ORDINANCE NO. 83-12

AN ORDINANCE AUTHORIZING THE CITY OF ATKINS TO REMOVE OR ELIMINATE UNSIGHTLY OR UNSANITARY CONDITIONS ON REAL ESTATE IN THE CITY OF ATKINS, PROVIDING FOR THE ESTABLISHMENT AND ENFORCEMENT OF A LIEN ON SUCH REAL PROPERTY FOR THE COSTS OF CLEARING AND REMOVING SUCH UNSIGHTLY OR UNSANITARY CONDITIONS: AND FOR OTHER PURPOSES.

WHEREAS, there presently exists certain unsightly or unsanitary conditions on real property located in the City of Atkins; and,

WHEREAS, these unsightly or unsanitary conditions constitute a serious hazard to the health and safety of the people who live in Atkins; and,

WHEREAS, certain owners of real property located in the City of Atkins have failed or refused to clear or remove unsightly or unsanitary conditions located on their property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATKINS, THAT:

SECTION 1. All property owners within the City of Atkins, Arkansas, are hereby required to cut weeds, grass, remove garbage, rubbish and other unsanitary and unsightly articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary things, place, or condition which might become a breeding place for mosquitoes, flies, and germs harmful to the health of the community.

SECTION 2. Any resident of the City of Atkins may petition the City Council to remove, abate or eliminate any unsightly or unsanitary conditions existing on real property located within the corporate boundaries of the City of Atkins by filing a petition specifically describing the unsightly or unsanitary condition existing on said real property, requesting the City to remove, abate or eliminate such condition or conditions.

SECTION 3. After the filing of such a petition, the City Clerk shall present the petition to the City Council for the purpose of granting or denying the petition. Any action taken by

the City Council in regards to such a petition shall require the approval of a majority of the members of the Council.

SECTION 4. Upon the granting of such a petition by the City Council, the Council shall cause a notice in writing to be executed, signed by the Mayor and attested to by the City Clerk, to be served on the landowner upon whose property the unsightly or unsanitary condition exists. The notice shall advise the landowner that an unsightly or unsanitary condition presently exists on certain property, as specifically described in the notice, owned by the owner and located in the City of Atkins, and that the owner has 20 days after the giving of said notice, except or provided in Section 7 of this ordinance, to remove, abate or eliminate the unsightly or unsanitary conditions as specifically described in the notice. Such owner shall further be informed in the notice that upon his failure or refusal to remove, abate or eliminate the conditions as described in the notice, the City of Atkins shall remove, abate or eliminate such conditions and shall charge the owner for the costs of such removal, abatement or elimination. Such costs shall constitute a lien on the owner's property, which lien may be enforced as hereinafter provided.

SECTION 5. If the owner or owners of any lot or other real property within the City of Atkins, after the giving of twenty (20) days' notice in writing, shall refuse or neglect to perform the duties in connection with his or their property as specified in Section 1 hereof, the Chief of Police is hereby authorized to enter upon the property and have said seeds, grass, or other vegetation cut and removed, or eliminate any unsanitary and unsightly thing, place, or condition as specified in the notice, and the cost thereof shall be charged against said premises and shall constitute a lien thereon.

SECTION 6. Service of such notice on the landowner shall be by certified mail, with return receipt requested, or delivered by

a person authorized to serve complaints, summonses, and subpoenaes.

SECTION 7. In the event that the whereabouts of the owner of such property is not known or such owner is a nonresident of this State, then a copy of the written notice hereinabove referred to, shall be posted upon the premises and before any action is taken by the City to remove, abate or eliminate the unsightly or unsanitary conditions determined by the City Council to exist on the owner's real property, or before any action to enforce such lien as described in this ordinance shall be had, the City Clerk shall make an affidavit setting out the facts as to the address or whereabouts of such owner, and thereupon the notice as referred to in this ordinance, or warning order shall be published in a newspaper of general circulation in the area where the owner's property is located, as provided for by law against nonresident defendants, and an Attorney Ad Litem shall be appointed by the Mayor in regards to the notice, or by the Chancery Clerk in regards to the warning order, to notify the landowner or defendant by certified letter addressed to his last known place of residence, if same can be found. In either event, notice given pursuant to this Section shall be for 30 days.

SECTION 8. The lien herein provided for may be enforced and collected in either one of the following manners:

(a) The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in the Chancery Court; or,

(b) The amount of the lien herein provided may be determined at a hearing before the governing body of the municipality held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a

bona fide circulation in the county wherein the said property is located for one (1) insertion per week for four (4) consecutive weeks; the determination of said governing body being subject to appeal by the property owner in the Chancery Court; and the amount so determined at said hearing, plus ten percentum (10%) penalty for collection, shall be by the governing body of the municipality certified to the tax collector of the county wherein said municipality is located, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percentum (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.

SECTION 8. This ordinance being necessary for the preservation of the health and safety of the residents of Atkins, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon and after its passage and approval, this 13TH day of December, 1983.

Dallas L. Swain
DALLAS L. SWAIN, MAYOR

ATTEST:

Syble Marple
SYBLE MARPLE, CITY CLERK