

TITLE 17
PUBLIC HEALTH AND PROPERTY

CHAPTER.

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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. (Ord. No. 4623, § 1, 5-5-97)

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." (Ord. No. 4623, § 2, 5-5-97)

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. (Ord. No. 4623, § 3, 5-5-97)

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. (Ord. No. 4623, § 4, 5-5-97)

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. (Ord. No. 4623, § 5, 5-5-97)

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. (Ord. No. 4623, § 6, 5-5-97)

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. (Ord. No. 4623, § 7, 5-5-97)

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. (Ord. No. 4623, § 8, 5-5-97)

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. (Ord. No. 4623, § 9, 5-5-97)

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. (Ord. No. 4623, § 10, 5-5-97)

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. (Ord. No. 4623, § 11, 5-5-97)

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. (Ord. No. 4623, § 12, 5-5-97)

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. (Ord. No. 4623, § 13, 5-5-97)

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. (Ord. No. 4623, § 14, 5-5-97)

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 housing code, building code, fire prevention code, electrical code and plumbing code. (Ord. No. 4623, § 15, 5-5-97)

17-1-16. Performance bond policy.

That prior to the issuance of a building permit for the renovation or stabilization of a structure(s) condemned and scheduled for demolition pursuant to Title 17 Chapter 1, as amended, the owner thereof shall secure and present to the code compliance department 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 building renovation permit. Provided, however, that this resolution 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. (Res. No. 3628, 4-7-97)

Editor's note-§ 17-1-16 was adopted by resolution, but included in the Code of Ordinances due to its permanent nature.

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CHAPTER 2

PROPERTY MAINTENANCE CODE

- Art. I. Purpose and Definitions, §17-2-1--§17-2-4
 Art. II. Administration and Permits, §17-2-5--§17-2-10
 Art. III. Premises Code, §17-2-11--§17-2-14
 Art. IV. Inoperable Motor Vehicles Code, §17-2-15--§17-2-20
 Art. V. Housing Code, §17-2-21--§17-2-27.6

ARTICLE 1. PURPOSE AND DEFINITIONS

17-2-1. Short title.

This Code shall be known and cited as the Hot Springs Property Maintenance Code.

17-2-2. Purpose; intent.

The purpose and intent of this Code is to insure the public health, safety, and welfare insofar as they are affected by the conditions and maintenance of existing residential structures, dwelling units, rooming units, and premises and to insure consistent community standard are applied to all residential property.

17-2-3. Application.

No person, firm or corporation shall occupy as owner-occupant or let or sublet to another for occupancy any residential structure, dwelling unit, rooming unit or guest room designed or intended to be used for the purpose of living, sleeping, or cooking therein, including the adjoining premises which does not comply with the provisions of this Code.

17-2-4. Definitions.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this article.

Addition. An extension or increase in the floor area or height of a structure or building.

Antique motor vehicle. A vehicle twenty-five (25) years or older that has been or is being restored and is licensed as an antique vehicle.

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

Bathroom. A required space within a dwelling unit affording privacy to the user containing plumbing fixtures including at least a bathtub or shower, toilet and sink. Bathrooms shall have a minimum floor space of 36 square feet with no dimension less than 4 feet. Bathrooms must have a ceiling height of at least 6 feet 8 inches.

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

City. The words “the city” or “this city” shall be construed as if the words “of Hot Springs” follow it and shall extend to and include its several officers, agents and employees.

Compliance officer. The city manager or employee or agent of the City of Hot Springs designated by the city manager with the responsibility for enforcement and administration of this Code.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, bathroom facilities and sanitation facilities. A unit designed for long term stay and may be let for occupancy by the day, week or month. Each dwelling unit shall have at least 250 square feet of habitable space for the first occupant and an additional 70 square feet of habitable space for each additional occupant.

Enclosure. A structure or building that completely conceals the contents from public view.

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.

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

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 dwelling unit or rooming unit for living, sleeping, eating, or cooking. Bathrooms, closets, storage or utility spaces, and similar areas are not considered habitable spaces. Habitable spaces shall have a ceiling height of at least seven (7) feet.

Kitchen. A required space within a dwelling unit for the purpose of food preparation and food storage containing not less than a mechanical refrigeration unit, a permanently installed cook stove, a kitchen sink, cabinets and counter space for food preparation each having a clear working space of not less than 30 inches.

Imminent danger. A condition which could cause serious or life-threatening injury or death at any time, hereafter termed “life safety violation.”

Infestation. The presence, within or contiguous to a structure or premises, of insects, rats, vermin, or other pests.

Inoperable motor vehicle. Any vehicle not in proper condition to be legally operated on the streets of Hot Springs, not capable of self locomotion or that does not have a valid current license plate.

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.

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.

Owner. Any person, 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.

Premises. A developed lot, plot, or parcel of land.

Rooming unit. Any space or room intended to be occupied for sleeping or living, but not for cooking purposes, including hotel and motel rooms. A unit not authorized for long term stay and may only be let by the day or week. Each rooming unit shall have at least 150 square feet of floor space for the first two occupants and at least 70 square feet of floor space for each additional occupant. At least one flush water closet, lavatory basin, and bathtub or shower shall be supplied for each four rooming units whenever such facilities are shared. All such facilities shall be located on the same floor they serve and shall be accessible from a common hall or corridor.

Rubbish. Waste materials including 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.

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.

Undeveloped property. A parcel of land that has not been developed for residential or commercial use or has not been cleared of natural tree and plant growth.

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.

ARTICLE II. ADMINISTRATION AND PERMITS

17-2-5. Administration.

17-2-5.1. Scope.

The provisions of this Code shall apply to all existing residential structures, dwelling units, rooming units, guestrooms and all residential use and all existing premises, and shall constitute the minimum requirements and standards for all premises, residential uses, equipment, facilities for light, ventilation, space, heating, sanitation, protection from the elements, safety from fire and other hazards, sanitary maintenance and the responsibilities of the owners and tenants.

17-2-5.2. Responsibility.

It shall be the owner's responsibility to insure residential property is maintained in compliance with this Code. Provided the occupants of a residential structure, dwelling unit, or rooming unit shall be responsible for keeping in a clean, sanitary, and safe condition that part of the structure, dwelling unit, rooming unit, or premises which they occupy or control.

17-2-5.3. Application of other codes.

Additions to a structure, or the systems of a structure, shall be done in accordance with the procedures and provisions of the most current addition of the Zoning Code, Building Code, Plumbing Code, Mechanical Code, Gas Code and the Electrical Code as adopted by the City of Hot Springs.

17-2-5.4. Workmanship.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and all materials shall be installed in accordance with the manufacturer's installation instructions.

17-2-5.5. Requirements not covered by code.

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this Code, shall be determined by the compliance officer.

17-2-5.6. Enforcement.

The compliance officer shall enforce the provisions of this Code. The compliance officer shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the city.

17-2-5.7. Right of entry.

The compliance officer is hereby authorized to enter any residential structure, dwelling unit, or premise at reasonable times to inspect for compliance with this Code subject to constitutional restrictions on unreasonable searches and seizures upon receipt of voluntary written consent. If entry is refused or not obtained, the city is authorized to pursue other recourse as provided by law.

17-2-5.8. Notices and orders.

The compliance officer shall issue all necessary notices or orders to ensure compliance with this Code and shall keep official records of all business activities. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations. Notice shall be given to the owner or the person or persons responsible. Such notice shall be in writing, include a description of the real estate sufficient for identification, include a statement of the violation or violations, and the amount of time to correct the violation or violations.

17-2-5.9. Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this Code, the compliance officer shall have the authority to grant minor modifications for individual cases, provided that the strict letter of this Code is impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life, and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

17-2-5.10. Alternative materials, methods and equipment.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically proscribed by this Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the compliance officer finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code. Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the compliance officer shall have the authority to require tests to be made as evidence of compliance at no expense to the city.

17-2-6. Permits.**17-2-6.1. Repairs.**

All required repairs or alterations performed on a structure, dwelling unit, rooming unit, or guest room pursuant to the provisions of this Code shall require the owner, the owners agent, the occupant or the tenant to first obtain a rehabilitation permit. Rehabilitation permits shall be effective for 30 days from the date of purchase. All repairs required under the provisions of this code, with the exception of life safety violations, shall be completed within that 30 days. Life safety violation shall be corrected within 7 days. Any repairs to the electrical facilities, plumbing facilities, or mechanical facilities will require the applicable permits as prescribed in the City of Hot Springs Electrical Code, Plumbing Code and Mechanical Code. The administrator shall have authority to grant 30-day extensions to a rehabilitation permit provided reasonable progress has been made. No extensions shall be granted for life-safety violations. (Ord. No. 5085, §1(a), 4-15-02)

17-2-6.2. Permit fees.

Permit fees for rehabilitation permits shall be as prescribed for building permits in the City of Hot Springs Building Code as may now or hereafter be adopted by the board of directors.

17-2-7. Appeals.

Any person directly affected by a decision related to this Code or a notice or order issued under this Code shall have the right to appeal. Said appeal shall be made to such technical board as may now or hereafter exist and designed by the board of directors to serve in this capacity. Written application for appeal shall be filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means, or that the strict application of any requirement of this Code would cause an undue hardship.

Cross reference - §2-8-14, board of adjustments and appeals.

17-2-8. Emergency action.

Notwithstanding any provisions herein to the contrary, in cases of extreme emergency where notice is not practical, the city is hereby authorized to enter upon any real property, structure or premise 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 herein. Provided, further, that the procedural requirements of this ordinance shall be adhered to following such emergency action.

17-2-9. Penalties.

Any person, firm, corporation or tenant upon conviction in the City of Hot Springs Municipal Court or any other court of competent jurisdiction for violation of the provision of this Code shall be subject to such fines and penalties as established by the general penalty clause of the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

17-2-10. Reserved.

ARTICLE III. PREMISES CODE.

17-2-11. Premises.**17-2-11.1. Exterior property.**

All exterior residential and commercial property and premises shall be maintained in a clean, safe and sanitary condition. The owner or occupant shall keep that part of the exterior property which such owner or occupant controls in a clean and sanitary condition. In this regard, all exterior property shall comply with the following requirements.

17-2-11.2. Weeds.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, this provision shall not include cultivated flowers and gardens. Exception: Undeveloped property as defined in Article I.

17-2-11.3. Exterior premises.

Exterior premises including sidewalks, driveways and carports, porches, walkways, stairs, parking spaces, and similar areas not completely enclosed, shall be maintained free from hazardous conditions, building materials, appliances, household items, rubbish, debris, or other similar items.

17-2-11.4. Dead trees.

All premises and exterior property shall be maintained free from dead trees. Property owners shall removed dead trees that constitute a hazard to public or private property as stated in Ordinance No. 4960, the City of Hot Springs Public Tree Code. Further provided, all premises and exterior property shall be maintained free from fallen branches and limbs.

17-2-11.5. Grading and drainage.

All developed premises shall be graded and maintained to prevent the erosion of soil and the accumulation of stagnant water on the premises.

17-2-11.6. Rodent harborage.

All premises and exterior property shall be kept free from conditions which might become a harborage for rodents.

17-2-11.7. Outside storage.

All building materials, appliances, household items, and other similar items not designed or intended for outside storage shall be stored in a completely enclosed building or structure impervious to the elements.

17-2-11.8. Exhaust vents.

Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

17-2-11.9. Accessory structures.

Accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound and in good repair. All exposed wood surfaces other than treated or exterior rated materials shall be covered with a protective coating.

17-2-11.10. Defacement of property.

No person shall damage, mutilate, or deface any exterior surface of a structure, building, fence, or wall on 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.

17-2-12. Notice and lien.**17-2-12.1. Noncompliance.**

If the owner or person responsible for a lot or parcel of property within the city, after being given a written seven (7) day notice to comply, shall refuse or neglect to perform the duties in connection with his or their property as specified in said notice, the city is hereby authorized to enter upon said property and have said violation or violations removed. The cost incurred by the city in removing said violation shall be charged against the property and shall constitute a lien thereon. The authority granted to the city herein shall apply only to those violations listed in this article (Premises Code). (Ord. No. 5085, §1(b), 4-15-02)

17-2-12.2. Unknown or nonresident owner.

In cases where the owner of a lot is unknown or his/her whereabouts is not known or he/she is a nonresident of the State of Arkansas, a copy of the written notice herein referred to shall be posted upon the premises and, before any action to remove the violations or enforce such lien shall be had, the city shall prepare an affidavit setting out the facts as to the unknown address or whereabouts of the nonresident, and shall notify the defendant by registered letter addressed to the defendant's last known address.

17-2-12.3. Enforcement of lien.

The lien herein provided may be enforced and collected in either one of the following manners:

- (a) The lien may be enforced at any time within eighteen (18) months after work has been completed 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 of the owner or owners is known; and if the name of the owner or owners cannot be determined, then after publication of notice of such hearing in a newspaper having a bona fide circulation in Garland County for one insertion per week for four (4) consecutive weeks and the amount so determined at said hearing, plus ten (10) percent penalty for collection, shall be certified by the board of directors to the Garland County Tax Collector 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.

17-2-13–17-2-14. Reserved.

ARTICLE IV. INOPERABLE MOTOR VEHICLES CODE.

17-2-15. Inoperable motor vehicles unlawful.

It shall be unlawful for any person to keep, maintain or store inoperable motor vehicles, as defined in Article I, upon public or private property within the City of Hot Springs.

17-2-15.1. Exceptions.

The following exceptions shall be allowed upon private property:

- (a) Any vehicles stored within an enclosure as defined in Article I.
- (b) One operable non-licensed vehicle will be allowed per address.
- (c) Vehicles designed for off road use that are not capable of being licensed for use on the streets of Hot Springs. Further provided, these vehicles are operable and capable of being used in the manner for which they were designed. Included in this category are dune-buggies, four wheelers, three wheelers and motorcycles.

17-2-15.2. Inoperable vehicle repair permits.

Property owners or tenants shall be allowed to obtain a repair permit from the city for the purpose of repairing a inoperable motor vehicle on their private property. No more than two permits will be issued at a specific address in a calender year. The permit fee shall be ten dollars (\$10.00) per vehicle. The permit shall be for a period of four months.

17-2-15.3. Notice of violation; removal of vehicle; redemption or sale.

(a) Whenever the city manager or his duly authorized representative observes any such vehicle as defined in this Code to be a violation of this Code, placed or stored in the open public property, they shall file a written report, setting forth the location of said vehicle, its make or model, the license number and the name of the owner, if known. The vehicle shall be tagged with a notice requiring the owner of said vehicle to remove same within twenty-four (24) hours and in the event said vehicle is not removed, the city is hereby authorized and directed to cause the removal of vehicle and impound same in accordance with the laws governing abandoned motor vehicles. In the event said motor vehicle obstructs the movement of traffic or constitutes a traffic hazard, the city shall immediately have said motor vehicle removed.

(b) When the city manager or his duly authorized representative finds motor vehicles disassembled, abandoned, inoperable, junked or wrecked, as defined in this code, in the open on private property, a written notice shall be served upon the owner or the person responsible for placing same upon private property to remove the vehicle within five (5) days

of receipt of said notice. If the disassembled, abandoned, inoperable, junked or wrecked motor vehicle has not been removed within five (5) days of receipt of notice to remove same, or upon return of said notice letter if sent via U.S. Mail, the city is authorized to cause said motor vehicle, or portions thereof to be removed and the same shall be handled as an abandoned vehicle under the laws of the State of Arkansas and disposed of accordingly.

(c) In the event the motor vehicle owners or the persons responsible for parking or storing same in the open upon private property cannot be determined or located, then a written notice shall be given to the owner of the property or the person in custody or control of the property notifying them to remove said vehicle within twenty (20) days from the receipt of such notice.

Upon the expiration of twenty (20) days, if the owner of the property or the person in possession or control of the property has not removed said vehicles, the city is authorized to cause said motor vehicles or portions thereof, to be removed and same shall be handled as an abandoned vehicle under the laws of the State of Arkansas and disposed of accordingly.

(d) In addition to towing, removal and storage charges assessed against said motor vehicle, there shall be added a cost of investigation, hereby determined to be twenty-five dollars (\$25.00) per vehicle, or portion thereof, and actual expenses for postage and related fees advanced by the City of Hot Springs, Arkansas, and all said charges shall be paid to the city upon redemption by the owner. If the vehicle is not redeemed, said charges shall be collected from the proceeds, upon sale, if available.

17-2-15-4. Licensed businesses.

Nothing in this article is to be interpreted as preventing any licensed business dealing in any manner with any types of automobiles from operating in a properly zoned area.

17-2-16–17-2-20. Reserved.

ARTICLE V. HOUSING CODE.

17-2-21. Housing code.

No residential structure, dwelling unit, rooming unit, guest room or residential use shall be occupied for the purpose of living, sleeping, or cooking therein which does not comply with the provisions of this Code.

17-2-22. Unsafe equipment.

Unsafe equipment includes water heaters, heating equipment, electrical wiring or equipment, plumbing fixtures or devices, or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises or structure shall constitute a life safety violation and must be corrected within seven (7) days of receipt of

notice. All other repairs must be corrected within thirty (30) days from the receipt of notice. Failure to correct a life safety violation within the permitted time can result in removal of the utilities from the structure.

17-2-23. Exterior requirement.

17-2-23.1. Exterior of structures.

All exterior surfaces including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than treated or decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. (Ord. No. 5085, §1(c), 4-15-02)

17-2-23.2. Structural members.

All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

17-2-23.3. Foundation walls.

All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

17-2-23.4. Exterior walls.

All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated to prevent deterioration.

17-2-23.5. Roofs and drainage.

The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance or affect neighboring property.

17-2-23.6. Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

17-2-23.7. Overhang extensions.

All overhang extensions including, but not limited to, canopies, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. (Ord. No. 5085, §1(d), 4-15-02)

17-2-23.8. Stairways, decks, porches, and balconies.

Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Protective railings as prescribed in the City of Hot Springs Building Code shall be required on any unenclosed structure over 30 inches above ground level and on any steps or stairs with four or more risers. All protective handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

17-2-23.9. Chimneys and towers.

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

17-2-23.10. Windows.

Every habitable space shall have at least one window facing directly to the outdoors or to a court. The minimum total glazed area of a window in a habitable space shall be 8 percent of the floor area of such space. The total openable area of a window in a habitable space shall be equal to at least 45 percent of the minimum glazed area required. All glazing materials shall be maintained free from cracks and holes. All required windows shall be maintained to be openable and shall have security locking mechanisms installed.

17-2-23.11. Bathrooms and toilet rooms.

Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

17-2-23.12. Insect screens.

Every door, window, and other outside opening required for ventilation shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch. Exception: Screens shall not be required if the dwelling unit is supplied with a working force air system. (Ord. No. 5085, §1(e), 4-15-02)

17-2-23.13. Exterior doors.

All exterior doors, with the exception of manufactured homes shall have a minimum clearance of 6 feet 8 inches. All exterior doors and door assemblies and hardware shall be maintained in good condition and shall be weatherproof. Locks at all entrances to dwelling units, rooming units and guest rooms shall tightly secure the door.

17-2-23.14. Basement hatchways.

Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

17-2-23.15. Guards for basement windows.

Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

17-2-23.16. Means of egress.

Every residential structure shall have safe, unobstructed means of egress leading to a safe open space at ground level that meet the requirements listed below.

17-2-23.17. One and two family dwellings.

The primary means of egress must be a door at least 28 inches wide leading to the outside at grade. Secondary means of egress can be a second door independent and remote from the primary door or a window at least 20 inches wide no higher than 24 inches above the floor and no more than 20 feet above grade. If windows are used as the secondary means of egress each habitable space within the structure must have a window as described above.

17-2-23.18. Apartment buildings, rooming houses, motels and hotels.

Two means of egress are required. Dwelling units, rooming units or guest rooms may use the requirements listed above provided all the units are on the ground floor and each unit has a door opening to the outside at grade. Structures in which units open into a common hallway or corridor shall have at least two independent remote means of egress leading to the outside at grade for each floor. Each corridor or hall shall have lighted exit signs and emergency lights on each floor. Exit signs and emergency lights shall be installed as prescribed in the City of Hot Springs Fire Prevention Code. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys or special knowledge.

17-2-24. Interior.**17-2-24.1. General.**

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, 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 owner of a structure containing two or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

17-2-24.2. Structural members.

All structural members shall be maintained structurally sound and be capable of supporting the imposed loads.

17-2-24.3. Interior surfaces.

All interior surfaces, including walls, floors, ceilings, windows, doors, window frames, and door frames, shall be maintained in good, clean, and sanitary condition. Floor coverings in wet locations, (kitchens and bathrooms) shall be water impervious. Wall coverings around tubs or showers shall be water impervious material. (Ord. No. 5085, §1(f), 4-15-02)

17-2-24.4. Stairs and walking surfaces.

Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.

17-2-24.5. Interior doors.

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

17-2-24.6. Accumulation of rubbish or garbage.

All interior property and the interior of every structure shall be free from any accumulation of rubbish or garbage.

17-2-24.7. Disposal of garbage.

Every occupant of a structure, dwelling unit, rooming unit, or guest room shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

17-2-24.8. 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. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure. The occupant of a one-family dwelling structure shall be responsible for extermination on the premises.

The owner of a structure containing two or more dwelling units (multiple occupancy) 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 extermination. Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

17-2-24.9. Clothes dryer exhaust.

Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

17-2-25. Plumbing requirements.**17-2-25.1. General.**

The provisions of this section shall govern the minimum plumbing systems, facilities, and plumbing fixtures to be provided.

17-2-25.2. Responsibility.

The owner of the structure shall provide such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this section.

17-2-25.3. Fixtures.

All plumbing fixtures shall be properly installed and maintained in working order. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition. Plumbing fixtures shall have adequate clearances for usage and cleaning. (Ord. No. 5085, §1(g), 4-15-02)

17-2-25.4. Plumbing system hazards.

(a) Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-siphonage, improper installation, deterioration or damage or for similar reasons, the compliance officer shall require the defects to be corrected to eliminate the hazard. Failure to remove a life safety hazard can result in the removal of utilities from the structure until such time as the hazard has been corrected.

(b) Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or approved private system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water. Supply lines shall be of approved materials, copper, or galvanized metal.

17-2-25.5. Water supply.

(a) The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. All hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

(b) The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

17-2-25.6. Water heating facilities.

Water heating facilities shall be properly installed, maintained, and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower, and laundry facility at a temperature of not less than 120°F (49°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air and ventilation air are provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

17-2-25.7. Maintenance.

Every plumbing stack, vent, waste, and sewer line shall function properly and be kept free from obstructions, leaks, and defects.

17-2-26. Mechanical requirements.**17-2-26.1. General.**

The provisions of this section shall govern the minimum mechanical facilities and equipment to be provided. Heating facilities shall be provided in structures as required by this section.

17-2-26.2. Residential occupancies.

Dwellings units and rooming units or guest rooms shall be provided with heating facilities capable of maintaining a room temperature of 65°F (18°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

17-2-26.3. Heat supply.

Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, guest room on terms, either expressed or implied, shall furnish heating facilities capable of maintaining a temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms.

17-2-26.4. Room temperature measurement.

The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

17-2-26.5. Mechanical appliances.

All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances, and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

17-2-26.6. Removal of combustion products.

All fuel-burning equipment and appliances shall be connected to an approved chimney or vent and a supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment. Exception: Fuel-burning equipment and appliances which are labeled for unvented operation in rooms other than bedrooms and bathrooms. A unvented fuel-burning device may be allowed in a bedroom, provided the maximum output of the device is 10,000 BTU or less and it has an O.D.S. device. A unvented heater may be allowed in a bathroom, provided the maximum output of the device is 6,000 BTU or less and it has an O.D.S. device.

17-2-26.7. Clearances.

All required clearances to combustible materials shall be maintained and safety controls for fuel-burning equipment shall be maintained in effective operation.

17-2-27. Electrical requirements.**17-2-27.1. Facilities required.**

Every occupied dwelling, dwelling unit, rooming unit, or guest room shall be provided with an electrical system in compliance with the requirements of this section. Installation of all electrical equipment, wiring, and appliances shall be properly installed and maintained in a safe and approved manner.

17-2-27.2. Service type.

Dwellings and dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes. Service shall be properly grounded and bonded. The service disconnect shall be located outside the structure and be totally accessible.

17-2-27.3. Receptacles.

Every habitable space in a dwelling unit, rooming unit, or guest room shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one ground fault circuit interrupter receptacle. Every section of kitchen counter top shall have at least one ground fault circuit interrupter receptacle.

17-2-27.4. Lighting fixtures.

Every habitable space and every public hall, interior stairway, kitchen, bathroom, laundry room, and utility room shall contain at least one electric lighting fixture.

17-2-27.5. Smoke detectors.

Every habitable space within a dwelling unit, rooming unit, or guest room shall have an approved, working smoke detector. Smoke detectors shall be battery operated and may also receive power from the building wiring. (Ord. No. 5085, §1(h), 4-15-02)

17-2-27.6. Electrical system hazards.

Where it is found that the electrical system in a structure constitutes a hazard to the occupants of the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, lack of proper smoke detection devices, deterioration or damage of wires or equipment or similar reasons, the compliance officer shall require the defects to be corrected to eliminate the hazard. Failure to correct or eliminate a life safety hazard can result in the power being removed from the structure.

17-2-28. Severability.

If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

(Ord. No. 5056, §§1,2, 2-4-02)

17-2-29. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors (Ord. No. 4960, § 35, 3-5-01)

CHAPTER 3

VACANT STRUCTURE CODE

- Art. I. In General, §§17-3-1--17-3-1.3
 Art. II. Administration, §§17-3-1.4–17-3-1.19
 Art. III. Maintenance Standards, §§17-3-1.20 - 17-3-1.34
 Art. IV. Definitions, §17-3-1.35

ARTICLE I. IN GENERAL

17-3-1. Adoption.

A vacant structure code is hereby adopted as follows:

17-3-1.1. Short title.

This Code shall be known and cited as the Hot Springs Vacant Structure Code.

17-3-1.2. Purpose and Intent.

The purpose and intent of this Code is to insure the public health, safety, and welfare insofar as they are affected by the conditions and maintenance of vacant structures and to insure that all vacant commercial and residential structures are secure and impervious to the elements.

17-3-1.3. Application.

No person, firm or corporation shall own or maintain any vacant structure or vacant portions of an occupied structure, including the adjoining premises which is not completely secure and impervious to the elements or otherwise does not comply with the provisions of this Code.

ARTICLE II. ADMINISTRATION

17-3-1.4. Scope.

The provisions of this Code shall apply to all vacant structures, vacant portions of occupied structures and premises, and shall constitute the minimum required maintenance standards for said structures and premises including standards for protection from the elements, safety from fire, sanitary maintenance and other hazards.

17-3-1.5. Responsibility.

It shall be the owner's or the operator's responsibility to insure vacant structures are maintained in compliance with this Code.

17-3-1.6. Application of other codes.

Alterations or additions to a vacant structure, or the systems of a vacant structure, shall be done in accordance with the procedures and provisions of the most current addition of the Zoning Code, Building Code, Fire Code and other technical codes as adopted by the City of Hot Springs.

17-3-1.7. Historic districts.

Structures located within locally recognized historic districts are not exempt from the provision of this code. Required and/or proposed facade changes to the exterior of a structure within locally recognized historic districts, including but not limited to, boarding, windows, awnings, doors, signs, light fixtures, steps and paving or other appurtenant fixtures shall not be erected, altered, restored, moved, or demolished within said historic district until after an application for a certificate of appropriateness has been submitted to and approved by the historic district commission.

17-3-1.8. Workmanship.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and all materials shall be installed in accordance with the compliance officers instructions.

17-3-1.9. Requirements not covered by Code.

Requirements necessary for the strength, stability or proper operation of a vacant structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this Code, shall be determined by the Compliance Officer.

17-3-1.10. Enforcement.

The Compliance Officer shall enforce the provisions of this Code. The Compliance Officer shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties.

17-3-1.11. Right of entry.

The Compliance Officer is hereby authorized to enter any vacant structure or premise at reasonable times to inspect for compliance with this Code subject to constitutional restrictions on unreasonable searches and seizures or upon receipt of voluntary written consent. If entry is refused or not obtained, the City is authorized to pursue other recourse as provided by law.

17-3-1.12. Notices and orders.

The Compliance Officer shall issue all necessary notices or orders to ensure compliance with this Code and shall keep official records of all business activities. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by law. Notice shall be given to the owner or the person or persons responsible. Such notice shall be in writing, include a description of the real estate sufficient for identification, include a statement of the violation or violations, and the amount of time to correct the violation or violations.

17-3-1.13. Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this Code, the Compliance Officer shall have the authority to grant minor modifications for individual cases, wherein the strict letter of this Code is impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life, and fire safety requirements. The details of action granting modifications shall be recorded and a permanent record shall be maintained.

17-3-1.14. Alternative materials, methods and equipment.

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Compliance Officer finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code. Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Compliance Officer shall have the authority to require tests to be made as evidence of compliance at no expense to the City.

17-3-1.15. Permits/Repairs.

All required repairs or alterations performed on a structure pursuant to the provisions of this Code shall require the owner or the operator to first obtain a vacant structure permit. Said permits shall be effective for 30 days from the date of purchase. All repairs required under the provisions of this code, shall be completed within that 30 days. Any repairs to the electrical facilities, plumbing facilities, mechanical facilities or other facilities shall require the applicable permits as prescribed in the City of Hot Springs Code of Ordinances. The administrator shall have authority to grant 30- day extensions to a permit provided substantial progress has been made. No more than one extension per structure shall be allowed.

17-3-1.16. Permit fees.

Permit fees shall be as prescribed for building permits in the City of Hot Springs Building Code as may now or hereafter be adopted by the Board of Directors.

17-3-1.17. Appeals.

Any person directly affected by a decision related to this Code or a notice or order issued under this Code shall have the right to appeal. Said appeal shall be made to such technical board as may now or hereafter exist and designed by the Board of Directors to serve in this capacity. Written application for appeal shall be filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means, or that the strict application of any requirement of this Code would cause an undue hardship.

Cross reference - §2-8-17, board of adjustments and appeals.

17-3-1.18. Emergency action.

Notwithstanding any provisions herein to the contrary, in cases of extreme emergency where notice is not practical, the City is hereby authorized to enter upon any real property, structure or premise 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 herein. Provided, further, that the procedural requirements of this ordinance shall be adhered to following such emergency action.

17-3-1.19. Penalties.

Any person, firm, corporation or person responsible upon conviction in the City of Hot Springs District Court or any other court of competent jurisdiction for violation of the provision of this Code shall be subject to such fines and penalties as established by the general penalty clause of the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

ARTICLE III. MAINTENANCE STANDARDS**17-3-1.20. Exterior surfaces.**

All exterior surfaces including, but not limited to, siding, exterior finish material, doors, door and window frames, cornices, porches, trim, balconies, decks, exterior stairway, and all appurtenances attached thereto shall be maintained in good condition. All exterior surfaces shall be maintained weatherproof and properly surface coated to prevent deterioration and shall be free from holes, breaks, and loose or rotting materials; All material applied to the exterior of a vacant structure shall be exterior rated approved material. Exterior wood surfaces shall be protected from the elements and decay by painting or other protective covering or treatment.

17-3-1.22. Structural members.

All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

17-3-1.22. Roofs and drainage.

The roofing and flashing materials shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance or affect neighboring property.

17-3-1.23. Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

17-3-1.24. Overhang extensions.

All overhang extensions including, but not limited to, canopies, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

17-3-1.25. Chimneys and towers.

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust.

17-3-1.26. Windows/Doors.

All windows and doors shall be properly maintained and completely impervious to the elements. All glazing materials shall be maintained free from cracks and holes. Windows and doors may be boarded, provided the method of boarding is approved by the compliance officer. All boarded windows and door shall be painted a color to blend with the surrounding facade and must be approved by the compliance officer.

17-3-1.27. Basement hatchways or windows.

Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

17-3-1.28. 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.

17-3-1.29. Premises/Exterior property.

All exterior and premises shall be maintained in a clean, safe and sanitary condition. The owner or responsible party shall keep the exterior property in a clean and sanitary condition. In this regard, all exterior property shall comply with the following requirements.

17-3-1.30. Weeds and debris.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, this provision shall not include cultivated flowers and gardens. All exterior areas including sidewalks, driveways and carports, porches, walkways, stairs, parking spaces, and similar areas not completely enclosed, shall be maintained free from hazardous conditions, building materials, appliances, household items, rubbish, debris, or other similar items.

17-3-1.31. Dead trees.

All premises and exterior property shall be maintained free from dead trees that constitute a hazard to public or private property as stated in the City of Hot Springs Public Tree Code. Further provided, all premises and exterior property shall be maintained free from fallen branches and limbs.

17-3-1.32. Grading and drainage.

All developed premises shall be graded and maintained to prevent the erosion of soil and the accumulation of stagnant water on the premises.

17-3-1.33. Accessory structures.

Accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound and in good repair. All exposed wood surfaces other than treated or exterior rated materials shall be covered with a protective coating.

17-3-1.34. Defacement of property.

No person shall damage, mutilate, or deface any exterior surface of a structure, building, fence, or wall by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the owner or operator to restore said surface to an approved state of maintenance, repair and removal all graffiti.

ARTICLE IV. DEFINITIONS

17-3-1.35. Definitions.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this article.

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

Boarding. The placement of material over a window, door or other similar area.

City. The words “the City” or “this City” shall be construed as if the words “of Hot Springs” follow it and shall extend to and include its several officers, agents and employees.

Compliance officer. The City Manager or employee or agent of the City of Hot Springs designated by the City Manager with the responsibility for enforcement and administration of this Code.

Enclosure. A structure or building that completely conceals the contents from public view and is constructed of approved materials.

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.

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

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.

Imminent danger. A condition which could cause serious or life-threatening injury or death at any time, hereafter termed “life safety violation.”

Infestation. The presence, within or contiguous to a structure or premises, of insects, rats, vermin, or other pests.

Operator. Any person who has legal charge, care, or control of a structure or premises.

Owner. Any person, 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.

Premises. A developed lot, plot, or parcel of land.

Rubbish. Waste materials including 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.

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

Undeveloped property. A parcel of land that has not been developed for residential or commercial use or has not been cleared of natural tree and plant growth.

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

(Ord. No. 5399, §1, 11-7-05)

CHAPTER 4

YARD AND GARAGE SALES

17-4-1. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

- (a) *Rummage sales and/or yard sales.* The offering for sale by a person or persons of used clothing, used furniture, and related household items outside of a structure or in an open area.
- (b) *Garage sales.* The offering for sale of used clothing, used furniture and related household items by a person or persons from a dwelling, garage or other enclosed structure. (Ord. No. 3554, § 1, 3-3-80)

17-4-2. Permitted use in residential zones.

From and after March 3, 1980, rummage sales and/or yard sales and garage sales may be conducted by individuals in residential zones within the city as a permitted use on the following terms and conditions:

- (a) Rummage and/or yard sales and garage sales may be conducted by a person or persons from any building or upon any open area outside of a building or other open area four (4) times during each calendar year for a period of three days each. Said sale so authorized shall not be conducted on a continuing basis and there shall be at least a seven-day period between each sale so authorized.
- (b) Merchandise which is herein authorized for sale at rummage and/or yard sales and garage sales shall be the property of the individual or individuals conducting said sale and shall not be merchandise which shall have been purchased by said party for purposes of resale.
- (c) No permits, fees or licenses shall be required for the conduct of said sale.
- (d) Removal of all outdoor advertising displayed in connection with said sale will be the responsibility of the person or persons (conducting the sale) after said sale is finished.
- (e) The regulations contained herein do not apply to churches, schools or nonprofit organizations. (Ord. No. 3554, § 2, 3-3-80)

17-4-3. Penalty for violation.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4960, § 29, 3-5-01)

State law reference-Attaching signs to utility poles prohibited, A.C.A. § 5-67-103.

17-5-1

HOT SPRINGS CODE
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CHAPTER 5
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CHAPTER 6

PUBLIC TREE CODE

17-6-1. Purpose.

It is the purpose of this ordinance to preserve and enhance the natural beauty of Hot Springs, to protect the health and safety of the residents of Hot Springs, and to protect the environment by providing for regulation of the planting, maintenance, and removal of public trees within the city of Hot Springs, in order to accomplish where possible, the following objectives:

- To create a desirable environment for Hot Springs residents.
- To moderate effects of sun, wind, and temperature changes.
- To buffer noise, air, and visual pollution.
- To filter pollutants from the air and release oxygen.
- To decrease storm water runoff.
- To stabilize soil and prevent erosion.
- To provide habitat for wildlife.
- To increase property values and protect investment.
- To preserve desirable trees.
- To help preserve river and stream banks.
- To screen incompatible land uses.
- To encourage public education about trees and their value to the community.
- To promote energy conservation.

17-6-2. Definitions.

(a) *Administrative authority.* The person(s) designated by the city manager with the responsibility for administration and enforcement of this ordinance.

(b) *City of Hot Springs Landscape Handbook.* A document having detailed standards and specifications for tree protection, planting, maintenance and design as written and updated by the administrative authority.

(c) *Commercial tree pruner/service.* A person who performs work on trees for profit.

(d) *Diameter breast height (DBH).* The diameter of a tree measured at a point four and one-half feet above the ground. If a tree splits into multi-trunks, the trunk is measured at its narrowest point below the slit.

(e) *Hazardous tree.* A tree or tree parts with high probability of falling or causing injury or property loss; also, a tree harboring insects or a disease that could be detrimental to surrounding trees.

(f) *Landmark tree.* A landmark tree is any tree, located on public property, listed with the state or national registry or cited in the city's tree registry as being historically significant, by age, species, form, or location.

(g) *Person.* An individual, firm, corporation, partnership, business, group of individuals, city department or other entity which acts singly or collectively for a common purpose.

(h) *Public grounds.* Areas owned and maintained by the city of Hot Springs including streets, alleys, parks, medians, substations, treatment plants, plazas, squares, public buildings, and any other city-owned and maintained areas designated for public use.

(i) *Rare tree.* A rare tree is a tree with a trunk diameter of 24 inches or more for large growing species and 8 inches or more for small growing species, over 200 years of age, or is representative of an uncommon or endangered species as designated in the City of Hot Springs Landscape Handbook.

(j) *Topping.* Also referred to as stubbing, dehorning, pollarding and heading; it is the severe removal of the tree canopy back to large stubs.

(k) *Tree.* Any self-supporting woody perennial plant, usually having a main trunk(s) and many branches, and, at maturity, normally attaining a trunk diameter greater than three inches at DBH and height of over ten feet.

(l) *Tree registry.* A list of trees registered with the city of Hot Springs due to documented historic association, rare tree species or extraordinary value because of their age, size, or location.

17-6-3. Commercial tree pruner/service certificate and insurance required.

(a) A city issued tree pruner/service certificate shall be required for the owner and supervisory personnel of each business performing commercial tree work in parks and on other public grounds.

(b) Each applicant shall attend an educational training on basic tree science and the proper techniques of tree pruning; and/or shall demonstrate sufficient knowledge of basic tree science and the proper techniques of tree pruning by scoring 75% or higher on a test approved by the University of Arkansas's Cooperative Extension Service. Individuals with an International Society of Arboriculture (ISA) certification are exempt from this requirement.

(c) A certificate shall be issued by the administrative authority when an individual has successfully completed the training and scored adequately on the test.

(d) The certificate shall be available at each job site.

(e) All persons engaged in the business of public tree care and removal shall be under the supervision of a certified tree pruner/service.

(f) Noncompliance with the standards, specifications and guidelines outlined herein, as well as those set forth in the City of Hot Springs Landscape Handbook, shall result in the following actions being taken:

- First violation - warning issued and repeat training.
- Second violation - suspension of certificate for 30 days.
- Third violation - revocation of certificate.

Should a violation result in the revocation of an individual's certificate, such individual shall have the right to reapply for a commercial tree pruner/service certificate after thirty (30) days, subject to the limitations set forth in subsection (b). Attendance at the educational workshop, as set forth above, is required prior to re-issuance of such certificate.

(g) Should an individual's certificate be revoked for a fourth violation within a one-year period, reapplication for a certificate may be denied to such individual.

(h) Appeals from denial of certification shall be in writing to the administrative authority with final appeal to the board of directors.

17-6-4. Tree planning, planting, maintenance and removal -- Public grounds.

(a) All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the City of Hot Springs Landscape Handbook, which may be reviewed and updated periodically by the administrative authority. The latest edition of said landscape handbook shall be kept on file in the Office of the City Clerk.

(b) Trees may be planted on public grounds only after notification to the administrative authority and providing the selection, location and maintenance of said trees is in accordance with the guidelines of the City of Hot Springs Landscape Handbook.

(c) Trees shall not be removed from public grounds unless approval is received from the administrative authority.

(d) It shall be a violation of this ordinance to damage, destroy or mutilate any tree on other public grounds or attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill or any other thing to any such tree.

(e) It shall be unlawful for any person to top or cut back to stubs the crown of any tree on public grounds.

(f) The city shall have the right to prune, maintain and remove any tree on public grounds which interferes with any traffic control device or sign.

(g) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this ordinance.

(h) City employees performing tree work on public grounds shall attend an educational workshop on basic tree science and the proper techniques of tree pruning. A certificate will be issued when an individual has successfully completed the workshop.

(i) The responsibility for writing and implementing the annual community Forestry Work Plan for the City of Hot Springs shall be such department(s) as shall be designated by the city manager.

17-6-5. Right of inspection.

The administrative authority shall have the right to inspect all sites within the city involving tree preservation on public grounds, landmark and rare trees, trees that constitute a hazard or a threat, and trees involving variance requests, or as otherwise required under the City of Hot Springs Code of Ordinances.

17-6-6. Hazardous trees.

(a) Every owner of any tree overhanging a street or sidewalk within the city is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians. Provided further, that all property owners within the city are hereby required to cause the removal of any dead or diseased trees on their property whenever such trees constitute a hazard to life and property, or harbors insects or disease which constitute a potential threat to other trees.

(b) If the owner or owners of any lot or other real property within the city, after the giving of seven (7) days' notice in writing by the city manager or his/her designated representative, shall refuse or neglect to perform the duties in connection with his or their property as specified in (a) hereof, the city manager or his/her designated representative is hereby authorized to enter upon the property and have said tree and/or branches cut and removed; and the cost thereof shall be charged against said premises and shall constitute a lien thereon.

(c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and, before any action to enforce such lien shall be had, the city clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts of nonresidents; and, thereupon, service of the publication as now provided for by law against a 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.

(d) The lien herein provided for may be enforced and collected in either one (1) of the following manners:

- (1) 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
- (2) 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 after publication of the notice of such hearing in a newspaper having a bone fide circulation in Garland County for one (1) insertion per week for four (4) consecutive weeks and the amount so determined at said hearing, plus ten (10) percent penalty for collection, shall be certified by the board of directors to the Garland County tax collector 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.

(e) 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 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 section shall be adhered to following such emergency action.

17-6-7. Landmark and rare trees; tree registry.

(a) There shall be established a tree registry, which shall be a list of trees, or groups of trees, located on public grounds and registered with the city of Hot Springs due to documented historic association, rare tree species or of extraordinary value because of the age, size, or location. Such tree registry shall be maintained by the city manager or his/her duly appointed representative.

(b) Rare and landmark trees on public property (including those within 100 feet of a site) shall be shown on all preliminary plats, large scale developments, or site plans. The city manager or his/her duly authorized representative may visit the site to determine the accuracy of identification.

(c) Prior to removal or pruning of any registered landmark and/or rare tree, approval shall be received from the administrative authority.

17-6-8. Administration and appeals.

(a) The general administration of this ordinance shall be accomplished by such administrative authority as shall be designated by the city manager. The administrative authority shall consist of such individuals and departments as deemed necessary by the city manager to accomplish the intent of this ordinance. In this regard, the administrative authority shall have the authority to request assistance and consultation from such other city officials and departments as shall be necessary to aid in the administration and enforcement of this ordinance.

(b) Appeals from decisions of the administrative authority shall be in writing and shall be filed in the office of the city clerk within seven (7) business days of the decision of the administrative authority. Appeals shall be heard by such administrative body as may now or hereinafter be designated as the appeal body for building codes.

Cross reference-§2-8-14, board of adjustments and appeals.

17-6-9. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4960, § 32, 3-5-01)

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

17-6-10. Conflict in regulations.

Where a conflict arises between this ordinance and another ordinance, the more stringent requirement shall apply.

17-6-11. Stop work order.

The administrative authority may issue a stop work order directing the parties involved to cease and desist all work which does not comply with this ordinance. A hearing will be held within 72 hours of the issuance of the stop work order. The hearing shall be before such administrative body as may now or hereinafter be designated as the appeal body for building codes.

(Ord. No. 4867, §§ 1-11, 5-1-00)