

ORDINANCE NO. 498

AN ORDINANCE AMENDING ORDINANCE #179 OF THE CITY OF MARION, CRITTENDEN COUNTY, ARKANSAS TO REQUIRE PROPERTY OWNERS TO KEEP LOTS AND REAL PROPERTY FREE OF WEEDS, GRASS, GARBAGE, RUBBISH AND OTHER UNSIGHTLY MATERIALS AND TO MAINTAIN SUCH PROPERTY FREE FROM UNSIGHTLY AND UNSANITARY CONDITIONS

WHEREAS, the City of Marion, Arkansas has determined that Ordinance #179 is in need of revision due to the rapid residential growth of the city;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ARKANSAS:

THAT SECTION 2 OF ORDINANCE #179 BE AMENDED TO INCLUDE THE FOLLOWING PROVISIONS AND LANGUAGE:

That any person owning any lots, lots of other real property within the city of Marion, Arkansas, which has a fence constructed on said property are required to repair said fence that is unsightly and is disrepair. Unsightly and in disrepair include fences with missing boards or gaps in said fence greater than thirty-six (36) inches. That any person who owns or is responsible for said fence shall repair the fence within thirty (30) days notice or remove said fence not in compliance with this Subsection. Notice shall be complete as set out as required in Section 4 of Ordinance #179.

THAT SECTION 3 OF ORDINANCE #179 BE AMENDED TO INCLUDE THE FOLLOWING PROVISIONS AND LANGUAGE:

The owner or owners of any lot, lots or other real property within the City of Marion are required to keep all weeds, rank grass and noxious growth of any kind upon their property out or clipped so as to avoid any unsightly or unsanitary condition thereon. No owner or owners of any lot, lots or other real property within the City of Marion shall be permitted to allow weeds, rank grass or noxious growth to exceed height of twelve (12) inches upon their property. In any calendar year if it is necessary to notify a Property owner on more than one

occasion to fail to comply with this Ordinance then the number of days to bring the property in compliance shall be seven (7) days.

THAT SECTION 4 OF ORDINANCE #179 BE AMENDED TO INCLUDE THE FOLLOWING PROVISIONS AND LANGUAGE:

Upon the failure of any owner of any lot, lots or other real property within the City of Marion to cut or have cut such weeds, grass or noxious growth or to drain any stagnant pool or water or fill such property so as to affect proper drainage or to remove any of the articles enumerated above or any other unsightly or unsanitary articles or things from such property, the City, acting by and through any department to whom such duty may be delegated, shall serve a notice on the owner of such lot, lots or other real property ordering said owner, within ten (10) days of service of said notice, to cut or have cut all weeds, grasses or noxious growth upon such property, or to correct any improper drainage condition or to remove any unsightly or unsanitary article or thing as enumerated herein from such property.

THAT SECTION 5 OF ORDINANCE #179 BE AMENDED TO INCLUDE THE FOLLOWING PROVISIONS AND LANGUAGE:

If the owner of any lot, lots or other real property within the City of Marion shall neglect or refuse to cut or have cut said weeds, grass or noxious grown or to drain any stagnant pool or water or fill such property so as to effect proper drainage or to remove any of the articles enumerated about or any other unsightly or unsanitary articles and things from such property after having been given ten (10) days notice to do so as provided above, then the City of Marion is authorized to do whatever is necessary to correct said conditions and to charge the cost thereof to the owner or owners of said lot, lots or other real property, and the City of Marion shall have a lien against such property for such costs or charges incurred and/or the "owner" can be issued a citation as provided in Section 7 of this Ordinance.

THAT SECTION 7 OF ORDINANCE #179 BE AMENDED TO INCLUDE THE

FOLLOWING PROVISIONS AND LANGUAGE:

Failure of any owner of any lot, lots or other real property within the City of Marion to comply with the requirements set forth in Section 2, 3, 4 and 5 of Ordinance #179 is hereby declared to be a misdemeanor upon which a citation may issue upon conviction of a violation of this Ordinance, shall be subject to a fine of not less than one-hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00), and each separate day on which a violation of this Ordinance is permitted to continue shall be a separate violation subject to a separate conviction and penalty hereunder.

SECTION 8. REPEALING CLAUSE.

All Ordinances and parts of Ordinances in conflict herewith, including Ordinance # 128 and #179, are hereby repealed.

SECTION 9.

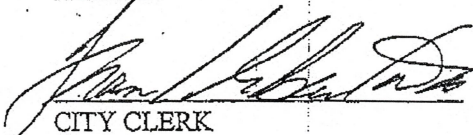
If any part, section or paragraph of this Ordinance be held to be unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the remaining portions of this Ordinance.

PASSED this 27 day of NOVEMBER 2008.

APPROVED: .


MAYOR

ATTEST:


CITY CLERK

AN ORDINANCE TO REQUIRE PROPERTY OWNERS TO KEEP LOTS AND REAL PROPERTY FREE OF WEEDS, GRASS, GARBAGE, RUBBISH AND OTHER UNSIGHTLY MATERIALS AND TO MAINTAIN SUCH PROPERTY FREE FROM UNSIGHTLY AND UNSANITARY CONDITIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ARKANSAS:

SECTION 1.

"Person", as used in this Ordinance, includes any individual, firm, corporation, partnership, association, or any other entity owning or holding title to real property within the City of Marion.

SECTION 2.

Any person owning any lot, lots, or other real property within the City of Marion shall, from and after the effective date of this Ordinance, be required to keep the lot, lots or other real property free of weeds, garbage, rubbish, grass, refuse, debris, or any other unsightly and unsanitary article or thing. It shall be the duty of any person owning any lot, lots or other real property within the City of Marion to keep the same clear from grass and weeds and to cut the grass and weeds as often as it may be necessary to keep and maintain the lot in a sightly and sanitary manner, and to drain any stagnant pools or water therefrom or fill the same to such level as will effect proper drainage and remove and keep removed any garbage, rubbish, refuse, debris or other unsightly and unsanitary articles and things therefrom.

SECTION 3.

The owner or owners of any lot, lots or other real property within the City of Marion are required to keep all weeds, rank grass and noxious growth of any kind upon their property cut or clipped so as to avoid any unsightly or unsanitary condition thereon. No owner or owners of any lot, lots or other real property within the City of Marion shall be permitted to allow weeds, rank grass or noxious growth to exceed a height of 18 inches upon their property.

SECTION 4.

Upon the failure of any owner of any lot, lots or other real property within the City of Marion to cut or have cut such weeds, grass or noxious growth or to drain any stagnant pool or water or fill such property so as to effect proper drainage or to remove any of the articles enumerated above or any other unsightly or unsanitary articles or things from such property, the City, acting by and through any department to whom such duty may be delegated, shall serve a notice on the owner of such lot, lots or other real property ordering said owner, within twenty (20) days of service of said notice, to cut or have cut all weeds, grasses or noxious growth upon such property, or to correct any improper drainage condition or to remove any unsightly or unsanitary article or thing as enumerated herein from such property.

The notices herein authorized may be served personally upon the owner of the property or may be mailed to the last known address of such owner by certified mail, return receipt requested. Service shall be complete upon mailing. In case the

owner of any lot, lots or other real property referred to above is unknown or his whereabouts are not known or is a non-resident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises, then before further action is taken pursuant to this Ordinance, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residents, and thereupon service by publication as now provided for by law against non-resident defendants may be had and an attorney ad litem shall be appointed to notify the defendant by certified mail, return receipt requested, addressed to his last known place of residence, if same can be found.

SECTION 5.

If the owner of any lot, lots or other real property within the City of Marion shall neglect or refuse to cut or have cut such weeds, grass or noxious growth or to drain any stagnant pool or water or fill such property so as to effect proper drainage or to remove any of the articles enumerated above or any other unsightly or unsanitary articles and things from such property after having been given twenty (20) days' notice to do so as provided above, then the City of Marion is authorized to do whatever is necessary to correct said condition and to charge the cost thereof to the owner or owners of said lot, lots or other real property, and the City of Marion shall have a lien against such property for such costs or charges incurred.

SECTION 6.

The lien herein provided for may be enforced and collected in either one of the following manners:

(a) The lien may be enforced at any time within eighteen (18) months after the work has been done by an action to foreclose such lien in the Chancery Court of Crittenden County, Arkansas; or

(b) The amount of the lien herein provided may be determined at a hearing before the City Council of the City of Marion held after thirty (30) days' written notice by certified mail, return receipt requested, to the owner or owners of the property, if the name and whereabouts of the owner or owners be 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 Crittenden County, Arkansas, for one insertion per week for four (4) consecutive weeks. The determination of the City Council of the City of Marion shall be subject to appeal by the property owner in the Chancery Court of Crittenden County within thirty (30) days following the determination of the City Council. The City Council shall certify the amount so determined, plus ten percent (10%) penalty for collection to the Tax Collector of Crittenden County, who shall place a set amount on the tax books as delinquent taxes and collect it accordingly. Pursuant to Act 100 of 1943, as amended, the Tax Collector shall pay the amount so collected, less three percent (3%) thereof, to the City of Marion.

SECTION 7.

Failure of any owner of any lot, lots or other real property within the City of Marion to cut or have cut weeds, grass or noxious growth to a height of not to exceed eighteen (18) inches or to correct and remove any article or thing causing an unsightly or unsanitary condition upon the property is hereby declared to be a misdemeanor, and upon conviction of a violation of this Ordinance, shall be

subject to a fine of not less than Ten Dollars (\$10.00) nor more than Twenty-five Dollars (\$25.00), and each separate day on which a violation of this Ordinance is permitted to continue shall be a separate violation subject to a separate conviction and penalty hereunder.

SECTION 8. REPEALING CLAUSE.

All Ordinances and parts of Ordinances in conflict herewith, including Ordinance No. 128, are hereby repealed.

SECTION 9.

If any part, section or paragraph of this Ordinance be held to be unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the remaining portions of this Ordinance.

SECTION 10.

The effective date of this Ordinance shall be July 23, 1985.

SECTION 11. EMERGENCY CLAUSE.

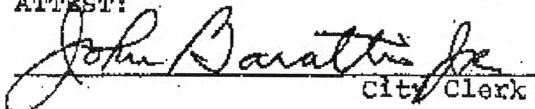
There currently exist certain lots or other real property within the City of Marion containing uncut weeds, grass, garbage, debris and other unsightly and unsanitary articles or things as to endanger the health and safety of the residents of the City of Marion. Therefore, an emergency is declared and it is found that this Ordinance is immediately necessary for the preservation of public health and safety of the citizens of Marion and, therefore, it shall be in full force and effect from and after its passage and approval on the effective date hereinabove set forth.

PASSED AND APPROVED this 25 day of July, 1985.



Mayor

ATTEST:


City Clerk