

ORDINANCE NO. 2017-7

AN ORDINANCE TO DELETE CHAPTER 6-004 AND CREATE A NEW ORDINANCE TO BE KNOWN AND DESIGNATED AS “NUISANCES”, AND TO PROVIDE FOR THE CODE OF ORDINANCES OF THE CITY OF SOCIAL CIRCLE, TO REVISE THE NUISANCE ORDINANCES, TO REPEAL CONFLICTING ORDINANCES, AND FOR OTHER PURPOSES

WHEREAS, the Mayor and the Council of the City of Social Circle, Georgia, the governing body of the City of Social Circle, Georgia, desire to amend its Code of Ordinances to revise its existing ordinances regarding Nuisances; and

WHEREAS, the Mayor and the Council of the City of Social Circle, 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 Social Circle, Georgia deem such amendment to be for the betterment and general welfare of the City of Social Circle and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Social Circle, Georgia, and it is hereby ordained by authority of same, as follows:

SECTION 1. The Code of the city of Social Circle, Georgia is hereby amended by making the following revisions as follows:

Section 6-004, Subsection 4 of the Code of Ordinances of the City of Social Circle is hereby repealed and removed in its entirety.

SECTION 2. The Code of the City of Social Circle, Georgia is hereby amended by adding the following ordinance entitled “**NUISANCES**”.

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 person; and the fact that the act done may otherwise be lawful shall not keep it from being a Nuisance.

1. Nuisance per se. An act, occupation, or structure which is a Nuisance at all times and under any circumstances, regardless of location or surroundings.

2. Private Nuisance. A Nuisance limited in its injurious effects to one of a few individuals.

3. 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.

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.

(A) 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.

(B) 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.

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

(C) 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.

(D) 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.

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.

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 Social Circle as if specifically set forth herein in their entirety.

5. Duties of City Manager or her designee

Pursuant to the authority of O.C.G.A. § 41-2-10, the Mayor and Council of the City of Social Circle hereby designate the City Manager or her designee as the public officer with the authority to enforce the provisions of § 4.4 of the City of Social Circle Code of Ordinances. The City Manager or her designee 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):

- (A) defects therein increasing the hazards of fire, accidents, or other calamities;
- (B) lack of adequate ventilation, light or sanitary facilities;
- (C) dilapidation;
- (D) disrepair;
- (E) structural defects; and
- (F) uncleanness.

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 Social Circle 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 Social Circle.

6. Further Duties of City Manager or her designee

The City Manager or her designee 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:

- (A) To investigate the dwelling conditions in the City of Social Circle 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;
- (B) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (C) 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;
- (D) 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
- (E) To delegate any of his functions and powers under the Ordinance to such officers and agents as he may designate.

SECTION 3. Unless otherwise provides herein, the penalties provided for violations of this Ordinance are set out in the general penalties sections of the Code of Ordinances of the City of Social Circle, are under the authority of the Municipal Court as established by the Code and are hereby incorporated herein as if fully set out.

SECTION 4. Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Pursuant to the Section 2.25 of the City Charter, authority is hereby delegated to the City Clerk to cause this Ordinance to be numbered and codified in the City Code of Social Circle, Georgia, in such a way as to place this Ordinance in the Code in an organized and orderly sequence to maximize the organization of the Code. The City Clerk is authorized to designate to the City Attorney or to such other Mayor and Council approved contractors to assist in the effort to codify this provision provided the decision of the City Clerk is final as to the placement of this Ordinance within the City Code of Social Circle, Georgia. The goal of this authorization is to codify and number this Ordinance in the Code in such a way as to be clear and orderly.

SECTION 6. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Social Circle, Georgia.

SECTION 7. 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 18th day of April, 2017.


Hal W. Dally, Mayor

ATTEST:


Susan M. Roper, City Clerk

APPROVED AS TO FORM:


Anthony O. L. Powell, City Attorney
Webb, Tanner & Powell P.C.

Adopted by the City Council at a regular meeting on April 18, 2017.

 4 Council members voting in favor

 0 Council members voting against

 0 Council members abstaining