

**TITLE 5**

**HEALTH AND SANITATION**

Chapters:

- 5.04 Maintenance of Real Property
- 5.06 Smoking

**CHAPTER 5.04**

**MAINTENANCE OF REAL PROPERTY**

Sections:

- 5.04.01 Maintenance of unlawful conditions
- 5.04.02 Clearing of weeds, grass, underbrush and growth
- 5.04.03 Inspections; authority
- 5.04.04 Abatement by city; lien
- 5.04.05 Collection of lien for cost
- 5.04.06 Penalty
- 5.04.07 City clean up

5.04.01 Maintenance of unlawful conditions It is declared unlawful for any owner, owners or occupants of property, residences, business, commercial establishments or institutions to allow grass, weeds, debris, garbage, rubbish, inoperable appliances, junk, tree limbs and other unsightly or offensive unsanitary articles to accumulate on the property, when such conditions have or likely will become a fire, health, police or safety hazard to the public or adversely and materially affect the value of property within the city. (Ord. No. 94-14, Sec. 1.)

5.04.02 Clearing of weeds, grass, underbrush and growth

- A. Occupied lots It shall be declared unlawful for any owner, owners or occupants of improved, developed lots or property, on which a house, dwelling, apartment, business or commercial building or other structure has been erected to allow weed growth or grass growth in excess of ten (10) inches, and the owner or occupant shall keep said lot clear of weeds, grass, underbrush and other conditions prohibited by 5.04.01.
- B. Empty lots Empty lots in highly visible and in high traffic areas such as malls and along major thoroughfares, shall be kept clear of weeds and refuse, and other conditions prohibited by 5.04.01. (Ord. No. 94-14, Sec. 2.)

5.04.03 Inspections; authority

- A. The City Inspector or department charged with the duty of inspection designated by the Mayor, in his discretion, is hereby empowered:
  - 1. To make or cause to be made inspection trips to determine that 5.04.01 requirements are being met, and particularly, that:
    - a. Refuse, garbage and trash are being properly stored, collected and removed;
    - b. Weeds, debris and growth are properly cut and cleared from any lot or other real property covered by 5.04.02 within the city.
  - 2. To order, in the name and by the authority of the city, the owner or persons occupying or in possession of any lot or other real property to:
    - a. Comply with 5.04.01 and to properly store refuse, garbage and trash for collection and removal;
    - b. Cut weeds and grass;
    - c. Eliminate, fill up or remove stagnant pools of water or any other dangerous, unsanitary noxious, offensive or incendiary article, thing, or condition.
- B. Such order shall be in writing and shall be issued to the owner or owners of the real property involved or to the persons occupying or in possession of the real property.
- C. In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a non-resident of this state, a copy of the written notice shall be posted upon the premises in some prominent place, and a copy mailed to the last known address of the owner. (Ord. No. 94-14, Sec. 3.)

5.04.04 Abatement by city; lien If the owner of any lot or other real property within the city shall neglect or refuse to remove, abate or eliminate any such prohibited condition as provided for under this ordinance, after having been given at least fourteen (14) days notice in writing to do so, then the City Inspector or other authority, designated by the Mayor, is authorized to eliminate, abate or correct such condition and to charge the cost thereof to the owner, owners or occupants of such lot or other real property. The city shall have a lien against such property for such cost incurred. (Ord. No. 94-14, Sec. 4.)

5.04.05 Collection of lien for cost

- A. The amount of costs incurred by the city in complying herewith shall be billed to the owner, owners or occupants. A copy of said bill must be served on the owner, owners or occupants, at least thirty (30) days before any enforcement or collection action, or if unknown or a non-resident, service by publication as now provided by law against a non-resident defendant may be had at least thirty (30) days before any enforcement or collection action is undertaken. The owner, owners or occupants shall have the right to appeal to the City Council the amount of costs claimed by the city; upon filing with the City Council a Notice of Appeal from the amount of costs claimed by the city. An appeal, as to the violation of the ordinance or the amount of costs incurred by the city may be taken to the Circuit Court by following the procedures established by law for such appeals.
- B. The lien for costs provided for in this ordinance may be enforced and collected in either one (1) of the following manners:
1. The lien for costs may be enforced at any time within eighteen months after work has been done by foreclosure action in the Chancery Court.
  2. The amount of costs plus ten (10) percent penalty for collection, shall be certified by the Council to the County Tax Collector, placed on the tax books as delinquent taxes and collected accordingly. (Ord. No. 94-14, Sec. 5.)

5.04.06 Penalty The city may also elect to issue a warrant or citation, citing the owner, owners or occupants for their failure or refusal to bring the property in compliance with the requirements of 5.04.01 and 5.04.02 within the time allowed after having received notice to do so and upon conviction, said owner, owners or occupants may be fined in a sum of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), and each day that the property owner, owners or occupants refuse to comply shall be considered a separate offense. (Ord. No. 94-14, Sec. 6.)

5.04.07 City clean up5.04.07.01 General Scope

5.04.07.01.01 General, Scope That the provisions of this section of the Municipal Code, shall be read in addition to the provisions of Chapter 5.04 (Maintenance of Real Property) that precede it in the Municipal Code, and shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property in residential districts and residentially-zoned districts.

5.04.07.01.02 Responsibility That the owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise

explicitly provided for in the Municipal Code. A person shall not occupy as owner-occupant, or permit another person to occupy, premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, house keeping unit or premises which they occupy and control.

5.04.07.01.03 Vacant structures and land All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

5.04.07.02 Exterior Property Areas

5.04.07.02.01 Sanitation All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

5.04.07.02.02 Grass or Weeds Shall not exceed six inches in height in all residential districts; except that the restrictions noted above will not apply to areas specifically designated or recognized by the city, the state or the United States as agricultural, wetlands, open spaces, natural or wild flower areas, or other designated preservation areas.

5.04.07.02.03 Rodent harborage All structures and exterior property in all residential districts shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re- infestation.

5.04.07.02.04 Accumulation of rubbish or garbage All exterior property and premises in residentially zoned areas shall be free from any accumulation of rubbish or garbage.

5.04.07.02.05 Accumulation of fallen trees, tree branches, tree limbs, and other large-size natural debris All exterior property and premises shall be free from any accumulation of fallen trees, tree branches, tree limbs, and other large-size natural debris.

5.04.07.03 Enforcement It shall be unlawful for a person, firm, or business entity to be in conflict with or in violation of any provisions of this Section of the Municipal Code. Any person who is convicted of a violation of this Section of the Municipal Code shall be guilty of a misdemeanor, and the violations of this Section of the Municipal Code shall be deemed a strict-liability offense.

5.04.07.03.01 Notice Notice of a potential violation shall be made in writing by regular first class mail to the residential property address (owners and spouses, tenants and spouses, occupants and spouses), by regular first class mail to the last-known owner's address, and by

posting a copy of the notice of potential violation on the residentially-zoned or residential property itself, in a manner determined to notify owners, tenants, occupants and passers-by of the potential violation, by using a HUNTER ORANGE background and upon which a plain black-and-white copy of the Notice of Violation is posted.

5.04.07.03.02 Penalty-Fine Except as otherwise provided herein, a person convicted of violating any provision of this Section of the Municipal Code shall be punished by a fine not to exceed \$100.00. A Judge will determine the actual fine.

5.04.07.03.03 Limitation of liability for fine Fines imposed pursuant to this Ordinance shall be limited to collection **in rem** against the real property, and shall not be collected **in personam**. City Building Officials are authorized to issue Citations to any person, firm, or business entity in conflict with, or in violation of the provisions of this Ordinance.

5.04.07.03.04 Accelerated consideration No sooner than seven (7) calendar days after mailing and posting of the Notice set forth above, whichever is later, the City may issue a Citation for the violation.

5.04.07.03.05 TEMPORARY, EMERGENCY AUTHORITY In lieu of issuing a Citation, and in order to protect the health, safety and welfare of the citizens and visitors to the City, in an emergency, the City Building Officials may exercise the City's right to enter onto residential real property no sooner than seven (7) calendar days after mailing and posting of the Notice set forth above, whichever is later, and exercise such action as may be necessary to preserve the peace, health and safety of its citizens, by: (1) removing unsafe and unsanitary conditions, including fallen trees, fallen tree limbs, fallen branches, and other debris, or (2) removing rodents, or (3) cutting grass and weeds, or (4) removing garbage or rubbish, or (5) any or all of the foregoing items (1) to (4). In lieu of issuing a Citation, the City may impose an in rem bill, not to exceed the lesser of (a) the actual cost of the action taken, or (b) \$100.00. This remedy shall be an ALTERNATIVE TO, and not in addition to, any other remedy provided in Section 5.04.06 of the Municipal Code. (Ord. No. 2016-1).

## CHAPTER 5.06

### SMOKING

#### Sections:

5.06.01	Definitions
5.06.02	Smoking prohibited
5.06.03	Duties of managers
5.06.04	Enforcement
5.06.05	Violations and penalties
5.06.06	Jurisdiction
5.06.07	Severability
5.06.08	Effective

5.06.01 Definitions For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Person** Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

**Bar** An establishment, whether termed a private club or public establishment, cocktail lounge, or tavern, that is devoted primarily to the sale and service of alcoholic beverages for on-premises consumption and where the service of food, if any, is incidental to the consumption of such beverages.

**Restaurant** An eating establishment, including but not limited to dining establishments, private clubs, coffee shops, cafeterias, sandwich shops, private and public cafeterias, private school and private school cafeterias, which give or offer for sale food to the public, guests, or employees, as well as non-residential kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

**Enclosed area** All space partially enclosed between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

**Manager** The owner, lessee, vendor, operator, or other person in charge of a bar, restaurant, or public place, and the employer at any place of employment.

**Place of employment** An enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, hallways, classrooms, dressing rooms, locker rooms, and employee cafeterias or dining areas, except designated hotel and motel guest rooms. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

**Public place**

- A. Any enclosed indoor area to which the public is invited, or in which the public is permitted, or which is used by the public or private club members and guests, including bars and restaurants, except designated hotel and motel guest rooms. A private residence which does not qualify as a place of employment is not a public place.
- B. Any building, motor vehicles, or swimming pool owned or operated by the city of Fairfield Bay.
- C. A ten (10) foot buffer zone, extending outward in a semi-circular arc, and measured from the center point of any public doorway or entrance utilized by the public, to an enclosed indoor area regulated by this section.

**Smoking** Carrying, holding or burning a lighted pipe, cigar, or cigarette of any kind; or the lighting, inhaling, emitting or exhaling the smoke of, any lighted pipe, cigar, or cigarette, or other combustible tobacco product in any manner or in any form. This definition includes products containing herbs and herbal substitutes for tobacco. (Ord. No. 05-1, Sec. 1.)

5.06.02 Smoking prohibited Smoking is prohibited in all bars, restaurants, public places, and places of employment within the city limits of the city of Fairfield Bay, Arkansas. (Ord. No. 05-1, Sec. 2.)

5.06.03 Duties of managers

- A. The manager of any establishment or place within which smoking is prohibited by this section shall place "No Smoking" or "Smoke Free" signage at the major entrance and other appropriate places within the establishment.
- B. The manager of any establishment or place in which smoking is prohibited shall not knowingly permit, or fail to make reasonable efforts to prevent, smoking in any area where smoking is prohibited. (Ord. No. 05-1, Sec. 3.)

5.06.04 Enforcement Fairfield Bay City Police shall enforce this section pursuant to their normal police powers. (Ord. No. 05-1, Sec. 4.)

5.06.05 Violations and penalties

- A. It shall be unlawful for a manager knowingly to permit, or to fail to make reasonable efforts to prevent, smoking by the establishment's customers or employees where prohibited by this section, or knowingly to fail to ensure that the

public entrances and other appropriate areas in the establishment bear the required signage. A manager who violates the provisions of this section shall be guilty of a violation and a fine of not more than One Hundred Dollars (\$100.00) per occurrence.

- B. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this section. A person who smokes in an area in which smoking is prohibited shall be guilty of a violation, and subject to a fine not exceeding Fifty Dollars (\$50.00) per occurrence. (Ord. No. 05-1, Sec. 5.)

5.06.06 Jurisdiction This section is not applicable nor enforceable in buildings owned or operated by the United States of America, the state of Arkansas, or the county government of Van Buren County, Arkansas, or the county government of Cleburne County, Arkansas, nor to facilities owned or operated by the University of Arkansas. (Ord. No. 05-1, Sec. 6.)

5.06.07 Severability If any section or portion of this section is for any reason held to be invalid or unconstitutional by a final decision by a court of competent jurisdiction, that section or portion of this section shall be deemed severable and shall not affect the validity of the remaining portions of this section. (Ord. No. 05-1, Sec. 7.)

5.06.08 Effective This amendment to the city of Fairfield Bay City Code shall take effect on January 29, 2006. (Ord. No. 05-1, Sec. 8.)