

This Instrument Prepared By:

William Smith III

PO Box 428

Russellville AR 72811



CLERKS CERTIFICATE OF RECORD
STATE OF ARKANSAS - COUNTY OF POPE
I, FERN TUCKER, Circuit Clerk and Recorder of
the County attested do hereby certify that this
instrument was filed for record the 08/15/2013 a
10:12:51 AM, and the same is now
duly recorded in Miscellaneous Book 2013-44 Page
419 - 428

Witness my hand and the seal of said court this
the 08/15/2013

Fern Tucker - Circuit Clerk and Recorder
By Jane Collins D.C.

Ordinance No. 2084

INSTRUMENT TYPE

City of Russellville

GRANTOR

Ordinance No. 2084

GRANTEE

13-44-419

CERTIFICATE OF RECORD
STATE OF ARKANSAS - COUNTY OF POPE
I, FERN TUCKER, Circuit Clerk and Recorder of
the County attested do hereby certify that this
instrument was filed for record the 08/26/2010 at
11:20:11 AM, and the same is now
duly recorded in Miscellaneous Book 2010-43 Page
4 - 12
Witness my hand and the seal of said court this
26th day of August 2010
by Jane C. Tucker and Recorder
D.C.

ORDINANCE NO. 2084

**AN ORDINANCE REGULATING LITTER, RUBBISH, GARBAGE AND
OVERGROWN GRASS AND WEEDS ON REAL PROPERTY AND FOR
OTHERS PURPOSES**

WHEREAS, neglect of removing litter, rubbish, trash and garbage and cutting of grass, weeds and other unmaintained plants is unsightly and unsanitary and diminished the property values of surroundings property owners; and

WHEREAS, Ark. Code Ann. §14-54-901 et. seq. and Ark. Code Ann. §14-54-103(1) allows a city to regulate real property with respect to litter, rubbish and garbage and the cutting of grass, weeds and other unmaintained plants.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF RUSSELLVILLE, ARKANSAS:**

SECTION 1: The title of this Ordinance shall be known as, "The City of Russellville, Arkansas, Grass and Trash Ordinance."

SECTION 2: The following words or phrases shall have the meaning as defined for the purpose of this Ordinance, except where the context clearly indicates a different meaning:

- (a) *Abandoned* means property to which no person claims or exercises the rights of ownership.
- (b) *Appliances* means, but is not limited to, refrigerators, deep freezes, stoves, ovens, air conditioners, washers, dryers, trash compactors, dishwashers, televisions, radios, hot water heaters and plumbing fixtures.
- (c) *Building material* means, but is not limited to, items such as boards, bricks, cement, nails, pipe, sheet metal, siding, tar paper, shingles, and windows which have never been incorporated into a structure or which have been removed from a structure and may be readily incorporated into another structure. This article applies only to building material which lies in public view and with respect to which its owner has no definite immediate plans for its use.
- (d) *Building rubbish* means any post-construction solid waste which, because of its quantity, quality or condition, cannot be readily and immediately put to a beneficial use.
- (e) *Canopy* means more or less continuous cover of branches and foliage formed collectively by adjacent tree crowns.
- (f) *Crown* means the upper part of a tree including the branches and foliage from the lowest branch on the trunk to the top of tree.
- (g) *City* means the City of Russellville, Arkansas.

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- (h) *Costs* means the actual cost the city incurs in abating or causing to be abated a nuisance, including without limitation, the cost of mowing, weeding, removing objectionable rubbish, junk, unsightly, or unsanitary matter, etc.
- (i) *Developed* means any man made change to undeveloped real property including but not limited to the construction, reconstruction, renovation, repair, expansion, or alternation of buildings or other structures; the placement of manufactured homes; mining; dredging; drilling operations; storage of equipment or materials; the subdivision of land; or improvements. Grass and weeds on developed property shall be mowed.
- (j) *Forest* means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet (0.23 acres) or greater. This definition includes: (1) Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger; and (2) Areas that have been cut but not cleared. Forest does not include orchards.
- (k) *Garbage* means all decayable waste, including, but not limited to, all solid or semisolid kitchen refuse subject to decay or putrefaction, tin, cans, bottles, paper and cardboard boxes, and all market waste of animal or vegetable matter which was intended to be used as food.
- (l) *Grass* means any type of grass or weed, but not including ornamental, landscaping, agriculture, or crop vegetation. Vegetation for hay is also excluded as a weed when grown on property zoned agricultural or on property zoned residential that is fifteen (15) acres or larger.
- (m) *Improvements* means those physical additions, installations and changes required to render land suitable for the use intended, including: grading, paving, curbing, filling, excavation, street lights and signs, fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and other public utilities.
- (n) *Inoperative* means an item which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose. Inoperative, which applied to motor vehicles, refers to any motor vehicle which is inoperable, dismantled, damaged or is unable to start or move under its own power. A vehicle shall be presumed to be inoperative when any one (1) of the following conditions are present:
- (1) It has not been moved for more than three days.
 - (2) One or more tires are flat.
 - (3) One or more wheels are missing.
 - (4) The hood or trunk is raised or missing and has appeared to remain so for more than three days.

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- (5) Weeds or grass have grown up around the vehicle.
- (6) The engine is missing.
- (7) The vehicle has no current vehicle tags or registration.
- (8) The door or doors, fender or fenders are removed or missing.
- (9) The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.

- (o) *Junk* means all worn out, useless, worthless, discarded, or scrap material, including, but not limited to, odds and ends, old metal, scrap lumber, building debris or old building materials, used tires, vehicle parts, and other items no longer used in the manner in which they were intended, including, but not limited to, upholstered furniture, working and non-working appliances, and machinery and parts thereof.
- (p) *Motor vehicle* means every device capable of being moved upon a public highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.
- (q) *Nature area* means an area of property designated by the owner and approved by the City, state or federal government as an area to be generally left in its natural state for the purposes of providing a natural scenic area or for the harboring of birds or local wildlife. Such an area must have clearly delineated perimeter boundaries with a buffered mowing area of twenty-five (25) feet adjacent to the nature area and such mowed buffer must be maintained with the height of grass or weeds not to exceed ten (10) inches.
- (r) *Nuisance* means garbage, rubbish, trash, litter, grass and weeds above the height regulated by this Ordinance or anything which is injurious to the health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.
- (s) *Open space* means a parcel of land in a predominantly open and undeveloped condition that is suitable for any of the following: 1) Nature areas; 2) Wildlife and native plant habitat; 3) Important wetlands or watershed lands; 4) Stream corridors; 5) Passive, low-impact activities; 6) Little or no land disturbance; and/or 7) Trails for non-motorized activities.
- (t) *Occupant* means the person or persons residing at a residence or occupying a structure on the property and exerting dominion and control over the property and premise.
- (u) *Owner* means a person having title to real property.

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- (v) *Perimeter* means every outer edge of property. The width of the perimeter to be maintained shall be twenty-five (25) feet unless blocked by a natural or man-made obstruction to which the maintenance of the property shall be to the obstruction.
- (w) *Person* shall include a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- (x) *Property* means any lot, tract, parcel of land or portion thereof, within the corporate limits of the City of Russellville, Arkansas.
- (y) *Rubbish* means garbage and shall include all animal and inorganic matter subject to discard that is generated from within a household, residence, or business, such as, but not limited to, coffee grounds, tin cans, paper bags, boxes, glass, food articles, stoves, refrigerators, iceboxes, pieces of metal scrap, feathers, furniture, dead animals, rocks, shingles, building materials, yard cleaning materials, junk, trash, refuse, and other worn-out, wrecked or dismantled machinery, tractors, automobiles, motor vehicles and other similar wastes.
- (z) *Shrub* means perennial, multi-stemmed woody plant that is usually less than 13-15 feet in height. They may be single stemmed and taller than 15 feet under certain environmental conditions.
- (aa) *Tree* means perennial, woody plant with a single stem (trunk), normally greater than 15 feet in height; however, under certain environmental conditions, some tree species may develop multi-stemmed or short growth form.
- (bb) *Underbrush* means brush under a stand of timber.
- (cc) *Understory* means either foliage layer or shrubs beneath the forest canopy; **or** young trees that are growing beneath the tall mature trees in a timber stand.
- (dd) *Undeveloped* means any lot, tract or parcel of land that has not been graded or in any other manner prepared for the construction of a building, improvement or otherwise developed. Grass and weeds on undeveloped shall either be mowed or bushhogged.
- (ee) *Unightly and unsanitary articles* means any matter, condition, or object which is or should be objectionable, unsightly, or unsanitary to a person of ordinary sensitivities and shall be considered both rubbish and junk and both terms' definitions shall also apply.
- (ff) *Weeds* means vegetation that because of its height is objectionable, unsightly or unsanitary, but excluding ornamental, landscaping, agricultural, or crop vegetation. Vegetation for hay is also excluded as a weed when grown on property zoned agricultural or on property zoned residential that is fifteen (15) acres or larger.
- (gg) *Wetlands* means those areas that are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas. ✓

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- (hh) *Yard waste* means any refuse other than garbage or putrescible matter. It shall include discarded flower decorations, cuttings of grass and weeds, fallen leaves, fallen branches, fallen trees, cut vines, shrubbery, grass clippings, brush, leaves, tree trimmings,
- (ii) *Zoned* means property in the City that has been assigned a zoning designation by the City under the current City Zoning Code.

SECTION 3: All owners or occupants of real property within the City are hereby required to remove garbage, rubbish, litter, yard waste, inoperative motor vehicles and other unsightly and unsanitary articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community. It shall also be unlawful for the owner or occupant of real property to permit the accumulation or development of garbage, rubbish, inoperative motor vehicles or other unsightly things or conditions on real property within the City. A person must have a burn permit from the Russellville Fire Department prior to removing yard waste by burning.

SECTION 4: (a) *Residential and Agriculture-Developed and Undeveloped.* Grass or weeds on property located inside the City shall not exceed ten (10) inches in height on any tract of property zoned residential or agricultural which is developed or undeveloped;

- (1) However, this restriction shall not apply to any property zoned residential or agricultural that is twenty (20) acres or larger that is developed or undeveloped; and,

(A) *Residential and Agriculture-Developed and Undeveloped-Greater Than 20 Acres.* Provided, any property zoned residential or agriculture which is twenty (20) acres or larger that is developed or undeveloped shall maintain the grass and weeds in the perimeter of the residential or agricultural zoned property not to exceed ten (10) inches in height.

(b) *Commercial and Industrial-Developed and Undeveloped.* Grass or weeds on property located inside the City shall not exceed ten (10) inches in height on any tract of property zoned commercial or industrial which is developed.

- (1) However, this restriction shall not apply to any property zoned commercial or industrial that is five (5) acres or larger which is undeveloped;

(A) *Commercial and Industrial-Undeveloped-Greater Than 5 Acres.* Provided, any commercial or industrial property which is five (5) acres or larger that is undeveloped shall maintain the grass and weeds in the perimeter of the commercial or industrial zoned property not to exceed ten (10) inches in height.

(c) No grass or weed restrictions in this Ordinance shall apply to any area inside the city limits of the City specifically designated or recognized by the City, the State of Arkansas or the United States as wetlands, open spaces, or natural areas.

(d) No grass or weed restriction in this Ordinance shall apply to any area of a property that is covered by a forest, canopy, understory, underbrush and shrubs but this exclusion is only applicable to the actual area covered by the forest, canopy, understory, underbrush and shrubs on a property which makes maintenance of the grass or weeds impossible or extremely difficult to maintain with the use of motorized grass and weed cutting implements.

SECTION 5: (a) If the owner or responsible person of any real property within the City shall neglect or refuse to remove, abate or eliminate any condition as may be provided for under Sections Four (4) of this Ordinance, after having been given seven (7) days' notice in writing to do so by the appropriate city official, the City with approval of the Mayor, is hereby authorized to do whatever is necessary to correct the condition, including but not limited to entering upon the property and having such weeds, rank grass or other vegetation cut and removed, or eliminating any unsanitary and unsightly condition, and charging the cost thereof to the owner of such premises, which shall constitute a lien thereon. The abovementioned seven (7) days' notice shall be calculated by counting the first day of the seven day period as the day after written notice is given to the owner, by counting every calendar day, including weekends and holidays, and by establishing the deadline to take the above required actions as 11:59 p.m. on the seventh day.

(b) Before any abandoned or inoperative motor vehicle is taken into custody and possession from private property, the City shall give the private property owner or occupant and the owner of the motor vehicle, if ascertainable, thirty (30) days notice by registered or certified mail that such action will be taken unless the motor vehicle is restored to a functional use, disposed of in a manner not prohibited by A.C.A. §8-6-401 et seq., or placed in an enclosed building. The thirty (30) day notice may be waived by the owner or occupants of the property jointly or severally.

SECTION 6: The lien may be enforced and collected in either of the following manners:

(a) within eighteen (18) months after work has been done, by an action in the circuit court; or

(b) The amount of the lien may be determined at a hearing before the City Council 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 is known. If the name of the owner or owners cannot be determined, then the hearing before the City Council may be held after publication of notice of such hearing in a newspaper having a bona fide circulation in the county, for one (1) insertion per week for four (4) consecutive weeks. The amounts due the city as determined at the hearing, including all costs incurred by the City relevant to the nuisance, plus ten (10) percent penalty for collection, shall be

that certified by the City Council to the county tax collector, and by him or her, placed on the tax books as a penalty to be collected in the manner and with the priority of delinquent taxes, and the amount, less three (3) percent thereof, when so collected, shall be paid to the City.

SECTION 7: If the owner of any lot or other real property is unknown or such owner's whereabouts is not known or such owner is a nonresident of this state, then a copy of the written notice referred to in Section Five (5) of this Ordinance shall be posted upon the premises, and before any action to enforce the lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents. Thereupon, service of the publication, as provided for by law against nonresident defendants, 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 it can be found.

SECTION 8: (a) *Abatement.* Whenever a real and imminent health or safety hazard stemming from a condition or thing described in Sections 3 and 4 exist such that the notice provisions provided for in Sections 5 and 7 cannot be complied with without jeopardizing the health and safety of the community, the City shall give notice as is practical under the circumstances, to the affected property owner. If the property owner or occupant does not act immediately to correct the condition or thing complained of, the City shall, pursuant to A.C.A. §14-54-103, do whatever is necessary to abate the hazard stemming from the condition or thing.

(b) *Alternate procedure.* Upon the written application of two or more of the individuals described in subsection (c), the City Attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of.

(c) *Determination.* The initial determination of what condition or thing constitutes a real and imminent health or safety hazard must be made by at least two of the following individuals: the Mayor, the Fire Chief or their designee, Chief of Police or their designee and the City Code Enforcement Officer. If three of the above individuals agree that a real and imminent health or safety hazard does not exist, no action shall be taken under this section. If the named individuals are equally divided in their opinions, action may be taken under this section. It is not necessary that all of the named individuals participate in the determination.

SECTION 9: Violation of this Ordinance is prohibited and hereby expressly declared to be a misdemeanor, unlawful and punishable by a fine not to exceed five hundred dollars (\$500.00) plus court costs. If the violation is found to be continuous with respect to time, then the penalty for allowing the continuance of the violation is a fine not to exceed two hundred and fifty dollars (\$250.00) for each day that the same is unlawfully continued.

SECTION 10: The Russellville Police Department Officers, Fire Chief or their designee, Building Official, and Code Enforcement Officer are hereby authorized to

enforce the provisions of the Ordinance. Violation of the provisions of this Ordinance may be prosecuted by the issuance of a criminal information, affidavit of arrest warrant or by the issuance of a citation by a Law Enforcement Officer, Fire Chief or their designee, Building Official or Code Enforcement Officer.

SECTION 11: Should any of the provisions of this ordinance be determined to be contrary to federal, state, or local law, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 12: Ordinance No. 1942 and any ordinance or part of an ordinance in conflict with this Ordinance is hereby repealed.

ORDAINED, this 19th day of August, 2010.

TYRONE WILLIAMSON
TYRONE WILLIAMSON, MAYOR

ATTEST:

Kathy Collins
KATHY COLLINS, CITY CLERK

I, Kathy Collins, City Clerk of Russellville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2084 passed by the City Council of the City of Russellville, Pope County, Arkansas, on the 19th day of August, 2010.

APPROVED AS TO FORM:

William F. Smith III
WILLIAM F. SMITH III, CITY ATTORNEY



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SECTION 13: The City of Russellville finds that unsightly and unsanitary properties exist in the within the city limits which are a threat to the public health, safety and welfare to the residents of the City of Russellville and also lower and diminish property values of surroundings property owners and neighborhoods. Therefore, an emergency is declared to exist and this Ordinance is immediately implemented in order to protect the residents and City of Russellville.

ORDAINED, this 19th day of August, 2010.

TYRONE WILLIAMSON
TYRONE WILLIAMSON, MAYOR

ATTEST:

Kathy Collins
KATHY COLLINS, CITY CLERK

I, Kathy Collins, City Clerk of Russellville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2084 passed by the City Council of the City of Russellville, Pope County, Arkansas, on the 19th day of August, 2010.

APPROVED AS TO FORM:

William F. Smith III
WILLIAM F. SMITH III, CITY ATTORNEY



13-44-428

10-43-12