

TOWN OF OAK GROVE, ARKANSAS

ORDINANCE NO. #94-2016

An Ordinance Providing for the Regulation of Unsanitary Conditions,
Nuisance Abatement And Property Maintenance
And
Enforcement of the Remediation of Nuisance Properties

Sections:

Chapter One – Nuisances Classified, Prohibited, Penalty

- 94-2016.101 Authority
- 94-2016.102 Definitions
- 94-2016.103 Nuisances Affecting Health
- 94-2016.104 Nuisances Offending Decency
- 94-2016.105 Nuisances Affecting Peace and Safety
- 94-2016.106 Other Nuisances
- 94-2016.107 Reporting Emergencies
- 94-2016.108 Nuisances Prohibited
- 94-2016.109 Penalty

Chapter Two – Procedure for Abatement

- 94-2016.201 Application
- 94-2016.202 Abatement
- 94-2016.203 Emergencies
- 94-2016.204 Order of Abatement
- 94-2016.205 Appeals
- 94-2016.206 Damages
- 94-2016-207 Liability for Costs
- 94-2016-208 Abandoned Automobiles
- 94-2016-209 Other Methods of Abating Nuisances

94-2016.01 Authority. Whereas Arkansas Code Annotated §14-54-901 authorizes towns and cities to order the owners of lots and other real property within their towns or cities to cut weeds, to remove garbage, rubbish, and other unsightly and unsanitary articles and things upon the property and to eliminate, full up or remove stagnate pools of

water or any other unsanitary thing, place or condition which might become a breeding place of mosquitoes, flies, and germs harmful to the health of the community, after the town or city has provided therefore by an ordinance to that effect

And

Whereas the Town is authorized by A.C.A. §14-54-501 et. seq. to enact civil remedies that eliminate any conduct within a municipality which constitutes a nuisance, it is hereby enacted by the Town of Oak Grove:

94-2016.02 Definitions. As used in this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended”

Industrial Waste: shall mean all liquid and water-borne solid, liquid or gaseous wastes resulting from industrial manufacturing, food processing operation, processing any natural resource or any mixture of such wastes with water or domestic sewage.

Person: shall mean any person, firm, corporation, association or other entity.

Public nuisance: means unlawfully doing an act or omitting to perform a duty, which act or omission does any one or more of the following:

- A. Annoys, injures or endangers the safety, health, comfort or repose of others.
- B. Offends public decency; or
- C. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage a lake or basin or any public park, square, alley, highway or street.

Storm Drainage System: shall mean any stream, creek, ditch, watercourse, drainage conduit, sewer, pond, lake, drainage easement, or topographical configuration which acts to channel the course of surface flow; or any combination of the above; or all other natural outlets which empty into any of the above which carry storm or surface water and drainage.

Sewage: shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

Garbage: All waste, animal or vegetable, such as but not limited to waste material and refuse from kitchens, residences, grocery stores, butcher shops,

restaurants, cafes, hotels, rooming houses and boarding houses, and all other deleterious substances.

Trash: Rubbish such as feathers, coffee grounds, ashes, tin cans, paper, boxes, glass, wood, shrubs, yard clippings, leaves, tree trimmings and similar matter.

Refuse: Waste, rubbish, garbage, trash, or any material of any kind that has been discarded, rejected, cast aside or thrown away as worthless, except body wastes.

Abandoned Automobile: Any inoperable, unlicensed vehicle which is stored outside, except at a place of business licensed to store junk vehicles. "Inoperable vehicle" means any vehicle not in working order or that lacks a current legal registration.

94-2016.03 Common Nuisances. Conduct within the Town of Oak Grove that unreasonably interferes with the use and enjoyment of lands of another, including conduct on property which disturbs the peaceful, quiet and undisturbed use and enjoyment of nearby property, constitutes a common nuisance. A common nuisance shall include any three (3) separate and district court convictions of health and safety code violations with respect to any one (1) lot or parcel of property within a one (1) year period or one (1) such conviction if the offense constitutes an imminent threat to the health, safety, or welfare of any citizen. Such conduct may be subject to an injunction, a court ordered eviction, or a cause of action for damages.

94-2016.04 Nuisances Affecting Health. The following are hereby declared to be health nuisances affecting public health:

1. All decayed or unwholesome food offered for sale to the public.
2. All pools of stagnate water or vessels holding stagnant water in which mosquitoes can breed.
3. Carcasses of animals not buried otherwise disposed of in a sanitary manner within twenty four (24) hours after death.
4. Accumulations of manure, rubbish, litter, trash, rubble, refuse, debris, paper, combustible materials, offal or waste, or matter of any kind or form which is

uncared for, discarded, or abandoned, or improperly stacked building materials all of which are potential breeding places for flies, mosquitoes or other vermin.

5. Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner and which could cause disease transmission.
6. Weeds and other rank growths of vegetation upon private property or the adjoining park was, including but not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:
 - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs, or plants grown in a tended and cultivated garden,
 - b. Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash
 - c. Harbors rodents or vermin
 - d. Gives off unpleasant or noxious odors,
 - e. Constitutes a fire or traffic hazard, or
7. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise, and which endanger the health, peace, safety of the public;
8. Any solid or industrial waste, including but not limited to garbage, tin cans, bottles, rubbish, refuse, trash, construction waste or demolition waste, tree trimmings, manufacturing waste or industrial waste dumped, thrown, burned, spilled or abandoned, except such waste disposed of lawfully in a land fill or incinerator;
9. Trees damaged or dead to the extent that a limb, tree or part could fall,
10. Garbage cans which do not have tight fitting lids or which are contrary to the ordinances thereto relating;
11. Any animal or animals kept or maintained in an unsanitary condition or surroundings; and

12. Discharge into any part of the storm drainage system of any

- a. Untreated sewage, sewage solids, process wastewater, refuse, explosive, or combustible liquid, solid or gas, oils, greases, industrial waste or other polluted water except where a federal, state or local permit for connections, discharge or disposal has been obtained,
- b. Waters or wastes containing toxic or poisonous solids, liquids or gases insufficient quantity, either singly or by interaction with other wastes to constitute a hazard to humans or animals or to cause corrosion, discoloration or deposition on structures and equipment, or
- c. Any solid or viscous substances in such quantities or of such size capable of causing obstruction to the flow in the stormwater drainage system or other interference with the proper operation of the drainage system of the Town of Oak Grove.

94-2016.05. Nuisances Offending Decency. The following are hereby declared to be public nuisances affecting public morals and decency:

- A. All houses, buildings or places where gambling devices, slot machines, punch board and other such contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering or betting is carried on, and all gambling equipment, except where such gambling is permitted by applicable law.
- B. Bawdy houses and all houses, buildings or places kept for the purpose of prostitution or promiscuous sexual intercourse;
- C. All buildings or places where intoxicating liquors are manufactured, sold, bartered or given away in violation of law or where persons are permitted to resort for the purpose of drinking intoxicating liquors kept for sale, barter or distribution in violation of law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place.
- D. All houses, buildings or places where illegal drugs, including methamphetamine, cocaine, heroin and marijuana are manufactured, distributed or sold.

94-2016.06. Nuisances Affecting Peace and Safety. The following are hereby declared to be public nuisances affecting public peace and safety:

- A. All trees, hedges, signs or other obstructions, or any portion of the same, so located as to prevent persons driving vehicles approaching an intersection of streets from having a clear safe view of traffic approaching such intersections.
- B. All limbs of trees which project over a public sidewalk or street which are less than eight (8) feet above the surface of the public sidewalk and nine (9) feet above the surface of the street.
- C. All wires over streets, alley or public grounds which are not authorized or permitted by the Town or which are strung so that the lowest portion is less than fifteen (15) feet above the ground.
- D. All buildings, walls and other structures which have been damaged by fire, decay other otherwise and which are so situated as to endanger the safety of the public, or which are otherwise built, erected or maintained in violation of any ordinance.
- E. All explosives, inflammable liquids and other dangerous substance stored in any manner, in any amount other than that permitted by ordinance.
- F. All loud or unusual noises and annoying vibrations which offend the peace and quiet of person of ordinary sensibilities.
- G. All hanging signs, awnings, canopies and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to ordinance.
- H. The allowing of rainwater, ice or snow, to fall from any building or structure upon any sidewalk or the causing of water to flow across a sidewalk;
- I. Any motor vehicle that is unlicensed, or is inoperable or abandoned, unless such vehicle is stored inside a building.

94-2016.0.7. Other Nuisances The enumeration of specific nuisances in this Ordinance shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other Town ordinance, state law, federal law or court decision.

94-2016.08. Reporting Emergencies Any person, firm, corporation, partnership or other legal entity who commits or who permits the creation or continuation of a nuisance as above defined which poses a potential emergency treat to the public health or to the environment shall immediately report the incident to the City Clerk and shall provide any information requested by the Town Police to investigate or abate the potential emergency.

/s/ _____

Title of Signer

A copy of the foregoing notice was served on _____ on the _____ day of _____, 20_____ by _____.

Manner of service: _____ - personal _____ - Certified Mail

By: _____,

(Person Serving)

If such person or entity cannot be found, then a copy of the notice may be served by delivery to any member of the family or upon an officer or agent of the entity over sixteen (16) years of age and found on the premises described in the notice or at the residence of the person named therein and, if service cannot be had in such manner, then by posting a copy in some conspicuous place on the premises described in the notice and sending a copy by certified mail, return receipt requested, to the person or entity at the last known address. At the time and place specified in the notice the City Council shall hear the matter. The person or entity so complained of shall have the right to appear in person or by counsel. At the conclusion of the hearing the City Council may vacate the notice or may declare such condition to be a nuisance and order it abated summarily or, if impractical to do so, may abate the same in accordance with the statutes of Arkansas then in force.

94-2016.203 Emergencies. If any nuisance exists in such a condition so menacing to the public health, peace or safety that it is necessary that it be summarily abated, the City Council may proceed to abate the nuisance without a hearing.

94-2016.204 Order of Abatement. In all cases where the City Council shall have determined, after hearing, or notice of hearing and default, that any nuisance shall be abated, they shall direct the City Clerk to issue an order requiring the abatement of the nuisance within a time named in the order, and shall serve the order of abatement upon the person or entity who maintains, operates, or permits the nuisances. In the event the nuisance is not abated by the party himself within the time provided in the order, which shall be a reasonable time under the circumstances, the City Council shall forthwith cause the nuisance to be abated.

94-2016.205 Appeals.

A. Right to Appeal. An Appeal to the City Council may be taken by any person aggrieved where it is alleged there is error in any order, requirement,

94-2016.09. Nuisances Prohibited No person shall create any nuisance in the Town, and no person shall by inaction permit a nuisance to occur or continue on any property under such person's control, nor shall any person permit a nuisance to occur involving any personal property under such person's control.

94-2016.10. Penalty Any person, firm or corporation violating any provision of this ordinance shall be fined not less than twenty five (\$25.00) dollars nor more than Two Hundred Fifty (\$250.00) dollars for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Chapter Two Procedure for Abatement

94-2016.201 Application. The procedure provided in this Ordinance for abatement of nuisances shall apply to all nuisances arising under the laws of the Town of Oak Grove, except in those instances where the specific procedure for the abatement of the nuisance is otherwise provided.

94-2016.202 Abatement. In all cases of nuisances the Town Police Chief or his designee shall cause a written notice to be served upon the person or entity that maintains, operates or permits a nuisance, which shall be substantially as follows:

NOTICE TO ABATE NUISANCE

The Town of Oak Grove to: _____

You are hereby notified that the nuisance maintained, operated or permitted to exist by you located

at: _____

must be abated by the (removal) (destruction)(discontinuance) of the same and that if this notice is not complied with you are directed to appear before the Town Council at City Hall on _____ (date) at _____ -(time) to show cause why the same shall not be abated and that upon you failure to so appear the undersigned will take the necessary steps to abate such nuisance. The costs of abatement incurred by the Town of Oak Grove shall be assessed against you, and a lien may be imposed on the property to secure such payment.

Dated this _____ day of _____, 20 ____.

decision or determination made by the City Police in the enforcement of this Ordinance.

B. Notice of Appeal. An appeal shall be taken within ten (10) days from the determination complained of by the filing with the City Clerk a notice of appeal, specifying the grounds thereof. The City Clerk, upon receipt of the notice, shall forthwith transmit to the Mayor of the Town of Oak Grove true copies of all the paper constituting the record of the matter. Upon receipt of the record, the Mayor shall set the matter for a public hearing before the City Council. Notice of said public hearing shall be given as required by the statute and shall be published in a newspaper in the county once (1) per week for four (4) consecutive weeks.

C. Council Action. The Council shall hold a public hearing and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as is consistent with this ordinance and all other applicable laws and ordinances. The concurring vote of a majority to the members of the City Council shall be necessary to reverse any order of the City Police.

D. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the City Police from whom the appeal is taken certifies to the City Council, after the notice of appeal shall have been filed with the City Clerk, that by reason of facts stated in writing, a stay would in his opinion cause immediate peril to life or property.

94-2016.206 Damages. The fact that the City has caused a nuisance to be abated after proper procedure and default, failure or refusal of the party to abate the nuisance shall in no way excuse the party from any damage which may have resulted prior thereto to any person.

94-2016-207 Liability for Costs. Any person or entity who fails to remove and abate any nuisance after proper notice, the opportunity to be heard, and final order shall be liable to the Town for all expenses incurred in the removal and abatement of the nuisance. The Town shall have its right of action to recover all such costs, and a lien on the property may be imposed to secure payment of such costs. The procedure for

establishing such lien shall be in accordance with the applicable state law, to wit:
A.C.A. §14-54-904, Enforcement of lien for clearance by municipality.

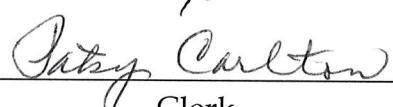
94-2016-208 Abandoned Automobiles. In addition to the methods set out in this ordinance for abatement of nuisances, abandoned automobiles may be dealt with in the manner provided for by state law.

94-2016-209. Other Methods of Abating Nuisances. Nothing in this ordinance shall be deemed to limit the use of other lawful methods of abating nuisances including the provisions of A.C. A. 14-54-1503.

94-2016-210. Criminal Nuisance Abatement Board. The City Council may, pursuant to A.C.A. §14-54-1701, create a criminal nuisance abatement board with the authority to impose remedies, administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of abating public nuisance as defined by state law. Such board shall consist of five (5) citizens who shall be appointed by the City Council. The Board may promulgate rules and regulations not inconsistent with this ordinance needed to conduct the hearings on the complaints concerning places and premises used as public or common nuisances.

Dated May 19, 2016

Approved: 
Mayor


Clerk