

ORDINANCE NO. 2008-11

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF CENTER POINT, ALABAMA, CHAPTER 22 (ENVIRONMENT), ARTICLE IV (NUISANCES) DIVISION 3 (WEEDS AND NOXIOUS VEGETABLE MATTER)

BE IT ORDAINED by the City Council of the City of Center Point, Alabama as follows:

Sec. 22-272. Growth restriction. (Repeal entire section and adopt the following section:)

Sec. 22-272. Growth restriction.

- (a) No owner of any lot, place or area within the city, nor the agent of such owner shall permit on such lot, place or area, or upon any sidewalk abutting the same, any weeds, ***grass, or other plant life to grow to a height exceeding 12 inches or higher, or unnecessary or unwanted trees, limbs, stumps, leaves, shrubs, bushes, or deleterious, unhealthful growths or other noxious vegetable matter that may be growing, lying or located thereon. As used herein "weed" shall include an economically useless plant; a plant of unsightly appearance; a tree or shrub of low economic value that tends to grow freely, a form of vegetable life of exuberant growth and injurious effect.***
- (b) ***It is hereby declared, due to the population density of the city, that the excessive growth or accumulation of weeds, undergrowth and similar living or dead plant material, situated in the incorporated limits of the city is contrary to the public health, safety and general welfare of the residents of the City in that such growth or accumulation creates a haven or breeding place for snakes, rats, rodents and other vermin of like or similar character, or creates a breeding place for mosquitoes, creates a fire hazard to the property and adjacent properties or adversely affects and impairs the economic welfare and value of adjacent property, and by reason of such factors is hereby declared to be a public nuisance.***
- (c) ***It is therefore deemed to be in the best interest of the health, safety and general welfare of the citizens of the City that such growth or accumulations, whether they be in the nature of weeds or other forms of plant life or other materials be removed in accordance with the following procedures of this Division or that the violator of this Division shall be otherwise punished as provided for herein.***

Sec. 22-274. Notice to abate; time limit; hearing. (Repeal entire section and adopt the following section:)

Sec. 22-274. Notice to abate; time limit; hearing.

- (a) ***Whenever in the opinion of the City, its agents or representatives, a nuisance exists as defined in the Code or other applicable law or ordinance, the City, its agents or representatives, shall order the owner, agent, occupant, lessee, or other entity of the property on which the nuisance is located to abate it. Abatement shall mean full and complete removal of any declared nuisance.***

- (b) *The City shall give written notice to the owner, agent, occupant or lessee of any lot, place or area within the City or the agent of such owner or the occupant to cut, destroy, or remove any weeds, grass, trash, rubbish or noxious matter found growing, lying or located on such owner or occupant's property or upon the sidewalk or street right-of-way abutting the property. Said notice shall describe the particulars which make it a nuisance, shall order the manner in which it shall be abated, and shall state that the nuisance shall be abated within ten (10) days from the date of the service of the notice.*
- (1.) *The notice herein shall be sent by certified mail to the person known to be the owner, agent, occupant or lessee of the premises, if any, and notice shall also be sent by certified mail to the person who is shown by the records of the tax assessor of the county to have been the person last assessed for payment of state, county and city ad valorem tax on the property where the nuisance is situated. Where service of the notice by certified mail has been attempted, but the return receipt shows a failure of service, the clerk is directed to resend the notice by ordinary mail. For mailings within the State of Alabama, service by first class mail or certified mail is deemed effectuated on the third calendar day following the date of mailing of such notice. For mailings outside the State of Alabama, service by first class mail or certified mail is deemed effectuated on the fifth calendar day following the date of mailing of such notice.*
- (2.) *Notice shall also be posted in a conspicuous place on the property.*
- (3.) *The notice shall also state that if the nuisance is not abated within the stated time, the City may institute legal proceedings against the owner, agent, occupant, lessee or other entity for violation of this Code.*

Sec. 22-275. Failure to abate; abatement by city. (Repeal entire section and adopt the following section:)

Sec. 22-275. Failure to abate; abatement by city.

- (a) *Upon the failure, neglect, or refusal of any owner, agent or occupant notified as provided in this Division to cut, destroy or remove weeds, grass, trash, rubbish or noxious matter growing, lying or located upon such owner or occupant's property or upon the sidewalk or street right-of-way abutting property, within the time prescribed in Section 22-274, the City may, in addition to any other penalties provided for in this Code, pay for the cutting, destroying or removing of such weeds, grass, trash, rubbish or noxious matter or effect the removal by the City.*
- (b) *The City or its authorized representatives may, at its option, authorize private contractors, companies, enterprises or individuals to abate and remove the public nuisance on behalf of the city. Those persons so designated are authorized to enter upon public and private property for the purpose of abating or removing such nuisance, in addition to any enforcement officer, city official, or other agents acting on the City's behalf.*

Sec. 22-276. Assessment of cost. (Repeal entire section and adopt the following section:)

Sec. 22-276. Assessment of cost.

When the City has effected the removal of obnoxious growth or has paid for its removal, the actual cost thereof, including administrative costs (including a reasonable attorney fee), plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of the work, shall be charged to the owner or occupant of such property. An itemized statement of such expenses shall be mailed by first class mail to the last known address of the owner, occupant, agent, lessee of the property. Payment by the owner, occupant, agent, lessee of the property of said expenses shall be made within thirty (30) days of receipt of said invoice. Receipt shall mean three days after the mailing of the invoice to the owner, agent, occupant, lessee, or other entity.

Sec. 22-277. Expenses of abatement; collection of costs. (Repeal entire section and adopt the following section:)

Sec. 22-277. Expenses of abatement; collection of costs.

- (a) *If no payment is received within the time period specified in Section 22 -276, such charges as set out in the itemized invoice specified in Section 22-276 are declared a lien upon such property.*
- (b) *If a lien is declared upon such property pursuant to Section 22-277(a), said lien shall be filed in the Office of the Probate Judge. The lien shall include all amounts due, including court costs and legal fees, and in addition, accrued interest in the amount of six percent (6%) per annum. Said lien shall remain in full force and effect until it has been paid in full or otherwise satisfied.*
- (c) *In addition to the expenses and collection costs listed in this section, there shall also be imposed an additional delinquent penalty of ten percent (10%) on the total amount due if the invoice stated in Section 22 -276 is not paid within the time provided for in Section 22 -276.*
- (d) *Liens recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily completed and shall be ample notice to every person concerned that the amount of the invoice, plus accrued interest, penalty, court costs, and attorney fees, constitutes a lien against the property designated as described in the lien and that the same is due, payable and collectible as provided herein, by applicable law.*
- (e) *If the owner, agent, occupant, lessee or other entity shall fail or refuse to pay the invoice levied pursuant to this Division after a period of thirty (30) days from the receipt of the invoice, the City may commence an action in any court of competent jurisdiction to recover the expenses.*
- (f) *In addition to remedies otherwise provided for in this Division, the City may cause an action to be instituted to enjoin or abate any nuisance.*

Sec. 22-278. Penalty. (Repeal entire section and adopt the following section:)

Sec. 22-278. Penalty.

- (a) *In addition to the rights of notice of public nuisance and abatement as provided for herein and the reimbursement of costs and liens associated therewith, as an additional remedy and penalty, any police officer of the city, or other person who is hereby authorized to cause a complaint to be filed, alleging a violation of any provision of this article against any person found to be in violation of this article, which said complaint shall be heard and tried in any court of competent jurisdiction in the same manner as other violations of municipal ordinances of this city. Any person in violation of any of the provisions of this article, in addition to any other public nuisance abatement provisions provided for hereinabove, shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as provided therefore in this Code. Each day in which a violation occurs or continues shall be deemed a separate offense.*
- (b) *Additionally, after proper notification as set out in Section 22-274 herein, if the owners, agents, occupants, lessees or other entities either jointly or severally allow any nuisance to exist or fail to maintain any nuisance promptly, they, and each of them if a violation of this Division is not sufficiently corrected in the opinion of the City, or its authorized representatives, within the specified period of time contained in the notice, then the City may issue a citation, and the defendant notified to appear in a court of competent jurisdiction at the time and place stated in the citation to answer the charge. The defendant shall have all rights secured to persons charged in the city with violations generally. If the defendant is found guilty by the District Court, the defendant shall be guilty upon conviction of a misdemeanor, and the court may impose a fine or imprisonment, or both, in accordance with the provisions of Section 1-6 of this Code.*
- (c) *The provisions of this Division are cumulative to any other procedure now authorized by law for the accomplishment of the objectives stated in this Division.*

Sec. 22 -279. Appeals (New Section)

Sec. 22-279. Appeals

Any person receiving a notice of nuisance and an order to abate the nuisance from the City may appeal the order to the City Council by written notice filed with the City Clerk within seven (7) days of the date of receipt of the notice. The owner or occupant is deemed to have received said notice on the third calendar day following the date of mailing of such notice if the notice was mailed within the State of Alabama and on the fifth calendar day following the date of mailing of such notice if the notice was mailed outside the State of Alabama. No appeal filed later than seven (7) days after the receipt of notice shall be considered unless the City consents. The City Council may affirm, modify or reverse the order and its decision shall be final, subject, however, to such remedy as any aggrieved party may have at law or in equity.

CERTIFICATION

I, Jackie Davidson, City Clerk of the City of Center Point, Alabama do hereby
Certify that the following is a true and correct copy of Ordinance Number 2008-11
of the City of Center Point, Alabama, adopted on July 10, 2008,
and posted in the following places:

Center Point City Hall

Center Point Fire District – Station 1

United States Post Office – Center Point Branch

Wal Mart Neighborhood Market

on July 14, 2008, and effective five days thereafter.

Given under my hand and seal this 14th day of July,
2008.

Jackie Davidson
Jackie Davidson, City Clerk
City of Center Point