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Basics of Ordinance Enforcement in Municipal Court

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Government Law

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“WHEN A MAN ASSUMES A PUBLIC TRUST HE SHOULD CONSIDER HIMSELF PUBLIC PROPERTY.”

Thomas Jefferson

A. How did we get here?

1. What is an Ordinance?
2. Difference between Ordnances, Resolutions, and Proclamations and enforcement of same.

B. Ordinances.

1. Legal Authority to Write Ordinances?

- a) Art 9, §2, Para. 2;
- b) Art 9, §2, Para. 3; and
- c) Georgia Constitution (1983).

2. Statutory Power

- a) O.C.G.A. §36-34-1 and 2; and
- b) O.C.G.A. §36-35-3

C. How does a City Charter effect Ordinance Enforcement?

1. Penalties; and
2. New crimes preempted.

D. Essential Parts of an Ordinance.

1. Ordinance Number;
2. Title and Purpose;
3. Ordaining Clause;
4. Body of Ordinance by Section;
5. Severability Clause;
6. Penalty Clause;*
7. Adoption/Effective Date; and
8. Execution.

E. Police Powers.

F. Selective Enforcement.

G. Nuisance Abatement Enforcement Techniques.

1. Original Tools
Local Code

2. Emergency Tools

- a) O.C.G.A. §41-2-1 and 2 Superior Court;
- b) O.C.G.A. §41-2-4 Anticipated Nuisance; and
- c) O.C.G.A. §41-2-5 City Court* (i.e. septic tank).

G. Nuisance Abatement Enforcement Techniques (cont'd)

3. Codes

- a) Original SBCCI;
- b) Replaced by International Building Code (Commercial/Residential); and
- c) International Property Maintenance Code (aesthetics).

4. State Law

- a) O.C.G.A. §41-2-7 (destroy building).

H. 2010 Update on Nuisance Statute Expansions

O.C.G.A. § 41-2-2 - CA can file but if a public nuisance, any private citizen specially injured can too

O.C.G.A. § 41-2-7(b) – if nuisance renders adjacent property unsafe, can do, also unsafe to those residing near or working near property

O.C.G.A. §41-2-8 – lists Codes that apply fire, safety, building – also farm structures are NOT included as “buildings” – defines interested parties based on title search but easement holders do not have to be included.

H. 2010 Update on Nuisance Statute Expansions (cont'd)

O.C.G.A. § 41-2-9 – mandates certain “magic words” in ordinance.

1. Owner not to allow illegal things
2. City designates public officer
3. Five residents, invest. then in rem.
 - a. Copy served
 - b. ID prop. Street tax map, facts, needed work
 - c. Summons, time, place, date
 - d. Hearing – 15 to 45 days
 - e. Answers and lawyer

H. 2010 Update on Nuisance Statute Expansions (cont'd)

4. After hearing unfit – findings of fact
 - a. Can fix – value of bldg. vs. cost
 - b. Cannot fix –
Land value – no / financing ability – no
5. Gov. Can do repairs or demolition 270 days dates order. Post placard.
6. Salvage

H. 2010 Update on Nuisance Statute Expansions (cont'd)

7. Lien – tax lien priority – send costs to Tax Comm. 90 days, redemption includes interest and penalties
8. Contract waives lien
9. Appeal City Court Title 5
10. Can have public officers for other codes
11. Can use other local ordinances.

H. 2010 Update on Nuisance Statute Expansions (cont'd)

O.C.G.A. § 41-2-12 - Service simplified.

1. Fourteen (14) days before hearing, certified mail, copy, first class mail copy to occupants
2. Three (3) business days of complaint post property and fourteen (14) days before hearing.

H. 2010 Update on Nuisance Statute Expansions (cont'd)

3. Parties unknown ad. Once a week for 2 weeks before hearing.
4. Lis pendens in Superior Court Clerk's office
5. Orders – serve as above. If party no answer waived all further notice.

H. 2010 Update on Nuisance Statute Expansions (cont'd)

O.C.G.A. § 41-2-17

Prior ordinances before July 1, 2001 under
§ 41-2-7 to § 41-2-16 fine.

"ALWAYS DO RIGHT. THIS WILL GRATIFY
SOME PEOPLE AND ASTONISH THE REST"

Mark Twain