

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Maintenance of Real Property
- 5.08 Septic Tanks
- 5.12 Littering
- 5.16 Solid Waste Collection
- 5.20 Open Burning
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CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

Sections:

- 5.04.01 Definitions
- 5.04.02 Clearance of unsightly and unsanitary conditions on real property
- 5.04.03 Notice
- 5.04.04 Clearance by city upon refusal by owner; costs
- 5.04.05 Imminent health or safety hazard
- 5.04.06 Punishment

5.04.01 Definitions As used in this ordinance:

Abandoned means that property to which no person claims or exercises the rights of ownership.

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

Building material shall mean, but is 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. This article applies only to building material which lies in public view and with respect to which its owner has no definite immediate plans for its use.

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.

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

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. (Ord. No. 461, Sec. 1.)

Inoperative refers to an 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 as specifically applied to motor vehicles, refers to any motor vehicle which is inoperable, dismantled or damaged, and is unable to start or move under its own power.

Motor vehicle shall mean every device capable of being moved upon a public way and in, upon or by which any person or property is or may be transported or drawn upon a public way, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks. Any vehicle which is registered and bears a current license permit is exempt from this article.

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.

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

Unightly shall mean that a place, condition or thing is unightly 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 of utility and regardless of the fact that it might serve as a sanctuary for animals beneficial to man, 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 (rats and mosquitoes, for example) known to be carriers of filth and disease. (Ord. No. 141, Sec. 1.)

5.04.02 Clearance of unsightly and unsanitary conditions of real property All owners of lots or other real property within the corporate limits of the city are hereby required to cut grass, weeds and brush; remove all brush, limbs, leaves, logs, trash, garbage, rubbish and debris; remove any abandoned or junk motor vehicles, motor vehicle, construction, industrial or farm equipment; remove any abandoned or inoperative household or commercial appliance, abandoned furniture, building materials, building rubbish, defective septic tanks, human or animal excrement and metal, plastic and paper containers; and eliminate, fill up or remove stagnant pools of water or other liquids or any other unsanitary thing, place or condition upon their real property. 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. Failure to comply with this section shall constitute a nuisance. (Ord. No. 141, Sec. 2, Ord. No. 461, Sec. 2.)

5.04.03 Notice

- A. Any owner of a lot or other real property within the corporate limits of the city who fails to comply with 5.04.02 will be notified of such failure and the resultant nuisance in writing. Such writing shall specify the nuisance existing and indicate the abatement or removal required. In addition, it shall state the action which the city may take in the event the owner fails or refuses to remove or abate the nuisance. Notice must also be sent to lien holders. Notice to owners shall be sufficient if sent to the owner's address of record with the applicable county treasurer or collector. Notice to lien holders is sufficient if the notice is sent to the lien holder's address shown in relevant land records. Except as otherwise provided, all notices shall be issued by a police officer employed by the city, the City Attorney, or the Code Enforcement Officer employed by the city. Except as otherwise provided, all notices shall be sent via regular mail and via certified mail, with a return receipt requested, by the Municipal Recorder or Clerk or such other person as designated by the governing body of this municipality. (Ord. No. 461, Sec. 3.)
- B. In the event personal written notice cannot be made upon the owner or the owner is unknown or his whereabouts is unknown or if such owner is a non-resident of the state, a copy of the written notice shall be posted upon the premises, and the City Clerk or Recorder shall make an affidavit setting out the facts as to the unknown address or whereabouts of non-residence; and, thereupon, service by publication, as now provided by Arkansas law against non-resident defendants, may be had. 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. 461, Sec. 4.)

- C. In the event that the owner or lien holder neglects or refuses to remove, abate, or eliminate any condition after receiving the seven (7) days' written notice provided for in subsection (A) of this section, and the city is required to correct any condition described in said notice, upon the completion of the correction work, the city shall hold a public hearing to determine the amount of any clean-up of court lien. The property owner and lien holders shall be provided with thirty (30) days' written notice of said public hearing. (Ord. No. 461, Sec. 5.)
- D. Upon the determination of the lien amount at public hearing, the owner and lien holders shall be provided with written notice of the total amount of the clean-up lien, including administrative and filing costs. (Ord. No. 461, Sec. 6.)

5.04.04 Clearance by city upon refusal by owner; costs

- A. In the event the owner or lien holder of a lot or other real property within the corporate limits of the city neglects or refuses after having been given notice as required in 5.04.03 (A) and (B) above to comply with said notice within seven (7) days after service thereof, city shall do whatever is necessary to correct the condition and will charge the cost of the correction to the property owner and the city will claim a lien against the affected property pursuant to A.C.A. 14-54-901, et seq. (Ord. No. 461, Sec. 7.)
- B. 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 as defined by municipal ordinance shall be the appropriate enforcement agencies with authority to take possession of junk motor vehicles. Any said enforcement agency has knowledge of, discovers, or finds any junk motor vehicle, said agency may take it into custody and possession. (Ord. No. 461, Sec. 8.)
- C. Provided, however, that before any junk motor vehicle is taken into custody and possession from private property, pursuant to A.C.A. 8-6-401, *et seq.* the private property owner and the owner of the motor vehicle, if ascertainable, shall be given thirty (30) days' notice by registered or certified mail or seventy-two (72) hours' notice by personal service that action will be taken pursuant to A.C.A. 8-6-401 unless the motor vehicle is restored to a functional use, disposed of by the owner in a manner not prohibited by law, or placed in an enclosed building. (Ord. No. 461, Sec. 9.)
- D. The enforcement agency which 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 lien holders 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.* (Ord. No. 461, Sec. 10.)

- E. 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 lien holders, 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 5.04.04(D), except that the ten-day period shall run from the date such notice is published as prescribed. (Ord. No. 461, Sec. 11.)

5.04.05 Imminent health or safety hazard

- A. Whenever a real and imminent health or safety hazard stemming from a condition or thing described in 5.04.02 exists and it is determined that the notice provisions provided for in 5.04.03 (A) and (B) cannot be complied with without jeopardizing the health and safety of the community, the city shall give notice as is practical under the circumstances to the affected property owner (real and personal). If the property owner does not act immediately to correct the condition or thing complained of, the city shall, pursuant to A.C.A. 14-54-103, do whatever is necessary to abate the hazard stemming from the condition or thing. (Ord. No. 166, Sec. 2.)
- B. The initial determination of what condition or thing constitutes a real and imminent health or safety hazard must be made by at least two of the following individuals: The Mayor, Health Officer, Fire Chief, Assistant Fire Chief, City Inspector. It is not necessary that all of the named individuals participate in the determination.
- C. Provided further, however, that upon written application of two or more of the individuals described in 5.05.05 (B), the City Attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of. (Ord. No. 141, Sec. 5.)

5.04.06 Punishment

- A. Any violation of this ordinance shall be deemed a misdemeanor and punishable by a fine of up to Five Hundred Dollars (\$500.00) for any one specified offense or violation, or double that sum for each repetition of such offense or violation. If

the violation is, in its nature, continuous with respect to time, the fine for allowing the continuance thereof shall not exceed Two Hundred Fifty Dollars (\$250.00) for each day that it may be unlawfully continued.

- B. When a fine shall be imposed for the violation of this ordinance and it is not paid, the party convicted shall, by order of the Mayor or other proper authority or on process issued for the purpose, be committed to jail until the fine and costs of prosecution shall be paid, or the party discharged by due course of law. Any person convicted of a repeated and willful violation of any ordinance, who shall refuse or neglect to pay the fine imposed and the cost of prosecution, by like order or process, shall be imprisoned and kept in confinement for any term not exceeding thirty (30) days. (Ord. No. 461, Sec. 12.)

CHAPTER 5.08

SEPTIC TANKS

Sections:

- | | |
|---------|---|
| 5.08.01 | Water Superintendent shall be inspector |
| 5.08.02 | Overflows unlawful |

5.08.01 Water Superintendent shall be inspector. The Water Superintendent shall be the inspector, and shall regulate the erection, building and maintenance of all septic tanks now in use or to be put in use in the city and it shall be the duty of any person intending to build or erect a septic tank within the city limits to first make application to the Water Department Superintendent. It shall be the duty of the inspector to see that such septic tank shall be in conformity with the recommendations of the State Board of Health.

5.08.02 Overflows unlawful. It shall be unlawful to allow a septic tank to overflow or drain on the surface of the ground or in any street or ditch within the city.

CHAPTER 5.12**LITTERING****Sections:**

5.12.01 Littering illegal

5.12.01 Littering illegal. It shall be unlawful for any person to place, dispose, 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.

CHAPTER 5.16**SOLID WASTE COLLECTION****Sections:**

- 5.16.01 Definitions
- 5.16.02 Permit required
- 5.16.03 Application
- 5.16.04 Permit issuance, expiration and renewal
- 5.16.05 Revocation or suspension
- 5.16.06 Rate changes
- 5.16.07 Exemption
- 5.16.08 Penalty

5.16.01 Definitions For the purposes of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Applicant is the any person seeking to obtain and have issued to him a permit pursuant to this ordinance.

City is the city of Pea Ridge, Arkansas.

Permittee is any person who has been granted and has in full force and effect a solid waste collection permit issued hereunder.

Person is any individual, firm, partnership, association, corporation, company, or organization of any kind.

Solid waste means all refuse in solid or semi-solid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, trash, and hazardous waste.

Street Superintendent is the City Street Superintendent (or other official authorized to issue the permit granted hereunder) of the city of Pea Ridge, Arkansas. (Ord. No. 90, Sec. 1.)

5.16.02 Permit required

- A. It shall be unlawful for any person to engage in or operate a solid waste collection service within the corporate limits of the city of Pea Ridge, Arkansas, without a permit properly applied for and issued by the city as provided for by this chapter.
- B. It shall be unlawful for any person to engage in or operate a solid waste collection service within the corporate limits of the city of Pea Ridge, Arkansas, without a business permit properly applied for and issued by the city as provided for in Title 4 of the Pea Ridge Municipal Code.
- C. It shall be unlawful for any person to engage in or operate a solid waste collection service within the incorporated limits of the city of Pea Ridge, Arkansas, without a proper permit applied for and issued for solid waste collection by the Benton County Solid Waste District. (Ord. No. 473, Sec. 1.)

5.16.03 Application An applicant for a permit hereunder shall file with the Street Superintendent a typewritten application disclosing and stating the following:

- A. The name, address, type of business organization (individual, corporation, partnership, etc.), business address, and telephone number.
- B. A statement that the applicant is familiar with the requirements of the Arkansas Solid Waste Management Act and that the applicant is and shall remain in compliance with the requirements of said Act.
- C. A statement that the vehicles and equipment to be used by applicant is of proper design and size and is in proper working order to adequately and regularly service all collection contracts.

- D. A plan showing the proposed collection routes, setting out the frequency of collection, which shall be at least once every seven (7) days, and setting out the proposed rates for service, which in the case of residential customers shall not be in excess of \$10.50 per month. (Ord. No. 463, Sec. 1.)
- E. Each application shall be accompanied by proof of insurance for property damage and personal injury of at least \$100,000/300,000 and an application fee of \$25.00 (Ord. No. 90, Sec. 3.)

5.16.04 Permit issuance, expiration and renewal A permit required by this ordinance shall be issued by the Street Superintendent upon finding that a proper application has been filed under Section 3 and that the required permit fee has been paid. A permit so issued shall be valid for a term of twelve (12) months from the date of issuance unless same is sooner terminated, canceled, or revoked as herein provided. The procedure for renewal application shall be in the same manner and with the same fees as an original application. (Ord. No. 90, Sec. 4.)

5.16.05 Revocation or suspension Any permit issued hereunder shall automatically be suspended upon the conviction of any permittee who shall be convicted for a violation of this ordinance by the Pea Ridge City Court. Upon suspension of any permit as herein provided, permittee shall be entitled to make application to the City Council for reinstatement of permit privileges and which application shall be reviewed and acted upon by the City Council at the next regular meeting following filing of said application, provided same shall not be less than three (3) days prior to said regular meeting date. Further, if at any time there shall be filed with the Street Superintendent complaints about the services or practices of any permittee by at least three (3) customers of the permittee, the Mayor shall issue a written notice to the permittee of such complaints and directing him to appear before the City Council at a fixed time for the purpose of hearing and reviewing said complaints. If upon hearing, the permittee so charged is found by the City Council to be providing unsatisfactory services or to be in violation of the provisions of this ordinance, then the Council, by a majority vote, shall have the power to issue a warning to said permittee or to suspend or revoke his permit and to set and establish requirement for reinstatement. (Ord. No. 90, Sec. 5.)

5.16.06 Rate changes The rates herein established for residential service shall upon application of a permittee by reviewed by the City Council and increased or otherwise changed or modified by resolution. (Ord. No. 90, Sec. 6.)

5.16.07 Exemption The provisions of this ordinance shall not apply to or be construed so as to prevent an individual from disposing of solid waste resulting from his own household activity on his own land, provided such disposal does not create a public or private nuisance or a hazard to health and does not violate any other ordinance of the city or Pea Ridge or other law. Further, it shall not operate to prevent any person who engages solely and exclusively in the removal of trees, tree limbs, brush, and like refuse. (Ord. No. 90, Sec. 7.)

5.16.08 Penalty Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) and such violation shall be stopped until a proper permit has been issued. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 90, Sec. 8.)

CHAPTER 5.20

OPEN BURNING

Sections:

- 5.20.01 Repeal
- 5.20.02 Violations
- 5.20.03 Operation of incinerators
- 5.20.04 Emission of particulate matter from open burning
- 5.20.05 Burn permits
- 5.20.06 Appeal

5.20.01 Repeal Ordinances 168 and 203 are hereby repealed. (Ord. No. 252, Sec. 1.)

5.20.02 Violations. Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, be fined in an amount not to exceed \$500.00. For each day the violation continues, the person shall be deemed guilty of a new violation with the fine not to exceed \$500.00 per day. (Ord. No. 252, Sec. 2.)

5.20.03 Operation of incinerators. No person shall cause or permit the operation of an incinerator within the City unless the incinerator shall comply with all provisions of the Arkansas Water and Air Pollution Control Acts and shall have been inspected and certified for operation by the Department of Pollution Control and Ecology. (Ord. No. 252, Sec. 3.)

5.20.04 Emission of particulate matter from open burning

- A. No person shall cause or permit the open burning of refuse, garbage, trade waste or other waste material or shall conduct a salvage operation by open burning.
- B. The provisions of Subsection A of this section shall not apply to the following activities:
1. Agricultural operations in the growing or harvesting of crops and the raising of fowl or animals;
 2. Use of equipment in agricultural operations in the growing of crops or the raising of fowl or animals;
 3. Barbecue equipment or outdoor fireplaces used in connection with any residence;
 4. Land clearing operations or land grading;
 5. Road construction operations and the use of mobile and portable equipment and machinery incident thereto;
 6. Incinerators and heating equipment in, or used in connection with, residences used exclusively as dwellings for not more than four families;
 7. Fires set or permitted by any public officer, board, council, or commission when the fire is set or permission to burn is given in that performance of the duty of the officer for the purpose of weed abatement, the prevention or elimination of a fire hazard, or the instruction of employees in the methods of fire fighting, which is necessary in the opinion of the officer, or from fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.
 8. Controlled fires used for purposes of forest and wild life management provided that such fires are set and burned under direction or supervision of either the Arkansas Game and Fish Commission, the U.S. Forestry Commission, or the Arkansas Forestry Commission.
 9. Smokeless flares or safety flares from the combustion of waste gases, provided that all other applicable provisions of this Ordinance are complied with. (Ord. No. 252, Sec. 4.)

10. Open fires used at a construction site only for the purpose of warming persons on the site during cold weather. Such fires must be confined within a non-flammable container that shall not exceed thirty (30) inches in width and thirty (30) inches in length. Only untreated wood and wood products shall be used as fuel. (Ord. No. 557, Sec. 2.)
- C. All persons desiring to burn pursuant to the provisions of Subsection B of this section must obtain a permit as provided in 5.20.05 hereof. (Ord. No. 252, Sec. 4.)
- D. The open burning of yard waste is prohibited.
1. **Yard waste** shall include grass clippings, leaves, trimmings, branches, weeds or other similar vegetative materials that are unprocessed and untreated.
 2. The open burning of yard wastes may be allowed upon the issuance of a permit according to 5.20.05 of this code. However, no such permit shall be issued unless the yard waste is located on a property that is not eligible for yard waste removal services or the circumstances dictate that the use of such removal services would be unreasonable. (Ord. No. 557, Sec. 3.)
- E. Fire pits may be used for recreational, ceremonial or cooking purposes without the requirement of a burn permit. However, only untreated wood and wood products and other products designed for such use, may be used as fuel.
1. Fire pit shall mean a pit dug into the ground or a freestanding vessel, whether manufactured or constructed, in which a contained outdoor fire is made. A fire pit shall not exceed six (6) feet in diameter (outside to outside measurement), must be used in accordance with manufacturer's instructions (if any), and shall not be used within fifteen (15) feet of any structure or flammable material(s).
 2. Each fire pit shall meet the regulations established by the Fire Department and shall be approved by the Fire Chief or his designee before the use of any fire pit shall be allowed under this code.
 3. The Fire Department shall promulgate such rules and regulations as are deemed necessary and appropriate for control and monitoring of fire pit use. A copy of such rules and regulations shall be filed with the City Clerk. (Ord. No. 557, Sec. 4.)

5.20.05 Burn permits Permits may be issued by the Fire Department upon application. All applications shall be made and permits issued pursuant to the rules and regulations promulgated by the Fire Department. The issuance of a burn permit by the city of Pea Ridge does not guaranty that the holder thereof is in compliance with all laws, rules and regulations of the state of Arkansas. (Ord. No. 268, Sec. 1.)

5.20.06 Appeal Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this ordinance do not apply or that the true intent and meaning of the ordinance have been misconstrued, the applicant may appeal to the City Council from the decision of the Fire Chief within thirty (30) days from the date of the decisions. (Ord. No. 252, Sec. 6.)

CHAPTER 5.24

TRASH CONTAINMENT AND DISPOSAL

Sections:

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|---------|--------------------------|
| 5.24.01 | Containment and disposal |
| 5.24.02 | Penalties |

5.24.01 Containment and disposal All owners, contractors and developers of lots or other real estate within the city limits of the city of Pea Ridge, Arkansas, are required to properly contain, remove and dispose of all brush, limbs, leaves, logs, metal, plastic, chipboard and paper containers, trash, garbage, rubbish, debris, waste building materials and building rubbish upon the property. Absolutely no burying or filling of construction debris, i.e., bricks, blocks, cement, wood, plastics or metals shall be allowed. Only proper fill, approved by the city of Pea Ridge Inspection Division, shall be used. (Ord. No. 408, Sec. 1.)

5.24.02 Penalties Any persons, firm, or corporation found guilty of violating 5.24.01 of this chapter shall be subject to a fine not greater than Five Hundred Dollars (\$500.00) for any one, specified offense, or violation of such section, or double the sum for each repetition of such offense or violation. If the thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of this ordinance, shall not exceed Two Hundred Fifty Dollars (\$250.00) for each day that the same may be unlawfully continued. (Ord. No. 408, Sec. 2.)