

TITLE 5
HEALTH AND SANITATION

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CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

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5.04.01 Definitions. The following definitions shall apply in the reading and application of this Chapter:

Abandoned means tangible personal property to which no person claims or exercises the right of ownership;

Abandoned Home or Abandoned Residential Property shall mean a home or residential property that (a) is unoccupied, (b) is not fit for human habitation, (c) has been declared unsafe and vacant by the City in violation of this Chapter of the Little Flock Code, and

(d) is located in an area designated for federal funds under a United States Department of Housing and Urban Development's housing program.

Appliances shall mean, but are not limited to, refrigerators, deep freezes, stoves, ovens, air-conditioners, clothes washers, clothes dryers, trash compactors, dishwashers, televisions, radios, hot water heaters, microwave ovens and plumbing fixtures;

Building Materials shall mean, but are not limited to, items such as boards, bricks, cement, nails pipe, sheet metal, siding tar paper and windows which have never been incorporated into a structure or which have been removed from a structure and may be readily incorporated into another structure;

Building Rubbish refers to any post-construction solid waste which because of its quantity, quality or condition cannot be readily and immediately put to a beneficial use.

Clean-up Lien shall mean a lien securing the cost of work undertaken by the City to remove, abate, or eliminate a condition in violation of local codes or ordinances;

Court Lien shall mean a lien securing the fines or penalties imposed by a court of competent jurisdiction against the owner of an unsafe and vacant structure or weed lot for failure to comply with this Chapter of the Little Flock Code that has been secured by a lien by action of the City Council.

Garbage shall mean all normal kitchen waste such as vegetable and animal waste and their by-products, but does not include sewage and human body waste;

Inoperative refers to any item which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose, and, specifically applied to motor vehicles, refers to any motor vehicle which is dismantled or damaged and is unable to start or move under its own power.

Junk and Scrap Metal shall include motor vehicles which are unlicensed, inoperative, unusable and unsuitable for the purpose for which said vehicle was designed; and shall also include ice boxes, refrigerators, washing machines and appliances which are inoperative, unusable and unsuitable for the purpose for which said equipment was designed.

Junk Motor Vehicle shall mean any vehicle which is inoperable, dismantled or damaged, and that is unable to start and move under its own power. Vehicles are excluded as long as they are registered and bear a current license permit.

Motor Vehicle shall mean every device capable of being moved upon a public highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks;

Priority Clean-up Lien shall mean a clean-up lien for work undertaken by the City on an unsafe and vacant structure or weed lot that is given priority over other lienholders following notice and hearing.

Rubbish shall mean brush, grass, leaves and other normal yard refuse, paper, cans, bottles and empty food and drink containers;

Things include, but are not limited to, the following items: abandoned or inoperative motor vehicles; abandoned or inoperative household or commercial appliances; abandoned furniture; building materials; building rubbish, defective septic tanks; human or animal excrement; metal, plastic or paper containers.

Unsafe and Vacant Structure shall mean a structure located on previously platted and subdivided property that is not fit for human habitation and has been declared unsafe and vacant by the City in violation of this Chapter of the Little Flock Code.

Unsanitary shall mean that a place, condition, or thing is unsanitary when it might become a breeding place for flies, mosquitoes or germs harmful to the health of the community;

Unightly shall mean that a place, condition or thing is unsightly when it is in public view and offends the then prevailing standard of the community as a whole, and not limited to a specific area, as to aesthetics or order.

Weeds shall mean any vegetation, lush or decayed, regardless of its beauty or utility and regardless of the fact that it might serve as a sanctuary for animals beneficial to humans, which, because of its natural condition or lack of maintenance by its owner, has or threatens the health and safety of the community because of the rubbish accumulated within it or because it has become a sanctuary for animals or insects (i.e., rats, mosquitoes, snakes, etc.) known to be carriers of filth, disease, or venom.

Weed Lot shall mean a previously platted and subdivided lot that is:

a. vacant, or

b. upon which an unsafe and vacant structure is located

and that contains debris, building materials, building rubbish, garbage, junk, scrap metal, rubbish, things, or grass or weeds that are higher than eight inches (8”).

5.04.02 Prohibited Conditions. All owners or occupants of lots or other real property within the city limits of the city of Little Flock, Arkansas, are required:

A. to cut grass and weeds so that they are not more than eight (8) inches tall within one hundred (100) feet of any house or other building; provided that if the boundary line of the lot or other real property is less than one hundred (100) feet from the house or other building, the requirement shall be to cut the grass and weeds to the boundary line, and further provided that the growing of grasses for hay and pasture purposes shall not be affected by this provision even

though such hay or pasture fields are within one hundred (100) feet of a house or other building;

- B. to remove all cut brush, fallen or cut limbs, leaves deeper than six (6) inches, and logs within one hundred (100) feet of any house or other building; provided that if the boundary line of the lot or other real property is less than one hundred (100) feet from the house or other building, the requirement shall be to remove the brush, limbs, leaves, and logs to the boundary line, and further provided that if the timber line or forest line of the lot or other real property is less than one hundred (100) feet from the house or other building, the requirement shall be to remove the brush, limbs, leaves, and logs to the timber line or the forest line, and nothing shall be construed to prohibit the storage of firewood within one hundred (100) feet of a house or other building;
- C. to remove trash, garbage, rubbish and debris located outside of any house or other building;
- D. to remove any abandoned or junk motor vehicles located outside of any house or other building;
- E. to remove any abandoned or junk construction, industrial or farm equipment located outside of any building;
- F. to remove any abandoned or inoperative household or commercial appliances located outside of any house or other building;
- G. to remove any abandoned furniture located outside of any house or other building;
- G. to remove any building materials located outside of any house or other building and that are in public view within one (1) month after use of the building materials ends;
- I. to remove building rubbish caused by an act of God (i.e. fire, storm, etc.) within three (3) months after the act of God event that caused the building rubbish;
- J. to remove building rubbish caused by a demolition within one (1) month after work on the demolition ends;
- K. to repair or replace defective septic tanks and lateral lines;

- L. not to allow sewage from a septic tank or lateral lines to flow on or to accumulate on the surface of the ground;
- M. not to allow the accumulation of animal excrement within fifty (50) feet of any residence, whether the residence is on the property or on adjacent property, to such an extent that the accumulated animal excrement creates an offensive odor or otherwise creates a health hazard to the community, but in no event shall the accumulation of animal excrement in ordinary and usual farming operations be prohibited;
- N. to remove metal, plastic and paper containers located outside of any house or other building;
- O. to eliminate, fill up or remove stagnant pools of water or other liquids or any other unsanitary thing, place or condition upon the real property which might become a breeding place for mosquitoes, flies, or germs harmful to the health of the community, but this provision shall not prohibit the use and maintenance of ponds for watering livestock;
- P. not to allow a Weed Lot, an Unsafe and Vacant Structure, an Abandoned Home, or an Abandoned Residential Property, all as defined in this Chapter, to exist.

It shall be unlawful for the owner or occupant of real property to permit the accumulation or development of any of the foregoing things or conditions within the city limits of the City of Little Flock, Arkansas.

5.04.03 Notice of Violations. Violations of Section 5.04.02 may be brought to the attention of the City Council by any of the following procedures:

- A. Any City Council member may bring an alleged violation of Section 5.04.02 before the City Council.
- B. Two or more persons, provided that they represent two or more families, may file a written complaint about an alleged violation of Section 5.04.02 with the City Recorder/Treasurer for presentation to the City Council.
- C. Persons representing two or more families (with there being at least one separate representative for each family) may appear before the City Council and present an oral complaint about an alleged violation of Section 5.04.02.

- D. In the case of a notice pursuant to Section 5.04.03.B or C., at least one of the families must own property or live on property adjacent to or close by the property on which the alleged violation of Section 5.04.02 is occurring.

5.04.04 Code Violation and Penalties. Failure to comply with Section 5.04.02 will constitute a code violation for which such owner or occupant may be issued a citation to appear in a court of competent jurisdiction. Each person who pleads guilty or nolo contendere to or is found guilty of a violation of the provisions of Section 5.04.02 shall be punished for a first offense by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and for a second or subsequent offense by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00). Each day of such code violation shall be considered a separate offense. Notwithstanding the foregoing, no citation shall be issued unless the notice as provided in Section 5.04.06.A has been given to the owner or occupant within one (1) year prior to the issuance of the citation for the condition for which the citation is issued.

5.04.05 Injunctive Relief. If the City Council determines that a violation of Section 5.04.02 can best be removed, abated or corrected by the obtaining of a temporary restraining order, preliminary injunction, or permanent injunction, then the City Council may authorize the City Attorney to bring an action for such injunctive relief in an appropriate court. (Ord. No. 91-67, Sec. 6.) Notwithstanding the foregoing, no action for injunctive relief shall be filed unless the notice as provided in Section 5.04.06.A or .B has been given to the owner or occupant within one (1) year prior to the filing of the action for injunctive relief for the condition for which the injunctive relief is sought.

5.04.06 Removal, Abatement or Elimination by City. If the City Council determines that a violation of Section 5.04.02 can best be removed, abated or eliminated by the City removing, abating or eliminating it or, for purposes of providing the notice that is necessary to issue citations pursuant to Section 5.04.04 or to seek injunctive relief pursuant to Section 5.04.05, then the City shall follow the following procedures:

A. Notice to Owner and Lienholders. The City shall give written notice to the owner of any lot or other real property that is not in compliance with Section 5.04.02.

1. The written notice shall state:
 - i. The conditions, items and/or objects creating the violation of Section 5.04.02.
 - ii. The actions which the property owner must take to remove, abate or eliminate the violation of Section 5.04.02.
 - iii. That the owner has seven (7) days from receipt of the notice to remove, abate, or eliminate the violation of Section 5.04.02.
 - iv. The action which the City may take in the event the owner neglects or refuses to remove, abate, or eliminate the violation of Section 5.04.02.

- v. That the City will have a right to do whatever is necessary to remove, abate, or eliminate the violation of Section 5.04.02 and to charge the cost thereof to the owner of the lot or other real property.
- vi. That the City will have the right to obtain a clean-up lien against the lot or other real property if the City has to remove, abate, or eliminate the violation of Section 5.04.02.

2. The written notice may also be sent to all lienholders on the lot or other real property, and, if the notice is sent to lienholders, the notice shall additionally state:

- i. That the City may acquire a first-priority status for its clean-up lien, and
- ii. That the lienholder shall send to the City, within seven (7) business days of its receipt of the notice, a written response to the City indicating whether the owner of the property is in default under the terms of note or mortgage.

3. The notice shall be sufficient if sent to:

- i. The owner's address of record with the Benton County Treasurer or Collector.
- ii. The lienholder's address shown in relevant land records.

4. All notices shall be issued and signed by a police officer employed by the City, the city attorney, or a code enforcement officer employed by the City.

5. All notices shall be sent via both regular mail and certified mail, with a return receipt requested for the certified mail.

B. Unknown Owner, Owner Whose Whereabouts Are Unknown, or Non-Arkansas Resident Owner. In the event that written notice cannot be made upon the owner as provided in Section 05.04.06.A, or the owner is unknown or his/her whereabouts are unknown or if such owner is a non-resident in the state of Arkansas, then the City may use the following substituted form of notice:

- 1. A copy of the written notice shall be posted upon the premises;
- 2. The City Recorder-Treasurer shall make an affidavit setting out the facts as to the unknown address or whereabouts of the non-resident;
- 3. Thereupon, service by publication as provided by Arkansas law against non-resident defendants may be had;
- 4. An attorney ad litem shall be appointed to notify the defendant by certified letter addressed to his or her last known place of residence, if it can be found;

- C. Removal, Abatement or Elimination by City. If the owner of the lot or other real property neglects or refuses, after having been given seven (7) days' written notice by the City to remove, abate or eliminate any thing or condition referred to in Section 5.04.02, then the City may do whatever is necessary to correct the thing or condition and may charge the cost of such correction to the property owner. The city will have a lien against the affected property pursuant to A.C.A. 14-54- 901, et seq. for the cost of such correction.

5.04.07 Court Lien. If the court of competent jurisdiction, pursuant to Section 5.04.04, levies fines or penalties against the owner of an Unsafe and Vacant Structure or a Weed Lot for failure to comply with Section 5.04.02, then the City Council of the City, by majority vote, from time to time and subject to notice and hearing provided herein, may secure any outstanding court fines or penalties resulting from the owner's failure to clean up an Unsafe and Vacant Structure or a Weed Lot with a Court Lien against the property for the full value of the outstanding fines and penalties. The following rules apply to obtaining a Court Lien:

A. Notice to Owner. The City shall notify the owner of the property, in accordance with the procedures set forth in Section 5.04.06.A.3.i; A.4; and A.5, of the following:

1. The amount of the proposed Court Lien, and
2. The date, time, and location of a public hearing before the City Council for the determination of the amount of the Court Lien.

B. Public Hearing Date. The public hearing before the City Council shall be:

1. After thirty (30) days' notice to the owner of the property if the name and address of the property owner are known, or
2. After publication of notice of the hearing in a newspaper having a bona fide circulation in Benton County once a week for four (4) consecutive weeks if the name and address of the property owner are not known.

C. Combined Notice. The notice of a Court Lien may be combined with the notice of a Clean-up Lien.

D. Right of Appeal. The owner of the property shall have forty-five (45) days after the confirming of the amount of the Court Lien and the creating and imposing of the Court Lien by the City Council to appeal to the Benton County Circuit Court.

D. Filing the Court Lien. The City shall file the Court Lien with the Circuit Clerk no later than:

1. Sixty (60) days after the City Council confirms the lien amount, or
2. If the lien is appealed, sixty (60) days after the City wins on appeal.

F. No First Priority Status. A Court Lien shall not have First Priority Status over prior recorded liens.

G. In Addition to Clean-up Lien. A Court Lien may be imposed in addition to a Clean-up Lien.

5.04.08 Clean-up Lien. If the City completes the work to remove, abate or eliminate an Unsafe and Vacant Structure or a Weed Lot as allowed in Section 5.04.06.C, then the City may obtain a Clean-up Lien by complying with the following:

A. Amount of Clean-up Lien. The amount of the Clean-up Lien shall equal the costs, including administrative and filing costs, that the City shall incur to remove or repair an Unsafe and Vacant Structure or to correct the conditions that caused the property to become a Weed Lot because the owner of the property failed to remove or repair an Unsafe and Vacant Structure or failed to correct the conditions that caused the property to become a Weed Lot within the time required by the notice given pursuant to Section 5.04.06.A.

B. Notice to Owner After Work is Done. The City shall notify the owner of the property, in accordance with the procedures set forth in Section 5.04.06.A.3.i; A.4; and A.5, of the following:

- i. The amount of the proposed Clean-up Lien, and
- ii. The date, time, and location of a public hearing before the City Council for the determination of the amount of the Clean-up Lien.

C. Public Hearing Date. The public hearing before the City Council shall be:

- i. After thirty (30) days' notice to the owner of the property if the name and address of the property owner are known, or
- ii. After publication of notice of the hearing in a newspaper having a bona fide circulation in Benton County once a week for four (4) consecutive weeks if the name and address of the property owner are not known.

D. Combined Notice. The notice of a Clean-up Lien may be combined with the notice of a Court Lien.

E. Right of Appeal. The owner of the property shall have forty-five (45) days after the confirming of the amount of the Clean-up Lien and the creating and imposing of the Clean-up Lien by the City Council to appeal to the Benton County Circuit Court.

F. Filing the Clean-up Lien. The City shall file the Clean-up Lien with the Circuit Clerk no later than:

- i. Sixty (60) days after the City Council confirms the lien amount but, in no event, later than one hundred and twenty (120) days after the City completes the clean-up work on the property, or
- ii. If the lien is appealed, sixty (60) days after the City wins on appeal.

G. No First Priority Status. A Clean-up Lien shall not have First Priority Status over prior recorded liens unless the City also complies with Section 05.04.09.

H. In Addition to Court Lien. A Clean-up Lien may be imposed in addition to a Court Lien.

5.04.09 First Priority Status. If the City desires First Priority Status over prior recorded liens, the City shall comply with the following:

A. Notice Prior to Doing Work. Prior to undertaking the work on the property, the City must have given the notice provided in Section 5.04.06.A.2.

B. Second Notice. After the work has been completed, the City shall provide a second notice to the lienholders of record, in accordance with the procedures set forth in Section 5.04.06.A.3.ii; A.4; and A.5, which notice shall set forth the following:

- i. The total amount of the proposed Clean-up Lien, and
- ii. The date, time, and location of a public hearing before the City Council for the determination of the amount of the Clean-up Lien.

C. Public Hearing Date. The public hearing before the City Council shall be:

- i. After thirty (30) days' notice to the owner of the property if the name and address of the property owner are known, or
- ii. After publication of notice of the hearing in a newspaper having a bona fide circulation in Benton County once a week for four (4) consecutive weeks if the name and address of the property owner are not known.

D. Right of Appeal. The lienholders shall have forty-five (45) days after the confirming of the amount of the Clean-up Lien and the creating and imposing of the Clean-up Lien by the City Council to appeal to the Benton County Circuit Court.

E. Filing the Clean-up Lien. The City shall file the Clean-up Lien with the Circuit Clerk no later than:

- i. Sixty (60) days after the City Council confirms the lien amount but, in no event, later than one hundred and twenty (120) days after the City completes the clean-up work on the property, or
- ii. If the lien is appealed, sixty (60) days after the City wins on appeal.

F. Declaratory Judgment Action. To secure a First Priority Status for a priority Clean-up Lien, the City shall file an action for declaratory judgment in the Benton County Circuit Court seeking a declaration that the City's Clean-up Lien is entitled to priority over previously recorded liens.

i. The holders of recorded liens shall be named as defendants in the declaratory judgment action.

ii. Priority status shall be awarded to the City's priority Clean-up Lien with respect to any previously recorded lien if the court determines that such lienholder:

- (1) Has failed to exercise its rights to foreclose its lien when the obligation it secures becomes in default, or
- (2) Has failed to pay the costs of work undertaken by the City that composes the Clean-up Lien.

iii. The amount as to which the Clean-up Lien shall have priority shall be the amount the court finds reasonable and is limited to:

- (1) No more than one thousand dollars (\$1,000) for grass or weed cutting;
No more than five thousand dollars (\$5,000) to board and secure the property;
No more than seven thousand dollars (\$7,000) to demolish any structures on the property, or

- (4) No more than fifteen thousand dollars (\$15,000) for environmental remediation.

5.04.10 Enforcement of Court Lien and Clean-up Lien. The City may enforce a Court Lien and a Clean-up Lien for ten (10) years after the lien is filed by either one of the following methods:

A. Foreclosure Action. The City may bring an action for foreclosure in the Benton County Circuit Court and additionally recover title search fees and reasonable attorney's fees, or

B. Collection By County Tax Collector. The amount of the lien plus a ten percent (10%) penalty for collection shall be certified by the City Council the Benton County Tax Collector, who shall place the same on the tax books as delinquent taxes

and shall collect the same accordingly. The Benton County Tax Collector may deduct three percent (3%) of the amount so collected and shall remit the balance to the City.

5.04.11 Junk Motor Vehicles. All Arkansas-certified law enforcement officers, illegal dumps control officers licensed and certified in accordance with A.C.A. 8-6-905, and code enforcement officers of the City shall be the appropriate enforcement persons with authority to take possession of junk motor vehicles.

A. Notice. The enforcement agency employing the enforcement person identified immediately above that takes into custody and possession any junk motor vehicle shall, within thirty (30) days after taking custody and possession thereof, notify the last known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession. Said notice shall be by registered or certified mail, return receipt requested and conform to the standards set out in A.C.A. 8-6-401, et seq.

B. Publication Notice. If the identity of the last registered owner of the junk motor vehicle cannot be determined, if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, then notice shall be published in a newspaper of countywide circulation in the county wherein the motor vehicle was located at the time the enforcement agency took custody and possession of the vehicle. Said notice shall be published within thirty (30) days after the motor vehicle is taken into custody and possession. The notice shall have the same contents required as the notice described in Section 5.04.06.B, except that the ten-day period shall run from the date such notice is published as prescribed.

5.04.12 Imminent Health or Safety Hazard. Whenever a real and imminent health or safety hazard stemming from a condition or thing described in Section 5.04.02 exists such that the notice provisions provided for in Section 5.04.05 cannot be complied with without jeopardizing the health and safety of the community, the City shall give such notice as is practical under the circumstances to the affected property owner. If the property owner does not act immediately to correct the condition or things complained of, the city may, pursuant to A.C.A. 14-54-901 et seq., do whatever is necessary to abate the hazard stemming from the condition or thing. (Ord. No. 91-67, Sec. 5.)

A. Initial Determination. The initial determination of what condition or thing constitutes a real and imminent health or safety hazard must be made by at least two (2) of the following individuals: the Mayor, the Police Chief, the Fire Chief, the City Inspector, the City Recorder/Treasurer, and/or a health officer employed by the Arkansas Department of Health. It is not necessary that all of the named individuals participate in the determination.

- B. Injunctive Relief. Provided further, however, that upon written application of two or more of the individuals described in Subsection A, the City Attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of.

CHAPTER 5.06

REMOVAL OR RAZING OF BUILDINGS

Sections:

- 5.06.01 Authority
- 5.06.02 Report
- 5.06.03 Determination of Credibility of Report
- 5.06.04 Notice to Owner
- 5.06.05 Service of Notice
- 5.06.06 Hearing
- 5.06.07 Hearing Procedure
- 5.06.08 Appeal
- 5.06.09 Owner's Options After Losing
- 5.06.10 Removal or Razing of Building or House
- 5.06.11 Notice of Hearing on Cost of Removal or Razing
- 5.06.12 Collection of Reasonable Cost

5.06.01 Authority. Pursuant to Arkansas Code Section 14-56-203, the City Council of the City of Little Flock shall have the authority to order the removal or razing of, or to remove and raze, buildings or houses within the City that in the opinion of the City Council have become dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare of the citizens of the City. (Ord. No. 2018-005)

5.06.02 Report. Anyone, including the City Police Department and the City Fire Department, may report to the City Council that a building or house has become dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare of the citizens of the City. (Ord. No. 2018-005)

5.06.03 Determination of Credibility of Report. At a regular or special meeting of the City Council, the City Council shall determine whether the report appears to be credible. If the City Council determines that the report is credible, the City Council shall state the facts that show that the building or house to be dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare of the citizens of the City and order the removal or razing of the building or house. The City Council shall then order the City Attorney to provide official notice to the owner of the land on which the building or house is located of the determination and order of the City Council. (Ord. No. 2018-005)

Section 5.06.04 Notice to Owner. The City Attorney's Notice shall include the following:

- A. The address of the building or house,
- B. A legal description of the parcel of land on which the building or house is located.
- C. A statement that the City Council has determined that a report that the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare of the citizens of the City is credible and that the owner is ordered to remove or raze the building or house.
- D. The facts determined by the City Council that show that the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare.
- E. The owner shall have thirty (30) days to deliver to the Mayor one of the following:
 - 1. A statement that the building or house will be removed or razed by the owner by a date certain within the next four (4) months.
 - 2. A statement that the building or house will be repaired by the owner so that it will no longer be dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare by a date certain with such repair work beginning within thirty (30) days and being concluded within five (5) months thereafter. Such statement shall include a detailed plan of repairs, which plan of repairs must be approved by the City Council. The owner must obtain a building permit before undertaking the repairs.
 - 3. A statement disputing that the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare and requesting a hearing before the City Council.
- F. If the owner fails timely to deliver one of the three statements to the Mayor, the owner will be deemed to have agreed that the City may remove or raze the building or house and charge the expense thereof to the owner.
- G. A copy of Chapter 5.06 of the Little Flock Code. (Ord. No. 2018-005)

Section 5.06.05 Service of Notice. The City Attorney's notice to the owner shall be served by certified mail or personal service if the owner is a resident of Arkansas or by certified mail, first class mail, and a posting on the land where the building or house is located if the owner is not a resident of Arkansas. The City Attorney shall be justified in using the address to which Benton County sends property tax statements for the land on which the building or house is located. If the owner cannot be located at or served notice at the tax statement address, the City Attorney shall publish the Notice in the Legal Notices Section of a newspaper of general circulation in Benton County, Arkansas. In the event that service by publication is used, the date of publication shall be deemed the date of service of the Notice. (Ord. No. 2018-005)

Section 5.06.06 Hearing. If the owner of the land on which the building or house is located requests a hearing, the City Council shall hold such hearing no sooner than 30 days nor more than 60 days after the request for a hearing is received by the Mayor. The City Attorney shall provide the owner with notice of the date and time of the hearing by first class mail to the address shown in the owner's request for hearing or at which the owner was served with the notice. (Ord. No. 2018-005)

Section 5.06.07 Hearing Procedure. The owner may be represented by an attorney at the hearing. The hearing shall start with a statement by the owner or the owner's attorney about why the owner disputes the determination by the City Council that the building or house is dilapidated,

unsightly, unsanitary, obnoxious, or detrimental to the public welfare and should be ordered to be removed or razed. The owner may introduce evidence and may call witnesses, which will be subject to cross examination by the City Attorney. Then the City Attorney may introduce evidence and call witnesses, which will be subject to cross examination by the owner or the owner's attorney. The City Council shall vote at the end of the hearing on whether the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare. If the City Council votes that the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare, then its order that the building or house is to be removed or razed shall stand. (Ord. No. 2018-005)

Section 5.06.08 Appeal. If the City Council votes that the building or house is dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare, then the owner shall have thirty (30) days to appeal to the Benton County Circuit Court. If the owner appeals, then all efforts to remove or raze the building or house shall be stayed until the Benton County Circuit Court rules in the case. (Ord. No. 2018-005)

Section 5.06.09 Owner's Options After Losing. If the owner loses at the City Council hearing and does not appeal or else loses in Benton County Circuit Court, the owner shall have thirty (30) days to provide the Mayor with one of the following:

1. A statement that the building or house will be removed or razed by the owner by a date certain within the next four (4) months.
2. A statement that the building or house will be repaired by the owner so that it will no longer be dilapidated, unsightly, unsanitary, obnoxious, or detrimental to the public welfare by a date certain with such repair work beginning within thirty (30) days and being concluded within five (5) months thereafter. Such statement shall include a detailed plan of repairs, which plan of repairs must be approved by the City Council. The owner must obtain a building permit before undertaking the repairs.

If the owner fails timely to deliver one of the two statements to the Mayor, the owner will be deemed to have agreed that the City may remove or raze the building or house and charge the expense thereof to the owner. (Ord. No. 2018-005)

Section 5.06.10 Removal or Razing of Building or House. If the owner fails to respond to the City Attorney's Section 5.06.04 notice or fails to select a Section 5.06.09 option, then the City may proceed with removal or razing of the building or house. If the owner fails (a) to remove or raze the building or house or (b) to repair the building or house within the time periods set forth in Section 5.09.04.E or Section 5.09.09, then the City may proceed with removal or razing of the building or house. (Ord. No. 2018-005)

Section 5.06.11 Notice of Hearing on Cost of Removal or Razing. The City Attorney shall provide the owner of the land on which the building or house was removed or razed with a notice of the date and time of a hearing before the City Council at which the reasonableness of the cost of the removal or razing may be addressed. The service of the notice shall be the same as provided in Section 5.06.05. (Ord. No. 2018-005)

Section 5.06.12 Collection of Reasonable Cost. After the City Council determines the reasonableness of the cost of the removal or razing, the owner shall have thirty (30) days to pay

the same. If the owner fails to pay within such time, the City Attorney may be authorized to file a lawsuit to collect the reasonable cost of the removal or razing, including the filing of a Lis Pendens notice of a claimed lien on the land on which the removed or razed building or house was located. (Ord. No. 2018-005)

CHAPTER 5.08

HAULING TRASH

Sections:

- 5.08.01 Covered and enclosed
- 5.08.02 Condition of vehicle
- 5.08.03 Prohibition of Storing and Dumping Trash, Etc.
- 5.08.04 Injunction
- 5.08.05 Code Violation
- 5.08.06 Notice to City Council

5.08.01 Covered and enclosed. Any person, firm, or corporation which hauls, dumps, or stores items of trash, garbage, junk, scrap metal and things of similar nature, who shall haul, carry, or transport such within the city limits of Little Flock, Arkansas, shall have the part of their vehicle whether motor propelled or animal drawn, that carries such trash, garbage, junk, scrap metal or things of like nature, properly covered and enclosed so that none of such matter may fall from such vehicle. (Ord. No. 1, Sec. 1.)

5.08.02 Condition of vehicle. All vehicles carrying such trash, garbage, junk, scrap metal or things of similar nature, shall be kept in as clean and sanitary condition as circumstances permit, so that the possibility of spreading disease shall be at a minimum. (Ord. No. 1, Sec. 2.)

5.08.03 Prohibition of Storing and Dumping Trash, Etc. No person, firm or corporation shall store or dump trash, garbage, junk, scrap metal and things of similar nature within the city limits of Little Flock, Arkansas. (Ord. No. 1, Sec. 4.)

5.08.04 Injunction. The City of Little Flock, Arkansas will be entitled to injunctive relief to prevent violations of Sections 5.08.01, 5.08.02, and 5.08.03. (Ord. No. 1, Sec. 4.)

5.08.05 Code Violation. Failure to comply with Section 5.08.01, 5.08.02, or 5.08.03 will constitute a code violation for which such violator may be issued a citation to appear in a court of competent jurisdiction. Each person who pleads guilty or nolo contendere to or is found guilty of a violation of the provisions of Section 5.08.01, 5.08.02, or 5.08.03 shall be punished for a first offense by a fine not to exceed Two Hundred Dollars (\$200.00) for a first offense and not more than Four Hundred Dollars (\$400.00) for a second or subsequent offense. Each day of such code violation shall be considered a separate offense. However, notwithstanding the foregoing fine for second or subsequent offenses, if a person is charged with daily code violations, the fines shall not exceed Three Hundred Dollars (\$300.00) per day. (Ord. No. 1, Sec. 5.)

5.08.06 Notice to City Council. The City Council may be notified of violations of Section 5.08.01, 5.08.02, or 5.08.03 by any of the following procedures:

- A. Any city Council member may bring an alleged violation before the City Council.

- B. Two or more persons, provided that they represent two or more families, may file a written complaint about an alleged violation with the city Recorder/Treasurer for presentation to the City Council.

- C. Persons representing two or more families (with there being at least one separate representative for each family) may appear before the City Council and present an oral complaint about an alleged violation.

- D. In the case of Section 5.08.06.B and .C, at least one of the families must own property or live on property adjacent to or close by the property on which the alleged violation is occurring. (Ord. No. 1988-53, Secs. 1-2.)

CHAPTER 5.12

STREWN, BLOWN, AND WASHED WASTE AND TRASH

Sections:

- 5.12.01 Construction Site Waste and Trash
- 5.12.02 Waste and Trash Strewn by Dogs
- 5.12.03 Code Violation

5.12.01 Construction site waste and trash. All persons who work at a construction site in the city of Little Flock and all persons, including companies, who contract to provide services at a construction site in the city of Little Flock shall control and properly dispose of all waste and trash generated at the construction site. This shall require that all construction site waste and trash be deposited at the end of each work day in a container or enclosure designed not to allow the waste or trash to be blown or washed from the construction site. This shall also require that, if any waste or trash is blown or washed from the construction site during the work day, then the blown or washed waste or trash shall be immediately retrieved and brought back to the construction site. This ordinance shall apply to both residential and non-residential construction sites in the city of Little Flock. (Ord. No. 2010-338, Sec. 1.)

5.12.02 Waste and Trash Strewn by Dogs. All owners of dogs shall assure that their dogs do not tip trash cans or shred or tear trash bags thereby causing the waste and trash in such cans or bags to be subject to being blown by the wind or washed by water. The owners of dogs that tip

trash cans or which shred or tear trash bags shall immediately retrieve the waste and trash and place it in the trash can or place it in a new trash bag.

5.12.03 Code Violation. Failure to comply with Section 5.12.01 or 5.12.02 will constitute a code violation for which such violator may be issued a citation to appear in a court of competent jurisdiction. Each person who pleads guilty or nolo contendere to or is found guilty of a violation of the provisions of Section 5.12.01 or 5.12.02 shall be punished by a fine from Twenty-Five Dollars (\$25.00) to One Hundred Dollars (\$100.00) for a first violation and Fifty Dollars (\$50.00) to Three Hundred Dollars (\$300.00) for any subsequent violation. (Ord. No. 2010-338)

CHAPTER 5.20

SOLID WASTE DISPOSAL

Section:

5.20.01 Mandatory Trash Service

5.20.01 Mandatory Trash Service. All residential and commercial trash service customers in the City of Little Flock are prohibited from contracting or hiring any individual firm for the collection and disposal of residential or commercial solid waste other than the trash service company specified by the City of Little Flock from time to time.