

ORDINANCE NO. 2019-24

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OZARK, ARKANSAS, AN ORDINANCE ENTITLED:

Section 1: Purpose The purpose of this ordinance is to implement and enforce the police powers of the city for the abatement of dangerous, unsightly and unsanitary conditions constituting a public nuisance which may exist upon real property located within the city limits, and also to implement and enforce the police powers of the city to require, by condemnation, the repair or removal of houses, building and/or structures which, due to their dilapidated and unsafe condition, constitute a public nuisance. (Ord. No. 2001-15, Sec. 1.)

Section 2: Prohibited acts

- A. It shall be unlawful for any property owner, or occupant of any real property located within the city of Ozark to fail or refuse to cut weeds, grass, or dead or dying trees, to fail or refuse to remove garbage, rubbish and other unsightly and unsanitary articles and things from the real property, to fail or refuse to abate fire and flooding hazards, or to fail or refuse to 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.
- B. It shall be unlawful for any property owner, or occupant of any real property located within the city of Ozark to allow, either by permission or omission, the dumping or accumulation of any trash, litter, garbage, debris or refuse upon the real property by other parties either known or unknown or to fail and refuse to remove all trash, litter garbage, debris or refuse which is unsightly or which may endanger public health.
- C. It shall be unlawful for any property owner, or occupant of real property located within the city of Ozark, Arkansas to use said real property for the open storage of any abandoned motor vehicle, or parts thereof including but not limited to truck beds, trailers, chassis and other parts thereof, refrigerators, stoves, glass, building material, building rubbish or similar items, to use such items as storage buildings, or to fail to refuse to remove such items from the property. For the purpose of this ordinance, an "abandoned motor vehicle" is defined as one that is in a state of disrepair and incapable of being moved under its own power and includes truck beds, trailers, chassis, and any and all parts thereof. However, this section shall not be in force as to a commercial enterprise duly licensed and permitted to carry on a business in the storage of such items on a tract property zoned for such business and complying with any and all other conditions required for the lawful functioning of such business. (Ord. No. 2009-14, Sec.1.)

- D. It shall be unlawful for any property owner or occupant of any real property located within the city of Ozark to allow, either by permission or omission, any of the conditions set out in subparagraphs (a), (b), and (c) above, upon any alleys, utility casements, rights-of-way and/or easements (including ditches) adjoining the real property.
- E. It shall be unlawful for any owner to fail or refuse to repair, remove or raze any house, building and/or structure which has deteriorated to such a condition, or has been damaged to such an extent, as to be dilapidated, unsightly, unsafe, unsanitary, obnoxious, or to constitute a fire hazard or in other manner be detrimental to the public welfare to such a degree as to found and declared a nuisance by the city.
- F. It shall be unlawful for any owner and/or occupant to cause, create, permit or cause to occur within the city of Ozark, Arkansas, any nuisance, including but not limited to those listed above in this section, on property owned or occupied by any person and each day such nuisance is permitted to remain, after notice from the city for the abatement thereof, shall subject the person or persons responsible for the non-abatement of such nuisance to punishment as provided by this ordinance. (Ord. No. 2001-15, Sec. 2.)

Section 3 Guidelines Regarding the cutting and removal of weeds, grasses and trees, owners and occupants of real property located within the city of Ozark, Arkansas, shall be governed by the following guidelines:

- A. Except as otherwise provided, all lands, whether or not platted and/or subdivided, which have been cleared or developed and which remain in their natural state, including, but not limited to, undeveloped open spaces such as meadows or similar lands which can be used for grazing or forage, may be maintained in their undeveloped natural state, provided, however, that the weeds, grasses, or trees must be cut or removed if such vegetation blocks pedestrian or vehicular vision or traffic.
- B. All property, except those described in subsection (A) above, shall be maintained so that weeds and grasses thereon shall not exceed twelve (12) inches in height.
- C. The owners and occupants of all property, except those described in subparagraph (A) above, shall maintain all unopened street rights-of-way, easements for streets, utility, drainage, walking, or other purposes, unopened alleys and opened alley, other than the portion of same used for vehicular traffic, which adjoin said owner or occupants' property so that weeds and grasses shall not exceed twelve (12) inches in height. If any such right-of-way, easement or alley is adjoined by the properties of two (2) property owners, then each owner or occupant shall maintain such right-of-way, easement or alley to the midpoint thereof.

- D. The owners or occupants of all lands shall remove or cause to be removed all dead or dying trees and dead parts of living trees from such lands when such dead or dying trees or dead parts of trees shall constitute a hazard to personal safety or property due to the imminent possibility of their falling upon or being blown upon public property or property of the other owners, or when such trees, because of decay or disease, constitute a nuisance and/or imminent health threat to other trees located on public property or property of other owners.
- E. After the cutting of tall weeds, rank grass, or other vegetation, if the resulting yard waste itself creates or constitutes a condition which is unsafe, unsanitary, dangerous, unsightly or a fire hazard, said yard waste shall also be required to be removed from the property. (Ord. No. 2001-15, Sec. 3.)

Section 4 Removal after disaster If any property owner shall suffer the loss, either total or partial of a house by fire or tornado, it shall be the duty of the Code Enforcement Officer to immediately notify, in writing, the property owner to remove all debris for the lot. It shall be the duty of the property owner within thirty (30) days from receipt of such notice to remove all debris or refuse on said lot. The notice required under this section is separate from the notice required by 5.04.07. (Ord. No. 2001-15, Sec. 4.)

Section 5 Railroads All railroad companies operating within the city limits of the city of Ozark, Arkansas, shall maintain their rights-of-way at or around any railroad crossing with a public street, alley or other public way free from weeds, grasses, trees, bushes, shrubs, and other growing vegetation which may obstruct the view of pedestrians and vehicle operators using the public ways, for a distance of one hundred (100) yards in all right-of-way directions from such railroad crossings. Further, all such railroad companies shall maintain their rights-of-way so that weeds and grasses thereon shall not exceed twelve (12) inches in height. (Ord. No. 2001-15, Sec. 5.)

Section 6 Inspection No notice as described in Section 7, below, shall be issued to any owner or occupant until a thorough inspection of the condition of the relevant real property and/or structure has been conducted by the Mayor, Code Enforcement Officer, Police Chief, Fire Chief, City Attorney or other designated representative of the Mayor, and that official (or officials) determined that the existing condition of the real property and/or structure constitutes a substantial health, fire, flooding, safety or aesthetic hazard or detriment to the well-being of the inhabitants of the city. (Ord. No. 2001-15, Sect. 6.)

Section 7 Notice and Procedure

(a) Requirement of Notice. Upon identification of a property which is in violation of Sections one (1) through six (6) of this Ordinance, and verification of same by an official enumerated in Section six (6) above, the appropriate official enumerated in Section 6, above, shall give notice to the record owner of such lands in accordance with the requirement set forth below.

(b) Contents of Notice. Such notice shall include the street address of the property in question and a particular statement concerning the violations of this ordinance or the Arkansas Fire Code or Arkansas Building Code, as well as a warning in all capital letters substantially as follows:

“FAILURE TO REMEDY THE VIOLATIONS IDENTIFIED HEREIN WITHIN SEVEN (7) DAYS, MAY RESULT IN THE CITY OF OZARK ENTERING UPON THE PREMISES SO RECITED AND REMEDYING THE VIOLATION. IF ANY IMPROVEMENT UPON THE PROPERTY IS DEEMED UNSAFE OR UNFIT FOR HABITATION PURSUANT TO THE APPLICABLE BUILDING OR FIRE CODES THE SAME MAY BE RAIZED BY CITY. THE COSTS EXPENDED BY THE CITY MAY BE CHARGED AS A LIEN UPON THE PROPERTY FOR THE AMOUNT SO DETERMINED BY THE CITY COUNCIL AS HAVING BEEN EXPENDED IN SUCH CLEAN-UP, REPAIR OR RAIZING OF THE PROPERTY.

(c) Notice, to whom and how served. For purposes of this Ordinance the “record owner” shall be deemed to be the person(s) listed upon the tax records of the Franklin County Assessor or the Franklin County Collector, and the notice shall be mailed by certified mail, return receipt requested to the address listed upon the tax records of the Franklin County Assessor or the Franklin County Collector. If such notice be returned unclaimed or refused, the notice shall then be mailed by regular mail, and posted for a period of at least seven (7) days upon the property. If there is an improvement upon the property, then the same shall be affixed to the front and back door of the improvement upon the property. Whoever shall mail any notice by regular mail or post notice upon any property shall make affidavit of having done so, and file the same with the City Clerk along with a copy of the notice. Additionally, a diligent search of the real estate records of the Franklin County Ex-Officio Recorder in order to identify any mortgage lien holder shall be performed. If authorized by the Mayor, a third party such as a title company may complete such lien search on behalf of the city, and then costs thereof shall be included in any assessment of costs as provided below. A copy of the notice identifying the record owner, and otherwise complying with the requirements in sub-paragraph (b) above, shall be mailed to the lienholder by certified mail, return receipt requested. For purposes of this Ordinance a Seller of lands by Contract of Sale shall be deemed to be and treated as a mortgage lien holder for all intents and purposes.

(d) No work or entry upon the premises, except for the purpose of giving the notices required above, shall be commenced until at least seven (7) days have elapsed since the service of notice(s) as required in paragraph (c) above has been given.

(e) During the work the department head overseeing the same shall account for all equipment used in such clean-up and the hours of each employee completing same. Upon completion of the work the department head shall prepare a report of all of such expenses and file the same with the City Clerk, who shall affix a time for hearing before the next regular meeting of the City Council. If such report is filed 14 days or less before such meeting, then the next regular meeting thereafter shall be set for a hearing before the counsel.

(f) Upon the setting of a hearing date before the council, the Mayor, Police Chief, City Attorney or Fire Chief shall cause to be served upon such property owner a notice of hearing to consider assessment and levy upon the property by the City Council. Such notice shall be served in accordance with the provisions Section 7 (c), above, and affidavit of compliance with the notice requirement shall be filed with the City Clerk.

(g) At the time appointed for the consideration of the assessment and levy upon the property, the City Council shall hear from the department concerning the expenditures of the City, and may examine him; upon completion of the City's case, the respondent property owner shall have the opportunity to present his or her case to the council concerning the clean-up and cost. Upon conclusion of the hearing, the City Council shall approve by majority vote the amount of an assessment and levy upon the property in question. If that sum be not paid within seven days, then the City Clerk shall forward the assessment and levy declared by the City Council, approved by the Mayor and attested by the Clerk to the Franklin County Tax Collector for collection as a real estate tax upon the described property. The Respondent shall have the time allowed by law to appeal any such assessment and levy to the Circuit Court of Franklin County.

(h) An amount equal to ten percent of the assessment and levy approved by the City Council shall be added to any such tax assessment for administrative costs. Upon collecting the same, the County Tax Collector shall be entitled to retain three percent of the total so collected for a Collector's fee, and shall remit the remainder unto the City of Ozark.

Section 8. Repealer. The provisions of Ordinance 2001-15 are hereby repealed, as is any other ordinance or parts of any ordinance which conflict herewith.

Section 9. Emergency Clause. The health and safety of the citizens of the City of Ozark are harmfully affected by real property which violates this Ordinance, therefore an emergency is hereby declared and this Ordinance shall be in full force and effect from and after its passage.

PASSED this 24th day of October, 2019.

APPROVED:

Roxie Hall

Roxie Hall, Mayor

Approved date: 10.24.19

ATTEST:

Sonya Eveld Deputy City Clerk

Sonya Eveld, City Clerk

Attest Date: 10.24.2019

SEAL