

# **TITLE 1**

## **GENERAL PROVISIONS**

### **Chapters:**

- 1.04 How Code Designated and Cited
- 1.08 Rules of Construction
- 1.12 Subheadings of Sections
- 1.16 Effect of Repeal of Ordinances
- 1.20 Severability of Parts of Code
- 1.24 Amendments to Code
- 1.28 Altering Code
- 1.32 General Penalty
- 1.36 Referendum Petitions

### **CHAPTER 1.04**

#### **HOW CODE DESIGNATED AND CITED**

### **Sections:**

- 1.04.01 How code designated and cited

1.04.01 How code designated and cited The ordinances embraced in the following chapters and sections shall constitute and be designated "Batesville Municipal Code", and may be so cited. STATE LAW REFERENCE-Authority of municipalities to codify ordinances without the necessity of publishing and posting same. A.C.A. 14-55-701, et seq.

### **CHAPTER 1.08**

#### **RULES OF CONSTRUCTION**

### **Sections:**

- 1.08.01 Rules of construction

1.08.01 Rules of construction In the construction of this code, and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council.

**State** The words "the state" or "this state" shall be construed to mean the state of Arkansas.

**County** The words "the county" or "this county" shall mean the county of Independence, Arkansas.

**City** The words "the city" or "this city" shall mean the city of Batesville, Arkansas.

**City Council** Whenever the words "city council" or "council" are used they shall be construed to mean the city council of the city of Batesville, Arkansas.

**Other city officials or officers** Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., "clerk/treasurer", "police chief", etc., they shall be deemed to refer to the officials, boards, commissions and departments of the city of Batesville.

**Gender** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

**Number** Words used in the singular include the plural, and the plural includes the singular number.

**Oath** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

**Or, and** Or, may be read "and", and "and" may be read "or" if the sense requires it.

**Person** The word "person" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

**Sidewalk** The word "sidewalk" means a strip of land in front or on the side of a house or lot of land lying between the property line and the street.

**Street** The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

**Tense** Words used in the past or present tense include the future as well as the past or present.

## **CHAPTER 1.12**

### **SUBHEADINGS OF SECTIONS**

#### **Sections:**

##### 1.12.01 Subheadings of sections

1.12.01 Subheadings of sections The subheadings of sections of this code which are underlined, are intended merely to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the subheadings, are amended or reenacted.

## **CHAPTER 1.16**

### **EFFECT OF REPEAL OF ORDINANCES**

#### **Sections:**

##### 1.16.01 Effect of repeal of ordinances

1.16.01 Effect of repeal of ordinances The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

## **CHAPTER 1.20**

### **SEVERABILITY OF PARTS OF CODE**

#### **Sections:**

##### 1.20.01 Severability of parts of code

1.20.01 Severability of parts of code It is hereby declared to be the intention of the city council that the titles, chapters, sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, chapter, title, or section of this code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, chapters, titles and sections of this code.

## **CHAPTER 1.24**

### **AMENDMENTS TO CODE**

#### **Sections:**

##### 1.24.01 Amendments to code

1.24.01 Amendments to code All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

Amendment to any of the provisions of this code shall be made by amending such provisions by specific reference to the section number of this code in the following language: "That section \_\_\_\_\_ of the Batesville Municipal Code is hereby amended to read as follows: . . . The new provisions shall then be set out in full.

In the event a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Batesville Municipal Code is hereby amended by adding a section (or title or chapter) to be numbered \_\_\_\_\_, which said section (or title or chapter) reads as follows . . ." The new provisions shall then be set out in full.

All sections, titles, chapters or provisions desired to be repealed must be specifically repealed by section, title, or chapter number, as the case may be.

## **CHAPTER 1.28**

### **ALTERING CODE**

#### **Sections:**

##### 1.28.01 Altering code

1.28.01 Altering code It shall be unlawful for any person to change or amend by additions or deletions, any part or portions thereof, or to alter or tamper with such code in any manner whatsoever except by ordinance of the City Council, which shall cause the law of the city of Batesville, Arkansas, to be misrepresented thereby. Any person violating this section shall be punished as provided in 1.32.01 hereof.

## **CHAPTER 1.32**

### **GENERAL PENALTY**

#### **Sections:**

1.32.01          General penalty

1.32.01 General penalty Whenever in this Municipal Code, the doing of any act or the omission to do any act or duty, is declared unlawful, and further, the amount of the fine shall not be fixed and no penalty declared, any person convicted for a violation of such provision of this code, shall be adjudged to pay a fine of not more than Five Hundred (\$500.00) Dollars and if the act is continuous, not more than Two Hundred and Fifty (\$250.00) Dollars for each day of continuance. Provided, for any offense committed against the code, for which there is set forth by state law a similar offense, the penalty therefore shall be no less nor greater than that set forth by state law, and provided further, that the commission of any act declared to be unlawful shall be deemed to be a misdemeanor.

STATE LAW REFERENCE-For statutory provisions pertaining to penalties cities may impose, see A.C.A. 14-55-504 (as amended by Act 548 of 1975) – 14-55-502.

## **CHAPTER 1.36**

### **REFERENDUM PETITIONS**

#### **Sections:**

- 1.36.01          Filing date  
1.36.02          Notice by publication  
1.36.03          ordering special election  
1.36.04          Upon defeat of ordinance

1.36.01 Filing date All referendum petitions under Amendment No. 7 to the Constitution of the state of Arkansas, must be filed with the Clerk/Treasurer within thirty (30) days after the passage of any ordinance. (Ord. No. 555)

1.36.02 Notice by publication Whenever any referendum petition is filed the city council shall give notice by publication for one insertion of a time not less than five (5) days after the publication of such notice at which they will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named the city council shall meet and hear all who wish to be heard on the question, and its decision shall be final, unless suit is brought in

the Chancery Court of Independence County within thirty (30) days to review its action. (Ord. No. 555)

1.36.03 Ordering special election If the city council finds that such petition is signed by the requisite number of petitioners, it shall order a special election to determine by a vote of the qualified electors whether the ordinance shall stand or be revoked. The date for such election shall be not less than ten (10) days after the order therefore has been made by the council, and said election shall be had and conducted as general municipal elections held in the city of Batesville. (Ord. No. 555)

1.36.04 Upon defeat of ordinance If any ordinance referred to the people is defeated at the polls, the City Council shall make note of such fact and shall expunge such ordinance from its files by erasing the same with red ink. (Ord. No. 555)

STATE LAW REFERENCE-For statutory provisions pertaining to referendum petitions, see Const., Amend. No. 7, and A.C.A. 14-55-301.