



STATE OF ARKANSAS  
*City of Brookland*

ORDINANCE NO. 2011-21

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

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of Brookland, Arkansas:

SECTION 1: That it shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association, to own, keep or maintain any house, building and/or structure within the corporate limits of the City of Brookland, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Council.

SECTION 2: That any such house, building and/or structure which is found and declared to be a nuisance by Resolution of the City Council will be condemned to insure the repair, rehabilitation, securing, and/or razing and removal thereof as specified in the notice to repair or remove.

SECTION 3:

(a) That prior to the consideration of a Resolution by the City Council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lienholder(s), of such house, building and/or structure shall be mailed written notification of the date, time and place that the City Council will consider said Resolution. In addition, said notice shall inform the owner(s) and any mortgagee(s) or lienholder(s), of the right to be heard at the City Council meeting on the proposed Resolution declaring such house, building and/or structure to be a nuisance. Said notice shall be sent 20 days prior to the date of the hearing and shall include a copy of the inspection report, by registered letter or personal service, the receipt of which shall be duly acknowledged.

(b) Should the owner(s) and mortgagee(s) and/or lienholder(s) of any such house, building and/or structure be unknown or their whereabouts be unknown, or if they do not reside in Arkansas, then a copy of the written notice shall be posted upon said premises and the Mayor or his designee shall make an affidavit setting out the facts as to unknown address, unknown whereabouts and/or non-resident status of said owner(s), mortgagee(s), and lienholder(s). Thereupon, service of publication as now provided by law against unknown and/or non-resident defendant(s) may be had and an attorney ad litem shall be appointed to notify such persons by

registered letter addressed to their last known place(s) of residence or business.

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

SECTION 5: After a house, building and/or structure has been found and declared to be a nuisance and condemned by Resolution as herein provided, a true or certified copy of said Resolution will be mailed to the owner(s) and mortgagee(s) and/or lienholder(s) thereof, if the whereabouts of said owner(s) and mortgagee(s) and/or lienholder(s) thereof be known or their last known address be known, and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure. Provided, that if the owner(s) and mortgagee(s) and/or lienholder(s) of said house, building and/or structure be unknown, or if his or their whereabouts or last known address be unknown, the posting of the copy of said resolution as herein above provided will suffice as notice of the condemnation.

SECTION 6: When necessary for the public health and safety, the owner of all property declared a nuisance by the City Council shall board and secure the structure or condition within the time set forth in the notice. The owner shall maintain such boarding or securing at all times until the structure is brought into full compliance with the applicable building or abatement codes or until such time as the structure is razed and removed. Boarding and securing of the structure or condition does not relieve the owner of the requirement to diligently repair, rehabilitate or demolish and remove the structure or condition. All materials used to board and secure shall be weatherproofed or treated and shall be painted and maintained with a color of paint that blends with the overall structure.

SECTION 7: The owner of any property declared a nuisance by the City Council shall obtain necessary permits and commence to repair, rehabilitate, secure, raze and remove, or otherwise abate the nuisance within 30 days and shall continue such work to satisfactory completion within such time as the mayor or his designee determines. A renovation permit shall be required for the correction or elimination of nuisances on property or structures that have been approved for condemnation by the City Council. The conditions of the granting of a renovation permit are:

- (1) A renovation permit must be obtained within 30 days from the date of condemnation by the City Council.
- (2) A renovation permit shall expire 45 days from the date of issue.
- (3) The City Council may grant upon written recommendation from the mayor or his duly-designated representative one extension not to exceed six months. Said extension shall be conditioned upon posting a bond, cash or cash equivalent, in the amount of 25 percent of value of the original building permit. Said sum



shall be placed in an interest bearing account. Further said bond shall be posted prior to the request for the extension being placed on the City Council agenda.

(4) A structure or property shall be removed from condemnation procedures provided the provisions of this article have been complied with and the structure or property satisfactorily passes an inspection by the city inspector or code enforcement officer. At such time the money deposited per subsection (3) of this section shall be refunded. If the property does not pass inspection at the expiration of the permit said bond shall be used to cover the net costs of razing said structure. Any surplus money shall be refunded to the individual posting said bond together with any accrued interest. Any sum exceeding the amount of the bond shall be pursued pursuant to the collection provisions set forth herein.

(5) Fees for renovation permit issued involving building, electrical or plumbing repair or modification shall be the same as currently charged by the city for building, electrical and plumbing permits. A flat fee of \$25.00 will be assessed for all renovation permits issued which does not involve building, electrical or plumbing repair or modification.

SECTION 8: If the owner of the house, building and/or structure constituting a nuisance have not obtained the required permits and commenced work to rehabilitate, secure, raze and/or remove, or otherwise abate said nuisance within 30 days after the posting of the true copy of the resolution at a conspicuous place on said house, building and/or structure constituting the nuisance, it will be torn down and/or removed by the mayor or his duly-designated representative.

SECTION 9: The mayor or any other person or persons designated by him to tear down and remove any such house, building and/or structure constituting a nuisance will ensure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same have a substantial value, sell said house, building and/or structure, or any saleable materials thereof, by public sale to the highest bidder for cash (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City, to ensure its removal and the abatement of the nuisance.

SECTION 10: All proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person collecting the same to the City Treasurer. If any such house, building and/or structure, or the saleable materials thereof, be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the City, plus 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.

SECTION 11: If the City has any net costs in the securing, repair or razing of any house, building and/or structure, such costs shall be charged to the owner. Should the owner fail to pay said charges within 60 days from the date of the first billing, the city shall have a lien on the



property as provided by A.C.A §§14-54-903 and 14-54-904, which can be collected upon by any legal means determined by the City Council.

SECTION 12: A fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) is hereby imposed against the owner(s) of any house, building and/or structure found and declared to be a nuisance by Resolution of the City Council thirty (30) days after the same has been so found and declared to be a nuisance, and for each day thereafter said nuisance be not abated constitutes a continuing offense punishable by a fine up to Five Hundred Dollars (\$500.00) per day; provided the noticed as herein provided in Section 5 hereof has been given within ten (10) days after said house, building and/or structure has been by Resolution found and declared to be a nuisance.

SECTION 13: In the event it is deemed advisable by City Council that a particular house, building and/or structure be judicially declared to be a nuisance by a Court having jurisdiction of such matters, the City Council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the City, and the only notice to be given to the owner(s) and mortgagee(s) and/or lienholder(s) of any such house, building and/or structure sought to be judicially declared to be a nuisance will be that as now provided by for by law in such cases in Circuit Court. When any such house, building, and/or structure has been declared judicially to be a nuisance by a Court of competent jurisdiction, a fine up to One Thousand Dollars (\$1,000.00) is hereby imposed against the owner(s) thereof from the date said finding is made by the Court and for each day thereafter, said nuisance be not abated constitutes a continuing offense punishable by a fine up to Five Hundred Dollars (\$500.00) per day.

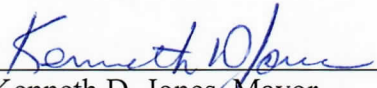
SECTION 14: If, for any reason, any portion of this ordinance be held to be invalid, such invalidity shall in no way affect the remaining provisions thereof which are valid, but said valid portions shall be and remain in full force and effect.

SECTION 15: Notwithstanding any provision herein to the contrary, in cases of extreme emergency where notice is not practical, the city and its authorized agents may enter upon any real property, houses, buildings or other structures and take such action or actions as may be immediately necessary for the preservation of the public health, safety and welfare prior to the issuance of notice as provided for herein. Provided further, that the procedural requirements of this article shall be adhered to following any such emergency action.

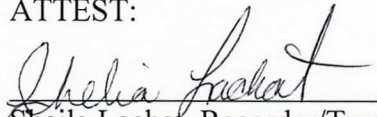
SECTION 16: The provisions of this article shall not be construed to limit the authority of the city, its agents, officers and enforcement of the various technical codes which have been adopted by ordinance and which shall remain in full force and effect.

EMERGENCY CLAUSE: It is hereby found and declared by the City Council of the City of Brookland, Arkansas, an emergency is hereby declared to exist and this Ordinance being necessary for the preservation of public peace, health and safety, the Ordinance shall take effect and be in full force from and after this passage.

PASSED AND ADOPTED this 13<sup>th</sup> day of December, 2011.

  
Kenneth D. Jones, Mayor

ATTEST:

  
Sheila Lachat, Recorder/Treasurer

