

11773

O-01-63

ORDINANCE NO. O-2001- 63

AN ORDINANCE AMENDING ORDINANCE #O-00-20 REGARDING MAINTENANCE AND CLEANLINESS STANDARDS FOR ALL PROPERTY WITHIN THE CITY OF CONWAY; REPEALING ANY ORDINANCES IN CONFLICT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, Arkansas Code Annotated § 14-54-104(3)(D) confers upon cities of the first class the authority to abate and remove nuisances of every kind, and to declare what constitutes a nuisance; and

WHEREAS, the Mayor and City Council desire to amend Ordinance #O-00-20;

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

Section 1. That it shall be unlawful for any person, firm, corporation, partnership, association of persons, owners, agent, 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 corporate limits of the City of Conway, to maintain, use, place, deposit, leave, or permit to be or remain on any public or private: property any of the following items, conditions or actions, continuous violations of which are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- A. Grass, weeds, or other plant that is not cultivated, to grow to a greater height than ten (10) inches on an average of an individual lot, tract, parcel or to grow in rank profusion upon the premises. This requirement shall not apply to any portion of any property that is more than one hundred fifty (150) feet from any developed lot. Grass, weeds or any plant that is not cultivated to grow in rank profusion, or otherwise, in, along, or across the abutting sidewalk or road easement, to a height of more than ten (10) inches on average.

- B. Rubbish, brush, trash, scrap metal, inoperable machinery, dead trees, building materials 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 eight (8) inches off the ground.
- C. The storage of an abandoned or inoperable automobile or other subject item as defined in Ordinance No. O-2001-63 for a period in excess of seven (7) days.
- D. Any condition which provides harborage for rats, mice, snakes and other vermin.
- E. The open storage of iceboxes, refrigerators, or any other appliances or furniture for a period in excess of seven (7) days, and during storage period, all doors, latches and locks are to be removed or made inoperable 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. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- G. The accumulation of stagnate pools of water permitted or maintained on any lot or piece of ground, 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.
- I. All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- J. The carcasses of animals or fowl not disposed of within a reasonable time after death.
- K. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

L. Graffiti or other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates and other structures, trees, and other real and personal property within the City. For the purpose of this chapter, "Graffiti" means the defacing, damaging or destroying by spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, and places.

Section 2. Notice of Violation. Whenever the Code Enforcement Officer, or his duly authorized agent or representative, determines that there are reasonable grounds to believe that there has been a violation of any provisions of this code, he shall give notice of such alleged violation to the person responsible therefore.

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 code that are alleged to be in violation.
- C. Allow a minimum of seven (7) days for performance of any act it requires.
- D. Further state, that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the Code Enforcement Officer, or his duly authorized agent or representative, shall institute legal proceedings, charging the person or persons, firm, corporation, or agent with a violation of this code.

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 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 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 3. Penalties. Any person, firm, corporation, partnership, association of 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 any such violation, such person shall be punished by a fine, not to exceed \$500 for the first offense, and not more than \$250 for each day of offenses of a continuing nature.

Section 4. Violations. 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 or code enforcement officer, as required by law. Prosecutions under this section are supplemental to any other remedies available under state law, including the Litter Control Act (Ark. Code Ann. § 8-6-401 - 416).

Section 5. Abatement by City. In addition to other penalties described herein, upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the nuisance, the code enforcement officer or other duly designated officer of the city may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof, *and that person should be ~~responsible~~ responsible for costs.*

Section 6. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of that conflict.

Section 7. Validity and Separability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this code.

Section 8. Emergency. That it is ascertained and declared that it is necessary for the public peace and welfare of the citizens of the City of Conway, Arkansas, an emergency is hereby declared to exist and this ordinance shall take effect and be in force from and after its passage and ^{approval.} ~~publication.~~

PASSED this 26 day of June, 2001.

Tab Townsell
MAYOR TAB TOWNSELL

ATTEST:

Michael O. Garrett
MICHAEL O. GARRETT, CITY CLERK