

TOWN OF FOUNTAIN LAKE
ORDINANCE No. 2011 - 05

**ORDINANCE TO REGULATE UNSANITARY, UNSIGHTLY CONDITIONS ON
REAL PROPERTY**

WHEREFORE, Ark. Code Ann. § 14-14-813 authorizes towns to regulate and order property owners to remove unsightly, and unsanitary conditions on real property within the Town; and

WHEREFORE, the Town Council has determined it in the best interests of the health, safety, sand welfare of its citizens to regulate such conditions.

NOW, BE IT HEREBY ORDAINED BY THE COUNCIL OF THE TOWN OF FOUNTAIN LAKE, ARKANSAS, THAT:

Section 1. Definitions.

Abandoned, dilapidated or burned out buildings or structures. Any structure that is not occupied and for an extended period of time has been without proper upkeep sufficient to prevent structural decay and possible partial or complete collapse and/or has been partially burned out and not repaired for over one year and is open to unauthorized entry.

Abatement. Any action the Town may take or require on public or private property as may be necessary to remove or alleviate a nuisance property situation, including but not limited to cleanup, demolition, sell, removal, repair and boarding.

Boarding. The Town-approved securing of a vacant building or an unsafe building by barricading against unauthorized entry all windows, unsecured doors and other openings, which can render the property no longer a nuisance property.

Town. Fountain Lake, Arkansas and any authorized representative thereof.

Town authorized representatives. Town officials and authorized representatives, including Town Marshals and code enforcement officers, who are authorized by the Town Council enforce this article and are serving in an official capacity to protect the health, safety and welfare of the citizens of the county.

Hazardous safety or environmental or health threat. Any situation on a property that is or has the likely potential to become a potential threat to the health, safety and welfare of the residents of the Town.

Imminent life safety hazard. Any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

Junked or abandoned vehicles and mobile homes. Automobiles, trucks, mobile homes or other mobile equipment that are no longer serviceable and operable and have been abandoned or stripped of parts and are not part of an established, licensed commercial operation.

Mobile home. Any type of house, office, dwelling or trailer that was originally manufactured to be capable of being towed down the highway on detachable axles and wheels.

Nuisance property. Any property on which a party allows unsafe, unsightly, and unsanitary conditions of any building or structure, the area around any building, property, or accessory apparatus that is a hazardous, safety, environmental or health threat and is found in any way to adversely affect or devalue the surrounding properties.

Owner. The owner of record based on the county assessor's record.

Offending party. A party who is determined by a county authorized representative to be responsible for a nuisance property.

Party. Any person, owner, tenant, partnership, trust, corporation, firm, institution, association, city, town, municipal authority, agency, office, employee, venture or other legal entity or agent or organization thereof that operates on a property within the county.

Property. Any real property, premises and/or structures or apparatus thereon.

Unsafe, unsightly, and unsanitary conditions. Conditions on any property within the Town that poses in any way a marked detrimental influence on the expected esthetics, safety and health of the neighboring area.

Section 2. Offensive, unsanitary, or hazardous conditions on property.

It shall be unlawful and constitute a nuisance for any party to allow unsafe, unsightly, and unsanitary conditions of any building or structure, or to allow or cause the area around any building, property, or accessory apparatus to become a hazardous, safety, environmental or health threat. Offending nuisances shall include but not be limited to the following:

(1) Abandoned, dilapidated or burned out buildings or structures, which constitute a safety threat, or is weakened and likely to collapse, or any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

(2) Accumulation of rubbish, trash, refuse, junk and other abandoned

materials, metals, lumber or other things.

(3) The overt storage of more than three junked or abandoned vehicles or mobile homes for over **THREE MONTHS** unless reasonably out of sight.

(4) Outside storage of more than 30 old tires for over two years.

(5) The overt outdoor storage of any furniture, appliances or furnishings normally utilized inside a structure or dwelling.

(6) The overt storage for over two years of any unprotected building or manufacturing supplies and materials in unsightly quantities and arrangements or in such a manner as to allow rapid deterioration or scattering, harm in any way to the neighboring area or to the waters of the state.

(7) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests.

(8) 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.

Section 4. Contact and action by Town Council.

The following contact and action sequence shall be followed when Town authorized representatives require a party to mitigate a nuisance within the Town:

(1) *Initial inspection.* The Town Council shall physically inspect the property in question and determine the seriousness of the situation and assess if there is a violation of this article. If one exists, the owner of the property shall be determined utilizing county records.

(2) *First contact.* The Town Council shall first notify any offending party operating on any property within the Town of a nuisance found on the property with a verbal and written notice of pending action. If the offending party is not the owner, an attempt will also be made to contact the owner. This notice shall define the nuisance found on the property and an expected method of remediation. Depending on the nature of the violation, and so long as there is no imminent serious danger or hazard to life or property, the town council shall, in writing, give the offending party up to 30 days to remedy the violation on the property. In the case of imminent serious danger and hazard to life or property the Town shall have the right to immediately begin emergency mitigation without notification of any party but shall attempt to verbally notify the offending party as soon as reasonably possible as to the reasons for the emergency corrective actions being implemented on said property.

(3) *Second contact.* If after the time allowed following the initial notice of pending action, the violation is not corrected, a notice of violation shall be sent to the party by certified mail and be conspicuously posted on the ingress and egress to the

property. This notice shall clearly define the seriousness of the violation and the possible penalties and fines that may be imposed if the violation is not immediately and properly addressed.

(4) *Third contact.* If after seven days from the date of second contact the nuisance is not corrected properly or the offending party has not shown a concerted attempt to correct the violation, the Town Council shall take a vote and the majority voting yes to make reasonable efforts to serve a citation on the party in person; however when this is not feasible, the party will be sent a court summons letter by certified mail to appear in district court to face charges of violation of this article.

(5) *Extenuating circumstances.* If the offending party has shown a concerted effort to rectify the violation but needs more time, the Town Council may, in its sole discretion, extend a defined period of time commensurate to the proper mitigation of the violation. If the violation is not rectified within the extended defined period of time, the Town Council will take a vote with the majority voting yes to make reasonable efforts to serve a citation on the party in person; however when this is not feasible, the party will be sent a court summons letter by certified mail to appear in district court to face charges of violation of this article.

(6) If any offending party operating on a property within the Town neglects or refuses to abate the nuisance in accordance with such notice as provided in this subsection, the Town, in addition to seeking enforcement of the penalties defined herein, may also abate said nuisance by any means necessary, including seeking a Council adopted resolution of condemnation of a structure and selling, razing or boarding up, and assess net costs of abatement against the responsible offending party thereof, to be collected by payment, lien, attached to property tax, or any other means allowed by law.

Section 5. Application of regulations.

This Ordinance shall not apply to:

(1) Land valued as agricultural property that is being farmed or otherwise used for agricultural purposes; or

(2) A parcel of land larger than ten acres if the unsanitary condition on the parcel is not visible from a public road or highway.

Section 6. Violation fees, penalties and fines.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance. Any person violating this Ordinance shall, on conviction thereof, be punished by fine of not less than \$20.00 nor more than \$500.00, for any one specified offense or violation, or double that sum for each repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the

continuance thereof, in violation of [this article], shall not exceed \$250.00 for each day that it may unlawfully continue.

Section 7. Severability

In the event any portion of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this resolution, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this resolution.

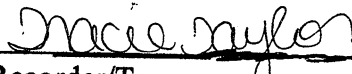
Section 8. Repealer

All ordinances and resolutions, and parts thereof, which are in conflict with any provision of this resolution are hereby repealed to the extent of such conflict.

EFFECTIVE DATE. This ordinance shall become effective in 30 days upon passage by the Fountain Lake Town Council.

Passed and adopted this 3rd day of October, 2011.


Jack C. Fields
Mayor


Inaie Nylon
Recorder/Treasurer

