

Chapter 24 NUISANCES¹

Sec. 24-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance means 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 it shall be 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.

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

Private nuisance means a nuisance limited in its injurious effects to one or a few individuals.

Public nuisance means a nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

(Code 2005, § 33-101)

Sec. 24-2. Proceedings to abate generally.

Any nuisance existing within the corporate limits of the City, except for a nuisance hereinafter excepted shall be abated in the manner set forth in this chapter.

- (1) *Initiation.* Proceedings to abate a nuisance, whether public or private, shall be initiated by the filing of a complaint with the Municipal Court, which complaint shall state the nature and location of the nuisance and the name and address of the complainant. In the case of a private nuisance, the complaint shall be filed by the person 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.
- (2) *Notice of complaint and hearing.*
 - a. Upon the filing of a complaint as provided in this section, the Municipal Court 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 is 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 Municipal Court, why such activity alleged to be a nuisance should not be ordered abated and removed by the City. Such notice (including a copy of the complaint) shall be served at least fourteen (14) days prior to the date set for the hearing by any police officer of the City by posting a copy on the property within three (3) business days of filing the complaint and at least fourteen (14) days prior to the date of the hearing.

¹State law reference(s)—Abatement of nuisances generally, O.C.G.A. § 41-2-1 et seq.; local ordinances relating to unfit structures, O.C.G.A. § 41-2-9.

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- b. A copy of such notice shall be mailed by certified mail, return receipt requested, or statutory overnight delivery to all interested parties whose identities and addresses are reasonably ascertainable.
 - c. A copy of such notice shall also be mailed to the property address to the attention of the occupants of the property.
 - d. 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 sheriff's advertisements appear once a week for two consecutive weeks prior to the hearing.
 - e. A notice of lis pendens shall be filed in the office of the clerk of superior court at the time of filing the complaint.
 - f. Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided for in this 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.
- (3) *Order of abatement.* If, after hearing all the evidence, the Municipal Court should decide that the activity complained of is a nuisance, the Judge shall issue an order commanding that the nuisance be abated. A copy of such order of abatement shall be served on the party maintaining the nuisance.
- (4) *Effect of noncompliance.* In the event of a refusal to comply with the order of abatement issued by the Municipal Court, the person maintaining the nuisance shall be subject to arrest for violation of state law.

(Code 2005, § 33-102)

Sec. 24-3. Summary abatement.

Nothing contained in section 24-2 shall prevent the Municipal Court 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.

(Code 2005, § 33-103)

Sec. 24-4. Findings regarding unsafe, unsanitary or abandoned buildings, dwellings or structures.

Under the authority of O.C.G.A. § 41-2-9, the City specifically adopts by reference and incorporates in this section the provisions of O.C.G.A. §§ 41-2-7 through 41-2-17. These provisions are adopted as if specifically set forth in their entirety in this section.

(Code 2005, § 33-104)

Sec. 24-5. Duties of Director of Planning and Development.

- (a) Pursuant to the authority of O.C.G.A. § 41-2-9, the City Council does hereby designate the Director of Planning and Development as the public officer with the authority to enforce the provisions of section 24-4. The Director of Planning and Development 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 the City. Such conditions may include the following, without limiting the generality of the foregoing:

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair;
 - (5) Structural defects; and
 - (6) Uncleanliness.
- (b) The public officer designated by this chapter 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.
- (c) Within the context of this chapter, the public official shall utilize the existing codes of the City to the standard for satisfaction of the provisions of this chapter, including, but not limited to, the electrical codes, building codes, and fire codes previously adopted by the City Council.

(Code 2005, § 33-105)

Sec. 24-6. Powers of Director of Planning and Development.

The Director of Planning and Development is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter and O.C.G.A. §§ 41-2-7, et seq., in addition to others:

- (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 affix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

(Code 2005, § 33-106)