

## ORDINANCE

An Ordinance amending Chapter 18 of the Code of Ordinances of Franklin County, Georgia regarding nuisances; to provide for definitions and conditions constituting nuisances; to provide for penalties therefor; to provide for related matters; for the repeal of conflicting ordinances; and for other purposes.

Be it ordained by the Chairman and Commissioners of the County of Franklin:

### Section 1.

The Ordinance adopting provisions regarding to nuisances as set forth in Exhibit "A" attached hereto is hereby adopted.

### Section 2.

All ordinances in conflict with this ordinance are hereby repealed.

### Section 3.

This ordinance shall become effective on the 4<sup>th</sup> day of JUNE, 2002.

ORDAINED this 3<sup>rd</sup> day of June, 2002 by the Chairman and Commissioners of the County of Franklin, Georgia.

Samuel D. Gresh  
Chairman

Marie M. Whitworth  
Commissioner

Harold R. Adams Jr.  
Commissioner

Ray E. Moore  
Commissioner

Ray Martin  
Commissioner

Attest:

Lauren Hilley  
County Clerk

## ARTICLE I. NUISANCES

### Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Junk* means old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but junk shall not include materials or objects accumulated by a person as by-products, waster, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.

*County Marshal* means a sworn Georgia peace officer to investigate and enforce County ordinances and state criminal codes. The Marshal is considered as a quasi-judicial officer as authorized per Superior Court.

### Sec. 18-2. Penalty.

Any person who fails to abate a nuisance declared by order of the court within the time permitted in the order shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-12.

### Sec. 18-3. Conditions constituting nuisance.

The following conditions may be declared to be nuisances when any one 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 county.
- (3) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the county.
- (4) The pollution of public water.
- (5) Maintaining a dangerous or diseased animal or fowl.

- (6) Obstruction of a public street, highway or sidewalk.
- (7) All walls, trees and buildings that may endanger persons or property.
- (8) 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 the activities.
- (9) Unused iceboxes, refrigerators and the like, unless the doors, latches or locks thereof are removed, and unused, abandoned or discarded containers with a capacity of at least 1 1/2 cubic feet.
- (10) Use, by the owner or occupant of a residential building, structure or property or the premises of such residential property for the open storage of any junked motor vehicle, glass, building material, building rubbish or similar items. For the purpose of this subsection, "junked motor vehicle" is defined as a motor vehicle that is in a state of disrepair and incapable of being moved under its own power, as determined initially by the County Marshal or his designee.
- (11) Any one or more of the following conditions within the county, which shall be and is hereby declared a nuisance:
  - a. Obstruction of any public watercourse or waterway.
  - b. Pollution of any public watercourse or waterway.
  - c. Uncovered piles of garbage or refuse of any kind.
  - d. Buried garbage or refuse of any kind.
  - e. Infestation by rats and vermin.
  - f. Accumulation on any property of debris, objects, materials or a condition which may constitute a health, accident or fire hazard, or which creates a blighting or deteriorating effect on the county.
- (12) Any other condition constituting a nuisance under state law.

#### **Sec. 18-4. Complaints.**

- (a) Any official or inhabitant of the county may direct a complaint of nuisance to the County Marshal, which shall investigate and may place the complaint on the magistrate court docket for a hearing upon the basis of the investigation. The court, after five days' notice to the person involved, shall hold a hearing thereon and, upon finding that a nuisance does exist, shall issue an order to the owner, agent in control 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.

**Sec. 18-5. Abatement by county.**

(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 County Marshal directing the nuisance to be abated. The County Marshal, in such case, shall keep a record of the expense and cost of abating the nuisance, and the costs shall be billed against the owner, agent or tenant for collection as for county revenues generally and shall become a lien on the property of such persons.

(b) Other county departments shall assist the County Marshal as is necessary in abating nuisances under this article.

**Sec. 18-6. Emergency conditions; summary abatement.**

Nothing contained in this article shall prevent the county commission 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.

**Sec. 18-7. Unlawful accumulations.**

(a) The word "owner", as used in this section, shall be deemed to also include any person occupying any lot or tract of land as a tenant under a lease.

(b) Whenever trash and rubbish shall accumulate on any lot or tract of land within the county, or such lot or tract of land shall be covered with an excessive growth of grass or noxious weeds, it shall be the duty of the County Marshal's office to notify the owner thereof by United States mail to clean the premises within 14 days of the date of the notice.

(c) The owner of the premises shall clean the premises within 14 days from the date of the mailing of the notice provided for in this section.

**Sec. 18-8. Accumulation of junk.**

(a) *Prohibited.* It shall be unlawful for any owner or resident of any property in the county other than a person who is a licensed junk dealer to permit to accumulate on such property any junk, as such term is defined in section 18-1 of this Code, including any discarded, dismantled, wrecked, scrapped, ruined or junked motor vehicles, or parts thereof.

(b) *Notice to remove.* It shall be the duty of the County Marshal to notify, in writing, the owner or occupant of any premises upon which junk is permitted to accumulate in violation of the provisions of this section that such material must be removed within 30 days from the date of the notice. Notice shall be by registered mail, addressed to the owner or occupant at his last known address.



(c) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner or occupant so notified to remove such junk within the designated time period, the county commission is authorized and empowered to arrange for the removal of the material by the county or by a private individual or firm through contract with the county.

**Sec. 18-9. Abandoned and/or Junk Motor Vehicles — Conditions Constituting Nuisance.**

- a. Any vehicle, whether motorized or non-motorized, to which any of the following conditions exist, shall be presumed to endanger the health, welfare and good order of the community and shall constitute a nuisance:
  1. Those vehicles which have propelling mechanism which has failed and is no longer operational.
  2. Those vehicles which have bodies and/or framework which is useless, worn out and damaged to such an extent that they are no longer fit for the use for which originally intended.
  3. Those vehicles which have become worthless and discarded and whose usefulness remains only as salvage for individual useable parts of its machinery or as scrap metal.
  4. Those vehicles which have remained in the same or approximate same location for 30 days or longer without the owner or person in possession making some repair disposition and removing such vehicle from the premises.
  5. Those vehicles which have been damaged by fire, wind or other cause so as to have become dangerous to the life, safety or the general health and welfare of the occupants of the premises or of the adjacent premises or of the people of the city.
  6. Those vehicles which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities so essential to their intended use that they are unfit for human use or are likely to cause sickness or disease, so as to work injury to the health, safety and general welfare of those living around the same.
  7. Those vehicles which have parts thereof which are so attached or detached that they may injure members of the public or property.
  8. Those vehicles which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the community.
- b. Whenever the County Marshal finds that any vehicle has one or more of the defects

set out hereinabove, or that other conditions exist which in such officer's opinion constitute a nuisance, such officer shall give written notice to the owner and the occupant of such property stating that in such officer's opinion the conditions constitute a nuisance, and such notice shall:

1. Be signed by the County Marshal;
  2. Be served upon the owner or the owner's agent, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant, if a copy thereof is sent by registered or certified mail to the addressee's last known address; or if the addressee is served with such notice by any other method authorized or required under the laws of the state;
  3. Outline the conditions complained of;
  4. Outline the remedial action deemed necessary to abate the nuisance;
  5. Specify a reasonable time which shall be allowed for taking the required remedial action;
  6. State that unless the required action is taken within the time specified, the party notified will be summoned to appear before the Magistrate Court to have determined the question whether the conditions complained of constitute a nuisance and should be abated.
- c. Should the remedial action specified in the notice provided hereinabove not be taken within the time allowed, the County Marshal shall cause the party notified to be summoned to appear before the Magistrate Court, to have determined the question whether the conditions complained of constitute a nuisance and should be abated.
- d. If, upon such hearing, the Judge of the Magistrate Court shall find that the conditions complained of constitute a nuisance, and shall order the same abated, each ten (10) days that such condition shall be maintained subsequent to the expiration of the time fixed by the Court for the same to be abated shall constitute a separate offense, punishable as hereinafter provided.

**Sec. 18-10. Unfit Buildings, Structures and Enclosures — Conditions Constituting Nuisance.**

- a. Any building, structure, enclosure, place or premises which may have one (1) or more of the following defects shall be deemed unfit for human habitation and shall constitute a nuisance:
1. Those whose interior walls or other vertical structural members list, lean or buckle to such extent that a plumb line passing through the center of gravity

falls outside of the middle third of its base;

2. Those which, exclusive of the foundation, show thirty three (33) percent or more of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing or outside walls or coverings;
3. Those which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
4. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the county;
5. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;
6. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;
7. Those having inadequate facilities for egress in case of fire or panic or having insufficient stairways, elevators, fire escapes, or other means of communication;
8. Those which have parts thereof which are so attached that they may fall or injure members of the public or damage property;
9. Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the county;
10. Those whose exterior walls stand so close to other structures as to deny the entrance of light and air to the extent that such condition is dangerous to the health, safety or general welfare of persons living therein; and
11. Those whose outside and/or inside premises are not clean, clear and free of any attractive nuisance or accumulation of dirt, junk, filth, rubbish, garbage, debris, combustible materials, excessive growth of weeds or grass, or similar conditions conducive to rodent, vermin or insect infestation or the spread of fire or disease and more particularly described in Section 18-3.

- b. Whenever the County Marshal finds that any building, structure, enclosure, place or the premises, yards, lawns, grounds, courts, and alleys thereof, or any vacant lot or land has one or more of the defects set out hereinabove, or that other conditions exist which in such officer's opinion constitute a nuisance, such officer shall give written notice to the owner and the occupant of such property stating that in such officer's opinion the conditions constitute a nuisance, and such notice shall:
1. Be signed by the County Marshal;
  2. Be served upon the owner or the owner's agent, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant, if a copy thereof is sent by registered or certified mail to the addressee's last known address; or if the addressee is served with such notice by any other method authorized or required under the laws of the state;
  3. Outline the conditions complained of;
  4. Outline the remedial action deemed necessary to abate the nuisance;
  5. Specify a reasonable time which shall be allowed for taking the required remedial action;
  6. State that unless the required action is taken within the time specified, the party notified will be summoned to appear before the Magistrate Court to have determined the question whether the conditions complained of constitute a nuisance and should be abated.
- c. Should the remedial action specified in the notice provided hereinabove not be taken within the time allowed, the County Marshal shall cause the party notified to be summoned to appear before the Magistrate Court, to have determined the question whether the conditions complained of constitute a nuisance and should be abated.
- d. If, upon such hearing, the Judge of the Magistrate Court shall find that the conditions complained of constitute a nuisance, and shall order the same abated, each ten (10) days that such condition shall be maintained subsequent to the expiration of the time fixed by the Court for the same to be abated shall constitute a separate offense, punishable as hereinafter provided.