

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Maintenance of Real Property
- 5.05 Trash Containment and Disposal
- 5.08 Solid Waste collection
- 5.12 Septic Tanks

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

Sections:

- 5.04.01 Definitions
- 5.04.02 Unsightly or unsanitary conditions on real property
- 5.04.03 Notice required
- 5.04.04 Clearance by city upon refusal by owner, costs
- 5.04.05 Imminent health or safety hazard
- 5.04.06 Exceptions
- 5.04.07 Open burning prohibited
- 5.04.08 Littering prohibited
- 5.04.09 Punishment

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

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

Appliances shall mean, but are not limited to, refrigerators, deep freezers, 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. This article applies only to building materials which lie in public view and with respect to which its owners have 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 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 inoperable, dismantled or damaged, and is unable to start or move under its own power.

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. 2008-9, Sec. 1.)

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;

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;

Unsightly 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; and

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 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 (i.e., rats, mosquitoes, snakes, etc.) known to be carriers of filth and disease. (Ord. No. 96-20, Sec. 1.)

5.04.02 Unsightly or unsanitary conditions on real property All owners of lots or other real property within the city limits of the city of Centerton, Arkansas, are 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, construction, industrial or farm equipment; remove any abandoned or inoperative household or commercial appliances, 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 the 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 of the city of Centerton, Arkansas. Failure to comply with this section shall constitute a nuisance. (Ord. No. 96-20, Sec. 3 as amended by Ord. No. 2008-12, Sec. 1.)

5.04.03 Notice required

- A. Any owners of a lot or other real property within the corporate limits of the city of Centerton, Arkansas, who fails to comply with 5.04.02 of the Centerton Municipal Code will be notified of such failure and the resulting nuisance, in writing. Such writing shall isn't with specificity the conditions, items and/or objects creating the nuisance and shall indicate the actions which the property owner must take to abate or remove the nuisance. 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 lienholders. Notice to owners shall be sufficient if sent to the owner's address of record with the applicable bounty treasurer or collector. Notice to lienholders is sufficient if the notice is sent to the lienholder's address shown in relevant land records. Except as otherwise provided, all notices shall be issued and signed by any two (2) of the following individuals: the Mayor, the Police Chief, the Fire Chief, the Assistant Fire Chief, the Chief Building Official, the Code Enforcement Officer, the City Recorder/Treasurer, the City Attorney, and/or a health officer employed by the Arkansas Department of Health. 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. 2008-5, Sec. 1.)
- B. In the event personal written notice cannot be made upon the owner or the owner is unknown or his/her whereabouts are unknown or if such owner is a non-resident in the state of Arkansas, 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 the non-resident; and, thereupon, service by publication is now provided by Arkansas law against non-resident defendants may now 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. 2008-5, Sec. 2.)
- C. In the event that the owner or lienholder 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 or court lien. The property owner and lienholders shall be provided with thirty (30) days' written notice of said public hearing. (Ord. No. 2008-5, Sec. 3.)

- D. Upon the determination of the lien amount at public hearing, the owner and lienholders shall be provided with written notice of the total amount of the clean-up lien, including administrative and filing costs. (Ord. No. 2008-5, Sec. 4.)

5.04.04 Clearance by city upon refusal by owner, costs

- A. In the even the owner or lienholder of a lot or other real property within the corporate limits of the city of Centerton, Arkansas, neglects or refuses, after having been given notice as required in 5.04.03(A) and (B) of the Centerton Municipal Code, to comply with said notice within seven (7) days after service thereof, the city shall do whatever is necessary to correct the condition and will charge the costs of correction to the property owner and the city will claim a lien against the affected property, pursuant to the procedure set forth in A.C.A. 14-54-90, *et seq.* (Ord. No. 2008-10, Sec. 1.)
- 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 that has knowledge of, discovers, or finds any junk motor vehicle, said agency may take it into custody and possession. (Ord. No. 2008-10, Sec. 2.)
- C. Provide, 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) day's 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. 2008-10, Sec. 3.)
- 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 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.* (Ord. No. 2008-10, Sec. 4.)
- 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 lienholders, then notice shall be published in a newspaper of countywide circulation in the county wherein the motor vehicles 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. 2008-10, Sec. 4.)

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 Section 2 exists and it is determined that the notice provisions provided for in Section 3 cannot be complied with without jeopardizing the health and safety of the community, the city of Centerton, Arkansas, shall give notice as is applicable 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 hazards stemming from the condition or thing. (Ord. No. 96-20, Sec. 6.)
- 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 (2) of the following individuals: the Mayor, the Police Chief, the Fire Chief, the Assistant 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. (Ord. No. 2000-1, Sec. 2.)
- C. Provided further, however, that upon written application of two or more of the individuals described in Subsection 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. 96-20, Sec. 6.)

5.04.06 Exceptions Nothing in this ordinance shall prohibit use and maintenance of ponds for watering livestock. Furthermore, the growing of hay and certain other grasses on farm acreage will be necessary and, for the purposes of this ordinance, “farm acreage” shall be defined as any tract of land consisting of one acre or more that is regularly used in support or for farming operations. (Ord. No. 96-20, Sec. 7.)

5.04.07 Open burning prohibited It shall be unlawful for any person to ignite or cause to be ignited any open fire within the city unless they have first obtained a permit from the Fire Chief of the Centerton Fire Department. Such permit shall be granted only for the following purposes:

- A. weed abatement; or
- B. prevention or elimination of a fire hazard; or
- C. the instruction of department personnel in the methods of fire fighting; or

- D. the instruction of employees of private industrial concerns in the methods of fire fighting, when it is necessary in the opinion of the Fire Chief; or
- E. civil defense instruction when it is necessary in the opinion of the Fire Chief.

Applications for permits shall be made to the Centerton Fire Chief and shall be submitted with a processing fee of \$.00. All applications shall be made and permits shall be issued pursuant to the rules and regulation adopted by the Centerton Fire Department and in effect at the time of the submission of the application. (Ord. No. 96-20, Sec. 8.)

5.04.08 Littering prohibited It shall be unlawful for any person, firm or corporation to dump, throw any, or fail to properly contain and dispose of any form of garbage, rubbish, building material, building rubbish or things, as those terms are defined in 5.04.01, upon the streets, highways, roads, public and private rights-of-way, public or private construction and building sites, or other public areas of the city of Centerton, Arkansas. (Ord. No. 2004-9, Sec. 1.)

5.04.09 Punishment

- A. Any violation of this ordinance shall be deemed a misdemeanor and punishable by a fine of not less than Twenty-Five Dollars (\$25.00), and 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. 2008-11, Sec. 1.)

CHAPTER 5.05

TRASH CONTAINMENT AND DISPOSAL

Sections:

- 5.05.01 Containment and disposal; penalties
- 5.05.02 Container required
- 5.05.03 Fine

5.05.01 Containment and disposal; penalties

- A. All owners, contractors and developers of lots or other real estate within the city limits of the city of Centerton, 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 Centerton Inspection Division shall be used.
- B. Any person, firm, or corporation found guilty of violating Section (A) of this chapter shall be subject to a fine not greater than Five Hundred Dollars (\$500.00) for any one, specified 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 that the same may be unlawfully continued. (Ord. No. 2005-38, Secs. 1-2.)

5.05.02 Container required All owners, contractors and developers of lots or other real property within the city limits of the city of Centerton, Arkansas, shall install on each building site a covered container designed for the deposit of the items described in 5.05.01 that is a minimum of 50 cubic feet and its adequately anchored and supported so as to remain upright and immovable. This container must be installed before any request to set a temporary electrical meter on such site will be approved. Any request for a temporary electrical meter set that occurs before the proper container is installed will be denied and will result in a re-inspection fee, as set forth in 11.20.03, prior to granting of any future request for a temporary electrical meter set. (Ord. No. 2008-6, Sec. 1.)

5.05.03 Fine

- A. Misdemeanor Any violation of this chapter shall be deemed a misdemeanor and any person convicted of a violation shall be fined in a sum not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and/or imprisoned for a term not to exceed thirty (30) days. If the violation is continuous in nature, the fine shall be not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each day the violation continues. (Ord. No. 2004-10, Sec. 1.)
- B. Suspension of inspections Whenever items described in 5.05.01 are found upon a building site outside the required container, a written violation will be issued by

the Chief Building Official, or his designee, and no further inspections will be made at such site until all penalties have been paid and the site is cleaned and made free of such items. The Chief Building Official, or his designee, may withhold certification of inspection regarding any phase of construction or occupancy permits until the site is in compliance with these requirements and all penalties have been paid. (Ord. No. 2008-6, Sec. 2.)

CHAPTER 5.08

SOLID WASTE COLLECTION

Sections:

5.08.01	Contract with Waste Management of Arkansas, Inc.
5.08.02	Cost
5.08.03	Franchise
5.08.04	Mandatory participation
5.08.05	Unlawful acts
5.08.06	Penalties

5.08.01 Contract with Waste Management of Arkansas, Inc. Contract with Waste Management INC. The Mayor and City Clerk be and hereby are authorized to execute a contract on behalf of the city with Waste Management INC. granting an exclusive franchise for the collection of solid waste from residential living units within the corporate limits of the city, said contract to be in substantially the form and content as the one submitted to the City Council. (Ord. No. 2016-08, Sec. 1.)

5.08.02 Cost The cost for said service shall be paid individually by the service customers and billed directly by Waste Management of Arkansas, Inc. (Ord. No. 2016-08, Sec. 2.)

5.08.03 Franchise The city hereby finds that the requirements of competitive bidding have been complied with and based on bids submitted, Waste Management of Arkansas, Inc., is hereby awarded the franchise. (Ord. No. 2016-08, Sec. 3.)

5.08.04 Mandatory participation The City Council has determined that participation by all residential living units within the city in this solid waste collection service is necessary for the success of the service and for the continued health, welfare, and safety of the citizens of the city of Centerton, and therefore, participation by residential living units within the city is hereby made mandatory. (Ord. No. 2002-10, Sec. 4.)

5.08.05 Unlawful acts It shall be unlawful for an citizen of the city of Centerton to willfully ail to enroll in or to remain enrolled in the mandatory residential solid waste collection service within the corporate limits of Centerton, Arkansas. (Ord. No. 2002-10, Sec. 5.)

5.08.06 Penalties Any person or persons violating any of the provisions or sections of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and fined in any sum not less than Fifty Dollars (\$50.00), nor more than Two Hundred and Fifty Dollars (\$250.00) per offense. Each day that the violation continues shall be considered a separate offense. (Ord. No. 2002-10, Sec. 6.)

CHAPTER 5.12

SEPTIC TANKS

Sections:

- 5.12.01 Water Superintendent shall be inspector
- 5.12.02 Overflows unlawful

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

5.12.02 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.

