

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF
TOCCOA TO ESTABLISH A REVISED NUISANCE ORDINANCE**

Whereas, the appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area;

Whereas, 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; and,

Whereas, 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 and to regulate and protect the health, safety, welfare, values, and aesthetics of properties.

- I. Chapter 13, Articles I and Article II of the Code of Ordinances of the City of Toccoa, Georgia is hereby deleted in its entirety and amended to create a new Article I which Article reads as follows:

ARTICLE I NUISANCES IN GENERAL

Section 13-1 PURPOSES

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions.

Section 13-2 DEFINITIONS

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

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.

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.

The following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; 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, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation and/or fencing 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, or other such items.
- (e) The keeping or maintenance of one or more 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.
- (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.
- (j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, or other substances.
- (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.
- (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) Blowers and motors. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids is prohibited, unless the noise from this blower or fan is muffled and the engine is equipped with a muffler device reasonably sufficient to deaden the noise.
- (o) Operation of motor vehicles. The operation of motor vehicles, including cars, trucks, motorcycles, all terrain vehicles, mopeds, golf carts, go carts and any other motorized vehicle, upon any parking facility, public or private, vehicle access or pedestrian walkway, or street, public or private, or upon any property, public or private, so as to create unreasonable noise and to disturb the peace, quiet and comfort of the inhabitants of the neighborhood is prohibited.

(p) Obstruction of a public street, public access area, highway, or sidewalk without a permit from the city. Public access area as used in this ordinance is defined to include all city parking places, either owned by the city or patrolled by the city pursuant to an agreement with the city and private owner, all public parks and all public recreational facilities.

Section 13-4 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 nuisance, as defined or more specifically described in this Ordinance. The city shall have the right to abate a nuisance pursuant to this chapter and pursuant to the laws of Georgia and the Municipal Court of the City of Toccoa shall have the authority and power to order such abatement as provided in this article and as provided by the laws of this state.

(a) Any owner or tenant, or both, subject to this article, failing or refusing to comply with the provisions of this article, after written notice from the code enforcement officer, or chief of police suggesting corrective action, may be punishable as prescribed in section 1-2 of the Code of Ordinances of the City of Toccoa and /or may have penalties imposed as specified in this article. The written notice shall contain a specific time for corrective action to be implemented. The immediacy of the corrective action will depend upon the significance of the violation. In most instances the Code Enforcement Officer or Chief of Police will give at least ten days to complete the corrective action provided the circumstances and immediacy of the need for corrective action do not justify a shorter period to comply.

Section 13-5 NOTICE TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of the City of Toccoa the Code Enforcement Officer shall 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.

(a) If it shall be impossible to serve notice to both the owner and the tenant in possession, then service upon either with the notice shall be sufficient.

(b) If it shall be impracticable to serve the notice required by this section and if there is no tenant in possession of the land, the mailing of the notice to the owner at his last know address shall be sufficient.

Section 13-6 CONTENTS OF NOTICE

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

- (a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
- (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 city will file an action in the in Municipal Court to abate the nuisance and will seek any and all costs incurred by the city in abating said nuisance against the owner and/or occupant. Notice shall further be given that the city will, if appropriate, seek to impose a lien on said property.

Section 13-7 ABANDONED VEHICLES. It shall be unlawful to keep or maintain an abandoned vehicle 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.

Section 13-8 FENCES, 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, or to place a fence 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. This section is not applicable to rights of ways maintained by the City of Toccoa.

Section 13-9 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 City. 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 public nuisance in violation of this Ordinance and which shall be abated.

(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 Resolution.

(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.

(e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 9:00 P.M. and 5:30 A.M., except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the Planning Department.

(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.

Section 13-9 OPEN WELLS TO BE FILLED.

- II. SHOULD ANY SECTION OR PROVISION OF THIS ORDINANCE BE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR INVALID SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE UNCONSTITUTIONAL OR INVALID. ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED.
- III. This Ordinance will become effective upon adoption as provided by law.