

**ORDINANCE NO. 01-14**

**AN ORDINANCE REPEALING AND REPLACING  
ORDINANCE NO 01-07  
WITH "CLEAN PREMISES" VIOLATIONS AND  
ENFORCEMENT; AND DECLARING AN EMERGENCY**

WHEREAS, the Bergman Town Council has been asked by citizens to establish and enforce updated codes to keep privately owned areas clean and safe; and

WHEREAS, existing Ordinance No. 01-07 needs to be updated and supplemented to accomplish Town beautification and to eliminate health and safety issues; and

THEREFORE, Ordinance No. 01-07 is hereby repealed and replaced as follows:

**CLEAN PREMISES (CHAPTER 1)**

**Section 1. - Requirements of Owner or Occupant of Property.**

The owner(s) or occupant(s) of property within the Bergman Town limits are hereby required to:

A. Maintain, cut, and remove weeds, grass, and brush, or any other non-cultivated plant(s), which are not used for agricultural purposes, which exceed the height of eight (8) inches.

B. Remove garbage, rubbish, or any other unsanitary or unsightly articles and things including, but not limited to, boards, bricks, sheet metals, construction materials, appliances, and plumbing fixtures. This article applies to items which are in public view and are not being used in immediate construction projects.

C. Eliminate, fill, or remove holes, items containing water, pools, ponds, or any nuisance that might attract children or vagrant persons, or might become a breeding place for flies, mosquitoes, rats, pests, germs, or vermin, or anything unsafe or harmful to

persons.

D. Remove any items, whether valuable or junk, that might collect to interfere with the flow of drainage water in ditches, drains, or culverts.

**Section 2. - Clean Premises Enforcement.**

Violators of the above "clean premises" codes will be given written notice that they have fourteen (14) calendar days to correct the violation. Notice may be by personal delivery, by certified mail to the last known address, or by posting the "Notice" on the premises. If the condition is not corrected in the fourteen (14) days, the Town is authorized to enter the violating premises to perform the required work, or the Town may pay a private contractor to perform mowing or clean-up or other work to remediate the violation. The owner may also be charged and cited into Boone County District Court. The cost of labor, equipment, and supplies incurred by the Town may be claimed by the Town as restitution, together with fines and costs as may be levied by the District Court Judge. In cases where the violator does not respond, one notice attempt shall be sufficient for repeat mowing when required.

**Section 3. - Procedure Where Owner's Whereabouts is Unknown or is a Non-Resident.**

In the event the owner has not been located, the Town may file a lien against the premises for the cost of the clean-up, as authorized by Arkansas Code Section 18-44-101 which lien may be enforced against the real estate within eighteen (18) months by filing suit in Boone County District or Circuit Court.

**Section 4. - Fines and Costs.**

A person convicted of a violation of this chapter for a first offense shall be guilty

of an unclassified misdemeanor and shall be fined up to one thousand dollars (\$1,000). For premises violations that are not corrected the fines may apply and be calculated for each day the violation continues. Also, any costs incurred by the Town, for the violation may be added as restitution.

## **CLEAN PREMISES (CHAPTER 2)**

### **Section 1. - Damaged and Unsafe Structures.**

The owners of fire damaged, dilapidated, or casualty damaged properties in such condition that renders the structure(s) or premises unsafe, unsightly, or unsanitary are required to repair or eliminate the condition. The owner of the property shall be given written notice of the violation by a designated town official, and shall have thirty (30) days in which to eliminate the violation or, if additional time is needed and requested, to present a written plan of timely abatement acceptable to town officials. If the correction or abatement is not satisfactory to the enforcement official(s), a nuisance may be declared by Resolution of the Town Council. A structure found to be a nuisance may be condemned by Resolution of the Town Council.

### **Section 2. - "Nuisance" and Condemnation of Buildings.**

A. 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 Town of Bergman, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the Town Council.

B. That any such house, building and/or structure which is found and declared to be a nuisance by Resolution of the Town Council may be condemned to

insure the removal thereof as herein provided.

C. That the Resolution of the Town 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 or names, if known, of the owner or owners thereof; and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance.

D. After a house, building and/or structure has been found and declared to be a nuisance and condemned by Resolution a true or certified copy of said Resolution will be mailed to the owner or owners thereof; provided that, if the owner or owners 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 on the premises as hereinabove provided will suffice as notice.

E. 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 notice is given or posted, the same may be torn down and/or removed by the Town. Arkansas Code Sections 14-54-902, 903, and 904 are hereby adopted as if set out herein word for word. The owner of such premises not torn down or removed as required shall be guilty of an unclassified misdemeanor.

F. The persons designated by the Mayor 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

after ten (10) days notice thereof being first given by one publication in some newspaper having a general circulation in the Town.

G. All of the proceeds of the sale of any such house, building, and/or structure or the proceeds of the sale of saleable materials therefrom shall be paid to the Town Treasurer. If any such house building and/or structure or the saleable materials there from 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 Town, plus any fine or fines imposed, the balance thereof will be returned by the Town Treasurer to the former owner or owners of such house, building and/or structure constituting the nuisance.

H. If the Town has any net costs in removal of any house, building or structure, the Town shall have a lien upon the property as provided by Section 1 of Act 8 of 1983. The lien may be enforced at any time within 18 months after the work has been done by an action in the District or Circuit Court.

**Section 3. - Fines and Costs.**

A person convicted of a violation of this chapter for a first offense shall be guilty of an unclassified misdemeanor and shall be fined up to one thousand dollars (\$1,000). For premises violations that are not corrected the fines may apply and be calculated for each day the violation continues. Also, any costs incurred by the Town for the violation may be added as restitution.

**CLEAN PREMISES (CHAPTER 3)**

**Section 1. - Inoperable or Parked Motor Driven Vehicles and Equipment.**

The owner(s) or occupant(s) of property within the Town limits are hereby required to remove any motor vehicle, trailer, or equipment that is unused, inoperable,

and has been parked fourteen (14) days without use. The vehicle or equipment shall be presumed to be inoperative when any of the following conditions exist:

- A. One or more tires are flat.
- B. One or more wheels are missing.
- C. Weeds or grass have grown around the vehicle or equipment.
- D. The vehicle has no current registration.
- E. Any other factor that is indicative of non-use.

NOTE: This section does not apply to a vehicle or equipment stored behind privacy fences taking it out of view from the public street and neighboring property, or in closed garages or outbuildings, but does apply to a vehicle or equipment in a driveway, yard or open carport. This section does not apply to automotive or equipment businesses operating in commercial or industrial zones.

**Section 2. - Enforcement.**

Violators of this section shall be given written notice that they have thirty (30) calendar days to remove the vehicle or equipment, or to submit a written plan acceptable to the Town Council to remediate the violation. Notice may be by personal delivery or by certified mail. If the condition is not corrected or an acceptable plan submitted within the thirty (30) days, the Town is authorized and directed to remove the violating vehicle or equipment. Alternatively, the Town may engage and authorize a licensed towing/handling entity to remove the vehicle, all at the expense of the violator. The owner may also be charged and cited into Boone County District Court.

**Section 3. - Fines and Costs.**

A person convicted of a violation of this code section shall be guilty of an

unclassified misdemeanor and shall be fined up to one thousand dollars (\$1,000). For violations that are not corrected the fines may apply and be calculated for each day the violation continues. Also, any reasonable costs to remove the vehicle or equipment may be added to the court costs as restitution.

#### **CLEAN PREMISES (CHAPTER 4)**

##### **Section 1. - Abandoned Vehicles and Equipment.**

Any vehicle or equipment parked on the town street of the Town of Bergman for a period of more than twenty-four (24) hours shall be considered to be abandoned and dealt with as hereafter set out. This provision shall not apply to vehicles parked in the street in front of a residence by the resident thereof or his guests.

##### **Section 2. - Removal and Storage.**

Any vehicle so parked shall be towed to an appropriate storage place by licensed businesses authorized and directed by the Town to do so. Said vehicle shall remain in storage until such time as claimed by the proper owner. The towing business shall have a lien against said vehicle for the tow and storage charges incurred by reason of said abandonment. For the purpose of identifying the person with whom to charge abandonment, it shall be presumed as a matter of law that the registered title holder of said vehicle is the one who did so abandon.

##### **Section 3. Fines and Costs.**

A person convicted of a violation of this code section shall be guilty of an unclassified misdemeanor and shall be fined up to one thousand dollars (\$1,000). For violations that are not corrected the fines may apply and be calculated for each day the violation continues. Also, any reasonable costs to remove the vehicle or equipment may

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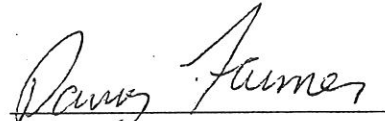
be added to the court costs as restitution.

EMERGENCY CLAUSE: It is determined by the Town Council that the adoption of this Ordinance is immediately necessary to enforce and protect the interests of Bergman citizens, and an emergency is hereby declared and this ordinance shall be in full force and effect from and after passage and publication.

PASSED AND ADOPTED this 5<sup>th</sup> day of August, 2014.

TOWN OF BERGMAN, ARKANSAS

BY:

  
DANNY FARMER, MAYOR

ATTEST:

  
DONIA COOK, CLERK AND RECORDER