

TITLE 5

HEALTH AND SANITATION

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CHAPTER 5.04

NUISANCE ABATEMENT

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5.04.01 Definitions

Abatement means the removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.

Owner means the owner of record based on the Carroll County Assessor's record or any person with legal, financial or equitable interest in the property on which the alleged public nuisance exists at the time of the violation.

Property means any real property, premises, structure or location on which a public nuisance is alleged to exist.

Public nuisance means any fence, wall, shed, deck, house, garage, building, structure or any part of aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which in its entirety, or any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:

- A. By reason of being a menace, threat and/or hazard to the general health and safety of the community.
- B. By reason of being a fire hazard.
- C. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.
- D. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exist.
- E. Any act, thing, occupation, condition, or use of property which shall be of such a nature and shall continue for such length of time to do any of the following:
 - 1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the citizens of this community; or
 - 2. Greatly offend the public moral or decency; or
 - 3. Violate the regulatory laws pertaining to buildings and construction, as contained in this code; or
 - 4. Any unauthorized writing, inscription, word, figure or design which is marked, etched, scratched, drawn or painted on any structural component of any building, structure or other facility, commonly referred to as "graffiti" regardless of the nature of the material used in its application or upon which it is applied.
- F. A public nuisance shall include but not necessary be limited to the following acts, conduct, omission, conditions or things:

1. Without prior authorization of the governing body, to park, store, leave or permit the parking, storing or leaving of any motor vehicle which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, for a period of time in excess of ten (10) days, unless:
 - a. The same is completely enclosed within a garage or other building; or
 - b. The same is registered with the state of Arkansas as a non-highway vehicle. A copy of the non-highway title must be filed with the Code Enforcement Officer, and the vehicle must be stored in the rear yard of the property and be maintained in a safe manner and not constitute a nuisance as defined in this chapter. Storage shall be limited to one (1) year.
 - c. Any vehicle issued a non-highway title filed with the Code Enforcement Office shall comply with the provisions of city code within one (1) year from the effective date of this ordinance; or
 - d. The same is retained in a business operating in accordance with the zoning laws of the city.
 - e. Any one of the following conditions shall raise the presumption that a motor vehicle is wrecked, junked, partially dismantled, inoperative or in an abandoned condition:
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Absence of the vehicle being supported by properly attached wheels and tires, with placement of the vehicle or parts thereof upon jacks, blocks or other supportive devices;
 - (3) The absence of any door or window in place to prevent entry or the absence of (1) of or more parts of the motor vehicle necessary for its lawful operation upon a public street or highway;
- G. Failure of the area to be kept clean of debris, weeds, (as defined in 5.28, et seq., of this code) noxious weeds, or the use of a vehicle as a storage shed or accessory building or structure. This public nuisance is specifically addressed and enforceable under 5.28.01, et seq.

Summary abatement means abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair, or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this ordinance. (Ord. No. 580, Sec. 1.)

5.04.02 Summary abatement

- A. Whenever a complaint is made to the Police Department/Code Enforcement Officer of a public nuisance, as defined in 5.04.01, the Police Department/Code Enforcement Officer shall promptly cause to be inspected the property on which it is alleged that the public nuisance exist. Should the Police Department/Code Enforcement Officer find that a public nuisance exists, and that the public health, safety or welfare may be in immediate danger, then summary abatement procedures shall be implemented and the Police Department/Code Enforcement Officer may cause the nuisance to be removed or abated. The Police Department/Code Enforcement Officer may notify the Building Inspector if the public nuisance involves a building that appears structurally unsafe. The Building Inspector, upon being notified by the Police Department/Code Enforcement Officer shall cause the building on which it is alleged such public nuisance exist to be inspected and submit a written report of such inspection and the findings to the Police Department/Code Enforcement Officer supported by photographs, if available.
- B. When summary abatement is authorized, notice to the owner, agent or occupant of the property is not required. Following summary abatement, the Police Department/Code Enforcement Officer shall cause to be posted on the property ^{D.E.O.} liable for the abatement a notice describing the action taken to abate the nuisance. (Ord. No. 580, Sec. 2.)

5.04.03 Abatement in other cases; notice, etc.

- A. If after inspecting the property on which the nuisance is reported, the Police Department/Code Enforcement Officer declares the existence of a public nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then, regular abatement procedures shall be followed. Photographs and reports of the findings and inspections shall be made and filed with the Police Department/Code Enforcement Officer.
- B. The Police Department/Code Enforcement Officer shall determine the individual, firm or corporation who, from the records in the Carroll County Recorder's office, appears to be the titled owner of the aforesaid property and immediately cause a written notice to be served on such individual, firm or corporation by personal service or by leaving a copy of the notice at the usual place of residence or

business of such owner, or address of such owner shown in the Carroll County Recorder's records, or by copy mailed to such owner at such place or address by United States certified mail return receipt. If service of such written notice is unable to be perfected by any of the methods described above, the Police Department/Code Enforcement Officer shall cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the city, once a week of two consecutive weeks, and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, the Police Department/Code Enforcement officer shall cause a copy of the notice to be posted at such structure, location or premises. The Police Department/Code Enforcement Officer shall also determine from the Carroll County Recorder's office who the lienholder of the property, if any, as documented therein, is and cause a written notice to be served on such lienholder by United States mail return receipt.

- C. The aforesaid notice to the owner, and lien holder, if any, of the property shall state clearly and concisely the findings of the Police Department/Code Enforcement Officer with respect to the existence of a public nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the public nuisance, pursuant to the order contained in the Police Department/Code Enforcement Officer's notice, the public nuisance shall be abated by the city at the expense of the owner.
- D. Any person who is the record owner of the premises, location or structure at the time an order pursuant to this ordinance is issued and served upon him, shall be responsible for complying with that order, and liable for any costs incurred by the city therewith, notwithstanding the fact that he conveys his interests in the property to another after such order was issued and served.
- E. It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed. (Ord. No. 580, Sec. 3.)

5.04.04 Abatement by owner

- A. Within thirty ¹⁰⁸~~30~~ days after the posting and mailing of a notice to abate a nuisance, the owner, agent of the owner, or individual in possession of the affected property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing shall be made by filing a written statement that no nuisance exists. The statement shall be filed with the Police Department/Code Enforcement Officer.

- B. The Police Department/Code Enforcement Officer, upon written application by the owner within the thirty (30) day period after the notice has been served, may grant additional time for the owner to effect the abatement of the public nuisance, provided that such extension is limited to a specific time period. (Ord. No. 580, Sec. 4.)

5.04.05 Appeal procedures; hearing

- A. The owner or occupant of the property who has been served with a notice pursuant to this ordinance that a public nuisance exists and that it must be abated within thirty (30) days, may, within seven (7) calendar days after receipt of such a notice, make a written demand to the Police Department/Code Enforcement Officer for a hearing on the question of whether a public nuisance in fact exists. The hearing shall be held within thirty (30) calendar days following receipt by the Police Department/Code Enforcement Officer of the written demand and at least three (3) days' notice of the hearing shall be given to the individual who made the written demand for the hearing.
- B. The hearing shall be conducted by the City Planning Commission. Such Commission may amend or modify the notice and/or order, or extend the time for compliance with the Police Department/Code Enforcement Officer's order by the owner by such date as the majority of the City Planning Commission may determine.
- C. The owner, agent of the owner, occupant and lienholder, if any, of the subject property shall be given the opportunity to present evidence to the City Planning Commission in the course of the hearing.
- D. In those instances where the nuisance has been abated by the city, the City Planning Commission shall have discretion to waive the cost of abating a nuisance, in whole or in part, if, in the course of the hearing reviewing the decision, they find that any of the following did not conform to the provisions of this ordinance:
 - 1. The notice to remove the nuisance;
 - 2. The work performed in abating the nuisance; or
 - 3. The computation of charges.
 (Ord. No. 580, Sec. 5.)

5.04.06 Abatement by city

- A. Should any public nuisance not be abated at the expiration of time stated in the notice/order or within such additional time as the Department of Public Health and Safety or (Commission) may grant, the Police Department/Code Enforcement Officer shall have the authority to enter upon the property and abate the public nuisance found thereon. In abating such nuisance, the Police Department/Code Enforcement Officer may go to whatever extent may be necessary to complete the abatement of the public nuisance and should it be practicable to salvage any material derived in the aforesaid abatement, the Police Department/Code Enforcement Officer may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.
- B. The proceeds, if any, obtained from the sale of material salvaged as a result of an abatement of a public nuisance by the Police Department/Code Enforcement Officer shall be deposited to the General Fund of the city and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property in question by the City Council and collected as any other assessment by the city; however, any other alternative collection method may be utilized by the city to recoup the deficit. Should the proceeds of the sale of such salvaged material exceed the cost of the abatement, the surplus, if any shall be paid to the owner of the property from which the public nuisance was abated when a proper claim to the excess is established.
- C. In abating a public nuisance, the Police Department/Code Enforcement Officer may call upon any of the city departments or division for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public nuisance.
- D. The Police Department/Code Enforcement Officer shall, after completing the removal and abatement, file a statement of costs with the Municipal Court Clerk. (Ord. No. 580, Sec. 6.)

5.04.07 Notice of assessment; appeal of charges

- A. Upon receipt of the statement of costs from the Police Department/Code Enforcement Officer, the Municipal Court Clerk shall mail to the owner of the property upon which the public nuisance has been abated notice of the amount set forth in the statement plus an additional amount sufficient to defray the costs of the notice and stating that the city proposes to assess against the property the amount set forth in the notice and that objections to the proposed assessment must be made in writing and received by the Municipal Court Clerk within twenty (20)

days from the date of mailing such notice. Upon the expiration of the twenty (20) day period, if no objections have been received by the Municipal Court Clerk, the Municipal Court Clerk shall enter that amount in the city liens docket which shall therefore constitute a lien against the property.

- B. If objections of either the property owner or their representatives are received by the Municipal Court Clerk prior to the expiration of the twenty (20) day period the Municipal Court Clerk shall refer the matter to the Police Department/Code Enforcement Officer for administrative review.
- C. Upon conclusion of administrative review, the Police Department/Code Enforcement Officer shall make a written determination that the amount of the charges shall be canceled, reduced, or remain the same. A copy of this determination shall be furnished to the person making the objections together with a notice of such person's right to appeal to the City Planning Commission.
- D. If no appeal of a determination by the Police Department/Code Enforcement Officer is filed within the time period allowed, a copy of the determination will be furnished to the Municipal Court Clerk who shall then enter a lien in the amount determined by the Police Department/Code Enforcement Officer in the city liens docket as provided in subsection (A).
- E. If a timely appeal is received by the City Planning Commission, a hearing shall be scheduled and held on the matter. If, after the hearing, the City Planning Commission determines that the proposed assessment does not comply with subsection (G) herein, they shall so certify to the Municipal Court Clerk and the proposed assessment shall be canceled. If, after the hearing, it is determined that the proposed assessment or any part of it is proper and authorized, the City Planning Commission shall so certify to the Municipal Court Clerk who shall enter a lien in such amount as determined appropriate by the City Planning Commission, in the lien docket as provided in subsection (A).
- F. The determination of the City Planning Commission is a final administrative decision and is not appealable to the City Council.
- G.
 - 1. The Police Department/Code Enforcement Officer, in administrative review, or the City Planning Commission, on appeal, may reduce or cancel a proposed assessment if it is determined that:
 - a. Any of the following did not conform to the provisions of this ordinance:

- (1) The notice to remove the nuisance; or
 - (2) The work performed in abating the nuisance; or
 - (3) The computation of charges; or
 - b. The owner of the property was eligible for a waiver of costs under 5.04.09.
- 2. The Police Department/Code Enforcement Officer, in administrative review, or the City Planning Commission, on appeal, may reduce a proposed assessment by eliminating the civil penalty portion of the invoice if it is determined that:
 - a. The current owner was not in possession of the property at the time the notice required in 5.04.03 was posted; or
 - b. The owner did not receive the notice to remove the nuisance, did not have knowledge of the nuisance and could not, with the exercise of reasonable diligence, have had such knowledge.
- H. If, after a lien has been entered in the docket of city liens, there is a written request of an owner who alleges that the owner did not receive notice of the proposed assessment, the Municipal Court Clerk shall refer the matter for review pursuant to subsection (B).
- I. The lien may be canceled or reduced by the review, or the Police Department/Code Enforcement Officer, in administrative review, or the City Planning Commission, on appeal, if it is determined that the owner did not receive notice of the proposed assessment, did not previously have knowledge of the lien of the nuisance abatement work constituting the basis of the lien, could not, in the exercise of reasonable care of diligence, have had such knowledge, and in addition that the circumstances are such that a reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the City Planning Commission, pursuant to subsection (E), the auditor shall cancel or reduce the lien if required by the determination of the Police Department/Code Enforcement Officer and/or City Planning Commission. (Ord. No. 580, Sec. 7.)

5.04.08 Personal liability of owner The person who is the owner of the property at the time at which the notice required under 5.04.03 of this ordinance is posted shall be personally liable for the amount of the assessment including all interest, civil penalties, and other charges. (Ord. No. 580, Sec. 8.)

5.04.09 Cost of abatement; low income, elderly persons

- A. Notwithstanding the other provisions of this ordinance, the cost of abating a nuisance shall be waived for low income and elderly persons, if upon application it appears to the Police Department/Code Enforcement Officer that the conditions set forth in subsection (B) are met.
- B. To be eligible for waiver of nuisance abatement costs a person must be classified as low income, as defined by the Police Department/Code Enforcement Officer, or
- C. Be more than 65 years of age and:
 - 1. A person living alone, whose total income for the preceding calendar year that did not exceed two and one-quarter ($2 \frac{1}{4}$) times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld.
 - 2. The head of a household which household received a total income for the preceding calendar year that did not exceed two and one-quarter ($2 \frac{1}{4}$) times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld.
- D. Additionally, all persons wishing to qualify for waiver of nuisance abatement costs must:
 - 1. Furnish proof of the age and/or income requirements as set forth above in the manner and form designated by the Police Department/Code Enforcement Officer;
 - 2. Must own, or be in the process of purchasing the property from which the nuisance is abated; and
 - 3. Be living on the property from which the nuisance is abated.
- E. The removal of the nuisance in question must have been required by the Police Department/Code Enforcement Officer and the person requesting waiver of costs must have been officially notified by the Police Department/Code Enforcement Officer to remove the nuisance.
- F. Applications for waiver of nuisance abatement costs shall be filed with the Police Department/Code Enforcement officer, with or without forms supplied by the

city, within ten (10) days after receipt of a notice to remove a nuisance or a work order notice unless the Police Department/Code Enforcement Officer extends the time for good cause shown. All information given on such application shall be supplied and notarized by the applicant.

- G. The maximum amount that may be waived under this section for any one parcel of real property or any one person shall be Five Hundred Dollars (\$500.00) per calendar year.
- H. No overhead charge or civil penalty shall be imposed for any real property for which a waiver pursuant to this section shall have been approved. (Ord. No. 580, Sec. 9.)

5.04.10 Overhead charge; civil penalties

- A. Whenever a nuisance is abated by the city, the Police Department/Code Enforcement Officer shall keep an accurate account of all expenses incurred including an overhead charge of twenty-five percent (25%) for administration and a civil penalty of Two Hundred Dollars (\$200.00) for each nuisance abated.
- B. When the city has abated a nuisance maintained by any owner of real property, for each subsequent nuisance that is abated by the city within two (2) consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of fifty percent (50%), minimum of Fifty Dollars (\$50.00), of the cost of abatement shall be added to the costs, charges and civil penalties provided for in subsection (A). The civil penalty shall be imposed without regard to whether the nuisances abated by the city involve the same real property or are of the same character. (Ord. No. 580, Sec. 10.)

CHAPTER 5.08**SOLID WASTE COLLECTION****Sections:**

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5.08.01 Short title This ordinance shall be known and may be cited as the Solid Waste Management Ordinance of Green Forest, Arkansas. (Ord. No. 481, Sec. 1.)

5.08.02 Declaration of policy Whereas A.C.A. 8-6-211(a) states: "All municipalities shall develop a plan to provide a solid waste management system that shall adequately provide for the disposal of solid wastes generated or existing within the incorporated limits of the municipality or in the area to be served and in accordance with the rules, regulations, and orders of the Arkansas Pollution Control and Ecology Commission;" and whereas A.C.A. 8-6-211(e) states: "The governing body of a municipality shall have the right to establish policies for and enact laws concerning all phases of the operation of a solid waste management system;" it is

hereby declared to be the purpose of this ordinance to regulate the storage, collection, transportation, processing, recovery, and disposal of solid waste in order to protect the public safety, health, and welfare and to enhance the environment of the people of Green Forest and the surrounding area. (Ord. No. 481, Sec. 2.)

5.08.03 Administration

- A. The City Council shall be responsible for the management and administration of this ordinance and of the rules and regulations established hereunder.
- B. The Mayor is hereby authorized to enter into a contract or contracts for the collection of solid waste within the corporate limits of the City.
- C. All contracts entered into for the collection of solid waste in the City must be approved by a majority vote of the City Council.
- D. The City Council shall issue a city license to all individuals or corporations who have a contract with the City to collect or transport solid waste in the City.
- E. The license fee for a solid waste license in the City shall be \$50.00 and shall be good for a period of one year from the date of issuance.
- F. The City Council shall be responsible for enforcing this ordinance and for ruling on all disputes regarding the type of service classification, availability of service, and any other dispute that may arise between customers and the contractor providing the service. (Ord. No. 481, Sec. 3.)

5.08.04 Time and frequency of collection All residential and non-residential solid waste shall be collected at sufficient intervals to protect the public health and the environment, with such intervals to be determined by the City Council provided that the solid waste shall be collected no less often than once a week. (Ord. No. 481, Sec. 4.)

5.08.05 Storage

- A. All residential solid waste (excluding bulky goods) shall be placed in either a reusable type container not to exceed 35 gallon capacity or placed in a plastic bag not to exceed 35 gallon capacity that is tied shut to control the solid waste collected.
- B. All non-residential solid waste shall be stored in containers provided by the contractor unless it is of minimal volume and can be contained in either a reusable container or plastic bag of 35 gallon capacity or less.

C. All residential solid waste shall be placed within five feet of the street, alley or driveway used by the contractor to serve that residence.

D. All non-residential customers will provide a solid waste collection area that is accessible to the contractor and that will not cause the contractor delays or undue hardship in collecting the solid waste.

5.08.06 Disposal through licensed contractor: required; billing

A. Every residence, business, or corporation in the City of Green Forest is hereby required to dispose of their solid waste through a contractor licensed by the City.

B. The Green Forest Water and Sewer Department is hereby authorized to collect from each residential solid waste customer a monthly fee for the collection of solid waste.

C. Residential solid waste collection billed through the Green Forest Water and Sewer Department will be subject to the existing policies of the Green Forest Water and Sewer Department regarding non-payment and late payment of bills.

D. The billing and collection of fees for the collection of non-residential and heavy industrial solid waste will be the responsibility of the contractors licensed by the City.

E. Non-residential customers who so choose may share a contractor provided container if the number of non-residential customers using the same container never exceeds three and provided that those customers sharing a container are in adjoining buildings or are located within a radius of 50 yards. Non-residential customers who choose to share a contractor provided container must first fill out and submit a form provided by the City, indicating the businesses that will be sharing a container. These forms will be kept on file at City Hall with copies given to the solid waste hauler.

F. Any customer who has both a residential and a commercial account within the city limits may choose to pay only one of the accounts and have all of their solid waste picked up at that location. The customer must first send written notice to the city, identifying both locations and indicating the location to be billed. (Ord. No. 481, Sec. 6.)

5.08.07 Operating rules for licensed contractor(s)

A. All contractors doing business in the City shall offer the following services:

1. residential pick-up at least once each week;
2. non-residential pick-up at sufficient intervals to maintain customer solid

waste collection areas in a nuisance-free and odor-free manner; and

3. pick-up of bulky items on regular collection days, if the items have been properly tagged by the customer with a city-issued permit.

B. All pick-up of residential solid waste will be done with single axle trucks not to exceed 30,000 pounds in total gross weight unless the contractor has been given permission by a majority vote of the City Council to use larger equipment on specified streets or parts of streets within the City.

C. All solid waste collected within the City shall be taken to the Carroll County Solid Waste Transfer Station unless a majority vote of the City Council gives the contractor permission to take it elsewhere.

D. Any contractors licensed to operate in the City shall allow the City to keep a fee on each residential account that is collected each month by the City and will pay to the City on a quarterly basis a percentage of the contractor's gross revenue from non-residential and heavy industrial accounts in exchange for the right to do business within the City.

E. Within two business days of receiving a request from the City Council or its duly recognized representative, contractors will make available all records of their business operation which may be necessary to determine revenues received from doing business in the City.

F. All vehicles used in the collection and removal of solid waste shall be equipped to sufficiently retain all solid waste, including wet garbage, and shall be covered in such a way that solid waste will not fall onto public or private property.

G. Every contractor doing business within the City will be responsible for cleaning up spills from any vehicle or equipment used in the collection and transfer of solid waste and shall begin the clean-up within two hours after receiving notice from a city employee or elected official.

H. Any contractor doing business within the city shall make reasonable accommodation to facilitate the pick-up of solid waste for customers who, because of disability or handicap, are unable to place their solid waste in the normal collection areas.

I. Unless additional solid waste is placed in bags marked with a city logo, contractors will only pick up one plastic bag or reusable container of 35 gallon capacity or less each week at each residential account location or at non-residential account locations that have minimal solid waste volume and opt to use 35 gallon containers.
(Ord. No. 481, Sec. 7.)

5.08.08 Contracts

A. No individual, partnership, corporation, or business shall engage in the business of transporting, storing or transferring solid waste within the City unless such activity is authorized by valid contract with the City.

B. All contracts entered into for the collection of solid waste within the City shall be conditioned upon compliance with the laws of the State of Arkansas, the ordinances of the City of Green Forest and all rules and regulations set forth herein. All contracts entered into by the Mayor under this ordinance shall meet the following minimum requirements:

1. The contract must indicate full details of ownership of the contractor, including the names and addresses of all principals, officers, and majority stockholders if the contractor is a corporation;
2. The contract must assure that all insurance requirements under this ordinance are met and that the contractor is in compliance with other city, state, and federal laws related to solid waste management.
3. The contractor must agree to indemnify and save harmless the City, its officers, agents, servants, and employees from and against any and all law suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and/or attorney fees resulting from a willful or negligent act or omission by the contractor, its officers, agents, servants, or employees.
4. The contractor must provide security for the performance of the contract in the form of a corporate surety bond or other securities deemed acceptable by the City Council.
5. The contract must be submitted to the City Attorney for review prior to consideration by the City Council.
6. Contracts will be awarded only with the City Council's consent.

C. Contract awards will be based on the responsibility of the contractor, the lowest price for the services offered, and the contractor's ability to provide sufficient revenue for operation and for meeting the need of the Green Forest Recycling Department.

D. During the term of a contract, a contractor may petition the City Council for an adjustment of rates on the basis of unusual changes in operating costs, changes in local,

state or federal law, changes in disposal sites or charges, or other pertinent factors that affect the contractor's operating cost. The City Council or its duly appointed representative shall have the right to examine any records of the contractor that pertain to these cost. (Ord. No. 481, Sec. 8.)

5.08.09 Contractor requirements

A. All individuals, partnerships, or corporations desiring to contract with the City for the right to provide solid waste collection and transfer services shall be required to provide evidence of:

1. An ability to comply with all city, county, district, state, and federal regulations and laws pertaining to the collection, transfer, and disposal of solid waste;
2. Financial solvency and operational stability;
3. Sufficient equipment and staff to provide and maintain a high standard of customer service to the satisfaction of the City Council;
4. An ability and willingness to comply with all laws regarding equal employment opportunity;
5. An ability to provide worker's compensation insurance for all employees in accordance with applicable state law;
6. An ability to provide for unemployment compensation in accordance with applicable state law;
7. An ability and willingness to indemnify and save harmless the City, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and/or attorney fees resulting from a willful or negligent act or omission of the contractor, its officers, agents, or employees;
8. An ability to maintain liability and property damage insurance in force and effect during the term of the contract for general liability, automobile liability, and excess umbrella coverage;
9. An ability to furnish a corporate surety bond, or other securities acceptable to the City Council, as security for performance of the contract.

B. All individuals, partnerships, or corporations desiring to contract with the City for the right to provide solid waste collection and transfer services shall be required to maintain a business office for customer inquiries during normal business hours and shall provide toll-free telephone access.

C. All individuals, partnerships, or corporations desiring to contract with the City for the right to provide solid waste collection and transfer services shall also be required to

provide a complete list of any fines, citation, warning order, or other violation notices received by that individual, partnership, or corporation for the past seven years from any government agency that regulates the applicant's business or protects the health, safety or welfare of the general public.

D. The City shall not enter into a contract for the transporting, storing or transferring of solid waste with any individual, partnership or corporation that fails to meet any requirement set forth in this ordinance.

E. The failure of any contractor to meet any provision of the ordinance shall be grounds for suspension of the contractor's license. If the City Council, by a majority-vote, suspends a contractor's license for failure to comply with this ordinance, such suspension shall be grounds for canceling the contract between the City and the contractor. The City may then seek bids on a new contract for the transporting, storing or transferring of solid waste. (Ord. No. 481, Sec. 9.)

5.08.10 Types of service

A. Residential service shall be classified as service to those structures used primarily as living quarters, where a family or individual uses at least 75% of the floor space for residential purposes and where the structure is not attached to another residence separated by a wall or doors that lock.

B. Non-residential service shall be classified as service to producers of solid waste that are not designated residential.

C. Heavy industrial service shall be classified as service to producers of solid waste that is compacted and stored in containers designed for direct transport to a landfill or other approved disposal site.

D. Exception:

1. A duplex, or building with two separate residences and two separate water meters, may be classified as residential for purposes of solid waste pick-up if the solid waste collection areas for the two residences are at least 25 feet apart.

2. A non-residential customer that does not produce enough solid waste to warrant using a contractor-provided solid waste container may choose to pay the residential rate for one plastic bag or reusable container of 35 gallon capacity or less, provided that all solid waste in excess of 35 gallons per week is placed in

city-logo bags. These low-volume accounts will be billed by the contractor using the same billing procedure as for other non-residential accounts.

3. Owners of trailer parks within the city limits may choose to use contractor-provided, solid waste containers on a commercial basis or, if each trailer has its own water meter, may require each trailer resident to provide for their own service on a residential basis.
4. Low income/low volume residential service shall be available to residences with no more than two occupants if solid waste is produced in such minimal quantities that it can be contained in one plastic bag or reusable container of 35 gallon capacity or less every two weeks and if certain income guidelines are met by the occupants. The customer must fill out an income-verification form provided by the City. The City will then notify the contractor of all account locations that qualify for this bi-weekly, reduced rate service. Pick-up will occur on the first, third and fifth pick-up day of the month.
- (5) The provisions of this ordinance shall not be construed to prevent a non-residential solid waste producer from disposing of solid waste that cannot be hauled by the contractor or that has value as a recyclable material.

E. Special Permits:

1. A city permit will be issued for a fee to any residential or non-residential customer who wishes to dispose of a bulky item that cannot be placed in a bag or reusable container. The permit must be attached to the item before the contractor will be required to pick it up.
2. For a fee, a city permit will be issued for the disposal of up to 12 bags of solid waste at one time for any residential or non-residential customer who is moving and is having water service discontinued. Similarly, when paying a water deposit, a new water customer whose account is subject to solid waste collection charges will be given one (1) city permit for the disposal of up to twelve (12) bags. The permit must be attached to the solid waste before the contractor will be required to pick it up. (Ord. No. 481, Sec. 10.)

5.08.11 Enforcement

- A. The Solid Waste Management and Disposal Code of the State of Arkansas is hereby adopted and incorporated into this ordinance by reference as if set forth in full herein.

- B. It shall be a violation of this ordinance for any person, firm or corporation to collect, transport, dispose of, or store any solid waste for a fee without authorization under a license and contract with the City.
- C. It shall be a violation of this ordinance for any person, firm or corporation to place or cause to be placed solid waste in any reusable container or solid waste collection area if that person, firm, or corporation is not paying the fee required for the removal of solid waste.
- D. It shall be a violation of this ordinance for any person, firm or corporation to allow their reusable solid waste container or their solid waste collection areas to become a public nuisance due to odor or unsightly condition.
- E. No person, firm or corporation shall burn or cause to be burned any solid waste unless expressly allowed by Arkansas law. (Ord. No. 481, Sec. 11.)

5.08.12 Penalty

- A. The municipal Court shall have original jurisdiction in all prosecutions arising from the enforcement of this ordinance. Any person, firm or corporation found guilty of violating any provision herein shall be fined a sum of not less than \$25.00 nor more than \$200.00 each violation. Each day that a person, firm or corporation is in violation of any provision of this ordinance shall be deemed a separate offense.
- B. Failure of a contractor to meet the contract requirements identified in this ordinance is considered grounds for cancelling the contract. [See Section 9(D).] (Ord. No. 481, Sec. 12.)

5.08.13 Definitions

- A. Solid Waste: Any trash, food, refuse, container, or other rubbish produced by a residential or non-residential establishment that may be transported and collected by a contractor and accepted by the Carroll County Solid Waste Transfer Station or a landfill that is duly licensed and approved by the state and that meets all local, state, and federal laws.
- B. City: The City of Green Forest, Arkansas.
- C. Contractor: A duly licensed solid waste hauler who has a contract with the City to collect, transport, and dispose of solid waste.

D. Residential Customer: Any solid waste producer that lives in a structure that is used primarily as living quarters, where a family or individual uses at least 75% of the floor space for residential purposes and where the structure is not attached to another residence separated by a wall or doors that lock. A duplex, or building with two separate residences and two separate water meters, may be classified as residential for purposes of solid waste pick-up if the solid waste collection areas for the two residences are at least 25 feet apart.

E. Non-Residential Customer: Any solid waste producer that is not classified as a residential customer.

F. Solid Waste Collection Area: The area or space in which a residential or non-residential customer places their solid waste for collection.

G. Contractor-Provided Solid Waste Container: Any container provided by the contractor to a non-residential customer for the storage of solid waste.

H. Reusable Container: Any solid waste storage container that does not exceed 35 gallon capacity and that is used and owned by a residential or non-residential customer.

I. Bulky Goods: Items to be disposed of through a contractor that cannot be contained in a bag, reusable container or contractor-provided solid waste container.

J. Bag: Any bag made of plastic, paper or other material that is used to dispose of solid waste, that does not exceed 35 gallon capacity, and that can be tied shut to contain the solid waste.

K. City Bag: A plastic bag that is identified by color or logo as a city bag.

L. Bulky Item Permit: A permit sold by the City which identifies bulky goods to be collected by the contractor.

M. Overage Permit: A permit sold by the City which allows the customer to dispose of up to twelve bags of solid waste when leaving or moving into a residential or non-residential account location.

N. Recyclable Material: Material that can be recycled and is being stored or transported for that purpose.

O. Heavy Industrial Customer: Any solid waste producer that compacts and stores their solid waste in a roll-off or other type of container that is designed to be taken

directly to a landfill or other permanent disposal site.
(Ord. No. 481, Sec. 13.)

5.08.14 Miscellaneous provisions Separability Clause. If any provision of this ordinance shall be held invalid, its invalidity shall not affect other provisions of this ordinance that can be given affect without the invalid provisions, and for this purpose the provisions of this ordinance are hereby declared to be separable. (Ord. No. 481, Sec. 14.)

5.08.15 Effective date This ordinance shall become effective only after it is passed by the City Council and a contract with a trash hauler is approved and executed by the city.
(Ord. No. 481, Sec. 15.)

TITLE 5.12**SEPTIC TANKS****Sections:**

- 5.12.01 Water Superintendent shall be inspector
5.12.02 Overflows unlawful

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

5.12.02 Overflows unlawful It shall be unlawful to allow a septic tank to overflow or to drain onto the surface of the ground or into any street or ditch within the city.

CHAPTER 5.16**SOLID WASTE RECYCLING****Sections:**

- 5.16.01 Creation and staffing
5.16.02 Duties
5.16.03 Salary

5.16.01 Creation and appointment There is hereby created a position of Solid Waste Recycling officer for the city of Green Forest, Arkansas. Staffing of this position will be as established in the Green Forest City Personnel Handbook. (Ord. No. 458, Sec. 1, 5.12.01)

5.16.02 Duties The Solid Waste Recycling Officer shall be responsible to the Green Forest City Marshal in the performance of duties pertaining to the recycling of solid waste for the city of Green Forest, Arkansas. The Solid Waste Recycling Officer shall make periodic reports to the City Council regarding recycling activities. (Ord. No. 458, Sec. 1, 5.16.02)

5.16.03 Salary By combining the duties of the Solid Waste Recycling Officer with those of the Animal Control Officer, the position of Animal Control/Solid Waste Recycling Officer shall be a full-time position and the officer shall receive, as salary, a sum designated by the Green forest City Council in its annual City budget. (Ord. No. 458, Sec. 1, 5.16.03)

CHAPTER 5.08

CARROLL COUNTY SOLID WASTE AUTHORITY

Sections:

5.08.01	Creation of the Authority
5.08.02	Confirmed
5.08.03	Named
5.08.04	Members
5.08.05	Rights and powers
5.08.06	Areas
5.08.07	Actions
5.08.08	Board
5.08.09	Application
5.08.10	Amendment

5.08.01 Creation of the Authority It is hereby determined that it is in the best interest of the city to have created and be a member of the Authority for the purpose of owning, acquiring, constructing, reconstructing, extending, equipping, improving, operating, maintaining, selling, leasing, contracting concerning or otherwise dealing with solid waste facilities in Carroll County. (Ord. No. 509, Sec. 1.)

5.08.02 Confirmed Pursuant to the Act, the creation of the Authority and the city's participation in the Authority are hereby authorized, ratified and confirmed. (Ord. No. 509, Sec. 2.)

5.08.03 Named the name of the Authority is hereby confirmed as the "Carroll County Solid Waste Authority." (Ord. No. 509, Sec. 3.)

5.08.04 Members The names of the municipalities and the county which shall be the initial members of the Authority are confirmed as follows:

1. City of Green Forest
2. City of Berryville
3. City of Eureka Springs
4. Carroll County

(Ord. No. 509, Sec. 4.)

5.08.05 Rights and powers the authority shall have all of the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of the Act, including, but without limiting the generality of the foregoing, the rights and powers specifically set out in A.C.A. 14-233-107, 14-233-109 and 14-233-114. The Authority shall not have the power to

mandate to any member body, solid waste collection programs or specific solid waste pick-up service providers. The obligations of the Authority shall be payable from and secured by revenues, property and other resources of the Authority and shall not constitute a general or limited obligation of the city or any of the members of the Authority. (Ord. No. 509, Sec. 5.)

5.08.06 Areas The area in which the Authority shall operate shall be all of Carroll county, Arkansas, including the three (3) municipalities, the city of Eureka Springs, the city of Berryville and the city. (Ord. No. 509, Sec. 6.)

5.08.07 Actions All of the actions heretofore taken by the Authority, including execution and delivery of all contracts, are hereby ratified, confirmed and approved. (Ord. No. 509, Sec. 7.)

5.08.08 Board The Authority shall consist of a Board of Directors (the "Board"), consisting of four members. The governing body of the respective municipalities and county which are members of the Authority shall have the authority to appoint one member. The mayor is hereby confirmed as the director representing the city on the Board. Future appointments shall be by resolution of the City Council. Each director shall have one vote. (Ord. No. 509, Sec. 8.)

5.08.09 Application Except as provided by the Amendment hereinafter authorized, the Application to create the Authority and for the city to be a member thereof, which Application has been filed with the Arkansas Secretary of State, is hereby approved, rectified and confirmed. (Ord. No. 509, Sec. 9.)

5.08.10 Amendment There is hereby authorized the execution and delivery of an Amendment to the Application by and among the city, the city of Berryville, Carroll County, and the city of Eureka Springs (the "Amendment"), and the Mayor and City Recorder are hereby authorized to execute and deliver the Amendment for and on behalf of the city. The Amendment is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the other parties thereto in order to complete the Amendment in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval. (Ord. No. 509, Sec. 10.)

CHAPTER 5.28**MAINTENANCE OF REAL PROPERTY****Sections:**

5.28.01	Maintenance
5.28.02	Damaged structure
5.28.03	Abandoned structure
5.28.04	Authority to determine violation
5.28.05	Written assessment
5.28.06	Notice of violation
5.28.07	Citation
5.28.08	Fine
5.28.09	Notice required
5.28.10	Notification of unknown real property owner
5.28.11	Lien

5.28.01 Maintenance All property owners within the city of Green Forest, Arkansas, are hereby required to cut weeds and grass; remove garbage, rubbish 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 thing, place or condition which might become a breeding place for mosquitoes, flies, rodents, vermin, germs and/or other things or conditions harmful to the health of the community. (Ord. No. 609, Sec. 1.)

5.28.02 Damaged structure In the event a structure located within the city of Green Forest, Arkansas, is damaged by fire or other casualty to such an extent that the structure remaining is unsafe, unsanitary or unsightly, the owners of such property are required to eliminate such condition. (Ord. No. 609, Sec. 2.)

5.28.03 Abandoned structure In the event a structure located within the city of Green Forest, Arkansas, is abandoned by the property owner, and in the event such structure has become unsafe, unsanitary, or unsightly, the owner of such property is required to eliminate such condition. (Ord. No. 609, Sec. 3.)

5.28.04 Authority to determine violation The Fire Chief, the Green Forest City Building Inspector, or the Code Enforcement officer shall make the determination as to any violation of the foregoing sections of this ordinance. (Ord. No. 612, Sec. 4.)

5.28.05 Written assessment Upon finding a property in violation the Fire Chief, Code Enforcement Officer, or Building Inspector shall deliver any such finding of any violation in writing to the City Clerk. (Ord. No. 612, Sec. 5.)

5.28.06 Notice of violation Persons found in violation of any section of this ordinance shall be given ten (10) days to remedy the violation after they have been served with notice of the violation. The city Code Enforcement Officer or the City Clerk shall send notice of the violation to the property owner by letter informing the property owner that they have ten (10) days to remedy the violation. (Ord. No. 612, Sec. 6.)

5.28.07 Citation If any property shall remain in violation of any of the sections of this ordinance after receiving notice from the City Clerk or the Code Enforcement Officer to remedy the violation, they shall be issued a citation or summons by the Code Enforcement Officer ordering them to appear in the District Court of the city of Green Forest, Arkansas. (Ord. No. 612, Sec. 7.)

5.28.08 Fine Any person in violation of any section of this ordinance may be fined One Hundred Dollars (\$100.00) for each separate violation, excluding any sums sought by the city as reimbursement for clean up and remediation performed by the city of Green Forest, Arkansas, as outlined in 5.28.09. (Ord. No. 609, Sec. 9.)

5.28.09 Notice required If the owner or owners of any lot or other real property within the city of Green Forest, after having been given ten (10) days' notice as outlined in 5.28.07 of this ordinance, shall refuse or neglect to perform the required remediation of any violation of this ordinance, the Chief of Police or Director of Public Works is hereby authorized to enter upon the property and cut weeds or grass; remove garbage, rubbish and other unsanitary or unsightly articles and things from the property in violation; 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, rodents, vermin, germs and/or other things or conditions; and the cost thereof shall be charged against said premises and constitute a lien thereon. (Ord. No. 609, Sec. 10.)

5.28.10 Notification of unknown real property owner In case the owner of any lot or other real property is unknown or their whereabouts is not known or they are a non-resident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown addresses or whereabouts of non-residents, and thereupon service shall be made by publication as now provided for by law against non-resident defendants. (Ord. No. 609, Sec. 11.)

5.28.11 Lien The lien herein provided for may be enforced and collected in one of two ways:

- A. By an action for foreclosure in the Circuit Court of Carroll County by the city of Green Forest, or

B.

1. The amount of the lien herein provided may be determined at a hearing before the City Council held after ten (10) days' written notice to the property owner or owners as required by law.
2. The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the governing body of the municipality to the Carroll County Tax Collector for placement by him or her on the tax books as delinquent taxes and collected accordingly.
3. The amount, less three percent (3%) thereof, when so collected shall be paid to the city of Green Forest by the Carroll County Tax Collector. (Ord. No. 609, Sec. 12.)

CHAPTER 5.32

SOLID WASTE ADVISORY COMMISSION

Sections:

- | | |
|---------|---------------------------------|
| 5.32.01 | Solid Waste Advisory Commission |
| 5.32.02 | Membership |
| 5.32.03 | Conduct of business |
| 5.32.04 | Goals and objectives |

5.32.01 Solid Waste Advisory Commission A Solid Waste Advisory Commission is hereby created for the purpose of assisting the Mayor and Council of the city of Green Forest, Arkansas, in establishing policies and procedures for dealing with the collection, disposal and recycling of solid waste within the city. (Ord. No. 576, Sec. 1.)

5.32.02 Membership

- A. The Solid Waste Advisory Commission shall be comprised of no more than five (5) members to be nominated by the Mayor and approved by the City Council. The Mayor may sit as a non-voting member of the Commission.
- B. Members of the Commission originally appointed to fill odd-numbered positions shall be appointed for terms of two years. Members originally appointed to fill

even-numbered positions shall be appointed for terms of three years. Thereafter, the term of each Commission member shall be three years. No Commission member shall serve more than two consecutive terms; provided, however that a Commission member appointed to complete the term of another member shall at the completion of such term be eligible for appointment for a full term. (Ord. No. 576, Sec. 2.)

5.32.03 Conduct of business

- A. Three members of the Commission shall constitute a quorum for the conduct of business. The members of the Commission shall regularly attend meetings and public hearings of the Commission and shall serve without compensation.
- B. The Commission shall hold an organizational meeting in May of each even-numbered year and shall elect a chairperson and vice-chairperson from among its members before proceeding to any other matters of business. The Commission shall regularly meet and designate the time and place of its meetings.
- C. The Commission shall adopt its own rules of procedure and keep a record of its proceedings. Newly appointed members shall be installed at the first regular meeting after their appointment.
- D. A report shall be submitted to the City Council on a quarterly basis showing the cumulative attendance of each member with notation of members who have been absent from three or more consecutive meetings. (Ord. No. 576, Sec. 3.)

5.32.04 Goals and objectives The Solid Waste Advisory Commission shall recommend refuse and environmental management policies to the City Council so that all city refuse and clean city activities may follow a common goal and purpose. The Commission shall have the following responsibilities:

- A. Development of a city-wide refuse and environmental policy plan.
- B. Evaluation of city actions in light of said policy.
- C. Determination and recommendation to the City Council on management and program priorities on a city-wide basis.
- D. Recommendation of enforcement and additional program alternatives.

- E. Monitoring of city performance from data collected and examined under the Keep America Beautiful, Inc., Clean Community System guidelines, with an annual report to be made to the Mayor and Council; and
- F. Recommend programs based on the desirability and feasibility of various methods of fostering the practice of recycling in the city.
- G. Completion of such other tasks as the Mayor and Council may request.

To accomplish the above outlined responsibilities, the Commission may establish subcommittees including, but not limited to, the areas of business and industry, communications media, civic organizations, municipal operations, schools and finance. Each subcommittee will be chaired by a Solid Waste Advisory Commission member with community volunteers chosen by the Commission as working subcommittee staff. (Ord. No. 576, Sec. 4.)

To accomplish the above outlined responsibilities, the Commission may establish subcommittees including, but not limited to, the areas of business and industry, communications media, civic organizations, municipal operations, schools and finance. Each subcommittee will be chaired by a Solid Waste Advisory Commission member with community volunteers chosen by the Commission as working subcommittee staff. (Ord. No. 576, Sec. 4.)