

TITLE 11

BUILDINGS AND CONSTRUCTION

Chapters:

- 11.04 Building Codes
- 11.08 Building Permit
- 11.12 Condemnation
- 11.16 Fire Prevention Code
- 11.20 Batesville Appeals Commission

CHAPTER 11.04

BUILDING CODES

Sections:

- 11.04.01 Building Codes adopted by reference
- 11.04.02 Repeal of Ordinances
- 11.04.03 Responsible official
- 11.04.04 Repeal of Chapters

11.04.01 Building Codes adopted by reference Be it ordained by the City Council of the city of Batesville that the following codes are hereby adopted by reference as though they were copied herein fully:

- International Building Code - 2000 Edition
- International Residential Building Code – 2000 Edition
- Arkansas Fire Prevention Code - 1997 Edition
- Arkansas Gas Code - 1997 Edition
- Arkansas Mechanical Code - 1997 Edition
- Arkansas Plumbing Code - 1997 Edition
- National Electrical Code - 1996 Edition

Where reference is made to a code for a particular year, it is intended that the most recent edition of that code is the code in effect for the city of Batesville, unless otherwise indicated by ordinance. Every Master Plumber, Master Electrician and Heating, Ventilation and Air Conditioning contractor doing business in the city of Batesville, Arkansas, shall deliver to the city a bond with a surety bonding company in a sum of no less than One Thousand Dollars (\$1,000.00). (Ord. No. 98-3-1 and 2003-8-2.)

11.04.02 Repeal of Ordinances Be it further ordained by the City Council of the city of Batesville that any matters in said codes which are contrary to existing ordinances of Batesville,

Independence County, Arkansas, shall prevail and that Ordinances Nos. 94-5-1, 639, 917, 86-10-1 and 626 are hereby repealed and, to that extent any existing Ordinances to the contrary are hereby repealed in that respect only. (Ord. No. 98-3-1.)

11.04.03 Responsible official Be it further ordained that within said codes, when reference is made to the duties of a certain official named therein, that designated official of Batesville, Independence County, Arkansas, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. No. 98-3-1.)

11.04.04 Repeal of chapters Be it further ordained that the City Council of the city of Batesville repeals Chapters 11.04 - Building Code, 11.12 - Plumbing Code, 11.20 - Electrical Code, 11.24 - Fire Prevention Code, 11.28 - Safety in Use of Natural Gas, and 11.32 - Housing Code. (Ord. No. 98-3-1.)

CHAPTER 11.08

BUILDING PERMIT

Sections:

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|----------|-------------------------------------|
| 11.08.01 | Application |
| 11.08.02 | Costs |
| 11.08.03 | Conflict with other city ordinances |
| 11.08.04 | Penalty for violation |

11.08.01 Application Any person, firm or corporation desiring to build, construct, alter or remodel any building or portion thereof located in the city of Batesville, Arkansas, shall first make application in writing with the clerk/treasurer for the issuance of a building permit. Said application shall provide the detailed information as called for on an application form to be furnished and provided such applicant by the clerk/treasurer. (Ord. No. 685, Sec. 1.)

11.08.02 Costs At the time such application is made, the applicant shall pay and deposit with the clerk/treasurer a sum based upon the estimated cost of construction, as follows:

- Cost \$ 00 to \$1,000.00 the sum of \$ 5.00;
- Cost \$1,000.00 to \$2,000.00 the sum of \$10.00;
- Cost \$2,000.00 to \$3,000.00 the sum of \$15.00;
- Cost \$3,000.00 to \$4,000.00 the sum of \$20.00;
- Cost \$4,000.00 to \$5,000.00 the sum of \$25.00.

For each additional \$1,000.00 cost or fractional part thereof, the sum of \$1.00.

Upon completion of such work, and in case construction costs exceed the estimate, additional inspection and permit fee shall be due and payable covering the excess costs thereof over such estimate and based on foregoing schedule of fees. (Ord. No. 923, Sec. 1.)

11.08.03 Conflict with other city ordinances No permit shall be issued for construction which is violative of the zoning, “fire limits”, and/or other ordinances of the city nor until the prior inspection and approval of zoning inspector is endorsed on such application. (Ord. No. 685, Sec. 3.)

11.08.04 Penalty for violation Any person, firm or corporation who shall fail to comply with this ordinance shall be guilty of a misdemeanor and punishable with a fine not to exceed One Hundred (\$100.00) Dollars for each offense; and each day such violation shall be permitted to exist shall constitute a separate offense. (Ord. No. 685, Sec. 4.)

CHAPTER 11.12

CONDEMNATION

Sections:

11.12.01	Existence of nuisance unlawful, Definition of
11.12.02	Condemnation of nuisance
11.12.03	Description of and reason for condemnation
11.12.04	Notification of owner
11.12.05	Period of time allowed for abatement of nuisance
11.12.06	Building Inspector to insure abatement of nuisance
11.12.07	Proceeds of sale of nuisance or materials therefrom
11.12.08	Placement of lien and collection of costs
11.12.09	Judicially declared to be a nuisance
11.12.10	Invalid portions of ordinance

11.12.01 Existence of nuisance unlawful, Definition of. That 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 Batesville, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the City Council. In determining whether a structure is a hazard to the public safety and health, the following criteria shall be considered:

- (1) Major structural components of the structure are missing such as doors, windows, walls or roof;

- (2) The structure is left unlocked, unattended and vacant;
 - (3) The structure is not being built or under active repair; or
 - (4) The structure is not an out building, an accessory building or used for storage.
- (Ord. No. 90-8-1, Sec. 2)

11.12.02 Condemnation of nuisance. That any such house, building and/or structure which is found and declared to be a nuisance by resolution of the City Council will be condemned to insure the removal thereof as herein provided. (Ord. No. 90-9-1, Sec. 2)

11.12.03 Description of and reason for condemnation. 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 or names, if known, of the owner or owners thereof and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance. The owner of said structure shall be notified at least twenty (20) days prior to the City Council hearing in the manner set out herein below. (Ord. No. 90-9-1, Sec. 3)

11.12.04 Notification of owner or owners. 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 or certified copy of said resolution will be mailed to the owner or owners thereof; if the whereabouts of said owner or owners 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 or owners of said house, building and/or structure be unknown or if his of their whereabouts or last known address be unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice. (Ord. No. 90-9-1, Sec. 4)

11.12.05 Period of time allowed for abatement of nuisance. 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 Building Inspector or his duly designated representative at the discretion of the City Council. (Ord. No. 90-9-1, Sec. 5)

11.12.06 Building Inspector to insure abatement of nuisance. The Building Inspector 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. (Ord. No. 90-9-1, Sec. 6)

11.12.07 Proceeds of sale of nuisance or materials therefrom. All the proceeds of the sale of any such house, building and/or structure or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same to the 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 Clerk/Treasurer to the former owner or owners of such house, building and/or structure constituting the nuisance. (Ord. No. 90-9-1, Sec. 7)

11.12.08 Placement of lien and collection of costs. If the city has any net costs in the removal of any house, building and/or structure, the city shall have a lien on the property as provided by Arkansas Code Annotated (A.C.A.) 14-54-904. The lien may be enforced in either one of the following manners:

(a) The lien may be enforced at any time within eighteen (18) months after work has been done by an action in the Chancery Court; or

(b) The amount of the lien herein provided may be determined at a hearing before the governing body of the municipality held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in the county wherein the said property is located for one (1) insertion per week for four (4) consecutive weeks; the determination of said governing body being subject to appeal by the property owner in the Chancery Court and the amount as determined at said hearing plus ten percentum (10%) for collection shall be by the governing body of the municipality certified to the tax collector of the county where said municipality is located and by him/her placed on the tax books as delinquent taxes and collected accordingly and the amount, less three percentum (3%) thereof, when so collected shall be paid to the municipality by the county tax collector. (Ord. No. 90-9-1, Sec. 8)

11.12.09 Judicially declared to be a nuisance. 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 or owners 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 a court of equity or Chancery 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 or owners thereof from the date said finding is made by the court and for each day thereafter said nuisance be not abated constitutes a separate offense. In the event the owner or owners of any such house, building and/or structure

judicially found to be a nuisance fails or refuses to abide by the orders of the court, the Building Inspector or any other person or persons referred to in Section 11.36.05 of this ordinance will take such action as provided in Section 11.36.06 hereof and Section 11.36.07 of this ordinance will be applicable to such owner or owners. The provisions contained in the immediately preceding sentence apply independently of any action as may be taken by the court judicially declaring the nuisance. (Ord. No. 90-9-1, Sec. 9)

11.12.10 Invalid portion of ordinance. If, for any reason, any portion of this ordinance be held to be invalid, such invalidity shall in no way affect the remaining portions thereof which are valid, but such valid portions shall be and remain in full force and effect. (Ord. No. 90-9-1, Sec. 10)

CHAPTER 11.16

FIRE PREVENTION CODE

Sections:

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|----------|----------------------|
| 11.16.01 | Code adopted |
| 11.16.02 | Enforced |
| 11.16.03 | Modifying provisions |
| 11.16.04 | Appeals |

11.16.01 Code adopted There is hereby adopted by the City Council of the city of Batesville, Arkansas, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion or other related causes that certain code known as the 2002 Arkansas Fire Code from the 2000 International Fire Code Edition, of which code one (1) copy is now on file in the office of the City Clerk of the city of Batesville, Arkansas, and one (1) copy is now on file in the office of the Fire Chief of the city of Batesville, Arkansas, and the same are hereby adopted and incorporated as though fully set out herein word for word, and from the date of which this ordinance shall take effect, the provisions contained therein shall be controlling within the limits of the city of Batesville, Arkansas. (Ord. No. 03-7-2, Sec. 1.)

11.16.02 Enforced The code hereby adopted shall be enforced by the Chief of the Fire Department. (Ord. No. 99-8-3, Sec. 2.)

11.16.02 Modifying provisions The Chief of the Fire Department shall have the power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessees, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed,

public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant. (Ord. No. 99-8-3, Sec. 3.)

11.16.03 Appeals Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty (30) days from the date of the decision appealed. (Ord. No. 99-8-3, Sec. 4.)

CHAPTER 11.20

BATESVILLE APPEALS COMMISSION

Sections:

- 11.20.01 Creation and members
- 11.20.02 Qualifications of the members of the professional disciplines
- 11.20.03 Qualifications of the two members-at-large
- 11.20.04 Terms of office and compensation
- 11.20.05 Officers, meetings, hearing, special meetings, quorum and records
- 11.20.06 Fiscal procedures
- 11.20.07 Authority generally
- 11.20.08 Authority specifically
- 11.20.09 Appeal requirements and procedures
- 11.20.10 Appeals from the Batesville Appeals Commission

11.20.01 Creation and members

- A. There is hereby created the Batesville Appeals Commission.
- B. The Batesville Appeals Commission shall consist of seven (7) members appointed by the Mayor with the advice and consent of the City Council.
- C. Five (5) of the members shall be from the professional disciplines, as set forth in 11.20.02 below, and two (2) of the members shall be members of the public at-large, as set forth in 11.20.03 below.

- D. Members from the professional disciplines shall be selected first from the residents of the city of Batesville, however, if no person from that professional discipline is willing and qualified to serve, then a member of that professional discipline may be selected from residents of Independence County. If no resident of the city or county of the required professional discipline is willing and qualified to serve then consideration may be given to residents of adjacent counties who are willing and qualified to serve.

Members of the professional disciplines shall be licensed by the state of Arkansas in their respective discipline, however, if an Arkansas Licensed Professional of the required discipline cannot be located who is willing and qualified to serve, then a resident of the city of Batesville, Independence County or an adjacent county who is willing and otherwise qualified to serve but who holds a professional license of the required discipline from another state may be considered.

- E. If no resident of the city of Batesville or Independence County with the exact qualifications required herein of the professional disciplines is willing and qualified to serve, then the Mayor, with the advice and consent of the Council, may consider other individuals who, in the opinion of the Mayor, with the advice and consent of the Council, possess sufficient experience in a particular field to qualify them to serve as a substitute for that particular professional discipline position. (Ord. No. 2009-7-1, Sec. 1.)

11.20.02 Qualifications of the members of the professional disciplines

- A. One member who is a Registered Professional Architect or a builder or superintendent of building construction with at least ten (10) years' experience, five (5) of which shall have been in responsible charge of work. If no person with the above qualifications can be located and is willing to serve, then a builder with at least five (5) years' experience may be considered.
- B. One member who is a Registered Professional Engineer with a background in structural engineering. If no person with these qualifications can be located and is willing to serve, than an engineering apprentice who has worked under a Registered Professional Engineer for at least the last five (5) years in structural engineering design and application may be considered. If no person with the above qualifications can be located and willing to serve, then a person with a college degree in civil engineering may be considered.
- C. One member who is a Registered Professional Engineer with a background in mechanical engineering. If no person with these qualifications can be located and

willing to serve, then an engineering apprentice who has worked under a Registered Professional Engineer for at least the last five (5) years in mechanical engineering design and application may be considered. If a person with the above qualifications cannot be located and willing to serve, then an Arkansas Licensed Master Plumber or an Arkansas Licensed Mechanical contractor with at least five (5) years experience as responsible in charge of work may be considered. If a person with the above qualifications cannot be found and willing to serve, then an Arkansas Licensed Journeyman Plumber with at least five (5) years' experience may be considered.

- D. One member who is a Registered Professional Engineer with a background in electrical engineering. If a Registered Professional Engineer cannot be located and willing to serve, then an engineering apprentice who has worked under a Registered Professional Engineer for at least the last five (5) years in electrical engineering design and application may be considered. If a person with the above qualifications cannot be located and willing to serve, than an Arkansas Licensed Electrician with at least five (5) years' experience may be considered.

- E. One member who is a registered design professional with fire protection engineering experience or a fire protection contractor with at least ten (10) years' experience, five of which shall have been in responsible charge of work. If a licensed professional with the above qualifications cannot be located and willing to serve, then a retired Fire Chief from the city of Batesville may be considered. If a retired Fire Chief from the city of Batesville cannot be located and willing to serve, then a retired Assistant Fire Chief from the city of Batesville may be considered. If a retired Assistant Fire Chief from the city of Batesville cannot be found, then a retires Fire Chief or Assistant Fire Chief from another city in Arkansas, but who is a resident of Independence County may be considered. (Ord. No. 2009-7-1, Sec. 2.)

11.20.03 Qualifications of the two members-at-large Two members from the public-at-large shall be residents of the city without any special qualification requirements. (Ord. No. 2009-7-1, Sec. 3.)

11.20.04 Terms of office and compensation

- A. Members shall be appointed for terms of five (5) years each and until their successors are appointed and qualified.

- B. The initial appointment of the membership of this Commission shall be as follows:

1. One for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year.
 2. Thereafter, each new member shall serve five (5) years or until a successor has been appointed.
 3. Vacancies shall be filled for the balance of the unexpired terms.
- C. Members of this Commission shall serve without compensation.
(Ord. No. 2009-7-1, Sec. 4.)

11.20.05 Officers, meetings, hearing, special meetings, quorum and records

- A. The Commission shall elect a chairman, a vice-chairman and a secretary annually from its membership.
- B. The Commission shall meet as often as required, to hear appeals on a timely basis and all meetings and hearing conducted by the Commission shall be open public meetings.

All hearings before the Commission shall allow the appropriate city official, the appellant, or the appellant's representative, or any person who interests are affected, the opportunity to be heard.
- C. Strict rules of evidence are not required however only relevant information shall be received.
- D. The Commission shall adopt a set of bylaws for the conduct of its business.
- E. Special meetings to expedite the hearing of an appeal may be called by the chairman.
- F. A simple majority of the Commission shall constitute a quorum for the transaction of business, however when five (5) members of the Commission are not present to hear an appeal either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- G. The Commission shall keep a public record of all its meetings, finding, orders, determinations and decisions, a copy of which shall be kept on file with the City Clerk.
- H. No Commissioners shall vote on any matter before the Commission in which he or she has a direct conflict of interest nor shall he or she vote on any matter in

which a majority of the remaining Commissioners present shall vote that such a conflict exists, whether real or perceived. (Ord. No. 2009-7-1, Sec. 5.)

11.20.06 Fiscal procedures

- A. The Board of Appeals is subject to all fiscal procedures of the city.
- B. The Commission may, subject to appropriation, employ clerical and technical assistance. (Ord. No. 2009-7-1, Sec. 6.)

11.20.07 Authority generally

- A. The Commission shall hear appeals of the decisions for which the Code Enforcement Officer or the Fire Chief are responsible with respect to the appropriate code under their jurisdiction.
- B. The Commission shall hear appeals under the regulations within each applicable code. (Ord. No. 2009-7-1, Sec. 7.)

11.20.08 Authority specifically The Batesville Appeals Commission is hereby designated as the appeals body for the following codes as enforced by the city of Batesville and shall function pursuant to the applicable provision of such codes and ordinances relative to appeals, waivers and variances.

- A. The Arkansas State Fire Prevention Code, as adopted by the city.
- B. The International Building Code, as adopted by the city.
- C. The Arkansas Plumbing Code, as adopted by the city.
- D. The Arkansas Fuel Gas Code, as adopted by the city.
- E. The Arkansas Mechanical Code, as adopted by the city.
- F. The Arkansas Electrical Code, as adopted by the city.
- G. The National Flood Prevention Code, as adopted by the city.
- H. Any other national or state development code, which may be adopted by the city at some future date, for which the Code Enforcement Officer and/or the Fire Chief may be responsible its application and enforcement and which does not require a separate board of appeals.
- I. All other city ordinances for which the Code Enforcement Officer is responsible for their application and enforcement and which are not specifically covered by any other ordinance within the city. (Ord. No. 2009-7-1, Sec. 8.)

11.20.09 Appeal requirements and procedures

- A. An application for appeal shall be based on a claim that:

1. The true intent of the applicable code or the rules legally adopted there under have been incorrectly interpreted,
 2. The provisions of the applicable code do not fully apply; or,
 3. An equally good or better method of construction or compliance with the code is proposed and is permitted.
- B. The Commission shall have no authority to waive the requirements of the applicable code.
- C. The following procedure shall be used for presenting requests for appeals to the Batesville Appeals Commission.
1. Any person who is appealing a decision of the Code Enforcement Officer or Fire Chief shall submit a written application to the appropriate officer on forms provided by the city. The appropriate officer will set the hearing date before the Batesville Appeals Commission and shall notify the Chairman of the Commission of the date and time of the hearing. The Commission Chairman shall notify the other members of the Commission of the date and time of such meeting.
 2. All applications to the Batesville Board of Appeals shall be accompanied by the prescribed fee, if any, applicable to the development code under which the appeal is being presented.
 3. The Batesville Board of Appeals may affirm or overturn the decision of the appropriate official, in whole or in part, in accordance with the provisions of the applicable code.
 4. The appellant shall be notified in writing of the decision by the Batesville Appeals Commission. (Ord. No. 2009-7-1, Sec. 9.)

11.20.10 Appeals from the Batesville Appeals Commission Decisions of the Batesville Appeals Commission may be further appealed to the Batesville City Council. The appeal must be filed within thirty days of the date of the decision by the Batesville Board of Appeals and shall be made to the Code Enforcement Officer or Fire Chief, whichever is applicable. Further appeals shall be according to Arkansas state law. (Ord. No. 2009-7-1, Sec. 10.)