

ORDINANCE NO: 2011-05, 01

AN ORDINANCE PROVIDING FOR THE CONDEMNATION AND REMOVAL OF HOUSES, BUILDINGS AND/OR STRUCTURES CONSTITUTING A NUISANCE WITHIN THE CORPORATE LIMITS; PROVIDING FOR A LIEN ON THE PROPERTY; PROVIDING A PENALTY THEREFOR, AND FOR OTHER PURPOSES.

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

SECTION 1. That 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 of Tuckerman, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Council.

SECTION 2. That any such house, building and/or structure which is found and declared to be a nuisance by Resolution of the City Council will be condemned to insure the removal thereof as herein provided.

SECTION 3. (a) That prior to the consideration of a Resolution by the City Council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lienholder(s), of such house, building and/or structure shall be mailed written notification of the date, time and place that the City Council will consider said Resolution. In addition, said notice shall inform the owner(s) and any mortgagee(s) or lienholder(s), of the right to be heard at the City Council meeting on the proposed Resolution declaring such house, building and/or structure to be a nuisance. (b) Should the owner(s) and mortgagee(s) and/or lienholder(s) of any house, building and/or structure be unknown or their whereabouts be unknown, or if they do not reside in Arkansas, then a copy of the written notice shall be posted upon said premises and the Mayor or his designee shall make an affidavit setting out the facts as to unknown address, unknown whereabouts and/or non-resident status of said owner(s), mortgagee(s), and lienholder(s). Thereupon, service of publication as now provided by law against unknown and/or non-resident defendant(s) may be had and an attorney ad litem shall be appointed to notify such persons by registered letter addressed to their last know place(s) of residence or business.

SECTION 4. That the Resolution of the City Council condemning any house, building and/or structure which constitutes a nuisance will include in said Resolution an adequate description of the house, building and/or structure; the name(s), if known, of the owner(s) and mortgagee(s) and/or lienholder(s) thereof; and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance.

SECTION 5. 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 will be mailed to the owner(s) and mortgagee(s) and/or lienholder(s) thereof, if the whereabouts of said owner(s) and mortgagee(s) and/or lienholder(s) thereof be known or their last known address be known, and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure. Provided, that if the owner(s) and mortgagee(s) and/or lienholder(s) of said house, building and/or structure be unknown, or if his or their whereabouts or last known address be unknown, the posting of the copy of said Resolution as hereinabove provided will suffice as notice of the condemnation.

SECTION 6. If the house, building and/or structure constituting a nuisance has not been torn down or removed, or said nuisance otherwise abated within thirty (30) days after posting the true copy of the Resolution at a conspicuous place on said house, building and/or structure constituting the nuisance, it will be torn down and/or removed by the Building Inspector or his duly-designated representative.

SECTION 7. The Building Inspector or any other person or persons designated by him to tear down and remove any such house, building and/or structure constituting a nuisance will insure 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 have a substantial value, sell said house, building and/or structure, or any saleable materials thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City, to insure its removal and the abatement of the nuisance.

SECTION 8. All 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 or persons collecting the same to the City Treasurer. If any such house, building and/or structure, or the saleable materials thereof, be 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 fine or fines imposed, the balance thereof will be returned by the City Treasurer to the former owner or owners of such house, building and/or structure constituting the nuisance.

SECTION 9. If the City has any net costs in removal of any house, building and/or structure, the City shall have a lien on the property as provided by A.C.A. 14-54-904.

SECTION 10. A fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1000.00) is hereby imposed against the owner(s) of any house, building and/or structure found and declared to be a nuisance by Resolution of the City Council thirty (30) days after the same has been so found and declared to be a nuisance, and for each day thereafter said nuisance be not abated constitutes a continuing offense punishable by a fine up to Five Hundred

Dollars (\$500.00) per day; provided the notice as herein provided in Section 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.

SECTION 11. In the event it is deemed advisable by the City Council that a particular house, building and/or structure be judicially declared to be a nuisance by a Court having jurisdiction of such matters, the City Council is hereby authorized to employ an attorney to bring such an action for said purpose in the matter of the City, and the only notice to be given to the owner(s) and mortgagee(s) and/or lienholder(s) 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 Circuit 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 up to One Thousand Dollars (\$1000.00) is hereby imposed against the owner(s) thereof from the date said finding is made by the Court and for each day thereafter, said nuisance be not abated constitutes a continuing offense punishable by a fine up to Five Hundred Dollars (\$500.00) per day.

SECTION 12. If, for any reason, any portion of this ordinance be held to be invalid, such invalidity shall in no way affect the remaining portions thereof which are valid, but said valid portions shall be and remain in full force and effect.

SECTION 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED this 13 day of September, 2011.

Larry R. Bowen  
MAYOR

Sept. 13 - 2011  
Date

ATTEST:

Joyce Udembrey  
CITY CLERK

{SEAL}