

PUBLIC NUISANCE

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PUBLIC NUISANCE

NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a public nuisance, as defined or more specifically described in this Ordinance.

PURPOSES

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe, and well-kept community can stabilize or increase property values, provide a healthy environment, and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions, and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Ordinance to encourage a clean, healthy, and satisfying environment; one free of nuisances, eyesores, and unhealthy, unsafe, or devaluating

conditions. To this end, this Ordinance seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties.

DEFINITIONS

For the purposes of this Ordinance, the following words are defined:

Nuisance: Anything that causes hurt, inconvenience, or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person.

Nuisances are either public or private.

Public Nuisance: A public nuisance is one, which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

Private Nuisance: A private nuisance is one limited in its injurious effects to one or a few individuals.

Continuing Nuisance: A continuing nuisance does not have to be constant or un____?, but merely one that occurs often or regularly, or one that occurs after a notification has been given that the activity is causing such harm as would constitute a nuisance as defined herein and/or a request for abatement has been made.

Exceptions: The following shall be exemptions under this ordinance:

- (a) No agricultural activities carried on by an agricultural facility or operation as defined by OCGA § 41-1-7 within an A-1 zone shall be deemed a violation of this ordinance.
- (b) No activities of publicly owned facility shall be deemed a violation of this ordinance.
- (c) The normal lawful activities of sport shooting ranges shall not be deemed a violation of this ordinance.
- (d) The normal lawful activities of businesses and industries presently in existence or later established in their proper respective zones shall not be deemed to be violation of this ordinance.

Abandoned vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

- (a) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period of 48 hours; and/or,
- (b) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if

- required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.
- (c) Has no tag correctly displayed on the vehicle or the owner cannot provide to the County Police Officer proof of insurance.

ILLUSTRATIVE EXAMPLES OF NUISANCES

The following conditions if present for thirty (30) or more days, with the exception of noise issues or safety hazards (which can be a nuisance without continuing for 30 days), whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated if determined to be a public nuisance; although this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

- (a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, except in relationship to agricultural operations, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) Dead or dying trees or other vegetation, which may cause a hazardous situation if they fall.
- (d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, old refrigerators or freezers, or other such items that exceeds eight (8) thirty gallon trash bags full of materials.
- (e) The keeping or maintenance of more than two abandoned vehicles in public view or in a manner inconsistent with this Ordinance.
- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death. (which can be a safety hazard)
- (g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.

- (h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.
- (i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes, which give rise to the emission or generation of such odors and stenches (including smoke and fires which can be safety hazards).
- (j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, industrial wastes, or other substances (which can be safety hazards).
- (k) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law (which can be a safety hazard).
- (l) Any accumulation of stagnant water.
- (m) Any method of human excretion disposal, which does not conform to the provisions of local ordinances, or state or federal law.
- (n) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the citizens of the County (which can be a safety hazard).
- (o) The allowance of any roll-off containers to remain on a site more than 30-days without being emptied or any accumulation of waste materials outside the roll-off container.
- (p) The allowance of washout from existing or new driveways or access drives to property that is deposited onto County maintained roads (safety hazard).

PROVISIONS FOR SPECIFIC NUISANCES

Animals. Refer to existing Animal Control Ordinance.

Abandoned Vehicles. It shall be unlawful to keep or maintain more than two abandoned vehicles as defined by this Ordinance, and any abandoned vehicle is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance. Any Junked automobile, truck, vehicles or trailer of any kind or type shall not be parked or stand on any private property or public roads and is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, and invite plundering and vandalism, to create fire hazards, to constitute a nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety, and general welfare and, when on county streets, to create a traffic hazard and

endanger public safety. This is a supplement to and shall not replace Walker County's existing junk car ordinance.

Trees and Other Vegetation. It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

The following plants shall not be installed as landscape material:

- (a) Kudzu (*Pueraria lobata*); and
- (b) Popcorn or Chinese Tallow Tree (*Sapium Sebiferum*).

Noise. It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in the County. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health, or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises that constitute a nuisance, and which will be in violation of this Ordinance and which shall be abated if determined to be a public nuisance.

- (a) The keeping or maintenance of any domestic animal which, due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.
- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.
- (c) The use of any siren, other than police, fire, or emergency vehicle.
- (d) The use or operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof between the hours of 11:30 p.m. and 8:00 a.m. and during other hours, where it is extremely excessive and offensive unless a permit is issued by the Walker County Commissioner for such activities.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m.,

except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the County Police.

- (f) The creation of excessive noise on any street adjacent to any school, institution of learning, court, or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents, which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
- (i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

PENALTY

The penalty for each separate violation of this ordinance shall be a fine not less than \$500 and not to exceed \$1,000 and/or 60 days imprisonment. Each day the nuisance continues after receiving a written notice of abatement, or after being convicted of a citation without notice of abatement, constitutes a separate and continuing violation.

NOTICE TO ABATE

Law enforcement officials may issue a citation for any violation of this ordinance without warning or notice to abate. However, for violations, which tend to be continuing in nature, the enforcement officer may first issue a notice to abate.

Whenever enforcement officers determine that a nuisance is found to exist within the jurisdiction of the County, the County Police Officer may give written notice to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.

SERVICE OF NOTICE

The owner or occupant causing the nuisance should be served personally with the complaint or summons, if possible. If however, after reasonable effort has been made and personal service cannot be achieved, service may be had by issuance of the "Notice of Abatement" as provided herein.

CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this Ordinance shall contain the following:

- (a) The owner shall have fifteen days from the date of the notice to correct the violation;
- (b) The location of the nuisance, if the nuisance is stationary;
- (c) A description of what constitutes the nuisance;
- (d) A statement of acts necessary to abate the nuisance; and,
- (e) A statement that if the nuisance is not abated as directed, the County may file an action in Magistrate Court to prosecute the violations, and
- (f) If corrective action, as directed, is not taken within fifteen (15) days after conviction (unless there is a different special period of time specified in the judges order), the County will conduct the necessary corrective action and bill the property owner for the cost as a special tax, which will become a lien against the property if not paid within sixty (60) days of the date of mailing the bill to the property owner.

The notice shall be mailed by certified mail, return receipt requested, to the occupant's (if any) or the owner's address at the location of the activity creating the nuisance, and to the owner (if different from the occupant) as it appears on the County's Tax records and by:

- (a) Posting the notice on or near the front door of each building on the property to which the violation relates; or
- (b) If the property contains no buildings, posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, with letters two and one-half (2 ½) inches high in bold type stating "NOTICE".
- (c) If the owner/occupant fails to correct the violation within the time allotted, the County may enter upon the property or employ another to do so, in order to correct the violation to include mowing, filling, draining, leveling, removal or any other appropriate action necessary to abate or correct the violation(s) and the cost incurred by the County shall be charged to the property owner;
- (d) If, within sixty (60) days after a bill for costs has been mailed to the owner's last known address, the owner fails to pay in full all costs incurred by the County to abate or correct the violation(s) a tax lien shall be filed against the property to secure all costs, expenses and reasonable attorney fees as allowed for receiving of tax liens.

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- (e) **Continuing right of entry.** For a continuing right of entry by the County, notice of a second violation conviction shall be given to the owner as provided by this ordinance, to occur within twelve (12) months of the first. The second notice shall be the same as the first with second notice shown in bold at the top of the notice. The notice shall also contain a statement that, if the property owner fails to fully abate the violation(s) of this ordinance, the County may enter the property, as necessary, for the following 365 days to correct the present and any further violations without further notice to the owner and may assess the costs thereof as provided by this ordinance, including administrative fees.
- (f) **County May Correct Violation.** If at the expiration of fifteen (15) days after the second notice is given, as provided in this paragraph, the owner fails to correct the violation(s), the County may immediately enter upon the property and do the work, or pay for the work to be done, as necessary to correct the violation(s). If the property owner fails to correct the violation(s) after the second notice has been given as provided in this ordinance, the County may enter the property for the next 365 days as necessary to correct further violations without further notice to the owner and may assess the costs, expenses, administrative fees, and reasonable attorney's fees thereof as provided herein.
- (g) **Owner assessed Costs.** A statement of the costs incurred by the County in correcting a violation shall be mailed to the property owner. The costs shall include an administrative fee of one hundred dollars (\$100). Payment for the statement shall be due within sixty (60) days of the date of mailing.
- (h) **Lien to secure costs.** The statement for the County's abatement costs will be a special tax and if it is not paid in a timely manner, the County may assess a special tax lien on the property, which will be collected as any other tax lien.

Approved by:

Bebe Heiskell

Walker County Commissioner Bebe Heiskell

11-18-04

Date

Briggitt Garrett

Briggitt Garrett, County Clerk