

ORDINANCE NO. 2009-03

AN ORDINANCE TO AMEND CHAPTER 22 (ENVIRONMENT), ARTICLE IV (NUISANCES), DIVISION I (GENERALLY) OF THE CODE OF ORDINANCES OF THE CITY OF CENTER POINT, ALABAMA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTER POINT, ALABAMA, that Chapter 22 (Environment), Article IV (Nuisances), Division I (Generally) of the Code of Ordinances of the City is amended to read as follows:

Sec. 22-216. Owner's/occupier's duty to maintain property.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any person keep or maintain such premises in a manner that has the potential of causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. The owner or person in control or occupying any private property shall at all times maintain the premises free of litter, graffiti, trash, rubbish, and any other nuisance herein defined.

Sec. 22-217. Abatement, removal and disposal of nuisances.

- (a) The City, City Inspector, or its authorized representatives are hereby authorized and empowered to notify the owner or the agent of such owner of any private property within the City to properly dispose of litter, graffiti, rubbish and other nuisances located on such owner's property or otherwise abate said nuisances which is dangerous to the public health, safety or welfare of the citizens of the City of Center Point. 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 the existence of the nuisance. Said notice shall describe the particulars which make it a nuisance, shall order the manner in which it shall be abated, and shall state the time within which the nuisance must be abated. The intended time frame to abate (removal and legal disposal) is to begin immediately and in no case shall the operation be prolonged or delayed over 10 days after the first notification to the owner, agent, occupant, lessee or other entity.
 - (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. The notice is deemed to be served upon the owner,

agent, occupant, lessee or other entity on the date of the mailing of the notice by ordinary mail.

(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.

- (c) Upon notification, the owners, agents, occupants, or lessees shall jointly and severally abate any nuisance by the prompt removal and proper disposal of the nuisance and its source. Said nuisance must be removed into completely enclosed buildings authorized to be used for such storage purposes, if within the City limits, or to remove it to a location outside the City limits for proper and legal disposal sites such as, but not limited to, approved landfills, incinerators, etc.

Sec. 22-218. Failure to abate.

- (a) In addition to remedies otherwise provided for in this Division, the City Council may cause an action to be instituted to enjoin or abate any nuisance.
- (b) Additionally, after proper notification as set out in Section 22-217 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 the District Court 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 minimum fine in the amount of Fifty (\$50.00) dollars not to exceed Five Hundred (\$500.00) dollars.

Sec. 22-219 Abatement by City.

- (a) Upon the failure, neglect, or refusal of any owner, agent, occupant, lessee or other entity to properly dispose of the nuisance within the time specified in the notice provided for in Section 22-217 above, or within ten (10) days after the date of such notice in the event the same is returned to the City because of the inability to make delivery of the certified mail, provided, that the same was properly addressed to the last known address of such owner, agent, occupant, lessee or other entity, the City is hereby authorized and empowered to abate the nuisance or order its abatement. The City is expressly authorized to use subcontractors, if necessary, to accomplish the requirements of the abatement.

- (b) In addition to (a), in case the owner, agent, occupant, lessee or other entity shall fail, neglect or refuse to comply with the notice to abate the nuisance, the City may proceed to prosecute the person or entity for a violation of the provisions of this Code or other applicable ordinance.

Sec. 22-221. Enforcement.

In addition to the remedies provided for in this Division, enforcement of this article may be accomplished by the City in any manner authorized by law.

Sec. 22-222. Recovery of City costs, levy of special assessment.

- (a) Should the City abate any nuisance pursuant to the terms of this Division, the City shall be entitled to the actual expenses for the abatement of the nuisance. The owners, agents, occupants, lessees or other entities either jointly or severally shall be responsible and pay for said expenses of the City. A bill or invoice shall be sent to the owners, agents, occupants, lessees or other entities by certified mail. If the owners, agents, occupants, lessees or other entities fail or refuse to pay the invoice in full within 30 days from the date of mailing or receipt of the invoice to the person, the City may commence an action in any court of competent jurisdiction to recover the expenses. Expenses shall include, but are not limited to, the actual costs of the abatement, attorney fees, and court costs.
- (b) In addition to (a) above, should reasonable collection efforts fail, i.e., after one personal visit or phone call followed by a letter sent via certified mail, but no later than thirty (30) days after the abatement of said nuisance, the City shall cause to be recorded in the City Clerk's office of the City a sworn statement showing the costs and expenses incurred for the work, the date the work was done, and the location of the property on which such work was done. The recording of such sworn statement in the Probate Court of the County in which the land is located shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court and attorney's fees, if any, for the collection, until final payment has been made. Said amount shall continue to accrue six (6) percent per annum of the outstanding debt until debt is satisfied.

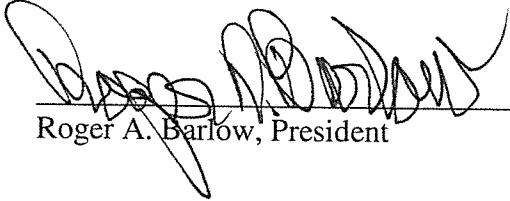
Each of the provisions of this ordinance are severable; and if any provision shall be declared to be invalid, the remaining provisions shall not be affected but shall remain in full force and effect.

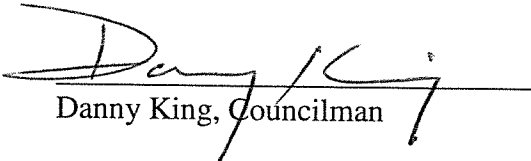
All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

This Ordinance shall become effective immediately after its adoption, approval and

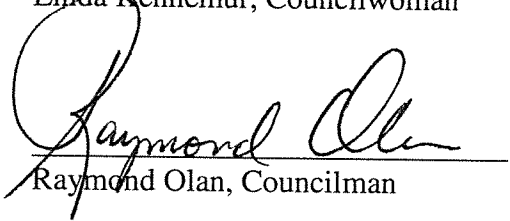
posting as required by State law.

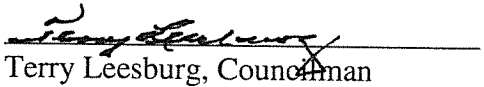
ADOPTED this 8th day of October, 2009


Roger A. Barlow, President

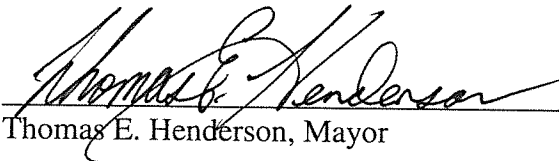

Danny King, Councilman



Linda Kennemur, Councilwoman


Raymond Olan, Councilman


Terry Leesburg, Councilman

APPROVED this 12th day of October, 2009.


Thomas E. Henderson, Mayor

ATTEST: 
Jackie Davidson, City Clerk