TOWN OF BENTONIA, MISSISSIPPI

MUNICIPAL ORDINANCES 2022

**ARTICLE 3 PROPERTY DEEMED A MENACE**

**Section 3.0 Adjudication and Notice Property Requiring Cleaning.**

(A) The Town of Bentonia Mayor and Alderman upon recommendation of the mayor and

building official or upon receipt of a petition signed by a majority of residents residing within

400 feet of any property or parcel of land alleged to be a menace to the public health and

safety, unfit for human occupancy or use, or in need of cleaning may schedule a hearing to

determine whether the property or the parcel of land located within its boundaries are in such

a state of uncleanliness and disrepair as to be a menace to the public health, safety, and

welfare of the community. Notice of the scheduled hearing shall be provided to the property

owner by:

(1) Mailing notice by United States mail 14 days prior to a hearing to the address of the

subject property and also to the address where the ad valorem tax notice is mailed;

(2) Posting the notice on the subject parcel or property at least 14 days prior to the hearing; and,

(3) Posting the notice at Town hall or other place in the Town Of Bentonia where such notices are posted 14 days prior to the hearing.

(B) The notice required by subsection (1) above shall include language that informs the property

owner that an adjudication at the hearing that the property or parcel of land is in need of

cleaning authorizes Town of Bentonia to enter the property or parcel of land for a period of

one year after the hearing without any further hearing if notice is posted on the property or

parcel of land and at Town hall or another place in the Town where such notices are generally

posted at least seven days before the property or parcel of land is reentered for cleaning. A

copy of the required notice mailed and posted as required by subsections (1) of this section shall be recorded in the minutes by the Town clerk along with minutes from the hearing. If at the hearing, the Mayor and Aldermen adjudicates and determines that the property or parcel of land is in a condition that is a menace to the public health, safety, and welfare of the community and requires cleaning, then, the owner may be afforded a period of up to 30 days to clean and remedy the conditions adjudicated and determined to be a menace to the public health, safety, and welfare.

(C) The Mayor and Aldermen may grant the property owner additional time not

exceeding 30 days for good cause shown and provided the property owner has made good

faith and reasonable efforts to remedy the conditions.

(D) If the property owner has not remedied the conditions within the time determined by the

Mayor and Aldermen, then the Town shall proceed to clean the land or property

using municipal or contracted labor and resources. The cleaning authorized includes

cutting grass and weeds, filling cisterns, removing rubbish, abandoned or dilapidated

fences, outside toilets, removal and demolition of abandoned or dilapidated buildings and

structures, draining cesspools and standing water, other debris, and removal of personal

property.

(E) Adherence to the provisions of Miss. Code 1972, § 21-39-21 shall not be required if

personal property is removed from land or parcels of property adjudicated by the Mayor and Aldermen to be in need of cleaning.

(F) The building official shall be responsible for inspecting and investigating conditions upon

parcels or land which are a menace to public health, safety, and welfare and shall make

prompt report and recommendations to the mayor on parcels or land which are a menace to

public health, safety, and welfare.

**Section 3.1 Adjudication and Collection of Costs.**

(A) After land or parcels are cleaned using municipal or contracted labor and resources, the actual cost of cleaning the property shall be adjudicated and spread upon the minutes by resolution of the Mayor and Aldermen together with a penalty of $1,500.00.

(B) The costs and penalties adjudicated in subsection (1) of this section may be collected as

follows:

(1) The Mayor and Alderman may declare by resolution at the time the costs and

penalties are adjudicated and spread upon the minutes that the debt is civil and authorize

the institution of a lawsuit on an open account against the owner in a court of competent

jurisdiction for the cost and penalty, plus court costs, reasonable attorney's fees and

interest at the legal rate from the date that the property was cleaned; or

(2) If the costs and penalties are not declared to be a civil debt at the time of adjudication and spreading upon the municipal minutes, then the same shall become a lien against the

property and shall be included with municipal ad valorem tax bills and collected by the

Yazoo County Tax Collector or person or entity responsible for collecting taxes for the Town of Bentonia, Mississippi. All statutes regulating the collection of taxes shall apply to the enforcement and collection of the costs and penalties assessed and levied for cleaning the property.

(3). All assessments shall become delinquent at the time that municipal ad valorem taxes

become delinquent, and the delinquencies shall be collected in the same manner and

at the same time that delinquent ad valorem taxes are collected and shall bear the

same penalties as those provided for delinquent taxes.

(4). If property is sold for the nonpayment of the assessments, then it shall be sold in the

same manner as property is sold for the nonpayment of delinquent ad valorem taxes.

(5). If property is sold for the nonpayment of delinquent ad valorem taxes, then the costs

of cleaning property and penalties assessed pursuant to this section shall be added to

the delinquent tax and collected at the same time and in the same manner.

(6) The Town clerk shall provide to the tax collector within 30 days a certified copy of the resolutions approved by the Mayor and Aldermen adjudicating costs and

penalties in those instances where a civil debt is not declared.

**Section 3.2 Subsequent Cleaning and Re-Entry.**

(A) The Town of Bentonia may renter property for cleaning subsequent to the initial date of the

hearing provided that the notice above is posted and provided as listed above and that re-entry does not exceed six times within a 12-month period for the removing of dilapidated buildings, fences, and outside toilets. Re-entry may not exceed 12 times within a 24-month period for the cutting of grass, weeds, and removal of rubbish, personal property, and debris.

(B) With the exception of the removal of hazardous substances, the expenses of cleaning property subsequent to initial cleaning using resources of the municipality or upon re-entry may not exceed the aggregate sum of $20,000.00 annually or the fair market value of the property after cleaning, whichever is more. The expense for the removal of hazardous substances shall be

the actual cost to the municipality for removal of the hazardous substances. The penalties

may be assessed each time the property or land is cleaned.

(C) Prior to cleaning property owned by the State of Mississippi, the Town clerk shall send notice to the Mississippi Attorney General postage prepaid via certified mail with return receipt

requested.

(D) Costs associated with cleaning property owned by the State of Mississippi shall be adjudicated and spread upon the minutes in the same manner set forth above; however, no

penalties shall be assessed against the State of Mississippi and nor shall a lien be levied. The

Town clerk shall provide to the secretary of state a certified copy of the resolution approved

adjudicating the costs and request reimbursement.

(E) Persons aggrieved by a decision of the Mayor and Aldermen concerning the cleaning

of property or land deemed to be a menace to public health, safety, and welfare may appeal

same in accordance with the laws of the State of Mississippi. The ordinance from which this

section was derived shall not prevent the Town from enforcing criminal penalties for failure to

maintain property so as to constitute a menace to public health, safety and welfare.

**Section 3.3 Removal of Building Debris.**

(A) Any person engaged in the erection, alteration, enlargement, repairs, removal or demolition of any building or other structure within the Town and upon any lots or lands within the boundary of the Town shall remove from the premises on which said building or structure may be located or may have been located and from the streets, sidewalks and alleys adjacent and contiguous thereto, all debris, building materials, waste materials, trash, bricks, mortar, roofing materials, and other such materials and any debris occasioned by the erection, alteration, enlargement, repairs, removal or demolition of said structure within a period of 20 days after the completion of said work on said premises or within a period of 30 days from the mailing or making of a notice or demand from the Mayor or other authorized official of the Town upon such person to remove the same, whichever period may be shorter.

(B) Upon any failure of such person so to remove said debris or building materials and other

waste materials and debris hereinabove specified within the period so specified, such person

shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided

above for each violation and each day after the expiration of the period of time hereinabove provided for the removal thereof.

(C) The application for and the obtaining of a building permit from the Town by any such person so engaged in the Town, shall constitute an express agreement by such person that by the issuance and acceptance of such permit the terms and provisions of this section will be carried out by such person to whom said permit is issued.

(D) In addition to the penalties hereinabove provided, such person shall be liable to the Town for

the cost of the removal of said materials from said lots, streets, alleys, sidewalks, or premises

as may be occasioned by the Town or the owner of said property in the removal of such

materials therefrom.