

STATE OF GEORGIA
CITY OF WALNUT GROVE

ORDINANCE NO. 2023- 05

AN ORDINANCE TO REVISE CHAPTER 33 ("NUISANCE BUILDINGS OR STRUCTURES") OF THE CITY ORDINANCE, TO AMEND AND ADOPT A NEW NUISANCE ABATEMENT PROCEDURE; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS the Mayor and the Council of the City of Walnut Grove, Georgia, the governing body of the City of Walnut Grove, Georgia, desire to amend its Code of Ordinances to revise its existing ordinances regarding nuisances;

WHEREAS, the Mayor and the Council of the City of Walnut Grove, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the Mayor and Council of the City of Walnut Grove, Georgia deem such amendment to be for the betterment and general welfare of the City of Walnut Grove and its inhabitants;

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF WALNUT GROVE, GEORGIA, and by the authority thereof:

The Code of Ordinances of the City of Walnut Grove is hereby amended by making the following revisions:

SECTION 1. Chapter 33 of the Code of Ordinances is hereby removed in its entirety and replaced with the following:

"CHAPTER 33: NUISANCES

33-1 Definitions

For the purpose of this Chapter, the following words shall have the meanings respectively ascribed below:

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

- b. Nuisance, per se. An act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings.
- c. Private Nuisance. A nuisance limited in its injurious effects to one of a few individuals.
- d. Public Nuisance. A nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

33-2 Proceedings to Abate Generally

Any nuisance existing within the corporate limits of this City, except for a nuisance hereinafter expected, shall be abated in the manner set forth in this chapter.

1. Initiation. Proceedings to abate a nuisance, whether public or private shall be initiated by the filing of a complaint with the City Clerk, which such complaint shall state the nature and location of the nuisance and the name and address of the complainant or complainants. In the case of a private nuisance, the complaint shall be filed by the person or persons injured by the nuisance; in the case of a public nuisance, the complaint shall be filed on behalf of the public by a City Official or by a citizen specially injured by the nuisance.

2. Notice of Hearing. Upon the filing of a complaint as hereinabove provided, the City Clerk shall issue a notice directed to the owner of the premises upon which the nuisance complained of is located and, if the person maintaining the same be a different person from the owner, then also to the person maintaining the nuisance, calling on such person to show cause, either personally or by attorney, at the time and place directed by the City Clerk, why such activity alleged to be a nuisance should not be ordered abated and removed by the Mayor and City Council. Such notice shall be served at least two days prior to the date set for the hearing by any police officer of the City and shall be made either personally or by leaving a copy at the party's most notorious place of abode.

Service of this notice shall be perfected and valid if mailed to the address and party listed as the owner of the property on the ad valorem tax records of Walton County for the property where the nuisance is located.

A copy of such notice shall also be mailed to the complainant or complainants.

3. Order of Abatement. If after hearing all the evidence, the Mayor and Council should decide that the activity complained of is a nuisance, the Mayor shall issue an order directed to the Police Chief or any member of the Police force, commanding that the nuisance be abated. A copy of such order of abatement shall be served on the party or parties maintaining the nuisance.

4. Effect of Noncompliance. In the event of a refusal to comply with the order of abatement issued by the Mayor, the person or persons maintaining the nuisance shall be subject to arrest for violation of state law.

33-3 Summary Abatement

Nothing contained in the foregoing section shall prevent the Mayor and City Council from summarily and without notice ordering the abatement of or abating any nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

33-4 Findings Regarding Unsafe, Unsanitary or Abandoned Buildings, Dwellings or Structures

Under the authority of O.C.G.A. § 41-2-9, the Mayor and Council specifically adopt by incorporation herein by reference the provisions of O.C.G.A. §§ 41-2-7, 41-2-8, 41-2-9, 41-2-10, 41-2-11, 41-2-12, 41-2-13, 41-2-14, 41-2-15, 41-2-16, and 41-2-17. These provisions are adopted as an official Ordinance of the City of Walnut Grove as if specifically set forth herein in their entirety.

33-5 Duties of Zoning Administrator

Pursuant to the authority of O.C.G.A. § 41-2-10, the Mayor and Council of the City of Walnut Grove hereby designates the Zoning Administrator as the public officer with the authority to enforce the provisions of § 33-4 of the City of Walnut Grove Code of Ordinances. The Zoning Administrator may determine, under existing Ordinances, that dwellings, buildings or structures are unfit for human habitation or are unfit for its current commercial, industrial, or business use if he finds that conditions exist in such buildings, dwellings, or structures which are dangerous or injurious to the health, safety or morals of the occupants of such dwellings, buildings or structures; of the occupants of neighborhood dwellings, buildings, or structures; or of other residences of this municipality. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) defects therein increasing the hazards of fire, accidents, or other calamities;
- (2) lack of adequate ventilation, light or sanitary facilities;
- (3) dilapidation;
- (4) disrepair;
- (5) structural defects; and
- (6) uncleanliness.

The public officer designated by this Ordinance may determine, under existing Ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

Within the context of this Ordinance, the public official shall utilize the existing codes of the City of Walnut Grove to the standard for satisfaction of the provisions of this Ordinance including but not limited to the electrical codes, building codes and fire codes previously adopted by the City of Walnut Grove.

33-6 **Further Duties of Zoning Administrator**

The **Zoning Administrator** is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Ordinance and O.C.G.A. § 41-2-7 through §41-2-10 and O.C.G.A. § 41-2-12 through § 41-2-17, including the following powers in addition to others granted in O.C.G.A. § 41-2-7 through § 41-2-10 and O.C.G.A. § 41-2-12 through § 41-2-17:

- (1) To investigate the dwelling conditions in the City of Walnut Grove in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and affix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the Ordinances and provisions adopted herein; and
- (5) To delegate any of his functions and powers under the Ordinance to such officers and agents as he may designate.”

SECTION 3. Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Walnut Grove, Georgia.

SECTION 5. It is hereby declared that if any phrase, sentence, or paragraph hereof shall be found or declared unconstitutional or invalid by a court of competent jurisdiction, the remaining phrases, sentences and paragraphs hereof shall remain in full force and effect as if enacted without the phrase, sentence, or paragraph declared unconstitutional or invalid.

SO ORDAINED _____ this of March 2025.
(this ordinance was passed by council on September 14, 2023)

Stephanie Moncrief, Mayor

ATTEST:

Lynn Heard, City Clerk

APPROVED AS TO FORM:

Anthony O.L. Powell, City Attorney
Powell & Crowley, LLP

Adopted by the City Council at a regular called meeting on _____.

____ Council members voting in favor

____ Council members voting against

____ Council members voting abstaining

**CITY OF WALNUT GROVE CODE ENFORCEMENT
NUISANCE ORDINANCE STATUS REPORT**

Party: _____
 Address: _____
 Tax Parcel No.: _____
 Action No.: NC-23-01

<u>ACTION</u>	<u>DATE</u>
1. Informal complaint	_____
2. Initial inspection report	_____
3. Mayor & Council approve inspection report	_____
4. Title search	_____
5. Notification letter	_____
6. Set hearing date	_____
7. File Complaint—including Summons, Rule Nisi, Affidavit, and Lis Pendens (Hearing not less than 15 days of hearing, no more than 45 days; file lis pendens in superior and municipal court)	_____
8. Posting complaint on structure (within 3 days of filing complaint)	_____
9. File signed Affidavit and Lis Pendens (serve same)	_____
10. Hearing— Order issued (serve same and post on main entrance of the structure)	_____
11. Defendant Files Petition for Injunction to the Superior Court (within 15 days of service)	Yes: _____ No: _____
-De Novo Hearing (within 20 days of filing petition)	Date Set: _____
-Final Order (serve and post)	Action: _____
12. Placement of placard on the structure by Director, if order not complied with	_____
13. File lien against property	_____

14. Forward to Tax Commissioner for collection
(a copy of the order and final statement of
costs sent with lien)

15. Perfection of lien

16. Disbursement of Funds (to the Commissioner
and the City)
