

- CHAPTER 18-A -
NUISANCES

Contents: (Updated under ordinances 1099, 1145 and 1169)

18-A.01. Nuisances, Prohibited.

18-A.01.01. Definitions.

18-A.01.02. Enforcement and Abatement.

18-A.01.03. Nuisances Prohibited.

A. Unlawfully Doing an Act, or Omitting to Perform a Duty.

B. Prohibited Nuisances.

18-A.01.04. Notification.

A. Notification by Certified Mail, Personal Service

B. Notification by Posting Property, Legal Notice

18-A.01.05. Means of Abatement; Cost Recovery.

A. Abatement and Property Assessment.

B. Abatement of Private Nuisance.

18-A.01.06. Penalty for Violation.

18-A.01.07. Appeals.

18-A.02. Weeds and Noxious Plants.

18-A.02.01. Weeds Declared Nuisances.

A. Noxious Weeds.

B. Prevention/Abatement.

18-A.02.02. Remedy, Cost Recovery.

18-A.03. Vacant Property Registration Requirement.

18-A.03.01. Purpose.

18-A.03.02. Scope.

18-A.03.03. Definitions.

18-A.03.04. Registry of Vacant Properties.

18-A.03.05. Registration, Requirements.

18-A.03.06. Property Maintenance and Security Requirements.

18-A.03.07. Monitoring and Administrative Fees.

18-A.03.08. Fire Damaged Property & Properties Going Through Probate

18-A.03.09. Unpaid Fees; Assessment.

18-A.04. Vacant Lots and Acreages within the City.

18-A.04.01. Purpose.

18-A.04.02. Vacant Lots and Acreages within the City.

18-A.04.03. Property Maintenance of Vacant Lands.

18-A.01. Nuisances, Prohibited.

18-A.01.01. Definitions.

1. "Antique/Collectible/Historic Vehicle" shall mean an antique, collectible or historic vehicle that is currently licensed as such and that does not meet the definition of an inoperable vehicle.
2. "Boulevard" shall mean the portion of the street right-of-way lying between the edge of an improved street and the property line of the adjoining property.
3. "Inoperable Vehicle" shall mean any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and wheels, engine, battery, or other essential component required to start and operate the vehicle, or which does not have a lawfully affixed current and valid state license plate registered to that vehicle.
4. "Property" shall mean any real property within the City which is not a street or highway.

5. “Public Nuisance” A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private.
6. “Street or highway” shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
7. “Vehicle” shall mean:
 - a. a machine propelled by power other than human power designed to travel along the ground by use of wheels, tracks, treads, runners, or slides, and transport persons or property or pull machinery and shall include, without limitation, automobile, bus, motor home, motor bike, motor scooter, motorcycle, go-cart, golf cart, four-wheeler, truck, or tractor.
 - b. any pull trailer or camper, or other conveyance intended to be pulled or otherwise transported on a street or highway.

18-A.01.02. Enforcement and Abatement.

The Police Department and the Building Department may act jointly or separately, as is deemed necessary and appropriate by the Chief of Police and/or the Building Official, or however otherwise directed by the governing body, in the enforcement and abatement of public nuisances.

18-A.01.03. Nuisances Prohibited.

No person, owner, or occupant of any house, business, building, or lot in the City of Hot Springs shall create or commit any public nuisance as defined in this section.

- A. Within the meaning of this section, a public nuisance consists in unlawfully doing an act, or omitting to perform a duty, within the corporate limits of the City, or in any public grounds or parks belonging to the City which act or omission either:
1. annoys, injures, or endangers the comfort, repose, health, or safety of others; or
 2. offends decency; or
 3. unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake, stream, public park, public sidewalk, street or alley; or
 4. in any way renders other persons insecure in life or in use of property; and
 5. which affects at the same time an entire community or neighborhood or any considerable number of persons although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
- B. Prohibited nuisances shall include, but are not limited to, the following:
1. Household waste, including but not limited to, such items as paper, rags, trash, garbage, discarded clothing, shoes, curtains, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils, discarded household fixtures, and similar items when kept or stored on private property in view of adjacent properties or public right-of-ways.
 2. Used and unused building materials and construction waste including, but not limited to, such items as lumber, plaster, scrap or salvaged iron or other metal, concrete, brick, tiles, stockpiles of rock, sand, dirt or gravel when not currently being used for landscaping purposes, doors, windows, and similar items that are kept inside the corporate limits of the City of Hot Springs and which are not stored inside a building, except for building or landscaping materials that

are temporarily stored for work on the premises authorized by a valid building permit or Site Development Permit obtained for the premises from the City of Hot Springs, provided that such used or waste building materials shall not remain on the premises more than thirty (30) days after the completion of the project.

3. Household appliances, fixtures, and furniture including, but not limited to, such items as stoves, refrigerators, freezers, sinks, cabinets, and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, washtubs, and similar items when such items are stored, collected, piled, or kept in the City of Hot Springs and are not stored inside a building, except that patio furniture or other furniture designed for outdoor use, and that is being utilized for that purpose, shall not constitute a nuisance.
4. Dismantled motor vehicles, motor vehicles bodies, and disassembled parts thereof, disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when such items are stored, collected, piled, or kept in the City of Hot Springs, and are not kept inside a building.
5. Inoperable vehicles that are kept, parked or stored upon any property within the city for longer than ten (10) days with the following exceptions:
 - a. Vehicles that are kept entirely within an enclosed building, and
 - b. One (1) non-licensed motor vehicle that is in operable condition that is specifically adopted or designed for operation on drag strips, raceways or in derby events may be kept provided that it is appropriately covered so as to not be complained upon as a nuisance.
6. Carcasses of animals and hides, all carcasses of animals remaining exposed one (1) hour after death, except legally caught and tagged

game, which shall be twenty-four (24) hours, and all green or salted hides left deposited in any open place.

7. Liquid refuse, all slop, foul, or chemically polluted water, liquor, all filth, refuse, or offal, discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public place, park or facility, or lake, stream, or pool of water.
8. All vegetable, vegetable matter or other articles that emit or cause an offensive, noxious, or disagreeable smell or odor that may attract rodents, vermin, or other disease carrying pests, animals, or insects.
9. Any other condition the Common Council shall deem and declare to be a nuisance.

18-A.01.04. Notification.

- A. Whenever the code official becomes aware of, and upon inspection thereof, that any condition or conditions prohibited in this article has been created or exists on any premises located within the city, the code official may give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be served by certified mail at the last known address of the property owner or by personal service.
- B. If certified mail/return receipt requested is sent to the last known address and the mail is returned marked "refused" or "unclaimed," then a copy of such notice may be posted upon the premises where the nuisance exists or, in the alternative, such notice may be served by publication in the official newspaper for two (2) consecutive weeks.

18-A.01.05. Means of Abatement; Cost Recovery.

- A. Any property legally noticed shall be brought into compliance with the notice within twenty (20) days of the date of the notice. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to

enter upon the property in violation and remove or destroy the offending matter. The costs of such abatement or removal shall be charged to the property owner. If the bill is not satisfied within thirty (30) days of the date of the billing payment will be sought either through a collection agency or by placing a lien on the subject property.

- B. Any private person may also abate a public nuisance which is especially injurious to such person or any private nuisance injurious to such person by removing or if necessary destroying that which constitutes the nuisance without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon the wrongdoer's land, reasonable notice shall be given to the wrongdoer, in writing, before entering the property to abate it.

18-A.01.06. Penalties and Remedies.

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50) per day, but not more than Two Hundred dollars (\$200.00) per day, per violation, with each day constituting a separate violation.
- B. In addition to penalties or other remedies allowed by law, the City reserves the right to refuse and terminate service to any building, structure or property that is declared to be a public nuisance by the Hot Springs Common Council.

18-A.01.07. Appeals.

Any person, firm or entity directly affected by the Notice shall have the right to appeal to the Hot Springs City Council, provided that the written application is filed with the Building Department within twenty (20) days of the date of the notice. Application shall be on the form provided by the City. Appeals shall be based on a claim that the true intent of the code

or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the code do not fully apply, or the requirements of the code are adequately satisfied by other means. Failure of any person to file an appeal within the specified time period shall constitute a waiver of the right to an administrative hearing and adjudication of the Notice or to any portion thereof.

18-A.02. Weeds and Noxious Plants.

18-A.02.01. Weeds Declared Nuisances.

- A. Weeds that are deemed or declared noxious by the Fall River Weed and Pest Supervisor shall be recognized by the City of Hot Springs.

- B. It shall be the duty of the occupant, person in charge of, or owner of any lot in the City to keep such lot free from noxious vegetation and to cut such noxious vegetation at such times as may be necessary to prevent its growth.

18-A.02.02. Remedy, Cost Recovery.

If the occupant, person in charge of, or owner of any lot within the City shall fail or neglect to destroy any noxious weeds, the City may issue Notice to property owners requiring all noxious weeds and vegetation to be destroyed. Such notice may be given by certified mail/return receipt requested, personal service, or publication once a week for two (2) consecutive weeks in the official newspaper of the City of Hot Springs. Should the occupant, person in charge of, or owner of any lot within the City fail to cause such weeds to be destroyed within ten (10) days of the date of the notice, or two (2) days after the last publication, the City may cause the same to be done. The expense thereof shall be certified to the Finance Officer and the same shall be charged to the property owner. If the bill is not paid within thirty (30) days of the date of the billing, all costs and fees shall be levied as a special assessment against the property upon which such weeds were destroyed and when collected shall be deposited into the general fund of the City of Hot Springs or, in the alternative, satisfaction may be sought by the use of a collection agency.

18-A.03. Vacant Structure Registration Requirement. (Updated Ordinance 1169, 12/13/16)

18-A.03.01. Purpose.

The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values, preserving the Historic District, and preserving the integrity of neighborhoods by avoiding the creation of nuisances and nuisance properties, thus ensuring the safe and sanitary maintenance of dwellings, commercial and industrial buildings and the properties on which they exist.

The Registry will provide up to date emergency contact information for every vacant structure, building conditions, usage and locations for use by first responders and the building inspector to maintain an open line of communication between the city and the property owners.

18-A.03.02. Scope.

The provisions of this ordinance shall apply to all structures within the city.

18-A.03.03. Definitions.

1. **Evidence of Occupancy** - Conditions visible from the exterior of the structure that would lead a reasonable person to conclude that the property is currently occupied by the owners or tenants.

2. **Evidence of Vacancy** - Conditions visible from the exterior of the structure that would lead a reasonable person to conclude that the property is not currently occupied by the owners or tenants. Such conditions shall include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers, phone books, and/or mail; past due utility notices; accumulation of trash, junk and /or debris; the absence of basic household furnishings and/or personal items consistent with occupied structures; statements and observations by neighbors, utility personnel, delivery agents, or other government employees that the property is vacant; failure to comply with the City's snow removal requirements, or evidence of the property being an attractive nuisance or harborage for rodents, pests, or

vermin. Disconnected or discontinued public utilities shall be considered undisputable evidence of vacancy.

3. **General Commercial Zone of the Historic District** - shall mean that portion of the Historic District that is within the General Commercial (GC) Zone.
4. **Neighborhood Standard** - Conditions that are present on a simple majority of properties within a 500 foot radius of the subject property which indicate a standard that properties should be maintained to in order to preserve neighborhood property values. Vacant and/or nuisance properties shall not be considered in the simple majority calculation.
5. **Nuisance Property** - An occupied or unoccupied property that is in violation of one or more nuisance ordinances of the City of Hot Springs.
6. **Owner** - Any person, trustee, power-of-attorney, partnership, co-partnership, business, association, corporation, fiduciary, or any other imaginable entity having a legal or equitable title or claim, or any interest in, the piece of property immediately in question.
7. **Rental Property** - One and two-family dwellings for lease, lent, or rent, to include residences inhabited by non-owner family members. Triplexes, four-plexes and apartment complexes shall be considered commercial rental properties.
8. **Responsible Party** - A person, trustee, power of attorney, partnership, co-partnership, business, association, corporation, fiduciary, or any other imaginable entity, other than the owner, that has taken responsibility for the piece of property immediately in question.

9. **Unoccupied Structure** - A structure left for a period of time unoccupied but fully furnished with intent to reoccupy. Water may be disconnected but utilities such as electric are still intact and functioning – even if at a lower level.
10. **Vacant Structure** - A vacant structure is defined as a building or structure that is not currently occupied and shows ‘Evidence of Vacancy’ as defined herein. Not an unoccupied structure.
11. **Vacant Structure-For Sale By Real Estate Company** - A vacant structure that shows Evidence of Vacancy as defined herein and is listed by a real estate broker or company or auction company. An owner’s agent may register that structure as the Responsible Party.
12. **Vacant Structure-For Sale By Owner** - A vacant structure that is for sale by the “owner” as defined herein.

18-A.03.04. Registry of Vacant Structures.

- A. There is hereby created in the City of Hot Springs a Registry of Vacant Structures.
- B. Owners of real property are required to register all vacant structures-within thirty (30) days of the vacancy, except where the structure in question is being repaired or remodeled and a valid building permit has been issued for that project. This excludes rental properties in between rentals and does not meet the definition of Evidence of Vacancy as defined herein.
- C. Structures that are vacant at the time of the enactment of this ordinance must register within 30 days after notification of the enactment of this ordinance.

- D. A real estate company that has a vacant structure listed for sale may, as the owner's agent, register that property for their client within 90 days of signing a sales contract. Upon notification by the City that an owner has failed to register a vacant structure that is listed with a real estate company, the listing real estate company may register that property with the property owner's current contact information. Registration fees and subsequent fines shall be the responsibility of the property owner. (See 18-A.03.03.11)
- E. Owners who are required to register their properties pursuant to this ordinance shall submit a completed Vacant Structure Registration Form provided by the City of Hot Springs containing at minimum the following information:
1. The name of the owner of the property.
 2. A mailing address where mail may be sent that will be acknowledged as received by the owner.
 3. The name of a Responsible Party for the care and control of the property.
 4. A current address, phone number, fax, and email address (if fax and email addresses are available) where communications may be sent that will be acknowledged as received by the owner or Responsible Party for the care and control of the property. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the Responsible Party has failed to comply with this requirement.
 5. The Vacant Structure Registration Form shall also contain, directly above the signature lines, a Statement of Acknowledgement and Acceptance of the City's property maintenance requirements. The Statement of Acknowledgement and Acceptance shall serve as notice for any abatement actions the City may deem necessary to

take against said property, and that the costs of abatement shall be billed to that property owner. Upon the owner’s failure to satisfy that bill within thirty (30) days, the costs of abatements shall be considered an outstanding bill and will be required to be satisfied prior to any city services being activated or transferred regarding that property.

18-A.03.05. Registration, Requirements.

- A. Annual registrations are due by September 30 of each year or within 30 days of the structure becoming vacant.

- B. Where the owner of a vacant structure has failed to register that property by the September 30th deadline a registration fee shall be administered by using the following scale:

	Residential Property	Commercial Property
Up to September 30	\$0	\$0
Between 10/1 - 10/31	\$275	\$550
Between 11/1 - 11/31	\$300	\$600
Between 12/1 – 12/31	\$325	\$650

Any fees not paid by December 31st shall be applied as an assessment on the property in question.

- C. If at any time the information contained in the registration form is no longer valid, the property owner or their agent shall file a new registration form containing current information within thirty (30) days. There shall be no fee to update the current owner’s information.

18-A.03.06. Property Maintenance and Security Requirements.

- A. Properties on which a registered vacant structure exists shall be maintained to be consistent with the neighborhood standard.

- B. Properties subject to this ordinance shall be kept free of tall vegetation more than eight (8) inches high, vegetation growth between sidewalk and/or driveway flags or from cracks in the pavement, dry brush, dead vegetation, trash, junk, debris, building materials, rodent harborage, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), discarded items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any illegal outside storage of vehicles or vehicle parts.
- C. Properties subject to this ordinance shall be landscaped and properly maintained. Landscaping includes, but is not limited to; grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark shall be maintained in an appropriate manner. Landscaping does *not* include bare soils or dirt, weeds, unclean gravel, broken concrete, asphalt, decomposed materials, exposed plastic sheeting, carpet, or any similar material.
- D. Pools, spas, and other water features shall be kept in working order or winterized to ensure that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris to prevent the breeding of air borne pests.
- E. Properties subject to this ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s).
- F. Commercial buildings and all buildings within the General Commercial Zone of the Historic District which exhibit evidence of vacancy shall be maintained as to give the appearance of 'Evidence of Occupancy', to include:

1. Maintaining the exterior of the property in good order including cleaned windows, a lit interior at night (1fc) with the view into the first floor to be easily viewed by Police to maintain security on the premises, and façade materials maintained in a good state of repair including no peeling paint, missing mortar, rusted metal etc. The lighting requirement can be met by using battery operated string lighting.
2. All first floor windows installed with clean solid glass and all upper story windows shall have glass, secure-vue, plexi-glass or black painted ½" plywood (not particle board) installed and secured within each window opening.

Exception: Commercial buildings undergoing alterations, renovations, repair or construction in accordance with a building permit legally issued to that property and actively being executed shall not be considered a vacant structure.

- G. Sidewalks shall be maintained free of snow and ice or other hazardous conditions, to include overhanging tree branches or brush encroachments into the walkway, volunteer vegetation, broken concrete, sunken concrete, dirt or debris.
- H. Except as expressly provided for herein, properties that are subject to this ordinance shall comply with the minimum exterior provisions of the most recent *International Property Maintenance Code* adopted by the City of Hot Springs.

18-A.03.07. Inspection Fees and Administrative Fees.

- A. For each Notice of Violation of any provision of this ordinance, the Code Official is hereby authorized to charge an inspection fee of fifty dollars

(\$50.00) to be assessed against the property/owner to offset the costs incurred by the City in responding to telephone calls, complaints, inquiries, site visits, owner contacts, and the monitoring of the site.

- B. Structures that are subject to this ordinance that are found open, are open or exposed to the elements, unsecured or found to be easily accessible shall be subject to entry by the Code Official in order to ensure that the property has not become an attractive nuisance and to ensure that the structure is locked and/or secured. The owner of property shall be charged a fee of fifty dollars (\$50.00) to offset the cost incurred by the City in contacting the owner or responsible party to secure the property. If the owner and/or responsible party cannot be contacted by means provided on the registration form, or does not secure the property within forty eight (48) hours of notification, the Code Official shall cause the deficiency to be corrected, the owner shall be responsible for the cost incurred by the City in securing the property.
- C. Inspection Fees, Administrative Fees, and Securing Fees, shall be documented in the Registry of Vacant Structures, and billed to that property owner as deemed necessary by the City.

18-A.03.08. Fire Damaged Property & Properties Going Through Probate

- A. Where a building or structure has been damaged by fire or is part of a Probate estate settlement, the vacant property shall be registered with the City but shall not be required to pay the required fee. All contact information shall be supplied on the Registration Form as if it were a typical registration. The City must be notified within 30-days of the settlement with the plans for the renovation, sale or reuse of the structure.

18-A.03.09. Unpaid Fees; Assessment.

- A. Upon the owner's failure to pay a bill within thirty (30) days, the costs of abatements shall be assessed against the property as a lien and included on the tax roll or, in addition to all other remedies allowed by law, the unpaid bill shall be considered an outstanding debt and shall be satisfied prior to city utilities being turned on to the property.

18-A.04. Vacant Lots and Acreages within the City.

18-A.04.01. Purpose.

The purpose of this Section is to provide for the aesthetics of the City and the safety of the public through fire protection by establishing minimum requirements for the mowing and trimming of vacant acreages, to create fire breaks of minimal vegetative growth between properties, and to establish maximum allowable height of fire fuels within those established fire breaks.

18-A.04.02. Definitions.

For the purpose of this Section the following definitions shall apply:

- A. "Vacant" shall mean a lot, parcel, tract or acreage that does not have any improvements placed on it.
- B. "City Lot" A piece or parcel of property within the city consisting of not more than 25,600 square feet of land.
- C. "City Acreage" A lot, parcel, tract or acreage, or other contiguously owned land, within the city consisting of more than 25,600 square feet of land.
- D. "Set-back Distances" The required open spaces as provided in the Zoning Ordinance. The distances that structures and improvements must maintain from property lines.

18-A.04.03. Property Maintenance of Vacant Lands. (Updated Ordinance 1145 08/12/14)

- A. All vacant lands within the City shall be maintained in accordance with the City's nuisance ordinance and the International Property Maintenance Code except as provided herein.
- B. Vacant city acreages shall be maintained free of weeds, grass, plants or other vegetation in excess of twelve inches (12") within the required set-back distances of the district in which it is located.
- C. Inside the boundary established by the set-back lines of the district, weeds, grass, plants or other vegetation shall not exceed a height of thirty inches (30").
- D. The requirements of this Section do not apply to live trees, live shrubbery or cultivated flowers and garden crops.
- E. Exception: Where, in the opinion of the Code Official or the inspecting official, conditions exist (topography, accessibility, etc.) which would make it unreasonable or unnecessary to meet the standards of this ordinance, the minimum standards may be adjusted provided that the spirit and intent of the ordinance is maintained.

END OF CHAPTER