



NUISANCE ABATEMENT ORDINANCE



DUTY OF OWNERS

It is the duty of the owner of every dwelling, building, structure, or private property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city or such laws and ordinances which regulate and prohibit activities on private property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or to use private property in violation of such codes, laws or ordinances.

DECLARING A PUBLIC NUISANCE





Declaring a Public Nuisance

Every dwelling, building, or structure within the City which:

- (i) is constructed or maintained in violation of applicable codes in force within the City;
- (ii) is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces;
- (iii) poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe;
- (iv) is vacant and used in the commission of drug crimes;
- (v) is occupied and used repeatedly for the commission of illegal activities, including facilitating organized crime or criminal enterprises, after written notice to the owner of such activities conducted therein;
- (vi) is abandoned; or
- (vii) otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, is hereby declared a public nuisance. Every private property within the City on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including the zoning ordinance of this city, is hereby declared to be a public nuisance. Property which may be deemed esthetically substandard or deteriorating shall not meet the definition of a public nuisance unless the overall condition or use of the property results in impaired health, safety, transmission of disease, infant mortality, or crime.



COMPLAINT IN REM IN MUNICIPAL COURT

Step 1

File a Request

A request must be filed **WITH** the City Manager or her designee **BY** a City Council member, Community Development Director or Building Director **OR** at least five (5) residents claiming a property is a public nuisance(see definition on Slide 7). The City Manager must start an investigation documenting the following conditions:

- Defects therein increasing the hazards of fire, accidents, or other calamities;
- Lack of adequate ventilation, light, or sanitary facilities;
- Dilapidation;
- Disrepair by failure to conform to applicable codes and ordinances;
- Structural defects which render the structure unsafe for human habitation or occupancy;
- Uncleanliness; and/or
- The presence of graffiti which is visible from adjoining public or private property.

Step 2

Investigate

The City Manager or her designee must investigate using the guidelines below.

1. Investigate and inspect the condition of dwellings, buildings, structures, and private property within the city to determine those structures and property uses in violation of this nuisance abatement ordinance.
2. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists.



Step 3

File Complaint in Municipal Court

If the City Manager determines following an investigation that a public nuisance exists the City Manager will give the results of the investigation to the City Attorney.

The City Attorney shall file a complaint on behalf of the City in rem in the municipal court of the city against the lot, tract, or parcel of real property.



Step 4

Hearing & Order

- Interested parties of the property will be served with a copy of the complaint and a summons.
- The City Attorney shall also file a public notice in the Superior Court of DeKalb County against the property indicating that a lawsuit is pending that could affect the property's title or ownership.
- A hearing will be held before the municipal 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 the hearing. If after the hearing the court determines the property is a public nuisance the court shall state that in writing and serve an order to the interested parties.



Step 5

Repair, Alteration, or Improvement; or Demolish

- If the cost is reasonable, the owner, within a specified time, must repair, alter or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes.
- If cost is unreasonable, the owner, within a specified time, must demolish and remove such dwelling, building, or structure.

COMPLIANCE

If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days.



COST

All costs will become a lien against the real property.



COLLECTION

It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property.





Unpaid Lien

- The lien amount shall bear interest and penalties.
- City may waive and release any such lien with written contract of timetable of repair.



BLIGHT TAX ORDINANCE



PURPOSE

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

BLIGHTED PROPERTY DEFINED



Property shall not be deemed blighted solely because of aesthetic conditions.



AUTHORITY TO INCREASE AD VALOREM TAX

Blighted property, blighted, or blight **MEANS** any property which:

(1) Presents one (1) or more of the following conditions:

- (a) Uninhabitable, unsafe, or abandoned structure;
- (b) Inadequate provisions for ventilation, light, air, or sanitation;
- (c) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by the property and the owner has failed to take reasonable measures to remedy the harm;
- (d) A site identified by the Federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601, et seq., or having environmental contamination to an extent that requires remedial actions;
- (e) Repeated illegal and criminal activity on the property of which the property owner knew or should have known; or
- (f) The maintenance of the property is below state, county, or municipal codes for at least three (3) months after written notice of the code violation to its owner;
- (g) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property;
- (h) Property that is subject to frequent property maintenance or environmental code citations;
- (i) Vacant property last occupied by a commercial or industrial use where no visible commercial or industrial activity has occurred in more than three (3) months; or
- (j) Vacant property that is abandoned.



AUTHORITY TO INCREASE AD VALOREM TAX

- Increased ad valorem tax by applying a factor of ten (10.0) to the millage rate applied to the property.
- Real property on which there is situated a dwelling house which is being occupied as the primary residence of one (1) or more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.
- Property shall be eligible for the decrease of the tax rate once property is resolved.
- Revenues arising from the increased rate will be used only for community redevelopment purposes.



IDENTIFICATION OF BLIGHTED PROPERTY

Step 1

Identify property

- A request may be made by City Manager or by at least five (5) residents (each living in a different household from the others) of the City for inspection of a parcel of property, said inspection to be based on the criteria as delineated in ordinance, or
- The City Manager may cause a survey of existing housing conditions to be performed, or may refer to a survey conducted or finalized within the previous five (5) years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this article for designation as being maintained in a blighted condition.



IDENTIFICATION OF BLIGHTED PROPERTY

Step 2 Inspection

- A written inspection report must be provided
- Photographs of the conditions of the property are required
- Conducted by a certified inspector



IDENTIFICATION OF BLIGHTED PROPERTY

Step 3

Determination

- A determination must be made by the City Manager, in writing, that a property is maintained in a blighted condition.



IDENTIFICATION OF BLIGHTED PROPERTY

Step 4

Written Notice

- Written notice of the determination shall be given to the property owner.





IDENTIFICATION OF BLIGHTED PROPERTY

Step 5

Hearing

- The property owner shall have 30 days to request a hearing before the City's municipal court.
- Written request for hearing shall be filed with the City Manager and shall be date stamped upon receipt.
- Upon receipt of a request for hearing, the City Manager shall notify the municipal court and the building inspector or person who performed the inspection and prepared the inspection report.
- The municipal court clerk shall set a date, time and location for the hearing.





IDENTIFICATION OF BLIGHTED PROPERTY

Step 5

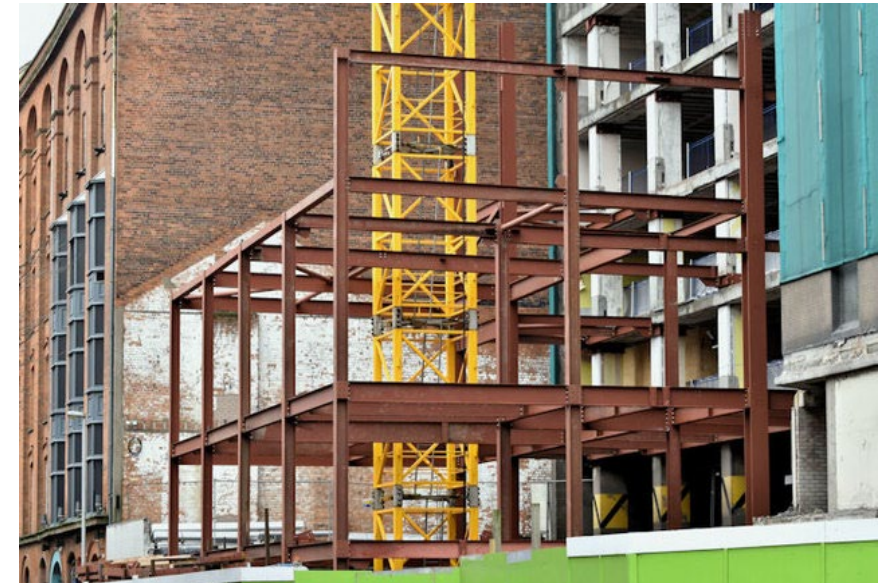
Hearing Cont'd

- The City Attorney shall represent the City at the hearing and shall demonstrate that the subject property is maintained in a blighted condition.
- Following witness testimony and evidence the judge shall make a determination of whether the property is in a blighted condition.
- The final decision will be sent to the DeKalb County Tax Commissioner, who shall include the increased tax on the next regular tax bill rendered on behalf of the city.



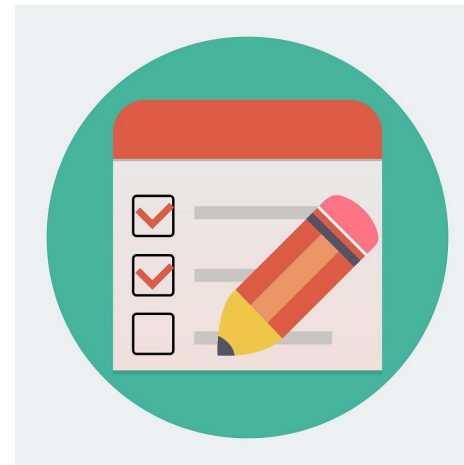
REMEDICATION OR REDEVELOPMENT

- Party may petition the City Manager to lift the designation of BLIGHT with proof of compliance.
- Compliance occurs only upon the completion of work required by the court order and the city.
 - Property must be thoroughly inspected by a building inspector.



PLANS FOR REMEDIAL ACTION

- All plans for remedial action or redevelopment shall be in writing:
 - Consistent with the City's comprehensive plan and all laws;
 - Shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures;
 - On parcels of five (5) acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;
 - Shall contain verifiable funding sources;
 - Shall contain a timetable for completion of required work; and
 - Any outstanding ad valorem taxes (state, school, county, and city, including the increased tax) and governmental liens due and payable on the property must be satisfied in full.





DECREASE OF TAX RATE

- Property in blighted condition shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.5.
- For every \$25,000 spent by a property owner they receive one year of the decreased tax reduction at a maximum of four years.

NOTICE TO TAX COMMISSIONER

- The public officer shall cooperate with the tax commissioner to assure accurate tax billing.





NEXT STEPS

1. Code Enforcement staff must identify properties fit for abatement.
2. Evaluate whether each property should be a public nuisance, blighted property or if the property needs to be cited.
3. The Community Development Director or Building Director must submit a request to the City Manager for an investigation of properties considered to be a public nuisance.
4. The City Manager must initiate the request for an investigation on the properties identified to be in a state of blight.



NEXT STEPS

5. Community Development Director or Building Director must submit request to City Manager for an investigation for properties considered to be a public nuisance.
6. The City Manager must initiate the request for an investigation on the properties identified to be in a state of blight.