

ORDINANCE 2018-04

AN ORDINANCE REQUIRING OWNERS AND/OR RENTERS OF PROPERTY WITHIN THE CITY OF GASSVILLE, ARKANSAS TO CUT AND/OR REMOVE WEEDS, GRASS, TRASH, RUBBISH AND OTHER UNSIGHTLY AND UNSANITARY ARTICLES OR THINGS, DEFINING OWNERS AND/OR RENTERS: ALLOWING THE CITY TO COLLECT EXPENSES INCURRED UP TO AND INCLUDING A IMPOSITION OF LIEN OF PROPERTY, AND DESCRIBING PROCEDURES INCIDENTAL THERETO AND FOR OTHER PURPOSES.

WHEREAS; The City of Gassville has a responsibility to protect the health, safety and welfare of its citizens; and

WHEREAS; Uncontrolled growth of grass and/or weeds on property(s) in the City creates a health hazard by allowing infestation of rodents, various insects, is unsightly; and

WHEREAS; Trash, rubbish, garbage, and collection of unsightly and unattractive items are a public nuisance, aesthetically undesirable, create a danger of fire and impact neighboring property values; and

WHEREAS; Owners and/or Renters of property(s) have a responsibility to cut and remove and to pay for the same upon failure or refusal; and

WHEREAS; It has been determined by the Arkansas Legislature that all municipalities in the state shall have "Home Rule" authority meaning the City of Gassville has the right to conduct the business and affairs of the City as long it does not conflict with state or federal law.

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

SECTION 1. TITLE. This Ordinance shall be known as the Grass/Weed Garbage Control Ordinance.

SECTION 2. DEFINITIONS.

- A. PROPERTY(S) OWNER(S):** The named person(s) of real property improved or unimproved in the corporate limits of the City of Gassville, Arkansas as described by the Baxter County Assessors' office real estate division.
- B. RENTER(S):** Any person(s) who is leasing, paying rent to or not the named owner(s) of habitable or unimproved property(s) in the City of Gassville, Arkansas.
- C. CITY:** The term "City" as used herein shall mean the City of Gassville, Arkansas.

- D. **ASSESSORS' OFFICE:** The term "Assessors' Office" as used herein shall mean the real estate division within the Baxter County Assessors' office of Baxter County, Arkansas.
- E. **COLLECTOR:** The term "Collector" as used herein shall mean the County Tax Collector of Baxter County, Arkansas.
- F. **POLICE DEPARTMENT:** The term "Police Department" used herein shall mean any member providing proper credentials of the City of Gassville Police Department.
- G. **CITY COUNCIL:** The governing body of the City of Gassville, Arkansas.

SECTION 3. OBLIGATION OF OWNER(S).

Each and every owner(s) of property(s) habitable or not within the corporate City limits shall cut grass and remove weeds when a height of 12" (twelve inches) has been reached and shall cause garbage, trash, rubbish or other unsightly and unsanitary articles to be stored in a proper trash receptacle or roll off- dumpster to be collected or removed on a weekly basis from said property(s).

SECTION 4. AUTHORIZATION-FAILURE OF OWNER(S).

The Police Department is hereby authorized to issue a written warning to owner(s) of property(s) that fail to comply with Ordinance 2018-04 (first contact). The owner(s) shall have no more than (7) days to comply with the ordinance or a citation shall be issued. If contact with the owner(s) cannot be made a letter signed by the Mayor or his/her designee (see attached Exhibit A.) is to be mailed (U.S. Postal Service) to the owner(s) of the property granting (7) seven days to comply or a citation shall be issued (second contact). In the event the owner(s) of property are non-residents or are found to reside out of state, a certified return receipt letter shall be sent to the applicable owner(s) per the Assessor's Office real estate division.

SECTION 5. OBLIGATION OF RENTER(S).

Any person(s) who are leasing, or paying rent to, designated owner(s) of property in the corporate City limits and are found to be responsible for maintenance and upkeep of property(s) by the designated owner(s) shall cut grass and remove weeds when a height of 12" (twelve inches) has been reached and shall cause garbage, trash rubbish or other unsightly and unsanitary articles to be stored in a proper trash receptacle or roll off- dumpster to be collected or removed on a weekly basis from said property(s).

SECTION 6. AUTHORIZATION-FAILURE OF RENTER(S).

Upon confirmation from owner(s) of property(s) that renter(s) is responsible for the maintenance of property(s) the Police Department is hereby authorized to follow the same procedure as section 4 (see above).

SECTION 7. POSTING.

In a case the owner(s) of any real property is unknown or his/her whereabouts is not known or is a non resident of Arkansas, then a copy of the letter (see Exhibit A) herein required shall be posted upon the premises.

SECTION 8. DETERMINATION OF LIEN-NOTICE.

- A. If the City is caused to cut grass, remove weeds, garbage, trash, rubbish or other unsightly and unsanitary articles and things because of failure to comply with Ordinance 2018-04, the City shall by Certified Mail to the owner(s) of property, give notice that a determination will be made by the City Council of the amount of lien to be imposed upon the property.
- B. In a case where the owner(s) of such property(s) is unknown or whereabouts cannot be known, or is a non-resident, the City shall publish a Notice of Hearing to determine the amount of lien by a newspaper circulated in Baxter County, Arkansas by two (2) insertions for a period of 30 (thirty) days with the second insertion no less than ten days prior to the date of said hearing or determination. Also, Notice of Hearing shall be posted at City Hall and the City website www.cityofgassville.org, daily for a period of 30 (thirty) consecutive days prior to the date of said hearing or determination.
- C. An Attorney-ad-litem shall be appointed to notify the unknown owner(s), or non-resident and shall notify the owner(s) at his/her last known address.

SECTION 9. HEARING.

After giving notice as required herein, the City Council shall determine the amount of cost incurred at a rate not to exceed five (5) cents per square foot in cases of weeds or grass and order the same to be paid by the owner(s) of property(s), and impose upon real property a lien in the amount of the same and penalty together with cost of collection as herein provided.

SECTION 10. PENALTY FOR COLLECTION-CERTIFICATION.

- A. The amount of lien determined by the City Council plus five percent (5%) penalty for collection and description of the property(s) upon which the lien is made, shall be certified by the City Council to the Tax Collector as delinquent taxes to be collected

accordingly, and the amount of the lien, less three (3%) thereof, when so collected, shall be paid to the Collector to the City, pursuant to Act 339 of 1979 and Act 100 of 1943.

- B. The City shall identify for each parcel of property upon which a lien is made, the name of the property owner, school district, total amount of lien, together with the penalty thereon.

SECTION 11. COLLECTION-DISBURSMENT.

- A. The Collector is hereby authorized to collect such lien and the amount of penalty thereon and remit the same to the City.
- B. The Collector is hereby authorized to retain three percent (3%) of the amount of lien and penalty as his/her fee for collection thereof.

SECTION 12. CONSTITUTIONALITY.

The invalidity, unenforceability, or unconstitutionality of any section, clause, phrase, sentence or part thereof, shall not effect the validity, enforceability, or constitutionality of any other section, clause, phrase, sentence or part thereof.

SECTION 13. EXCLUSIVENESS OF ORDINANCE.

Owner(s) of property(s) or farm and ranch land that are designated to be used for the purpose of hay production except adjacent to the highway and public roads.

This Ordinance shall not be deemed exclusive to other remedies available to the City by Ordinance or Statute or otherwise, and the penalties and provisions herein specified shall be in addition to and supplemental to such other remedy of the City to abate nuisances or otherwise.

SECTION 14. PENALTY.

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and may be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two-hundred fifty dollars (\$250), and if such violation is continued, each day's violation shall be a separate offense.

SECTION 15. REPEAL.

All prior Ordinances, or parts thereof, in conflict herewith are hereby repealed.

ADOPTED THIS 15th DAY OF January 2019.

APPROVED:

ATTEST:



JEFF BRAIM, MAYOR



JEFF LEWIS, RECORDER/TREASURER