

ORDINANCE 1473

AN ORDINANCE ESTABLISHING MINIMUM STANDARDS FOR PROPERTY MAINTENANCE, RESPONSIBILITIES OF PROPERTY OWNERS, OPERATORS AND TENANTS AND PRESCRIBING CERTAIN REMEDIES FOR VIOLATIONS.

WHEREAS, after due notice, the Board of Directors of the City of Hope, Arkansas, at the time and place mentioned in the notice, and in a public hearing, heard all persons desiring to be heard on the question; and;

WHEREAS, the Board of Directors of the City of Hope, Arkansas, has determined that additional remedies are needed to improve the physical appearance of the City of Hope.

NOW, THEREFORE, be it ordained by the Board of Directors of the City of Hope, Arkansas:

SECTION 1, SCOPE

The provisions of this Ordinance shall apply to and constitute the minimum requirements and standards for all existing and future structures and premises; the responsibility of owners, operators, tenants and persons; the occupancy of existing and future structures and premises, and for administration, enforcement and penalties.

SECTION 2, GOAL

To provide the citizens of Hope a safe, attractive, functional and economically viable City by initiating minimum requirements and standards that would enhance the experience of living in Hope and to raise public awareness of the importance of physical attractiveness of the City.

SECTION 3, DEFINITIONS

Accessory structure- Any structure with a separate means of egress, the use of which is incidental and secondary to that of the main building and which is located on the same lot.

Approved – Acceptable to the Building Official.

Commercial solid waste- Waste material from commercial and industrial establishments, processing plants or similar industries, waste material from construction, remodeling or repair operations on any structure or premises, such as concrete, bricks, plaster, stone, earth, lumber, roofing materials, gutters, shavings, sawdust, assemblies and similar materials.

Commercial Vehicle- Any vehicle requiring a Class A, B or C Commercial driver license to operate.

Garbage - Food waste, including waste accumulation of animal or vegetable matter used or intended to be used as food or that attends the preparation, use, cooking, dealing in or storing or meat, fish, fowl, fruit or vegetables.

Graffiti - The presence of paintings or markings affixed in any manner to any structure or surface that is not placed with the property owners' prior knowledge and consent regardless of the nature of the material of the painting or the surface and being visible to the public. Artistic paintings, murals and advertisements placed with the property owners' prior knowledge and consent and being in compliance with other regulations or ordinances shall not be considered graffiti.

- Imminent danger – Any condition that could cause serious or life-threatening injury or death at any time.
- Infestation - The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.
- Improved surface – A parking area, driveway or maneuvering surface built in accordance with the Land Development Code
- Non-operable vehicle – A motor vehicle that is not operable as defined in this code.
- Occupancy – The purpose for which a building or portion thereof is utilized or occupied.
- Occupant – Any individual living or sleeping in a building, or having possession of a space within a building.
- Operable vehicle – A motor vehicle that is mechanically or physically capable of being driven and registered, licensed and insured to be driven on the streets and highways of this State.
- Operator - Any person who has charge, care or control of a structure or premises which is offered for occupancy.
- Owner - Any person, agent, operator, firm or corporation having a legal or equitable interest in a property; or recorded in the official records of Hempstead County as holding title to the property; or otherwise having control of the property, including the guardian of an estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- Person - An individual, corporation, partnership or any other group acting as a unit.
- Premises - A lot, plot or parcel of land including any structures thereon.
- Right of way - Any dedicated public way, whether developed as a street or not, including that portion between the improved surface and all private property lines.
- Rubbish - Commercial solid waste, garbage, waste paper, cartons, boxes, wood, fallen tree branches and trunks, yard trimmings, furniture, appliances, metals, cans, glass, dunnage, and tires.
- Tenant - A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.
- Unattended Vehicle - Any operable, non-operable or wrecked vehicle that has been placed upon, or within 3 feet of, any public right-of-way for any period of time in excess of 48 hours.
- Unsanitary condition – Any place or condition that might become a breeding place for mosquitoes or flies or that may be harmful to the health of the community.
- Wrecked - A motor vehicle that is damaged by accident to the extent that it is not immediately operable, or is partially dismantled, including wheels, tires and windows.

SECTION 4, EXTERIOR PREMISES

A. RUBBISH

Rubbish is not allowed to accumulate on premises. Each owner, operator or occupant shall prevent or otherwise be held responsible for unsightly accumulations of rubbish upon property owned or occupied by him or her or on public rights-of-way adjoining his or her property. Tires shall not be stored at any property out of doors and the storage of tires shall be in accordance with the Arkansas Fire Prevention Code (AFPC).

B. TALL GRASS AND WEEDS

All property owners, operators and occupants will maintain their property free from tall grass, weeds and overgrown hedgerows. All premises shall be kept free from tall grass and weeds in excess of 10" and uncultivated hedgerows of privet, or similar shrubbery, in excess of 4' in height and 4' in width. Tall grass and weeds shall be cut to a maximum height of 4". This requirement shall include any right-of-way between the private property and the road surface, including any ditch, and the responsibility shall be to the center of any undeveloped right-of-way.

C. ACCESSORY STRUCTURES

Accessory structures and outbuildings shall not be used as a dwelling unit and all uses shall be in compliance with applicable zoning ordinances and the AFPC. Accessory structures shall be kept secure. Property owners shall remove those outbuildings and accessory structures that have become dilapidated or are structurally unsound. Outbuildings and accessory structures are subject to condemnation procedures

D. FENCING

Property owners may install fencing upon their property for any allowed purpose except that no fence structure shall be placed in a manner that blocks motorists view at or near intersections. Barbed wire fencing is not allowed to be used as a portion of any fencing system. Razor wire fencing may only be installed where allowed by the Planning Commission as part of a Special Use Permit for non-residential applications

E. REFUSE COLLECTION PREPARATION

It shall be the duty of every owner, occupant and tenant to prepare refuse for collection in the manner required by Ordinance #1262. Containers of any nature (trash boxes) visible to the public shall not be employed for the purpose of storing refuse prior to the scheduled pick up day

F. GRAFFITI

All property owners, operators and tenants are required to keep their property free from graffiti and take necessary steps to permanently cover or remove graffiti.

G. LITTER AND DUMPING

All property owners, operators and tenants are required to remove any accumulations of litter or dumped and discarded items that have been placed upon their property or on the public right-of-way adjacent to their property. Investigation and prosecution of littering and illegal dumping shall be the responsibility of the City of Hope Police Department

H. UNSANITARY CONDITIONS

All property owners, operators and tenants are required to keep their property free from unsanitary conditions and stagnant pools that might become a breeding place for mosquitoes, flies or germs. Owners or keepers of swimming pools shall keep the water treated and circulating so as not to present a stagnant pool. Stagnant pools shall not be allowed to collect upon tarps or covers over pools.

SECTION 5, PARKING, STORAGE OF OPERABLE AND NON-OPERABLE OR WRECKED VEHICLES

A. OPERABLE VEHICLE PARKING

All vehicle parking shall be done on improved parking areas as outlined in Article 5-8 of Part A of the City of Hope Land Development Code (LDC). Parking or maneuvering in the front yard space is not allowed. Access to parking shall only be by improved drive, and complete to the street paving without blocking sidewalks or other public ways.

B. NON-OPERABLE AND WRECKED VEHICLE PARKING AND STORAGE

The storage of non-operable and wrecked vehicles shall take place only at an approved location and in compliance with the Land Development Code and all applicable State and Federal regulations. Residentially zoned or residentially used property shall not be used to store wrecked vehicles and one (1) non-operable vehicle may be stored on an improved surface. No activities relating to auto businesses may take place on residential property.

C. IMPROVED PARKING SURFACES AND DRIVEWAYS

All operable vehicle parking shall be done on improved parking areas prepared for that purpose and all surfaces subject to wheeled traffic shall be an improved surface. Access to parking shall only be by improved surface driveway, and complete to the street paving without blocking sidewalks or other public ways. Where parking activities in violation of this ordinance, or where private property trees have damaged the sidewalks, the property owner shall be responsible for all costs associated with replacement. Structures built after 1981 must provide an improved surface of concrete or asphalt driveway. Structures built prior to 1981 may maintain and improve gravel parking and driveway areas and such areas may not be increased in size for any purpose

D. USE OF THE PUBLIC RIGHT-OF-WAY

No person may store a wrecked or non-operable vehicle on any public right-of way. No owner, operator or tenant may allow a wrecked or non-operable vehicle to be stored upon any public right-of-way adjacent to his or her property. This provision also applies to all automotive repair or auto sales businesses. All such locations approved for the storage of non-operable or wrecked vehicles shall provide improved surfaces as required in paragraphs B and C of this section and the LDC.

E. COMMERCIAL VEHICLES

Commercial vehicles, other than passenger vehicles, shall not be parked or left unattended, upon any portion of a right-of-way.

F. VEHICLES OFFERED FOR SALE

Vehicles offered for sale shall be displayed only upon an improved surface on privately owned property. Displayed vehicles shall not encroach upon an adjacent right of way or upon an adjacent private property. Displayed vehicles shall not be placed in any manner that obstructs sidewalks.

SECTION 6, PLUMBING, MECHANICAL AND ELECTRICAL

A. HEATING AND AIR CONDITIONING

Owners and operators of structures shall maintain heating and cooling facilities in accordance with the Arkansas Mechanical Code.

B. ELECTRICAL

Owners and operators of structures shall maintain electrical systems in a safe and operable condition and in compliance with local ordinances and the National Electric Code. A minimum capacity of 100 amperes shall be provided for all structures. The Building Official may order correction of defects of unsafe circuits in existing and occupied structures.

C. PLUMBING

Owners of structures shall maintain all plumbing fixtures and systems in the proper operating condition and in accordance with the Arkansas Plumbing Code.

D. CORRECTION OF DEFICIENCIES

Where a deficiency exists that may constitute a threat to the health and safety of any occupant or visitor and where an owner has received a notice of violation relevant to this section and has failed to make repairs as required in the correction order the Enforcement Officer may engage an appropriately licensed trade professional to make the necessary repairs. The cost of the repairs shall not exceed \$200.00 without additional notice to the property owner. The Notice of Violation shall clearly inform the recipient that repairs may be made and all costs shall be repaid to the City.

SECTION 7, FIRE SAFETY REQUIREMENTS

A. EGRESS AND ASSEMBLIES

Owners and operators shall maintain means of egress, fire rated assemblies, protective openings and other fire safety features required for all structures in accordance with the AFPC. Owners and operators of all existing structures shall provide approved smoke alarms per the AFPC. Any structure, or portion thereof, shall only be occupied in compliance with the LDC and AFPC.

B. PREMISES IDENTIFICATION

Owners and operators shall provide all structures with correct Hempstead County 911 address numbers. Individual units of multi tenant residential and multi tenant non-residential structures shall be provided with individual correct Hempstead County 911 address numbers. The address numbers shall be placed in a position to be plainly legible and visible from the street fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch.

SECTION 8, STRUCTURES

A. MAINTENANCE

Property owners shall maintain all structures intended for occupation in a neat and orderly appearance and in compliance with the City of Hope Land Development Code, the Arkansas Fire Prevention Code and other ordinances. Broken or inoperable windows and doors shall be repaired. Rusted or torn screens shall be repaired or removed. Structure exteriors shall be maintained free of rotted, decayed or termite damaged wood and trim. Portions of structures that have partially collapsed shall be removed and repairs made. Peeling paint shall be scraped and surfaces repainted.

B. INFESTATION

Infestation, as defined in this ordinance, shall not be permitted. The owner or operator of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure. The tenant of any single-tenant residence or of a single-tenant nonresidential structure shall be responsible for continued extermination.

C. WILDLIFE HARBORAGE

No owner, operator or tenant shall allow a structure to become a harborage for wildlife. Removal of the wildlife shall be by approved means and in accordance with all applicable Local, State or Federal laws and regulations. Repairs shall then be made to reasonably ensure against recurrence.

D. CONDEMNATION OF UNSAFE STRUCTURES

Unsafe, unsecured or abandoned structures shall be condemned and administered in accordance with Ordinance 1203. The Building Official may order disconnection of all utility services from any vacant structure that is unsafe, dilapidated, unsecured or structurally unsound until the structure is compliant with this ordinance, the AFPC and the LDC. The Building Official shall order permanent disconnection of all utilities from structures condemned under ordinance 1203.

SECTION 9, EMERGENCY MEASURES; IMMINENT DANGER

When, in the opinion of the Building Official, Building Inspector or Code Enforcement Officer, there is imminent danger of failure or collapse of a building, or there exists an unsafe condition or structural hazard, the remedies as outlined in Section 110 of the Arkansas Fire Prevention Code, Volume I shall be applied.

SECTION 10, RIGHT OF ENTRY

The Building Official, Building Inspector or Code Enforcement Officer is authorized to enter any structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused, the Building Official, Building Inspector or Code Enforcement Officer is authorized to pursue recourse as provided by law.

SECTION 11, NUISANCE DECLARATION

All conditions in conflict with the provisions of this ordinance are hereby declared to be nuisances and shall be administered in accordance with the notices, penalties and enforcement section of this ordinance.

SECTION 12, NOTICES, PENALTIES AND ENFORCEMENT

A. NOTICE

Whenever the Building Official, Building Inspector or Code Enforcement Officer determines that there has been a violation of this ordinance or has grounds to believe that a violation exists, notice shall be given to the owner or the person or persons responsible. Such notice shall be in writing, include a description of the real estate sufficient for identification, include a statement of the violation and why the notice is being issued and include a correction order allowing a minimum of 7 days for compliance to be achieved. In the event the owner, operator or lessee is unknown, or is a non-resident of this state and cannot be served notice by any other acceptable means the notice shall be posted in a conspicuous place on the property or structure for the minimum period of 7 days.

B. PENALTIES

Any person who shall violate the provisions of this ordinance shall be guilty of a misdemeanor, and in addition to the imposition of a fine, the Court in its discretion may order restitution to the City for any costs incurred in the enforcement activities and clearing of such property. Each day, after the allowed time period given, shall be considered a separate misdemeanor violation. The penalty for violation of any part of this ordinance shall be not less than \$50.00 or more than \$200.00 per offense.

C. ABATEMENT

If the owner, operator or tenant of any premises, after receipt of notice and expiration of the time period provided should refuse or neglect the duties required by this ordinance, the Building Official, Building Inspector, Code Enforcement Officer or representative is hereby authorized to enter upon the premises and have the nuisance abated by whatever means necessary.

D. RECOVERY OF COSTS

The person notified of any violation will be presented a bill for all costs incurred by such action and shall be responsible for repayment to the City. The Court may order the costs recompensed. Repayment of costs may be enforced by a lien on the real property or by the City Attorney in any manner provided by law.

E. TRANSFER OF OWNERSHIP

To transfer, sell, mortgage, lease or otherwise dispose of any premises after having received a notice of violation does not relieve any owner or operator so notified of his or her responsibility of obtaining compliance as stated in the correction order.

F. LIABILITY OF ENFORCEMENT

Any Code Enforcement official, officer, or designee 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 damages or costs incurred as a result of enforcement acts or any failures to act.

G. REMOVAL OF NUISANCE VEHICLES

(1) **REMOVAL OF UNATTENDED VEHICLES FROM THE PUBLIC RIGHT-OF-WAY**
City of Hope Code Enforcement Officers will tag unattended vehicles located on, within 3' of the traveled way, including an improved sidewalk, or located on any unimproved portion of a public right-of-way, street or alley. The action will institute a Code Enforcement case and will be so logged. The tag will be brightly colored and state, at a minimum, the following: date and time of tagging, that the vehicle will be removed pursuant to Ark. §12-50-1202 et al, the date and time when the vehicle may be removed, the location and telephone number where more information can be obtained, and the identification of the Code Enforcement Officer. Unattended vehicles tagged by the Code Enforcement Department will be provided a minimum of 48 hrs to be relocated in an appropriate manner in accordance with other provisions of this ordinance. Upon expiration of the provided time period the Code Enforcement Officer will contact the Hope Police Department and request an Officer be dispatched to the location. The Police Officer will complete the removal in accordance with departmental procedures. Unattended vehicles that may constitute a substantial hazard to the motoring public will be identified and addressed by The City of Hope Police Department.

(2) **REMOVAL OF NUISANCE VEHICLES FROM PRIVATELY OWNED PROPERTY**
Nuisance vehicles on privately owned property shall be administered as stated in paragraph A above with the provision of a seven (7) day period for compliance to be obtained.

H. ISSUANCE OF CITATIONS

The City Manager of The City of Hope, Arkansas, and appointees are hereby empowered and authorized to issue citations to require alleged violators of this ordinance to appear in the District Court to answer charges of those violations. The City Manager shall designate in writing those individuals who are authorized to issue citations. The list shall be filed with the City Clerk.

SECTION 13, SEVERABILITY

If, for any reason, any portion of this ordinance be held 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 14, REPEAL CLAUSE

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ADOPTED THIS 21st DAY OF MARCH, 2006

DENNIS RAMSEY, MAYOR

ATTEST:

CITY CLERK (SEAL)