

MOUNTAIN HOME CITY COUNCIL REGULAR MEETING AGENDA

THURSDAY, NOVEMBER 2nd, 2023 @ 6 P.M.
COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
720 HICKORY STREET, MOUNTAIN HOME, ARKANSAS

Pledge of Allegiance

Prayer

Roll call

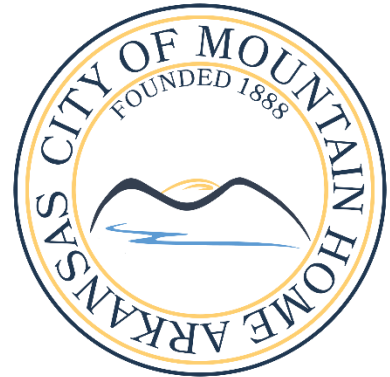
Minutes from the October 19th Council meeting

Committee reports

Bank reconciliations

Agenda additions

Announcements



OLD BUSINESS

AN ORDINANCE DECLARING A PROCEDURE FOR THE COPYING, RETENTION AND DISPOSAL OF EXHIBIT FILES FROM MEETINGS OF THE MOUNTAIN HOME CITY COUNCIL UNDER THE PROVISIONS OF A.C.A. §14-2-201 THROUGH §14-2-203, presented by Scott Liles

AN ORDINANCE AMENDING ORDINANCE NO. 2003-24, WHICH REGULATES THE RETAIL SELLING, MANUFACTURE, SHOOTING, OR DISCHARGING OF FIREWORKS WITHIN THE BOUNDARIES OF THE CITY OF MOUNTAIN HOME, ARKANSAS, presented by Shawn Lofton

NEW BUSINESS

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF MOUNTAIN HOME TO ATTACH LIENS TO CERTAIN PROPERTIES LOCATED AT THE ADDRESSES SPECIFIED IN THIS RESOLUTION FOR THE PURPOSE OF COLLECTING MONIES WHICH ARE OWED THE CITY OF MOUNTAIN HOME FOR ENFORCEMENT OF ORDINANCE NO. 2020-20, presented by Roger Morgan

COMMENTS

ADJOURN

Respectfully submitted,
Scott Liles, City Clerk

MINUTES
REGULAR CITY COUNCIL MEETING – Thursday, October 19th, 2023

1. The Mountain Home City Council met in regular session on October 19th, 2023, in the Council Chambers of the Municipal Building. Mayor Hillrey Adams called the meeting to order at 6 p.m.
2. **ROLL CALL** Following the Pledge of Allegiance and an invocation, the following Council members were present for the roll call: Bob Van Haaren, Susan Stockton, Jennifer Baker, Wayne Almond, Paige Evans, Carry Manuel, Jim Bodenhamer and Nick Reed.
3. **CITY OFFICIALS IN ATTENDANCE** City officials present: Mayor Hillrey Adams, City Clerk Scott Liles, Planning and Engineering Director Arnold Knox, Fire Chief Kris Quick, Fire Marshal Shane Lofton and Code Enforcement Officer Mike Anderson.
4. **MEDIA IN ATTENDANCE** Alison Fulton with the Mountain Home Observer, Caroline Spears with The Baxter Bulletin and David Taylor with the Daily Citizen Journal.
5. **MINUTES** Council member Jennifer Baker made a motion to approve the minutes from the October 5th, 2023, meeting. The motion was seconded by council member Susan Stockton. *The vote was recorded as follows: Bob Van Haaren, Susan Stockton, Wayne Almond, Jennifer Baker, Paige Evans, Carry Manuel, Jim Bodenhamer and Nick Reed – Yes. The motion carried and the October 5th minutes were declared adopted.*
6. **NEW BUSINESS**

AWARDING A KEY TO THE CITY TO THE CREW OF THE U.S.S. ARKANSAS Mayor Hillrey Adams welcomed the officers and enlisted crewmen of the U.S.S. Arkansas (SSN-800) to Mountain Home and presented the submarine crew with a Key to the City, which was accepted by Commander Vincent “Adam” Kahnke. The U.S.S. Arkansas is a *Virginia*-class nuclear powered attack submarine currently under construction in Newport News, Va. She is the 27th boat of the *Virginia* class and is the fifth vessel to be named after the Natural State. The *Arkansas* has officially adopted the Mountain Home High School Navy Junior Reserve Officer Training Corps (NJROTC) program, and its crew will serve as mentors for Mountain Home cadets. NJROTC sponsor Allen Hale said the school’s program presently has 155 cadets, and partnering with the *Arkansas* presents unique opportunities for Mountain Home students. Allen said plans are in the works for Mountain Home cadets to attend the *Arkansas*’ christening when construction is completed in about two years. Commander Kahnke presented the City with a plaque bearing the logo of the U.S.S. Arkansas, and Allen presented council members with challenge coins marking the 30th anniversary of the Mountain Home NJROTC program.

AN ORDINANCE DECLARING A PROCEDURE FOR THE COPYING, RETENTION AND DISPOSAL OF EXHIBIT FILES FROM MEETINGS OF THE MOUNTAIN HOME CITY COUNCIL

UNDER THE PROVISIONS OF A.C.A. §14-2-201 THROUGH §14-2-203 This item was presented for initial discussion by City Clerk Scott Liles, who indicated that it would be considered at the November 2nd Council meeting. Since the City doesn't have a committee addressing the issue presented in the Ordinance, Liles said he wished to use the Council as a "committee of the whole," and asked council members to read over to proposed Ordinance, discuss the issue with constituents and then consider the issue at its next meeting. The proposed Ordinance would lay out a process for the City Clerk to preserve Exhibit Files as electronic replicas instead of having to keep a printed paper copy on hand and in storage. If approved, the plan would go into effect beginning in January.

AN ORDINANCE SPECIFYING THE TYPE OF CEMENT TO BE USED WHEN POURING THRUST BLOCKS FOR UNDERGROUND PIPING SERVING SPRINKLER SYSTEMS AND STANDPIPE SYSTEMS If approved, this item would require thrust blocks to be poured using concrete mixed off site (like from a cement truck) instead of the sack concrete sold at home improvement stores. Fire Marshal Shawn Lofton said the distinction is needed because off-site concrete is mixed to a consistent measure, while the mixture of sack concretes varies by the user. The cement used in thrust blocks needs to be a sturdy and consistent mixture to support a building's sprinkler system, Lofton said. City Attorney Roger Morgan placed the item on its first reading in its entirety.

SECOND READING After the item's first reading, council member Wayne Almond made a motion to suspend the rules and place the Ordinance on its second reading by title only. His motion was seconded by council member Jim Bodenhamer. *The vote was recorded as follows: All present – Yes; and the motion was declared passed and the item read a second time by title only.*

THIRD READING Following the proposed Ordinance's second reading, council member Wayne Almond made a motion to suspend the rules and place the item on its third reading by title only. Council member Jim Bodenhamer seconded the motion. *The vote was recorded as follows: Bob Van Haaren, Jennifer Baker, Wayne Almond, Paige Evans, Carry Manuel, Jim Bodenhamer and Nick Reed – Yes; Susan Stockton – No. The motion was declared passed and the Ordinance read a third time by title only.*

ADOPTION After the item's third reading, council member Wayne Almond made a motion to adopt the proposed Ordinance. His motion was seconded by council member Carry Manuel. *The vote was recorded as follows: Bob Van Haaren, Jennifer Baker, Wayne Almond, Paige Evans, Carry Manuel, Jim Bodenhamer and Nick Reed – Yes; Susan Stockton – No. The Ordinance was declared adopted and numbered Ordinance No. 2023-38.*

EMERGENCY CLAUSE Following the Ordinance's adoption, council member Wayne Almond made a motion to attach the City's emergency clause to Ordinance No. 2023-38. Council member Carry Manuel seconded the motion. *The vote was recorded as follows: Bob Van Haaren, Jennifer Baker, Wayne Almond, Paige Evans, Carry Manuel, Jim*

Bodenhamer and Nick Reed – Yes; Susan Stockton – No. The emergency clause was declared adopted and attached to Ordinance No. 2023-38.

AN ORDINANCE ADDRESSING FIRE DEPARTMENT CONNECTIONS FOR SPRINKLER SYSTEMS OR STANDPIPE SYSTEMS AND SETTING A MAXIMUM DISTANCE FROM THE NEAREST FIRE HYDRANT FOR SUCH FIXTURES

If approved, this item would require fire department connections (FDCs) for sprinkler systems or standpipe systems to be no more than 100 feet from the nearest fire hydrant, measured long the path of vehicle travel. Fire Marshal Shawn Lofton explained that the City operates under the Arkansas Fire Prevention Code, but language prescribing a 100-foot limit on FDCs was omitted from the most recent version of the Fire Code released in 2021. The 100-foot limit is important because that distance or less allows a single firefighter to make a connection by themselves, Lofton said. City Attorney Roger Morgan placed the proposed Ordinance on its first reading in its entirety.

SECOND READING After the item's first reading, council member Bob Van Haaren made a motion to suspend the rules and place the Ordinance on its second reading by title only. His motion was seconded by council member Wayne Almond. *The vote was recorded as follows: All present – Yes; and the motion was declared passed and the item read a second time by title only.*

THIRD READING Following the proposed Ordinance's second reading, council member Bob Van Haaren made a motion to suspend the rules and place the item on its third reading by title only. Council member Carry Manuel seconded the motion. *The vote was recorded as follows: All present – Yes; and the motion was declared passed and the Ordinance read a third time by title only.*

ADOPTION After the item's third reading, council member Bob Van Haaren made a motion to adopt the proposed Ordinance. His motion was seconded by council member Wayne Almond. *The vote was recorded as follows: All present – Yes. The Ordinance was declared adopted and numbered Ordinance No. 2023-39.*

EMERGENCY CLAUSE Following the Ordinance's adoption, council member Bob Van Haaren made a motion to attach the City's emergency clause to Ordinance No. 2023-39. Council member Wayne Almond seconded the motion. *The vote was recorded as follows: All present – Yes. The emergency clause was declared adopted and attached to Ordinance No. 2023-39.*

AN ORDINANCE AMENDING ORDINANCE NO. 2003-24, WHICH REGULATES THE RETAIL SELLING, MANUFACTURE, SHOOTING, OR DISCHARGING OF FIREWORKS WITHIN THE BOUNDARIES OF THE CITY OF MOUNTAIN HOME, ARKANSAS

If approved, this Ordinance would expand upon Ordinance No. 2003-24 which address the sale and discharge of fireworks within the city limits. Items addressed in the proposed Ordinance include expanded requirements on the permits and bonding needed; a better definition of the

time frames involved; detailed safety requirements; prohibited sales; definitions of unlawful uses; and an increase in the dollar amount of penalties for violating the Ordinance. City Attorney Roger Morgan placed the item on its first reading in its entirety. Discussion was held about whether it was legal to sell fireworks inside the city limits, and it was noted that the City had grandfathered in several businesses to continue to be able to sell fireworks even after their retail sites were annexed into the City. Discussion was also held as to whether the proposed Ordinance would open the City up to additional fireworks sales. The incongruence of being able to sell fireworks inside the City yet not being able to discharge those same fireworks inside the City was also noted. The item is expected to be returned for a second reading at the Nov. 2nd meeting.

7. ADJOURN

With no further business to come before the council, Mayor Hillrey Adams declared the meeting adjourned at 6:45 p.m.

HILLREY ADAMS, MAYOR

ATTEST:

SCOTT LILES, CITY CLERK

Street Committee Meeting
October 17, 2023 – 12:30 p.m.

The meeting was called to order at 12:30 p.m.

Present were Scott Manchester, Assistant Director of Streets; Jim Bodenhamer, Paige Evans and Jennifer Baker, Committee members; Arnold Knox and Steve Hill.

The Street Report for the month of September 2023 was reviewed.

Work at the access road to the new community center has started up again. Scott reported to the committee that the crews were split today, and the new crew will start tomorrow out there at the access road. Drainage culvert is going in, and curbs will be poured tomorrow, and it is coming along well. He said he wanted the new crew to be working along side of another construction crew because they are new. The cost to the access road through September 30th is \$92,466.27. Rock is being hammered and hauled off at the community center's gymnasium. The dirt work will be finished tomorrow. Once this is done, select fill will be hauled back in to where it is needed to grade for the contractor. Jennifer asked if we were getting the whole site preparations done. Scott told the committee all the dirt work will be completed by the Street Department. Arnold added, they will be getting all the buildings ready for concrete. Jim asked what cost percentage of the whole project will the Street Department incur. Arnie said the Street Department work alone, including pools and structures, he estimates at 5%. He said we will have parking lots and everything else, including the asphalt. Scott added, there are some retaining walls that will need to

be built, besides all the parking lots, sidewalk, and curbs. He said when the three building pads are ready for the contractors, there will still be a lot of dirt to move for parking lots. Arnie added, it will be a two-year process. The cost through September 30 is \$30,738.00.

Scott reported asphalt has been placed at the Bike Path Phase 2. He said it had been completed yesterday so it is done from McCabe Park to the college. He added, there are some handrails that need to be installed before it is open to the public. Paige said there were comments made about the low water bridge and concerns of it flooding when there is rainfall. Scott said if there was something big enough to carry the water flow, it would be enormous. He said, this low water bridge is designed to overflow. Arnold added, it took approximately six months to get approval from FEMA on this low water bridge. He said the bridge must be widened out so the flood level is not raised, and even though it will get topped the drainage will pass. After it does flood, whatever is left will get swept off. Paige asked if we were in the county at all; Arnie said it was all in the city limits. Jennifer asked how often that floods and Arnie estimated five to six times a year it does. Scott said it looks good and the guys did a great job on it. The cost to the Bike Path Phase 2 is \$230,800.55.

Scott told the Committee 1st Street had been paved last week and is almost completed. He said there are drop inlet boxes that need to be filled. The cost through September 30th is \$207,976.52. Conway Street was also paved last week, and finishing the drop inlets are what is left to do over there. The cost to Conway Street is \$202,690.67. Next month's report will show total costs for both completed projects.

The North Church Street Rebuild is going well, with that crew working on curbing. They had gotten into some rock near the highway that is being hammered out for the pipe, and the curbing is about half done, but it is coming along good. It will be about 2 or 3 weeks before the street gets dug out to get ready for asphalt. The cost to North Church Street totals \$32,187.24.

Maintenance for the month of September is \$35,327.23. They have started milling various streets for overlays, including Walker Street off North College St., Lake Street, Hargrave, Highland Circle off Cardinal Drive, Overlook Drive and Mary. They have been mowing right of ways, trimming trees, and started hanging Christmas lights at the college.

Jennifer asked if we were fully staffed, and Scott told the Committee yes, and there is an Equipment Operator starting next Monday. Jim asked if there was anything on the Budget that needs to be addressed, and Scott said it looks good. Arnie added, prices are being discussed for a new laydown machine and the Street Department took delivery of a new Roller last week. He said the laydown machine will not be delivered until sometime next year. Arnie reported to the Committee he has been working on the Budget with Alma, putting Capital funds in their own restricted line item for when they are ordered and not delivered until a year or two later. There was more discussion on the Capital purchases and the Budget.

Tim Smith asked to speak with the Committee concerning his mother-in-law's property at 303 Cherry Lane. He explained there is a concrete ditch that runs behind the properties on Cherry Lane, but it stops at her property. Since there isn't a concrete ditch across the back of her property, any drainage from this ditch flows into her yard. This includes

brush, limbs, and trash. The brush and trees are so overgrown on the bank, and it is just a mess over there. He asked if there was anything that could be done. Arnie said back when the concrete ditch was put in, the residents that lived along that section at that time didn't want to give easement to the city, so it was left natural. Arnie told Mr. Smith, there is about four or five lots that need easements. If the other homeowners grant easement, there is a process of permits to apply for, including FEMA, Game & Fish, the Historical Society and ADEQ before the concrete ditch would be built. He said, after the easements are signed, and the applications are approval and completed, it will be about four or five years before anything would be started. Scott asked if the easements were signed, could we not go in and clean it out? Arnie said yes, we could get the ADC inmates out there to clean along the creek. That would be the start, Arnie said. Scott added, this is done to a lot of creeks throughout the city, where the inmates will come out and clean up the banks. Mr. Smith said any clean up would be good, because when the water rises, it undercuts the banks and trees are ready to fall into the creek. He said, his mother-in-law can't call her insurance company to clean up someone else's mess. Jennifer asked what the process was to get easements. Arnie said plats would have to be researched to find out the property owner. Mr. Smith told the Committee he can't imagine someone not wanting to get their place cleaned up. Arnie and the committee agreed, there *are* some. Paige asked when the last time easements were requested, and Arnie said probably in the 1980's. She said there are probably a lot of new owners in that area and maybe they will give easement. She also said there is another piece of property by the Industrial Park that is going through the same issue. Arnie said he would get the engineer to do some surveying and get the process started. There was more

discussion about flooding issues on properties and what steps are taken to get drainage issues taken care of.

The meeting was adjourned at 12:51 p.m.

OCTOBER 2023 10/24/23 - W/S Committee Meeting

@ 4:30pm. Attending: Steve Hill, Alma Clark, Mayor Adams, Scott Liles, Jennifer Baker, Nick Reed, Bob Van Haaren, Paige Evans & Kirby Rowland We met in Council Chambers. The meeting adjourned at 5:32pm.

- **Cash analysis / Revenue / Expense Report ending SEPTEMBER 2023 were presented.**
- **Project reports ending SEPTEMBER 2023 were presented.**
- **Our water loss was 26.4% Ending SEPTEMBER 2023. The previous month was at 25.6%.**
- **Kirby passed out copies of Garver project updates to the W/S Committee that are in progress: WWTP upgrades & additional upgrades at WWTP, New Lake intake project, Master Plan Updates.**
- **Kirby passed out a copy of a synopsis of the Water/Sewer Residential / Commercial Rate Study required by ordinance. The committee will be reviewing the recommendations from this synopsis for meeting Act 605 Requirements by the deadline of year 2026. Recommendations will be brought forth to council after review and further discussion.**

PROJECT UPDATES:

- **Dyer St/6th/Circle Drive: Sewer Line Upgrade:** Started on 12/19/2022. Total footage to be upgraded is 2900' of pipe and 21 manholes to be replaced. This project started back on 09/06/2023. Currently to date we have laid a total of 1960' of SDR 26 pipe and have set 14 manholes and 1 bore have been completed. Since Last report we have laid another 672' of SDR 26 pipe and have set 3 manholes. Remaining to do on this project is 940' of line and 7 manholes. Currently working on installing services to the new 8" line.
- **Morris St / N Church Water Line Upgrade:** Started 03/23/23. On Morris St total footage was 705' of 6" water line. To date we have laid all of the pipe & completed two bores on Morris St along with Clean-up & 4 service ties ins and placement of 1 fire hydrant and was completed on 05/25/23. Total footage that will be redone on the south side of N . church St is 740' (CHANGED) of 8". We started N. Church St. WL upgrade on 05/26/23. To date we have laid all 740' of 8" C-900 PVC have installed 1 FH on N Church St and this section is complete. On the South side of N church to Meadow Springs Appts we will be laying an approximate total of 940' of 6" and approximately 790' of line has been laid to date. We have approximately 65' of 2" line yet to be laid and fittings to install and hook up of new services to be completed then cleanup.
- **CR 390 SL rehab:** Contractor Started on 07/05/23 mobilized to the site and started bore under buzzard roost cutoff on 07/07/23 The Contractor will be replacing 6800' ' of 12" C-900 PVC Force Main. To date 3,817.5' of pipe has been laid and remaining is approximately 2,982.5' to complete. Then cleanup to be finished.
- **Hospital Drive: (Not an official Project) Leak Repair only:** To date this has been completed & we replaced approximately 200' of 8" PVC Piping, bored under hospital Drive to keep from shutting down the road, reinstalled new Sod to replace grass. Also connected a 2" water line near the Uniform Shoppe to the 6" line to allow for water to back feed to the area. Spent to date, approximately \$36,000 to do repair with bore under road.

*******OUR NEXT MEETING IS (CHANGE DAYS & DATE) *******

NEXT MEETING WILL BE HELD ON ***NOVEMBER 21, 2023 @ 4:30PM ***** Meeting will be held in council chambers.**

ORDINANCE NO. 2023-xx

**AN ORDINANCE DECLARING A PROCEDURE FOR THE COPYING,
RETENTION AND DISPOSAL OF EXHIBIT FILES FROM MEETINGS
OF THE MOUNTAIN HOME CITY COUNCIL UNDER THE PROVISIONS
OF A.C.A. §14-2-201 THROUGH §14-2-203**

WHEREAS, the City of Mountain Home desires to create an official policy in order to address the ongoing scanning, preservation, and retention of Exhibit Files from its City Council meetings, and;

WHEREAS, the preservation and retention of these files is best addressed by converting said Exhibit Files from the original paper form into an electronic facsimile, and;

WHEREAS, Arkansas Code Annotated §14-2-201 through §14-2-203 addresses the copying of such documents and allows cities to establish its own record retention policies, provided they comply with specific state statutes regarding municipal records.

**NOW THEREFORE, BE IT ORDAINED BY
THE CITY COUNCIL OF THE CITY OF MOUNTAIN HOME, ARKANSAS:**

EXHIBIT FILES PROCEDURE

1. Upon the completion of the minutes from a particular City Council meeting, workshop or public hearing, the City Clerk shall make a digital copy that meeting's Exhibit Files to be retained by the City.

2. At the time of reproduction, the City Clerk shall prepare a certificate certifying that the reproduced document is an accurate copy of the original record, and that certificate shall be reproduced with the original documents.

3. Once an electronic copy of the Exhibit Files has been produced, that copy shall be considered a true and accurate version of the document. The City shall treat the electronic copies of Exhibit Files with the same caution as it would with the original documents. Exhibit Files existing in electronic form shall continue to remain available to the public.

4. Once an electronic copy has been produced and preserved, the City Clerk may then destroy the original paper Exhibit Files in whatever manner and timeframe is most efficient. As this is planned as a routine procedure going forward, this Ordinance shall

satisfy any requirements that the Mayor or the City Council order the destruction of any original Exhibit Files.

5. The following records shall continue to be maintained permanently in either the original or electronic format as required by law:

- A) Ordinances;
- B) City council minutes;
- C) Resolutions;
- D) Annual financial audits;
- E) Year-end financial statements.

REPEALING CLAUSE

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

DATE OF ENACTION

This ordinance and its procedures shall be in effect beginning January 1, 2024.

PASSED AND APPROVED THIS 2ND DAY OF NOVEMBER, 2023.

HILLREY ADAMS, MAYOR

ATTEST:

SCOTT LILES, CITY CLERK

Publisher's Notes. Acts 2015, No. 137 became law without the Governor's signature.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. John M. A. DiPippa, Bias in Disguise: The Constitutional Problems of Arkansas's Intrastate Commerce Improvement Act, 37 U. Ark. Little Rock L. Rev. 469 (2015).

CASE NOTES

Ordinance Invalid.

City of Fayetteville Ordinance 5781 violated the Intrastate Commerce Improvement Act, § 14-1-401 et seq., by extending the city's discrimination laws to include two classifications not previously included under state law, i.e., sexual orientation and gender identity, thereby creating a nonuniform nondiscrimination law. *Protect Fayetteville v. City of Fayetteville*, 2017 Ark. 49, 510 S.W.3d 258 (2017).

Ark. Const., Art. 12, § 4, states that "[n]o municipal corporation shall be authorized to pass any laws contrary to the general laws of the state", and case law has held that municipal corporations have only the power bestowed on them by statute or the state constitution; therefore, city ordinances that conflict with state statutes are void under the Arkansas Constitution. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 30, 565 S.W.3d 477 (2019).

Supreme Court's prior opinion and mandate operated as a binding adjudication that a Fayetteville ordinance violated Acts 2015, No. 137, codified as § 14-1-401 et seq., which prohibits a county, municipality, or other political subdivision of the state from adopting or enforcing an ordinance, resolution, rule, or policy that creates a protected classification or prohibits discrimination on a basis not contained in state law. Because the circuit court exceeded its jurisdiction on remand in denying appellants' motion for a preliminary injunction enjoining enforcement of the ordinance, its actions following remand were void. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 30, 565 S.W.3d 477 (2019).

14-1-403. Prohibited conduct.

(a) A county, municipality, or other political subdivision of the state shall not adopt or enforce an ordinance, resolution, rule, or policy that creates a protected classification or prohibits discrimination on a basis not contained in state law.

(b) This section does not apply to a rule or policy that pertains only to the employees of a county, municipality, or other political subdivision.

History. Acts 2015, No. 137, § 1.

Publisher's Notes. Acts 2015, No. 137 became law without the Governor's signature.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. John M. A. DiPippa, Essay: Bias in Disguise: The Constitutional Problems of Arkansas's Intrastate Commerce Improvement Act, 37 U. Ark. Little Rock L. Rev. 469 (2015).

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CHAPTER 2

PUBLIC RECORDS GENERALLY

SUBCHAPTER 2 — REPRODUCTION OF RECORDS

SECTION.

14-2-201. Authority — Requirements.

14-2-202. Copy of record — Admissibility.

14-2-203. Disposal, etc., of copied records.

14-2-204. Municipal police department records.

Publisher's Notes. Acts 1947, No. 218, is also codified as § 25-18-101.

14-2-201. Authority — Requirements.

(a) The head of any county or municipal department, commission, bureau, or board may cause any or all records kept by the official, department, commission, or board to be photographed, microfilmed, photostated, or reproduced on or by film, microcard, miniature photographic recording, optical disc, digital compact disc, electronic imaging, or other process that accurately reproduces or forms a durable medium for reproducing the original when provided with equipment necessary for such method of recording.

(b) At the time of reproduction, the agency head shall attach his or her certificate to the record certifying that it is the original record, and the certificate shall be reproduced with the original.

(c) The device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details.

History. Acts 1947, No. 218, § 1; A.S.A. 1947, § 16-501; Acts 2001, No. 1630, § 1.

Cross References. Photographic recording authorized, § 16-46-101.

14-2-202. Copy of record — Admissibility.

(a) The reproduction made in accordance with § 14-2-201, when satisfactorily identified, shall be admissible into evidence as provided in § 16-46-101 or any other provision of law or court rules governing the admission of evidence.

(b) For all purposes recited in this section, a facsimile, exemplification, or certified copy thereof shall be

*Accurate reproduction
certificate certifying
this is original record*

deemed to be a transcript, exemplification, or certified copy of the original.

History. Acts 1947, No. 218, § 2; A.S.A. 1947, § 16-502; Acts 2001, No. 1630, § 2.

14-2-203. Disposal, etc., of copied records.

(a) Whenever reproductions of public records have been made in accordance with § 14-2-201 and have been placed in conveniently accessible files or other suitable format and provision has been made for preserving, examining, and using them, the head of a county office or department or city office or department may certify those facts to the county court or to the mayor of a municipality, respectively, who shall have the power to authorize the disposal, archival storage, or destruction of the records.

(b) Cities of the first class, cities of the second class, and incorporated towns may by ordinance declare a policy of record retention and disposal, provided that:

(1) The city or town complies with any specific statute regarding municipal records; and

(2) The following records are maintained permanently in either the original or electronic format as required by law:

- (A) Ordinances;
- (B) City council minutes;
- (C) Resolutions;
- (D) Annual financial audits; and
- (E) Year-end financial statements.

History. Acts 1947, No. 218, § 4; A.S.A. 1947, § 16-504; Acts 2001, No. 1630, § 3; 2005, No. 1252, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

14-2-204. Municipal police department records.

(a) All municipalities of the State of Arkansas shall maintain records for the city or town police department or marshal's office, if the records are currently being maintained, as follows:

(1) Maintain for seven (7) years after closure of the case file or permanently, as the municipality shall determine, provided that §§ 12-12-104 and 14-2-203(b)(1) are complied with and that records related to crimes of violence as defined by § 5-42-203 are maintained permanently:

(A) Closed municipal police case files for felony and Class A misdemeanor offenses; and

(B) Expungement orders of municipal police cases; and

(2) Maintain for three (3) years:

- (A) Accident reports;
- (B) Incident reports;
- (C) Offense reports;
- (D) Fine and bond records;
- (E) Parking meter records;
- (F) Radio logs and complaint cards; and

(G) Employment records, payroll sheets, time cards, and leave requests.

(b)(1) If maintained for more than ten (10) years after the date the record was created, records under subdivision (a)(1) of this section may be copied and maintained in accordance with § 14-2-203.

(2) Records under subdivision (a)(2) of this section may be copied in accordance with § 14-2-203 or are subject to disposal after the specified time period has passed.

History. Acts 2003, No. 1187, § 1; 2005, No. 1252, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

SUBCHAPTER 3 — UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

SECTION.

14-2-305. Administration and standards.

14-2-305. Administration and standards.

(a)(1) An Electronic Recording Commission consisting of eleven (11) members appointed by the Governor is created to adopt standards to implement this subchapter.

(2) A majority of the members of the commission shall be county recorders.

(3) A member of the commission shall be from the banking, title, or real estate industry.

(4) A member of the commission shall serve a term of four (4) years.

(5) The terms of the current commission members shall expire on December 31, 2021.

(6) Each member of the commission may receive expense reimbursement in accordance with § 25-16-901 et seq.

(b) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this subchapter and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this subchapter, the Electronic Recording Commission, so far as is consistent with the purposes, policies, and provisions of this subchapter, in adopting, amending, and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are

SUBJECT				
	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			

Chelsey
Weaver
WINWAEDD
Ages 0-18

Grandma's House
Michelle → Children's
Steiner Center
2nd public 220
Construction Community
development in 2020
@ Grandma's House
block grant \$200K work finished in 2022

5:34
5:42
City as pass thru

SUBJECT				
	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			

Modifications have made 'a world of difference'

HUAC, gutters
Change therapy area for more privacy
& bathrooms update

SUBJECT				
	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			

COUNCIL MEETING DATE 10/5/23

92

MEETING STARTS: 5:40 PM

MEETING ENDS: 5:57 PM

ROLL CALL		PRESENT	ABSENT
(8)	Bob Van Haaren	X	
	Susan Stockton	X	
	Jennifer Baker	X	
	Wayne Almond	X	
	Paige Evans	X	
	Carry Manuel	X	
	Jim Bodenhamer	X	
	Nick Reed	X	

MINUTES	ADOPTION	AYE	NAY	ABSTAIN
Date of minutes: 9/28/23	Bob Van Haaren	X		
	Susan Stockton	X		
	Jennifer Baker	X		
	Wayne Almond	X		
	Paige Evans	X		
Motion to adopt:	Carry Manuel	X		
1st Jen	Jim Bodenhamer	X		
2nd Wayne	Nick Reed	X		

MINUTES	ADOPTION	AYE	NAY	ABSTAIN
Date of minutes:	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			

Hillrey Adams, Mayor
Scott Liles, City Clerk

Daniel Bortley, Parks
Eddie Griffin, PD
Mike Anderson, Code Enforcement

David Tzylin, Citizens Town
Caroline Speers, Baxter Bullock

SUBJECT				
2-mill property tax for coming years	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren	X		
	Susan Stockton	X		
	Jennifer Baker	X		
	Wayne Almond	X		
	Paige Evans	X		
Motion to adopt:	Carry Manuel	X		
1st <u>Den</u>	Jim Bodenhamer	X		
2nd <u>Sum</u>	Nick Reed	X		
60% general fund \$55,256 40% streets \$149,349 <u>\$704,605</u>				
SUBJECT				
	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			
SUBJECT				
	ADOPTION	AYE	NAY	ABSTAIN
	Bob Van Haaren			
	Susan Stockton			
	Jennifer Baker			
	Wayne Almond			
	Paige Evans			
Motion to adopt:	Carry Manuel			
1st	Jim Bodenhamer			
2nd	Nick Reed			

EXAMPLE CERTIFICATE

CERTIFICATE

The undersigned, City Clerk of the City of Mountain Home, Arkansas, hereby certifies that the foregoing pages are a true and correct copy of Exhibit Files generated by a meeting of the Mountain Home City Council, held at the regular meeting place of the Council at _____ on the _____ of _____, 2024.

GIVEN under my hand and seal this _____ day of _____, 2024.

SCOTT LILES, CITY CLERK

REVISED 10.23.2023

***SPLITS PERMIT LANGUAGE FOR BOTH SALES AND USE
ADDS REQUIREMENT FOR ADDITIONAL CITY SIGNAGE***

**DELETED PORTIONS ARE ~~STRUCK THROUGH~~
REVISIONS ARE UNDERLINED**

ORDINANCE NO. 2023-xx

**AN ORDINANCE AMENDING ORDINANCE NO. 2003-24,
WHICH REGULATES THE RETAIL SELLING, MANUFACTURE,
SHOOTING, OR DISCHARGING OF FIREWORKS WITHIN
THE BOUNDARIES OF THE CITY OF MOUNTAIN HOME, ARKANSAS**

WHEREAS, it has been determined that fireworks displays should be managed and operated by duly certified pyrotechnics technicians, for the safety of our city inhabitants and visitors to the city, and;

WHEREAS, it has been determined that all fireworks displays and fireworks retail sales require a duly authorized written permit, issued by the Fire Chief or Fire Inspector, and ~~must~~ shall be approved by the Fire Chief, and;

WHEREAS, it has been deemed appropriate that the permit ~~must~~ shall be obtained at least five days in advance of the fireworks display ~~and~~ or the retail sales of fireworks, and the custody of the permit will be retained by the pyrotechnics technician or sales associate and produced when required by police or fire officials ~~at the display location.~~

**NOW THEREFORE, BE IT ORDAINED BY
THE CITY COUNCIL OF THE CITY OF MOUNTAIN HOME, ARKANSAS:**

SECTION 1. MANUFACTURE, ~~SELLING~~ SALE OR USE OF FIREWORKS.

~~It shall be unlawful for any person, firm or corporation to sell or offer for sale, or to make or manufacture; or to use by shooting, exploding, discharging, firing or setting off, ANY type of firework or other explosive within the City limits of Mountain Home, Arkansas, without first obtaining a duly authorized written permit issued by the Fire Chief or City Fire Inspector, and approved by the Fire Chief.~~

It shall be unlawful for any person, firm or corporation to sell or offer for sale, or to make or manufacture ANY type of firework or other explosive within the City limits of Mountain Home, Arkansas, without first obtaining a duly authorized written permit issued by the Fire Chief or City Fire Inspector and approved by the Fire Chief.

It shall be unlawful to shoot, explode, discharge, fire or set off ANY type of firework or other explosive within the City limits of Mountain Home, Arkansas, without first obtaining a duly authorized written permit issued by the Fire Chief or City Fire Inspector, and approved by the Fire Chief.

PERMIT FOR RETAIL SALES: A permit for retail sales of fireworks shall be obtained from the Arkansas State Police. A permit for the retail sales of fireworks within the City limits shall be obtained from the City Of Mountain Home Fire Department Inspection Division and shall be signed by the ~~City of Mountain Home Fire Department~~ Chief and Fire Inspector. The cost of the retail sales permit from the City of Mountain Home shall be One Hundred Dollars (\$100.00). To obtain a retail sales permit, a copy of the Arkansas State Police Retail Sales Permit and a corporate surety bond in the principal sum of One Hundred Thousand Dollars (\$100,000.00) (or a public liability insurance policy for the same amount), shall be provided to the City of Mountain Home Fire Department Fire Inspection Division. The person purchasing the permit ~~must~~ shall be a least twenty-one (21) years of age.

PERMIT FOR PUBLIC DISPLAYS: A permit for public display of fireworks shall be obtained from the Arkansas State Police. A permit for the public display of fireworks shall be obtained from the City of Mountain Home Fire Department Fire Inspection Division and shall be signed by the Fire Chief and Fire Inspector. To obtain a permit for public fireworks display, a copy of the Arkansas State Police permit and a corporate surety bond in the principal sum of Two Hundred-Fifty Thousand Dollars (\$250,000.00) (or a public liability insurance policy for the same amount) shall be provided. A site plan shall be submitted to the Mountain Home Fire Department Fire Inspection Division. The site plan shall include the dimensions of the discharge site, spectator viewing area, parking areas, and the fallout area as well as the required separation distances of seventy-five (75) feet per the largest inch diameter of the firework shell.

SECTION 2. TIME LIMITATIONS

All applications for firework permits shall be made at least five (5) days prior to the requested date of discharging the fireworks.

Fireworks may be sold beginning on June 20th through July 10th and beginning on December 10th through January 5th of each year. Fireworks shall not be discharged within the corporate limits of Mountain Home, Arkansas without a permit.

SECTION 3. SAFETY REQUIREMENTS FOR RETAIL SALES

RETAIL SALES:

~~All fireworks shall have the fuses protected. Smoking of lighted cigarettes, cigars or pipes shall not be permitted inside or within 50 feet of the consumer fireworks retail sales area. “FIREWORKS NO SMOKING” signs shall be provided and must be visible from all directions inside and outside the retail sales location. The signs shall have letters 4 inches in height, red in color with contrasting background. Fireworks shall not be discharged within 300 feet of retail sales of fireworks. At least one (1) sign that reads, “NO FIREWORKS DISCHARGE WITHIN 300 FEET” shall be provided at each entrance. The signs shall have letters 4 inch inches in height, red in color with contrasting background. Fireworks shall not be sold at locations that use, store or sell flammable liquids or highly combustible products. All retail sales locations shall provide at least one fire extinguisher, minimum 10 pound, ABC type fire extinguisher, or provide a water hose connected to an adequate water supply. In all structures, the placement of fire extinguishers shall be located so that the maximum travel distance to any extinguisher from any point will not exceed 75 feet. ALL tent and temporary structures shall be Fire Department approved, and all other retail sales facilities shall meet interior and exterior requirements as stated in the Arkansas Fire Prevention Code. There shall be at least two approved exits available from each tent or structure. All temporary and permanent structures for the retail sale of fireworks shall be located no further than 150 feet from a public way, or an approved fire apparatus access road. There shall be no parking within 15 feet of where fireworks are sold.~~

- 1) All fireworks shall have the fuses protected.
- 2) Smoking of lighted cigarettes, cigars or pipes shall not be permitted inside or within 50 feet of the consumer fireworks retail sales area.
- 3) “FIREWORKS—NO SMOKING” signs shall be provided and shall be visible from all directions inside and outside the retail sales location. The signs shall have letters 4 inches in height, red in color with contrasting background.
- 4) Fireworks shall not be discharged within 300 feet of retail sales of fireworks. At least one (1) sign that reads, “NO FIREWORKS DISCHARGE WITHIN 300 FEET” shall be provided at each entrance. The signs shall have letters 4-inch inches in height, red in color with contrasting background.

- 5) At least two (2) signs that read, “NO FIREWORKS DISCHARGE INSIDE CITY LIMITS” shall be provided at each retail location and shall be visible from all directions inside and outside the retail sales location. The signs shall have letters 4-inch inches in height, red in color with contrasting background.
- 6) Fireworks shall not be sold at locations that use, store or sell flammable liquids or highly combustible products.
- 7) All retail sales locations shall provide at least one fire extinguisher, minimum 10-pound, ABC-type fire extinguisher, or provide a water hose connected to an adequate water supply. In all structures, the placement of fire extinguishers shall be located so that the maximum travel distance to any extinguisher from any point will not exceed seventy-five (75) feet.
- 8) ALL tent and temporary structures shall be Fire Department approved, and all other retail sales facilities shall meet interior and exterior requirements as stated in the Arkansas Fire Prevention Code. There shall be at least two approved exits available from each tent or structure.
- 9) All temporary and permanent structures for the retail sale of fireworks shall be located no further than 150 feet from a public way, or an approved fire apparatus access road. There shall be no parking within 15 feet of where fireworks are sold.

PUBLIC DISPLAYS: All public displays of fireworks, including all requirements for safety, display site selection, fallout areas and operation of the display, shall be done in accordance with the current edition of the National Fire Protection Association 1123, Code of Fireworks Display.

SECTION 4. PROHIBITED SALES

It shall be unlawful to sell or to offer to sell fireworks to children under the age of twelve (12) years old. It shall be unlawful to knowingly sell fireworks to person(s) known to be intoxicated.

SECTION 5. UNLAWFUL USE

It shall be unlawful to discharge fireworks on or in city streets, highways, alleys and public property. It shall be unlawful to discharge fireworks within six hundred (600) feet of any church, hospital, nursing home, or public school while such facility is occupied, and shall be unlawful to discharge fireworks within three hundred (300) feet of where fireworks are sold or stored. It shall be unlawful to throw fireworks at or from any motor vehicle. It shall be unlawful to throw fireworks at or near any person.

SECTION 6. PENALTY

Any person, firm or corporation found guilty of violating this ordinance shall be guilty of a misdemeanor and shall upon conviction be fined not less than One Hundred and Twenty-Five Dollars (\$125.00), nor more than Three Hundred and Fifty Dollars (\$350.00) for each and every violation.

SECTION 7. REPEALER

All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

SECTION 8. EMERGENCY CLAUSE

As the regulation of the sale of fireworks or public displays of such are vital to the health and safety of the citizens of Mountain Home, an emergency is hereby declared to exist, and this ordinance shall be in full effect from the date of its passage.

PASSED AND APPROVED THIS 2nd DAY OF NOVEMBER, 2023.

HILLREY ADAMS, MAYOR

ATTEST:

SCOTT LILES, CITY CLERK

1961

*Amended
Ord # 505*

ORDINANCE NO. 160

AN ORDINANCE PROHIBITING THE SALE AND/OR USE OF FIREWORKS, DYNAMITE, OR OTHER EXPLOSIVES WITHIN THE CITY LIMITS OF MOUNTAIN HOME, ARKANSAS, WITHOUT A WRITTEN PERMIT DULY ISSUED BY THE CITY COUNCIL OF SAID CITY.

BE IT ORDAINED BY THE CITY OF MOUNTAIN HOME, ARKANSAS:

It shall be unlawful for any person, firm or corporation to sell or offer for sale, or to make or manufacture; or to use by shooting, exploding, discharging, firing or setting off, any type of firework, dynamite, or other explosive, within City Limits of Mountain Home, Arkansas; without first obtaining a written permit duly issued by the City Council of Mountain Home, Arkansas.

Any person, firm, or corporation found guilty of violating this ordinance shall be guilty of a misdemeanor and shall upon conviction be fined an amount not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00) for each and every violation.

This Ordinance shall take effect and be in force from and after its approval as required by law.

DATED this 18th day of September 1961.

Richard Fair
Richard Fair, Mayor

Attest:

Marjorie L. Harned
Marjorie L. Harned, Recorder

ORDINANCE NO. 505

AN ORDINANCE AMENDING ORDINANCE NO. 160
PROHIBITING SALE AND USE OF FIREWORKS,
DYNAMITE AND OTHER EXPLOSIVES AND
AUTHORIZING PERMIT, DECLARING AN
EMERGENCY AND FOR OTHER PURPOSES.

Amending
Ord. 160

1978

WHEREAS, Ordinance no. 160 dated the 18th day of September, 1961, prohibits the sale and use of fireworks, dynamite and other explosives without first securing a permit in order to protect the citizen's safety; and

WHEREAS, such ordinance requires a permit duly issued by the City Council; and

WHEREAS, the issuance of a permit by the Council is impracticable under the circumstances; and

WHEREAS, it is necessary for the health, safety and welfare of the City that such a permit be issued prior to the detonation of and use of explosives;

It is determined that permits should be immediately available to qualified persons and therefore, an emergency is declared to exist and this ordinance being necessary for the preservation of the public health, safety and welfare shall be in full force and effect from and after its passage and approval.

THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Home, Arkansas, the words "City Council" as the same appear in the first paragraph of Ordinance No. 160 of September 18, 1961, be deleted and inserted therefore, the word "Mayor".

PASSED AND APPROVED THIS THE 13th DAY OF FEBRUARY, 1978.


Mayor Ronald E. Pierce


Penelope R. Feist, City Clerk

Swaps
Permit
issuance
from
City Council
to Mayor

**AN ORDINANCE AMENDING CITY ORDINANCE NO. 160, WHICH
REGULATES THE SELLING, MANUFACTURE, SHOOTING, OR SETTING
OFF OF FIREWORKS WITHIN THE BOUNDARIES OF THE CITY OF
MOUNTAIN HOME, ARKANSAS.**

WHEREAS, it has been determined that fireworks displays should be managed and operated by duly certified pyrotechnics technicians, for the safety of our city inhabitants and visitors to the city, and;

WHEREAS, it has been determined that all fireworks displays require a duly authorized written city permit, issued by the City Fire Marshal or the Fire Inspector, and must be approved by the Fire Chief, and;

WHEREAS, it has been deemed appropriate that the permit must be obtained five days in advance of the discharge of the fireworks, and the custody of the permit will be retained by the pyrotechnics technician, and produced when required by police or fire officials at the display location.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF MOUNTAIN HOME, ARKANSAS:**

SECTION 1. MANUFACTURE, SELLING, USE OF FIREWORKS.

It shall be unlawful for any person, firm, or corporation to sell or offer for sale, or to make or manufacture; or to use by shooting, exploding, discharging, firing or setting off, ANY type of firework, or other explosive, within the City limits of Mountain Home, Arkansas, without first obtaining a duly authorized written permit, issued by the City Fire Marshal or Fire Inspector, and approved by the Fire Chief.

SECTION 2. TIME LIMITATIONS.

All applications for fireworks permits must be made five (5) days prior to the requested date of discharging the fireworks.

SECTION 3. QUALIFIED PYROTECHNIC PERSONNEL.

Any permit issued for the discharge of fireworks in the City must be issued only to a duly certified pyrotechnics technician, and the fire department will verify that a proper and current certification is in effect. The technician will retain custody of the permit.

SECTION 4. PENALTY

Any person, firm, or corporation found guilty of violating this ordinance shall be guilty of a misdemeanor and shall upon conviction be fined not less than Seventy-Five Dollars (\$75.00), nor more than Two-Hundred Dollars (\$200.00) for each and every violation.

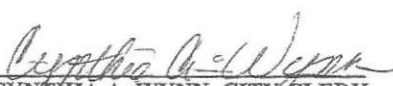
SECTION 5. REPEALER

All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

PASSED AND APPROVED THIS 17TH DAY OF JULY, 2003.


ED HOUSE, MAYOR

ATTEST:


CYNTHIA A. WYNN, CITY CLERK

*Amends
ord. 160
+ ord. 505*

*Permits issued
by Fire Dept
(Marshal + Chief)*

Adds time frame

Qualifications

*updates
penalties from
1961
\$5 → \$75
\$100 → \$200*

RESOLUTION NO. 2023-xx

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF MOUNTAIN HOME TO ATTACH LIENS TO CERTAIN PROPERTIES LOCATED AT THE ADDRESSES SPECIFIED IN THIS RESOLUTION FOR THE PURPOSE OF COLLECTING MONIES WHICH ARE OWED THE CITY OF MOUNTAIN HOME FOR ENFORCEMENT OF ORDINANCE NO. 2020-20

WHEREAS, the City Council of Mountain Home, Arkansas approved Ordinance No. 2020-20 that states incorporated cities of the first class are empowered to order the owner of lots and other real property within the city limits to cut weeds, to remove garbage, rubbish and other unsightly and unsanitary articles and things upon the property.

WHEREAS, it shall be the duty and responsibility of the Code Enforcement Officer or his designee to determine the ownership and condition of any property suspected of being in violation. It shall be the duty of the Code Enforcement Officer or his designee to certify the ownership and condition of any parcel of land he determines to be in violation to the mayor of the city.

WHEREAS, the costs of abatement, property owner and address, date expenses were incurred, and parcel numbers of the properties affected are listed below:

1. **Owner's Name and Address:** William L. Hindman, 2010 State Hwy KK, Springfield, MO 65803
Property Address: 1417 Hallmark Circle, Mountain Home, AR 72653
Parcel No. 007-01046-000
Date: 7/18/2023 to 9/29/2023
Expense Incurred: \$535.00
2. **Owner's Name and Address:** Bradley and Christy Razer
Property Address: 706 Gray Street, Mountain Home, AR 72653
Parcel No. 007-00980-000
Date: 8/29/2023 to 9/29/2023
Expense Incurred: \$285.00
3. **Owner's Name and Address:** Little Johnny Dean
Property Address: 609 Locust Street, Mountain Home, AR 72653

Parcel No. 007-01511-000
Date: 7/18/2023 to 9/29/2023
Expense Incurred: \$2,590.86

4. **Owner's Name and Address:** Donald McCoy
Property Address: 1761 Fairway Drive, Mountain Home, AR 72653
Parcel No. 007-03158-000
Date: 8/23/2023 to 9/29/2023
Expense Incurred: \$450.00

WHEREAS, owners of said properties are either unknown or unobtainable from records located at the Baxter county tax collector's office, or have been notified consistent with applicable City Ordinances and have failed to comply; and

WHEREAS, the Code Enforcement Officer or his designee has entered each parcel of property and abated the nuisance(s), utilizing equipment, materials and expenses incurred; and

WHEREAS, expenses resulting from property cleanup or removal have been itemized within this Resolution.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF MOUNTAIN HOME, ARKANSAS AS FOLLOWS:**

1. That the monies, as determined by this hearing, are reimbursable to the City of Mountain Home for cleanup of the indicated properties.
2. That a "clean up" lien be placed against the property for such costs as set out in Arkansas Code Annotated §14-54-903 and §14-54-904.

PASSED AND APPROVED ON THIS 2ND DAY OF NOVEMBER 2023

HILLREY ADAMS, MAYOR

ATTEST:

SCOTT LILES, CITY CLERK

SUBCHAPTER 9 — REGULATION OF UNSANITARY CONDITIONS

SECTION.

- 14-54-901. Municipal authority.
 14-54-902. Notice to unknown or nonresident owners.
 14-54-903. Refusal of owner to comply — Definitions.
 14-54-904. Enforcement of lien for clearance by municipality.
 14-54-905. Federal programs.

RESEARCH REFERENCES

- ALR.** Regulation of private landowner's disposal of solid waste on own property. 37 A.L.R.4th 635.
Am. Jur. 56 Am. Jur. 2d, Mun. Corp., § 455 et seq.
C.J.S. 62 C.J.S., Mun. Corp., § 265, 279-281.
U. Ark. Little Rock L.J. Survey, Property, 12 U. Ark. Little Rock L.J. 659.

14-54-901. Municipal authority.

Incorporated towns and cities of the first and second class are empowered to order the owner of lots and other real property within their towns or cities to cut weeds; to remove garbage, rubbish, and other unsightly and unsanitary articles and things upon the property; and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place, or condition which might become a breeding place for mosquitoes, flies, and germs harmful to the health of the community, after the town or city has provided therefor by an ordinance to that effect.

History. Acts 1943, No. 100, § 1; A.S.A. 1947, § 19-2325.

CASE NOTES

Ordinances Appropriate.

City ordinances did not exceed the authority granted under this section where they specifically addressed the storage of household appliances and furniture, building rubbish, dead trees, and the height of weeds and grass, and the testimony of the city employees demonstrated that the purpose behind the ordinances was to prevent conditions that might become a breeding place for mosquitoes, snakes, vermin, and other things harmful to the health of the community. *Steffy v. City of Fort Smith*, 2018 Ark. App. 170, 545 S.W.3d 804 (2018).

Cited: *Tsann Kuen Enters. Co. v. Campbell*, 355 Ark. 110, 129 S.W.3d 822 (2003).

14-54-902. Notice to unknown or nonresident owners.

(a)(1) In case the owner of any lot or other real property is unknown or his or her whereabouts is not known or he or she is a nonresident of this state, then a copy of the written notice under § 14-54-903 shall be posted upon the premises.

(2) Before any action to enforce the lien, the municipal recorder or the city clerk shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents.

(b)(1) Thereupon, service of the publication as provided for by law against nonresident defendants may be had.

(2) An attorney ad litem shall be appointed to notify the defendant by certified letter addressed to his or her last known place of residence if it can be found.

(c) Except as provided in subsection (b) of this section, notices required by this subchapter shall be published, mailed, or delivered by the municipal recorder or the city clerk or other person as designated by the governing body of the municipality.

(d) Notwithstanding any other provision of law, after a notice has been issued for a specific violation of an order under § 14-54-901 directing an owner to eliminate a condition on the owner's property, 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.

History. Acts 1943, No. 100, § 3; A.S.A. 1947, § 19-2327; Acts 1989, No. 239, § 2; 2009, No. 503, § 1.

Amendments. The 2009 amendment subdivided (a) and (b); substituted "certified" for "registered" in (b)(2); added (d); and made minor stylistic changes.

CASE NOTES

Cited: *Tsann Kuen Enters. Co. v. Campbell*, 355 Ark. 110, 129 S.W.3d 822 (2003).

14-54-903. Refusal of owner to comply — Definitions.

(a) As used in this section:

(1)(A) "Clean-up lien" means a lien securing the cost of work undertaken by a town or city to remove, abate, or eliminate a condition in violation of local codes or ordinances.

(B) A clean-up lien may have priority against other lienholders as provided in this section;

(2) "Court lien" means a lien securing the fines or penalties imposed by a court of competent jurisdiction against the owner of an unsafe and vacant structure or weed lot for failure to comply with applicable building codes that have been secured by a court lien by action of the local governing body;

(3) "Priority clean-up lien" means a clean-up lien for work undertaken by a city or town on an unsafe and vacant structure or weed lot that is given priority status over other lienholders following notice and hearing;

(4) "Unsafe and vacant structure" or an "abandoned home or residential property" means:

(A) A structure located on previously platted and subdivided property that is not fit for human habitation and has been declared unsafe and vacant by the city or town in which it is located in violation of an applicable ordinance; or

(B) A home or residential property that is:

(i) Unoccupied;

(ii) In violation of a city safety standard; and

(iii) Located in an area eligible for federal funds under § 14-54-905; and

(5) "Weed lot" means a previously platted and subdivided lot that is vacant or upon which an unsafe and vacant structure is located and that contains debris, rubbish, or grass which is higher than that permitted by local ordinance.

(b) If the owner or lienholder of any lot or other real property within an incorporated town or city neglects or refuses to remove, abate, or eliminate any condition under an ordinance passed by the city or town as provided in § 14-54-901, after having been given seven (7) days' notice in writing to do so, then the town or city may do whatever is necessary to correct the condition and to charge the cost thereof to the owner of the lots or other real property.

(c)(1) The town or city is given a lien against the property for the costs, including all administrative and collection costs.

(2) The town or city shall file the lien with the circuit clerk no later than one hundred twenty (120) days after the town or city completes the clean-up work on the property.

(3) The town or city may perfect its clean-up lien as a lien against the property if the property:

- (A) Contains an unsafe and vacant structure; or
- (B) Has been cited as a weed lot.

(4) The clean-up lien amount shall equal costs, including administrative costs, that the city or town incurs to help bring the property into compliance with local ordinances because the owner or lienholder failed to remove or repair an unsafe and vacant structure or failed to correct the conditions that caused the property to become a weed lot within the time required by the notice.

(5)(A) If a court of competent jurisdiction levies fines or penalties against the owner of an unsafe and vacant structure or weed lot for failure to comply with applicable building codes, then the local governing body, by majority vote, from time to time and subject to notice and hearing provided by this section, may secure any outstanding court fines or penalties resulting from the owner's failure to clean up an unsafe and vacant structure or weed lot with a court lien against the property for the full value of all the outstanding fines and penalties.

(B) A court lien does not have first priority status over prior recorded liens and may be imposed in addition to clean-up liens.

(6)(A) Notices shall be sent by regular mail and by certified mail, return receipt requested.

(B) Notice to an owner is sufficient if sent to the owner's address of record on file with the applicable county treasurer, county collector, or county assessor.

(7)(A) If the city or town wishes to secure a priority clean-up lien, it shall provide seven (7) business days' notice to lienholders before undertaking any work at the property.

(B) Notice is sufficient if the notice is sent to the lienholder's address shown in the relevant land records.

(C) Cities and towns are not required to give notices to holders of unrecorded liens or to unrecorded assignees of lienholders.

(D) Any lienholder receiving notice under this section shall send, within seven (7) business days from receipt of the notice, a written response to the city or town indicating whether the owner of the property is in default under the terms of the note or mortgage.

(d) Any notice required under this section may be issued by a:

- (1) Police officer employed by the city or town;
- (2) City or town attorney; or
- (3) Code enforcement officer employed by the city or town.

(e)(1)(A) After the work has been completed, the city or town shall provide second notice to the owner of the total amount of the clean-up lien, including administrative and filing costs.

(B) If the city or town wishes to secure a priority clean-up lien after the work has been completed, it shall provide second notice to the lienholders of record of the total amount of the clean-up lien.

(2) Cities and towns are not required to give notice of court liens to prior lienholders.

(3) Notice of the amount of a clean-up lien or a court lien may be combined with the notice of the hearing before the governing body to create and impose the clean-up lien or court lien.

(f) The amount of any clean-up lien or court lien provided in this section may be determined at a public hearing before the governing body of the city or town held after thirty (30) days' written notice by mail, return receipt requested, to the owner of the property if the name and address of the owner are known and to the lienholders of record.

(g) If the name of the owner cannot be determined, then the amount of the clean-up lien or court lien shall be determined at a public hearing before the governing body of the city or town only after publication of notice of the hearing in a newspaper having a bona fide circulation in the county where the property is located for one (1) insertion per week for four (4) consecutive weeks.

(h)(1) The determination of the governing body confirming the amount of any clean-up lien or court lien and creating and imposing any clean-up lien or court lien under this section is subject to appeal by the property owner or by any lienholder of record in the circuit court, filed within forty-five (45) days after the determination is made.

(2) If the owner or lienholder fails to appeal in this time, the lien amount is fully perfected and not subject to further contest or appeal.

(i) The city or town shall file its lien with the circuit clerk no later than sixty (60) days after the governing body of the city or town confirms the lien amount, or if the lien is appealed, within sixty (60) days after the city or town wins on appeal.

(j)(1) If the city or town wishes to secure a first-priority status for any priority clean-up lien created and imposed under this section, it shall file an action with the circuit court within which the property is located seeking a declaration that the clean-up lien is entitled to priority over previously recorded liens and naming the holders of the recorded liens as defendants.

(2) Priority status shall be awarded to the priority clean-up lien with respect to any previously recorded lien if the court determines that such lienholder has failed to exercise its rights to foreclose its lien when the obligation it secures becomes in default or has failed to

pay the costs of work undertaken by a city or town that composes the clean-up lien. However, the amount as to which the clean-up lien shall have priority shall be the amount the court finds reasonable and is limited to:

- (A) No more than one thousand dollars (\$1,000) for grass or weed cutting;
- (B) No more than five thousand dollars (\$5,000) to board and secure the property;
- (C) No more than seven thousand five hundred dollars (\$7,500) to demolish any structures on the property; or
- (D) No more than fifteen thousand dollars (\$15,000) for environmental remediation.

History. Acts 1943, No. 100, § 2; A.S.A. 1947, § 19-2326; Acts 1989, No. 239, § 1; 2005, No. 887, § 1; 2007, No. 854, § 1; 2009, No. 143, § 1; 2011, No. 903, § 1; 2017, No. 495, § 1.

Amendments. The 2005 amendment redesignated former (b) as present (b)(1); and added (b)(2) and (c).

The 2009 amendment inserted "or ordinances" in (a)(1)(A); inserted "priority" preceding "clean-up" in (c)(7)(A), (j)(1), and (j)(2); deleted "as may be provided for" following "condition" in (b), in (e), inserted (e)(1)(B), redesignated the remainder of (e)(1) accordingly, and deleted "and lienholders of record" following "notice to the owner" in (e)(1)(A); and made minor stylistic changes throughout the section.

The 2011 amendment added the (a)(4)(A) designation and (a)(4)(B); and inserted "or an abandoned home or residential property" in the introductory language of (a)(4).

The 2017 amendment, in (c)(6)(B), inserted "on file", inserted "county" preceding "collector", and substituted "county collector, or county assessor" for "or collector".

CASE NOTES

Reimbursement of Costs.

Circuit court properly granted summary judgment to a city in its action to reimburse the city for the costs incurred in the demolition of a building on the owner's property because the owner argued in a conclusory and unconvincing manner that the circuit court did not give him a trial on his counterclaim — that a quasi-contract had been formed when the owner relied on the director of public works' promise and the city's ratification of the director's actions in a subsequent meeting with the former mayor. *Thigpen v. City of El Dorado*, 2020 Ark. App. 531 (2020).

14-54-904. Enforcement of lien for clearance by municipality.

(a) The liens provided for in § 14-54-903 may be enforced and collected at any time within ten (10) years after a lien has been filed in either one (1) of the following manners:

(1) By an action for foreclosure in the circuit court by the city or town, or if the city or town has established a land bank, by a land bank that has been assigned the lien; or

(2)(A) The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the governing body of the municipality to the tax collector of the county where the municipality is located and placed by him or her on the tax books as delinquent taxes and collected accordingly.

(B) The amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.

(b)(1)(A) In any situation in which a city of the first class or city of the second class issues an order for the removal, repair to return the structure to compliance

with minimum building code standards, or razing of a building or house under the provisions of § 14-56-203 and such order is not complied with by the owner of the building or house and the city then removes, repairs, or razes the building or house, a lien is granted and given against the real property for the cost of the removal, repair, or razing.

(B) If the city determines to repair the building or house to meet the minimum building code standards, the city shall comply with all necessary requirements under § 14-58-303 for competitive bidding for purchases of supplies and materials or for contracts for work or labor needed to complete the repairs on the building or house.

(2) The lien granted by this subsection shall also be enforced pursuant to the lien enforcement procedures set forth in subsection (a) of this section.

(c) In all suits brought to enforce the liens described in this section, the reimbursement of costs, including title search fees and reasonable attorney's fees, shall be awarded to the municipality.

History. Acts 1943, No. 100, § 4; 1979, No. 339, § 1; 1983, No. 80, § 1; A.S.A. 1947, § 19-2328; Acts 2001, No. 1538, § 1; 2005, No. 887, § 2; 2007, No. 854, § 2.

Amendments. The 2001 amendment redesignated the five sentences in (a)(2) as (a)(2)(A)(i)(a) through (a)(2)(B)(ii); made gender neutral changes in present (a)(2)(B)(i); in present (b)(1)(A), substituted "first class or city of the second class" for "first or second class," inserted "repair to... code standards" following "order for the removal," inserted "repairs" following "removes," and inserted "repair" following "cost of the removal"; added (b)(1)(B); and added (c).

The 2005 amendment substituted "three (3) years" for "eighteen (18) months" in (a)(1); and, in (a)(2)(A)(i)(a), substituted "by mail, return receipt requested" for "by certified mail" and "address" for "whereabouts."

CASE NOTES

ANALYSIS

Constitutionality.
Limitations Period.
Tax Collector.

Constitutionality.

Ark. Const., Art. 16, § 5 does not apply to the collection by a tax collector of a grass-cutting lien for a city pursuant to this section. *Tucker v. Holt*, 343 Ark. 216, 33 S.W.3d 110 (2000).

Limitations Period.

Eighteen month limitation period, which appears solely in subdivision (a)(1) of this section, is exclusive to that subsection. It does not apply to the certification option in subdivision (a)(2) of this section. *Taylor v. City of Fort Smith*, 2014 Ark. App. 450, 441 S.W.3d 36 (2014).

City's clean-up lien claim was not time-barred where the 18-month limitation period applied solely to subdivision (a)(1) of this section, the city had used the certification option set forth in subdivision (a)(2) in this section, and it was inappropriate to apply the more general statutes of limitations when the General Assembly chose not to include a limitation period in subdivision (a)(2). *Taylor v. City of Fort Smith*, 2014 Ark. App. 450, 441 S.W.3d 36 (2014).

Tax Collector.

This section provides the tax collector with authority to collect a grass-cutting lien for a city. *Tucker v. Holt*, 343 Ark. 216, 33 S.W.3d 110 (2000).

A tax collector had authority to collect a grass-cutting lien for a city where the appropriate ordinance was passed by the city council and the city's governing body properly certified the amount of the lien to the county tax collector for collection. *Tucker v. Holt*, 343 Ark. 216, 33 S.W.3d 110 (2000).