

ORDINANCE NO 0-02-03

AN ORDINANCE CONCERNING NUISANCES CONSISTING OF WEEDS, RANK GRASS, GARBAGE, RUBBISH AND OTHER UNSIGHTLY AND UNSANITARY ARTICLES; REQUIRING PROPERTY OWNERS TO ELIMINATE, FILL UP OR REMOVE STAGNANT POOLS OF WATER OR ANY OTHER UNSANITARY THING, PLACE OR CONDITION WHICH MIGHT BECOME A BREEDING PLACE FOR MOSQUITOS, FLIES AND GERMS OR OTHERWISE HARMFUL TO THE HEALTH OF THE COMMUNITY; PRESCRIBING A PROCEDURE TO BE FOLLOWED IN SUCH CASES TO INCLUDE BUT NOT BE LIMITED TO A LIEN ON PROPERTY AND FINES; AND FOR OTHER PURPOSES:

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA, ARKANSAS, THAT:

Section 1. It shall be unlawful for any person owning or having supervision or control of any lot, tract, parcel of land or portion thereof, within the corporate limits of the city to suffer or permit any of the following:

- a. Grass, weeds, or any other plant that is not cultivated, to grow to a greater height than ten (10) inches on an average on a lot, tract or parcel of land, or to grow in rank profusion upon the premises.
- b. Rubbish, brush, trash, dead trees, building materials or any other objectionable, unsightly or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract or parcel of land. If building materials are stored on the premises, all such material must be stored at least eighteen (18) inches off the ground.
- c. Grass, weeds or any plant that is 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 ten (10) inches on an average.
- d. The storage of a junk 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. In this paragraph "abandoned automobile" means any motor vehicle or part thereof that is in a state of disrepair and incapable of being moved under its own power or does not have a current valid license plate.
- e. The open storage of iceboxes, refrigerators, or any other appliances or furniture 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 ensure 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 stream or drainageway 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 drainageway, unless required permits have been obtained.
- g. The accumulation of stagnant pools of water, or allow any form of vessel that might accumulate water in which mosquitoes or other insects may breed.
- h. The property, including all adjacent rights-of-way and alleys, 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, furniture, tin cans, bottles, rubbish, refuse, lumber, whether dumped, thrown, burned, spilled or abandoned, unless required permits have been obtained.
- i. Trees, shrubs, bushes or any other plant impeding the flow of pedestrian traffic on any sidewalk and/or public right-of-way, or in any other manner causing an unauthorized obstruction of the public enjoyment of a sidewalk and/or public right-of-way.
- j. Any act or condition constituting a nuisance under Arkansas Code Annotated or common law.

Section 2. Whenever the city employee designated by the city manager or his/her duly authorized agent or representative, determines that there are reasonable grounds to believe that there has been a violation of any provisions of this ordinance, (s)he shall give notice of such alleged violation to the person responsible therefor, that such alleged violation shall constitute a nuisance. Such notice shall:

- a. Be 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 thirty (30) days for performance of any act it requires.
- d. State, that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the city employee designated by the city manager or his/her duly authorized agent or representative, shall

institute legal proceedings, charging the person with a violation of this section.

Section 3. The person responsible for the violation shall be notified by one (1) or more of the following methods:

- a. By delivery to the owner, agent or responsible party, 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.
- c. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at his/her last known address by certified mail, postage prepaid thereon.
- 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 4. Violations of the provisions of this ordinance may be prosecuted by the issuance of a criminal information or by the issuance of a citation by a law enforcement officer as required by law.

Section 5. The head of the city department designated by the city manager may order the owner/supervisor of any real property within the city to cut weeds, remove garbage, rubbish and other unsightly and unsanitary articles and things that may be upon the property; and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community. The order shall be in writing and shall be issued to the owner/supervisor of the real property involved. If the owner/supervisor of any real property is unknown or his/her whereabouts is not known or (s)he is a nonresident of this state, then a copy of the written notice shall be posted upon the premises in some prominent place.

- a. If the owner/supervisor of any real property within the city neglects or refuses to remove, abate or eliminate any such condition as provided for in this section after having been given twenty (20) days' notice in writing to do so, the city department designated by the city manager may do whatever may be necessary to correct the condition and charge the cost thereof to the owner of the real property. The city shall have a lien against such property for the cost.
- b. The lien may be enforced and collected in either of the following manners:
 - (1) Within eighteen (18) months after work has been done, by an action in the circuit court.

- (2) The amount of the lien may be determined at a hearing before the board of directors held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known. If the name of the owner or owners cannot be determined, then the hearing before the board of directors may be held after publication of notice of such hearing in a newspaper having a bona fide circulation in the county, for one (1) insertion per week for four (4) consecutive weeks. The amounts due the city as determined at the hearing, including all costs incurred by the city relevant to the nuisance, plus (10) percent penalty for collection, shall be that certified by the board of directors to the county tax collector, and by him placed on the tax books as a penalty to be collected in the manner and with the priority of delinquent taxes, and the amount, less three (3) percent thereof, when so collected, shall be paid to the city.

Section 6. (a) In this ordinance "violation" or "violation of this ordinance" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
 - (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this ordinance "violation of this Ordinance" or "violation" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this ordinance.
- (c) Except as otherwise provided, a person convicted of a violation of this ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00), or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed two hundred fifty dollars (\$250.00) for each day that the same is unlawfully continued.
- (d) If a violation of this Ordinance is also a misdemeanor under stated law, the penalty for the violation shall be as prescribed by state law for the stated offense.
- (e) The imposition of a penalty does not prevent revocation or suspension of a


license, permit or franchise.

(f.) Violations of this ordinance that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a "penalty" however does not prevent the simultaneous granting of equitable relief in appropriate cases.

Section 7. The sections, paragraphs, sentences clauses and phrases of this ordinance are severable. In the event that any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgement or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

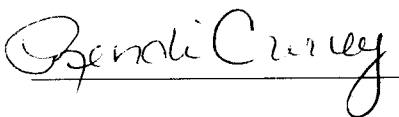
Section 8. All ordinances and parts of ordinances in conflict herewith are hereby repealed and specifically repealed is Ordinance B-515.

DATED this 4th day of April, 2002.



Charles T. Hollingshead, Mayor

ATTEST:

, City Clerk