

ORDINANCE NO. 8901

AN ORDINANCE REQUIRING OWNERS OF PROPERTY WITHIN THE MUNICIPALITY TO CUT AND/OR REMOVE WEEDS, GRASS, RUBBISH, GARBAGE, TRASH, AND OTHER UNSIGHTLY AND UNSANITARY ARTICLES OR THINGS; TO COLLECT EXPENSES INCURRED BY THE CITY; PROCEDURE FOR CREATION AND IMPOSITION OF LIEN; PENALTY AND COST OF COLLECTION; DESCRIBING PROCEDURES INCIDENTAL THERETO; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City of Cotter has a responsibility to protect the public health and welfare of its inhabitants; and

WHEREAS, uncontrolled growth of weeds and lots creates a health hazard by permitting infestation of rodents and insects; is unsightly; and

WHEREAS, trash, rubbish, garbage and accumulation of unsightly and unattractive things are a public nuisance, and are aesthetically undesirable, create a danger of fire; and

WHEREAS, it is the owner's responsibility to cut and remove such and to pay for the same upon failure or refusal; and

WHEREAS, to provide for determination of lien upon owner's failure to cut or remove; hearing, and notice to such owner.

NEW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTER, ARKANSAS:

Section 1: Title.

This Ordinance shall be known as the Weed/Rubbish Control Ordinance.

Section 2: Definitions:

A. The term "City" as used herein shall mean the City of Cotter, Arkansas.

B. The term "Collector" as used herein shall mean the County Tax Collector of Baxter County, Arkansas.

Section 3: Obligation of Owner.

Each and every real property owner of property within the City shall cut and remove weeds, grass, garbage, rubbish or other unsightly or unsanitary article or thing thereon, whether inhabited or not.

Section 4: Authorization-Owner's Failure.

The City of Cotter is hereby authorized (after the expiration of twenty (20) days from the date notice is required by Section 5 A is postmarked) to cause to cut and/or remove weeds and grass, when they have reached a height of twenty (20) inches and to remove garbage, trash, rubbish or eliminate other unsightly or unsanitary articles and things and to impose a lien for the cost incurred by the City.

Section 5: Notice; Non-Resident Owners-Posting.

A. Notice - The City shall notify the property owner of the excessive height of such weeds or grass, existence of rubbish, trash, garbage or other unsightly thing, giving twenty (20) days for such owner to cut or remove the same, and informing such owner that the cost of removal or cutting will be imposed as a lien upon the property and certified to the Collector for collection together with

penalty and collection costs, by Certified Mail, U. S. postage prepaid, to the last known address of the property owner as shown by the records in the Collector's Office.

B. Posting - In case the owner of any real property is unknown or his whereabouts is not known or is a non-resident of Arkansas, then a copy of the Notice herein required shall be posted upon the premises.

Section 6: Determination of Lien-Notice.

A. After cutting, removing weeds, grass, rubbish, garbage, trash and other unsightly and unsanitary articles and things, the City shall, by Certified Mail to the owner of property, give Notice that a determination will be made by the City Council of the amount of lien to be imposed upon the property.

B. In the case the owner of such property is unknown or whereabouts cannot be known, or is a non-resident, then the City shall publish a Notice of Hearing to determine the amount of lien by newspaper circulated in Baxter County, Arkansas, by one insertion per week for four consecutive weeks prior to the date of such hearing or determination.

C. An Attorney-ad-litem shall be appointed to notify the unknown owner, or non-resident and shall notify the owner at his last known address or place of residence.

Section 7: Hearing.

After giving notice as required herein, the Council shall determine the amount of cost incurred (at a rate not to exceed two (2) cents per square foot in case of weeds or grass) and order the same to be paid by the property owner, and impose upon the real property a lien in the amount of the same and penalty, together with the costs of collection as herein provided.

Section 8: Penalty for Collection-Certification.

A. The amount of lien determined by the City Council plus five percent (5%) penalty for collection and description of the property upon which the lien is made, shall be certified by the City Council to the Tax Collector as delinquent taxes to be collected accordingly, and the amount of lien, less three percent (3%) thereof, when so collected, shall be paid by the Collector to the City, pursuant to Act 339 of 1979 and Act 100 of 1943.

B. The City shall identify for each parcel of property upon which a lien is made, the name of the property owner, school district, total amount of lien, together with the penalty thereon.

Section 9: Collection - Disbursement.

A. The Collector is hereby authorized to collect such lien and the amount of penalty thereon and remit the same to the City.

B. The Collector is hereby authorized to retain three percent (3%) of the amount of lien and penalty as his fee for collection thereof.

Section 10: Severability.

The provisions of this Ordinance shall be deemed severable.

Section 11: Repealer.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 12: Constitutionality.

The invalidity, unenforceability, or unconstitutionality of any section, clause, phrase, sentence or part thereof, shall not effect the validity, enforceability, or constitutionality of any other section, clause, phrase, sentence or part thereof.

Section 13: Exclusiveness of Ordinance--other remedies available. Farm and ranch land for the purpose of raising hay except adjacent to the highway and public roads.

This Ordinance shall not be deemed exclusive to other remedies available to the City by Ordinance or Statute or otherwise, and the penalties and provisions herein specified shall be in addition to and supplemental to such other remedy of the City to abate nuisances or otherwise.

Section 14: Penalty.

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and may be punished by a fine of not less than ten (\$10.00) nor more than two hundred dollars (\$200.00), and, if such violation is continued, each day's violation shall be a separate offense.

Section 15: Emergency.

The elimination of health and fire hazards is necessary for the immediate protection of the health, safety and welfare of the inhabitants of the City, and an emergency is hereby declared to exist; this Ordinance cancels and annuls Ordinance #115. ordinance #8901 shall be effective from and after its passage and publication.

PASSED AND APPROVED THIS 5th day of January, 1989.

APPROVED:

Louis E. Dennis, Mayor

ATTEST:


Jo Sugg, Recorder/Trs.