Ordinance Number 1 of 2005

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BAUXITE, 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 housing, building and/or structure within the corporate limits of the City of Bauxite, 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 removal thereof as herein provided.

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 mortgagees(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.

(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 for by law against unknown and/or nonresident defendant(s) may be had and an attorney ad litem shall be appointed to notify such persons by registered letter address 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: 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 lienholders(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 known 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. If the house, building and/or structure constituting a nuisance has not been torn down and removed, or said nuisance otherwise abated, within thirty (30) days after posting 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 Code Enforcement Officer or his duly designated representative.

SECTION 7. The Code Enforcement Officer 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 insure 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 material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City, to insure its removal and the abatement of the nuisance.

SECTION 8. 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 or persons 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 incident 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 9. If the City has any net costs in removal of any house, building or structure, the City shall have a lien on the property as provided by A.C.A. 14-54-904. The lien may be enforced 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 Circuit 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 (3) 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 an 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 Circuit 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 10. A fine of not less than two hundred fifty ($250) nor more than five hundred dollars ($500) 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 separate and distinct offense punishable by a fine of two hundred fifty dollars ($250) for each said separate and distinct offense; provided the notice 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 11. In the event it is deemed advisable by the 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 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 for by laws in such cases in a court of equity or 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 of one hundred ($100) 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 separate and distinct offense punishable by a fine of one hundred dollars ($100) for each separate and distinct offense. In the event the owner(s) of any such house, building and/or structure judicially found to be a nuisance fails or refuses to abide by the orders of the Court, the Code Enforcement Officer or other persons authorized by the City, will take such action as provided in Section 7 thereof, and Section 8 of this ordinance will be applicable to such owner(s). The provisions contained in the immediately preceding sentence apply independently of any action as may be taken by the Court judicially declaring the nuisance.

SECTION 12. If, for any reason, any portion of this ordinance be held to be invalid, such invalidity shall in no away affect the remaining portions thereof which are valid, but such valid portions shall be and remain in full force and effect.

SECTION 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Date: _____

Signed: _____

Attest: _____