

ORDINANCE NO. 1203

AN ORDINANCE PROVIDING FOR THE CONDEMNATION
AND REMOVAL OF HOUSES, BUILDINGS OR STRUCTURES
CONSTITUTING A NUISANCE WITHIN THE CORPORATE
LIMITS; PROVIDING FOR A LIEN ON THE PROPERTY;
PROVIDING A PENALTY THEREFOR, AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY BOARD OF DIRECTORS OF
THE CITY OF HOPE, ARKANSAS:

SECTION 1: That it shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association, to own, keep or maintain any land, house, building or structure within the corporate limits of the City of Hope, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Board.

SECTION 2: For purposes of this ordinance, a nuisance or public nuisance, is defined, as follows:

(a) The physical condition, use, or occupancy of any premises regarded as a public nuisance at common law;

(b) Any physical condition, use, or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, or other structures;

(c) Any premises which has unsanitary sewerage or plumbing facilities;

(d) Any premises which is considered a fire hazard or so unsafe or unsecure as to be considered a danger to persons or property;

(e) Any premises from which the plumbing, heating or facilities required by ordinance or other regulations or codes have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;
or

(f) Any structure or building that is in a state of dilapidation, deterioration or decay; of faulty construction; open, vacant or abandoned; damaged by fire to the extent so as not to be capable of providing shelter; or is in danger of collapse or structural failure and is dangerous to anyone on or near the premises.

SECTION 3: That any such house, building or structure which is found and declared to be a nuisance by Resolution of the City Board will be condemned to insure the removal thereof as herein provided.

SECTION 4: That the Resolution of the City Board condemning any house, building or structure which constitutes a nuisance will include in said Resolution an adequate description of the house, building or structure; the name or names, if known, of the owner or owners thereof; and shall set forth the reason or reasons said house, building or structure is or has been condemned as a nuisance.

SECTION 5: After a house, building or structure has been found and declared to be a nuisance and condemned by Resolution as herein provided, a true and certified copy of said Resolution will be mailed to the owner or owners at their last known address, if the whereabouts of said owner or owners is known, and a copy thereof shall be posted at a conspicuous place on said house, building or structure. Provided, that if the owner or owners of said house, building or structure is unknown or if their whereabouts or last known address is unknown, the posting of the copy of said Resolution as hereinabove provided will suffice as notice.

SECTION 6: The owner or owners shall have ninety (90) days from the time removal work is begun to complete the removal of the nuisance structure.

SECTION 7: Once the nuisance structure has been removed, including the removal of steps and foundation, all utility hook-ups shall be capped or covered with concrete, and the excavation site shall be left in a manner that will allow continued maintenance of the property.

SECTION 8: If the house, building or structure constituting a nuisance has not been torn down and removed, or said nuisance otherwise abated, within thirty (30) days after posting the true copy of the Resolution at a conspicuous place on said house, building or structure constituting the nuisance, the house, building or structure will be torn down or removed by the Code Enforcement Officer or his duly designated representative.

SECTION 9: The Code Enforcement Officer or any person or persons designated by him to tear down and remove any such house, building or structure constituting a nuisance, will insure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same has a substantial value, sell said house, building or structure, or any saleable material thereof by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City, to insure its removal and the abatement of the nuisance.

SECTION 10: All the proceeds of the sale of any such house, building, or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same to the City Finance Director. If any such house, building or structure, or the saleable materials thereof be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the City, plus any fine or fines imposed, the balance thereof will be returned by the City Finance Director to the owner or owners of such house, building or structure which constituted the nuisance.

SECTION 11: If the City has any net costs in removal of any house, building or structure, the City shall have a lien on the property as provided by Section 1 of Act 8 of 1983, as amended. The lien may be enforced in either one of the following ways:

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

(b) The amount of the lien herein provided may be determined at a hearing before the governing body of the municipality 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 is known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in the county wherein the said property is located for one (1) insertion per week for four (4) consecutive weeks; the determination of said governing body being subject to appeal by the property owner to Chancery Court; and the amount so determined at said hearing, plus ten percent (10%) penalty for collection, shall be by the governing body of the municipality certified to the tax collector of the county wherein said municipality is located, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.

SECTION 12: A fine of Fifty Dollars (\$50.00) is hereby imposed against the owner or owners of any house, building or structure found and declared to be a nuisance by Resolution of the City Board of Directors thirty (30) days after same has been so found and declared to be a nuisance and for each day thereafter said

nuisance be not abated constitutes a separate and distinct offense punishable by a fine of Fifty Dollars C\$50.00) for each said separate and distinct offense; provided the notice as herein provided in Section 4 hereof has been given within ten (10) days after said house, building or structure has been by Resolution found and declared to be a nuisance.

SECTION 13: In the event it is deemed advisable by the City Board of Directors that a particular house, building or structure be judicially declared to be a nuisance by a Court having jurisdiction of such matters the City Board of Directors is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city, and the only notice to be given to the owner or owners of any such house, building or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in a Court of equity or Chancery Court. When any such house, building or structure has been declared judicially to be a nuisance by a Court of competent jurisdiction a fine of Fifty Dollars C\$50.00) is hereby imposed against the owner or owners thereof from the date said finding is made by the Court and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense punishable by a fine of Fifty Dollars C\$50.00) for each separate and distinct offense. In the event the owner or owners of any such house, building or structure judicially found to be a nuisance fails or refuses to abide by the orders of the Court, the Code Enforcement Officer or his duly designated representative will take such action as is necessary and as provided for in this ordinance. The provisions contained in the immediate preceding sentence apply independently of any action as may be taken by the Court judicially declaring the nuisance.

SECTION 14: Any code enforcement official, officer or employee of the City of Hope, Arkansas who acts in good faith in the discharge of the duties of enforcement of this ordinance, shall be held harmless and indemnified by the City of Hope, Arkansas for all personal liability for any damages or costs incurred as a result of enforcement acts or any failures to act.

SECTION 15: If, for any reason, any portion of this ordinance be held to be invalid, such invalidity shall in no way affect the remaining portions thereof which are valid, but such valid portions shall be and remain in full force and effect.

SECTION 16: All ordinances or parts of ordinances in conflict herewith are repealed.

SECTION 17: It is determined that this ordinance is necessary and is vital to the health, welfare, and safety of the public, therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

APPROVED: July 7, 1992

ROBERT ARNOLD, MAYOR

Leneta Hare
City Clerk