

ORDINANCE NO. 24-2002

AN ORDINANCE TO REGULATE GRASS AND WEED NUISANCES, ABANDONED AND INOPERABLE VEHICLES AND OTHER NUISANCES AND TO ESTABLISH PROCEDURES FOR THE ABATEMENT OF THE SAME.

WHEREAS, an abundance of abandoned or inoperable vehicles, overgrown grass and weeds, and other nuisances described herein within the city limits of Cullman, Alabama, could be injurious to the general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects and pests; or attaining heights and dryness that constitute a serious fire threat or hazard; or bearing wingy or downy seeds, when mature, that cause the spread of weeds and when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris such as broken glass or metal that could inflict injury on a person going upon the property, or being unsightly and constituting a usual blight, and;

WHEREAS, the removal and clearance of such abandoned or inoperable vehicles, overgrown grass and weeds, and other nuisances described herein must be accomplished for the overall good and protection of the public as a whole.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, AS FOLLOWS:

Section 1:

It shall be unlawful for the owner, occupant, or person in charge of a property within the City of Cullman, Alabama, whether vacant or not, to use said property for the open storage of any inoperable or abandoned motor vehicle, ice box, refrigerator, stove, or other appliance, glass, building material, building rubbish, and similar items, or to allow the accumulation of weeds, grass, dead trees, brush, trash, garbage, tires, and similar items that create a nuisance and blight on the community.

Section 2: Definitions

For the purpose of this ordinance, certain terms are defined as follows:

Abandoned Vehicle: Any vehicle which:

Is in a wrecked, dismantled, partially dismantled, discarded, or otherwise inoperable condition;
or,

Does not have affixed thereto an unexpired license plate and has been parked, stored, or left, whether attended or not, upon any public or private property in the city for a period of time in excess of seven (7) days.

This term includes any boat or other recreational vehicle which is in a wrecked, dismantled, partially dismantled, discarded, or otherwise inoperable condition. The term does not include any motor vehicle which is:

1. Enclosed within a building on private property; or
2. Held in connection with a business enterprise, lawfully licensed by the city on property zoned for junkyard, vehicle repair facility, or vehicle storage yard; or,
3. In operable condition specifically adapted or designed for operation on drag strips or raceways; or,
4. Retained primarily as an antique collector's item and registered under state law as an antique vehicle.

Enforcing Official: Any employee designated by the Mayor as the person to exercise the authority and perform the duties delegated by this ordinance to the enforcing official.

Grass or Weed Nuisance: Any abundance of overgrown grass or weeds within the city which is injurious to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and other vermin; insects and pests; or attaining such heights and dryness so as to constitute serious fire threat or hazard; or bearing wingy or downy seeds, when mature, that cause the spread of weeds, and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or being unsightly; or any growth of grass or weeds, other than ornamental plant growth, which exceeds twelve (12) inches in height.

Hearing Official: Any employee designated by the Mayor as the person to exercise the authority and perform the duties delegated by this ordinance to the hearing official.

Improved Subdivision: A division of a tract of land or acreage into tracts or parcels and the improvements thereof by construction of streets, water lines, and, where applicable, sewer lines to serve the subdivided property.

Natural Condition: Uncultivated and unseeded land, still in a state of nature. But any growth on land, once it has been cleared or plowed, is not a natural condition, even though it has not been planted or cultivated by anyone.

Nuisance: Anything that unlawfully causes hurt, inconvenience, or damage; that class of wrongs that arises from the unreasonable, unwarrantable, or unlawful use by a person of such person's own property, either real or personal, or from such person's own improper, indecent, unsightly, or

unlawful personal conduct, working an obstruction of or injury to the right of another or of the public, and producing material annoyance, inconvenience, discomfort, or hurt to another person

or to the general public; anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of another.

Owner of Property: Includes legal title holder, or lessee, or occupant of property, or agent of legal title holder or lessee, in charge, possession or control of said property. For a building nuisance only, includes any mortgage holder of record.

UNLAWFUL NUISANCE:

It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property under such person's ownership or control. Property under a person's ownership and control includes those areas referred to below in "Duties of Owner." A person with a duty to abate any nuisance is liable for separate and distinct offenses for each day the nuisance is allowed to remain after it has become such person's duty by notice of the enforcing official to abate it.

DUTIES OF OWNER:

It shall be the duty of the owner of any real property located within the city to maintain any grass or weeds growing upon said property in such a manner as not to constitute a nuisance. The duties and obligations of the owner extend to and include any real property situated within a dedicated right-of-way or easement burdening the property, except to the extent that it may be impracticable to do so because of public facilities located thereon. Such right-of-way and easements must be maintained by the owner in a manner consistent with the maintenance of the owner's remaining property and within the requirements in this ordinance, except to the extent it may be impracticable to do because of public facilities located thereon.

MAINTENANCE PRACTICES OF CITY:

The dedication of and existence of a right-of-way for a public road or of an easement for drainage or for public utilities represents the grant of only a limited interest in property and does not change the actual ownership of the property upon which the right-of-way or easement is located. The public authority maintains rights-of-way and easements only to the extent necessary to maintain the public facility and to maintain safety. The owners of the burdened property continue to control the property, except to the extent that such control interferes with the public use. The public authority does not cut grass, weeds, and other growth upon rights-of-way or easements, except to the extent necessary for operations and safety purposes. All other maintenance is the responsibility of the owner of the property upon which the right-of-way or easement is located.

GRASS AND WEED DEFINITION AND EXCEPTIONS:

General: It shall be unlawful and a nuisance, in violation of this ordinance, for the owner of any real property situated within the corporate limits of the city to allow such real property to become overgrown with tall grass or with any weed or plant such as jimson, burdock, ragweed, cocklebur, or other weed of like kind or any weed or plant bearing wingy or downy seeds or any weed or plant that is otherwise noxious, dangerous, harmful, or poisonous. Overgrown means a height of twelve (12) inches or more.

Exceptions: Excepted from such grass and weed nuisance requirements are:

1. Any property which is in its natural condition.
2. Any property which is located outside any improved subdivision and is located more than one hundred (100) feet from any boundary or any lot or parcel of real estate upon which any dwelling is located and more than one hundred (100) feet from any commercial enterprise. For good cause, the enforcing official may reduce the area subject to this ordinance to a lesser distance.
3. Cultivated row crops and garden plants in their respective growing seasons. But this exception applies only to growing crops and garden plants and shall not be construed to permit any crops or gardens to become overgrown with grass and weeds in violation of the remaining terms of this ordinance.
4. Ornamental shrubbery and ground cover, provided that such uses are part of the landscaping theme and not associated with a general deterioration of the property.

ACCUMULATION OF DEBRIS, RUBBISH, ETC.:

An accumulation or storage of debris, refuse, rubbish, brush, used building materials, parts of buildings, remains from building demolition, parts of untenable or uninhabitable structures, used machinery, used tires, used vehicles, parts of vehicles, abandoned vehicles, or any other materials which may provide a breeding place for mosquitos, harmful insects, rodents, and snakes or is so unsightly as to be offensive to the surrounding area is a nuisance in violation of this ordinance.

ENFORCEMENT BY CITY:

Whenever, in the opinion of the enforcing official, a nuisance exists, the official shall order the owner of the property on which the nuisance is located to abate the condition.

The enforcing official shall give the owner written notice in person or by first class mail. The notice shall require the owner to comply with this ordinance within the time stated in the notice or to request an administrative hearing before the enforcing official or other person as designated by the Mayor to determine whether there has been a violation. The notice shall

apprise the owner of the facts of the alleged nuisance and shall name the particular date, time, and place for such hearing, if requested. For a building nuisance, the notice shall contain the names of all owners and lienholders of the property, a legal description of the property, and the nature of the proceeding.

The notice shall be sent to that person shown by the records of the county tax collector to have been the last person assessed for payment of ad valorem tax on the property where the nuisance is situated. It shall be the responsibility of that person to promptly advise the enforcing official of any change in ownership or interest in the property. It shall be unlawful to knowingly fail to notify the enforcing official of any such change of ownership or interest. The enforcing official shall cause a copy of each building nuisance notice to be recorded in the Office of the Probate Judge.

The notice shall also be posted in a conspicuous place on the property, preferably within three (3) feet of an entrance to the building or structure. If there is no entrance or no structure, notice may be posted at any location on the property.

The notice shall require the owner to complete abatement of any nuisance within the following periods, provided the enforcing official may stipulate additional time, but in no case more than a total of one hundred fifty (150) days.

1. Fourteen (14) days from the date of notice if it is a grass and weed nuisance.
2. One hundred twenty (120) days from the date of notice if it is a building nuisance.
3. Thirty (30) days from the date of notice if it is any other type of nuisance including, but not limited to, burned structures and abandoned vehicles.

If an owner has been notified within the preceding twelve (12) months that the growth of grass or weeds violates this article, the enforcing official is authorized to give written notice to the owner to appear in court at a time and place to be fixed in the notice and then and there show cause why the growth of grass and weeds should not be declared a nuisance. The enforcing official is authorized to proceed to cut and remove the grass and weeds to the extent of the violation.

HEARING BEFORE THE HEARING OFFICIAL:

A hearing before the hearing official must be requested within five (5) days of the date of the notice by the enforcing official. The enforcing official shall notify the owner by personal service or by first class mail of the determination of the hearing official. If the hearing official determines that a nuisance exists, the owner must comply with the initial order to abate issued by the enforcing official, with such modifications as may be made by the hearing official.

FAILURE TO COMPLY:

If the owner fails, neglects, or refuses to comply with the notice to abate the nuisance, the enforcing official may proceed to prosecute said person for a violation of the provisions of this code. The enforcing official may issue a summons and complaint or citation as provided under Ordinance No. 1115 of the City of Cullman to the owner of the property, requiring the owner to appear in Municipal Court to answer charges for the violation of this ordinance. The summons and complaint shall name the party charged, the address of the property where the alleged violation is located, and the nature of the offense or violation. It shall also apprise the owner of the date, time, and place at which to appear for court. The summons and complaint, returnable to the Municipal Court, shall be served on the owner by any enforcing official, who shall forthwith appear and make oath as to the alleged offense before a judge or magistrate of the Municipal Court. This provision for the issuance of a summons or complaint to Municipal Court shall not prevent any enforcing official from appearing before a Municipal Court judge or magistrate and making oath as to the fact and applying for a warrant with respect to any alleged offense, in lieu of issuing a summons and complaint.

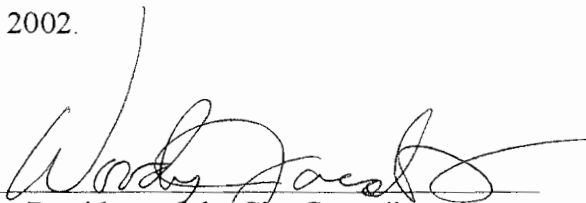
All violations of the provisions of this ordinance shall be punishable by:

1. A fine in the minimum sum of Two Hundred Fifty Dollars (\$250.00) up to a maximum of Five Hundred Dollars (\$500.00); or,
2. Imprisonment in the municipal jail for a term not to exceed six (6) months; or,
3. Both such fine and imprisonment; and,
4. An order to abate the nuisance.

The enforcing official may institute the enforcement procedure set forth in paragraph (a) and those set out below. The institution of one procedure does not preclude the subsequent or simultaneous institution of the other procedure, provided the criminal procedure is not used to collect any outstanding civil assessments against the subject property.

If the owner fails, neglects, or refuses to comply with the notice to abate a grass or weeds nuisance, the enforcing official shall cause the cutting of the offending grass or weeds.

This the 12th day of August, 2002.



President of the City Council

Attest:

Lucille N Galin

City Clerk

Transmitted to the Mayor this the 12th day of August, 2002.

Lucille N Galin

City Clerk

Approved this the 12th day of August, 2002.

Donald E Green

Mayor

Attest:

Lucille N Galin

City Clerk

Other Nuisance-Related Codes

CULLMAN CODE

ARTICLE II. Cleanliness and Sanitation of Premises; Littering.

SECTION 11-20: Weeds and accumulation of waste matter generally.

“It shall be unlawful for any person to permit such person’s premises, whether or not a vacant lot, to permit a growth of weeds or accumulate weeds, bottles, tin cans, brush, trash, garbage, rubbish, or anything that will, or is likely to, constitute a fire hazard through accumulation of combustible materials or a health hazard or nuisance by providing a place for breeding or harboring of mosquitoes, flies, rats, fleas, snakes, or by the decaying of such accumulations so as to create obnoxious odor. (Code 1960, § 11-5)”

State Law Reference – Authority to regulate, Code of Alabama, 1975, § 11-47-140.

STANDARD HOUSING CODE 1994

SECTION 103.2.1: Unsafe Residential Buildings

“All residential buildings or structures used as such which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with 103.2.2, 103.2.3 and 103.2.4.”

Reporting Violations

To report violations:

- Contact the Building Inspection Department at (256) 775-7203 or dbranch@cullmancity.org.
- Contact the Mayor’s Office at (256) 775-7102 or lwest@cullmancity.org.
- Use our Citizen Input Form (www.cullmancity.org/citizeninput.htm).

When reporting violations, please be as detailed as possible.