

ORDINANCE NO. 99-8

**AN ORDINANCE ADOPTING CITATIONS, VIOLATIONS AND PROVIDING FOR A LIEN ON THE PROPERTY, WITHIN THE CITY OF CHEROKEE VILLAGE, SHARP AND FULTON COUNTIES, ARKANSAS; AND FOR OTHER PURPOSES.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHEROKEE VILLAGE, ARKANSAS:

**SECTION 1. VIOLATION.** Whenever the Mayor and/or City Council and/or the Planning and Zoning Commission determines that there are reasonable grounds to believe that there has been a violation of any Ordinance, a notice of such violation(s) to the person(s) responsible therein, stating that such violation(s) exist.

A. **VOLUNTARY CORRECTION.** A voluntary correction between the City and the person(s) responsible for the violation(s) under which such person(s) agrees to abate the violation within a specific time and according to specified conditions. The voluntary correction agreement shall include the following:

1. The name and address of the person(s) responsible for the violation(s); and
2. The street address or other description sufficient for identification of the building, structure, premises or land upon or within which the violation(s) has occurred or is occurring; and
3. A description of the violation(s) and a reference to the regulation(s) which has been violated, and
4. The necessary corrective action to be taken, and a date or time by which correction must be completed; and
5. An agreement by the person(s) responsible for the violation(s) that the City may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement; and
6. An agreement by the person(s) responsible for the violation(s) that the City may abate the violation(s) and recover its costs and expenses (including attorney fees, expert witness fees, and court costs) and/or a monetary penalty pursuant to this ordinance from the person(s) responsible for the violation(s) if the terms of the voluntary correction agreement are not satisfied.

B. **CITATION OF VIOLATION(S).** Whenever the Mayor and/or City Council and/or the Planning and Zoning Commission determines that it is unable to secure

voluntary correction, a Citation of Violation(s) to the person(s) responsible for violation(s) shall be issued and shall include the following:

1. The name and address of the person(s) responsible for the violation(s); and
2. The street address or other description sufficient for identification of the building, structure, premises or land upon or within which the violation(s) has occurred or is occurring; and
3. A description of the violation(s) and a reference to the regulation(s) which has been violated, and
4. The required corrective action and a date and time by which the correction must be completed after which the City may abate the unlawful condition.

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

- a. By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and designation, or
- b. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at the last known address, postage prepaid thereon, or
- c. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at the last known address by certified mail, postage prepaid thereon, or
- d. By delivery to the owner, agent or responsible party, personally by a Cherokee Village Police Officer, a security officer of Cherokee Village or a deputy with either County Sheriffs Department.

Further state, that if such alleged violation(s) are not voluntarily corrected within the stated time as set forth in the notice, a Cherokee Village Police Officer, a security officer of Cherokee Village or a deputy with either County Sheriff s Department shall institute legal proceedings, charging the person or persons, firm, corporation or agent with a violation/citation of this Ordinance.

C. SERVICE OF CITATION OF VIOLATION. Violations of the provisions of this Ordinance may be prosecuted by the issuance of a citation by a Cherokee Village Police Officer, a security officer of Cherokee Village or a deputy with either County Sheriffs Department as required by law. The citation will contain the date, time and location of a hearing before a judge of the district or municipal court. Such notice shall:

1. Be in writing.
2. Include a statement of the reason(s) why it is being issued and the section(s) of the Ordinance that are alleged to be in violation.

3. The date, time and location of a hearing before a judge of the district or municipal court.

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

- a. By delivery to the owner, agent or responsible party, personally by a Cherokee Village Police Officer, a security officer of Cherokee Village or a deputy with either County Sheriffs Department, or
- b. By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and designation, or
- c. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at the last known address, postage prepaid thereon, or
- d. By depositing the notice in the United States Post Office, addressed to the owner, agent or responsible party, at the last known address by certified mail, postage prepaid thereon, or
- e. By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice at a conspicuous place on the premises alleged to be in violation.

**SECTION 2. PENALTY.** Any person, firm, corporation, partnership, association of persons, owner, occupant, agent, or anyone having supervision or control, who shall violate a provision of this Ordinance, or fail to comply therewith, shall be guilty of a Misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any provision of this Ordinance is committed or continued. Upon conviction of any such violation, such person(s) shall be punished by a fine, not to exceed \$500.00 for the first offense, and not more than \$250.00 for each day's offense of a continuing nature.

**SECTION 3.** Violations of the provisions of this Ordinance may be prosecuted by the issuance of a citation by a Cherokee Village Police Officer, a security officer of Cherokee Village or a deputy with either County Sheriffs Department as required by law.

**SECTION 4.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 5. VALIDITY AND SEPARABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion(s) of this Ordinance.

**SECTION 6. LIEN AUTHORIZED.** The City of Cherokee Village shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this Ordinance, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of

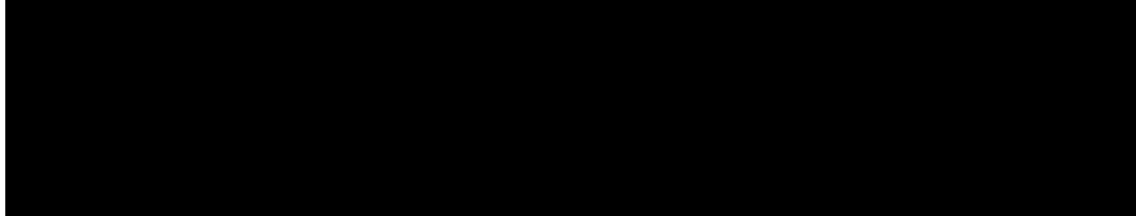
abatement was performed. The lien shall be superior to all other liens, except for state and county taxes.

1. The Clerk/Treasurer shall cause a claim for lien to be filed for record within thirty (30) days from the date that the monetary penalty is due.
2. The claim of lien shall contain sufficient information regarding the notice of civil violation, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.
3. No such lien(s) shall bind the affected property for a period longer than three (3) years, without foreclosure, or extension agreed to by the property owner.

**SECTION 7. EMERGENCY CLAUSE.** Because of such existing problem(s) in the City and the absence of an established legal procedure to implement the voluntary correction, service of violations and citations, an EMERGENCY is hereby declared to exist and this ordinance being necessary to the immediate preservation of the public health, safety and welfare, shall be in full force and effect from and after passage.

PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL.

DATED: *Mar 27, 1999*



ATTEST: 