

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Maintenance of Real Property
- 5.08 Septic Tanks
- 5.12 Littering

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

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- 5.04.01 Unsightly or unsanitary conditions on real property
- 5.04.02 Notice required
- 5.04.03 Penalties
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- 5.04.05 Notification
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5.04.01 Unsightly or unsanitary conditions on real property It shall be unlawful for any person, firm, corporation, partnership, association or persons, owners, agents, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof occupied or unoccupied, improved or unimproved within the corporate city limits of the city of Pottsville to allow or permit any of the following conditions:

- A. Grass, weeds or any other plant that is not cultivated, to grow to a greater height than eight (8) inches on an average of an individual lot, tract, parcel, or to grow in rank profusion upon the premises.
- B. Rubbish, brush, dead trees, or any other objectionable, unsightly or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract or parcel of land.

- C. Grass, weeds or any plants that are not cultivated, to grow in rank profusion, or otherwise, in, along, upon or across the abutting sidewalk or parkway, to a height of more than 6 inches on the average.
- D. The storage of a junk and/or abandoned automobile for a period not to exceed 30 days unless it is in connection with an automotive sales or repair business enterprise which is located in a properly zoned area. Abandoned automobile is defined as any motorized vehicle not regularly used or operable which is objectionable and unsightly and which is not serving the purpose for which was created. Automobile is not limited to cars and trucks, but includes motorcycles, go-carts or golf carts. This is not an exclusive list. It is the intent of this portion of this ordinance to address those situations and to eliminate them where an automobile may be on blocks, in parts, or is not operable as it sits, unless it is in an automotive sales or repair business located in a properly zoned area.
- E. The open storage of iceboxes, refrigerators, or any other appliances for a period not to exceed thirty (30) days and during storage period, all doors, latches and locks are to be removed or made inoperative in a manner to insure the safety of all citizens, unless it is in connection with an appliance sales or repair business enterprise which is located in a properly zoned area.
- F. The use of any stream or drainage way for the purpose of throwing or placing of stumps, brush, litter, rubbish, or any other liquid or solid material within or along the banks of any such stream or natural drainage way unless required permits have been obtained.
- G. The accumulation of stagnant pools of water or allowing any form of vessel that might accumulate water in which mosquitoes or other insects may breed.
- H. The property to be used for illegal dumping of any solid or liquid, household, commercial, industrial, construction, or demolition waste, including but not limited to garbage, trash, tin cans, bottles, rubbish, refuse, lumber, whether dumped, thrown, burned, spilled or abandoned, unless permits and permission have been obtained.

With the exception of anything in violation of federal and state law, this ordinance does not apply to those areas zoned agriculturally. (Ord. No. 2000-3, Sec. 1.)

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

1. Be put in writing .

2. Include a statement of the reasons why it is being issued, and the sections of the ordinance that are alleged to be in violation.(Ord. No. 2020-10, Exh. A-17)
3. Allow a maximum of ten (10) days for performance of any act it requires.
4. Further state that if such alleged violations are not voluntarily corrected within the stated time as set forth in the notice, the Mayor or his duly authorized agent or representative shall institute legal proceedings, charging the person or persons, firm, corporation, or agent with a violation of this ordinance.

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

1. By delivery to the owner, agent, or responsible person personally.
2. By leaving the notice at the usual place, abode or business of the owner, agent or responsible party with a person of suitable age and discretion; or,
3. By depositing the notice in the United States Post Office, addressed to the owner, agent, or responsible party, at his last known address by certified mail, postage prepaid thereon; or,
4. By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice in a conspicuous place on the premises, alleged to be in violation. (Ord. No. 2000-3, Sec. 2.)

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

Violation of the provisions of this ordinance may be prosecuted by the issuance of a civil warrant or by the issuance of a citation by a law enforcement officer as required by law. (Ord. No. 2000-3, Sec. 3.)

5.04.04 Requirement to remove debris after disaster If any property owner shall suffer the loss, either total or partial, of a house by fire or tornado, it shall be the duty of the Mayor or his designated agent, which can include the city attorney, to immediately notify, in writing, the property owner to remove all debris from the lot. It shall be the duty of the property owner, with thirty (30) days from receipt of said notice, to remove all debris or refuse on said lot. (Ord. No. 2000, Sec. 3.)

5.04.05 Notification It shall be the duty of the Mayor of the city of Pottsville or his designated agent, such as the city attorney, to notify, in writing, all property owners who own lots on which debris or refuse is situated due to the destruction of houses by fire or tornado, and on other lots which have accumulated such unsightly debris and refuse, whether caused by fire or otherwise, and it shall be the duty of the property owner to remove such debris or refuse within thirty (30) days after receipt of notice from the city of Pottsville. (Ord. No. 2000-3, Sec. 5.)

5.04.06 Penalty If any property owner shall fail or refuse to remove such debris or refuse as mentioned above within the time fixed by this portion of this ordinance after receiving such notice from the city of Pottsville, he shall, upon conviction, be punished by fine not to exceed \$300.00 for the first offense and not more than \$200.00 for each day of offenses of a continuing nature. Each day that such property owner refuses to comply with this portion of the ordinance, after the expiration of the time limit provided, shall be considered a separate offense. (Ord. No. 2000-3, Sec. 6.)

5.04.07 Property owners outside state

- A. All property owners within the city of Pottsville, Arkansas, are hereby required to cut weeds, grass and trees that pose a danger to the public, remove garbage, rubbish and/or trees that have fallen, and other unsanitary and unsightly articles and things from their property and to eliminate, fill up or remove stagnant pools of water or any other unsanitary things, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.
- B. If the owner of any lot or other real property within the city of Pottsville, Arkansas, after the giving of twenty (20) days notice in writing at the direction of the Mayor, shall refuse and neglect to perform the duties in connection with his or her property as specified in Section 1 hereof, the city, through its authorized personnel, may designate employees of the city or the city may, at its discretion, hire independent contractors to enter upon the property in question and have said weeds, rank grass, trees or other vegetation cut and removed or eliminate any unsanitary and unsightly condition, and the costs thereof shall be charged against said premises and shall constitute a lien thereon.
- C. In case the owner of any lot or other real property is unknown or his whereabouts are unknown or he is a non-resident of this state, then a copy of the written notice herein above referred to shall be posted upon the premises and before any action to enforce such a lien described above shall be obtained, the City Clerk or Recorder shall prepare an affidavit setting out the facts as to unknown address or whereabouts of non-residents, and thereupon service of publication as now

provided for by law against a non-resident defendant or unknown owner may be had and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.

D. The lien herein provided for may be enforced and collected in either one of the following manners:

1. The lien may be enforced at any time within eighteen (18) months after work has been done by an action in the Chancery Court; or,
2. The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then after publication of notice of such hearing in a newspaper having a bona fide circulation in Pope County for one (1) insertion per week for four (4) consecutive weeks and the amount so determined at said hearing/meeting, plus ten percent (10%) penalty for collection, shall be certified by the City Council to the Pope County Tax Collector and by him or her placed on the tax books as delinquent taxes and collected accordingly, and the amount, less those statutory requirements pursuant to the state's cost and entitlements shall be paid to the city of Pottsville when so collected. (Ord. No. 02-02, Secs. 1-4.)

CHAPTER 5.08

SEPTIC TANKS

Sections:

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| 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.

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. (Ord. No. 2020-10, Exh. A-18)

CHAPTER 5.16

NON-OPERATING VEHICLES

Sections:

5.16.01 Prohibited
 5.16.02 Non-operating vehicles
 5.16.03 Definitions
 5.16.04 Residential Areas
 5.16.05 Exemption
 5.16.06 Penalty for Violation
 5.16.07 Violations

5.16.01 Prohibited It shall be illegal, after the passage of this Ordinance, to possess or maintain control over non-operating vehicles in the city limits in the city of Pottsville, unless it is designated and zoned for that specific type of business. (Ord. No. 2017-06, Sec. 1.)

5.16.02 Non-operating vehicles That non-operating motor vehicles as used in this ordinance means a motor vehicle with one or more of the following characteristics:

- A. the engine or motor is inoperative;
- B. the wheels all or any one of them are removed;

- C. the motor vehicle has flats on two or more tires;
- D. major operating components are missing such as: windshield glass, door glass, fenders, gauges, steering wheel, tie rods, springs, drive train, gear box, rear end, or any parts connected with the steering geometry of the motor vehicle or the seats are removed;
- E. any of the major operating components such as those listed in items A-D above are in such damaged condition so as to make the motor vehicle useless. (Ord. No. 2017-06, Sec. 2.)

5.16.03 Definitions "Motor vehicle" means a car automobile, truck, bus, omnibus, tractor truck or other vehicle allowed to travel upon the roads of Arkansas or subject to licensing for travel or intended as a carrier for goods and persons from point to point which uses motor power derived from a motor or engine specifically an internal combustion engine or rotary engine and a wankle or uses electricity to operate. (Ord. No. 2017-06, Sec. 3.)

5.16.04 Residential areas It is unlawful to have a non-operating motor vehicle located in a residential area. (Ord. No. 2017-06, Sec. 4.)

5.16.05 Exemption That nothing in this ordinance shall be construed so as to apply to any motor vehicle that can be started and moved under its own power or demand; motorcycles or motor bikes that are operational; antique automobiles provided the vehicle has an antique license as by law required and is operative; and temporarily disabled motor vehicles provided they are restored to running condition within 30 days from the date of disablement. (Ord. No. 2017-06, Sec. 5.)

5.16.06 Penalty A violation of this ordinance is hereby declared to be a misdemeanor and punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Each day a non-operating motor vehicle is upon the premises of a person it shall constitute a separate offense. (Ord. No. 2017-06, Sec. 6.)

5.16.07 Violations A person shall be deemed in violation of this Ordinance if:

- A. Such person owns or has registered to him a non-operating motor vehicle that is in a prohibited area;
- B. Such person owns property that non-operating motor vehicles are placed, parked or found resting on in a prohibited area;
- C. It shall be a prima facie case that the recorded owners of the real property is in fact the owner of the property in question
- D. It shall be a prima facie case that the registered owner of the motor vehicle is the owner of the motor vehicle. (Ord. No. 2017-06, Sec. 7.)

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