ORDINANCE NO. 2015-08

AN ORDINANCE REPEALING CHAPTER 8.04 ABANDONED, INOPERABLE, OR UNLICENSED VEHICLES TO THE ATKINS MUNICIPAL CODE; REPEALING CHAPTER 5.04 TRASH TO THE ATKINS MUNICIPAL CODE; AN ORDINANCE DECLARING CERTAIN UNSIGHTLY OR UNSANITARY CONDITIONS ON REAL PROPERTY TO CONSTITUTE A MISDEMEANOR AND PROVIDING FOR THE PENALTY THEREFORE AND FOR OTHER PURPOSES

WHEREAS, certain unsightly or unsanitary conditions on real property exist in the city of Atkins, and

WHEREAS, many of these conditions in the city of Atkins have been dealt with repeatedly by the City Council to no avail, and

WHEREAS, the existing city ordinances pertaining to unsightly or unsanitary conditions on real property may be inadequate,

Now therefore be it ordained by the city council of the City of Atkins as follows:

SECTION 1: Chapter 5.04 Trash of the Atkins Municipal Code is hereby repealed.

SECTION 2: Chapter 8.04 Abandoned, Inoperable or Unlicensed Vehicles of the Atkins Municipal Code is hereby repealed.

SECTION 3: Unsightly or Unsanitary Conditions on Real Property It shall be unlawful and declared to be a misdemeanor for any person(s), owner(s), agent(s), or occupant(s) of any real property in the city of Atkins, Arkansas to permit any of the following conditions to exist in the city of Atkins:

A. Grass, weeds, or any other plant that is not cultivated growing to a greater height than 1 foot (12 inches) on an average of an individual lot, tract or parcel of land.

B. Rubbish, brush, trash, dead trees, building materials or unsanitary matter of whatever nature accumulating upon any lot, tract or parcel of land.

C. The storage of junk and/or abandoned or inoperable motor vehicles for a period in excess of seven (7) days.

D. The open storage of appliances or furniture for a period in excess of seven (7) days.

E. The use of any stream or drainage way for the purpose of throwing or placing of stumps, brush, litter, rubbish, or any other liquid or solid material within or along the banks of any stream or natural drainage way.

F. The accumulation of stagnant pools of water, or the open storage of any form of vessel that might accumulate water in which mosquitos or any other insects may breed.

G. The dumping of any solid or liquid household, commercial, industrial, construction, or demolition waste including but not limited to: garbage, trash, furniture, tin cans, bottles, building materials, building rubbish, refuse or lumber, whether dumped, thrown, burned, spilled or abandoned.

H. Trash Bins:
Trash Bins may not be placed out for pick-up earlier than one day before the appointed trash pick-up date, nor be left out more than one day after the trash pick-up date.
Trash Bins when not placed out for pick-up must be stored at the side or rear of the occupant's structure, or be placed inside a garage or similar accessory structure.

SECTION 4: Definitions The following words or phrases shall have the meaning as defined for the purpose of this Ordinance:

(a) *Abandoned* means property to which no person claims or exercises the rights of ownership.
(b) *Appliances* means, but not limited to, refrigerators, deep freezes, stoves, ovens, air conditioners, washers, dryers, trash compactors, dishwashers, televisions, radios, hot water heaters and plumbing fixtures.
(c) *Building materials* means, but is not limited to, items such as boards, bricks, cement, nails, pipe, sheet metal, siding, tar paper, shingles, and windows which have been removed from a structure or may be readily incorporated into another structure. Building materials applies only to those which lie in public view and with respect to which its owner has no immediate plans for its use.
(d) *Building Rubbish* means any post-construction solid waste which, because of its quantity, quality or condition, cannot be readily and immediately put to a beneficial use.

(e) *Garbage* means all decayable waste, including but not limited to, all solid or semisolid kitchen refuse subject to decay, tin cans, bottles, paper, cardboard boxes and all waste of animal or vegetable matter which was intended to be used as food.

(f) *Grass* means any type of grass or weed, but not including ornamental, landscaping, agricultural, or crop vegetation. Vegetation for hay is excluded as a weed when grown on property zoned agricultural.

(g) *Inoperable* means an item which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose. Inoperable, when applied to a motor vehicle refers to any motor vehicle which is dismantled, damaged or is unable to start or move under its own power. A vehicle shall be presumed to be inoperable when any one (1) of the following conditions are present:

(1) It has not been moved for more than three days.
(2) One or more tires are flat.
(3) One or more wheels are missing.
(4) The hood or trunk is raised or missing and has appeared to remain so for more than three (3) days.
(5) Weeds or grass have grown up around the vehicle.
(6) The engine is missing.
(7) The vehicle has no current vehicle tags or registration.
(8) The door or doors, fender or fenders are removed or missing.
(9) The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.

(h) *Junk* means all worn out, useless, worthless, discarded, or scrap material, including, but not limited to, odds and ends, old metal, scrap lumber, building debris or old building materials, used tires, vehicle parts, and other items no longer used in the manner in which they were intended, including, but not limited to, upholstered furniture, working and non-working appliances, and machinery and parts thereof.

(i) *Motor Vehicle* means every device capable of being driven upon a public highway and in, upon or by which any person or property is or may be transported or driven upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(j) *Nuisance* means garbage, rubbish, trash, litter, grass or weeds above the height regulated by this Ordinance or anything which is injurious to the health or morals of any person or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.

(k) *Occupant* means the person or persons residing at a residence or occupying a structure on the property and exerting dominion and control over the property and premises.

(l) *Owner* means a person having title to property.

(m) *Person* shall include a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(n) *Property* means any lot, tract, parcel of land or portion thereof, within the corporate limits of the City of Atkins, Arkansas.

(o) *Rubbish* means garbage such as, but not limited to, coffee grounds, paper bags, boxes, glass, metal scrap, feathers, furniture, dead animals, rocks, yard cleaning materials, trash, refuse, or any other worn-out, wrecked or dismantled machinery, tractors, automobiles, motor vehicles or other similar wastes.

(p) *Unsightly and Unsanitary Articles* means any matter, condition, object, rubbish or junk which is or should be objectionable, unsightly, or unsanitary to a person of ordinary sensitivities.

(q) *Weeds* means vegetation that because of its height is objectionable, unsightly or unsanitary, but excluding ornamental, landscaping, agricultural, or crop vegetation. Vegetation for hay is also excluded as a weed when grown on property zoned agricultural.

(r) *Yard waste* means any refuse other than garbage including discarded flower decorations, cutting of grass and weeds, fallen leaves, fallen branches, fallen trees, cut vines, shrubbery, grass clippings, brush, leaves, tree trimmings.

(s) *Zoned* means real property in the City of Atkins that has been assigned a zoning designation by the City of Atkins under the current City Zoning Codes.

SECTION 5: Violations. Any violation of the provisions of this ordinance may be prosecuted by the issuance of a criminal information, arrest warrant based on an affidavit for warrant of arrest, or by the issuance of a citation by a law enforcement officer.

SECTION 6: Penalty. Violation of this Ordinance is unlawful and is prohibited and hereby expressly declared to be a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000.00) plus court costs. Each day that the violating conduct continues to exist shall be considered to be a separate offense.

SECTION 7: Notice to Owner or Responsible Party. Before the issuance of a criminal information, Arrest Warrant or citation, a member of the Atkins Police Department shall provide notice of the alleged violation to the owner(s) of the property or party(s) in possession.
Such notice shall:

1. Be in writing.
2. Include a statement of the alleged violations.
3. Allow a minimum of seven (7) days for performance of any act or acts required by the property owners or responsible parties to bring the real property within compliance.
4. State that if such alleged violation(s) are not corrected within the stated time as set forth in the notice, that a criminal information, Arrest Warrant or citation will be issued charging the alleged violator(s) with violation(s) of this Ordinance.

SECTION 8: Method of Delivery of Notice of Violation. The alleged person or persons responsible for the violation shall be notified by one or more of the following methods:

1. By delivery to the owner(s), agent(s) or party(s), personally.
2. By sending the notice by certified mail, addressee only, to the proper party or parties.
3. By any other method of service authorized by Arkansas law to perfect service of process, and
4. By posting a copy of the notice in a conspicuous place on the premises for a period of not less than thirty (30) days.

SECTION 9: Emergency Clause. This ordinance being necessary for the public peace, health and safety of the citizens of Atkins, an emergency is declared and this Ordinance shall become effective immediately upon its passage and approval.

PASSED and APPROVED this 11th day of August, 2015.

Jerry D. Barrett

JERRY DON BARRETT, Mayor

Machelle Brown

MACHELLE BROWN, City Clerk

SEAL

FILED
Machelle Brown, City Clerk
City of Atkins
Date: 8/11/15

Ordinance # 2015-08 Date: August 11, 2015

Alderman Bro Price moved Ordinance # 2015-08 be placed on its first reading.

Alderman Raymond Pearce seconded. The vote was:

Pearce	Y	Staggs	Y
Rehm	Y	Spence	Y
Price	Y	Belcher	Y

6 for, 0 against

Alderman Bro Price moved the rules be suspended and Ordinance # 2015-08 be placed on its second reading. Alderman Raymond Staggs seconded. The vote was:

Pearce	Y	Staggs	Y
Rehm	Y	Spence	Y
Price	Y	Belcher	Y

6 for, 0 against

Alderman Bro Price moved the rules be further suspended and Ordinance # 2015-08 be placed on its third and final reading. Alderman Dave Belcher seconded. The vote was:

Pearce	Y	Staggs	Y
Rehm	Y	Spence	Y
Price	Y	Belcher	Y

6 for, 0 against

Alderman Bro Price moved Ordinance # 2015-08 be adopted. Alderman Dave Belcher seconded. The vote was

Pearce	Y	Staggs	Y
Rehm	Y	Spence	Y
Price	Y	Belcher	Y

6 for, 0 against

Ordinance # 2015-08.

Alderman Bro Price moved Ordinance # 2015-08 Emergency Clause be adopted. Alderman Dave Belcher seconded. The vote was:

Pearce	Y	Staggs	Y
Rehm	Y	Spence	Y
Price	Y	Belcher	Y

6 for, 0 against.

Emergency Clause _____.

Jerry Barrett
JERRY BARRETT, MAYOR

Machelle Brown
MACHELLE BROWN, CITY CLERK