

CITY COUNCIL
Mayor Bill Stankiewicz
Reginald Jackson, Post 1
Marichal Price, Post 2
Fred Higgins, Post 3
George Bailey, Post 4
Theresa Strickland, Post 5

City of Hogansville



David Milliron, City Manager
Lisa Kelly, City Clerk
Jeff Todd, City Attorney

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COUNCIL ACTION FORM

MEETING DATE: August 6, 2018

SUBMITTED BY: City Manager

AGENDA TITLE: Proposed Nuisance Abatement Ordinance

CLASSIFICATION (City Attorney must approve all ordinances, resolutions and contracts as to form)

- | | | | |
|---|-------------------------------------|--|---|
| <input checked="" type="checkbox"/> Ordinance (No. _____) | <input type="checkbox"/> Contract | <input type="checkbox"/> Information Only | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Resolution (No. _____) | <input type="checkbox"/> Ceremonial | <input type="checkbox"/> Discussion/Action | <input type="checkbox"/> Other |

BACKGROUND (Includes description, background, and justification)

Enclosed herewith please find a draft ordinance which, through new Section 54-43, outlines the authority of the City to proceed to correct "dangerous tree" conditions when a tree or limb is likely to fall on the public way and damage persons or property. As you will see, the City Attorney also modified the general nuisance procedure currently found in Code Section 54-39. In doing so, the City Attorney incorporated many of the provisions in the existing LaGrange ordinance, which has worked well over the last few years with regard to dangerous trees. Also, new Section 54-39 allows nuisance proceedings to follow for violations of the dangerous tree ordinance, as well as Code Section 54-33 (scattering refuse) and 54-38 (accumulation of weeds, grass or other vegetable matter).

BUDGETING & FINANCIAL IMPACT (Includes project costs and funding sources)

None

STAFF RECOMMENDATION (Include possible options for consideration)

Staff recommendation for approval as the existing nuisance sections of the Hogansville code need improvement. This ordinance expands those things that could be deemed a nuisance, such as a property owner allowing sewerage to freely flow onto their property from a broken sewer lateral.

AN ORDINANCE

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF HOGANSVILLE TO AMEND THE CODE OF THE CITY; TO DECLARE CERTAIN DEAD OR DISEASED TREES OR LIMBS TO BE A NUISANCE; TO PROVIDE FOR REMOVAL OF SAME; TO AUTHORIZE NUISANCE ABATEMENT PROCEEDINGS WITHIN THE MUNICIPAL COURT; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO FIX AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

THE COUNCIL OF THE CITY OF HOGANSVILLE HEREBY ORDAINS:

SECTION 1:

That Section 54-39 of the Code of the City of Hogansville be amended by deleting same, in its entirety, inserting in lieu thereof a new Section 54-39 to read as follows:

“Sec. 54-39. Complaint, trial, order to abate nuisance.

(a) It shall be unlawful for any person to create a nuisance on his/her premises or premises occupied by him/her, or to permit a nuisance to remain six (6) hours after notice. The following, among others, are declared to be nuisances: failure to comply with the requirements of Code Sections 54-33 through 54-38; failure to comply with Code Section 54-43; stagnant water, decayed vegetables, decayed fruits and fruit refuse, dead animals or tainted meat, filthy privies, filthy water or excrement, broken or ruptured sewer lines, raw sewage or anything that causes offensive odors or that works hurt, damage or inconvenience to another; the conducting by pipes, sewers or otherwise into any street, public alley or on the lot of another, of any filthy water or excrement of any kind, such as comes from kitchens, bathtubs, laundry places, privies, stables and other places.

(b) All nuisances and dangerous objects in and about the streets and other public places may be removed at once by the city, without any notice, and the expense incurred in the removal shall be paid by the owner of the dangerous objects or of the person maintaining the nuisance.

(c) It shall be unlawful for the person creating or maintaining any nuisance within the city to fail or refuse to abate and remove same after having been ordered to do so in accordance with the provisions of the charter and ordinances of the city.

(d) Any nuisance on private property may be removed on the written complaint of any officer or inhabitant of the city, which complaint must set forth particularly the nature and location of same and the person complained against. On such complaint being filed with the municipal court judge, he shall issue a summons to the person charged with maintaining such nuisance, requiring him to show cause before the municipal court judge at some time

therein specified, within not more than fifteen (15) days, why said nuisance complained of should not be abated. Such notice shall be served personally by any law enforcement officer at least one (1) day before the hearing. At the trial, the court shall hear evidence as to the facts and pass an order as may be just. If the thing complained of is a nuisance, the order shall specify within what time it is to be abated by the defendant. If it is not abated within the time specified in the order, the court shall issue a writ directed to the chief of police directing and requiring the abatement of the nuisance.

(e) Whenever the person creating or maintaining any nuisance within the city shall fail to abate after notice to do so, and it shall become necessary to issue a writ, directed to the chief of police, requiring him to remove same, it shall be the duty of the chief of police to keep an account of the necessary expenses incurred and to render to the court a statement of same. The court shall issue an execution against such order for such amount, the same to be levied upon and collected in the same manner as is provided for the levy in collection of executions for taxes.”

SECTION 2:

That the Code of the City of Hogansville be amended by inserting therein a new Section 54-43, said code section currently reserved, to read as follows:

“Sec. 54-43. Dangerous trees; required removal; city authority.

(a) Any dead or diseased tree or limb located on private property within the city which is likely to fall on or across a public way and thus damage persons or property shall be removed by the owner. Removal shall be accomplished by the owner within thirty (30) days after receiving notice of the dangerous tree or limb condition as defined herein.

(b) Any owner who willfully violates this code section shall, upon conviction, be guilty of a misdemeanor punishable in accord with Section 1-7 of the Code.

(c) Upon failure of the owner to remove the dangerous tree or limb as required herein, the city shall have the right, power and authority, but not the obligation, to remove such tree or limb which presents a clear and immediate danger of falling on or across any public way. This city may initiate action to have such tree or limb removed under Article II of Chapter 54 Code which allows for the removal of nuisances. In such event, and upon order of the Municipal Court requiring such removal by the city, the court shall issue an execution for the costs incurred, the same to be levied upon and collected in the same manner as provided for the levy, collection, and execution of taxes.”

SECTION 3:

All ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be and the same are hereby repealed.

SECTION 4:

This ordinance, after adoption by the Council and upon approval by the Mayor, shall become effective immediately.

INTRODUCED AND FIRST READING _____

SECOND READING AND ADOPTED/REJECTED _____

SUBMITTED TO MAYOR AND APPROVED/DISAPPROVED _____

BY: _____
Mayor

ATTEST: _____
Clerk