

ARTICLE 3. - NUISANCES

Section 310-30. - Nuisances prohibited.

It is hereby declared to be an offense for any owner, agent or tenant to maintain a nuisance as defined in Chapter 300 of the Unified Development Ordinance. Each day a nuisance is continued shall constitute a separate offense. It is unlawful for any responsible person(s) to create, permit, maintain, suffer, carry on or allow, upon their premises, any of the acts or things declared or defined by this chapter to be a public nuisance. Any person creating, keeping or maintaining a nuisance, or permitting, allowing or suffering any nuisance to be maintained, who neglects or fails to abate or remove the nuisance within a reasonable time after so creating, keeping or maintaining the nuisance, or permitting, allowing or suffering the same to be maintained, shall, for each twenty-four (24) hours thereafter during which the nuisance is continued, be guilty of a separate violation of maintaining a public nuisance.

Section 310-31. – Notice of Violation

Upon the discovery of a nuisance, the Code Enforcement Officer may order the responsible person creating, keeping, maintaining or permitting the same to abate it, and in default thereof, to undertake the abatement. At least seventy-two (72) hours before abatement is ordered, save in those cases of immediate necessity, the officer shall notify the person creating, keeping, maintaining or permitting the nuisance, the property owner and any person in possession of the property, if known, of the violation for abatement. The notice shall be served personally or by first class mail and shall describe with particularity the nature of the violation, the sections of this Code or other law which are being violated and specifying a reasonable time within which the abatement must be accomplished.

Section 310-31~~2~~. - Jurisdiction of municipal court.

- (a) Citations. The municipal court shall have full jurisdiction to try and dispose of all questions of nuisance affecting the public health or welfare, and shall also have jurisdiction to try and, in case of conviction, to punish persons failing to abate nuisances, as prescribed in Section ~~4-6~~310-31 of the City Code of Ordinances.

~~Section 310-32. – Complaints; order to date.~~

- (b) Hearing Process. Any official or inhabitant of the city may direct a complaint of nuisance to the City ~~Police Department~~Code Enforcement, which shall investigate and may place the complaint on the municipal court docket for a hearing upon the basis of the investigation. The municipal court, after five days' notice to the party involved, shall hold a hearing thereon, and, upon finding that a nuisance does exist, shall issue an order to the owner, agent in control or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the municipal court judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.

Section 310-33. - Abatement by city.

- (a) Municipal Court Intervention. In any case where the owner, agent or tenant fails to abate a nuisance in the time specified pursuant to this article, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the municipal court judge, that it must be immediately abated, the municipal court judge may issue an order to the ~~chief of police~~Code Enforcement Division directing the nuisance to be abated. ~~The chief of police~~Code Enforcement, in such case, shall keep a record of the expenses and cost of abating the nuisance, and the costs shall be billed against the owner, agent or tenant for collection as for City revenues in accordance with Section 310-36.

- (b) ~~Other City departments shall assist the chief of police as necessary in abating nuisances under this section. Repeat or Unresolved Offenses. The Code Enforcement Officer may forego the citation process in Section 310-32 for any repeat offences or occurrences after the first violation is properly notified and adjudicated in any given calendar year pursuant to either Section 310-32 or 310-33(a). Upon the failure to comply within the required time frame pursuant to the provisions of Section 310-31, or without notice on repeat offenses, the City is authorized to enter onto the property, or hire a third-party contractor to enter upon the property, to abate any such nuisance, including mowing, trimming, or control of weeds, grass, and vegetation; remediation of rodent infestation; trash and junk removal; or any other condition deemed a nuisance by this chapter. All expenses related to the abatement shall be passed on to the owner as outlined in Section 310-36.~~

Section 310-34. - Findings of the existence of unsafe structures or buildings~~nuisances~~.

- (a) The Mayor and Council finds and declares that within the city limits there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial or business occupancy or use and not in compliance with applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the city; or general nuisance law and which constitute a hazard to the health, safety and welfare of the people of the city and the state; and that a public necessity exists for the repair, closing or demolition of such dwellings, buildings or structures.
- (b) It is further found and declared that in the city where there is in existence a condition or use of real estate which rendered adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety and welfare of the people of the city and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the City finds that there exist in the city dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents or other calamities; which lack adequate ventilation, light or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or welfare or otherwise inimical to the welfare of the residents of the city, or vacant, dilapidated dwellings, buildings or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.
- (c) It is the intention of the governing authority that this article shall comply with and does comply with O.C.G.A. § 41-2-9(a) as a finding that conditions as set out in O.C.G.A. § 41-2-7 exist within the city.

Section 310-35. - Nuisance abatement procedures.

- (a) *Continued use of other laws and ordinances.* It is the intent of the Mayor and Council that nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of any local enabling act, charter, or ordinance or regulation, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by any other law or ordinance, legislation or regulation.
- (b) *Applicable codes, as referenced in this Section 310-35, shall include the following:*
- (1) Any optional housing or abatement standard provided in O.C.G.A. tit. 8, ch. 2 as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
 - (2) Any fire or life safety code as provided for in O.C.G.A. tit. 25, ch. 2; and
 - (3) Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. tit. 8, ch. 2 after October 1 provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or

minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

(c) *Duties of owners; appointment of public officer; procedures for determining premises to be unsafe or unhealthful.*

- (1) It is the duty of the owner of every dwelling, building, structure or property within the jurisdiction to construct and maintain such dwellings, building, structure, or property in conformance with applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.
- (2) The Mayor and Council of the City hereby appoint or designate the Planning and Development Department, County Fire Marshal, City Police Chief, and his/her designees as public officer(s) to exercise the powers prescribed by this article.
- (3) Whenever a request is filed with the public officer by a public authority or by at least five residents of the City charging that any dwelling, building or structure is unfit for human habitation or for commercial, industrial or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure or property. If the officer's investigation or inspection identifies that any dwelling, building, structure or property is unfit for human habitation or for commercial, industrial or business use and not in compliance with applicable codes, is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract or parcel of real property on which such dwelling, building or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the city where the property is located. Such hearings shall be held not less than 15 days, nor more than 45 days after the filing of said complaint in court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.
- (4) If after such notice and hearing, the court determines that the dwelling, building or structure in question is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon any interested party that has answered the complaint or appeared at the hearing an order:
 - a. If the repair, alteration or improvement of the said dwelling, building or structure can be made at a reasonable cost in relation to the present value of the dwelling, building or structure, requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling, building or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
 - b. If the repair, alteration or improvement of the said dwelling, building or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building or structure, requiring the owner, within the time specified in the order, to demolish and remove

such dwelling, building or structure and all debris from the property as provided in Subsection 300-50(b) of this UDO;

- c. For purposes of this article, the court shall make its determination of reasonable cost in relation the present value of the dwelling, building or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration or improvement may be established by affidavits of real estate appraisers with a state appraiser classification as provided in O.C.G.A. tit. 41, ch. 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.
- (5) If the owner fails to comply with an order to repair or demolish the dwelling, building or structure, the public officer may cause such dwelling, building or structure, to be repaired, altered, improved, to be vacated and closed or demolished. Such abatement actions shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13, or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence. The public officer shall cause to be posted on the main entrance of the building, dwelling or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."
 - (6) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and the City are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.
 - (7) The amount of the cost of demolition or other remediation measures outlined herein, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner or municipal tax collector or City revenue officer, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
 - a. The lien provided for in Subsection (c)(7) of this section shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the clerk of superior court in the county and shall relate back to the date of the filing of the lis pendens notice required under O.C.G.A. § 41-2-12(c). The Clerk of the Superior Court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.
 - b. Upon final determination of costs, fees and expenses incurred in accordance with this article, the public officer responsible for enforcement actions in accordance with this article shall transmit to the appropriate county tax commissioner or municipal tax collector or City revenue officer a statement of the total amount due and secured by said lien, together with

copies of all notices provided to interest parties. The statement of the public officer shall be transmitted within 90 days of the completion of the repairs, demolition or closure. It shall be the duty of the appropriate county tax commissioner or municipal tax collector or City revenue officer, who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. tit. 48, ch. 4; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. A county tax commissioner shall collect and enforce municipal liens imposed pursuant to this chapter in accordance with O.C.G.A. § 48-5-359.1. The county tax commissioner or municipal tax collector or City revenue officer shall remit the amount collected to the governing authority of the county or municipality whose lien is being collected.

- c. Enforcement of liens pursuant to this article may be initiated at any time following receipt by the county tax commissioner or municipal tax collector or City revenue officer of the final determination of costs in accordance with this article. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this article.
 - d. The redemption amount in any enforcement proceeding pursuant to this article shall be the full amount of the costs as finally determined in accordance with this article together with interest, penalties and costs incurred by the governing authority, county tax commissioner, municipal tax collector, or City revenue officer in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.
 - e. The county tax commissioner shall collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. § 41-2-7 et seq., unless such costs are waived by resolution of the county. Any such amount collected and retained for administration shall be deposited in the general fund of county to pay the cost of administering the lien.
 - f. The City may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county or municipality agreeing to a timetable for rehabilitation of the real property of the dwelling, building or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
 - g. Where the abatement action does not commence in the superior court, review of a court order requiring the repair, alteration, improvement or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.
 - h. The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this article.
 - i. Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (d) *Determination by public officer that under existing ordinances dwellings, buildings or structures are vacant and sample conditions of nuisances.* The public officer may determine, under existing ordinances, that a dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial or business use if he/she finds that conditions exist in such building, dwelling or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building or structure; of the occupants of neighborhood dwelling, buildings or structures; or of other residents of the city. Such conditions include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents or other facilities;
- (2) Lack of adequate ventilation, light or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects;
- (6) Uncleanliness; and
- (7) Other additional standards which may from time to time be adopted and referenced herein by ordinance amendment.

The public officer 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 based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

(e) *Powers of public officers.* The public officer(s) designated in this article shall have the following powers:

- (1) To investigate the dwelling conditions in the city 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 fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this article; and
- (5) To delegate any of his or her functions and powers under the ordinance to such officers and agents as he or she may designate.

(f) *Service of complaints.*

- (1) Complaints issued by a public officer pursuant to this article shall be served in the following manner. At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three business days of filing the complaint and at least 14 days prior to the date of the hearing.
- (2) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two consecutive weeks prior to the hearing.
- (3) A notice of lis pendens shall be filed in the office of the clerk of the superior court of the county. Such notice shall have the same force and effect as other lis pendens notices provided by law.
- (4) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this Code section on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

[Section 310-36. - Recovery of Costs for Abatement.](#)

- (a) The cost of abating, vacating and closing or removal or demolition or clean-up shall be a lien against the real property upon which such cost was incurred. Such lien shall attach to the real property upon the payment of all costs incurred by the city and the filing of an itemized statement of the total sum of said costs in the office of the City Clerk on a lien docket maintained by the clerk for such purposes.
- (b) The City may enforce the collection of any amount due on such lien for removal or demolition of dwellings, buildings, fences, walls or structures or clean-up of property only in the following manner:
- (1) The owner or parties at interest shall be allowed to satisfy the amount due on such lien by paying to the City within thirty (30) days after the perfection of such lien, a sum of money equal to twenty-five (25) percent of the total amount due and by further paying to the City the remaining balance due on such lien, together with interest at the rate of seven (7) percent per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed.
 - (2) Should the property upon which such lien is perfected be sold, transferred, or conveyed by the owner or parties at interest at any time prior to the termination of the said three-year period, then the entire balance due on such lien shall be due and payable to the City.
 - (3) Should the amount due on such lien, or any portion thereof, be unpaid after the passage of such three-year period, or upon the occurrence of the contingency provided for in subsection (2) of this subsection, the City may enforce the collection of any amount due on such lien for abatement, alteration, repair, removal, or demolition of dwellings, buildings, or structure or clean-up of property as provided by O.C.G.A § 48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title, or interest in or lien upon said property, all as provided by O.C.G.A. article 3 of chapter 4 of title 48.

Sections 310-376—310-39. - Reserved.