

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Littering
- 5.08 Maintenance of Real Property
- 5.12 Solid Waste Collection
- 5.16 Obstruction of Drainage
- 5.20 Street Food Vendors

CHAPTER 5.04

LITTERING

Sections:

- 5.04.01 Littering declared illegal
- 5.04.02 Penalty for violation

5.04.01 Littering declared illegal. It shall be unlawful for any person, firm or corporation to place, dispose of or otherwise permit to be located upon, in, on or about any public street, sidewalk, alley or public thoroughfare or any private or public property adjacent thereto, any litter, refuse or debris. (Ord. No. 721, Sec. 1)

5.04.02 Penalty for violation. Any violation of this ordinance shall be deemed a misdemeanor and upon conviction thereof, the violator shall be fined in a sum not to exceed Twenty-Five Dollars (\$25.00) together with costs. (Ord. No. 721, Sec. 2)

CHAPTER 5.08

MAINTENANCE OF REAL PROPERTY

Sections:

5.08.01	Unightly or unsanitary conditions on real property
5.08.02	Notice required
5.08.03	Enforcement of lien
5.08.04	Notification of unknown real property owner
5.08.05	Owner or occupant responsibility
5.08.06	Penalty

5.08.01 Unightly or unsanitary conditions on real property It shall be unlawful for any person, firm, or corporation, partnership, association of persons, owners, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion hereof, occupied or unoccupied, improved or unimproved within the corporate limits of the city of Batesville, to suffer or permit any of the following conditions:

- A. Grass or weeds that:
 - 1. Exceed eight (8) inches in height in all residential districts; or
 - 2. Exceed eight (8) inches in height on lots in all commercial zone districts and industrial zone districts on which a structure is located; or
 - 3. Exceed twenty-four (24) inches in height on lots in all commercial zone districts and industrial zone districts on which a structure is not located;
 - 4. Except that the restrictions noted above will not apply to areas specifically designated or recognized by the city, the state, or the United States as agricultural, wetlands, open spaces, natural areas or wild flower areas.

- B. The open storage of iceboxes, refrigerators, or any other appliances for a period not to exceed thirty (30) days, and during storage period, all doors, latches, and locks are to be removed or made inoperative in a manner to insure the safety of all citizens, unless it is in connection with an appliance sales or repair business enterprise which operates under a duly issued and exhibited privilege license and is located in a properly zoned area.

- C. The use of any stream or drainage way for the purpose of throwing or placing of stumps, brush, liter, rubbish, or any other liquid or solid material within or along the banks of any such stream or natural drainage way, unless required permits have been obtained.
- D. The accumulation of stagnant pools of water, or allow any form of vessel that might accumulate water in which mosquitoes or other insects may breed.
- E. The property to be used for illegal dumping of any solid or liquid, household, commercial, industrial, construction, or demolition waste, including but not limited to: garbage, trash, tin cans, bottles, rubbish, refuse, lumber, whether dumped, thrown, burned, spilled, or abandoned unless required permits have been obtained. (Ord. No. 04-7-3, Sec. 1.)

5.08.02 Notice required Whenever the Mayor or his duly authorized agent or representative, determines that there are reasonable grounds to believe that there has been a violation of any provisions of this code, he shall give notice of such alleged violation to the person responsible therefore, that such alleged violation shall constitute a nuisance. Such notice shall:

- A. Be put in writing
- B. Include a statement of the reasons why it is being issued, and the sections of the ordinance that are alleged to be in violation.
- C. Allow a maximum of ten (10) days for performance of any act it requires.
- D. Further state, that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the Mayor or his duly authorized agent or representative, shall institute legal proceedings, charging the person or persons, firm, corporation, or agent with a violation of this ordinance.

The person responsible for the violation shall be notified by one or more of the following methods:

- A. By delivery to the owner, agent or responsible party, personally.
- B. By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and discretion; or
- C. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at his last known address by certified mail, postage prepaid thereon; or

- D. By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice in a conspicuous place on the premises, alleged to be in violation. . (Ord. No. 04-7-3, Sec. 2.)

5.08.03 Enforcement of lien 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 with 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 City Council of the city of Batesville, Arkansas, 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 after publication of notice of such hearing in a newspaper having a bona fide circulation in Independence County, Arkansas, for one (1) insertion per week for four (4) consecutive weeks and the amount so determined at said hearing, plus ten percent (10%) penalty for collection, shall be certified by the City Council to the Independence County Tax Collector, and by him placed on the tax books as delinquent taxes, and collected accordingly and the amount, less three percent (3%) thereof, when so collected shall be paid to the city of Batesville. (Ord. No. 93-11-2, Sec. 4)

5.08.04 Notification of unknown real property owner In case the owner of any lot or other real property is unknown or his whereabouts is not known or 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 to enforce such lien shall be had, the City Clerk or Recorder shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents and thereupon service of publication as now provided for by law against nonresident defendant may be had and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found. (Ord. No. 93-11-2, Sec. 3)

5.08.05 Owner or occupant responsibility All persons, firms or corporations owning or occupying any lot, yard or other real property within the city of Batesville, Arkansas, shall keep said lot, yard or other real property clear of grownup weeds, rubbish, fallen trees, accumulated piles or scattered items of trash, brush or garbage or other unsightly or unsanitary articles or things. (Ord. No. 967, Sec. 1)

All persons, firms or corporations owning any lot, yard or other real property shall see that any stagnant pools of water or other unsanitary things, place or condition which might become a breeding place for mosquitoes, flies or germs harmful to the community, are eliminated, filled up or otherwise removed. (Ord. No. 967, Sec. 2)

5.08.06 Penalty Any person, firm, corporation partnership, association of persons, owner, occupant, agent, or anyone having supervision or control, who shall violate a provision of this code, or fail to comply therewith, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof, during which any violation of the provisions of this code is committed or continued. Upon conviction of any such violation, such person shall be punished by a fine, not to exceed Three Hundred Dollars (\$300.00) for the first offense and not more than Two Hundred Dollars (\$200.00) for each day of offenses of a continuing nature.

Violation of the provisions of this ordinance may be prosecuted by the issuance of a criminal warrant or by the issuance of a citation by a law enforcement officer as required by law. (Ord. No. 04-7-3, Sec. 3.)

CHAPTER 5.12**SOLID WASTE COLLECTION****Sections:**

- 5.12.01 Provide for the collection of garbage, waste, trash, tin cans and refuse
- 5.12.02 Garbage disposal tax
- 5.12.03 Number of collections a week of garbage waste, etc.
- 5.12.04 Requirements for residential waste storage
- 5.12.05 Requirements that garbage containers be covered
- 5.12.06 Exceptions to the requirement that garbage remain covered
- 5.12.07 Penalty for violation of Section 5.12.05
- 5.12.08 Unlawful to burn trash in incinerator unless approved
- 5.12.09 Penalty for delinquent fees
- 5.12.10 Purchase of equipment with surplus funds
- 5.12.11 Right to employ inspector and his duties
- 5.12.12 Deposit required
- 5.12.13 Deposit refund

5.12.01 Provide for the collection of garbage, waste, trash, tin cans and refuse. All garbage, waste, trash, tin cans and refuse in the city shall be collected regularly by the employees of said city and no other person, firm or corporation shall be allowed to collect said garbage, waste, trash, tin cans and refuse except employees of the city. Provided that this ordinance does not preclude a person, firm or corporation from properly disposing of its own garbage, waste, trash, tin cans and refuse at some location outside the city limits provided further that it shall not be a defense in a lawsuit brought by the city to collect the garbage disposal tax provided for in Section 5.12.02 of this Code that the defendant has disposed of his own garbage, waste, trash, tin cans and refuse. Provided further, that this ordinance does not preclude a person, firm or other business entity from recycling waste products or from selling or giving waste products to an approved recycler. Any recycling done by an individual firm or business entity must be done in conformity with the laws of the city of Batesville, Arkansas, the laws of the State of Arkansas and the rules of the Environmental Protection Agency and the Arkansas Department of Pollution Control and Ecology. An approved recycler is a business, individual or other entity that recycles waste and is approved or permitted to carry on such business activity by the Arkansas Department of Pollution Control and Ecology. (Ord. No. 90-10-1, Sec. 1)

5.12.02 Garbage disposal tax A garbage disposal tax is hereby established and is to be collected by the city. Said tax is to be paid by the residents, occupants and businesses of each parcel of land that has a structure on it and has an active water meter which is located inside city limits of the city of Batesville. The amount of tax to be levied on a particular residence or business will be determined by resolution adopted by the City Council. (Ord. No. 2007-05-02, Sec. 1.)

5.12.03 Number of collections a week of garbage, waste, etc Said garbage, waste, trash, tin cans and refuse shall be collected from residences at least weekly. Same shall be collected from businesses and/or commercial houses as needed provided, however, it is provided that this ordinance does not in any way obligate the city to clean or pick up refuse or debris resulting from construction or repair of building nor wood or limbs resulting from removal or trimming of trees on private property. (Ord. No. 90-10-1, Sec. 3)

5.12.04 Requirements for residential waste storage The occupants of every dwelling unit and every business building (if said business building has or accumulates garbage), shall provide metallic, plywood or plastic containers with tight fitting covers for the holding of garbage and waste if the waste is stored out of doors. All garbage must be drained of liquid substance before it is placed in a garbage container. Receptacles for the keeping of waste, trash, tin cans and refuse may be constructed of wood with sufficient coverage on same to prevent blowing or scattering of waste materials. Containers may not be placed in the front yard except at the times provided herein below. A front yard is that area of a lot as defined in this code in the Batesville Zoning Code. All occupants shall place garbage and waste adjacent to the street (at curb side) on the day of the week designated by the City Sanitation Department for the collection of waste for that particular structure. Provided however, that for the convenience of the occupants, the garbage or waste may be placed at curb side after 12:00 (Noon) on the day prior to collection for that structure. For all garbage and waste to be collected, it shall be in disposable containers when placed at curb side for collection. Said containers should be secure enough that the garbage and waste contained therein remains contained therein during the collection process. (Ord. No. 90-10-1, Sec. 4)

5.12.05 Requirements that garbage containers be covered All garbage outside of a house shall be kept in closed and ratproof containers. (Ord. No. 830, Sec. 1)

5.12.06 Exceptions to the requirement that garbage remain covered. Food waste, table scraps and organic materials fed to household pets and animals need not be covered provided that no more than an amount sufficient for a single feeding is left uncovered at any one time. (Ord. No. 830, Sec. 3)

5.12.07 Penalty for violation of Section 5.12.05. A violation of Section 5.12.05 shall be a misdemeanor punishable by a fine of not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00) or one (1) to ten (10) days in jail or any combination of both fine and jail sentence. (Ord. No. 830, Sec. 4)

5.12.08 Unlawful to burn trash in incinerator unless approved. It shall be unlawful for any business and/or commercial house to burn garbage or trash except in incinerators that have been approved by the Chief of the Fire Department and the City Health Officer. (Ord. No. 614, Sec. 6)

5.12.09 Penalty for delinquent fees. The fees for garbage and trash collection shall be collected in such manner as the City Council from time to time may prescribe. In the event that the fees are not paid within twenty (20) days after billing, then in that event, a ten percent (10%) penalty shall be added to the bill and collected. Any fee that remains unpaid for a period in excess of thirty (30) days from the due date, the city is hereby authorized to institute civil suit for the recovery of same together with any penalties that may have been attached thereto and court costs. (Ord. No. 735, Sec. 1)

5.12.10 Purchase of equipment with surplus funds. Section 5.12.10 is hereby deleted and that Section number reserved for future code sections within this heading of the Batesville Municipal Code. (Ord. No. 90-10-1)

5.12.11 Right to employ inspector and his duties. In addition to the powers now vested in the City Board of Health, the Mayor and the City Health Officer shall have the right to employ an inspector or inspectors who shall make regular inspections of all premises, alleys, vacant lots and properties in the city, and shall have the power to notify owners thereof of any unsanitary condition existing thereon. Within ten (10) days after such notice, it shall be the duty of the owner or owners of such premises to correct such unsanitary conditions and should such owner or owners fail to so correct, the city is hereby empowered to do so in which event the reasonable cost of such correction shall be charged and lien against such property on which said unsanitary condition existed. In addition thereto, any person, firm or corporation failing to obey such notice and continuing to maintain an unsanitary condition shall be deemed guilty of a violation of this ordinance and punishable for a misdemeanor. (Ord. No. 614, Sec. 9)

5.12.12 Deposit required. A deposit of Ten Dollars (\$10.00) shall be required for sewer and a deposit of an additional Ten Dollars (\$10.00) for garbage service. The deposit will draw no interest. The deposit shall be made to that agency in charge of collecting the sewer tax and garbage fees. (Ord. No. 797, Sec. 1)

5.12.13 Deposit refund. At any time should the person in whose name the deposit is, asks for a refund of the deposit, the city agency in charge of collecting the sewer tax and garbage fees shall compute the person's sewer and garbage bill and refund the difference between the deposit and the garbage and sewer bill, if any. (Ord. No. 797, Sec. 2)

CHAPTER 5.16

OBSTRUCTION OF DRAINAGE

Sections:

- 5.16.01 Illegal
- 5.16.02 Penalty

5.16.01 Illegal. It shall be unlawful for any person, persons, firm, company or corporation to place or deposit or cause to be placed or deposited in any storm drain, ditch, gutter or other drain, whether natural or artificial, that carries storm or other surface water, within the City of Batesville, any trash, timber, lumber, shingles, planks, bricks, rocks, soil or any other material or rubbish which may obstruct the free flow of water therein or cause water to divert out of said drain or cause water to become stagnant. (Ord. No. 908, Sec. 1)

5.16.02 Penalty. Any person, persons, firm, company or corporation who shall violate Section 5.16.01 shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than Two Hundred Fifty Dollars (\$250.00) with each day of violation of this ordinance being a separate offense of said ordinance. (Ord. No. 908, Sec. 2)

CHAPTER 5.20

STREET FOOD VENDORS

Sections:

- 5.20.01 Unlawful, exceptions
- 5.20.02 Penalty

5.20.01 Unlawful, exceptions. It shall be unlawful for any person, persons, firm, corporation or company to sell vegetables, fruits or other produce upon the city streets, sidewalks or public parks except those vegetables, fruits and other produce that have been raised by the vendor. (Ord. No. 932, Sec. 1)

5.20.02 Penalty. That any person, persons, firm, corporation or company violating this ordinance shall be guilty of a misdemeanor and fined in a sum of not more than Twenty-Five Dollars (\$25.00) nor less than Five Dollars (\$5.00). (Ord. No. 932, Sec. 2)