

TITLE 5

HEALTH AND SANITATION

Chapters:

5.04 Maintenance of Real Property

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

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5.04.01 Length of grass and brush Pursuant to A.C.A. 14-54-901 et seq. and A.C.A. 14-54-602 et seq., and from and after the date of this ordinance, it shall be unlawful for the owner or custodian of real property located within the city limits of Coal Hill, Arkansas, to allow grass, weeds, brush or any growth to exceed ten (10) inches in height, except those lands which are cut for hay shall be cut at a minimum twice a year. Lands that are considered pasturelands must consist of a minimum of one (1) acre and shall be bushhogged at least once a year. (Ord. No. 8-6-13-1, Sec. 13.)

5.04.02 Definitions The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means all normal kitchen waste, such as vegetable and animal wastes and their by-products, but does not include sewage and human body wastes.

Rubbish means brush, grass, leaves, dead trees, and other normal yard refuse, paper, cans, bottles, and empty food and drink containers.

Things include, but are not limited to, the following items: inoperative motor vehicles; inoperative household or commercial appliances; furniture; building materials; building rubbish; defective septic tanks; human or animal excrement; metal, plastic, or paper containers.

- A. **Abandoned** means that property to which no person claims or exercises the rights of ownership.
- B. **Appliance** means, but is not limited to, refrigerators, deep freezers, stoves, ovens, air-conditioners, washers, dryers, trash compactors, dishwashers, televisions, radios, hot water heaters and plumbing fixtures.
- C. **Building material** means, but is not limited to, items such as boards, bricks, cement, nails, pipe, sheet metal, siding, tar paper and windows which have never been incorporated into a structure or which have been removed from a structure and may be readily incorporated into another structure. This article applies only to building material, which lies in public view and with respect to which its owner has no definite immediate plans for its use.
- D. **Building rubbish** means any post-construction solid waste which, because of its quantity, quality or condition, cannot be readily and immediately put to a beneficial use.
- E. **Inoperative** means an item which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose. Inoperative, when applied to motor vehicles, refers to any motor vehicle which is inoperable or is unable to start or move under its own power. A vehicle shall be presumed to be inoperative when:
 - 1. One or more tires are flat.
 - 2. One or more wheels are missing
 - 3. The hood or trunk is raised or missing and has appeared to remain so for more than thirty (30) days.
 - 4. Weeds or grass have grown up around the vehicle.
 - 5. The engine is missing.
 - 6. The door or doors, fender or fenders are removed or missing.
 - 7. The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.

- F. **Motor vehicle** means every device capable of being moved upon a public highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.
- G. **Unsanitary** means that a place, condition or thing is unsanitary when it might become a breeding place for flies, mosquitoes and germs hazardous to the health of the community. **Unightly** means that a place, condition of thing is unsightly when it is in public view, and offends the then-prevailing standard of the community as a whole, and not limited to a specific area, as to aesthetics or order.
- H. **Weeds** means any vegetation, lush or decayed, regardless of its beauty or utility and regardless of the fact that it might serve as a sanctuary for animals beneficial to man, which, because of its natural condition or lack of maintenance by the owner or occupant of the property, threatens the health or safety of the community or creates an unsightly condition thereon. (Ord. No. 8-6-13-1, Sec. 14.)

5.04.03 Clearance of unsightly or unsanitary conditions on real property

- A. Owners or occupants of real property within corporate limits of the city are hereby required to cut weeds, remove garbage, rubbish, inoperative motor vehicles or other unsightly or unsanitary things, and eliminate, fill up or remove stagnant pools of water or any other unsanitary thing, place, or condition upon their real property.
- B. It shall be unlawful for the owner or occupant of real property to permit the accumulation or development of weeds, garbage, rubbish, inoperative motor vehicles or other unsightly things or conditions on real property within the city.
- C. The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be permitted to reclaim gullies and ravines upon application to, and approval by, the City Planning Commission under the following conditions:
1. Written certification by the applicant that he is the legal owner of the property or that he has the written permission of the property owner.
 2. Access must be completely restricted to the applicant only.
 3. All material must be covered by fill dirt and smoothed over at intervals not to exceed two (2) weeks. Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsections (A) and (B) of this section. (Ord. No. 8-6-13-1, Sec. 15.)

5.04.04 Lien against real property

- A. If the owner or occupant of any real property within the corporative limits of the city neglects or refuses after being given seven (7) days' written notice by the Mayor or his designee to remove, abate or eliminate any condition referred to in 5.04.02, the city will do whatever is necessary to correct the condition and will charge the cost of the correction to the property to the owner to secure its costs; the city will perfect a lien against the affected property pursuant to A.C.A. 14-54-903, et seq. The lien herein provided for may be enforced and collected in either one of the following manners: The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in the Circuit Court, of the amount of the lien herein provided for may be determined at a hearing before the City Council held after thirty (30) days' written notice. The lien amount determined at said hearing, plus ten percent (10%) penalty for collection shall be certified by the City Council to the Johnson County Tax Collector, and by him placed on the tax books as delinquent taxes, and collected.
- B. Before any abandoned or inoperative motor vehicle is taken into custody and possession from private property, the city shall give the private property owner or occupant and the owner of the motor vehicle, if ascertainable, thirty (30) days' notice by registered or certified mail that such action will be taken unless the motor vehicle is restored to a functional use, disposed of in a manner not prohibited by A.C.A. 58-6-401 et seq. or placed in an enclosed building. The thirty (30) days' notice may be waived by the owner or occupants of the property jointly or severally. (A.C.A. 14-54-901 et seq. is hereby adopted by reference as if set out word for word herein.) (Ord. No. 8-6-13-1, Sec. 16.)

5.04.05 Notice by publication upon unknown or non-resident owners In case the owner is unknown or his whereabouts is not known or if such owner is a non-resident of the state, a copy of the written notice shall be posted upon the premises; and before any action to enforce the lien shall be had, the City Clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts or non-residence; and, thereupon, service by publication as now provided by law against non-resident defendants may be had, and an attorney as litem shall be appointed to notify the 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 it can be found. (Ord. No. 8-6-13-1, Sec. 17.)

5.04.06 Imminent health or safety hazard

- A. Abatement Whenever a real and imminent health or safety hazard stemming from a condition or thing described in 5.04.02 exists such that the notice provisions provided for in 5.04.03 and 5.04.04 cannot be complied with without jeopardizing the health and safety of the community, the city shall give notice, as is practical under the circumstances, to the affected property owner. If the property owner

does not act immediately to correct the condition or thing complained of, the city shall pursuant to A.C.A. 14-54-103 may do whatever is necessary to abate the hazard stemming from the condition or thing.

- B. Alternate procedure Upon the written application of two or more of the individuals described in subsection (C), the City Attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of.
- C. Determination The initial determination of what condition or thing constitutes a real and imminent health or safety hazard must be made by at least two (2) of the following individuals: the Mayor, the Health Officer, the Fire Chief, the assistant Fire Chief and the City Inspector. If three (3) of the above individuals agree that a real and imminent health or safety hazard does not exist, no action shall be taken under this section. It is not necessary that all of the named individuals participate in the determination. (Ord. No. 8-6-13-1, Sec. 18.)

5.04.07 Fine Any person who fails, neglects or refuses to comply with, or resists the enforcement of any of the provisions in this ordinance shall be guilty of a misdemeanor and shall be fined not less than Twenty-Five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00), plus court costs and fees for each offense. Each day that a violation is committed shall constitute a separate offense. (Ord. No. 8-6-13-1, Sec. 19.)