

Chapter 38 HEALTH AND SANITATION

ARTICLE I. IN GENERAL

Sec. 38-1. In general.

A nuisance is anything within the city that causes hurt, inconvenience or damage to another; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person. Any such nuisance may be abated as provided in this chapter.

Sec. 38-2. Duty of owner.

It is the duty of the owner of every dwelling, building, structure, or property within the city to construct and maintain such dwelling, building, structure or property in conformity with this chapter and all other 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 thereof.

Secs. 38-3—38-30. Reserved.

ARTICLE II. NUISANCES

Sec. 38-31. Enumeration of nuisances.

- (a) The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive.
- (b) The following are declared to be nuisances:
 - (1) Things interfering with peace or comfort. Sounds, animals or things that interfere with the peace or comfort or disturb the quiet of the city.
 - (2) Obnoxious, offensive odors. The emission of obnoxious and offensive odors; the tainting of the air rendering it offensive or unwholesome so as to affect the health or comfort of reasonable persons.
 - (3) Discharging of offensive matter. The placing or throwing or discharging from any house or premises and flow from or out of any house or premises, of any filthy, foul or offensive matter or liquid of any kind, into any street, alley or public place, or upon any adjacent lot or ground.
 - (4) Water pollution. The obstruction or pollution of any watercourse or source of water supply in the city.

- (5) Stagnant water. Any stagnant pool of water in the city (excluding structures designed and constructed specifically for the purpose of water retention and maintained in a sanitary condition).
- (6) Emission of dense smoke. The emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the city so as to cause disturbance or discomfort to the public. For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading; and smoke shall be defined and declared to be dense when it is of a degree of density of number three on the chart, or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.
- (7) Vacant lots. Any vacant lot whereon debris is permitted to accumulate and remain in such a manner as to create a fire hazard or other hazard to the public health, safety and welfare.
- (8) Structures, machines, etc. Any building, business, thing, machine or machinery, erected, repaired, conducted, maintained, operated or used contrary to or in violation of any of the fire and safety regulations of this Code, state law or city ordinance.
- (9) Animal enclosures. Any enclosure in which any animals are kept, dog kennels or runs and other animal or fowl pens wherein manure, dung, filth or litter is allowed to accumulate.
- (10) Dead animals. The carcass of any dead animal of any kind on any premises within the city.
- (11) Depositing trash, garbage, refuse, etc., on private or public property. The depositing and leaving on private or public property of trash, garbage, refuse, scrap building materials, paper, cardboard containers, brick, cement rubbish, tree residue, cans, containers, or any other rubbish or trash that is a menace to public health and safety in the city or which unreasonably annoys others.
- (12) Unoccupied buildings. All buildings or structures not being presently occupied and rendered hazardous by fire or other act of nature or by neglect.
- (13) Unsafe and inoperable vehicles, machinery, etc. Unsheltered and unsecured storage of old, unused, stripped, junk condition, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured for a period of 30 days or more (except in junkyards or salvage yards as defined in chapter 90 of this Code). If a vehicle is to be declared operable it must be able to move under its own power at the request of the building official or their designee. A condition of being unsheltered and unsecured shall be established where the unsafe and inoperable vehicle, machinery, etc., is not within an enclosed building unless the property is the premises of a legally operated business enterprise in which the presence of such a vehicle is necessary and directly related to type of activity for which the business is licensed.
- (14) Gutters or spouts. Any gutter or spout that conveys filth into any street, lane or alley of the city.

- (15) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind found growing in any lot or tract of land in the city, and any weeds, grasses or plants other than trees, brushes, flowers or other ornamental plants, growing to a height exceeding 12 inches anywhere in the city. Garden flowers, vegetables, cultivated agricultural crops, ornamental shrubbery, vegetation growing within recognized stream buffers, and trees shall not be considered weeds, grass or vegetation within the meaning of this section.
 - (16) Statutory nuisances. Any other condition constituting a nuisance under other sections of this Code or state law, including state minimum standard codes, building, fire, life and safety codes.
- (c) The following are declared to be nuisances caused by illegal activities:
- (1) Sales of controlled substances; drug pushers:
 - a. Any business where illegal sales of controlled substances take place on the premises with such frequency that a court of competent jurisdiction determines that the owner or operator or manager in charge of such business knew, or in the exercise of ordinary care should have known, that such sales were taking place and such owner or operator or manager in charge has failed to take effective action to stop such sales.
 - b. Any business where persons who are known to the owner or operator or manager in charge of such business, or should in the exercise of ordinary care be known to them, or who are reputed to be illegal sellers or purveyors of controlled substances, are permitted to loiter on the premises without legitimate business reasons.
 - (2) Utilization of premises for sales, possession, use, or transfer of controlled substances; devices used in furtherance of sales, possession, use, or transfer of controlled substances:
 - a. Any premises of whatever type or nature where illegal sales, possession, use, or transfer of controlled substances takes place on the premises with such frequency that a court of competent jurisdiction determines that the owner, operator, manager, or person in charge of the premises, knew, or in the exercise of ordinary care should have known that such sales, possession, use, or transfer of controlled substances were taking place and such owner, operator, manager, or person in charge of the premises has failed to take effective action to stop such sales, possession, use, or transfer of controlled substances.
 - b. Any premises of whatever type or nature which installs devices, including, but not limited to, steel doors, electric locks, and peep holes, which control the ingress and egress of the public at large, to further the illegal sale, possession, use, or transfer of controlled substances taking place on the premises and which devices are without legitimate business reasons.
 - (3) Any business or premises where the owner, operator, manager or person in charge of the business or premises know, or in the exercise of ordinary care should have known that activities were being conducted at the business or premises in violation of chapter 46, articles I through III of this Code.

Sec. 38-32. Authority and scope.

This article is enacted pursuant to the provisions of O.C.G.A. § 41-2-7—41-2-17, as amended, and is referenced herein as the "statute". O.C.G.A. § 41-2-7 specifies the scope and purpose of this article. All powers and authorities granted to public officers and public authorities by the statute are hereby incorporated by reference so as to be assumed, delegated and granted pursuant to this article.

Sec. 38-33. Definitions.

As used in this chapter, the following words, terms and definitions shall apply:

Building official: The building official or any "public officer" as defined in O.C.G.A. § 41-2-8(9) delegated with authority by the mayor to enforce this chapter of the Code. The mayor (or his designee) shall be the public officer who shall exercise the primary responsibilities prescribed by this chapter and shall be the "public officer" defined in O.C.G.A. § 41-2-8, as amended.

Interested parties: For the purposes of this chapter, "interested parties" means:

- (a) Owner;
- (b) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- (c) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- (d) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the county courthouse or by the clerk of the court. Interested parties shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected; and
- (e) Persons in possession of said property and premises.

Person: Any natural person, corporation, partnership (general or limited), estate, trust or other entity or artificial person, or combination thereof.

Public authority: Any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the municipality relating to health, fire or building regulations or other activities concerning dwellings, buildings, or structures in the municipality.

To the extent not stated above, the definitions set forth in O.C.G.A. § 41-2-8 are incorporated herein by reference.

Sec. 38-34. Inspection and notice of hearing.

- (a) *Inspection and notices.* Whenever a written request for inspection is filed with the city by a public authority, by at least five residents of the city, or by the building official charging that a nuisance as defined in this chapter exists or whenever it otherwise appears to the building official that a nuisance as defined in this chapter exists, the building official shall

make preliminary investigation to determine if a nuisance does exist and take the action specified in subsection (b).

- (b) *The complaint.* If the preliminary investigation reveals noncompliance with this chapter, the building official shall serve a written notice on the owner and any interested parties, by way of certified mail or statutory overnight delivery, return receipt requested, detailing the conditions which are creating the nuisance, an enumeration of remedial action necessary to correct each of the conditions, and a reasonable time period for the specified corrective action to be commenced and completed from the date of receipt of the notice. If the corrective actions specified in the notice have not been commenced and completed within the time period allowed, the building official, by and through the city attorney, shall issue a complaint in rem on the property on which such dwelling, building or structure is situated or general nuisance exists and cause summons and a copy of the complaint to be served upon the owner and any interested parties of such dwelling, building, structure or property pursuant to the requirements of O.C.G.A. § 41-2-12, as amended. 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 building official to abate the alleged nuisance. The summons shall notify the owner and any interested parties that a hearing will be held before the municipal judge pursuant to section 38-35 of this article at a

Sec. 38-35. Hearing.

- (a) *Time and place.* The hearing will be held at a place within the city as designated in the summons on a day and time certain which shall not be less than 15 days nor more than 45 days after the filing of the complaint in the municipal court. The owner and 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.
- (b) *The proceedings.* The judge of the municipal court shall preside at the hearing. The proceedings at the hearing shall be recorded or taken down or made by such other procedure as may be undertaken either in a verbatim or summary form so as to be reasonably accurate. Review of the order of the municipal court shall be by direct appeal to the Superior Court of Banks/Jackson County under O.C.G.A. § 5-3-29.
- (c) *The records.* The building official shall be the supervisor and custodian of the records on each property against which a complaint is issued and any hearing held. Such records shall be public records and made available to any party in interest and copies thereof provided upon the payment of such reasonable cost as may be incurred in duplicating or otherwise providing them. The records shall be preserved for not less than four years after the proceedings and action, if any, regarding the property are concluded.

Sec. 38-36. Orders for corrective action.

- (a) *Decision.* If, after such notice and hearing, the municipal judge determines that the dwelling, building, structure, or property under consideration does contain a nuisance or is the source of a nuisance, the municipal judge shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the owner and

interested parties that have answered the complaint or appeared at the hearing an order stating the following:

- (1) The enumeration of conditions which are creating the nuisance and an enumeration of remedial action necessary to correct each of the conditions pursuant to O.C.G.A. § 41-2-9(a)(4), as amended. Where a building or structure constitutes a nuisance, the order shall specify that remedial action shall adhere to the applicable sections of article III of this chapter.
- (2) That if the owner and/or interested parties undertake the necessary remedial action, same shall have:
 - a. A specific period of time, reasonably established in relationship to the remedial action, during which such action must be commenced, including if necessary separate commencement dates as to separate defects or work; and
 - b. A specific period of time after the required commencement date of such remedial action, reasonably established in relationship to the necessary undertakings, within which such action shall be completed, including if necessary separate reasonable deadlines as to separate defects or work.
- (3) That failure to comply with the order within the required time above set forth is in violation of this chapter and shall subject the parties and property to the remedies of this chapter.

Where a condition exists regarding any property which constitutes an immediate danger to persons or adjacent property, the building official may request that the municipal judge shorten the time periods otherwise specified in the order for corrective action.

Sec. 38-37. Service of notice and orders.

- (a) *Service.* Service of complaints, notices of lis pendens, and orders or other filings made subsequent to service of the initial complaint shall be effected as provided in O.C.G.A. § 41-2-12, as amended.
- (b) *Costs.* The costs of service pursuant to this section shall be included in the sums otherwise due under this article.
- (c) *Lis pendens.* A notice of lis pendens shall be filed in the office of the Clerk of the Superior Court of Banks/ Jackson County at the time of the filing of the complaint. Such notice shall have the same force and effect as other lis pendens notices provided by law.
- (d) *Waiver.* Any owner or interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.
- (e) *Failure to answer complaint.* If the owner and interested parties neither file an answer to the complaint nor appear at the hearing, and a decision is rendered which affects the property, an advertisement shall be published in the city's legal organ for two consecutive weekdays that a hearing was conducted, a summary of the general findings of the hearing, the action required as pertaining to the property, and the consequences which may result from noncompliance with the code or notice. A notice may identify more than one property which was the subject of a hearing.

Sec. 38-38. Failure to comply with order.

Should the owner and/or interested party fail to comply with an order to abate the nuisance, the building official shall cause the nuisance to be abated in the manner prescribed in the municipal judge's order for corrective action during the time period provided in O.C.G.A. § 41-2-9, as amended. When, at the determination of the building official, substantial public funds will be needed to abate the nuisance in the manner prescribed in the municipal judge's order, the building official may present the matter to the mayor and council for approval and the appropriation of the necessary funds to effectuate the purpose of this article with respect to a particular property.

Sec. 38-39. Lien on property.

The costs to abate the nuisance incurred by the city shall be a lien against the real property upon which the cost was incurred. The lien 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 the Superior Court of Banks/ Jackson County and shall relate back to the date of the filing of the lis pendens notice as required by O.C.G.A. § 41-2-12, as amended. If the dwelling or building is demolished under a contract which results in payment by a contractor to the city, the proceeds of such sale shall be credited against the cost of the demolition and any balance remaining shall be deposited by the building official in the Superior Court of Banks/ Jackson County and shall be secured and disbursed in such manner as may be ordered by such court.

Sec. 38-40. Procedure for collection of amount due on lien.

The city shall enforce the collection of any amount due on a lien arising under this article in the following manner and pursuant to the provisions of the statute:

- (a) *Amount.* The amount of the lien shall be the costs incurred by the city to repair, alter, improve, or demolition the dwelling, building or structure, including all court costs, appraisal fees, administrative costs incurred by the city revenue officer, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition. The cost of vacating, removal, closing or demolition shall be the cost paid or incurred by the city in effecting action against any property.
- (b) *Waiver and release of lien.* The mayor and council may waive and release any lien imposed on property upon the owner of such property entering into a contract with the city agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
- (c) *Transfer of property.* Should such property be sold, transferred or conveyed by the owner and/or interested party, the entire balance due on such lien shall be due and payable to the city at the close of the sale.
- (d) *Non-satisfaction.* Should the amount due on the lien, or any portion thereof, be unpaid after it is due, or upon the breach of the contract provided for in subsection (b) above, the city may enforce the collection of any amount due on such lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4

of Title 48 of the Official Code of Georgia; 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. 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, as amended, for delinquent ad valorem taxes may include all amounts due under this chapter. The redemption amount in any enforcement proceeding pursuant to this chapter shall be the full amount of the costs as finally determined in accordance with this chapter together with interest, penalties, and costs incurred by the city revenue officer in 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.

Sec. 38-41. Eminent domain.

Nothing in this article shall be construed to prevent the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the state, or to permit any property to be condemned or destroyed except in accordance with the police power of this state. Procedures under this article shall not constitute exercise of the power of eminent domain by the city.

Sec. 38-42. Right to enter and inspect.

The building official, any person authorized to enforce this chapter, and any uniformed officer of the police department shall be empowered to enter any property and structure at reasonable times to inspect the condition or work being performed thereon or therein. If such entry is refused, such official may obtain an order ex parte from a judge of the municipal court of the city pursuant to an affidavit setting forth the name(s) and address(es) of the property owner(s) and any interested party, and the person refusing entry, the date and time entry was attempted, the reason why entry was not affected, the means by which and by whom entry is proposed, the reason why entry is necessary, and the predicate creating probable cause that entry and inspection is necessary. The order shall specify a date and time for a hearing before the court to determine whether entry shall be immediate entry and inspection, whereupon such authority may then be granted. The order with a copy of the affidavit shall be served pursuant to the provisions applicable to service of subpoenas issued from the court.

Sec. 38-43. Construction.

This article shall be cumulative of other ordinances and code provisions applicable to property and improvements in the city and shall not repeal other ordinances and code provisions pertaining to similar subjects and procedures.

Sec. 38-44. Code of Georgia.

Any reference to the Official Code of Georgia Annotated or O.C.G.A. shall include any amendment to a cited section as subsequently adopted.

Secs. 38-45—38-59. Reserved.

ARTICLE III. BUILDINGS CONSTITUTING NUISANCES

Sec. 38-60. In general.

Whenever a determination is made by the municipal judge that any building or structure constitutes a nuisance under the provisions of this chapter, the court shall issue an order in accordance with section 38-36 of this chapter. The abatement of a building constituting a nuisance shall occur in accordance with article II of this chapter, except that nuisances caused by buildings or structures shall be abated in one of the following manners:

- (a) *Repair.* If the dwelling, building, or structure can be repaired, altered or improved at a cost that is less than one-half of the value of such structure exclusive of foundation and lot after improvements have been made, the order may find either that the structure be rendered fit for human habitation or current commercial, industrial or business use within a specified time. All repairs must be inspected by the building official or their designee to ensure compliance with the issued order for corrective action.
- (b) *Boarded and secured against entry.* A boarded building shall be secured in a manner as to adequately prevent entry by trespassers and animals, exposure to the elements to be free from increased hazard from fire, and structurally sound and safe for entry by emergency personnel. All buildings that are boarded are required to obtain a boarded building permit in accordance with section 38-62 of this article.
- (c) *Mothballing.* Historic structures within a historic district established within chapter 42, article III of this Code; or, contributing historic structures listed on the National Register of Historic Places shall be secured in accordance with subsection (b); except, that such action shall be conducted in a manner consistent with Preservation Brief 41-Mothballing Historic Properties or subsequent and overriding guidelines issued by the National Park Service. All buildings that are mothballed are required to obtain a boarded building permit in accordance with section 38-62 of this article.
- (d) *Demolition.* If the cost to repair, improve or alter such structure is more than one-half of the value of such structure exclusive of foundation and lot after the improvements have been made, the order may find that such structure be vacated and removed or demolished within a specified time frame.

An order for buildings constituting a nuisance which are also historic structures within a historic district established within chapter 42, article III of this Code shall not preclude conformance of the structure to division 3 of such chapter and article.

Sec. 38-61. Demolition.

No person shall begin demolition until a city demolition permit has been obtained and all utilities have been cut off and capped at the street. The person who has secured the permit shall remove from the property all debris, trash, litter, rubbish, rubble and foundation exposed above the ground level; fill any excavation or other depressions to existing grade with clean dirt containing no more than 25 percent stone or masonry; and adequately slope and drain all filled areas. After work is completed the building official or their designee shall inspect the work to ensure compliance with the standards set forth in this section.

Sec. 38-62. Boarded building permit required.

A boarded building permit shall be issued for the purpose of authorizing a building owner to board their building. A boarded building permit shall not be issued until an inspection of the building is performed by the building official or their designee to confirm compliance with the provisions of this section. The permit applicant must complete boarding the structure within seven calendar days after a permit is issued. The manner of boarding shall prevent entry by trespassers or animals and prevent the exposure of the interior to the elements. A boarded building permit shall be valid for no more than 12 months from the date of issuance at which time a new permit must be obtained by the building owner. The cost the boarded building permit shall be \$500.00. If the building is without a valid boarded building permit for more than seven calendar days, the structure will fail to comply with the building official's order for corrective action and be subject to the applicable procedures and remedies listed in article II of this chapter.

Sec. 38-63. Inspection of boarded buildings.

A boarded building shall be deemed to adequately prevent entry by trespassers and animals and exposure to the elements and be granted a boarded building permit if:

- (a) Building openings are weather-tight and secured. All openings including missing or broken doors and windows shall be covered with one-half-inch CDX plywood, weather protected, tightly fitted to the opening and secured by screws or bolts. The coverings shall be cut and aligned to match the shape of the opening.
- (b) The roof, fascia and flashings are sound, tight, will not admit moisture, and will prevent dampness in the walls or interior of the building.
- (c) The building's storm drainage system is adequately sized and installed in an improved manner, functional and discharged in an improved manner.
- (d) The building is maintained free from debris, rubbish, garbage, and unsanitary conditions.
- (e) Chimneys, smokestacks, cooling towers and similar appurtenances are structurally safe.
- (f) Accessory and appurtenant buildings such as garages, sheds and fences are free from debris, rubbish, garbage and safety health and fire hazards.
- (g) All sanitary sewer connections have been terminated in a manner consistent with this chapter.
- (h) All interior water pipes have been drained at the lowest point and the water service terminated in a manner consistent with this chapter.
- (i) Electric and fuel gas utility services have been terminated in a manner consistent with this chapter.
- (j) The premises upon which the building is located and the building itself do not have any conditions that would constitute a nuisance under the provisions of this chapter.

Sec. 38-64. Placarding.

When the owner and/or an interested party fail to comply with an order to abate the nuisance the building official shall cause to be posted on the main entrance of any dwelling, building or structure to be demolished 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 an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

The placard shall bear the date posted, street number of the building or property involved and the signature of the building official. It shall thereafter be unlawful for such placard to be mutilated or removed or for such building to be occupied until the required corrective action is taken.

Secs. 38-65—38-79. Reserved.

ARTICLE IV. MAINTAINING A NUISANCE

Sec. 38-80. Maintaining a nuisance.

Notwithstanding the remedies prescribed to the city for the abatement of nuisances as provided in articles II and III of this chapter, when an income producing residential or nonresidential building, dwelling, structure or property has been determined to be a nuisance on two or more separate occasions within any 12-month period, as a result of illegal activities referenced in subsection 38-31(c), the municipal judge may determine that the owner is willfully maintaining a nuisance. If warranted by the municipal judge's decision, the subsequent conditions of abatement enumerated by the building official may include, but are not limited, making security improvements to the premises, hiring of licensed and insured security personnel, the initiation and execution of eviction proceedings against tenants who engage in the nuisance behavior, or the closing and boarding of the premises for a period not to exceed one year. Closing and boarding of a premises in accordance with this article shall be effective regardless of a subsequent change in ownership.

Sec. 38-81. Revocation of permits, licenses and nullification of exemptions.

Where a premises has been closed and boarded as a result of the conditions of abatement for maintaining a nuisance, the following shall apply:

- (a) Any licenses, permits or certificates, whether business, occupancy or building code which pertain to the subject premises and were in effect at the time of closure are deemed revoked or abandoned.
- (b) Any residential or nonresidential building, dwelling, structure or property which had previously been exempt from or "grandfathered" from any of the provisions of this Code shall have forfeited such status and must be in compliance with all applicable

city, state and federal, health, safety, property maintenance, building, subdivision and zoning codes.

- (c) Prior to occupancy of the premises following the conclusion of a prescribed closing and boarding period, the property shall be inspected by the appropriate city, state and federal inspectors, and be found to be in compliance with all applicable city, state and federal, health, safety, property maintenance, building, subdivision and zoning codes. No occupancy shall occur unless all code violations are abated.

ARTICLE V. BLIGHTED PROPERTY

Sec. 38-82. Definitions.

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

Blighted as applied to a piece of property, means that property is being maintained in a blighted condition.

Public officer means the building inspector, code enforcement director, city manager, or any other city official who is authorized by law and this Code to exercise the powers prescribed by this section, or any agent of such officer or officers, or any other employee, officer or officers designated by the city manager for purposes of this section.

Sec. 38-83. Blighted condition designation.

For the property in question to be subject to official identification as blighted and subject to increased taxation, the property must be determined to be:

- (1) Unfit for human habitation or unfit for commercial, industrial, or business use and not in compliance with applicable codes; or
- (2) Vacant and being used in connection with the commission of drug crimes; or
- (3) Constituting an endangerment to the public health or safety because of unsanitary or unsafe conditions; and
- (4) Not a dwelling house, which is being used as the primary residence of one or more persons.

Sec. 38-84. Procedure for identification of property as blighted.

The procedure for official identification of real property as blighted includes:

- (1) A request from a public officer or at least five residents of the city charging that any building, structure, or property meets criteria described in section 38-83.
- (2) An investigation or inspection by a public officer and determination that the property in question meets the criteria described in section 38-83.
- (3) A public officer's issuance of a complaint in rem against the property. The complaint shall state which condition(s) under section 38-83 exist on the property that are in violation, and what steps must be taken to remediate the property.

- (4) A public officer's causing a summons and a copy of the complaint to be mailed via certified to the owner of the property. The latter is anyone revealed by a certification of title to the real property conducted in accordance with the title standards of the State Bar of Georgia. The summons shall notify the interested parties that a hearing will be held before the municipal court of the city (hereinafter "municipal court") at the date and time certain. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint. 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.
- (5) If after such notice and hearing, the municipal court determines that the dwelling, building or structure in question meets the criteria in section 38-83, the court shall state in writing findings of fact in support of such determination and shall issue and cause its written findings to be served upon the interested parties that have answered the complaint or appeared at the hearing an order.
- (6) No property shall be designated as blighted unless the municipal court of Maysville enters an order that finds the property in question meets the criteria described in section 38-83. This order constitutes official identification of real property as maintained in a blighted condition.
- (7) If the municipal court finds that the property is blighted, it shall, in the same order, list what must be done to remove the blighted condition designation and give the owner a deadline in which to finish the work.

Sec. 38-85. Imposition of increased tax rate.

Property, which has been officially designated as blighted, shall be subject to an increased rate of city ad valorem taxation equivalent to six times the normal millage rate applied to the property, applied at the time of the issuance of the subsequent tax bill, as provided in Article IX, Section II, Paragraph VII(d) [of the Constitution]. The increased rate continues to be applied to all subsequent tax bills until the property's designation as maintained in a blighted condition is removed as provided in this section. This increased rate of taxation and the official identification of the property as blighted remain with the property if transferred to another owner.

Sec. 38-86. Revenue segregated.

Revenue collected from increases in rate of ad valorem taxation may be used for community redevelopment purposes.

Sec. 38-87. Remediation.

The property in question may be rehabilitated at any time through remedial actions or redevelopment that conforms with the municipal court order setting forth what must be done to remove the identification of the property as maintained in a blighted condition. Owner may request removal of the property's designation as blighted from the city manager or from the municipal court upon proper proof, including an inspection by a public officer, that the property has been remediated and now conforms with the court order listing what must be done to remove

the identification of the property as blighted. The city manager shall be notified in writing ten days before any hearing in the municipal court.

Sec. 38-88. Remediation property tax rate.

Property which has had its designation as maintained in a blighted condition removed as provided in this section will become eligible for a decrease in the rate of city ad valorem taxation equivalent to one-half (50 percent) of the millage rate applied to the property, applied at the time of issuance of the subsequent tax bill, as provided by general law. This decreased rate is applied to two years tax bills.