

ORDINANCE NO. 10-9

AN ORDINANCE AMENDING CITY OF CHARLESTON ORDINANCE NO. 91-5; REPEALING ORDINANCE NO. 99-3; DECLARING AN EMERGENCY THEREFORE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON, ARKANSAS THAT:

- I. City of Charleston Ordinance No. 99-3 is hereby repealed.
- II. City of Charleston Ordinance No. 91-5 shall be and hereby is amended to read as follows:

SECTION 1: After inspection and determination as hereinafter set out, the Mayor or a person designated by him, is hereby authorized to order, in the name and by the authority of the City of Charleston, the owner of any real property, subdivided or otherwise, within the limits of the City of Charleston, to cut weeds, grass or trees, remove, garbage, rubbish and other unsightly and unsanitary articles and things, including, but not limited to, abandoned motor vehicles, inoperable motor vehicles, inoperative household appliances, to abate all fire and flooding hazards and to eliminate, fill up or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs, or to remove any building or buildings, constituting a fire or other hazard to the occupants of the City of Charleston.

SECTION 2: No order authorized by Section 1 of this Ordinance shall be issued without a thorough inspection of the condition by the Mayor of the City of Charleston or his designee, and without a determination by the Mayor or his designee that the existing condition which is ordered abated, constitutes a substantial health, fire, flooding, aesthetics or detrimental hazard to the well being of the inhabitants of the City of Charleston.

SECTION 3: The Mayor, or a person designated by him, is hereby authorized to order in the name and by the authority of the City the repair, removal or razing of all buildings and structures, including but not limited to dwelling, apartment houses, rooming houses or building or structures used as such, which are determined by the Mayor or his designee to be unsightly, unsafe, unsanitary, obnoxious or which constitute a fire hazard or in any other manner are detrimental to the public welfare.

SECTION 4: Any order issued pursuant to this Ordinance shall be in writing, signed by the Mayor or the Mayor's designee and delivered to the owner of the subject

real property or an agent of the owner or the person in control of the subject real property. The order or notice of order shall be delivered to one of the aforementioned parties in one of the following methods:

- (a) By personal service by the City Police of the City of Charleston, if the party resides within said City;
- (b) In the event no such person is a resident of the City of Charleston, notice shall be given by certified mail, return receipt requested, addressee only.

SECTION 5: The order or notice shall state the conditions on the subject real property which are ordered abated, and the order or notice of order shall advise the deliverer that if the conditions listed in the order or notice of said order have not been abated within seven (7) days, that the City shall proceed according to the provisions of this Ordinance to abate the listed conditions and that the cost of such action shall be charged to the owner of the subject real property and shall constitute a lien on such property. In case the owner of any real property is unknown or the owner's whereabouts are not known, then a copy of the written order or notice hereinabove referred to shall be posted in a conspicuous place upon the premises of the subject real property.

SECTION 6: Upon receipt of an order or notice of order, authorized by the above Sections, the property owner shall have the right to appeal the decision of the Mayor or his designee, through the District Court of Franklin County, Charleston District. Any owner so desiring to appeal a decision of the Mayor or his designee shall notify the District Court Clerk of the City of Charleston in writing, within seven (7) days from the date of service of said order upon such person. The District Court Clerk shall set a hearing de nova to be not less than thirty (30) days after the notice of appeal.

SECTION 7: After the order or notice of order has been delivered, mailed or posted pursuant to the provisions set forth above for a period of seven (7) days, and if the conditions listed in said order or notice of order shall not have been abated during that period of time and if the owner has not filed an appeal pursuant to the applicable section above, the Mayor shall authorize and direct the appropriate City department to take the required action to abate the condition listed in the order or notice of order. The cost and expense of abating said condition shall be charged to the owner or owners of said real property and the City of Charleston shall have a lien upon said property for such costs and expenses.

SECTION 8: After reasonable efforts have been made to collect from the owner of the subject real property, the cost and expense incurred in abating the conditions set out in the original order or notice of order, but not in excess of eighteen (18) months after the work has been completed, the account shall be transferred to the offices of the

City Clerk. The City Clerk shall make an investigation as to the residence of the subject property's owner and shall make an affidavit setting out facts as to the owner's last known address and whether or not the owner is a resident or a non-resident of the State. The City Clerk shall then refer said account with said affidavit to the City Attorney for the purpose of filing an action in Circuit Court to enforce the lien on the subject property. Before any such lien is enforced by sale of the subject property, all legal notices as now required by the laws of the State of Arkansas shall be given, including in the case of non-residence, notice by publication of warning order and notice by attorney ad litem.

Alternatively, pursuant to ACA-14-54-904 (2), the City Council of the City of Charleston may determine the amount owed by the owner for the cost of the abatement of the hazard or unsanitary conditions at a hearing before the governing body of the Municipality held after thirty (30) days written notice by certified mail to the owner of the property, if the name and whereabouts of the owner are known. If the name of the owner cannot be determined, then the amount will be determined only after publication of notice of the hearing in a newspaper having a bonafide circulation in the county where the property is located for one (1) insertion per week for four (4) consecutive weeks. The amount so determined at this bearing, plus 10% penalty for collection, shall be certified by the City Council of the City of Charleston, Arkansas, to the tax collector of the Charleston District of Franklin County, Arkansas, and placed by him on the tax books as delinquent taxes, and collected accordingly. However, the property owner shall have the right to appeal to the Circuit Court, the amount set by the City Council at the aforementioned hearing.

SECTION 9: In the event the owner of any real property who has given notice or ordered to abate a condition pursuant to the provisions of this Ordinance shall refuse to so comply with said order, or notice of order, within the period of time established for compliance by said order or notice of order, and shall not have filed an appeal pursuant to the applicable sections of this Ordinance, said owner shall be deemed in violation of this Ordinance and subject to penalty upon conviction thereof; shall be penalized in the sum of not less than \$25.00, and each day of violation shall be deemed a separate violation.

SECTION 10: Upon receiving a complaint by any citizen of the City of Charleston, the Mayor of the City of Charleston or his designee shall investigate the conditions complained of and shall make a decision upon such condition, at which time the Mayor of his designee shall make his findings and take whatever action is appropriate under Sections hereinbefore before set out.

SECTION 11: All Ordinances and portions of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 12: Should any portion of this Ordinance or any application thereof be invalid and so declared by a Court of competent jurisdiction, then the remainder of this Ordinance, or so much thereof as can be given effect in the absence of the invalid portion, shall not be effected by such partial invalidity, and to this end the portions of this act are declared to be severable.

SECTION 13: Emergency Clause. It is hereby found and declared by the City Council that the need for and benefits of the adoption of the ordinance and amendments herein are necessary for the enforcement of the Ordinance and for the preservation of the health, welfare, and safety of the citizens of the City, and thus an emergency is hereby declared to exist and this ordinance shall be effective from and after the date of its passage.

PASSED AND APPROVED this 7st day of July, 2010.

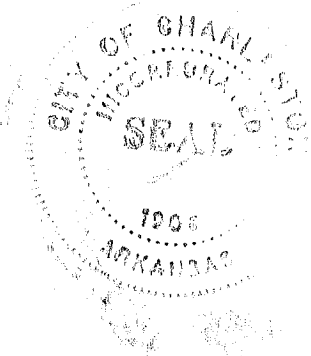


MAYOR, SHERMAN HIATT

ATTEST:



CITY CLERK, PEGGY NEAL



STATE OF ARKANSAS, COUNTY OF FRANKLIN
CHARLESTON DISTRICT
FILED FOR RECORD THE 7 DAY OF July
2010 AT 11:10 O'CLOCK A. M. AND RECORDED
IN BOOK C-44 PAGE 168
WILMA GRAGG - BRUSHWOOD
CIRCUIT CLERK AND RECORDER
BY Diane Bransfield D.C.