

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. MOSQUITOES.
3. DIRTY LOTS.
4. INOPERATIVE VEHICLES, ETC.
5. SLUM CLEARANCE

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.

13-101. Health officer. The "health officer" shall be such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1979 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1979 Code, § 8-105)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1979 Code, § 8-106)

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-107.

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the judge or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1979 Code, § 8-107)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1979 Code, § 8-108)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

When any such prohibited condition comes to the attention of the judge he shall order the person responsible therefor to remedy the situation within ten (10) days. Should the condition not be remedied within the time specified in the notice, the city clerk shall have the work done at city expense and the cost thereof shall become a lien upon the property enforceable the same as delinquent taxes. (1979 Code, § 8-109)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1979 Code, § 8-104)

CHAPTER 2

MOSQUITOES

SECTION

- 13-201. Breeding places to be treated.
- 13-202. Breeding places enumerated.
- 13-203. Methods of treatment.
- 13-204. Evidence of breeding.
- 13-205. Abatement by health officer at offender's expense.
- 13-206. Abatement by health officer at city's expense.
- 13-207. Permit, etc., required for fish pools.
- 13-208. Enforcement by health officer.
- 13-209. Police, etc., to cooperate with health officer.

13-201. Breeding places to be treated. It shall be unlawful for any property owner, agent of such owner, tenant, sub-tenant, or other occupant of any property or premises located within the corporate limits to have, keep, maintain, cause or permit upon said property or premises any collection of standing or flowing water in which mosquitoes breed, unless such water is treated so as to effectively prevent such breeding. (1979 Code, § 8-601)

13-202. Breeding places enumerated. The collection of water mentioned in § 13-201 shall be held to include that contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, automobile bodies, buckets, defective house roof gutters, tanks of flush closets, or other similar water containers. (1979 Code, § 8-602)

13-203. Methods of treatment. The method of treating collections of water for the prevention of breeding mosquitoes shall be approved by the health officer and may be any one of the following:

(1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or with other material which will effectively prevent the ingress or egress of mosquitoes.

(2) Complete emptying and thorough drying or cleaning of unscreened containers every seven (7) days.

(3) Using a larvicide approved and applied under the directions of the health officer.

(4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days.

(5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish.

(6) Filling or draining to the satisfaction of the health officer.

(7) Removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water. (1979 Code, § 8-603)

13-204. Evidence of breeding. The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there and that such water is being maintained in violation of this chapter. (1979 Code, § 8-604)

13-205. Abatement by health officer at offender's expense. Should any person or persons responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the same, the health officer, or his authorized agent is hereby authorized to do so, and all necessary cost incurred by him for this purpose shall be a charge against the property owner, or other person offending as the case may be. (1979 Code, § 8-605)

13-206. Abatement by health officer at city's expense. The health officer or his representatives, if he deems it necessary, may immediately treat or have treated at city expense any collection of standing or floating water in which mosquitoes are found to be breeding on public or private property. (1979 Code, § 8-606)

13-207. Permit, etc., required for fish pools. It shall be unlawful for any person to construct, possess, or maintain a fish pool within the corporate limits, where malaria transmitting and pest mosquitoes may breed, without first securing a permit from the health officer and thereafter maintaining or continuing such fish pond or pool so as to at all times prevent the propagation or breeding of such mosquitoes. (1979 Code, § 8-607)

13-208. Enforcement by health officer. For the purpose of enforcing the provisions of this chapter, the health officer or his agent may at all reasonable times enter in or upon any premises within the corporate limits and order abatement of violations. It shall be unlawful for any person to fail to comply with any such order of the health officer. (1979 Code, § 8-608)

13-209. Police, etc., to cooperate with health officer. It shall be the duty of all policemen and the superintendent of water and streets of the city to cooperate with the health officer in carrying out and seeing that the provisions of this chapter are properly enforced. (1979 Code, § 8-609)

CHAPTER 3

DIRTY LOTS

SECTION

- 13-301. Short title.
- 13-302. Declaration of nuisance.
- 13-303. Permitting accumulations of weeds, trash, rubbish, refuse, etc., unlawful.
- 13-304. Raking, piling of weeds and rubbish; placement.
- 13-305. Removal; notice.
- 13-306. Noncompliance; abatement at owner's expense; nonpayment.
- 13-307. Penalties.

13-301. Short title. This chapter may be cited as the dirty lot ordinance. (1979 Code, § 8-801)

13-302. Declaration of nuisance. The existence within the corporate limits of the City of Fayetteville of lots and parcels of land overgrown with obnoxious weeds or burdened with accumulations of rubbish and refuse are hereby declared to be a nuisance. (1979 Code, § 8-802)

13-303. Permitting accumulations of weeds, trash, rubbish, refuse, etc., unlawful. (1) Except as set out in (3) hereof, it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer weeds or other vegetation to grow and/or trash, rubbish and refuse to accumulate on such property to such an extent that such a nuisance is created injurious to the health and welfare of the inhabitants of the city. Weeds which have attained a height of twelve (12) inches or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(2) It shall also be unlawful for any person, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city to suffer or permit grass, weeds or any plant that is not cultivated to grow in rank profusion, or otherwise, in, along, upon or across the sidewalk or street adjacent to same in the area between the property line and the curblin, or within the area ten (10) feet beyond the property line, to a height greater than twelve (12) inches on an average.

(3) Property owners owning no less than three acres and desiring to cut the same for hay shall:

- (a) Cut and maintain the field around every side at the property line for a width of no less than ten (10) feet. (This includes fences, borders, trees and brush lines.)

(b) Cut and maintain to the curbline or edge of the street in accordance with subsection (2) above;

(c) Cut the field at least three (3) times during cutting season with cutting dates no later than June 1st first cutting, July 15th second cutting and September 1st third cutting; and

(d) Notify the building official of the address of the lot to be cut for hay. (1979 Code, § 8-803)

13-304. Raking, piling of weeds and rubbish; placement. It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up said weeds, grass, brush, vegetation, dead or broken tree limbs, dead trees or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (1979 Code, § 8-804)

13-305. Removal; notice. Upon failure of any owner of property within the corporate limits of the city to cut or have cut such obnoxious growths of weeds or other vegetation, or to remove or have removed such accumulations of trash, rubbish and refuse as described in § 13-303, it shall be the duty of the building official, or such other persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to cut or have cut such obnoxious weeds and/or remove or have removed such accumulations of trash, rubbish and refuse within five (5) days of the service of such notice. Such notice may be served:

(1) By personally serving the same on the owner, lessee, occupant, or person having control of such property; or

(2) By mailing the same to the last known address of such owner, lessee, occupant, or person having control of such property by certified mail; or

(3) By posting the same on the property on which such condition or conditions exist.

Service of notice by any of the above methods shall be due notice within the meaning of this article, provided however, that no owner out of possession shall be liable to the penalty imposed by § 13-307 unless there shall be personal service of such notice upon him, or such notice mailed to him by certified mail as aforesaid. (1979 Code, § 8-805)

13-306. Noncompliance; abatement at owner's expense; non-payment. If the owner or other person described in § 13-305 herein shall fail to remedy such conditions within the time prescribed therein, unless an appeal is made, the inspector shall certify such failure to the city administrator who shall take such action as is necessary to remedy the conditions and abate the nuisance. If City of Fayetteville employees and equipment are used in

abating the nuisance, the city administrator shall determine the reasonable cost of the required inspections, recorded examinations, notifications, complaint response, and movement of employees and equipment to and from the site in establishing a base charge to which additional charges for equipment and employee operating time shall be added to establish the total cost to be billed to the owner. Upon failure of the owner to remit to the city the amount of such charge within sixty (60) days from the date of such notice, a ten (10) percent penalty shall be added and the total amount of the bill and the penalty shall be certified by the city clerk and shall constitute a lien upon the property for which the expenditure is made, which lien may be enforced by a suit in the Chancery Court as are other tax liens of the city. The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of § 13-307, it being the intent of the council that the penalty provision of § 13-307 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section. (1979 Code, § 8-807)

13-307. Penalties. Any person, firm or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and punishable by a fine not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) and each day's violation shall constitute a separate offense. (1979 Code, § 8-808)

CHAPTER 4

INOPERATIVE VEHICLES, ETC.

SECTION

- 13-401. Definitions.
- 13-402. Inoperative motor vehicles prohibited.
- 13-403. Nuisance.
- 13-404. Notice to owner to remove vehicle.
- 13-405. Removal by owner.
- 13-406. Removal by city.
- 13-407. Antique vehicles.

13-401. Definitions. (1) "Motor vehicle" - Every vehicle as herein defined which is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space, shall be considered a part of a motor vehicle.

(2) "Antique motor vehicle" - Every motor vehicle, as herein defined, which was actually manufactured, or designated by the manufacturer as a model manufactured in a calendar year not less than twenty-five years prior to January one of each calendar year and is owned solely as a collector's item, and is used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation.

(3) "Semitrailer" - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(4) "Trailer" - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle. (1979 Code, § 8-901)

13-402. Inoperative motor vehicles prohibited. It shall be unlawful for any person, firm or corporation to keep, except within an enclosed building or structure, on any property zoned for residential or commercial any motor vehicle, trailer, or semitrailer, whose condition is such that it is economically impractical to make them operative; provided, however, that the provisions of this section shall not apply to a properly licensed business which on the date of passage of this chapter is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor. (1979 Code, § 8-902)

13-403. Nuisance. The accumulation and storage of one or more inoperative vehicles and parts therefor on private property shall constitute debris and a nuisance detrimental to the health, safety, and welfare of the residents of the city. (1979 Code, § 8-903)

13-404. Notice to owner to remove vehicle. (1) If any officer of the police department of the building officials finds any vehicle in violation of § 13-402, he shall make diligent search and inquiry to determine the record owner of the land upon which the vehicle is located, and he shall notify said owner in writing by mail at his last known mailing address that he has found such violation and the nature thereof. He shall demand and it shall be the duty of the record owner of such land to cause such vehicle to be removed from the property forthwith and taken to an authorized place of storage.

(2) The mailing of such notice shall be sufficient proof thereof and the delivery of notice equivalent to mailing.

(3) If the mailing address of the owner of the land upon which the vehicle is located is not known and the land is unoccupied and the owner has no agent in the City of Fayetteville, such notice shall be posted upon such land as notice to the owner thereof. (1979 Code, § 8-904)

13-405. Removal by owner. The owner of the property on which the same is stored or located or the owner of the vehicle or either of them shall remove the vehicle within ten (10) days of the date of mailing or service of the notice as provided in § 13-404. (1979 Code, § 8-905, as amended by Ord. #95-22, Sept. 1995)

13-406. Removal by city. If the violation described in the notice has not been remedied within ten (10) days after the mailing or serving thereof, then the owner of the land on which the vehicle is located shall be deemed guilty of a misdemeanor for maintaining a public nuisance. Each day that the offending vehicle(s) is allowed to remain on the property after the passage of ten (10) days shall constitute a separate violation. (1979 Code, § 8-906)

13-407. Antique vehicles. The provisions of this chapter shall not be deemed to apply to antique vehicles, as defined herein, which are capable of being repaired or restored, and the parts necessary for such repairing or restoration; provided:

(1) A bona fide effort is being made to repair or restore such vehicle; and

(2) Such vehicle and parts are covered so as to shield them from public view, protect them from the weather and made them unsuitable as a hiding place for snakes, rats, or vermin. Such shield shall be constructed of wood, metal, masonry, or vegetative material which should be of such density as to screen said automobile and automobile parts from public view and shall be constructed and thereafter maintained in such a manner as not to create or perpetuate neighborhood blight. (1979 Code, § 8-907)

CHAPTER 5

SLUM CLEARANCE

SECTION

- 13-501. Definitions.
- 13-502. Structures unfit for human occupation or use.
- 13-503. Procedures.
- 13-504. Conditions to be taken into consideration by the public officer.
- 13-505. Services of complaints or orders.
- 13-506. Power of public officer.
- 13-507. Powers in addition.

13-501. Definitions. As used in this part, unless the context otherwise requires:

(1) "Dwelling" means any building, structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(2) "Governing body" means the Board of Mayor and Aldermen of the City of Fayetteville;

(3) "Municipality" means the City of Fayetteville;

(4) "Owner" means the holder of the title in fee simple and every mortgagee of record;

(5) "Parties of interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited;

(7) "Public authority" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations or other activities concerning structures in the municipality;

(8) "Public officer" means the building official of the municipality, and

(9) "Structure" means any dwelling, place of public accommodation, vacant building or structure suitable as a dwelling or place of public accommodation. (an added by Ord. #97-11 § 1, Dec. 1997)

13-502. Structures unfit for human occupation or use. Whenever any public officer or authority in the municipality finds that there exists in the City of Fayetteville structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other

conditions rendering such structures unsafe, unsanitary, dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of this municipality, such public officer or authority is hereby authorized to exercise the police power of the municipality, to repair, close or demolish the aforementioned structure in the manner herein provided. (as added by Ord. #97-11, § 2, Dec. 1997)

13-503. Procedure. (1) Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the municipality charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer on his own motion that any structure is unfit for occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest of such structure, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or the public officer's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.

(a) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(2) If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which provides:

(a) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall repair, alter or improve such structure to render it fit for human occupation or use or shall vacate and close the structure as a place of human occupation or use; or

(b) If the repair, alteration or improvement of the structure cannot be made at reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall remove or demolish such structure;

(3) If the owner fails to comply with an order to repair, alter, improve or vacate and close the structure, the public officer may cause such structure to be repaired, altered, improved, or vacated and closed; and may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful";

(4) If the owners fail to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished;

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demotion by the public officer shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the Register of Deeds of Lincoln County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale, if any, against the costs of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.

(6) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #97-11, § 3, Dec. 1997)

13-504. Conditions to be taken into consideration by the public officer. The public officer may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality or the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #97-11, § 4, Dec. 1997)

13-505. Services of complaints or orders. Complaints or orders issued by the public officer shall be served upon persons either personally or by

registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in Lincoln County and circulating in the municipality. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #97-11, § 5, Dec. 1997)

13-506. Power of public officer. The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers, in addition to others herein granted, to:

- (1) investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;
- (2) Administer oaths, affirmations, examine witnesses and receive evidence;
- (3) Enter upon premises for the purpose of making examinations; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of the chapter; and
- (5) Delegate any of such public officer's functions and powers under the chapter to such officers and agents as the public officer may designate. (as added by Ord. #97-11, § 6, Dec. 1997)

13-507. Powers in addition. The powers conferred by this chapter are in addition and supplementary to powers conferred by any other statutes or ordinance. (as added by Ord. #97-11, § 7, Dec. 1997)