



ORDINANCE NO.: 110

**AN ORDINANCE ESTABLISHING REGULATIONS
CONCERNING UNSIGHTLY AND UNSANITARY CONDITIONS;
PROVIDING FOR THE MANNER OF ABATEMENT OF
THOSE CONDITIONS; AND REPEALING ORDINANCE 80.**

WHEREAS, it is the desire of the Town of Avoca, Arkansas to update its regulations pertaining to unsightly and unsanitary conditions.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVOCA, ARKANSAS AS FOLLOWS:

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

- (a) *Garbage* means all normal kitchen waste, such as vegetable and animal wastes and their byproducts, but does not include sewage and human body wastes.
- (b) *Rubbish* means brush, grass, leaves and other normal yard refuse, paper, cans, bottles and empty food and drink containers.
- (c) *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.
 - i. *Appliances* 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.
 - ii. *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.
 - iii. *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.

- iv. *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.
- v. *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.

(d) *Town Official* means the Mayor, Health Officer, Fire Chief, Assistant Fire Chief, City Inspector, or Council Member.

(e) *Unsanitary* means that a place, condition or thing might become a breeding place for flies, mosquitoes and germs harmful to the health of the community.

(f) *Unightly* means that a place, condition or thing 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.

(g) *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.

2. Clearance of Unightly and Unsanitary Conditions on Real Property. Owners or occupants of real property within the corporate limits of the Town are hereby required to cut weeds; to remove garbage, rubbish, or other unsightly or unsanitary things; and to eliminate, fill up or remove stagnant pools of water or any other unsanitary thing, place or condition upon their real property.

3. Initial Determination of Unightly and Unsanitary Condition. A written complaint may be submitted to the Town's Planning Commission by a resident of the Town or by a Town Official. The complaint shall describe the condition at issue, the location of the condition, and the complainant's name and address. The Planning Commission shall review complaints within 45 calendar days of receipt. If at least two members of the Planning Commission deem the condition unsightly and unsanitary, the matter shall be brought to the attention of the Town Council for appropriate corrective action. If less than two members of the Planning Commission deem the condition unsightly and unsanitary, no action shall be taken.

4. Notice.

(a) Before corrective action may be taken, a notice identifying the unsightly and sanitary condition and the desired action shall be sent by a police officer, town attorney, or code enforcement officer by regular mail and by certified mail, return receipt requested to the owner at the owner's address on file with the county assessor and to lienholders at the lienholder's address shown in the relevant land records. The notice shall state that if the owner or lienholder neglects or refuses to remove, abate, or eliminate the unsightly and unsanitary condition within seven business days, then the town may do whatever is necessary to correct the condition, including pursuing a lien pursuant to Ark. Code Ann. § 14-54-901, *et seq.*, and to charge the cost thereof to the owner of the lots or other real property. In case the owner is unknown or his or her whereabouts is not known or he or she is a nonresident of this state, then a copy of the written notice shall be posted upon the premises.

(b) Notwithstanding any other provision herein, before any abandoned or inoperative motor vehicle is taken into custody and possession from private property, the Town shall give the private property owner and the owner of the motor vehicle, if ascertainable, 30 days' notice by registered or certified mail or 72 hours' notice by personal service that such an action will be taken unless the motor vehicle is restored to a functional use, disposed of in a manner not prohibited by Ark. Code Ann. § 8-6-401, *et seq.*, or placed in an enclosed building. The notice in this Subsection may be waived by the owners of the property jointly and severally.

5. Action By Town. If the owner or lienholder of any lot or other real property within the Town neglects or refuses to remove, abate, or eliminate any condition under this Ordinance after having been given the notice required in Section 4, then the town may do whatever is necessary to correct the condition, including pursuing a lien pursuant to Ark. Code Ann. § 14-54-901, *et seq.*, and to charge the cost thereof to the owner of the lots or other real property.

6. Imminent Health or Safety Hazard.

(a) *Abatement.* Whenever a real and imminent health or safety hazard stemming from a condition or thing described in Section 2 exists such that the notice provisions provided for in Section 4 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 Ark. Code Ann. § 14-54-103, do whatever is necessary to abate the hazard stemming from the condition or thing.


(b) *Determination.* No action may be taken under this Section unless at least two members of the Planning Commission determine that the condition or thing constitutes a real and imminent health or safety hazard.

(c) *Alternate procedure.* Upon the written application of at least two members of the Planning Commission, a town attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of.

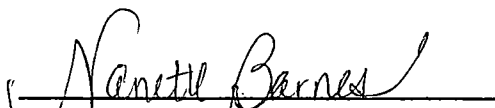
7. Repealer. Ordinance No.: 80 is hereby repealed and all other Ordinances or parts thereof in conflict are also hereby repealed to the extent of the conflict.

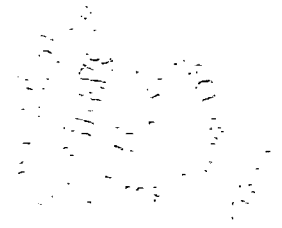
8. Emergency Clause. This Ordinance is necessary in order to provide for the continued health, safety, and welfare of the Town's citizens; therefore, an emergency is hereby declared, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 12th day of September 2017.


JORDAN SULLIVAN, Mayor

Attest:


NANETTE BARNES, Recorder-Treasurer



User Name: JILL
CERTIFICATE OF RECORD
STATE OF ARKANSAS, COUNTY OF BENTON
I hereby certify that this instrument was
Filed and Recorded in the Official Records
L201807955 2/15/2018 11:10:18 AM
Brenda DeShields, Circuit Clerk
BENTON CO, AR FEE \$30.00