

AN ORDINANCE

AMENDING, the Comprehensive Development Code of the City of Marietta.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Section 7-4-2-110, Sanitary conditions and procedures, is hereby amended so as to add the following:

Section 7-4-2-110, Sanitary conditions and procedures.

- A. In order to provide for the health, safety and welfare of properties within the City of Marietta, every person, whether owner, tenant, agent, or employee owning, holding, or occupying property in the city shall, at all times:
1. maintain the property, whether a vacant lot or otherwise, in a clean and sanitary condition
 2. prevent unkempt conditions by keeping all overgrown plant growth, including but not limited to, trees, plants, shrubs, bushes, flowers, garden vegetables, weeds, and grasses, as well as undergrowth such as kudzu, briars, honeysuckle, other vines and seedlings, cut and/or trimmed and clean the property of all cuttings and trimmings. Overgrown trees shall be defined as those that create a nuisance by encroaching onto an adjoining driveway, parking space, street, sidewalk or public right-of-way; or those that obstruct visibility at a street intersection or intersection of a driveway and a street.
 3. keep all wastepaper, trash, leaves, debris and other rubbish of every sort cleaned off the property
 5. cut and remove grass and weeds in excess of 12 inches in height
 7. cut and/or remove leaves, debris, undergrowth, such as kudzu, briars, shrubs, honeysuckle, other vines and seedlings, whenever such undergrowth becomes a nuisance to persons residing in the area or operating businesses in the area. This section shall not apply to wetlands or undisturbed natural areas. If such should exist upon any property, the director of development services may reduce the extent to which how much of the property must be maintained in such condition, provided there are no imminent threats to the health or safety of the public.
- B. In the event it is determined that any property does not comply with Subsection A., above, it shall be the duty of the director of development services or designee thereof to send a preliminary written notice to the property owner advising the property owner that such owner has seven days from the date of the mailing of such written notice to bring the property into compliance. Such written notice shall reference this Code section and shall further describe the conditions which are deemed to violate this Code section.
- C. In the event the owner does not correct the condition or conditions contained in the written notice set forth in Subsection B., above, it shall be the duty of the director of development services or a designee thereof to give five days' written notice, by certified mail, return

receipt requested, and take reasonable steps to deliver in person to any owner of property or other person violating this section to appear before the municipal court to show cause why these provisions have not been complied with. Such written notice shall reference this Code section and shall further describe the conditions which are deemed to violate this Code section.

- D. In addition, the director of development services or a designee shall immediately post a notification upon the property in violation of this section in order to provide visual notification to property owners for a period of five consecutive days. In lieu of inability to contact owners in other manners prescribed above, posted notice shall serve as the official notice for the municipal court hearing on this matter.
- E. After a hearing, if it is deemed by the court that this section has not been complied with, such owner or other person shall be given five days to comply and if he/she fails or refuses to do so, the public works director shall thereupon cause the work to be done.
- F. For purposes of giving the notice to the owner of the property, as provided for herein, the person shown as the owner of said property on the ad valorem tax records of the city shall be sent such notice at the address shown thereon, unless the city receives actual notice that another person owns said property that owner shall be responsible for said violation.
- G. When the public works director has caused overgrown grass, weeds, and obnoxious vegetation to be cut from any premises, or wastepaper, trash, leaves, debris or other rubbish removed, a notice shall be prepared assessing the cost of the cutting of those overgrown grass and weeds, cleaning and rendering sanitary such vacant lot or other property against the owner, tenant, agent, or employee owning, occupying or controlling the property. The cost of such action shall be a debtor lien upon the property so cleaned and rendered sanitary and a debt against the owner, tenant, agent or other party in charge of the property. The debtor lien shall date from the completion of the work on the property as declared under city council ordinance.
- H. A written statement shall be furnished by the city clerk to the owner, agent, or other party in charge of the property subject to the assessment provided for herein showing the amount of the assessment. It shall be the duty of the owner, agent, or other party in charge of the property subject to the assessment to pay the city within 30 days after the receipt of the statement the entire amount of the assessment against the property and the owner, tenant, agent, or other party in charge of the property.
- I. Any owner, tenant, agent, or other party in control of property subject to assessment as provided herein who fails or refuses to pay to the city the amount of such assessment at the expiration of 30 days after the service of the notice of statement provided above, the city clerk shall issue an execution bearing date of its issuance in the name of the mayor of the city and specifying the purpose for which it is issued against the owner, tenant, agent, or other party in control of the property subject to the assessment and also against the property of the owner, tenant, agent, or other party in control of the property upon which the work in question is performed. The execution shall assert and be a lien against the property from the day of the completion of the performance of the work hereinbefore described and shall bear interest at the rate of one percent per month from the date on which it is issued. For the purposes of this section, any period of less than one month shall be considered to be one month.
- J. The execution issued under these provisions shall be delivered to the chief of police or a designee thereof who shall execute the same by levying upon and selling the property

described therein or so much thereof as may be necessary for the amount due the city from the doing of such work, together with all costs that may accrue thereon. The law applicable to the sales under other executions issued by this city shall apply to the levy, notice, advertisement and sale made under the execution, and the levying officer shall have authority to execute a deed to the purchaser when the property is sold and shall deliver the possession thereof to the purchaser within the time required by law as under tax executions.

K. Enforcement of instances of recurring conditions. It is hereby found and determined that recurring instances of failure to maintain the property, whether a vacant lot or otherwise, in a clean and sanitary condition within a calendar year is excessive, constitutes a public nuisance, and shall be considered an unlawful offense. Civil penalties for failure to maintain a property within a calendar year may be assessed against a property owner as follows: (Examples)

1. First and second offense: \$50.00.
2. Third through fifth offense: \$100.00.
3. Sixth offense: \$200.00.
4. Seventh offense: \$300.00
5. Eighth offense: \$400.00.
6. Ninth offense: \$500.00.
7. Tenth and over offense: \$1,000.00.

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.


Section 4: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:



Rusty Roth, Director
Department of Development Services

Approved as to form:



Douglas R. Haynie, City Attorney

Approved by City Council:

APPROVED:

DATE: August 14, 2019



Steve Tumlin, Mayor

ATTEST: 

Stephanie Guy, City Clerk