

ORDINANCE NO. 2008-04

AN ORDINANCE TO CORRECT UNSIGHTLY OR UNSANITARY CONDITIONS ON REAL PROPERTY AND TO PROVIDE A PROCEDURE FOR GIVING NOTICE AND ORDER TO PROPERTY OWNERS WITH UNSIGHTLY OR UNSANITARY CONDITIONS ON THEIR PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHEROKEE VILLAGE, SHARP AND FULTON COUNTIES, ARKANSAS, THAT:

SECTION 1: Unsightly or Unsanitary Conditions on Real Property, Order and Notice to Correct

(A) The mayor, or his or her duly authorized representative, is hereby authorized to order the owner of any real property within the city to cut weeds and grass growing thereon, remove garbage, rubbish and other unsanitary and unsightly articles and things therefrom and eliminate, fill up or remove any stagnant pool of water or any other unsanitary thing, place or condition on such property which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community. Whenever any such condition is found to exist, the mayor, or his or her duly authorized representative, shall give the owner of the property written notice to perform such acts within 20 days. In case the owner of the property is unknown or his or her whereabouts are not known or the owner is a nonresident of this state, a copy of the written notice shall be posted upon the premises.

(B) It shall be unlawful for any person to fail or refuse to comply with any order and notice given pursuant to this section.

SECTION 2: Abatement by City; Cost Responsibility of Owner

If the conditions described in a notice given pursuant to Section 1 are not removed or corrected within 20 days after such notice is given, the mayor, or his or her duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

SECTION 3: Enforcement of Lien; Notice

(A) The lien herein provided for may be enforced and collected at any time within ten (10) years after the lien has been filed in either one of the following manners:

(1) By an action for foreclosure in the circuit court; or  
(2) The amount of the lien herein provided may be determined at a hearing before the City Council held after 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 are 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 Sharp County and Fulton County for one insertion per week for four consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus ten percent (10%) penalty for collection shall be by the City Council certified to the tax collector of the county, and by him or her placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent thereof, when so collected shall be paid to the city by the county tax collector.

(B) In case the owner of any lot or other real property is unknown or his or her whereabouts are not known or the owner is 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 address or whereabouts or nonresidence, and thereupon service by publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his or her last known place of residence if same can be found.

#### SECTION 4: Public Nuisance; Abatement

(A) It shall be unlawful for the owners, occupants, tenants, or lessees of any dwelling or place of business to allow garbage, trash or other litter to accumulate on the premises, or to place or cause to be placed other litter or material in such manner as to cause unsightly or unsanitary conditions in the city.

(B) Code Enforcement Officers or their authorized representatives shall have the duty of notifying the owner, occupant, tenant, or lessee of a dwelling or place of business where one or more of the conditions described in subsection (A) of this section is found to exist.

(C) It shall be the duty of the owner, occupant, tenant or lessee of such premises to correct said condition or conditions within 20 days from date of receipt of such notice.

(D) If the owner, occupant, tenant, or lessee fails to obey such notice and continues to maintain said prohibited condition or conditions, such person shall be deemed in violation of this section and shall be subject to the penal provisions contained in this ordinance.

#### SECTION 5: Penalty

(A) Any person failing to comply with an order as described by this ordinance shall, upon conviction, be punished by a fine of not less than \$10.00 nor more than \$100.00.

(B) It shall be unlawful for any person to interfere or forcibly attempt to interfere with a Code Enforcement Officer in the performance of his or her duties.

SECTION 6: SEVERABILITY. If any section of this ordinance is held to be invalid, that part shall be deemed to be severable and the invalidity thereof shall not affect the remaining sections of the ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
CHEROKEE VILLAGE, ARKANSAS

DATE

July 17, 2008

