

ORDINANCE NO. 1358

**AN ORDINANCE AMENDING ORDINANCE
NO. 1349 TO CORRECT A TYPING ERROR;
AND DECLARING AN EMERGENCY**

WHEREAS, Ordinance No. 1349 was adopted on October 29, 2011, to establish “Clean Premises” regulations for Harrison citizens. The Harrison City Council, in Code Section 5.08.01, Section 1, Subpart A. approved that the height of weeds, grass or brush should not exceed eight (8) inches. However, the published Ordinance contained an error which stated the height of twelve (12) 8 inches. The error makes this portion of the Ordinance contradictory and unenforceable.

NOW THEREFORE, to correct the published Ordinance be it ordained by the Harrison City Council that Code Section 5.08.01, Section 1, Subpart A. be replaced to read as follows:

“The owner(s) or occupant(s) of property within the Harrison City limits are hereby required to:

- A. Maintain, cut and remove weeds, grass, and brush, or any other non-cultivated plant(s) which are not used for agricultural purposes, which exceed the height of eight (8) inches.”

All other provisions of Ordinance No. 1349, as published, shall remain in full force and effect.

EMERGENCY CLAUSE: It is determined by the City Council that the adoption of this Ordinance is immediately necessary to enforce and protect the interests of Harrison citizens, and an emergency is hereby declared and this ordinance shall be in full force and effect from and after passage and publication.

PASSED AND ADOPTED THIS 3rd DAY OF MAY, 2012.

CITY OF HARRISON, ARKANSAS

ATTEST:

JEFF CROCKETT, MAYOR

JEFF PRATT, CITY CLERK

ORDINANCE NO. 1349

**AN ORDINANCE REPEALING AND REPLACING
ORDINANCE NOS. 924, 1190, AND 1229 DEALING
WITH “CLEAN PREMISES” VIOLATIONS AND
ENFORCEMENT; AND DECLARING AN EMERGENCY**

WHEREAS, the Harrison City Council has been asked by citizens to establish and enforce updated codes to keep privately owned areas clean and safe; and

WHEREAS, existing Ordinances No. 924, 1190, and 1229 need to be updated and supplemented to accomplish City beautification and to eliminate health and safety issues; and

THEREFORE, Ordinances No. 924, 1190, and 1229 are hereby repealed and replaced as follows:

CLEAN PREMISES (CHAPTER 1)

5.08.01 Section 1. – Requirements of Owner or Occupant of Property.

The owner(s) or occupant(s) of property within the Harrison City limits are hereby required to:

- A. Maintain, cut, and remove weeds, grass, and brush, or any other non-cultivated plant(s), which are not used for agricultural purposes, which exceed the height of twelve (12) 8 inches.
- B. Remove garbage, rubbish, or any other unsanitary or unsightly articles and things including, but not limited to, boards, bricks, sheet metals, construction materials, appliances, and plumbing fixtures. This article applies to items which are in public view and are not being used in immediate construction projects.
- C. Eliminate, fill, or remove holes, items containing water, pools, ponds, or any attractive nuisance that might attract children or vagrant persons, or might

become a breeding place for flies, mosquitoes, rats, pests, germs, or vermin, or anything unsafe or harmful to persons.

- D. Remove any items, whether valuable or junk, that might collect to interfere with the flow of drainage water in ditches, drains, or culverts.

Section 2. Clean Premises Enforcement.

Violators of the above “clean premises” codes will be given written notice that they have fourteen (14) calendar days to correct the violation. Notice may be by personal delivery, by certified mail to the last known address, or by posting the “Notice” on the premises. If the condition is not corrected in the fourteen (14) days, the City is authorized and directed to enter the violating premises to perform the required work, or the City may pay a private contractor to perform mowing or clean-up. The owner may also be charged and cited into Boone County District Court. The cost of labor, equipment, and supplies incurred by the City may be claimed by the City as restitution, together with fines and costs as may be levied by the District Court Judge. In cases where the violator does not respond, one notice attempt shall be sufficient for repeat mowing when required.

Section 3. Procedure Where Owner’s Whereabouts is Unknown or is a Non-Resident.

In the event the owner has not been located, the City may file a lien against the premises for the cost of the clean-up, as authorized by Arkansas Code Section 18-44-101 which lien may be enforced against the real estate within eighteen (18) months by filing suit in Boone County District or Circuit Court.

Section 4. Fines and Costs.

A person convicted of a violation of this code section for a first offense shall be guilty of an unclassified misdemeanor and shall be fined not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). For premises violations that are not corrected the fines shall apply and be calculated for each day the violation continues. Also, any costs incurred by the City for the violation may be added as restitution.

CLEAN PREMISES (CHAPTER 2)

5.08.02 Section 1. Damaged and Unsafe Structures.

The owners of fire damaged, dilapidated, or casualty damaged properties that renders the structure(s) or premises unsafe, unsightly, or unsanitary are required to repair or eliminate the condition. The owner of the property shall be given written notice of the violation by a designated city official, and shall have thirty (30) days in which to eliminate the violation or, if additional time is needed and requested, to present a written plan of timely abatement acceptable to city officials. If the correction or abatement is not satisfactory to the enforcement official(s), a nuisance may be declared by Resolution of the City Council. A structure found to be a nuisance may be condemned by Resolution of the City Council.

Section 2. "Nuisance" and Condemnation of Buildings.

- A. 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 Harrison, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Council.
- B. That any such house, building and/or structure which is found and declared to be a nuisance by Resolution of the City Council may be condemned to insure the removal thereof as herein provided.
- C. 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 or names, if known, of the owner or owners thereof; and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance.
- D. After a house, building and/or structure has been found and declared to be a nuisance and condemned by Resolution a true or certified copy of said Resolution will be mailed to the owner or owners thereof; provided that, if the owner or owners 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 on the premises as hereinabove provided will suffice as notice.

- E. If the house, building and/or structure constituting a nuisance has not been torn down and removed, or said nuisance otherwise abated, within thirty (30) days after notice is given or posted, the same may be torn down and/or removed by the City. Arkansas Code Sections 14-54-902, 903, and 904 are hereby adopted as if set out herein word for word.
- F. The persons designated by the Mayor 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 material thereof, by public sale to the highest bidder for cash after ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City.
- G. All of the proceeds of the sale of any such house, building, and/or structure or the proceeds of the sale of saleable materials there from and all fines collected shall be paid by the City Official collecting the same to the City Treasurer. If any such house, building and/or structure or the saleable materials there from 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 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.
- H. If the City has any net costs in removal of any house, building or structure, the City shall have a lien upon the property as provided by Section 1 of Act 8 of 1983. The lien may be enforced at any time within 18 months after the work has been done by an action in the District or Circuit Court.

CLEAN PREMISES (CHAPTER 3)

5.08.03 Section 1. Inoperable or Parked Motor Driven Vehicle.

The owner(s) or occupant(s) of property within the City limits are hereby required to remove motor vehicles, trailers, and equipment that is unused, inoperable, and has been parked seven (7) days without use. The vehicle or equipment shall be presumed to be inoperative when any of the following conditions exist:

- A. One or more tires are flat.
- B. One or more wheels are missing.
- C. Weeds or grass have grown around the vehicle or equipment.
- D. Parts that are missing or have been removed from the unit (i.e. windows, fenders, hood or trunk lid, seats).
- E. Motor is inoperable,
- F. The vehicle has no current registration.
- G. Any other factor that is indicative of non-use.

NOTE: This section does not apply to vehicle or equipment stored in closed garages or outbuildings, but does apply to driveways, yards, and open carports. This section does not apply to automotive or equipment businesses operating in commercial or industrial zones.

Section 2. Enforcement.

Violators of this section shall be given written notice that they have seven (7) calendar days to remove the vehicle or equipment. Notice may be by personal delivery or by certified mail. If the condition is not corrected in the seven (7) days, the City is authorized and directed to remove the violating vehicle or equipment. Alternatively, the City may engage and authorize a licensed towing/handling entity to remove the vehicle, all at the expense of the violator. The owner may also be charged and cited into Boone County District Court.

Section 3. Fines and Costs.

A person convicted of a violation of this code section shall be guilty of an unclassified misdemeanor and shall be fined not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). For violations that are not corrected the fines shall apply and be calculated for each day the violation continues. Also, any reasonable costs to remove the vehicle or equipment may be added to the court costs as restitution.

ABANDONED VEHICLES (CHAPTER 4)

5.08.04 Section 1. ABANDONED MOTOR DRIVEN VEHICLES

Any vehicle parked on the city street of the City of Harrison for a period of more than twenty-four (24) hours shall be considered to be abandoned and dealt with as hereafter set out.

Exception: This provision shall not apply to vehicles parked in the street in front of a residence by the resident thereof or his guests.

Section 2. REMOVAL AND STORAGE

- A. Any vehicle so parked shall be towed to an appropriate storage place by the City or someone authorized and directed the City to do so. Said vehicle shall remain in storage until such time as claimed by the proper owner. The City of Harrison shall have a lien against said vehicle for the tow and storage charges incurred by reason of said abandonment and same may be foreclosed if not paid by the owner upon claiming said vehicle, by giving notice of the of the intent to sell same by publication in a local newspaper for two (2) publications giving not less than ten (10) days' notice of said sale. If the vehicle is not registered it shall be

- B. For the purpose of fixing the person with whom to charge abandonment, it shall be presumed as a matter of law that the registered title holder of said vehicle is the one who did so abandon.

- C. If the vehicle is not registered it shall be towed and stored. Persons or company showing proper papers of ownership may retrieve the vehicle upon paying all fines and charges.

Section 3. Fines and Costs.

A person convicted of a violation of this code section shall be guilty of an unclassified misdemeanor and shall be fined not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). For violations that are not corrected the fines shall apply and be calculated for each day the violation continues. Also, any reasonable costs to remove the vehicle or equipment may be added to the court costs as restitution.

EMERGENCY CLAUSE: It is determined by the City Council that the adoption of this Ordinance is immediately necessary to enforce and protect the interests of Harrison citizens, and an emergency is hereby declared and this ordinance shall be in full force and effect from and after passage and publication.

PASSED AND ADOPTED this 25th day of October 2011.

CITY OF HARRISON, ARKANSAS

BY: _____
JEFF CROCKETT, MAYOR

ATTEST:

JEFF PRATT, CITY CLERK