

CHAPTER 1

BUILDING CONDEMNATION AND REMOVAL

17-1-1. Nuisance properties unlawful.

It shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association to own, keep or maintain any house, building and/or structure within the corporate limits of the city which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the board of directors.

17-1-2. Condemnation for abatement.

Any such house, building and/or structure which is found and declared to be a nuisance by resolution of the board of directors will be condemned to ensure the repair, rehabilitation, securing, and/or razing and removal thereof as specified in the "Notice to Repair or Remove."

17-1-3. Pre-condemnation notice.

Prior to the consideration of a resolution by the board of directors declaring any house, building and/or structure as a nuisance, the owner of such house, building and/or structure shall be notified in writing of the date, time and place that the board of directors will consider said resolution. Said notice shall be delivered by registered letter or personal service, the receipt of which shall be duly acknowledged. Should the owner(s) of any such house, building and/or structure not be known or the owner(s) whereabouts not be known or such owner(s) is a nonresident of Arkansas, then a copy of the written notice shall be posted upon the premises and the city manager or his designee shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents, and thereupon, service of publication as now provided for by law against nonresident defendant may be had and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

17-1-4. Contents of resolution and notice.

The resolution of the board of directors condemning any house, building and/or structure which constitutes a nuisance will include in said resolution and attachments thereto, an adequate description of the house, building and/or structure; the name or names, if known, of the owner or owners thereof; notification of the requirements and penalties imposed by this ordinance, and shall set forth the reason or reasons said house, building and/or structure has been condemned as a nuisance.

Cross reference-Unsightly property, § 17-2-1.

17-1-5. Post-condemnation notice.

After a house, building and/or structure has been found and declared to be a nuisance and condemned by resolution as herein provided, a true or certified copy of said resolution together with a Notice to Repair or Remove will be mailed to the owner or owners thereof if the whereabouts of said owner or owners thereof is known or their last-known address is known; and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure. Provided that if the owner or owners of said house, building and/or structure is unknown, or if his or their whereabouts or last-known address is unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice.

17-1-6. Boarding and securing.

When necessary for the public health and safety, the owner(s) of any property declared a nuisance by the board of directors shall board and secure the structure or condition within the time set forth in the notice. The owner(s) shall maintain such boarding or securing at all times until the structure is brought into full compliance with the applicable building or abatement codes or until such time as the structure is razed and removed. Boarding and securing of the structure or condition does not relieve the owner(s) of the requirement to diligently repair, rehabilitate or demolish and remove the structure or condition. All materials used to board and secure shall be weatherproofed or treated and shall be painted and maintained with a color of paint that blends with the overall structure.

17-1-7. Abatement by owner.

The owner(s) of any property declared a nuisance by the board of directors shall obtain the necessary permits and commence to repair, rehabilitate, secure, raze and remove, or otherwise abate the nuisance within thirty (30) days and shall continue such work to satisfactory completion within such time as the city manager or his/her designee determines.

17-1-8. Abatement by city.

If the owner(s) of the house, building and/or structure constituting a nuisance have not obtained the required permits and commenced work to repair, rehabilitate, secure, raze and remove, or otherwise abate said nuisance within thirty (30) days after the posting of the true copy of the resolution at a conspicuous place on said house, building and/or structure, said house, building and/or structure constituting the nuisance will be repaired, boarded and secured, or razed and removed as may be necessary to abate the nuisance by the city manager or his/her designated representative.

17-1-9. Sale of materials.

The city manager or any other person(s) designated by him/her to raze and remove any house, building and/or structure constituting a nuisance will ensure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same has a substantial value, sell said house, building and/or structure, or any saleable material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one (1) publication in some newspaper having a general circulation in the city, to ensure its removal and the abatement of the nuisance.

17-1-10. Disposition of sale proceeds.

All the proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials therefrom, and all fines collected from the provisions of this ordinance shall be paid by the person(s) collecting the same to the city treasurer. If any such house, building and/or structure or the saleable materials thereof are sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the city, plus any fine or fines imposed, the balance thereof will be returned by the city treasurer to the former owner(s) of such house, building and/or structure constituting the nuisance.

17-1-11. Abatement costs and lien on property.

If the city has any net costs in the securing, repair or razing and removal of any house, building and/or structure, such costs shall be charged to the owner(s). Should the owner(s) fail to pay said charges within sixty (60) days from the date of the first billing, the city shall have a lien on the property as provided by A.C.A. 14-54-903 and 904. The lien may be enforced in either one (1) of the following manners:

- (a) The lien may be enforced at any time within eighteen (18) months after work has been done by an action in the chancery court; or
- (b) The amount of the lien herein provided may be determined at a hearing before the board of directors held after thirty (30) days' written notice by certified mail to the owner or owners of the property if the name and whereabouts of the owner or owners are known; and if the name of the owner or owners cannot be determined, then only after the publication of notice of such hearing in a newspaper having a bona fide circulation in Garland County for one (1) insertion per week for four (4) consecutive weeks, the determination of the board of directors being subject to appeal by the property owner in the chancery court, and the amount so determined at said hearing, plus a ten (10) percent penalty for collection, shall be by the board of directors certified to the tax collector of Garland County and by him/her placed on the tax books as delinquent taxes and collected accordingly; and the amount, less three (3) percent thereof, when so collected shall be paid to the city by the Garland County tax collector.

17-1-12. Penalty.

A fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) is hereby imposed against the owner or owners of any house, building and/or structure found and declared to be a nuisance by resolution of the board of directors thirty (30) days after the same has been so found and declared to be a nuisance; and for each day thereafter that said nuisance is not abated constitutes a separate and distinct offense punishable by a fine of two hundred fifty dollars (\$250.00) for each said separate and distinct offense; provided that the notice as provided in 17-1-5 hereof has been given within ten (10) days after said house, building and/or structure has been by resolution found and declared to be a nuisance.

Cross reference-Violation of building and development codes - disconnection of water service, § 15-1-8.

17-1-13. Judicial declaration and fine.

In the event that it is deemed advisable by the board of directors that a particular house, building and/or structure be judicially declared to be a nuisance by a court having jurisdiction of such matters, the board of directors is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city; and the only notice to be given to the owner or owners of any such house, building and/or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in a court of equity or chancery court. When any such house, building and/or structure has been declared judicially to be a nuisance by a court of competent jurisdiction, a fine of one hundred dollars (\$100.00) is hereby imposed against the owner or owners thereof from the date said finding is made by the court; and each day thereafter that said nuisance is not abated constitutes a separate and distinct offense punishable by a fine of one hundred dollars (\$100.00) for each separate and distinct offense. In the event that the owner or owners of any such house, building and/or structure judicially found to be a nuisance fails or refuses to abide by the orders of the court, the city manager or his/her designee shall take such action as provided in 17-1-8 hereof; and 17-1-9, 17-1-10 and 17-1-11 of this ordinance will be applicable to such owner or owners. The provisions contained in the immediately preceding sentence apply independently of any action as may be taken by the court judicially declaring the nuisance.

17-1-14. Emergency action.

Notwithstanding any provision herein to the contrary, in cases of extreme emergency where notice is not practical, the city and its authorized agents may enter upon any real property, houses, buildings or other structures and take such action or actions as may be immediately necessary for the preservation of the public health, safety and welfare prior to the issuance of notice as provided for herein. Provided, further, that the procedural requirements of this ordinance shall be adhered to following any such emergency action.

17-1-15. Applicability of technical codes.

The provisions of this ordinance shall not be construed to limit the authority of the city, its agents, employees and officers in the administration and enforcement of the various technical codes which have been adopted by ordinance and which shall remain in full force and effect, specifically, the property maintenance code, building code, fire prevention code, mechanical, electrical code and plumbing code.

17-1-16. Performance bond policy.

That prior to the issuance of a demolition or building permit for the demolition, renovation or stabilization of a structure(s) condemned pursuant to Title 17 Chapter 1, as amended, the owner thereof shall secure and present to the City of Hot Springs a performance bond. Said performance bond shall be in an amount equal to the estimated total demolition costs then incurred and/or anticipated to be incurred by the city of Hot Springs in razing said structure and shall be payable to the city of Hot Springs in the event the work is not completed as stated in the owner's permit. This provision shall not apply to any single family residential structure nor to any structure, regardless of type, whose total demolition costs are not expected to exceed \$10,000.00. (Ord. No. 6068, '1, 3-16-2015)