneys' fees and court costs, shall be charged against said premises and shall constitute a lien.

(B) In the event the owner of any lot or other real property is unknown or his whereabouts is not known or he is a non-resident of the State, then a copy of the written notice, as referred to above, shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts of non-residents, and thereupon service of publication as now provided for by law against non-resident defendants may be had, and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

(C) The lien provided for may be enforced and collected in either one of the following manners:

(1) The lien may be enforced at any time within eighteen (18) months after the work has been done, by an action in Circuit Court; or

(2) The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days' written notice by certified mail to the owner(s) of the property, if the name and whereabouts of the owner(s) be known, and if the name of the owner(s) cannot be determined, then after publication of

notice of such hearing in a newspaper having regular circulation in Pope County for one (1) insertion per week for four (4) consecutive weeks; and the amount so determined at said hearing, plus ten (10%) percent per annum for collection, shall be certified by the City Council to the Pope County Tax Collector, and by him/her placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three (3%) percent thereof, when so collected shall be paid to the City of Dover.

PASSED AND APPROVED THIS 4th DAY OF March ⁽²⁰⁾ ~~JANUARY~~, 2014.


PATRICK JOHNSON, MAYOR

ATTEST: Regina Kilgore
REGINA KILGORE, RECORDER

DATE: March 4, 2014

