

**CHATTOOGA COUNTY ORDINANCE
NUISANCE DWELLINGS, BUILDINGS OR STRUCTURES**

Section 1. Duty to maintain.

(a) It shall be the duty of the owner(s) of every dwelling, building, structure, or property within Chattooga County to construct and/or to maintain such dwelling, building, structure or property in conformance with all applicable codes in force within Chattooga County, or such ordinances which regulate and prohibit activities and which declare it to be a public nuisance to construct or to maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

(b) It is the further duty of every owner and occupant of every dwelling, building, structure or property within the unincorporated areas of Chattooga County, Georgia to maintain safe and sanitary premises and not to create, maintain or allow the accumulation of weeds, brush, vegetation, trash, debris, filth and other unsafe or unsanitary conditions on or in said dwelling, building, structure or property. It shall be unlawful for such owner or occupant to create, maintain or allow such unsafe or unsanitary conditions on said dwelling, building, structure or property.

Section 2. Appointment of public officer(s).

The Chattooga County Commissioner appoints or designates the following persons, and their designees, as public officers for the purposes of exercising the powers set forth herein: Chattooga County Commissioner, the sheriff or any deputy sheriff, a tax assessor, any code enforcement officer, the public works director, and/or any employee of the Chattooga County Health Department hereinafter "Public Officer".

Section 3. Complaint against property for nuisance condition.

- (1) Whenever a request is filed with the Code Enforcement Officer by a public officer, by any public authority, or by not less than five (5) residents of Chattooga County, charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, manufacturing, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes as set forth in O.C.G.A. § 16-13-2 et seq., or which constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the Chattooga County Code Enforcement Officer/Building Inspector or his or her designee shall make an investigation or inspection of the specific dwelling, building, structure, or property.
- (2) If the investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, manufacturing, 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, Chattooga County, by and through the county attorney or designee, may issue a complaint *in Rem* against the lot or parcel upon 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 upon the owner(s) and party/parties in interest in such dwelling, building, or structure.
- (3) Such complaint shall identify the subject real property by appropriate street address

and official tax map reference; identify the owner and parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by Chattooga County to abate the alleged nuisance.

- (4) The summons shall notify the owner and parties in interest 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, time and place certain. Such hearing shall be held not less than fifteen (15) nor more than forty-five (45) days after the filing of said complaint in court, unless otherwise ordered by a Judge of said court.
- (5) The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and to offer testimony at the time and place fixed for hearing.
- (6) 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 the owner and any parties in interest that have answered the complaint or appeared at the hearing an Order, as follows:
 - (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 such order, to repair, to alter, or to 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 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 such order, to demolish and to remove such dwelling, building, or structure and all debris from the property.

(7) For purposes of this ordinance, the court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land upon which the structure is situated; provided, however, that costs of the preparation necessary to repair, to alter, or to improve a structure may be considered. Income and financial status of the owner shall not be a 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 Georgia appraiser classification as provided in Chapter 39A of Title 43, 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 Chattooga County.

- (8) If the owner shall fail to comply with an order to repair or to demolish the dwelling, building, or structure, a public officer may cause such dwelling, building, or structure to be repaired, altered, improved, to be vacated and closed, or demolished. Such abatement action 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 shall commence. A public officer shall cause to be posted upon the main entrance of such 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 an 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.”

- (9) If a 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 the application of sales proceeds. Any such sale of salvaged

materials may be made without the necessity of public advertisement and bid. Chattooga County, its officers, employees and agents shall be relieved from any and all liability resulting from or occasional by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

Section 4. Lien against the real property of nuisance properties.

The amount of the cost of demolition, including all court costs, attorney fees, appraisal fees, administrative costs incurred by Chattooga County, 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.

- (1) Such 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 Superior Court of Chattooga County and shall relate back to the date of the filing of the *lis pendens* notice required pursuant to O.C.G.A. § 41-2-12(c) and Section 8 of this Ordinance.
- (2) The Clerk of Superior Court shall record and index such certified copy of the order in the deed records of Chattooga County and enter the lien on the general execution docket.
- (3) Such lien shall be superior to all other liens upon the property, except liens for taxes to which such lien shall be inferior, and shall continue in force until paid.
- (4) After filing a certified copy of the order with the Clerk of Superior Court, the public officer shall forward a copy of the order and a final statement of costs to the

Chattooga County Tax Commissioner together with copies of all notices provided to interested parties. It shall be the duty of the Chattooga County Tax Commissioner to collect the amount of the lien in conjunction with the collection of *ad valorem* taxes upon the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for the collection of the real property ad valorem tax, including but not limited to O.C.G.A. Chapter 4 of Title 48. Provided, however, that the limitation of O.C.G.A. § 48-4-78, which requires twelve (12) months of delinquency before commencing a tax foreclosure shall not apply.

- (5) The Chattooga County Tax Commissioner shall remit the amount collected to the office of the Chattooga County Commissioner.
- (6) Thirty (30) days after the imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties upon unpaid real property *ad valorem* taxes.
- (7) Chattooga County may waive and release any such lien imposed if the owner(s) thereof shall enter into a contract agreeing to a timetable for rehabilitation of the real property, dwelling, structure, or building, and demonstrating the financial means to accomplish such rehabilitation.
- (8) Property sold pursuant to this Section to enforce a lien may be redeemed as provided by O.C.G.A. § 41-2-9(b)(4).

Section 5. Direct appeal to Superior Court if action commenced in Magistrate Court.

Where an abatement action pursuant to this division shall be commenced in the Chattooga County Magistrate Court, review of any court order shall be by direct appeal to the Chattooga County

Superior Court, pursuant to O.C.G.A. § 5-3-29.

Section 6. **Citation for violation of codes or ordinances may be prior to or concurrent with nuisance proceedings of this division.**

The public officers designated herein or other authorized persons may issue citations for violations of state minimum codes set forth hereinabove and/or other codes or ordinances of Chattooga County, Georgia, and may seek to enforce such citation in any court of competent jurisdiction prior to issuing a complaint *in Rem*, as provided in this division.

Nothing herein shall be construed to impair or to limit in any way the authority of Chattooga County to define and to declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, as provided by law.

Section 7. **Service of complaint in Rem.**

(a) Service of any complaint, summons or order pursuant to this ordinance shall be made in conformity with the provisions of O.C.G.A. § 41-2-12.

Section 8. **Lis pendens.**

A notice of lis pendens shall be filed with the Clerk of Superior Court of Chattooga County at the time of the filing of the complaint.

Section 9. **Service of subsequent filings.**

Orders and other filings made subsequent to the service of the initial complaint and summons shall be served by regular United States mail at an address provided the court in any responsive pleading upon any owner or party in interest who answers the complaint or who appears at the hearing. Any party failing to answer or to appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Section 10. Penalty.

Any person violating any provision of this ordinance, upon conviction, shall be subject to a fine of not less than \$250.00 nor more than \$1,000.00 and, in addition, may be imprisoned for a period of up to sixty days.

The above and foregoing ordinance was duly adopted by the Commissioner on the 1st day of July, 2009.



JASON WINTERS, Commissioner

Attest: 
MARTHA TUCKER, Clerk