

ORDINANCE NO. 2016 - 14

**AN ORDINANCE AMENDING THE SEARCY CODE OF ORDINANCES;
RESTATING CHAPTER 9 OF THE SEARCY CODE OF ORDINANCES
CONCERNING THE MAINTENANCE OF PROPERTY WITHIN THE CITY
OF SEARCY; DECLARING AN EMERGENCY; AND FOR OTHER
PURPOSES**

WHEREAS, the Code Enforcement Department of the Searcy City Council has proposed modifications to Chapter 9 of the Searcy Code of Ordinances concerning the maintenance of property within the corporate limits of the City of Searcy; and

WHEREAS, City staff and elected officials have reviewed the proposed modifications, which will serve to protect and preserve property values and public health, safety and welfare; and

WHEREAS, the Searcy City Council desires to foster the progress of the City of Searcy as a community cognizant of the need to protect the real property values of its citizens and to protect residents and visitors to the City of Searcy; and

WHEREAS, in light of the need to address these needs and the modifications to the said Chapter 9 being necessary as summer growing months approach, the Searcy City Council recognizes that the modifications to Chapter 9 are sufficiently important to require their adoption and declare that an emergency exists.

NOW, THEREFORE, be it ordained by the City Council of the City of Searcy, Arkansas, to wit:

Section 1. Chapter 9 of the Searcy Code of Ordinances is amended to read as reflected on the attached Exhibit A, which is incorporated here by this reference as though set forth word for word.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. The provision of this ordinance are separable and, upon any finding that any provision of this ordinance is unenforceable, the remaining provision shall be enforceable according to their terms

Emergency Clause. The need to provide for the protection of real property values within the City of Searcy, and to provide for the public peace, health, safety and welfare, is deemed by the Searcy City Council to be an emergency and the adoption of this Ordinance, being necessary to address both preservation of real property values and the public health, an emergency is hereby declared and this ordinance shall be in full force and effect from and after its passage.

Adopted this 10th day of May, 2016.

The City of Searcy, Arkansas:

/s/ David Morris
Mayor

Attest:

/s/ Jerry Morris
Clerk - Treasurer

EXHIBIT A

[Text of Ordinance]

CHAPTER 9 – MAINTENANCE OF PROPERTY

ARTICLE 9-1 – PROVISIONS GOVERNING ALL ARTICLES

Section 9-1-1 – Interpretation and Applicability

9-1-1 General Rules of Interpretation Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this chapter. Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words “dwelling unit,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit,” or “story” are stated in this Code, they shall be construed as though they were followed by the words “or any part thereof.”

Section 9-1-2 – Definitions

9-1-2 Definitions.

ABANDONED MOTOR VEHICLE. Any motor vehicle, regardless of whether wrecked or inoperable, which is left on any property within the City, for a period of more than 72 hours, without approval from the property owner to place the vehicle upon such property.

ACCESSORY STRUCTURE. A structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

APPROVED. Consented or agreed to in writing by the Senior Code Enforcement Officer, or his proper designee.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

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

CARPORT. A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.

CODE For the purposes of this Article 9 of the Searcy Code of Ordinances, the term Code shall mean the provisions of this Article 9

CODE ENFORCEMENT OFFICER. Any city employee who has been duly sworn and authorized to uphold the ordinances of the City and laws of the State of Arkansas related to property uses, maintenance, nuisances, inspections, issuances of building permits, certifications and licensing etc., within the municipal boundaries of the City. All duly sworn law enforcement officers of the Searcy Police Department and the Searcy Fire Marshall are authorized to exercise as Code Enforcement Officers.

CONDEMN. To adjudge unfit for human occupancy.

DWELLING UNIT. Any room or group of rooms located within a structure forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, eating and sanitation by a household or family.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

ENCROACHMENT. Any improvement, fixture, personal property or other thing lying upon any Premises that extends beyond the boundary lines of the said Premises on another Premises, right of way or easement without the lawful right to do so.

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 pest by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, and trapping or by any other approved pest elimination methods.

GARAGE. An enclosed structure used for the purpose of storing motor vehicles or other articles and including a door or other apparatus to secure the structure.

GARAGE/YARD SALE. The sale of any personal property, which is conducted on or about the premises of a private residence, by any resident or residents of a neighborhood, one of whom must be the occupant of the premises and which sale is open to the public. This may also include other terms such as Carport Sale, Basement Sale, Rummage Sale and Moving Sale

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

GRAFFITI. Any inscription, word, figure, or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any structural component of any building, structure, or other permanent facility regardless of the nature of the material of that structural component, or the nature of the inscription, to the extent that the same was not authorized in advance by the owner, or otherwise deemed to be a public nuisance.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC. Any existing buildings or structures designated by the City of Searcy, the State of Arkansas, or the United States government to be historic or located within a Searcy historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

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

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power. Such vehicle is also considered an abandoned vehicle if left on public or private property without authorization from the property owner for a period in excess of 72 hours.

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.

MOTOR VEHICLE. A machine of conveyance which is self-propelled and designed to travel along the ground, and including but is not limited to automobiles, buses, electric scooter, mopeds, motorcycles, trucks, tractors, go-carts and motor homes.

NUISANCE. A nuisance is any of the following: (a) any act or condition determined by the Searcy City Council to be a nuisance; (b) any condition, act or place that is exists that is determined to be a threat to the public peace, health, safety and welfare.

OBSTRUCTION. Anything that may block and hinder passage, or progress or course on any city street or sidewalk. Anything that may block the line of sight at any intersection of any street within the City.

OCCUPANCY. The purpose of 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.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having 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.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PRIVATE PROPERTY. Means any real property within the city which is privately owned and which is not defined as public property.

PUBLIC PROPERTY. Means any real property in the city which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, and other similar property. Public property does not include easements or rights of way for roads or streets.

PUBLIC TREE. Any tree as defined in this Code growing on public property as defined in this Code.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

REMOVAL. The act of clearing all material and debris whenever it becomes necessary to demolish any building that has been condemned and found to be a nuisance by resolution of the city council.

REQUIRED SERVICE. Required services shall include heating equipment, plumbing services, electrical service, any fire suppression or alarm services required by law, or any other service or requirement imposed by any other ordinance or law or otherwise required by any governing authority having jurisdiction within the City of Searcy.

RESIDENCE. A structure serving as a dwelling or home. For the purpose of this Code, the term residence includes dwelling units and rooming houses.

ROOMING HOUSE. A building arranged or occupied for lodging with or without meals, for compensation. Bed-and-breakfasts, boarding houses, half-way houses, and hotels, as those terms are defined under the Searcy Zoning Ordinance, are included within the definition of a Rooming House.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, 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

SENIOR CODE ENFORCEMENT OFFICER. The Head of the Code Enforcement Department or, in his or her absence, the person who is directed or appointed to temporarily assume the duties of the Head of the Code Enforcement Department.

STRUCTURE. A building or other object composed of several parts, which is built or constructed or a portion thereof and which may, or may not, be a fixture upon real property.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TRAILER. Means any freewheeling object designed or intended to be pulled or towed behind a motor vehicle, regardless of whether wrecked or inoperable, and regardless of whether currently inspected and/or registered, including without limitation the following: Boat trailers, camper trailers, cargo trailers, special trailers for items such as golf carts or motorcycles, utility trailers, and farm implements.

TREE. Any self-supporting woody perennial plant, usually having a main trunk(s) and many branches, and, at maturity attaining a trunk(s) diameter greater than six inches at breast height and height of over ten (10) feet.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WEEDS & GRASS. Grass, plants or other groundcover that is allowed to grow to a height in excess of eight (8) inches

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

WRECKED MOTOR VEHICLE. Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate and the condition of which has been involved in a motor vehicle accident and is impaired in its use for driving, dismantled, partially dismantled, incapable of operation by its own power on a public street, or from which the wheels, engine, transmission or any substantial part thereof has been removed.

ARTICLE 9-2 -- ADMINISTRATION

Section 9-2-1 – General Provisions

9-2-1-1 General. These regulations are intended to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises within the City of Searcy, Arkansas

9-2-1-2 Applicability. The provisions of this code shall apply to all residential and nonresidential structures and all premises within the City of Searcy, Arkansas. Where different standards or requirements are imposed in the Searcy Code of Ordinances, or in any technical code adopted by the City of Searcy or in any law adopted by the State of Arkansas or other governing jurisdiction, the most restrictive standard or requirement shall govern.

9-2-1-3 Maintenance. Equipment, devices, safeguards and required services installed in any residential or non-residential structures within the City of Searcy shall be maintained in good working order. No occupant shall cause any required service, facility, equipment or utility to be removed from or shut off from or discontinued for any occupied dwelling, except for temporary interruptions necessitated by repairs or alterations. Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures and premises.

Section 9-2-2 – Code Enforcement Officers

9-2-2-1 General. This Code shall be enforced by all Code Enforcement Officers of the City of Searcy. For the purpose of the Code, a Code Enforcement Officer shall be defined as any city employee who has been duly sworn and authorized to uphold the ordinances of the City and laws of the State of Arkansas within the municipal boundaries of the City. This Code may also be enforced by any and all duly sworn law enforcement officers of the City of Searcy Police Department and the Fire Marshall within the City of Searcy Fire Department.

9-2-2-2 Identification. All Code Enforcement Officers shall carry proper identification and present the same upon request when performing duties under this Code.

9-2-2-3 Enforcement Procedures. Whenever, in the judgment of the Code Enforcement Officer charged with the enforcement of this code, it is determined upon investigation that a public nuisance is being maintained or exists within the City, such officer shall issue a written notice in accordance with Section 9-2-6-1 to the person committing or maintaining such nuisance, requiring such person to remedy and abate the nuisance.

9-2-2-4 No Duty to Enforce. Nothing in this Code shall be construed as requiring the City to enforce the regulations in this Code against:

- 1) Alleged violations determined to be frivolous complaints, or
- 2) Alleged violations lacking in substantive evidence to constitute a nuisance, or
- 3) Alleged violations where the evidentiary value of alleged violations is not enough to support a conviction in court, or

4) Violations which may occur and are not recognized by the City due to the lack of availability of resources

Section 9-2-3 – Inspections

9-2-3-1 Right of Entry. Code Enforcement Officers are authorized to enter structures or premises at reasonable times to inspect subject to the constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the officers may pursue such search authorizations as are provided by law.

9-2-3-2 Inspections. Code Enforcement Officers shall make all of the inspections required by the Code. All reports of the Code Enforcement Office shall be in writing by the responsible officer. Code Enforcement Officers are authorized to rely upon a responsible expert opinion as the officer deems necessary.

Section 9-2-4 – Violations

9-2-4-1. Violations assessed a penalty. Any person, firm, corporation, partnership, association owner, agent, occupant or anyone having supervision or control of any property in violation of this Code shall be assessed the following fines:

1) First Violation Notice – Written Warning advising the occupant or owner of the violation and how to remedy the violation

2) Subsequent violation – \$25- \$500.00 Fine

Any citation shall be served in the manner of a traffic or criminal citation in accord with the then-current Arkansas law and filed with the White County, Searcy Department, which will require not only the payment of the violation penalty but also the attendance of such violator to such court and payment of any applicable court cost as may be authorized and permitted by Arkansas law. Offenses shall accrue daily for so long as the offense is determined to exist.

9-2-4-2 Violations declared to be strict liability misdemeanors. It shall be unlawful for a person, firm or other entity to be in violation of any of the provisions of this Code. Any person, firm or entity who is convicted of a violation of the Code shall be guilty of a misdemeanor, and the violation shall be deemed a strict liability offense.

9-2-4-3 Citations / Affidavit for Warrant. Code Enforcement Officers are hereby authorized to issue citations to any person, firm or entity in conflict with or in violation of any of the provisions of this Code. Issuances of citations and/or an affidavit for warrant must comply with the Arkansas Rules of Criminal Procedures. The White County District Court, Searcy Department, shall have jurisdiction over citations issued pursuant to this Code. Notwithstanding any other provision of law, after a notice has been issued for a specific violation directing an owner or occupant to eliminate a condition on the relevant Premises, an additional notice for a subsequent violation of that specific violation within the same calendar year shall not be required before the issuance of a citation.

9-2-4-4 Appeals. Any person after being found guilty of a violation or after entering a plea of guilty or nolo contendere to a violation shall have those appellant rights granted under the Laws of the State of Arkansas, US Constitution and Arkansas Rules of Criminal Procedure.

9-2-4-5 Authorized Abatement. If the owner of any Premises shall neglect or refuse to remove, abate or eliminate any condition that is not in compliance with any provision of the Code of Ordinances of the City of Searcy or is not a permitted use for the Premises under the Searcy Zoning code that is not otherwise permitted as an existing, non-conforming use, after having been given a notice or violation or other warning, the City may, upon seven (7) days advance notice, with such notice to be given to the record title owner of the Premises and the occupant, if any, and with such notice to be conspicuously posted upon the Premises, the City may take all actions determined by the City to abate, correct, or otherwise address the condition referenced in the notice specified herein. The cost of any action undertaken by the City shall constitute a lien upon the Premises. The notice period referenced herein shall be calculated by counting the day following the day upon which the said notice is placed in the United States Mail for delivery or by posting the said notice upon the Premises, whichever is later and shall exclude holidays recognized by the State of Arkansas and weekends. In the event that the condition referenced in the notice is not corrected within the time specified herein, the City shall take all actions to enforce the lien as provided in the Code of Ordinances or as may be authorized by Ark. Code Ann. § 14-54-903, as may be amended from time to time.

Section 9-2-5 – Revocation of Certificates, Licenses and Permits

9-2-5-1 General. The certificates, licenses and permits subject to revocation under this Code are those relating to the particular or general use of property; including, without limitation certificates of occupancy, business licenses, sign permits, building permits, electrical, HVAC/R and plumbing inspection approvals.

9-2-5-2 Administrative Revocation. Code Enforcement Officers shall have the authority to initiate administrative revocation of any such certificate, license or permit issued to the owner or the occupant of a structure within the City of Searcy, if the Officer has a reasonable belief that the use of the property or structure:

- (A) Poses a danger to the health and welfare of the public;
- (B) Threatens property or safety of any citizen;
- (C) Violates the terms and or scope of the certificate, license, or permit; or
- (D) Lacks compliance with applicable State licensing laws and requirements.

The non-emergency administrative revocation of a certificate, license, or permit shall follow the procedures of notice and determination provided in Section 9-2-6 below

9-2-5-3 Temporary Emergency Orders. The Senior Code Enforcement Officer shall have the authority to issue a temporary emergency order in conjunction with notice of

an administrative revocation as described in section 9-2-5-2. The Temporary Emergency Order shall have the effect of prohibiting all activity that may be harmful to the public or any person and suspending and certificate, license, or order when he or she has a reasonable belief that the use of the property or structure:

- (A) Poses an *imminent* danger to the health, safety or welfare of the public; or
- (B) Threatens the life or poses an *imminent* danger or serious injury to any person.

9-2-5-4 Service of Temporary Emergency Orders. Service of Temporary Emergency Orders may be made by any Code Enforcement Officer upon the owner, manager, employee, or occupant of structure that is subject to this Code. If no one is located at the structure, the Temporary Emergency Order shall be affixed to the structure and written notice shall be made according to section 9-2-6-2 of this Code. All notices for this subsection shall clearly state “Temporary Emergency Order” and conform to the requirements of subsection 9-2-6-1.

9-2-5-5 Special Uses, Conditional Uses, and Other Authorizations Issued by City Council. The City Council for the City of Searcy may revoke a special use, conditional use or any other authorization to use property or conduct business that violates the terms of the use or threatens the property or safety of any citizen, or is detrimental to the health, safety or welfare of the public. Such a revocation may be performed at any regular or special meeting of City Council. The revocation shall be based upon the report of a Code Enforcement Officer, complaint of a citizen, or *sua sponte* action by City Council.

Section 9-2-6 – Administrative Procedures

9-2-6-1 Notice of Violation. A “Notice of Violation” shall be written on standardized or letter form that shall include the following information:

- (A) The name of the owner and/or occupant, if known;
- (B) An address or description of the real estate sufficient for identification;
- (C) A description of the violation or violations;
- (D) A time frame to have the violation corrected (not less than seven (7) days)
- (E) A statement that citations may be issued and fines assessed in addition to any administrative remedy imposed by the City.
- (F) Include a statement that the City has a right to cause repairs or demolition to be made and that the cost may be assessed against the owner and the property of the owner; and

(G) The information required by Ark. Code Ann. § 14-54-903, if applicable.

9-2-6-2 Method of Service. Any notice under this Chapter, other than for emergency orders under Section 9-2-5-3 hereof, shall be issued by any person authorized under Arkansas law, and including without limitation, Ark. Code Ann. § 14-54-903, as may be amended from time to time, by:

(A) Personal service;

(B) Regular mail or certified mail, return receipt requested; or

(C) When the identity or whereabouts of a person is unknown, by weekly publication in a newspaper having general circulation throughout the City for two (2) consecutive weeks.

9-2-6-3 Notice by Mail. Notice by mail shall be sent to the owner's address of record with the White County collector. When sent to the proper address with proper postage, notice by mail shall be deemed properly served without regard as to whether the owner or occupant accepted the mail or the mail was otherwise returned.

9-2-6-4 Transfer of Ownership. After receiving a notice of violation, it shall be unlawful for the owner of any property or structure to, sell, transfer, mortgage, and lease or otherwise alienate or dispose of the same until:

(A) The property or structure has been caused to conform with this code; or

(B) The owner shall provide the other party a true copy of any notice of violation issued by a Code Enforcement Officer and shall furnish to the Senior Code Enforcement Officer a signed and notarized statement from the other party accepting responsibility for the property or structure.

9-2-6-5 Exceptions. The Notice of Violation requirements shall not apply to the issuances of citations. Issuance of citations must comply with the procedures provided for under Arkansas law.

9-2-6-6 Pre-Existing Uses. Any use or condition that exists upon the adoption of this Chapter, the Searcy Zoning Code, subdivision regulations or any other law, ordinance, statute or code enforced by the City of Searcy, or any amendment thereto, that would be prohibited, absent the adoption of such provision, restriction or other limitation, shall be deemed to be a permitted non-conforming use and shall be allowed to continue unless the condition or use is determined by the City Council to be a hazard to the health, safety and welfare of the citizens of the City, subject to the terms hereof:

- (A) Any use or condition that is determined by the City Council to be a hazard to the health, safety and welfare of the citizens of the City shall be discontinued, abated and corrected immediately upon the adoption of the restriction, limitation or other requirement concerning the said use or condition.
- (B) In the event that any use or condition should not be considered to be a hazard to the health, safety and welfare of the Citizens of the City of Searcy shall be discontinued, abated and corrected within six (6) months from the adoption of the said limitation upon the use or condition.

Section 9-2-7 – Condemnation

9-2-7-1 Authority: In addition to other penalties herein but not in lieu thereof, the City Council for the City of Searcy may condemn structures through passage of a resolution, after a public hearing that shall include:

- (A) An adequate description of the Structure/Building
- (B) The name/names of the owner/owners if known
- (C) Findings that the structures are unfit for human occupancy, or otherwise detrimental to the life, property or safety of the public.

9-2-7-2 Keeping condemned structures prohibited. It is 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 Searcy, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Council.

9-2-7-3 Notices. The Code Enforcement Department shall be responsible for publication, mailing or delivery of all notices required to condemn structures.

9-2-7-4 Prior notice of proposed condemnation. The owner of the structure/building will be provided notice of any proposed condemnation action no less than ten (10) calendar days prior to consideration by City Council. Any lien holders whose interests appear of record not less than twenty (20) days prior to any such public hearing will also be provided notice of any proposed condemnation action no less than ten (10) calendar days prior to consideration by City Council. Notice will be provided by the method described in section 9-2-6-2.

9-2-7-5 Notice of Condemnation. After a structure has been condemned by resolution as provided in this Code, a certified copy of such resolution will be mailed to the

occupants and owner/owners, and lien holder/holders thereof, by method described in section 9-2-6-2.

9-2-7-6 Notice of Certification of Costs. After a condemned structure/building has been removed at the City's expense, the owner will be provided no less than ten (10) calendar days' prior notice of any action to certify costs by the City Council. If appropriate, any and all lien holders will also be provided no less than ten (10) calendar days' prior notice of any action to certify costs by the City Council. Notice will be provided by the method described in subsection 9-2-6-2.

9-2-7-7 Destruction and Removal. Condemned structures/buildings shall be destroyed and removed from the premises.

9-2-7-8 Destruction and Removal by Owner: The owner of any structure that has been condemned by resolution of the City Council is permitted to cause, at his or her own expense, to have the same destroyed and removed within thirty (30) days after the City has provided notice under subsection 9-2-6-2. No person is allowed to repair or refurbish a condemned structure without an agreement approved by the City Council that guarantees repairs will be done in a workmanlike, proper and timely fashion. It is the owner's responsibility to obtain a sponsor for any legislation that would allow the repair or refurbishment of a condemned structure.

9-2-7-9 Destruction and Removal by City. If the condemned structure has not been torn down and removed, or otherwise abated, with 30 days after the notice requirements of od this Article 9-2-7 have been met, then the Senior Code Enforcement Officer or his designated representative shall supervise the removal of any such structure in such a manner as deemed appropriate under existing circumstances. If the structure has a substantial value, it or any saleable materials thereof may be sold at public sale to the highest bidder for cash using procedures provided by law. The costs of removal will be presented to the City Council for certification and collection from the owner.

9-2-7-10 Disposition of proceeds of sale or salvage of condemned structures. All the proceeds of the sale or salvage of any structure, and all fines collected from the provisions of this article shall be paid by the persons collecting the same to the City Clerk/Treasurer or their designated representative. If any such 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 any fines imposed, the balance thereof will be returned by the City Clerk/Treasurer to the former owners of such house, building and /or structure constituting the nuisance.

9-2-7-11 Lien on property for net costs. If the City has any net costs in removal of any house, building and/or structure, the City shall place a lien on the personal property or real estate property as provided by Ark. Code Ann. §§ 14-54-903 and 14-54-904, as may be amended from time to time. The lien may be enforced in either one of the following manner:

- (A) The lien may be enforced at any time within 18 months after the work has been done by an action in the Circuit Court; or
- (B) The amount of the lien herein provided may be determined at a public hearing before the City Council held after thirty (30) days' written notice has been given. Notice will be provided by the method described in subsection 9-2-6-2, At said public hearing a ten percent (10%) penalty for collection shall be given by the City Council certified to the Tax Collector for White County and by him or her placed on the tax books as delinquent taxes and collected accordingly and the amount less three percent (3%) thereof when so collected, shall be paid to the City by the County Tax Collector.

8-2-7-12 Transfer of ownership. After receiving a notice of condemnation, it shall be unlawful for the owner of any structure to sell, transfer, mortgage, and lease or otherwise alienate or dispose of the same until:

- (A) The property or structure has been caused to conform with this code; or
- (B) The owner shall provide the other party a true copy of any notice of violation issued by a Code Enforcement Officer and shall furnish to the Senior Code Enforcement Officer a signed and notarized statement from the other party accepting responsibility for the property or structure.

9-2-7-13 Court action authorized. 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 name of the City, and the only notice to be given to the owner(s) and mortgagee(s) and/or lien holder(s) of any 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 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 of One Hundred Dollars (\$100.00) 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 offence punishable by a fine of One Hundred Dollars (\$100.00) per day.

Section 9-2-8 – Emergency Procedures

9-2-8-1 Temporary Safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Senior Code Enforcement Officer, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall

cause such other action to be taken as the code official deems necessary to meet such emergency.

9-2-8-2 Closing Streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

9-2-8-3 Emergency Repairs. The Code Enforcement Officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of emergency work shall be paid by the City with the costs of any such remedial action to be collected as provided in Section 9-2-7-11 hereof. The City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs

ARTICLE 9-3 PROPERTY MAINTENANCE REQUIREMENTS

Section 9-3-1 – Provisions Applicable to Article

9-3-1-1 Scope. The provisions of this Article shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and the exterior of any structure within the City,

9-3-1-2 Responsibility. All property owners and occupants within the City of Searcy shall cut weeds and grass, remove garbage, rubbish and other unsanitary articles and things from any Premises owned or occupied and shall eliminate, fill up or remove stagnant pools of water or other unsanitary condition or remove any other reservoir for any vector of disease.

9-3-1-3 Vacant Structures & Land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Section 9-3-2 – Exterior Property Areas

9-3-2-1 Sanitation. All property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

9-3-2-2 Illegal Dumping. That is shall be unlawful for any person, firm, or corporation to drop, dispose of, throw, toss or otherwise deposit garbage, leaves, paper, debris, brush, limbs, grass, or other similar articles in drainage ditches, curbs, and along gutters of city streets in the City of Searcy, Arkansas, or in any other place other than properly designated receptacles.

9-3-2-3 Sediments and Mud. All public roadways shall be kept clean of sediment and soil erosion from soil disturbing activities.

9-3-2-4 Abatement. Any person engaging in soil disturbing activities within the Searcy city limits shall be required to implement measures to minimize the tracking of sediments and mud onto adjacent streets and roadways by vehicles leaving the site.

9-3-2-4-1 Exclusions. The following activities are specifically excluded from the requirements of this ordinance: emergency street, storm drainage or utility repairs. The following properties are specifically excluded from the requirements of this section 9-3-3-4: approved retention areas and reservoirs.

9-3-2-4-2 Clean-up. If a soil disturbing activity creates a violation, the violator shall clean up the material daily or as frequently as needed to avoid a hazard or nuisance. If an activity is found in violation of the provisions of this ordinance, the city of Searcy's appointed representative shall issue a "cease and desist" order for all activities on the site until the appropriate clean-up measures are implemented and provisions are made to prevent additional pollution. The city's approval of construction, building permit approvals, and payments, release of payments or bonds and final approvals shall also be withheld or revoked until a violation is corrected and appropriate sediment control measures are in place.

9-3-2-5 Grass or Weeds. Plants used as groundcover, which shall not include grasses or plants grown as hay or as a crop or for other agricultural purposes, shall not exceed eight (8) inches in height. This restriction will not apply to:

(A) Property that is zoned UT, except when abutting developed property. UT property shall be

maintained with a 15' buffer along the lot line adjacent to the developed property with the grass and weeds in such buffer shall not exceed eight (8) inches in height.

(B) Areas specifically designated or recognized by the City, the State or the United States as wetlands, open spaces, natural or wild flower areas, or other designated areas.

(C) The Searcy Municipal Airport.

9-3-2-6 Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved process which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

9-3-2-7 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.

9-3-2-8 Accessory Structures. All accessory structures, including detached garages, fences and walls, shall be maintained in good and workmanlike fashion and shall be structurally sound.

9-3-2-9 Motor Vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or abandoned motor vehicle shall be parked, kept or stored on any premises, and no motor vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled unless said motor vehicle is in an enclosed structure. Painting of motor vehicles is prohibited unless conducted inside a spray booth.

9-3-2-9-1 Storage of Inoperable or Abandoned Vehicles. No person shall park, store, leave or permit the parking, storing or leaving of any motor vehicle of any kind, which is wrecked or inoperable, whether attended or not, upon any private property within the city, except as allowed by the following:

- (1) Any motor vehicle parked or stored within a building or enclosed garage on private property.
- (2) Any motor vehicle held in connection with a business that is properly stored behind a privacy fence and when the occupant or owner of the Premises is properly licensed by the City for servicing and repair of motor vehicles.
- (3) Any motor vehicle within a carport or on the driveway of the property that is being actively repaired on at least a weekly basis with such repairs to be completed within thirty (30) days. Subject vehicles and its parts when not being repaired shall be neatly and completely covered with an opaque cover.
- (4) Inoperable vehicles deemed inoperable only due to not having current vehicle license plate or vehicle registration tag, may be stored on the driveway or in the backyard.
- (5) Inoperable vehicles may be stored in the backyard on private property when provided with a fitted and maintained cover designed for such vehicle or if the property has a Six (6) foot tall privacy fence enclosing the complete backyard area.

9-3-2-9-2 Unlawful Parking of Certain Motor Vehicles and Trailers. No person shall park or cause to be parked any truck with a capacity larger than one (1) ton, tractor, mobile home, bus, van, camper or trailer, or any other, similar

motor vehicle or trailer, upon or across any public street, public right of way, public alley or in the front yard of any private property within the corporate limits of the City, except as allowed by the following exceptions:

- (1) The loading and/or unloading of merchandise and/or material.
- (2) Construction job sites where vehicles are left and used for working.
- (3) Temporary use during a special event

9-3-2-9-3 Authorized Removal of Inoperable Motor Vehicles, Trailers. Code Enforcement Officers shall have the authority to remove inoperable motor vehicles and trailers on private property thirty (30) days after written notice has been affixed to the subject item. Such notice shall state the subject item is a nuisance and order whoever has an interest in the subject item to remove the item from the property. Any inoperable or abandoned motor vehicle sitting on city streets for more than 72 hours may be removed immediately at owner's expense.

9-3-2-9-4 Exception. A motor vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

9-3-2-10 Defacement of Property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any 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.

9-3-2-11 Compliance With Zoning Code. In addition to any other remedy that might be permitted under the law, the Code Enforcement Officer may issue a citation in compliance with this Article to any person committing or suffering to permit any violation of the Searcy Zoning Code. Any such citation shall be heard before the applicable Court and any decision of the said Court may be appealed as provided for by law. Any fine shall be as set forth in section 9-2-4-1

Section 9-3-3 – Rubbish and Garbage

9-3-3-1 Accumulation of Rubbish or Garbage. All exterior property and premises of every structure shall be free from any accumulation of rubbish or garbage.

9-3-3-2 Disposal of Rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved locations per Chapter 14 of the Searcy Code of Ordinances.

9-3-3-4 Disposal of Garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in the container the Sanitation Department has provided. Place the garbage in an approved location as provided in the Code of Ordinances or as may be directed by the City.

Section 9-3-4 – Encroachments and Obstructions

9-3-4-1 Encroachments and Obstructions Prohibited. No person shall cause any obstruction or encroachment upon any of the streets, sidewalks, or alleys of the City.

Section 9-3-5 – Yard Sale Regulations

9-3-5-1 Regulation of Yard Sales, Garage Sales and Other, Similar Activity.

9-3-5-1-1. Maximum Number of Garage Sales Per Year. No person shall have more than eight (8) Garage Sales per year with no more than two (2) such sales to occur within any calendar quarter at any location within the City of Searcy. Any garage sale shall not exceed three (3) total days in length which shall be held on any of five (5) days.

9-3-5-1-2 Location of Garage Sales. All Garage Sales shall be undertaken by individuals and shall be conducted from residential dwellings within the city for which one of the participants is a resident of the City of Searcy and who is a resident at the dwelling from which the sale is taking place.

9-3-5-1-3 Parking. Parking must be maintained in a manner that would not affect the free flow of traffic on a public street near a Garage Sale.

9-3-5-1-4. Sale of New Merchandise Prohibited. Merchandise for sale at a Garage Sale shall be limited to used property and not property purchased for resale owned by those persons participating in the said sale.

9-3-5-1-5. Public Address System Prohibited. The use of a public address system is prohibited in the conduct of advertising of any Garage Sale.

9-3-5-1-7 Display of Goods for Sale. Goods for sale at any Garage Sale shall not be displayed on public property. Neither shall any goods be displayed on private property in a manner which will materially impede visibility or pedestrian or vehicular traffic on or off the premises. Goods for sale and items used in conjunction with the Garage Sale must be removed within (24) twenty four hours of the conclusion of the Garage Sale. No items will be allowed to remain in view of the public that present a cluttered or unsightly appearance.

9-3-5-1-8. Application to Certain Entities. The provisions of this Section 9-3-5-1 shall not apply to churches, schools or not-for-profit organizations.

ARTICLE 9-4 SPECIFIC PROHIBITIONS

SECTION 9-4-1 – Basketball Goals

9-4-1-1 Removal of Basketball Goals. Code Enforcement Officers shall have the authority to order the immediate removal of any permanent or temporary basketball goal that is on any public street or on any right-of-way adjacent to a public street. If the apparent owner of the basketball goal is unknown, unavailable, or unwilling to remove the basketball goal, the City may cause the goal to be removed.

SECTION 9-4-2 – PROHIBITED MATERIALS

9-4-2-1 Prohibited Material Use. The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials shall not be used as a permanent material for fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roof, garage doors or carports).

9-4-2-1-1 Exceptions. The materials prohibited in this Section 9-4-2-1 shall be permitted in the following circumstances:

(1) When being used during an active remodel or construction job, during the time during which the work is covered by applicable permits.

(2) Weather related emergencies that have caused damage to a structure. A limit of 30 days for repair will be enforced unless a construction permit has been issued for the relevant repairs and then only for such time as the construction or repair is being undertaken.

(3) Fire related emergency that has caused damage to a structure. A limit of 30 days for repair will be enforced unless a construction permit has been issued for the relevant repairs and then only for such time as the construction or repair is being undertaken.

ARTICLE 9-5 – TREES IN PUBLIC SPACES

9-5-1. Maintenance and Upkeep of Trees in Public Spaces.

9-5-1-1 Searcy Tree Board. In order to develop a Community Tree Management Plan, the Searcy Tree Board is established for the City of Searcy, Arkansas. The Searcy Tree Board will consist of nine members, all citizens and residents of Searcy, who shall be appointed by the Mayor with the approval of the City Council. At least one member shall be a member of the Searcy Regional Chamber of Commerce; at least one member shall be either an elected official or employee of the City of Searcy. At least one member shall be a nurseryman, professional horticulturist, landscape architect, or master gardener. At least one member shall be a citizen at large. A member of the Arkansas Forestry Commission and a member of the White County Extension Service shall serve as non-voting, ex-officio members of the Searcy Tree Board. The Mayor may appoint other ex-officio members when their special

expertise, education, or training could assist the Tree Board in carrying out the provisions of this ordinance. Members of the Searcy Tree Board shall serve without compensation. The Searcy Tree Board, as it deems necessary for guidance, shall choose its own officers, establish its own rules and by-laws, and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business. The term of the persons to be appointed by the Mayor shall be three years with staggered terms. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The Searcy Tree Board shall assist the community and its officials in disseminating information about the protection, maintenance, and improvements of the City of Searcy's tree population and shall propose such measures as may be necessary and practical to pursue the ends for which the Searcy Tree Board was created.

9-5-1-2. Maintenance of Public Trees.

9-5-1-2-1. Trees planted on public property shall become City of Searcy property.

9-5-1-2-2 The City of Searcy shall have the authority to prune, maintain, and remove trees, plants and shrubs within the rights of way of all streets, alleys, avenues, lanes, squares, public grounds, and easements as may be necessary to insure public safety or preserve or enhance the symmetry and beauty of such public grounds. The City of Searcy shall follow American National Standards Institute pruning standards.

9-5-1-2-3. The City of Searcy may remove or cause to be removed, any public tree or part thereof which is in an unsafe condition or by which reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, phone lines, cable lines, underground drainage (piped or open) or other public improvements or is affected with any injurious fungus, insect, or pest.

9-5-1-2-4 Under disaster or emergency circumstances, the City of Searcy may remove or prune trees severely damaged by storms or other natural causes.

9-5-1-2-5 All supervisory personnel of the City of Searcy employees who may prune trees in a non-emergency situation shall participate in an educational course on basic tree science and proper techniques of pruning.