

O-24- 04

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTION 2.2.1 AND 8.3.2 OF THE NORTH LITTLE ROCK MUNICIPAL CODE CHAPTER 8, NUISANCE ABATEMENT AND PROPERTY MAINTENANCE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

WHEREAS, on October 22, 2007, the City Council adopted Ordinance No. 8001 and the North Little Rock Municipal Code (“NLRMC”) Chapter 8, Nuisance Abatement and Property Maintenance (as amended by Ordinance No. 8065, adopted March 24, 2008; Ordinance No. 8187, adopted July 27, 2009; Ordinance No. 8668, adopted August 25, 2014; Ordinance No. 8684, adopted October 13, 2014; Ordinance No. 8720, adopted March 23, 2015; and Ordinance No. 9403, adopted October 25, 2021); and

WHEREAS, it is in the best interests of the City of North Little Rock and its residents to amend the NLRMC Chapter 8 provisions regarding inoperable or wrecked motor vehicles in order to clarify language and to provide the opportunity for public hearing and the process of removal.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That Chapter 8 of the North Little Rock Municipal Code is hereby revised as showed in Exhibit A attached hereto and incorporated by reference.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: It is hereby found and determined that amending the North Little Rock Municipal Code Chapter 8 is appropriate, thereby insuring the proper and orderly growth and economic development of this land and of the City of North Little Rock, Arkansas, and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

\_\_\_\_\_

\_\_\_\_\_

Mayor Terry C. Hartwick

SPONSOR:

TERRY C Hartwick  
Mayor Terry C. Hartwick *by AP*

ATTEST:

\_\_\_\_\_  
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

*Amy Beckman Fields*  
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED	<u>11:05</u>	A.M.	_____	P.M.
By	<u><i>city atty a. fields</i></u>			
DATE	<u><i>1/17/2014</i></u>			
<b>Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas</b>				
RECEIVED BY	<u><i>Diane Whitbey</i></u>			



### **2.2.1 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 72 hours, regardless of whether wrecked or inoperable.~~

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

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes.

**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 limitation, 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 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, inspections, issuances of building permits, certifications and licensing etc., within the municipal boundaries of the City. All duly sworn law enforcement officers of the North Little Rock Police Department are authorized to exercise authority as Code Enforcement Officers.

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

**CURTILAGE.** The area immediately surrounding a house or home, including, but not limited to: any driveway, carport, or non-enclosed garage, any fenced-in area, and any area within 200 yards of a residence.

**DWELLING UNIT.** Any room or group of rooms located within a structure forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, eating, and sanitation by a household or family.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

**EXPEDITIOUS REPAIR.**

(a) The parts for repair have been ordered but are not yet available for installation for reasons beyond the owner's control;

(b) The vehicle is scheduled to be repaired within 30 days; or

(c) The vehicle is inoperable because of an accident, and the owner is pursuing a claim for damages.

(d) A vehicle owner who claims that a vehicle is being expeditiously repaired must produce proof of one of the conditions listed in (a)-(c) above within seven (7) days of request by a Code Enforcement Officer. Failure to produce proof will result in a presumption that the vehicle is not being expeditiously repaired.

**EXTERIOR PROPERTY.** The open space on the premises and on 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 methods.

**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.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**HISTORIC.** Any existing buildings or structures designated by the City of North Little Rock, the State of Arkansas, or the United States government to be historic or located within a North Little Rock historic district.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**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 reason including but not limited to being unlicensed, uninsured, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power. Any vehicle that is inoperable, dismantled, or damaged, and that is unable to start and move under its own power.~~

**JUNK VEHICLE.** Junked, dismantled, or wrecked automobiles, or parts thereof, pursuant to Ark. Code Ann. § 27-74-402.

**LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

**LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

~~**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, motoreycles, trucks, tractors, go-carts, golf carts, campers, motor homes and trailers.~~

**NUISANCE.** This term is defined in Section 8 of this Code.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

**OUTDOOR STORAGE.** The keeping of items that are not fully enclosed within a structure allowed by other city ordinance or code. This definition does not include furniture *or other items* manufactured for outdoor use kept on a covered front porch, or a deck, patio or porch at the rear of the structure.

**OWNER.** Any person, agent, operator, firm or corporation having a legal or 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.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

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

**PRIVATE PROPERTY.** Means any real property within the city which is privately owned and which is not defined as public property in this section.

**PUBLIC PROPERTY.** Means 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.

**PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**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. For the purposes of this Code, the term residence includes dwelling units and rooming houses.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation. Bed-and-breakfasts, boarding houses, half-way houses, and hotels, as those terms are defined under the North Little Rock Zoning Ordinance, are included within the definition of a Rooming House.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke 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.

**SCRAP OR WASTE TIRE.** A tire or any portion thereof that can no longer be used for its original intended purpose or is being held, transported, or processed for disposal or recycling.

**SENIOR CODE ENFORCEMENT OFFICER.** The Head of the Code Enforcement Department or, in his or her absence, the person who is directed or appointed to temporarily assume the duties of the Head of the Code Enforcement Department.

**STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**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 limitation the following: Boat trailers, camper trailers, cargo trailers, special trailers for items such as golf carts or motorcycles, utility trailers, and farm implements.

**UNCUT WEEDS AND GRASS.** See Section 3.2.4 for definition.

**USED TIRE.** A tire, including a recapped or retreaded tire, suitable for continued use for its original intended purpose.

**VEHICLE.** Includes every device capable of being moved upon a public highway and in, upon, or by which any persons 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.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**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.

~~**8.3.2 Inoperable or wrecked motor vehicles and any parts thereof.** 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. (See also Section 12.24 of the Zoning Ordinance.) 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 subsection 3.2.8 and, if necessary, abated as provided in subsection 8.3.2.1, below.~~

~~**8.3.2.1 Presumption of inoperability.** A vehicle shall be deemed inoperable when one or more of the following conditions exist:~~

- ~~(A) It has not been moved for more than three days.~~
- ~~(B) One or more tires are flat.~~
- ~~(C) One or more wheels are missing.~~
- ~~(D) The hood or trunk is raised or missing and has appeared to remain so for more than three days.~~
- ~~(E) Weeds or grass have grown up around the vehicle.~~
- ~~(F) The engine is missing.~~
- ~~(G) The vehicle has no current vehicle tags or registration.~~
- ~~(H) The door or doors, fender or fenders are removed or missing.~~
- ~~(I) The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.~~

~~**8.3.2.2 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 or 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 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 or more occupiable structures, a copy of the notice shall additionally be placed on one of the structures. For purposes of this section, a vehicle shall be deemed “near” a public street if it can be seen with the unaided eye from a public street.~~

~~**8.3.2.3 Removal of other inoperable motor vehicles.** If an owner or occupant of property within the City shall neglect or refuse to remove an inoperable or motor vehicle that is parked, kept or stored without proper authority but away from public streets, 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 thirty 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 or more occupiable structures, a copy of the notice shall additionally be placed on one of the structures.~~



**8.3.2 Inoperable or junk vehicles, and any parts thereof.** The accumulation of inoperable or junk vehicles in the City is degrading to the environment, property values, and the aesthetic beauty of the City. Thus, the parking, keeping, or storing of inoperable or junk vehicles, or any parts thereof, at any location in the City not permitted by this subsection is declared to be a nuisance and may be cited for violation of subsection 3.2.8 and, if necessary, abated as provided in subsections 8.3.2.1 through 8.3.2.4 below.

**8.3.2.1 Prohibition.**

(A) It shall be unlawful for any person to place, or cause to be placed, any inoperable vehicle, any junk vehicle, or any part thereof, upon any private property except in an approved storage area on property that is properly zoned and permitted for that purpose.

(B) The location or presence of any inoperable or junked vehicle on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, except as excluded in subsection (A) of this subsection 8.2.3.1 above shall be deemed a public nuisance and it shall be unlawful for any person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding a vehicle or vehicles on the property of another or to suffer, permit or allow the same to be placed, located, maintained or exist upon his or her own real property.

(C) This section shall not apply to:

(i) A vehicle or part thereof which is completely enclosed within a building or fence in a lawful manner where it is not visible from the street or other public or private property;

(ii) Any motor vehicle which can be started and moved under its own power;

(iii) Any motor vehicle which is being expeditiously repaired; and

(iv) Any automobile that is considered a historic or special interest vehicle as defined by Ark. Code Ann. § 27-15-2201 and is stored pursuant the regulation set forth in Ark. Code Ann. § 27-15-2207.

**8.3.2.2 Violations; notice and opportunity for hearing.**

(A) When the city believes that a vehicle is being maintained in violation of this Subsection 8.3.2, a Code Enforcement Officer may give the private property owner and the owner of the motor vehicle, if ascertainable, 30 days' notice that the vehicle shall be towed at the owner's expense unless the vehicle is restored to a functional use, disposed of by the owner in a manner not prohibited by this Chapter, or placed in an enclosed building. Notice shall be sent by regular mail and by certified mail, return receipt requested. Notice to the real property owner is sufficient if sent to the owner's address of record on file with the county treasurer, county collector, or county assessor. Notice to the owner of the vehicle is sufficient if sent to the owner's address of record on file with the Arkansas Office of Motor Vehicles or motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner of the vehicle.

(B) The notice shall contain a description of the inoperable vehicle, the license number of the inoperable vehicle (if known) and the address where the inoperable vehicle is being improperly stored.

(C) The notice shall inform the recipient that he or she may request a hearing within 20 days of the date of the letter in front of the Board of Adjustment to determine if there is a violation.

(D) The notice shall include the name, address, phone number and email address that the recipient may contact to set up the hearing.

(E) The notice shall contain a copy of this subsection.

#### **8.3.2.3 Hearing and post-hearing.**

(A) The Board of Adjustment shall conduct all hearings pertaining to inoperable vehicles or junk vehicles. At the hearing before the Board of Adjustment, the recipients of the notice shall be provided with a copy of this subsection, and be presented with the basis of the belief that the vehicle is being maintained in violation of this subsection.

(B) At the hearing, the recipients of the notice shall be given an opportunity to prove that the vehicle in question is not being maintained in violation of this section, or is being expeditiously repaired.

(C) The Board of Adjustment shall inform the parties present of its decision at the conclusion of the hearing.

(D) Within three days of the hearing, a Code Enforcement Officer shall send to the private property owner and the owner of the motor vehicle a written notice informing them of the outcome of the hearing and the opportunity to appeal the decision to the appropriate state circuit court, including the address and phone number of the court.

(E) The post-hearing notice shall inform the recipients that the inoperable vehicle in question will be towed at their expense within ten days of the date of the hearing, or the expiration of the original 30 days' notice, whichever is longer.

#### **8.3.2.4 Removal of inoperable or junk vehicles.**

(A) At the conclusion of the post-hearing notice period (as provided for in Section 8.2.3.3 above), Code Enforcement shall provide a copy of the post-hearing notice and shall instruct and authorize the North Little Rock Police Department to have the inoperable or junk vehicle towed in compliance with the provisions of Arkansas law and the police department's policy establishing procedures for impounding and towing vehicles adopted pursuant to Ark. Code Ann. § 27-50-1207.

(B) This authorization shall not be given if the violation of this section has been corrected and the vehicle has been removed, or is no longer inoperable, or has been completely enclosed within a building or fence in a lawful manner where it is not visible from the street or other public or private property.

(C) The North Little Rock Police Department shall be required to obtain and serve a warrant authorizing the seizure and removal of any inoperable or junk vehicle located within the curtilage of a residence.