

**NUISANCE
ORDINANCE**

#04-00

AN ORDINANCE TO PROVIDE FOR THE DECLARATION OF NUISANCES, THE ABATEMENT THEREOF, PROCEEDINGS THEREON AND PENALTIES THEREFOR

CONDITIONS CONSTITUTING A NUISANCE

The following conditions may be declared to be nuisances when any one (1) of them endangers the health, welfare or good order of the community:

1. Stagnant water on premises;
2. Any dead or decaying matter, weeds, vegetation, or any fruit, vegetable, animal or rodent, upon premises, which is odorous or capable of causing disease or annoyance to the inhabitants of the Town;
3. The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the Town;
4. The pollution of public water or the injection of matter into the sewerage system which would be damaging thereto;
5. Maintaining a dangerous or diseased animal or fowl;
6. Obstruction of a public street, highway or sidewalk without a permit;
7. Loud or unusual noises which are detrimental or annoying to the public, including without limiting the foregoing, unusual loud disturbances in or around churches or multiple-family complexes such as loud music and other activities in swimming pool or clubhouse areas;
8. All walls, trees, buildings and uninhabitable mobile or manufactured homes that may endanger persons or property;
9. Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent such activities;
10. Unused iceboxes, refrigerators and the like unless the doors, latches or locks thereof are removed;

11. All rubbish, litter, or debris, including but not limited to combustible and noncombustible waste materials, garbage, wood, coal, coke, paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and the residue from burning such items that may endanger the health, welfare, good order or beauty of the community;
12. Any trees, shrubbery or other plants or parts thereof on private property, which obstruct clear, safe vision on roadways and intersections of the Town; and
13. Any other condition constituting a nuisance under state law.

COMPLAINT OF NUISANCE

- a. Any official or inhabitant of the Town may direct a complaint of nuisance to the police department, 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 a least five (5) 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 of, 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 judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.
- b. Animal control officers, building and license inspectors, health inspectors, public works inspectors, and the fire prevention bureau of the fire department of the Town may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

ABATEMENT BY TOWN

- a. In any case where the owner, landlord, agent or tenant fails to abate the nuisance in the time specified, 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 judge, that it must be immediately abated, the judge may issue an order to the chief of police directing the nuisance to be abated. The chief of police, in such case, shall keep a record of the expenses and cost of abating such nuisance and the costs shall be billed against the owner, agent or tenant for collection as for Town revenues and/or Town taxes.
- b. Other Town departments shall assist the chief of police as is necessary in abating nuisances hereunder.

MAYOR MAY ABATE NUISANCE PER SE

Nothing contained in this chapter shall prevent the mayor from summarily and without notice ordering the abatement of or abating any nuisance that is a 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.

NOISOME ODORS PROHIBITED

It shall be unlawful and shall constitute a nuisance for any owner or individual in control of any property within the boundaries of the Town to:

1. Allow the accumulation of animal body wastes;
2. Boil offal, bone, fat, tallow;
3. Manufacture glue, varnish or oil;
4. Make lamp black, turpentine or tar;
5. Distill alcoholic spirits;
6. Render or dry out dead animals; or

7. Conduct any other activity, business or trade not specifically enumerated in this Code whereby noisome stenches and odors arise, or noxious gases are generated or circulated within the Town.

MAINTAINING NUISANCE UNLAWFUL

It is hereby declared to be unlawful and to be an offense for any owner, agent or tenant to maintain a nuisance. Each day a nuisance is continued shall constitute a separate offense. Violators of this ordinance shall be punished in the manner provided in this ordinance in the section entitled "Complaint, Trial, Order, Failure to Comply, Assessment, Collection".

WEEDS AND DEBRIS DEFINITIONS

The following terms, as used in this section shall have the following meanings:

A lot, for purposes of this division, shall mean one (1) of several contiguous parcels of land making up a block, each of which are measured and set apart for individual or private use or occupancy.

Building means any structure that encloses a space used for sheltering any occupancy.

Debris, for purposes of this division, shall include residue from the burning of wood, coal, or other combustible material, paper, rags, cartons, boxes, wood, rubber, leather, fallen, broken or destroyed trees or tree limbs or other materials or objects not a part of the land constituting a health or safety hazard.

Unoccupied, for purposes of this division, shall mean any lot of land upon which no residential or commercial building currently exists.

Weeds, shall be defined as all objectionable growth, including weeds and grasses which serve as a breeding place for mosquitoes and other unhealthy or undesirable insects, or as a refuge for snakes, rats or other rodents, or that create a fire or traffic hazard or provide a hiding place for persons, and is eighteen (18)

inches or more in height. Provided, however, that flowers, shrubbery, trees and landscaping shall not be included in this definition.

WEED, DEBRIS; PROHIBITION; EXCEPTION

It shall be unlawful for the occupant of any occupied lot of land or premises in the Town, or the owner of any unoccupied lot of land or premises in the Town, or any agent or representative of such owner or occupant, to permit or maintain on such lot the growth thereon of objectionable weeds or the accumulation of debris as defined in this division, which distracts from the community aesthetics, and endangers the public health, safety or welfare. Provided, however, that these provisions shall not apply to that part of any lot of land located more than one hundred (100) feet from any building on an occupied lot.

NOTICE OF VIOLATIONS

- a. When any objectionable weeds or an accumulation of debris are being permitted or maintained on any lot of land or premises in the Town in violation of the preceding paragraph (Weed; Debris; Prohibition; Exception), it shall be the duty of the police department to notify in writing the occupant of such lot, or the owner thereof, if it is unoccupied, or their agents or representatives, stating that in the opinion of the official, the conditions existing upon the property constitute a nuisance, and setting forth the action to be taken to eliminate the objectionable conditions, and requesting that the conditions be eliminated within ten (10) days. The notice shall further state that unless the objectionable conditions are voluntarily removed within the specified time, it will be the duty of the official to cause a summons to issue requiring the party notified to appear in the municipal court to have there determined whether the conditions existing constitute a nuisance and should be abated.

- b. Where the owner of unoccupied land violates the provisions hereof and the owner is a nonresident of the Town, with no agent or representative in the Town, and such owner cannot be served with notice or summons so as to subject him to the jurisdiction of the municipal court, the notifying official shall notify the owner by certified or registered mail, directing that the objectionable weeds or accumulation of debris on the lot be cut and removed within a specified time period so as to comply with the provisions of the ordinance. The notice shall further state that if the objectionable growth or accumulation is not eliminated within the specified time period, the official shall cause a summons to be issued requiring the owner to appear in the municipal court to have there determined whether the existing conditions constitute a nuisance and should be abated. Such notice or summons shall be sent certified or registered mail.
- c. When the owner of an unoccupied lot cannot be located by the Town official after due diligence, the official shall cause such notice or summons to be published once a week for two (2) consecutive weeks in a news publication of general distribution in the Town of Newington, Georgia, setting forth the nature of the complaint, the date of the municipal court trial, and the place of said trial, and shall further be in the form prescribed in the following section (Complaint, Trial, Order, Failure to Comply, Assessment, Collection).

**COMPLAINT, TRIAL, ORDER, FAILURE TO COMPLY, ASSESSMENT,
COLLECTION**

- a. When it becomes necessary to summons an owner or occupant of lands subject to the provisions of this division, said summons shall be in the form of a written complaint setting forth, particularly, the nature and location of the nuisance and the name of the person complained against and requiring him to show cause why the nuisance complained of should not be abated. At the trial of each such case in the municipal court, the court shall hear evidence as to

the facts, and pass such order as is just. If the court determines that the conditions constitute a nuisance, the order shall specify the time within which the nuisance must be abated. The failure of the owner or occupant to comply with the order to abate the nuisance shall constitute an offense and shall subject the person to prosecution and penalties as follows:

1. Fines, not to exceed five hundred dollars (\$500.00);
 2. Work on the street or public works, not to exceed sixty (60) days;
 3. Imprisonment, not to exceed six (6) months; or
 4. Any or all of these penalties in the discretion of the municipal judge.
- b. If the owner or occupant fails to comply with the provision of the order, the police department shall cause the nuisance to be abated and the objectionable conditions to be removed from the property and shall assess the costs associated with said removal and charge all costs thereof to the owner or the person in possession. Said costs shall constitute a lien against the property, and the Town official may cause an execution to issue, and said execution may be levied, and the property sold in the manner now provided for the levy and collection of executions issued by the Town as provided in the Charter, and the proceedings and provisions for filing of an affidavit of illegality by the Defendant in execution, as well as the proceedings for filing of a claim to the property levied upon by a third person, shall in all respects be similar to the proceedings and provisions of law applicable to the levy of executions as provided in the Charter. Alternatively, said lien may be levied upon, execution issued, and property sold in the same manner provided for tax executions for municipalities as set forth in the Official Code of Georgia, as may be amended from time to time.

REPEALER

All previous ordinances as to nuisances, except as amended herein, shall remain in force.

SEVERABILITY

In the event any part or parts of this ordinance is deemed to be unconstitutional or unlawful by a court of competent jurisdiction, the offending part or parts shall be deemed deleted there from, and the remaining portions of this ordinance shall remain enforceable.

EFFECTIVE DATE

This ordinance shall be effective upon adoption. This 10th day of August 2000.

By: *Donald Scott, Mayor*
Mayor

ATTEST: *Donette Lane Perkins, Clerk*
Clerk

Craig A. Wildi
Council Member

(Seal)

A. J. Mark
Council Member

Jeannette H. Clay
Council Member

Gary Evans
Council Member

Tom Perkins
Council Member