

CHAPTER 33: NUISANCES

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Section 33-101 Definitions

For the purposes of this chapter, the following words shall have the meanings respectively ascribed below:

1. **Nuisance** . Anything which causes hurt, inconvenience, or damage to another, provided that the hurt, inconvenience, or damage complained of shall not be fanciful, or such as would affect only one of fastidious taste, but rather such as would affect an ordinary reasonable man; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.
2. **Nuisance per se**. An act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings.

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3. **Nuisance, Private**. A nuisance limited in its injurious effects to one or a few individuals.
4. **Nuisance, Public** . A nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.
5. All Definitions in O.C.G.A. §41-2-8, and as may hereafter be amended, are incorporated herein by reference. (Ref Ordinance No. 131)

Section 33-102 Proceedings to Abate Generally

Any nuisance existing within the corporate limits of this city, except for a nuisance hereinafter excepted, shall be abated in the manner set forth in this chapter.

1. Initiation. Proceedings to abate a nuisance, whether public or private, shall be initiated by the filing of a complaint with the City Clerk/Treasurer, which complaint shall state the nature and location of the nuisance and the name and address of the complainant or complainants. In the case of a private nuisance, the complaint shall be filed by the person or persons injured by the nuisance; in the case of a public nuisance, the complaint shall be filed on behalf of the public by the city attorney or District Attorney, or by a private citizen specially injured by the nuisance.

2. Notice of Hearing. Upon the filing of a complaint as herein above provided, the City Clerk/Treasurer shall issue a notice directed to the owner of the premises upon which the nuisance complained of is located and, if the person maintaining the same be a different person from the owner, then also to the person maintaining the nuisance, calling on such person to show cause, either personally or by attorney, at the time and place directed by the City Clerk/Treasurer, why such activity alleged to be a nuisance should not be ordered abated and removed by the Judge of the Municipal Court. Such notice shall be served at least ten (10) days and not more than thirty (30) days prior to the date set for the hearing by any authorized officer of the city, and shall be made either personally or by leaving a copy at the party's most well-known place of abode.

A copy of such notice shall also be mailed to the complainant or complainants.

Nonresidents of the State of Georgia shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

3. Order of Abatement. If, after hearing all the evidence, the Judge of the Municipal Court should decide that the activity complained of is a nuisance, the Judge shall issue an order. The order shall specify within what time it is to be abated by the defendant. If not abated within the specified time, the Judge shall issue a writ directed to the Police Chief or any member of the police force, commanding that the nuisance be abated. A copy of such order of abatement shall be served on the party or parties maintaining the nuisance. If the city removes the nuisance the expenses incurred in the removal shall be paid by the owner.

4. Effect of Non-compliance. In the event of a refusal to comply with the order of abatement issued by the Judge of the Municipal Court, the person or persons maintaining the nuisance shall be subject to arrest for violation of state law.

5. Penalty. Any person who shall erect or continue after notice to abate a nuisance which tends to annoy the community, injure the health of the citizens in general or corrupt the public morals shall be guilty of a misdemeanor.

Section 33-103 Summary Abatement

Nothing contained in the foregoing section shall prevent the Mayor and City Council 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.

Section 33-104 Unfit Buildings or Structures

If there exists in a municipality of this state dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety, and welfare of the people of this city; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures, power is conferred upon such municipality to exercise its police power to repair, close, or demolish the dwellings, buildings, or structures.

(See O.C.G.A. § 41-2-7)

NOTE: The municipality must comply with the regulations found in O.C.G.A. §§ 41-2-9 through 41-2-17 relating to unfit buildings or structures.

1. The City Council finds that dwelling, building or structure conditions of the character described in O.C.G.A. Section 41-2-7 exist within the corporate limits of Danielsville. The construction or maintenance of any dwelling, building, structure, or property in violation of this ordinance or in violation of Chapter 36 of the Danielsville Code of Ordinances, State Minimum Standard Construction Codes, shall constitute a public nuisance. *(Ref Ordinance No. 131)*

Section 33-105 Public Health Hazard or General Nuisance on Private Property

All provisions of this section shall be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance to those persons residing in the vicinity. A finding by any governmental health department, health officer, or building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this section and O.C.G.A. §§ 41-2-8 through 41-2-17.

Section 33-106 Determination of Nuisance Subject to Abatement

The public officer appointed hereunder may determine, under existing conditions, if a dwelling, building, or structure constitutes a nuisance subject to abatement as set forth in O.C.G.A. § 41-2-10(a) and (b).

Section 33-107 Powers of Public Officer

The public officer appointed hereunder may exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of Official Code of Georgia Sections 41-2-7 through 41-2-17, including the following powers in addition to others granted in Code Sections 41-2-7 through 41-2-10 and Code Sections 41-2-12 through 41-2-17:

1. To investigate the dwelling conditions in the municipality in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
2. To administer oaths and affirmations, to examine witnesses, and to receive evidence;
3. To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
4. To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the ordinances; and
5. To delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

Section 33-108 Procedures Relating to Unfit Buildings or Structures

For any proceedings relating to the dwellings, buildings, or structures within the City which are unfit for human habitation or commercial, industrial, or business uses and not in compliance with applicable codes, which are vacant and being used in connection with the commission of drug crimes, or which constitute an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the following provisions shall apply:

1. It is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in

conformance with applicable codes in force within the jurisdiction, or 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 of such codes or ordinances;

2. The City Clerk or Building Inspector, or any other such public officer designated or appointed by ordinance, shall exercise the powers prescribed by this ordinance;
3. Whenever a request is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling, building, structure, or property is unfit for human habitation or for 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 public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure or property is unfit for human habitation or for 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 public officer may issue a complaint in rem against the lot, tract, or parcel of real property on 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 on the owner and parties in interest in such dwelling, building, or structure. The 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 the public officer to abate the alleged nuisance. The summons shall notify the owner and parties in interest that a hearing will be held before the municipal court, at a date and time certain and at a place within the municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. 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 offer testimony at the time and place fixed for hearing;
4. 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:
 - 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 the order; to repair, alter, or 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 in order to bring it into full compliance with applicable codes relevant to the cited violations 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 the order, to demolish and remove such dwelling, building or structure and all debris from the property.

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 on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered.

Income and financial status of the owner shall not be 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 the jurisdiction;

5. If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. The public officer shall cause to be posted on the main entrance of the 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 public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful.";
6. If the 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 application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials and;
7. The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the City or the tax commissioner, 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.
8. The lien provided for in paragraph 33-108.7 of this ordinance 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 in the county where the real property is located and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. 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 county tax commissioner. It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on 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 collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48; provided, however that the limitation of Code Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the governing authority of the municipality whose ordinance is being enforced. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad *valorem* taxes.
9. Where the remittance is to a municipality, the tax commissioner shall collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. Title 41, Chapter 2 unless such costs are waived by resolution of the county governing authority. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
10. The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality 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.
11. Review of a court order requiring the repair, alteration, improvement, or demolition of a

dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29. (Ref Ordinance No.131)

Section 33-109 Foreclosure or Vacant Property Registration (Ref Ordinance No. 226)

Purpose and Findings:

- a) Within the city limits, there are buildings and structures that are vacant and pose a danger to the citizens of the city. Vacant structures are vulnerable to break-ins, criminal activity, destruction, fire, accidents, looting, and other unsafe activities that are injurious to the health, safety and welfare of persons who come on or near the property.
- b) In addition, vacant property and structures can adversely affect the aesthetic and economic attributes of communities. Vacant properties and structures can attract and/or cause blight and other harmful effects to surrounding properties through lack of adequate maintenance and security.
- c) City officials often have difficulty locating the party responsible for the condition of vacant properties and structures, so the city concludes that it is in the best interest of its citizens to impose registration requirements on such properties located within the city.
- d) Pursuant to the authority granted to the city by its Charter, the code of Georgia, and its general police powers, the city has determined that it is in the best interest of its citizens and residents to impose requirements for the registration of vacant properties and structures within the city and to ensure such properties are made safe and secure so as to protect the citizens of Danielsville, Georgia.

Section 33-109.1 Definitions.

The following terms shall have the meanings set out herein:

- (1) *Agent* means an individual with a place of business in the state of Georgia at which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner.
- (2) *City* means the City of Danielsville, Georgia.
- (3) *City Clerk* means the officer duly appointed by the governing authority of the city to enforce the ordinances of the city and who is authorized by this article to exercise the powers prescribed by this article or any agent of such officer.
- (4) *Days* means consecutive calendar days.
- (5) *Foreclosed real property* means improved or unimproved real property and is held pursuant to a judicial or non-judicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.
- (6) *Foreclosure* means the process under O.C.G.A. tit. 44, art. VII, whereby a holder of a mortgage enforces its secured rights in property and takes title to the property to satisfy the underlying mortgage debt.
- (7) *Multi-unit structure* means a building or structure that contains more than one housing unit; or where two or more businesses exist that operates under one certificate of occupancy.
- (8) *Municipal court* means the Municipal Court of the City of Danielsville.
- (9) *Owner* means any person having a legal or equitable interest in the property, recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate or any such person, and the executor or administrator of the estate of such person if ordered to take possession of the property by a court.
- (10) *Person* means any person, agent, operator, firm, partnership, corporation or trust.
- (11) *Property* means any residential or commercial real property or portion thereof, situated in the city limits of Danielsville, including any buildings or structures located thereon, regardless of condition.
- (12) *Street address* means the physical street or route address. Such term shall not mean or include a post office box.

(13) *Structure* means any building, dwelling, or other improvement or part thereof, used and occupied for residential, commercial, industrial or other uses, or intended to be so used, including any outhouses and appurtenances belonging thereto and usually enjoyed therewith.

(14) *Vacant structure* means a structure that:

(A) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and has no evidence of utility usage within the past 60 days; or

(B) Is partially constructed or incomplete, without a valid building permit.

Such term shall not include a structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage.

Section 33-109.2 Registration of Foreclosed or Vacant Property or Structure.

Unless exempt under Section 33-108.3, all foreclosed or vacant property or structures located within the city shall be registered with the city clerk's office. Registration requires submission of a completed registration application and receipt of all necessary fees.

(1) Any owner of foreclosed real property or vacant real property, including real property which is also residential rental property whose ownership predates the effective date of the ordinance from which this division derives, shall register the vacant property or structure with the city clerk's office within 30 days after the city provides written notice of the existence of a vacant property or structure.

(2) Any owner of foreclosed real property or vacant real property shall register no sooner than 90 but within 120 days of the effective date of the transfer of title, whether such transfer is by sale, gift, foreclosure, deed in lieu of foreclosure, or other transfer, whether voluntary or involuntary, the new owner shall register the property with the city clerk's office.

(3) The registration requirements of this division shall be satisfied by providing the city with the following information on an authorized registration application form provided by the city:

- a) Name, physical street address (P.O. boxes are insufficient), mailing address, e-mail address, and telephone number of the owner. For purposes of this section, the following requirements shall apply dependent on the nature of the owner:
 1. If the owner is a *corporation*, the registration application shall provide the name and business address of an agent who may be served on behalf of the corporation;
 2. If an *estate*, the name and address of the executor or administrator of the estate;
 3. If a *trust*, the name and address of the trustee;
 4. If a *partnership*, the name(s) and residence address(es) of the general partner(s);
 5. If an *individual person*, the name and residence address of that individual person.
- b) If the property is managed, maintained or operated by a third party property management company or agent, the name, street address, mailing address, e-mail address, facsimile number, and telephone number of the agent or representative of the owner who is responsible for the security, maintenance and marketing of the property;
- c) Street address of the structure;
- d) Tax parcel identification number of the property on which the structure is situated;
- e) Transfer date of the instrument conveying the real property to the owner;
- f) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the property to the owner; and
- g) An annual administrative registration fee in the amount set forth in section 33-108.7 shall be paid to the City of Danielsville at the time of registration. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due. Registration fees will not be prorated.

(4) Requirement to Update Information.

Any owner that has registered a property under this chapter must report any change of information contained in the registration application to the city within 30 days of the change. Such notice shall include the name and address of any buyer or transferee of the property. Failure to report any change in such required information within 30 days shall be subject to penalties as provided in Section 33-108.5.

Section 33-109.3 Applicability/Exemptions.

The requirements of this section shall be applicable to each owner of property in the city limits which constitutes a vacant or foreclosed real property, unless one of the following exemptions applies.

(1) Subject to Active Permit.

(a) The structure is the subject of an active building permit for repair, rehabilitation or demolition; **and**

(b) The owner is proceeding diligently in good faith to complete the repair, rehabilitation or demolition.

(2) Exemption of Foreclosed Property.

Any transferee who acquires any real property by foreclosure under power of sale pursuant to the OCGA § 44-14-160 or pursuant to a deed in lieu of foreclosure **and**

(a) The deed under power of sale or deed in lieu of foreclosure contains the information specified in Section 33-108.2 (3) of this Chapter; **and**

(b) The deed is filed with the clerk of the superior court within 60 days of the transfer; **and**

(c) Proof of the following is provided to the city clerk's office:

(i) filing date stamp or a receipt showing payment of the applicable filing fees; and

(ii) The entire deed under power of sale or entire deed in lieu of foreclosure.

Section 33-109.4 Renewal of Registration.

Structures subject to this chapter shall remain under the annual registration requirement and the security and maintenance standards of this section as long as they remain vacant. This registration must be renewed and the registration fee paid at the end of each year if the property or structure is still vacant.

Section 33-109.5 Penalties.

Should the property owner fail to register a foreclosed or vacant property or structure; or fail to update or renew a registration, the city clerk's office shall notify the Danielsville Police Chief who may issue a citation and summons setting a hearing in municipal court. All persons found guilty may be fined up to \$1,000.00 per occurrence per OCGA § 44-14-14.

Section 33-109.6 Application for Removal from Registry.

A real property owner, or the agent of such owner, may apply to remove a property from the city foreclosure or vacant property registry at such time as the property no longer constitutes a vacant or foreclosed property. Such application may be submitted to the city clerk's office. The city clerk shall grant or deny such application within 30 days. If no determination is made within 30 days, the application shall be deemed granted.

Section 33-109.7 Fee Structure.

An annual administrative registration fee shall be paid to the City of Danielsville at the time of registration. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due. Registration fees will not be prorated.

(1) The city is authorized to collect fees to offset the cost of reviewing and approving the registration application and maintaining and operating the Foreclosure or Vacant Property Registry. The registration fee for each property is \$ 100.00 as set forth in OCGA § 44-14-14.

(2) When a currently registered vacant property is transferred to a new owner, no additional registration fee shall be due for the remainder of the calendar year for which the registration is current **if** the updated registration is submitted to the City within **30 days of the transfer**.

Section 33-109.8 **Administrative Procedures/Appeal.**

Any person aggrieved by the refusal of the city clerk to approve an application for removal from the foreclosure or vacant property registry or by other enforcement of this Chapter may appeal the denial or other determination by filing with the Danielsville City Council, within ten business days after the date of the denial or other determination, a written notice of the appeal setting forth the grounds therefore. The city council shall act upon the appeal at its next scheduled Regular Business Meeting after its receipt by either affirming the decision of the city clerk or overturning the decision of the city clerk, with or without conditions. Within thirty days after the city council's written decision, the person may appeal the decision to the municipal court, subject to applicable jurisdictional requirements.

Section 33-200 **Public Nuisances** *(Ref Ordinance No. 164)*

State Law Reference: County board of health may maintain action to abate public nuisance injurious to public health, safety or comfort. O.C.G.A. 31-5-9; nuisances generally O.C.G.A. 41- 1-1 et seq.; abatement of nuisances generally, O.C.G.A 41-2-1 et seq.

DIVISION 1 **PUBLIC NUISANCES, IN GENERAL**

Section 33-201 **Conditions constituting nuisance**

The following conditions may be declared to be nuisance 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 city;
3. The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the city;
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 pools and clubhouse areas;
8. All walls, trees, and buildings 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. It shall be unlawful to allow shrubbery or tree limbs on private property to protrude or hang into the public rights-of-way so as to obstruct the safe passage of pedestrians or motor vehicles. This section shall not apply to the removal of fallen trees, dead trees, shrubbery, bushes, etc. on private property where such do not protrude into the pedestrian/motor vehicle passageway;
13. Any other condition constituting a nuisance under state law.

State Law references-Abatement of hazard from abandoned well or hole. O.C.G.A 44-4-14

Section 33-202 Complaint of Nuisance

A. Any official or inhabitant of the city may direct a complaint of nuisance in writing 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 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 inspector, and the city clerk may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

Section 33-203 Abatement by City

A. In any case where the owner, 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 cost shall be billed against the owner, agent or tenant for collection as for city revenues.

B. Other city departments shall assist the chief of police as is necessary in abating nuisances hereunder.

Section 33-204 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.

Section 33-205 Maintaining Nuisance an Offense

It is hereby declared 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. (Code 1979, 15-3005)

Section 33-206 Noisome odors prohibited

It shall be unlawful for any owner or individual in control of any property within the boundaries of the city to:

1. Allow the accumulation of animal body waste

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 city.

DIVISION 2 PUBLIC NUISANCES, WEEDS AND DEBRIS

Section 33-207 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 lot is measured and set apart for individual or private use or occupancy, according to the public records of the Madison County Tax Assessors Office and deed records of Madison County.

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

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

Occupied, for purposes of this division, shall mean any lot of land upon which has been constructed a residence, commercial establishment or any building used for similar purposes.

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.

Section 33-208 Weeds, Debris; Prohibition; Exception

It shall be unlawful for the occupant of any occupied lot of land or premises in the city, or the owner of any unoccupied lot of land or premises in the city, 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 land located more than one hundred (100) feet from any building on an occupied lot.

Section 33-209 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 city in violation of section 33-208 of this

division, it shall be the duty of the code enforcement officer or city clerk, or his or her designee, 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 actions 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 city, with no agent or representative in the city, 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 Code. 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.

C. When the owner of an unoccupied lot cannot be located by the city official after due diligence, the official shall cause such notice to be published once a week for two (2) consecutive weeks in the news publication of general distribution in the county, prior to taking any steps to have such objectionable growths or accumulations removed.

Section 33-210 Compliant, Trial, Order, Failure to Comply, Assessment, Collection.

A. When it becomes necessary to summons an owner or occupant of lands subject to the provision of this division, said summons shall be in the form of a written compliant 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 the facts, and pass such order as it deems 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 a misdemeanor offense and shall subject the person to prosecution and penalties as provided for in this Code, as follows:

1. Fines, not to exceed five hundred dollars (\$500.00) per offense;
2. Work on the streets or public works, not to exceed sixty(60) days;
3. Imprisonment, not to exceed fifty (50) days; 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 provisions of the order, the Chief of Police, city clerk, or director of public works, or his or her designee, 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 cost shall constitute a lien against the person or property and collected pursuant to law and this code.

Section 33-300 Abandoned Vehicles (Ref Ordinance No. 164)

Section 33-301 Unlawful to Abandon Vehicle

It shall be unlawful to abandon any vehicle of any type within the city, nor shall any vehicle be left at any place within the city for such time and under such circumstances as to cause the vehicle reasonably to

appear to have been abandoned.

Section 33-302 Leaving Wrecked, Non-Operating Vehicle on Streets Prohibited.

It shall be unlawful to leave any partially dismantled, non-operating, wrecked or junked vehicle on any street, lane or highway within the city.

State law references- Abandoned automobiles as solid waste, O.C.G.A authority to provide by ordinance for removal and disposal of junked motor vehicles, O.S.G.A, 36-60-4; when police officers may remove vehicles, O.C.G.A. 40-60-206; abandoned motor vehicles, O.C.G.A 40-1-1 et seq.; removal of improperly parked cars, O.C.G.A 44-1-13

Section 33-303 Keeping, Storage of Nonoperating Vehicles.

It shall be unlawful for any person in charge or control of any property within the city whether as owner, tenant, occupant, or agent thereof, to permit or allow any partially dismantled, non-operating, wrecked , junked or discarded vehicle of any kind or character to remain on the property within the city longer than fifteen (15) days unless the vehicle is stored in an enclosed building or located on the premises of a business enterprise operated in a lawful place or manner, when necessary to the operation of the business enterprise.

Section 33-304 Removal Procedures.

When any vehicle is thus abandoned, stored, parked or left on any vacant lot, property, or premises within the city for a period of more than fifteen (15) days, notice shall be served personally by the police department, or other authorized official designated by the mayor, to the owner or person in charge of the property or premises if occupied, or if unoccupied by certified U.S. mail to the owner or person in charge of the property or premises, with an additional notice posted on the vehicle to remove, store, or dispose of the vehicle within ten (10) days from the date of notice. The notice shall set forth the fact that the vehicle is abandoned, stored or parked in violation of this chapter and that upon failure to remove, properly store, house or otherwise dispose of such vehicle, that it will be removed, sold or disposed of by the city police department and that any proceeds arising from the sale thereof will be applied first to payment of expenses incurred in connection with the removal and sale of the vehicle and any remaining balance paid to the owner thereof.

Section 33-305 Authority of City to Remove, Impound.

Upon violation of any provision of this chapter, the police department or other appropriate official designated by the mayor shall be authorized to have any vehicle thus abandoned on the streets or lanes of the city removed, impounded and stored immediately pending the sale or other disposition thereof as provided in this article.

Section 33-306 Advertisements, Sale of Impounded Vehicles.

Upon failure of the owner to claim the vehicle within thirty (30) days after it has been impounded by the police department or other authorized official, it shall be advertised and sold by the city. The advertisement shall be published on three (3) consecutive weeks in the newspaper in which official city notices are published and shall describe and identify the vehicle to be sold, the fact that it has been impounded by the police department as an abandoned vehicle and will be sold at the place where stored to the highest bidder for cash on a date certain ten (10) days after the publication of the last notice, or as provided by law, unless the vehicle shall have been claimed by the owner and all costs incurred in connection with the removal, storage and advertisement thereof are paid prior thereto.

Section 33-307 Removal of Vehicle from Streets; Redemption by Owner

Any vehicle removed from the streets or lanes of the city pursuant to the provision of this article shall be similarly posted with the notice as provided in this article and a copy thereof sent by certified mail to the owner of the vehicle if known or capable of ascertainment. Any owner claiming a vehicle removed and stored prior to the disposition thereof by the city officials shall present proof of ownership and pay all charges and costs incurred in connection with removal and storage thereof before the vehicle shall be returned to owner.

Section 33-308

Use of Government Property for the Purpose of Commercial Activity (

(ie. Yard Sales, Automobiles, Etc) (Ref Ordinance No. 211)

(a). It shall be unlawful to engage in commercial activity in or on any of the government owned, public parking lots in the vicinity of the Old Madison County Courthouse, including, but not limited to those parking lots located in each quadrant of the Old Courthouse Square or the public parking lot and space located between Danielsville City Hall and U.S. Highway 29. Commercial activity shall include, but not be limited to, sale of new and/or used merchandise; new and/or used clothing; new and/or used household goods or furniture; animals; automobiles or other motorized vehicles; equipment, or food. Yard sales or flea market type sales shall be unlawful.

(b). Non-profit groups located in Madison County may apply to the Mayor and Council to conduct commercial activity (ie. yard sale) on the parking lot between City Hall and U.S. 29 Highway. The application for the permit must be filed with the City Clerk at least thirty (30) days before the date of the event. The application must include the name and primary place of business of the non-profit organization; proof that the organization is registered as a non-profit organization with the Georgia Secretary of State's Office; the name, address and phone number of the person submitting the application; and a statement of the intent of the non-profit organization as to how any profits from the event will be used for charitable purposes. No non-profit shall conduct more than one (1) fund raising activity on the lot within a twelve (12) month period. The application must be approved by the Clerk at least fifteen (15) days before the event or the event shall not be held or conducted.

(c) A violation of this ordinance is punishable by a fine of up to One Thousand Dollars (\$1,000) per violation.