

TITLE 5

HEALTH AND SANITATION

Chapters:

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- 5.08 Health Care Public Facilities Board
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CHAPTER 5.04

MAINTENANCE OF PROPERTY

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5.04.01 Interpretation and Applicability. These regulations shall be known as the Heber Springs Nuisance Abatement Code. These regulations are intended to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises within the city of Heber Springs. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter. Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words "structure", "property", or "dwelling unit", are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

5.04.02 Definitions

Abandoned motor vehicle: Any motor vehicle, regardless of whether wrecked or inoperable, which is left on any property within the city, for a period of more than 72 hours, without approval from the property owner to place the vehicle upon such property.

Accessory structure: A Structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. Structures with kitchen type appliances, areas used or intended for sleeping, and with or without bathroom facilities, is considered to be a dwelling unit or housekeeping unit, not an accessory structure.

Approved: Consented or agreed to in writing by the Fire Marshal or his proper designee.

Bathroom: A room containing plumbing fixtures including a bathtub or shower.

Bedroom: Any room or space used or intended to be used for sleeping purposes.

Carport: A roofed structure providing space for parking of motor vehicles and enclosed on no more than three sides.

Condemn: to adjudge unfit for human occupancy.

Dwelling unit: Any room or group of rooms located within a structure forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, eating and sanitation by a household or family.

Easement: That portion of land or property reserved for present or future use by a person or agency other than the legal owner(s) of the property. The Easement shall be permitted to be for use under, on or above a said lot or lots.

Extermination property: The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination: The control and elimination of insects, rats, or other pest by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, and trapping or by any other approved pest elimination methods.

Garage: An enclosed structure used for the purpose of storing motor or other articles and including a door or other apparatus to secure the structure.

Garbage: The animal or vegetable waste resulting from the handling, preparation cooking and consumption of food.

Habitable space: Spaces in structures for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Housekeeping unit: A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking, and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

Imminent danger: A condition which could cause serious or life-threatening injury or death at any time.

Infestation: The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pest.

Inoperable motor vehicle: A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power. Such vehicle is also considered an abandoned vehicle if left on public or private property without authorization or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land

Motor vehicle: A machine of conveyance which is self-propelled and designed to travel along the ground, and including but is not limited to automobiles, buses, electric scooter, mopeds, motorcycles, trucks, tractors, go-carts and motor homes.

Nuisance: A nuisance is any of the following:

- (A) Any act or condition determined by the city council to be a nuisance;
- (B) Any condition, act, or place that is determined to be a threat to the public peace, health, safety and welfare;
- (C) Any act, omission, or property condition that is detrimental to the health, safety and welfare of the public in that it:
 - (i) Injures or endangers the comfort, repose, health or safety of others;
 - (ii) Is offensive to the senses;
 - (iii) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
 - (iv) In any way renders other persons insecure in life or the use of property; or
 - (v) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

Obstruction: Anything that may block and hinder passage, or progress or course on any city street, or sidewalk or that may block the line of sight at any intersection of any street within the city.

Occupancy: The purpose of which a building or portion thereof is utilized or occupied.

Occupant: Any individual living or sleeping in a building or having possession of a space within a building.

Operator: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner: Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person: An individual, corporation, partnership or any other group acting as a unit.

Premises: A lot, plot or parcel of land, easement or public way, including any structures thereon.

Private property: Means any real property within the city which is privately owned and which is not defined as public property.

Public Property: means any real property in the city which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, and other similar property. Public property does not include easements or right-of-ways for roads or streets.

Public way: any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Removal: The act of clearing all material and debris whenever it becomes necessary to demolish any building that has been condemned and found to be a nuisance by resolution of the city council.

Residence: A structure serving as a dwelling unit or home. For the purpose of this code, the term residence includes dwelling units, housekeeping units, and rooming houses.

Rooming House: A building arranged or occupied for lodging with or without meals, for compensation. Bed-and-breakfasts, boarding houses, half-way houses, and hotels, as those terms are defined under city ordinance, are included within the definition of a rooming house.

Rooming unit: Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Rubbish: Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Structure: A building or other object composed of several parts, which is built or constructed or a portion thereof and which may, or may not, be a fixture upon real property.

Tenant: A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Toilet room: A room containing a water closet or urinal but not a bathtub or shower.

Trailer: means any freewheeling object designed or intended to be pulled or towed behind a motor vehicle, regardless of whether wrecked or inoperable, and regardless of whether currently inspected and/or registered, including without limitations the following: Boat trailer, camper trailer, cargo trailer, special trailers for items such as golf carts or motorcycles, utility trailers, and farm implements.

Ventilation: The natural or mechanical process of supplying conditioned or unconditioned air into, or removing such air from, any space.

Weeds and Grass: Grass, plants or other groundcover that is allowed to grow to a height in excess of eight (8) inches.

Wrecked motor vehicle: Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate and the condition of which has been involved in a motor vehicle accident and is impaired in its use for driving, dismantled, partially dismantled, incapable of operation by its own power on a public street, of from which the wheels, engine, transmission or any substantial part thereof has been removed. (Ord. No. 2020-06, Sec. 2)

5.04.03 General Regulations These regulations are intended to ensure the public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures, premises, equipment and exterior property within the city of Heber Springs. The provisions of this code shall apply to all residential and non-residential structures and all premises within the city of Heber Springs. Where different standards or requirements are imposed in the Heber Springs ordinances, or in any technical code adopted by the city, state or other governing jurisdiction, the most restrictive standard or requirement shall govern. (Ord. No. 2020-06, Sec. 3)

5.04.03.02 Prohibited It shall be unlawful for any person or entity to cause, permit, maintain or allow the creation or maintenance of a nuisance.

5.04.03.03 Responsibility The owner of the premises shall maintain the structure and exterior property in compliance with these requirements, except as otherwise provided for in this 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, housekeeping unit or premises which they occupy and control. Equipment, devices, safeguards and required services installed in any residential or non-residential structures within the city of Heber Springs, shall be maintained in good working order. No occupant shall cause any required services, facility, equipment or utility to be removed from or shut off or discontinued for any occupied dwelling, except for temporary interruptions necessitated by repairs or alterations. Except as otherwise specified herein, the owner shall be responsible for the maintenance of the buildings, structures and premises.

5.04.03.04 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.

5.04.03.05 Grass or Weeds. Grass or weeds shall not exceed eight (8) inches in height in all zoning districts.

5.04.03.06 Rodent harborage. All structures and exterior property 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 reinfestation.

5.04.03.07 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

5.04.03.08 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no motor vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of motor vehicles is prohibited unless conducted inside an approved spray booth.

Storage of inoperable or abandoned vehicles. No person shall park, store, leave or permit the parking, storing or leaving of any motor vehicle, and/or trailer of any kind, which is wrecked or inoperable, whether attended or not, upon any private property within the city, except as allowed by the following exceptions:

- (1) Any subject item parked or stored within a building or enclosed garage on private property
- (2) Any subject item held in connection with a business enterprise lawfully licensed by the city for servicing and repair of subject items and operated in an appropriate business zone pursuant to the zoning ordinances of the city.
- (3) Subject vehicle within a carport that is being actively repaired on at least a weekly basis. Subject vehicles and its parts when not being repaired shall be neatly and completely covered with an opaque cover.
- (4) Inoperable vehicles deemed inoperable only due to not having current vehicle license plate or vehicle registration tag, may be stored in a covered carport.
- (5) Inoperable vehicles may be stored on private property when provided with a fitted and maintained cover designed for such vehicle.

5.04.03.09 Authorized removal of inoperable motor vehicles. Fire Marshal or Code Enforcement Officers shall have the authority to remove inoperable motor vehicles on private property thirty (30) days after written notice has been affixed to the subject item. Such notice shall state that the subject item is a nuisance and order whoever has an interest in the subject item to remove the item from the property. If such nuisance is found upon private property, in addition to the foregoing notice, a copy of such shall be placed on the residence or business. The presence of such subject items on private property is hereby declared a public nuisance which may be abated in accordance with the provisions of this Code. Any inoperable vehicle sitting on city streets can and will be removed immediately at owners expense.

Exception: A motor vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

5.04.03.10 Swimming Pools, Spas and Hot Tubs. Swimming pools, hot tubs and spas shall be maintained in a clean and sanitary condition, and in good repair. Please see ARK. CODE ANN. §14-54-901.

5.04.03.11 Exterior Structure. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

5.04.03.12 Rubbish or Garbage. All exterior property and premises of every structure shall be free from any accumulation of rubbish or garbage.

5.04.03.13 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

5.04.03.14 Appliance/Furniture: Appliances, furniture and similar equipment not in operation shall not be discarded, abandoned or stored on premises outside of any enclosed building such as a storage shed or accessory building.

5.04.04 Illustrative Nuisances

5.04.04.01 Illustrative enumeration of a nuisance. The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (A) Noxious weeds and other rank vegetation;
- (B) Accumulations or storage of rubbish, garbage, materials, metals, lumber, tires, and other materials;
- (C) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (D) Dilapidated structures;
- (E) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (F) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (G) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (H) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (I) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (J) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (K) Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities.
- (L) Graffiti.
- (M) Inoperable or abandoned motor vehicles.
- (N) The use of tarpaulins, canvas, plastic, oil cloth, sheeting and other similar materials as fencing or to shield or enclose any structure (including, without limitation, openings for windows, doors, walls, roofs, garage doors or carports) except when temporarily necessary to perform repairs under a properly issued building permit.

5.04.04.02 Uncut weeds, grass and other unsightly and unsanitary articles. All property owners and occupants within the municipal boundaries of the City of Heber Springs are required to cut weeds and grass, remove garbage, rubbish and other unsightly

and unsanitary articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.

5.04.04.03 Nuisance Structures. Any building or other structure which is in such a dilapidated condition that it is unsafe or unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health or safety of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located shall constitute a nuisance.

5.04.04.04 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe conditions due to lack of abandonment of lack of maintenance, or, unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

5.04.04.05 Unfit structure for human occupancy. A structure is unfit for human occupancy whenever the Code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

5.04.04.06 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law.

5.04.05 Additional Remedies

5.04.05.01 Authorized abatement. If the owner of any lot or other real property within the city shall neglect or refuse to remove, abate or eliminate any condition, violation, or prohibition as may be provided for in this Code, after having been given a Notice of Violation with seven (7) days' notice in writing to do so by the appropriate city official, the city is hereby authorized to do whatever is necessary to correct the condition, including but not limited to entering upon the property and having such weeds, rank grass or other vegetation cut and removed, or eliminating any unsanitary and unsightly condition, or causing necessary repairs to be made and charging the cost thereof to the

owner of such premises, which shall constitute a lien thereon. The above mentioned seven days' notice shall be calculated by counting the first day of the seven day period as the day after written notice is given to the owner, by counting every calendar day, including weekends and holidays, and by establishing the deadline to take the above required actions as 11 :59 p.m. on the seventh day. The City reserves the right to secure a priority clean-up lien pursuant to A.C.A. §14-54-901 et seq.

5.04.05.02 Vacating of Unfit or Unsafe Structures and Utility Services. Any dwelling or dwelling unit declared as unfit for human habitation or unsafe by the City Council of Heber Springs as so designated and placarded by the Fire Marshal or a Code Enforcement Officer, shall be vacated within seven (7) days after notice of such action has been given by the Building official to both the owner and occupant of the building. On the eighth (8th) day after said notice the Code Enforcement Department may notify all utility services that no such services shall be provided to the dwelling or dwelling unit. After utility services are cutoff no further services shall be made available until a rehabilitation permit is obtained or until the Fire Marshal or Code Enforcement Officer notifies utilities that service may be provided to the dwelling or dwelling unit.

5.04.05.03 Placarding. Upon failure of the owner or person responsible to comply with the Notice of Violation for a nuisance structure or equipment within the time given, the Fire Marshal or Code official shall then post on the premises or on defective equipment a placard bearing the word "NUISANCE" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

5.04.05.04 Placard removal. The Fire Marshal or Code Official shall remove unfit for human habitation or unsafe structure placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Fire Marshal or Code Official shall be subject to the penalties provided by this Code.

5.04.05.05 Prohibited occupancy. Any occupied structure condemned and placarded by the Fire Marshal or Code Official shall be vacated as ordered by the Fire Marshal or Code Official. Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

5.04.06 Condemnation

5.04.06.01 Keeping condemned structures prohibited. It shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association, to own, keep or maintain any house, building and/or structure within the corporate limits

of the City of Heber Springs, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by Resolution of the City Council.

5.04.06.02 Condemnation. Any such house, building, and/or structure which is found and declared to be a nuisance by Resolution of the City Council may be condemned to insure the removal thereof as herein provided.

5.04.06.03 Notices. The Fire Marshal or Code Enforcement shall be responsible for publication, mailing or delivery of all notices required to condemn structures.

5.04.06.04 Prior notice of proposed condemnation. That prior to the consideration of a Resolution by the City Council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lien holder(s), of such house, building and/or structure shall be mailed written notification of the date, time and place that the City Council will consider said Resolution. In addition, said notice shall inform the owner(s) and any mortgagee(s) or lien holder(s), of the right to be heard at the City Council meeting on the proposed Resolution declaring such house, building and/or structure to be a nuisance.

5.04.06.05 Notice to unknowns/non-residents. Should the owner(s) and mortgagee(s) and/or lien holder(s) of any such house, building and/or structure be unknown or their whereabouts be unknown or if they do not reside in Arkansas, then a copy of the written notice shall be posted upon said premises and the City Clerk or his designee shall make an affidavit setting out the facts as to unknown address, unknown whereabouts and/or non-resident status of said owner(s), mortgagee(s), and lien holder(s). Thereupon, service of publication as now provided for by law against unknown and/or non-resident defendant(s) may be had and an attorney ad litem shall be appointed to notify such persons by registered letter addressed to their last known place(s) of residence or business.

5.04.06.06 Resolution Information. That the Resolution of the City Council condemning any house, building and/or structure which constitutes a nuisance will include in said Resolution an adequate description of the house, building, and/or structure; the name(s), if known, of the owner(s) and mortgagee(s) and/or lien holder(s) thereof; and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance.

5.04.06.07 Posting. After a house, building and/or structure has been found and declared to be a nuisance and condemned by Resolution as herein provided, a true and certified copy of said Resolution will be mailed to the owner(s) and mortgagee(s) and/or lien holder(s) thereof, if the whereabouts of said owner(s) and mortgagee(s) and/or lien holder(s) thereof be known or their last known address be known, and a copy thereof

shall be posted at a conspicuous place on said house, building and/or structure. Provided, that if the owner(s) and mortgagee(s) and/or lien holder(s) of said house, building and/or structure be unknown or if his or their whereabouts or last known address be unknown, the posting of the copy of said Resolution as hereinabove provided will suffice as notice of the condemnation.

5.04.06.08 Removal. If the house, building and/or structure constituting a nuisance has not been torn down and removed, or said nuisance otherwise abated, within thirty (30) days after posting the true copy of the Resolution at a conspicuous place on said house, building and/or structure constituting the nuisance, it will be torn down and/or removed by the Fire Marshal or Code Enforcement Officer or his duly designated representative.

5.04.06.09 Saleable material. The Fire Marshal or Code Enforcement Officer or any other person or persons designated by him to tear down and remove any such house, building and/or structure constituting a nuisance will insure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same have a substantial value, sell said house, building and/or structure, or any saleable material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the City, to insure its removal and the abatement of the nuisance.

5.04.06.10 Proceeds. All proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials there from and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same to the City Clerk-Treasurer. If any such house, building and/or structure, or the saleable materials thereof, be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the City, plus any fine or fines imposed, the balance thereof will be returned by the City Treasurer to the former owner or owners of such house, building and/or structure constituting the nuisance.

5.04.06.11 Liens. If the City has any net costs in removal of any house, building or structure, the City shall place a lien on the personal property or real estate property as provided by A.C.A. §14-54-901 et seq.

5.04.06.12 Fine. A fine of not less than Two Hundred Fifty (\$250.00) nor more than Five Hundred Dollars (\$500.00) is hereby imposed against the owner(s) of any house, building and/or structure found and declared to be a nuisance by Resolution of the City Council thirty (30) days after the same has been so found and declared to be a nuisance and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense

punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for each said separate and distinct offense; provided the notice as herein provided hereof has been given within ten (10) days after said house, building and/or structure has been by Resolution found and declared to be a nuisance.

5.04.06.13 Judicial declaration. In the event it is deemed advisable by the City Council that a particular house, building and/or structure be judicially declared to be a nuisance by a Court having jurisdiction of such matters, the City Council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the City, and the only notice to be given to the owner(s) and mortgagee(s) and/or lien holder(s) of any such house, building and/or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in Circuit Court. When any such house, building and/or structure has been declared judicially to be a nuisance by a Court of competent jurisdiction, a fine of One Hundred Dollars (\$100.00) is hereby imposed against the owner(s) thereof from the date said finding is made by the Court and for each day thereafter, said nuisance be not abated constitutes a continuing offense punishable by a fine of One Hundred Dollars (\$100.00) per day.

5.04.07 Emergency Procedures

5.04.07.01 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Fire Marshal or Code Enforcement Officer, there is imminent danger due to an unsafe condition, the Fire Marshal or code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

5.04.07.02 Closing streets. When necessary for public safety, the Fire Marshal or code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

5.04.07.03 Emergency repairs. For the purposes of this section, the Fire Marshal or Code Enforcement Officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of emergency work shall be paid by the City. The City shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

5.04.08 Administrative Procedures

5.04.08.01 Notice of violation. A "Notice of Violation" shall be written on standardized or letter form that shall include the following information:

- (A) The name of the owner and/or occupant, if known;
- (B) An address or description of the real estate sufficient for identification;
- (C) A description of the violation or violations;
- (D) A time frame to have the violation corrected (not less than seven (7) days)
- (E) A statement that citations may be issued and fines assessed in addition to any administrative remedy imposed by the City.
- (F) Include a statement that the City has a right to cause repairs or demolition to be made and that the cost may be assessed against the owner and the property of the owner; and
- (G) The information required by Ark. Code Ann. § 14-54-903, if applicable.

5.04.08.02 Method of Service. Any notice under this Chapter, other than for emergency orders under Section 5.04.07 hereof, shall be issued by any person authorized under Arkansas law, and including without limitation, Ark. Code Ann. § 14-54-903, as may be amended from time to time, by:

- (A) Personal service;
- (B) Regular mail or certified mail, return receipt requested; or
- (C) When the identity or whereabouts of a person is unknown, by weekly publication in a newspaper having general circulation throughout the City for two (2) consecutive weeks.

5.04.08.03 Notice by Mail. Notice by mail shall be sent to the owner's address of record with the Cleburne County collector. When sent to the proper address with proper postage, notice by mail shall be deemed properly served without regard as to whether the owner or occupant accepted the mail or the mail was otherwise returned.

5.04.08.04 Transfer of Ownership. After receiving a notice of violation, it shall be unlawful for the owner of any property or structure to sell, transfer, mortgage, and lease or otherwise alienate or dispose of the same until:

- (A) The property or structure has been caused to conform with this code; or
- (B) The owner shall provide the other party a true copy of any notice of violation issued by a Code Enforcement Officer and shall furnish to the Senior Code Enforcement Officer a signed and notarized statement from the other party accepting responsibility for the property or structure.

5.04.08.05 Exceptions. The Notice of Violation requirements shall not apply to the issuances of citations. Issuance of citations must comply with the procedures provided for under Arkansas law.

5.04.08.06 Pre-Existing Uses. Any use or condition that exists upon the adoption of this Chapter, the Heber Springs Zoning Code, subdivision regulations or any other law, ordinance, statute or code enforced by the City of Heber Springs, or any amendment thereto, that would be prohibited, absent the adoption of such provision, restriction or other limitation, shall be deemed to be a permitted non-conforming use and shall be allowed to continue unless the condition or use is determined by the City Council to be a hazard to the health, safety and welfare of the citizens of the City, subject to the terms hereof:

- (A) Any use or condition that is determined by the City Council to be a hazard to the health, safety and welfare of the citizens of the City shall be discontinued, abated and corrected immediately upon the adoption of the restriction, limitation or other requirement concerning the said use or condition.
- (B) In the event that any use or condition should not be considered to be a hazard to the health, safety and welfare of the Citizens of the City of Heber Springs shall be discontinued, abated and corrected within six (6) months from the adoption of the said limitation upon the use or condition.

5.04.09 Violations

5.04.09.01. Violations assessed a penalty. Any person, firm, corporation, partnership, association owner, agent, occupant or anyone having supervision or control of any property in violation of this Code shall be assessed the following fines:

- 1) First Violation Notice - Written Warning advising the occupant or owner of the violation and how to remedy the violation
- 2) Subsequent violation - \$25- \$500.00 Fine

Any citation shall be served in the manner of a traffic or criminal citation in accord with the then current Arkansas law and filed with the Cleburne County District Court, Heber Springs Department, which will require not only the payment of the violation penalty but also the attendance of such violator to such court and payment of any applicable court cost as may be authorized and permitted by Arkansas law. Offenses shall accrue daily for so long as the offense is determined to exist.

5.04.09.02 Violations declared to be misdemeanors. It shall be unlawful for a person, firm or other entity to be in violation of any of the provisions of this Code. Any person, firm or entity who is convicted of a violation of the Code shall be guilty of a misdemeanor.

5.04.09.03 Citations/Affidavit for Warrant. Code Enforcement Officers are hereby authorized to issue citations to any person, firm or entity in conflict with or in violation of any of the provisions of this Code. Issuances of citations and/or an affidavit for warrant must comply with the Arkansas Rules of Criminal Procedures. The Cleburne County District Court, Heber Springs Department, shall have jurisdiction over citations issued pursuant to this Code. Notwithstanding any other provision of law, after a notice has been issued for a specific violation directing an owner or occupant to eliminate a condition on the relevant Premises, an additional notice for a subsequent violation of that specific violation within the same calendar year shall not be required before the issuance of a citation.

5.04.09.04 Appeals. Any person after being found guilty of a violation or after entering a plea of guilty or nolo contendere to a violation shall have those appellant rights granted under the Laws of the State of Arkansas, US Constitution and Arkansas Rules of Criminal Procedure.

5.04.09.05 Authorized Abatement. If the owner of any Premises shall neglect or refuse to remove, abate or eliminate any condition that is not in compliance with any provision of the Code of Ordinances of the City of Heber Springs or is not a permitted use for the Premises under the Heber Springs Zoning code that is not otherwise permitted as an existing, non-conforming use, after having been given a notice or violation or other warning, the City may, upon seven (7) days advance notice, with such notice to be given to the record title owner of the Premises and the occupant, if any, and with such notice to be conspicuously posted upon the Premises, the City may take all actions determined by the City to abate, correct, or otherwise address the condition referenced in the notice specified herein. The cost of any action undertaken by the City shall constitute a lien upon the Premises. The notice period referenced herein shall be calculated by counting the day following the day upon which the said notice is placed in the United States Mail for delivery or by posting the said notice upon the Premises, whichever is later and shall exclude holidays recognized by the State of Arkansas and weekends. In the event that the condition referenced in the notice is not corrected within the time specified herein, the City shall take all actions to enforce the lien as provided in the Code of Ordinances or as may be authorized by Ark. Code Ann. § 14-54-903, as may be amended from time to time.(Ord. No. 2020-06, Sec. 1)

CHAPTER 5.08**HEALTH CARE PUBLIC FACILITIES BOARD****Sections:**

- 5.08.01 Re-creation of Board
- 5.08.02 Membership of the Board; term of office
- 5.08.03 Organization of the Board
- 5.08.04 Meetings of the Board
- 5.08.05 Powers of the Board
- 5.08.06 Issuance of bonds
- 5.08.07 Annual reports
- 5.08.08 Severability
- 5.08.09 Previous Board action not invalidated

5.08.01 Re-creation of Board Pursuant to the authority of the Act there is hereby re-created and reestablished "The Health Care Public Facilities Board of the city of Heber Springs, Arkansas" (hereinafter referred to as the "Board"). The Board shall have authority as hereinafter provided to undertake one (1) or more health care facilities projects within the meaning and scope of Section 4 of the Act, as amended, from time to time, including but not limited to the financing and/or refinancing of same, as may be appropriate. The governing body of this City may at its sole discretion, and at any time, alter or change the structure, organization, programs or activities of the Board, including exercising the power to terminate the Board, but no such action shall be effective to alter or impair contracts entered into by the Board prior to the effective date of such action. (Ord. No. 2000-9, Sec. 1)

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5.08.02 Membership of the Board; term of office. The Board shall consist of five (5) persons who shall be residents of the city of Heber Springs, Arkansas. The members of the Board to initially serve thereon shall be appointed by the Mayor of the city of Heber Springs, Arkansas, to serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. Successor Board members shall be elected by a majority of the Board for terms of five (5) years each. As soon as practicable after the appointment of such Board members, each member shall qualify by taking and filing with the Heber Springs City Clerk the oath of office prescribed by the Act. (Ord. No. 00-9, Sec. 2)

5.08.03 Organization of the Board. The members of the Board shall meet and organize by electing one (1) of their members as chairman, one (1) as vice-chairman, one (1) as secretary and one (1) as treasurer, and such officers shall be elected annually thereafter in like manner. The duties of secretary and treasurer may be performed by the same member. The Board may also appoint an executive director who shall not be a member of the Board and who shall serve at the pleasure of the Board and receive such compensation as shall be fixed by the Board. The members of the Board shall receive no compensation for their services but shall be entitled to reimbursement of expenses incurred in the performance of their duties. Any member of the Board may be removed pursuant to the Act or the provisions of Act 742 of the Acts of the General Assembly of Arkansas for the year 1977, as amended. (Ord. No. 00-9, Sec. 3)

5.08.04 Meetings of the Board. The Board shall meet upon the call of its chairman, or a majority of its members; and at such times as may be specified in the Board's bylaws for regular meetings, and a majority of its members shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present at a meeting of the Board shall be necessary for any action taken by the Board. Any action taken by the Board may be authorized by resolution and such resolution shall take effect immediately unless a later effective date is specified in the resolution. No vacancy in the membership of the Board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the Board. All meetings of the Board shall be held in accordance with Act 93 of the Acts of the General Assembly of Arkansas for the year 1967, as amended, and commonly referred to as the Arkansas Freedom of Information Act. (Ord. No. 00-9, Sec. 4)

5.08.05 Powers of the Board. The Board is empowered, from time to time, to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, lend for the purpose of constructing, acquiring or equipping, or to otherwise deal in or dispose of any one (1) or more health care facilities, or any interest in such facilities, including, without limitation, leasehold interests in and mortgages on such facilities. The Board is also empowered to make mortgage loans to mortgage lenders (as defined in Section 4 of the Act) on

condition that such mortgage lenders use the proceeds of each such loan to provide financing for any one (1) or more of the types of public facilities enumerated above in this section, or any combination of such facilities. In addition to the foregoing, the Board is authorized and empowered:

- A. To have perpetual succession as a body politic and corporate and to adopt bylaws, not in conflict with this ordinance or the Act, as amended from time to time, for the regulation of its affairs and the conduct of its business;
- B. To adopt an official seal and alter the same at its pleasure;
- C. To maintain an office at such place or places in the City of Heber Springs, Arkansas, as the Board may designate, from time to time;
- D. To sue and be sued in its own name;
- E. To fix, charge and collect rents, fees, loan repayments, interest and charges for the use of any public facilities project or loan or loans made in connection therewith;
- F. To employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, contractors and such other employees and agents as the Board in its judgment may find necessary for the accomplishment of the purposes and objectives for which it has been created, and to fix their compensation;
- G. To accomplish public facilities projects as authorized by the Act and this ordinance;
- H. To do any and all other acts and things in the Act and this ordinance authorized or required to be done, whether or not included in the powers enumerated herein;
- I. To lend money, directly or indirectly, for the financing of the construction, acquisition and equipment of a public facilities project; and
- J. To do any and all other things necessary or convenient to accomplish the purposes of the Act and this chapter. (Ord. No. 00-9, Sec. 5)

5.08.06 Issuance of bonds. The Board is authorized to issue revenue bonds, from time to time, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the Board is created as the same relate to the financing and development or refinancing of one (1) or more public facilities projects as enumerated in Section 5.08.05. Such revenue bonds shall be obligations only of the Board and shall not constitute an indebtedness for which the faith and credit of the city of Heber Springs, Arkansas, or

any of its revenues are pledged. The principal of and interest on the bonds shall be payable from and secured by a pledge of revenues derived from the public facilities project or projects acquired, constructed, reconstructed, equipped, extended and/or improved, in whole or in part, with the proceeds of the bonds or other obligations of the Board and as authorized by and in accordance with the provisions of the Act, together with such other collateral as may be properly pledged under the Act and as the Board in its discretion may determine. Any net earnings of the Board, beyond that necessary for retirement of any indebtedness of the Board or to implement any authorized public facilities project or to comply with any covenants contained in any contract or indenture made to secure the rights of bondholders or other lenders of the Board, shall not inure to the benefit of any person other than the city of Heber Springs, Arkansas. (Ord. No. 00-9, Sec. 6)

5.08.07 Annual reports. Within the first ninety (90) days of each calendar year, commencing in 1994, the Board shall cause a written report concerning its activities for the preceding calendar year to be delivered to the Mayor and City Council of the city of Heber Springs, Arkansas. Each such report shall include and set forth a complete operating and financial statement covering its operation during the year. (Ord. No. 00-9, Sec. 7)

5.08.08 Severability. The provisions of this chapter are severable. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application. (Ord. No. 00-9, Sec. 8)

5.08.09 Previous Board action not invalidated. Nothing in this ordinance shall be construed to invalidate any prior lawful action of the Board or any of its former officers in discharge of their duties and responsibilities, and all such actions are reconfirmed, ratified and approved. (Ord. No. 00-9, Sec. 9)

CHAPTER 5.12

LITTERING

Sections:

- 5.12.01 Littering illegal
- 5.12.02 Open bed vehicles
- 5.12.03 Penalty

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, garbage or debris. It shall also be illegal to transport to and place in public litter receptacles personal refuse, trash, garbage or debris.

5.12.02 Open bed vehicles It shall be unlawful for any person,, corporation, or any other legal entity or their agents to haul garbage, trash and other materials in open bed vehicles that may be spilled and dislodged from the open bed vehicles onto the streets of the city of Heber Springs, Arkansas, unless the owner or operator of the vehicle covers the load with a tarpaulin or such other cover as will prevent the trash, garbage and other loose materials from becoming dislodged and falling upon the streets. (Ord. No. 334, Sec. 1)

5.12.03 Penalty Any person, corporation or other legal entity or their agents found guilty of violation of Section 5.12.02 shall be found guilty of a misdemeanor and fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for the first offense and any subsequent violation shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). (Ord. No. 334, Sec. 2)

CHAPTER 5.16SOLID WASTE COLLECTIONSections:

5.16.01	Contract
5.16.02	Definitions
5.16.03	Removal, generally
5.16.04	Containers
5.16.05	Fees
5.16.06	Extra service
5.16.07	Right
5.16.08	Variations
5.16.09	Unlawful disposal of solid waste
5.16.10	Authority to contract for service
5.16.11	Penalty
5.16.12	Recycling of newspapers, aluminum cans, cardboard and certain plastic products
5.16.13	Refundable deposits
5.16.14	Contract authorized
5.16.15	Yard waste and tree trimmings

5.16.01 Contract

- A. The city of Heber Springs is hereby authorized to enter into agreements for the provisions of solid waste collection and disposal services with IESI AR Corporation, an Arkansas corporation. Any agreements previously approved by the Mayor and City Council of Heber Springs, in existence at the time of this amendment, continue in full force and effect unless otherwise contradicted voided herein or hereafter. (Ord. No. 2008-3, Sec. 1.)
- B. The Mayor and City Clerk are hereby authorized and directed to enter into and execute such agreement, along with any other necessary documents, to accomplish the Agreement. (Ord. No. 2006-5, Secs. 1-2.)

5.16.02 Definitions.

Residence A location within the corporate limits of the city of Heber Springs, Arkansas, serviced by a single water meter by the Heber Springs Municipal Waterworks where a single household consisting of one (1) or more persons, normally resides. Residents shall not include multi-family residences or commercial establishments.

Multi-Family Residences A location within the corporate limits of the city of Heber Springs, Arkansas, serviced by one (1) or more water meters of the Heber Springs Municipal Waterworks where more than one (1) household consisting of one (1) or more persons in each household normally resides sharing a common wall or roof. The term shall not include residences or other commercial establishments.

Commercial establishments A location within the corporate limits of the city of Heber Springs, Arkansas, serviced by one (1) or more water meters of the Heber Springs Municipal Waterworks no part of which is occupied as a household residence and where any trade, occupation, calling, profession, job, venture or business is conducted. This definition shall not include residences or multi-family residences.

Solid waste

1. Solid waste means all putrescible and nonputrescible wastes in solid or semi-solid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, waste papers, waste pasteboard and all other solid and semi-solid wastes resulting from industrial, commercial, agricultural, community and residential activities.
2. Provided, however, that hazardous waste or hazardous material as presently or hereafter defined by the rules, regulations, orders, statutes and codes of all agencies, departments and branches of the governments of the United States of America and/or the state of Arkansas, shall be disposed of in accordance with law and not within the terms of this ordinance.
3. Items of solid waste which are too large, too heavy or too cumbersome shall not be included in regular curbside pickup service. These items shall include, but shall not be limited to, appliances, furniture, batteries, large or heavy metal scraps or pieces, larger pieces of waste pasteboard, construction debris, brush, wood, cut trees and tree trimmings, leaves, cut grass and other lawn and garden trimmings. These items shall be collected and disposed of in accordance with 5.16.06, Extra Service. (Ord. No. 90-7, Sec. 2)

Location A physical place within the corporate limits of the city where a residence, multi-family residence or other commercial establishment is located.

Applicable law Deemed to include all of the rules, regulations, orders, statutes, codes and ordinances of all agencies, departments and branches of the governments of the United States of America, the state of Arkansas, the county of Cleburne and the city of Heber Springs, Arkansas, which may now or hereafter be in force and effect. (Ord. No. 90-7, Sec. 3)

Recycling Recycling means to separate or divert an item or items from the solid waste stream for the purpose of processing it or causing it to be processed into a material product, including the production of compost, in order to provide for the final disposition of the material product in a manner other than landfilling or incineration. (Ord. No. 90-7, Sec. 4)

Garbage bag A durable, watertight plastic bag with a wall thickness equal to or greater than one and two-tenths (1 2/10) mil polyethylene plastic with a capacity of not less than twenty (20) gallons and not exceeding forty (40) gallons and having a maximum loaded weight of fifty (50) pounds. (Ord. No. 2005-16, Sec. 1)

Garbage can A watertight, galvanized metal or heavy-duty plastic container of a capacity of not less than twenty (20) gallons and not exceeding forty (40) gallons, having a maximum loaded weight of fifty (50) pounds. These containers shall have a handle or handles on the sides of sufficient durability by which it may be lifted, having a tight-fitting metal or plastic top with a handle and being so constructed as to permit the free discharge of its contents. Boxes, trash can holders or other containers designed to store garbage or trash cans will not be permitted on the street right-of-way or in front of residential housing. (Ord. No. 2005-16, Sec. 1.)

5.16.03 Removal, generally.

- A. From and after the passage of this ordinance, all solid waste of all residential, multi-family and commercial establishments within the corporate limits of the city of Heber Springs, Arkansas, shall be collected and disposed of exclusively by the sanitation department of the city, except as herein provided. Residential, multi-family and commercial users shall have the right to collect and dispose of only recyclable solid waste by removing or causing the same to be removed from their premises, residential users as needed, multi-family and commercial users on no less than a weekly basis.
- B. All solid waste storage areas and grounds are to be kept in a clean, unlettered condition and all solid waste generated from any property is contained as required by this ordinance and other ordinances of the city.
- C. All residential users' monthly fee for regular curbside pickup shall be billed by the Heber Springs Municipal Water Department. All residential hardship cases and multi-family and commercial users shall be billed from Heber Springs City Hall.
- D. Regular curbside pickup service for residential users shall be on a once-a-week pickup schedule, and for multi-family and commercial establishments, pickup service shall be on an as-necessary basis.

- E. No person or business shall place their solid waste or co-mingle their solid waste with that of another person or business for pickup except as herein provided. An apartment complex or office building housing separate persons or businesses may place their solid waste in one (1) container or containers with the pickup fee to be assessed against and paid for by the owner of the apartments or office buildings. (Ord. No. 90-7, Sec. 7)

5.16.04 Containers

- A. Residential pickups shall be made at curbside only, in garbage bags as defined herein. Residential users shall be allowed three (3) containers per week. The containers shall be placed at the edge of the user's property adjoining the street. All solid waste must be bagged and placed inside the trash containers. The containers must be in place no later than 7:00 a.m. on the scheduled route day and should be removed from the street by the end of that day. Sanitation Department employees shall not enter houses, outbuildings, garages, carports of any other structure for the purpose of collection of solid waste.
- B.
1. Multi-family and commercial establishments shall be allowed to purchase their own containers, commonly referred to as "dumpsters" from the city of Heber Springs, Arkansas, or may rent them from the city on a monthly basis. If a multi-family or commercial establishment does not have a sufficient amount of solid waste to necessitate the need for a dumpster, then such multi-family or commercial establishment may elect to use, with the permission of the city, the approved containers for a residential user and the fee for such service shall be based upon volume.
 2. The emptying of dumpsters may be either on a fixed schedule, or on a call-in basis. It shall be the responsibility of the business owner to ensure that dumpsters are accessible for dumping. Businesses may be charged a Twenty Dollar (\$20.00) fee each time access is blocked to the dumpster at the time of collection by parked cars or other obstructions. It will be the Sanitation Department's representative's responsibility to request that parked cars or obstructions be moved. In such event, if the obstruction is not immediately removed, then the representative shall log the time the attempt was made, a description of the obstruction, name of the person notified, and then continue his route. These fees shall be added to the business's monthly trash statement. (Ord. No. 2011-10, Sec. 1.)
- C. Street side pens and/or containers of any form, utilized to contain trash cans are restricted and must be approved by the city of Heber Springs prior to being

utilized by the residential or commercial user. The City Council hereby authorizes the Mayor or his/her appointee be designated to give such approval for street side pens or containers on behalf of the city. All street side containers not provided by the city of Heber Springs must be built according to Sanitation Department specifications and are subject to the approvals set forth above. (Ord. No. 2008-3, Sec. 4.)

5.16.05 Fees

- A. The fee for residential users shall be Fifteen Dollars (\$15.00) per month for once-a-week regular curbside pickup service. The fee may be incorporated into the user's water bill. (Ord. No. 2017-12, Sec. 1.)
- B. All multi-family and commercial, individuals or other users utilizing dumpsters owned by the city of Heber Springs, Arkansas, shall be charged at a rate of Twenty Dollars (\$20.00) per cubic yard. Establishments shall pay a fee based upon volume; the monthly fee shall be Fifteen Dollars (\$15.00) per month for the disposal of three (3) garbage cans per week. Each additional can in excess of three (3) cans shall be billed at a rate of Five Dollars (\$5.00) each.
- C.
 - 1. The required number and size of dumpsters and frequency of pickup shall be determined by the city. The disposal fee for a multi-family or commercial establishment utilizing the above waste containers shall be Ten Dollars (\$10.00) per cubic yard of Class 1 trash and the container shall be presumed to be full at the time of pick up.
 - 2. Business owners, contractors or individuals who wish to contract for the use of a dumpster for a short period of time shall have the rental set at Twenty Dollars (\$20.00) per cubic yard.
- D. Residential users for whom it would be a hardship to pay the monthly fee shall have the option of purchasing from the city of Heber Springs, Arkansas, specially marked garbage bags for One Dollar (\$1.00) per bag with the bags to be used on an as-required basis. Upon application, such hardship status shall be determined by the Mayor. Those approved for the hardship status must present to the Mayor appropriate documents within ten (10) business days prior to the anniversary of the approved application to continue the hardship status. Failure to comply will terminate the approved status.
- E. The Mayor is authorized to enter into contracts for roll-off containers utilized within the city of Heber Springs and to establish the processing fee for each container.

- F. The fees as set forth herein shall become effective on January 1, 2012.
(Ord. No. 2011-10, Sec. 2.)

5.16.06 Extra service The city of Heber Springs, Arkansas, may provide pickup service of items of solid waste which are too large, too cumbersome or not otherwise included in normal pickup service. Those items will be removed at an additional fee in accordance with a published fee schedule available at both the Mayor's office and the Sanitation Department. The Mayor or the Sanitation Supervisor shall make a fee determination on any items not listed on this schedule. Items that come from the process of construction, roof repair or components associated with home remodeling shall be charged at the standard rate that applies to the type of trash being disposed of. A user asking for these items to be picked up shall contact the city Sanitation Department and make an appointment for this service and shall be required to identify the type and number of items to be picked up. (Ord. No. 2011-10, Sec. 3.)

5.16.07 Right The city of Heber Springs, Arkansas, shall have the sole right to provide the service of collecting and disposing of solid waste in the city of Heber Springs and to collect a fee from each user for said service. No person, persons or entity shall have the right to collect and dispose of their own solid waste by removing it from the city of Heber Springs to a lawful landfill or other authorized disposal site. No person or persons or other entity may collect or dispose of the solid waste of another in the city of Heber Springs whether or not a fee is collected for doing so and no person, persons or entity shall have or pay to any other person, persons, or entity a fee for collection or disposing of their solid waste except for the city of Heber Springs. No person or business shall place their solid waste or co-mingle their solid waste with that of another person or business for pickup. An apartment complex or office building housing separate persons or businesses may place their solid waste in one container or containers with the pickup fee to be assessed against and paid for by the owner of the apartment or office buildings. Provided, however, that multi-family and commercial users shall have the right to collect and dispose of recyclable solid waste only by removing or causing the same to be removed from their premises on no less than a weekly basis. All solid waste storage areas and grounds are to be kept in a clean, unlettered condition. (Ord. No. 91-7)

5.16.08 Variations The Heber Springs City Council shall have the authority to make and approve variations or adjustments to the fee schedule contained herein upon the recommendation of the Mayor. (Ord. No. 90-7, Sec. 15)

5.16.09 Unlawful disposal of solid waste It shall be unlawful to drop, deposit, discard, or otherwise dispose of litter upon any public or private property in this city or upon or into any river, lake, pond, or other stream or body of water within this state, unless:

A.

1. The property has been designated by the Arkansas Department of Environmental Quality as a permitted disposal site,
2. The litter is placed into a receptacle intended by the owner or tenant in lawful possession of that property for the deposit of litter, if it is deposited in such a manner as to prevent the litter from being carried away or deposited by the elements upon any part of the private or public property or waters, or
3. The person is the owner or tenant in lawful possession of the property and the litter remains upon the property and the act does not create a public health or safety hazard, a public nuisance or a fire hazard.

B. Penalty A person convicted of a violation of 5.16.09 for a first offense shall be guilty of an unclassified violation and shall be fined in an amount of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars

(\$1,000.00). An additional sentence of not more than eight (8) hours of community service may be imposed in addition to the monetary sanctions. A person convicted of a second or subsequent violation of this same subsection within three (3) years of the first offense shall be guilty of an unclassified misdemeanor and shall be fined in an amount of not less than Two Hundred Dollars (\$200.00) and not more than Two Thousand Dollars (\$2,000.00), with an additional sentence of not more than twenty (20) hours of community service to be imposed as well. (Ord. No. 2008-3, Sec. 9.)

5.16.10 Authority to contract for service The City Council shall be empowered, in its sound discretion, to contract with one (1) or more reliable persons, firms or corporations to so gather, transport and dispose of solid waste generated in the city limits of the city of Heber Springs, Arkansas, to supplement the service as provided to the Heber Springs Sanitation Department. Should the City Council so determine that such contract or contracts are necessary, they shall be upon the terms and conditions which shall most benefit the city and its inhabitants and preserve and protect the public health, safety and welfare including, but not limited to, the regulation of charges to be levied for such service, requiring the use of approved equipment, regulating the frequency and schedule of such service in any and all areas of the city, requiring such contractor or contractors to perform such service in the same manner it would require of its own employees, agents and servants. (Ord. No. 476, Sec. 9.)

5.16.11 Penalty Any person, persons or entity that shall violate any provision of this chapter (other than 5.16.09) shall be guilty of an unclassified misdemeanor and upon conviction shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Each occurrence shall constitute a separate violation. (Ord. No. 476, Sec. 10.)

5.16.12 Recycling of newspapers, aluminum cans, cardboard and certain plastic products The following items and materials will, from and after the effective date of this ordinance, be recycled by the city of Heber Springs, and all residential customers may sort and package the following items and materials: aluminum, plastics, steel cans, cardboard, newspaper, magazines, fabric, glass. Information with regard to sorting and packaging these items and materials may be disseminated from the Mayor's office and/or the Sanitation Department. (Ord. No. 2002-20, Sec. 1.)

5.16.13 Refundable deposits All short-term dumpster rentals shall require a refundable deposit in the amount of One Hundred Dollars (\$100.00) to be made at the time of the rental. Said deposit is to be refunded to the renter upon return of the rental dumpster and satisfactory payment is received on the rental account. (Ord. No. 2008-3, Sec. 13.)

5.16.14 Contract authorized The Mayor and Clerk/Treasurer of the city of Heber Springs, Arkansas, are hereby authorized to enter into a contract, which shall be approved by the City Council, in furtherance of this chapter and the city's desire to engage in recycling of certain items. (Ord. No. 92-4, Sec. 2)

The Mayor and the City Clerk of the city of Heber Springs are hereby authorized to enter into an additional contract in furtherance of recycling plastic products, not to exceed in cost to the city, the sum of One Hundred Dollars (\$100.00) per month, in furtherance of this section and the city's desire to engage in recycling of plastic products. (Ord. No. 92-21, Sec. 2.)

5.16.15 Yard waste and tree trimmings

A. Definitions

Tree trimmings Any pieces of bushes, brush, shrubs, trees, or debris from any of the same being less than four (4) inches in diameter and cut from the property of a residence or business located within the city limits of Heber Springs. (Ord. No. 2012-14, Sec. 1.)

Yard waste Any grass, leaves, pine cones, or other lawn and garden trimmings, or any other debris resulting from the removal of the same that have been cut or otherwise removed from the property of a residence or business, within the city limits of Heber Springs. (Ord. No. 2012-14, Sec. 1.)

B. Removal generally

1. The city of Heber Springs provides a service to its residents and businesses to pick up and dispose of yard waste and tree trimmings left along the roadside after removal from their property, and shall continue to pick up and dispose of all yard waste and tree trimmings left along the roadside in accordance with the following provisions:
 - a. All grass clippings, resulting from routine yard maintenance shall be placed along the roadside adjoining the property from which it was removed in an unlettered manner.
 - b. Leaves resulting from the routine yard maintenance shall be raked and piled separate and away from any other yard waste piles along the roadside adjoining the property from which it was removed.
 - c. Tree trimmings resulting from the routine yard maintenance shall be stacked and piled separate and away from any other yard waste piles along the roadside adjoining the property from which it was removed.
2. All roadside areas where yard waste or tree trimmings are placed for pick-up shall be kept in a clean and unlettered condition.

3. The placing of tree trimmings or yard waste which was not taken from a residence or business property located within the city limits of Heber Springs along a roadside within the city shall be prohibited. (Ord. No. 2012-14, Sec. 2.)
- C. Penalty Any person convicted of violating this ordinance shall be guilty of an unclassified violation, and shall be fined in an amount of not more than One Hundred Dollars (\$100.00) for each violation. Each occurrence shall constitute a separate violation. (Ord. No. 2012-14, Sec. 3.)

CHAPTER 5.20

ARKANSAS HOSPITAL AND BAPTIST HEALTH CARE FACILITIES

BOARD

Sections:

- | | |
|---------|-------------------|
| 5.20.01 | Findings |
| 5.20.02 | Creation of Board |

- 5.20.03 Powers
- 5.20.04 Issuance of bonds
- 5.20.05 Organization; reports

5.20.01 Findings The City Council of the city hereby finds and determines:

- A. The project will make available advances and innovations for the health care of inhabitants of the city and the state of Arkansas, and the project is plainly in the interest of the city and its inhabitants. Further, proper planning dictates that provision should be made for financing any additional facilities that may be required in the future in order that Baptist Health satisfy the increasing health care needs of the inhabitants of the city and the state of Arkansas ("subsequent projects").
- B. Financing of the project and subsequent projects under the Act, including the refinancing of existing debt, is necessary for accomplishing the project and subsequent projects and will make available quality health care facilities and services, thereby benefiting the public in general and the inhabitants of the city in particular.
- C. The facilities and services afforded by Baptist Health are now and hereafter will be made available to patients, staff privileges are afforded to medical and supporting personnel and persons are employed without discrimination of the basis of race, creed, religion or sex.
- D. The city is authorized by the Act to provide financing of health care facilities through the creation of a public facilities board and the issuance of revenue bonds by such a public facilities board.
- E. It is in the best interest of the city and its inhabitants that there be created a public facilities board under the Act and that the authority of the board be limited to accomplishing, financing, contracting concerning, and otherwise dealing with health care facilities (as defined in the Act) to be owned or operated by Baptist Health, including the refinancing of all or any part of existing debt. (Ord. No. 06-12, Sec. 1.)

5.20.02 Creation of Board Pursuant to the authority of the Act there is hereby created and established the "Heber Springs, Arkansas Hospital and Health Care Facilities Board (Baptist Health)" (the "Board") with authority as hereinafter provided to accomplish, finance, refinance, contract concerning, and otherwise deal with health care facilities (as defined in the Act) to be owned or operated by Baptist Health. (Ord. No. 06-12, Sec. 2.)

5.20.03 Powers The Board is empowered, from time to time, to own, acquire, construct, reconstruct, extend, equip, improve, sell, lease, contract concerning or otherwise deal in or dispose of health care facilities, including mortgage loans with respect thereto (including specifically the project and any subsequent project, as hereinbefore defined); provided, however, that the authority of the Board shall be limited to such health care facilities as are sold, leased or mortgaged to Baptist Health or are otherwise owned by, dealt in, disposed of, or concerning which a loan is made to Baptist Health, pursuant to a contract or contracts between the Board and Baptist Health. The Board shall have all of the powers provided for in the Act, subject to the limitations of this ordinance, and shall carry out its duties in accordance with the Act. (Ord. No. 06-12, Sec. 3.)

5.20.04 Issuance of bonds The Board is authorized to issue revenue bonds, from time to time, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the Board is created. Such revenue bonds shall be obligations only of the Board and shall not constitute an indebtedness from which the faith and credit of the city or any of its revenues are pledged, and the principal and interest on the bonds shall be payable from and secured by a pledge of revenues derived from the health facilities financed, in whole or in part, from bond proceeds or from any debt previously incurred and refinanced by bonds, and as authorized by and in accordance with the provisions of the Act, together with such other obligations and collateral (but not including any obligations of or collateral provided by the city) as may properly be pledged. Any issuance of revenue bonds shall be preceded by notice and a public hearing, before the Board, and by approval of the City Council, as and to the extent required by law, and a report on each such public hearing shall be presented to the City Council. (Ord. No. 06-12, Sec. 4.)

5.20.05 Organization; reports As soon as practicable after the adoption of this ordinance the Board shall meet and elect officers. The Board may adopt by-laws and such other rules and regulations, if any, as shall be necessary or desirable for the conduct of its business and consistent with the provisions of the Act. The Board shall cause to be filed with the City Clerk of the city the annual report described in A.C. A. 14-137-123. (Ord. No. 06-12, Sec. 5.)