

ORDINANCE # 213-95

AN ORDINANCE ESTABLISHING AND REGULATING
UNSIGHTLY AND UNSANITARY CONDITIONS;
DECLARING NUISANCES; PROVIDING CIVIL AND
CRIMINAL PENALTIES; AND FOR OTHER PURPOSES

WHEREAS, the City Council value and uphold the health, safety and welfare of the constituents of the City of Stephens; and

WHEREAS, the City Council value the health, safety and beautification efforts of the City of Stephens and its constituents; and

WHEREAS, the City Council are concerned about the high employment rate, industrial recruitment and expansion, and the moral of its constituents; and

WHEREAS, the City Council find that health, safety, welfare and beautification are concerns to its constituents and to industrial prospects.

NOW, THEREFORE, BE AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEPHENS, ARKANSAS, THAT:

Section 1. Findings. It is important for a community to appear clean, well-kept and generally clear of public nuisances, eye sores and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating and expanding in a particular area. A clean community can increase property values, provide for a healthy environment and make citizens proud of the area in which they live. As such, the City of Stephens needs to protect its constituents health and safety and their property values from public nuisances. To that end, this ordinance seeks to regulate, identify and provide a means to enforce these purposes to protect the health, safety and welfare of the residence of the City of Stephens and the property owners.

Section 2. Definitions. For the purpose of this ordinance, the word "nuisance" is hereby defined as any person doing an unlawful act or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- a. injures or endangers the health, welfare or safety of others; or
- b. offends decency; or
- c. creates offensive odors; or
- d. unlawfully interferes with, destructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch drainage; or
- e. in any way renders other persons insecure in pursuit of their life or in the use of property ; or
- f. essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Section 3. Nuisance. It is hereby declared that the following specific items shall constitute a "nuisance", provided, however, this enumeration shall not be deemed or construed to be exclusive:

- a. weeds or vegetation allowed to grow to a height greater than twelve (12) inches on the average, or any accumulation of dead weeds, grass or brush that does or may provide safe harborage for rats, mice, snakes or other vermin on any improved lot or land (i.e. a lot or land that has improvements thereon for residential, commercial or industrial use) or that exists on any lot or land which the nuisance is within 200 feet from the property line of any improved lot or land;
- b. accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things in an area not enclosed by three solid walls and a roof;
- c. carcasses of animals or fowl not disposed of within a reasonable time after death;
- d. all disagreeable or obnoxious odors and stenches that are not generated in the ordinary course of business by industrial or commercial businesses or governmental operations; as well as the conditions, substance or other causes which give rise to the admission or generation of such odors and stenches, including smoke and fire;
- e. 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 allowed to be performed, or; maintained;
- f. any accumulation of stagnate water permitted or maintained on any lot or piece of ground;
- g. any method of human excreta disposal which does not conform to the provisions of the local, state or federal law, rule or regulation.

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Section 4. Unlawful. It shall be unlawful for any person or entity to cause, permit, maintain or allow the creation or maintenance of a nuisance. It shall further be unlawful for any person to fail to abate or remove a nuisance within the time period allowed after receiving notice to do so by the Mayors Office of the City of Stephens.

Section 5. Notice. Whenever a nuisance is found to exist within the corporate limits of the City of Stephens, then the Mayors Office of the City shall give written notice to the owner or occupant, or both, of the property upon which such nuisance exists, or to the person causing or maintaining the nuisance, to immediately abate the nuisance. The notice to abate a nuisance issued under the provisions of this ordinance shall be in writing and contain:

- a. a demand to abate the nuisance within the time period specified therein by the Mayors Office, which shall not be less than 7 days nor more than 20 days from the date of receipt of the notice;
- b. the location of the nuisance;
- c. a description of what constitutes a nuisance;
- d. a statement of acts necessary to abate the nuisance; and
- e. that a hearing before the City Council of the City of Stephens on the finding of a nuisance, for the abatement thereof, or for an extension of the time period for an abatement may be requested by the person mailing or delivering to the City Clerk such request for a hearing in writing within the time period specified for the abatement of the nuisance;
- f. a statement that if the nuisance is not abated as directed and no request for a hearing is made within the prescribed time, that the City of Stephens may cause such nuisance to be abated and assess the costs thereof against the property upon which the same is allowed to exist and/or against the person causing or permitting the nuisance.

Any hearing requested by a person pursuant to the above shall be held before the City Council of the City of Stephens, Arkansas at one of its regular meetings as the same shall be scheduled. Written notice of the hearing shall be mailed to such a person by the Mayors Office.

Section 6. Service. Notice of a nuisance and for the abatement thereof shall be made and served upon the person as follows.

- a. The notice shall be in writing and shall be mailed by certified mail, return receipt requested delivery to addressee only, to the person at his address by the Mayors Office of the City of Stephens, or by personal delivery of the notice to such person by the Mayors Office of the City of Stephens, by a City Policeman or by any other person authorized by law to serve summons.
- b. In the event the address of the owner is unknown, his whereabouts is unknown, or he is a non-resident of this State, then a copy of the notice shall be posted upon the premises upon which the nuisance exists. Further, service of the notice of the nuisance shall be made by publishing the notice in a local newspaper once per week for two consecutive weeks and by the Mayors Office appointing a local attorney to mail the notice to such person at his last known address pursuant to (a) above.

Section 7. Abatement by City. In the event the person notified to abate the nuisance does not perform the abatement within the time provided by the notice, then the Mayors Office may cause the abatement to be performed by using City personnel or request the approval of the City Inspector for a third party to be contracted with to perform the abatement.

Section 8. Lien. Upon the completion of the abatement of any nuisance by the City of Stephens, or any person or entity contracted by the City to abated such nuisance, the Mayors Office shall prepare a statement of costs incurred in the abatement thereof and present the same to the City Council of the City of Stephens for their review and approval. The statement of costs, including a ten percent (10%) penalty for collection, shall be presented to the City Council within eighteen (18) months after the work has been performed. The hearing on the amount of the lien shall be held only after 30 days prior written notice is given to the landowner by either certified mail or if the name or whereabouts of the owner is unknown then by publishing notice of the hearing in a local newspaper once a week for four (4) consecutive weeks. Upon the determination of the lien amount, the same shall be certified by the City Clerk of the City of Stephens to the Ouachita County Tax Collector as an additional tax to be paid at the time of payment of property taxes on the property upon which the nuisance existed.

Section 9. Criminal Violation. Any person violating this ordinance shall be subject to prosecution for a criminal violation, in addition to being civilly liable for the costs incurred in abating any such nuisances. A criminal violation shall be handled through Municipal Court of the City of Stephens, Arkansas in a manner now prescribed by law. Any person found guilty of violating this ordinance shall be fined an amount not more than \$100.00 per occurrence per day during which the nuisance continues after the expiration of the time period for the abatement thereof pursuant to the notice given under Section 5 hereinabove.

Section 10. Repealer. All ordinances of the City of Stephens contrary hereto shall be and hereby are repealed.

Section 11. Emergency. This ordinance affects the health, safety, and welfare of the residence of the City of Stephens, Arkansas. Therefore an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon the passage and approval hereof by the City Council of the City of Stephens, Arkansas.

Passed and approved this 10 day of July, 1995.

Steve Bragdon
MAYOR

ATTEST:

Jeri West
CITY RECORDER



