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WEED ON NUISANCE ABATEMENT

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What is a nuisance?

- Crime Analogy
- Generally

41-1-1. Nuisance defined generally.

A nuisance is anything 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 the fastidious taste, but it shall be such as would affect an ordinary, reasonable man.



Public and Private

41-1-2. Classes of nuisances; public and private nuisances defined.

Nuisances are either public or private. A public nuisance is one which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals. A private nuisance is one limited in its injurious effects to one or a few individuals.



Public

41-2-1. Authorization and procedure for abatement of nuisances generally.

Upon filing of a petition as provided in Code Section 41-2-2, any nuisance which tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners and morals of the public may be abated by order of a judge of the superior court of the county in which venue is proper.



Dwellings, Buildings, Structures

41-2-7. Power of counties and municipalities to repair, close, or demolish unfit buildings or structures; health hazards on private property; properties affected.

(a) It is found and declared that in the counties and municipalities of this state, there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with the applicable state minimum standard codes as adopted by ordinance or operation of law or any operational building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the jurisdiction where the property is located; or general nuisance law and which constitute a hazard to the health, safety and welfare of the people of this state.



Other Ways to Combat Nuisances

- Public Nuisance Superior Court § 41-2-1, § 41-2-2
- Public Nuisance City Court § 41-2-5
Examples: Sewage, rats, buildings without walls
- Prior Ordinances – still valid but due process
- Administrative Search Warrants
- Houses of Ill Repute § 41-3-1
Owner knowledge - sex act - City Attorney
- Drug house § 41-3-1.1 – City Attorney

The Human Touch

- Eye of the Beholder
- Social Services
- Cooperation with Press
- Languages
- Fair Warning
- Will Power



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.

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

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

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.



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.

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



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.

The Nuisance Abatement Law on Unfit Dwellings, Buildings and Structures





