

## TITLE 5

### HEALTH AND SANITATION

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#### CHAPTER 5.04

#### ADMINISTRATION

#### Sections:

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#### 5.04.01 Introduction

- A. General These regulations shall be known as the city of Clarksville's Nuisance Abatement and Property Maintenance Code and may be referred to herein as "The Code" or "this Code." These regulations are intended to ensure public health, safety and welfare premises within the city of Clarksville, Arkansas.
- B. Applicability The provisions of this code shall apply to all residential and nonresidential structures and all premises within the city of Clarksville, Arkansas, and constitute minimum requirements and standards for premises, structures and facilities for sanitation, and for safe and sanitary maintenance; the responsibility of owners and occupants; and for administration, enforcement and penalties.

Structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with all local, state, and federal codes as administered by the city of Clarksville Building Official. Where different standards or requirements are imposed by this Code and other competent authority or by different sections of this Code, the most restrictive standard or requirement shall govern.

- C. Historic buildings, structures and districts Existing buildings or structures designated by the city of Clarksville, the state of Arkansas, or the United States government to be historic or within a designated historic district shall be exempted from the literal requirements of such provisions of this Code that a property body (such as the Historic Commission or City Council) determines to infringe upon the historic nature of the building or structure. However, no exemption may be allowed unless the buildings or structures are judged by the Code Enforcement Officer or City Building Official to be safe and in the public interest of health, safety and welfare. (Ord. No. 2015-737, Sec. 1.1)

#### 5.04.02 Code Enforcement Officers

- A. General This Code shall be enforced by all Code Enforcement Officers of the city of Clarksville. For the purposes of this Code, a Code Enforcement Officer shall be defined as any city employee who has been duly sworn and authorized to uphold the ordinances of the city and laws of the state of Arkansas related to property maintenance, nuisance properties, abandoned vehicles, within the boundaries of the city. This Code may also be enforced by any and all duly sworn law enforcement officers of the Clarksville Police Department.
- B. Identification All Code Enforcement Officers shall carry proper identification and present the same upon request when performing duties under this Code. (Ord. No. 2015-737, Sec. 1.2)

#### 5.04.03 Inspections

- A. Right of entry Code Enforcement Officers are authorized to enter structures or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the officers may pursue such search authorization as may be provided by law.
- B. Inspections Code Enforcement Officers shall make all of the inspections required by this Code. All reports of such inspections shall be in writing and be certified by the responsible officer. Code Enforcement Officers are authorized to rely upon a responsible expert opinion as the officer deems necessary to report upon unusual technical issues that arise. (Ord. No. 2015-737, Sec. 1.3)

#### 5.04.04 Violations

- A. Misdemeanors It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code. Any person who is convicted of a violation of this Code shall be guilty of a misdemeanor, and the violation shall be deemed a strict liability offense.
- B. Fines Except as otherwise provided, a person convicted of violating any provision of this Code shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or double such sum for each repetition thereof. If the violation is continuous in nature, the penalty for allowing the continuance thereof is a fine not to exceed Two Hundred Fifty Dollars (\$250.00) for each day that the violation is unlawfully continued. The judge will determine the actual fine.
- C. Citations Code Enforcement Officers are hereby authorized to issue citations to any person, firm or corporation in conflict with or in violation of any of the provisions of this Code. Issuances of citations must comply with Arkansas Rules of Criminal Procedures. District Court shall have exclusive jurisdiction over citations issued pursuant to this Code.
- D. Appeals Any person after being found guilty of a violation or after entering a plea of guilty or nolo contendere to a violation shall have those appellant rights granted under the laws of the state of Arkansas, United States Constitution and Arkansas Rules of Criminal Procedure. Appeals of convictions of a violation will be with Johnson County Circuit Court. (Ord. No. 2015-737, Sec. 1.4)

#### 5.04.05 Administrative procedures

- A. Notice of violations "Notice of violations" shall be written on standardized or letter from approved by the city administration and shall include the following information:
1. The name of the owner, if known;
  2. An address or description of the real estate sufficient for identification;
  3. A description of the violation(s);
  4. A statement that citations may be issued and fines assessed in addition to any administrative remedy imposed by the city;
  5. Include a statement that the city has a right to cause repairs, work or demolition to be made and that the costs may be assessed against the owner and the property of the owner; and

6. The information required by A.C.A. 14-504-903, if applicable.
- B. Method of service Administration notices (such as a Notice of Violation) may be issued by any person authorized under A.C.A. 14-504-903 by posting on the subject property and:
1. By personal service; or
  2. By regular mail or certified mail, return receipt requested; or
  3. When the identity or whereabouts of a person is unknown, by weekly publication in a newspaper of general circulation throughout the city for two (2) consecutive weeks.

Notice by mail shall be sent to the owner's address of record with the applicable County Treasurer or Collector. When sent to the proper address with proper postage, notice by mail shall be deemed properly served without regard as to whether the owner or occupant accepted the mail or the mail was otherwise returned.

- C. Transfer of ownership After receiving a notice of violation, it shall be unlawful for the owner of any property or structure to sell, transfer, mortgage, lease or otherwise alienate or dispose of the same until:
1. The property or structure has been caused to conform with this Code; or
  2. The owner shall provide the other party a true copy of any notice of violation issued by a Code Enforcement Officer and shall furnish to the same a signed and notarized statement from the other party accepting responsibility for the property or structure.
- D. Exceptions The Notice of violation requirements of this section shall not apply to the issuance of citations. Issuance of citations must comply with the procedures described in 5.04.04 (C). (Ord. No. 2015-737, Sec. 1.5)

#### 5.04.06 Condemnation

- A. Authority In addition to other penalties provided herein but not in lieu thereof, the City Council for the city of Clarksville may condemn structures through the passage of a resolution, after a public hearing that shall include:

1. A description of the structure;
  2. The owner or owners of the structures;
  3. Findings that the structures are unfit for human occupancy or otherwise detrimental to the life, property or safety of the public.
- B. Notices The Code Enforcement Officer shall be responsible for publication, mailing or delivery of all notices required to condemn structures.
1. Prior notice of proposed condemnation The owner of the structure shall be provided notice of any proposed condemnation action no less than ten (10) calendar days prior to consideration by City Council.
  2. Notice of condemnation After a structure has been condemned by resolution as provided in this Code, a certified copy of such resolution shall be mailed to the owners thereof, by the method described in 5.04.05 (B) and if appropriate, may be recorded in the property records of the Johnson County Circuit Clerk.
  3. Notice of certification of costs After a condemned structure has been removed at city expense, the owner shall be provided no less than ten (10) calendar days' prior notice of any action to certify costs by the City Council. If appropriate, any and all lien holders will also be provided no less than ten (10) calendar days' prior notice of any action to certify costs by the City Council. Notice will be provided by the method described in 5.04.05 (B).
- C. Destruction and removal Condemned structures shall be destroyed and removed from the premises.
1. Destruction and removal by owner The owner of any structure that has been condemned by resolution of the City Council is permitted to cause, at his or her own expense, to have the same destroyed and removed within thirty (30) days after the city has provided notice under 5.04.06 (C). No person is allowed to repair or refurbish a condemned structure without an agreement approved by the City Council that guarantees repairs will be done in a proper and timely fashion.
  2. Destruction and removal by city If the condemned structure has not been torn down and removed or otherwise abated, within thirty (30) days after the notice requirements of 5.04.06 (B) (2) have been met, then the Code Enforcement Officer shall supervise the removal of any such structure in

such a manner as deemed appropriate under existing circumstances. If the structure has a substantial value, it or any saleable materials thereof may be sold at public sale to the highest bidder for cash using procedures provided by law. The costs of removal shall be presented to City Council for certification and collection from the owner.

- D. Disposition of proceeds of sale All the proceeds of the sale or salvage of any structure, and all fines collected from the provisions of this article shall be paid by the persons collecting the same to the City Treasurer. If any such structure or the saleable materials thereof be sold for any amount which exceeds all costs incidental to the abatement of the nuisance, including the cleaning up of the premises by the city, plus any fines imposed, the balance thereof shall be returned by the City Treasurer to the former owners of such house, building and/or structure constituting the nuisance.
- E. Lien on property for net costs If the city has any net costs in the removal of any condemned house, building or structure, the city shall have a lien on the property as provided by A.C.A. 14-54-903 and 14-54-904. An inventory of all costs shall be kept by the Code Enforcement Officer.
- F. Penalty for violation of article A penalty as provided by this Code is hereby imposed against the owners of any structure, condemned by resolution of the City Council thirty (30) days after such structure has been condemned, and each day thereafter such nuisance be not abated constitutes a separate and distinct offense, provided the notice as provided in 5.04.06 (C) (2) has been given within ten (10) calendar days after such structure has been condemned.
- G. Transfer of ownership After receiving a notice of condemnation, it shall be unlawful for the owner of any structure to sell, transfer, mortgage, lease or otherwise alienate or dispose of the same until:
1. The property or structure has been caused to conform with this Code; or
  2. The owner shall provide the other party a true and exact copy of any notice of violation issued by the Code Enforcement Officer and shall furnish to the same a signed and notarized statement from the other party accepting responsibility for the property or structure.
- H. Restrictions on utility services Restrictions on utility services to structures declared condemned:

1. The city shall not provide or permit another to provide public or private utility services, such as water, gas or electricity, to any building or house that has been condemned by the City Council pursuant to A.C.A. 14-56-203.
  2. Subsection (1) of this section shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair or alteration. The Code Enforcement Officer or Building Official shall be responsible for making the determination as to when such temporary services may be necessary.
- I. Court action authorized If City Council determines that a particular structure be judicially condemned, the City Council shall direct the City Attorney to bring such action in the name of the city, and the only notice to be given to the owners and lien holders will be that as provided by law. When any such structure has been declared judicially to be a nuisance by a court of law, a penalty as provided by this Code is hereby imposed against the owner thereof from the date such finding is made by the court, and each day thereafter such nuisance is not abated constitutes a separate and distinct offense. (Ord. No. 2015-737, Sec. 1.6)

#### 5.04.07 Emergency procedures

- A. Temporary safeguards Notwithstanding other provisions of this Code, whenever, in the opinion of the Code Enforcement Officer, there is imminent danger due to an unsafe condition, the Code Official shall, upon approval of his supervisor, order the necessary work to be done, including the boarding up of opening, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted, and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.
- B. Emergency repairs For the purposes of this section, the Code Enforcement Officer, with approval of his supervisor, shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of emergency work shall be paid by the city. The City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs. (Ord. No. 2015-737, Sec. 1.7)

**CHAPTER 5.08****DEFINITIONS****Sections:**

5.08.01	Purpose
5.08.02	Definitions

**5.08.01 Purpose** Unless otherwise expressly stated, the following terms shall for the purpose of this Code, have the meanings shown in this chapter. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” or “structure” are stated in this Code, they shall be construed as though they were followed by the words “or any part thereof.” (Ord. No. 2015-737, Sec. 2.1)

**5.08.02 Definitions**

**Abandoned motor vehicle** Any motor vehicle which is left on public or private property as defined in this section for a period of more than seventy-two (72) hours, regardless of whether wrecked or inoperable.

**Approved** Consented or agreed to in writing by the Code Enforcement Officer or his proper designee.

**Boat** Any vessel initially designed for the carrying of passengers or cargo upon the water, whether currently seaworthy or not, and regardless of size or design, including, without limitations, barges, motorboats whether inboard or outboard, canoes, rowboats, rafts and sailboats.

**Carport** A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides.

**Code Enforcement Officer** Any city employee who has been duly sworn and authorized to uphold the ordinances of the city and laws of the state of Arkansas related to property uses, maintenance, nuisances, and inspections within the municipal boundaries of the city. All duly sworn law enforcement officers of the Clarksville Police Department are authorized to exercise authority as Code Enforcement Officers.

**Condemn** To adjudge unfit for human occupancy.

**Exterior property** The open space on the premises and adjoining property under the control of owners or operators of such premises.

**Extermination** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination method.

**Garbage** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**Graffiti** Any inscription, word, figure or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any structural component of any building, structure or other permanent facility regardless of the nature of the material of that structural component or the nature of the inscription to the extent that the same was not authorized in advance by the owner or otherwise deemed to be a public nuisance.

**Historic** Any existing buildings or structures designated by the city of Clarksville, the state of Arkansas, or the United States government to be historic or located within a historic district.

**Imminent danger** A condition which 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.

**Inoperable motor vehicle** A vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, uninsured, wrecked, abandoned, in a state of disrepair or incapable of being moved under its own power.

**Motor vehicle** A machine of conveyance which is self-propelled and designed to travel along the ground and includes but is not limited to automobiles, buses, electric scooters, mopeds, bicycles, motorcycles, trucks, tractors, go-carts, golf carts, campers, motor homes and trailers.

**Nuisance** This term is defined in Section 5 of this Code.

**Operator** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

**Owner** Any person, agent, operator, firm or corporation having a legal equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the 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.

**Premises** A lot, plot or parcel of land, easement or public way, including any structures thereon.

**Private property** Any real property within the city which is privately owned and which is not defined as public property in this section.

**Public property** Any real property in the city which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, rights-of-way, easements and other similar property.

**Removal** The act of clearing all material and debris whenever it becomes necessary to demolish any building that has been condemned and found to be a nuisance by resolution of the City Council.

**Residence** A structure serving as a dwelling or home.

**Rubbish** Combustible and non-combustible waste material, except garbage. The term shall include the residue from the burning of wood, coal and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**Uncut weeds and grass** See 5.12.02 for definition.

**Structure** That which is built or constructed or portion thereof.

**Trailer** Means any freewheeling object designed or intended to be pulled or towed behind a motor vehicle, regardless of whether wrecked or inoperable, and regardless of whether currently inspected and/or registered, including without limitations the following: boat trailers, camper trailers, cargo trailers, special trailers for items such as golf carts or motorcycles, utility trailer and farm implements.

**Wrecked motor vehicle** Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate and the condition of which is wrecked, dismantled, partially dismantled, incapable of operation by its own power on a public street, or from which the wheels, engine, transmission or any substantial part thereof has been removed.

**Yard** An open space on the same lot with a structure.  
(Ord. No. 2015-737, Sec. 2.2)

**CHAPTER 5.12****GENERAL REQUIREMENTS**Sections:

5.12.01	General
5.12.02	Exterior property areas
5.12.03	Swimming pools, spas and hot tubs
5.12.04	Exterior structure
5.12.05	Interior structure
5.12.06	Rubbish and garbage
5.12.07	Extermination

5.12.01 General

- A. Scope The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures and exterior property.
- B. Responsibility The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a structure are responsible for keeping in a clean, sanitary and safe condition that part of the structure which they occupy and control.
- C. Vacant structures and land All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. (Ord. No. 2015-737, Sec. 3.1)

5.12.02 Exterior property areas

- A. Sanitation All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- B. Grass or weeds Grass or weeds shall not exceed twelve (12) inches in height in all residential districts or exceed twelve (12) inches in height on lots in all commercial zone districts and industrial zone districts on which a structure is located, or exceed twenty-four (24) inches in height on lots in all commercial

zone districts and industrial zone districts on which a structure is not located; except that the restrictions noted above will not apply to areas specifically designated or recognized by the city, the state or the United States as agricultural, wetlands, open spaces, natural or wild flower area or other designated preservation areas. Fields used for haying may be exempt from these requirements provided the first ten (10) feet of property when located next to a commercial, industrial or residential structure, conform to this Code.

- C. Rodent harborage All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- D. Accessory structures All accessory structures, including detached garages, fences and walls shall be maintained structurally sound and in good repair.
- E. Motor vehicles Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no motor vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled. Painting of motor vehicles is prohibited unless conducted inside an approved spray booth. For specific requirements related to the removal of wrecked or inoperable vehicles, refer to 5.16.04. Exception: a motor vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similar enclosed area designed and approved for such purposes.
- F. Defacement of property No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair. (Ord. No. 2015-737, Sec. 3.2)

5.12.03 Swimming pools, spas and hot tubs Swimming pools shall be maintained in a clean and sanitary condition and in good repair so as to not be a harborage for mosquitoes and must be located in the rear yard. Private swimming pools, hot tubs and spas, whether in ground, above ground or a "kiddie pool" must be placed in the rear yard. (Ord. No. 2015-737, Sec. 3.3)

5.12.04 Exterior structure The exterior of a structure shall be maintained in good repair, structurally sound and sanitary to as not to pose a threat to the public health, safety or welfare.

- A. Premise identification Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of 0.5 inches on residential structures and shall be a minimum of six (6) inches high with a minimum stroke of 0.5 inch for commercial structures.
- B. Exterior walls All exterior walls shall be free from holes, breaks, and loose or rotting materials and maintained to prevent deterioration.
- C. Window, skylight and door and frames Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. (Ord. No. 2015-737, Sec. 3.4)

5.12.05 Interior structure The interior of a structure shall be maintained in good repair and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every handrail and guard rail shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. (Ord. No. 2015-737, Sec. 3.5)

5.12.06 Rubbish and garbage

- A. Accumulation of rubbish or garbage All exterior property and premises and the interior of every structure shall be free from any accumulation of rubbish or garbage.
- B. Disposal of rubbish Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
  - 1. The occupant of every premises shall keep and maintain approved covered containers for rubbish and be responsible for the removal of rubbish.
  - 2. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors, securing the doors with locks, chain, wire or rope or using other reasonable methods to prevent opening.
- C. Disposal of garbage Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved leak-proof garbage container and remove such containers from the premises.

D. Unlawful dumping or burning of trash

1. Unlawful dumping Dumping or throwing of trash, refuse, cans, bottles, garbage, rage or any other forms of trash or garbage upon the streets of the city of Clarksville by any person, firm or corporation is a violation of Code.
2. Fire in public places and vacant lots Burning of any trash, lumber, leaves, paper, straw, brush, grass or any other combustible material of any kind or to kindle a fire, or furnish material for a fire or in any way authorize or allow any fire to be make or in any manner to aid or assist in making any fire in any street, alley or other public place or on any sidewalk or vacant lot in the city of Clarksville, without first having obtained permission to do so from the Clarksville Fire Department is not permitted.

No permission shall be given to kindle, build, maintain or use a fire within fifteen (15) feet of a fire hydrant or within ten (10) feet of any concrete curb or the surface of any permanent pavement, except for the purpose of repairing, removing or constructing the same. A fire kindled, built and maintained under permission as herein provided shall be continuously extinguished. Such burning shall be done under such other proper safeguards as the Chief of the Fire Department may prescribe.

3. Fire on private property Burning or causing to burn any hay, straw, shavings, paper, leaves or yard waste on any occupied lot within the limits of the city of Clarksville, except in wire baskets or other fireproof receptacles with proper cover and/or spark arrestor screens is not permitted. Household garbage or any flammable material shall not be burned within the corporate limits of the city of Clarksville. Owners of land being cleared or maintained may burn the products of the clearing or maintenance so long as they comply with the provisions of Act 1157 of the state of Arkansas.
4. Fire during burn bans Burning of any material whatsoever is not permitted when a burn ban has been issued by the Clarksville Fire Department or the Johnson County Judge.
5. Penalty In addition to fines established in 5.04.01, Sec. 1.4 of this Code, anyone who shall burn in violation of a burn ban shall be assessed a fine equal to the amount of costs incurred by the city in responding to any fire call growing out of any unlawful burning during a burn ban.

E. Transportation and collection of trash

1. Regulation of transportation Any person who shall collect or haul trash or who shall have an employee collect or haul trash in the city of Clarksville shall transport in such a manner so as to insure that no trash shall escape from the transporting vehicle.
2. Regulation of collection The parking of any truck, trailer or other vehicle containing trash for any overnight period or unloading, sifting or sorting through any trash or garbage is not permitted in any residential zone.
3. Penalty Any person found guilty of violating 5.12.06 (E) of this Code shall be subject to a fine of not less One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). (Ord. No. 2015-737, Sec. 3.6)

5.12.07 Extermination

- A. Infestation All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.
- B. Owner The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
- C. Occupant The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.
- D. Multiple occupancy The owner of a structure containing two (2) or more dwelling units, a multiple occupancy, rooming house or a non-residential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for the extermination. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination. (Ord. No. 2015-737, Sec. 3.7)

## CHAPTER 5.16

### NUISANCES

#### Sections:

- 5.16.01        General
- 5.16.02        General remedies
- 5.16.03        Remedies for specific nuisances

#### 5.16.01 General

- A.    Intent It is the intent of this Code to prevent and abate nuisances within the municipal boundaries of the city of Clarksville. For the purpose of this Code, the word “nuisance” is defined as any act, omission or property condition that is detrimental to the health, safety and welfare of the public in that it:
1.        Injures or endangers the comfort, repose, health or safety of others;
  2.        Offends decency;
  3.        Is offensive to the senses;
  4.        Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
  5.        In any way renders other persons insecure in life or the use of property; or
  6.        Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- B.    Prohibited It shall be unlawful for any person or entity to cause, permit, maintain or allow the creation or maintenance of a nuisance within the city of Clarksville.
- C.    Illustrative enumeration of a nuisance The maintaining, using, placing, depositing, leaving or permitting to remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constitute a nuisance, provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Noxious weeds and other rank vegetation;
2. Accumulations or storage of rubbish, garbage, materials, metals, lumber and other materials;
3. Any condition which provides harborage for rats, mice, snakes and other vermin;
4. Dilapidated structures;
5. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
6. The carcasses of animals or fowl not disposed of within a reasonable time after death;
7. 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;
8. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
9. Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities;
10. Graffiti;
11. Inoperable, wrecked or abandoned motor vehicles or any parts thereof;
12. The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials as fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roofs, garage doors, porches or carports) except when temporarily necessary to perform repairs;
13. Structure that has been destroyed either in total or partial by a disaster;
14. Signs on utility poles, light poles or other physical property of the city of Clarksville. (Ord. No. 2015-737, Sec. 4.1)

### 5.16.02 General remedies

- A. Other remedies unaffected The remedies found in this article are not intended to displace any other remedies of law or equity found in the common or statutory law of Arkansas that may be available to the city of Clarksville, a citizen of the city of Clarksville or any public or private entity to abate or prevent a nuisance.
- B. Citations Code Enforcement Officers are authorized to issue citations or notices of violation of 5.16.01 (B).
- C. Abatement In addition to the authority found in this section, Code Enforcement Officers are authorized to take such action as may be reasonably necessary to abate nuisances within the city of Clarksville. For the specific nuisances that are defined in 5.16.03, Code Enforcement Officers may use the associated method of abatement which is deemed to be both a reasonable and necessary response by the city to abate a nuisance. (Ord. No. 2015-737, Sec. 4.2)

### 5.16.03 Remedies for specific nuisances

- A. Uncut weeds, grass and unsanitary articles All property owners and occupants within the municipal boundaries of the city of Clarksville are required to cut weeds and grass, remove garbage, rubbish and other sanitary articles and things from their property and to eliminate, 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. For specific requirements related to the required maintenance of grass and weeds, refer to 5.12.02 (B).
  - 1. Authorized abatement If the owner of any lot or other real property within the city shall neglect or refuse to remove, abate or eliminate any condition as may be provided for under 5.16.03 (A) after having been given a Notice of Violation with ten (10) days' notice in writing to do so by a Code Enforcement Officer, the city is hereby authorized to take such action as is necessary to correct the condition, including but not limited to entering upon the property and having such weeds, rank grass or other vegetation cut and removed or eliminating any unsanitary and unsightly conditions or causing necessary repairs to be made and charging the cost thereof to the owner of such premises, which shall constitute a lien thereon.

The above mentioned ten (10) days' notice shall be calculated by counting the first day of the seven (7) day period as the day after written notice is given to the owner by counting every calendar day, including weekends

and holidays, and by establishing the deadline to take the above required actions as 11:59 p.m. on the tenth (10<sup>th</sup>) day. The city reserves the right to secure a lien for its costs, including a priority clean-up lien pursuant to A.C.A. 14-54-903.

2. Special notice rules for weed lots For purposes of this section a “weed lot” is a previously platted and subdivided lot that is vacant or upon which an unsafe and vacant structure is located and that contains debris, rubbish, or grass contrary to this Code. Due to the continual growth cycle of vegetation on weed lots, continuous abatement is often necessary. Thus, the ten (10) day Notice of Violation described in 5.16.03 (A) (1) shall be issued with the following additional statement. “Work to abate this nuisance will not be complete until the end of the growing season.” No additional Notice of Violation need be given unless and until the growing season concludes and further abatement is necessary.

B. Inoperable or wrecked motor vehicles The accumulation of inoperable or wrecked motor vehicles in the city is degrading to the environment, property values, and the aesthetic beauty of the city. Thus, the only location where an inoperable or wrecked motor vehicle, or any parts thereof, may be parked, kept or stored within the city is in an approved storage area on property that is properly zoned and permitted for that purpose. The parking, keeping or storing of inoperable or wrecked motor vehicles or any parts thereof at any other location or unauthorized area thereon in the city is declared to be a nuisance and may be cited for violation of 5.12.02 (E) and, if necessary, abated as provided in 5.16.03 (1) below.

1. Presumption of inoperability A vehicle shall be deemed inoperable when one or more of the conditions exist:
  - a. One or more tires are flat and appear to have been flat for a week or more.
  - b. One of more wheels are missing.
  - c. The engine is missing.
  - d. The vehicle has no current vehicle tags or registration.
2. Removal of inoperable motor vehicles near public streets If an owner or occupant of property within the city shall neglect or refuse to remove an inoperable motor vehicle that is parked, kept or stored near a public street

without proper authority, a Code Enforcement Officer may cause the removal of the inoperable motor vehicle, provided that a Notice of Violation is affixed to the vehicle for a period of no less than three (3) days which shall state that the vehicle is a nuisance and order the property owner, occupant or whoever has an interest in the vehicle to remove it from the property. If the vehicle is found on private property with one (1) or more occupiable structures, a copy of the notice shall additionally be placed on one (1) of the structures.

- C. Impediments to city streets, easements or rights-of-way The city owns property rights throughout the jurisdiction of this Code which are necessary to the efficient flow of traffic, storm water, utility service and the like. Impediments to these property rights are declared to be a public nuisance as they reduce the public benefit of public property and can endanger the health and welfare of the citizens who use and depend upon these property rights. Code Enforcement Officers shall have the authority to order the immediate removal of any impediment to the use of public streets, sidewalks, drains, ditches, utilities, easements or other right-of-ways. If the apparent owner of the impediment is not known, available or willing to remove the impediment, a Code Enforcement Officer may cause the same to be removed.
- D. Nuisance structures Any building or other structure which is in such a dilapidated condition that it is unsafe or unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health or safety of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located shall constitute a nuisance.

1. For the purpose of this chapter, the following terms are defined as follows:

**Unsafe structures** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire or because such structure contains unsafe equipment or is to damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**Unfit structure for human occupancy** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating

facilities or other essential equipment required by this Code or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

2. Vacating of unfit or unsafe structures and utility services Any premises declared as unsafe or unfit for human habitation by a Code Enforcement Officer and so designated by placard, shall be vacated with thirty (30) days after notice of such action has been given to both the owner and occupant of the building allowing the owner or resident to make necessary repairs. On the thirty-first (31<sup>st</sup>) day after said notice, the Code Enforcement Officer shall notify all utilities to discontinue services to the structure. After utility services are cutoff no further services shall be made available until a permit has been obtained from the Building Official or until the Code Enforcement Officer notifies utilities that services may be provided to the dwelling unit.
  - a. Placarding Upon failure of the owner or person responsible to comply with the Notice of Violation for a nuisance structure or equipment within the time given, the Code Official shall then post on the premises a placard bearing the word "Nuisance" and a statement of the penalties provided for occupying the premises or removing the placard.
  - b. Placard removal The Code Official shall remove the placard referred to in this subsection whenever the defect or defects upon which the placarding actions were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties approved by this Code.
3. Prohibited occupancy Any person who shall occupy placarded premises and any owner or responsible person of placarded premises who allows another person to occupy such premises shall be subject to the penalties provided by this Code.
4. Abatement When warranted, Code Enforcement Officers upon approval of their supervisor may perform work to secure, abate and otherwise cause a nuisance structure to conform with this ordinance and seek reimbursement of the cost thereof in the manner provided by law.
5. Condemnation When warranted, Code Enforcement Officers may initiate condemnation proceedings under Section 7, Article 1 in lieu of or in addition to the procedures in this section. (Ord. No. 2015-737, Sec. 4.3)