

APPENDIX A

Article II. Nuisances, from the Code of the City of Holly Springs

ARTICLE II. NUISANCES*

***State law references:** Nuisances, O.C.G.A. § 41-1-1 et seq.; jurisdiction of municipal court or magistrate court to abate nuisance, O.C.G.A. § 41-2-5.

Sec. 34-31. 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:

Nuisance means anything that causes harm, inconvenience or damage to another, provided that the harm, 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 person; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.

Nuisance per se means an act, occupation or structure that is a nuisance at all times and under any circumstances, regardless of location or surroundings.

Private nuisance means a nuisance limited in its injurious effects to one or a few individuals.

Public nuisance means a nuisance that damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

(Code 1991, § 11-2-1)

Cross references: Definitions generally, § 1-2.

Sec. 34-32. Conditions.

The following conditions may be declared to be nuisances:

- (1) Stagnant water on premises.
- (2) Any dead or decaying matter, weeds, vegetation or any fruit, vegetable, animal or rodent upon premises that is odorous or capable of causing disease or annoyance to the inhabitants of the city.
- (3) The generation of smoke or fumes in sufficient amount to cause odor or annoyance to the inhabitants of the city.
- (4) The pollution of public water or the injection of matter into the sewage system that 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 that are detrimental or annoying to the public, including without limitation, unusual, loud disturbances in or around churches or multiple-family complexes such as loud music and other activities in swimming pool 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 those activities.
- (10) Unused iceboxes, refrigerators and the like unless the doors, latches or locks thereof are removed.
- (11) Any trees, shrubbery or other plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city.
- (12) Any other condition constituting a nuisance under state law.
- (13) The accumulation of household or domestic waste, including waste from the preparation and cooking of food, vegetable, fruit and meat scraps, ashes, cans and bottles, paper, floor sweepings, cardboard, and other such material to be disposed of from residences, businesses, churches, schools, and office buildings, or any similar places.
- (14) Tall grass in excess of 12 inches in height, weeds and bushes, other undergrowth, and trash and debris of any type upon the premises of any dwelling unit or other structure, place or vacant lot.
- (15) Packing boxes, lumber, junk, trash, salvage materials or other debris kept on property and visible from a public street.
- (16) Broken or discarded furniture, household equipment and furnishings stored on the property and visible from a public street.
- (17) Attractive nuisances dangerous to children including abandoned, broken or neglected equipment, machinery, refrigerators, freezers, and hazardous pools, ponds and excavations including abandoned wells.
- (18) Vehicle parts, or other articles of personal property which are abandoned or left in a state of partial construction or repair for an unreasonable period of time in front yards, sideyards, driveways, sidewalks or walkways and are visible from a public street.
- (19) Any premises, dwelling unit or other structure, place or vacant lot permitted to deteriorate in appearance or condition so as to be degrading to the surrounding premises.

(Code 1991, § 11-2-2; Ord. of 4-21-97, § 2; Ord. of 2-15-99(2); Ord. of 7-17-06, §§ 1, 3)

Sec. 34-33. Jurisdiction to try and abate.

The municipal court shall have full jurisdiction to try and dispose of all questions of nuisance affecting the public health or welfare, and shall also have jurisdiction to try and, in case of conviction, to punish persons failing to abate nuisances, as prescribed in section 1-12.

(Code 1991, § 11-2-3)

Sec. 34-34. Complaint of nuisance; investigation.

(a) Any official or inhabitant of the city may direct a complaint of nuisance to the police or building departments, who shall investigate. Upon investigating this complaint, should the investigator find the complaint valid and a violation(s) exists, notice shall be given to the violator(s) to abate the nuisance(s). The investigator shall grant the violator(s) time to achieve code compliance to abate the nuisance(s). Extensions of time may be

granted at the discretion of the investigator, should circumstances warrant. Should the violator(s) not comply in the time allotted, the investigator may issue a citation(s) to the violator(s) for each violation of this article present. This citation shall summon the owner, agent in control of, or tenant in possession to the municipal court. The municipal court shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order 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 and license and building inspectors shall and may also receive complaints, investigate the same, and place on the court docket such complaints in the same manner as police officers.

(Code 1991, § 11-2-4; Ord. of 7-17-06, §§ 2, 3)

Sec. 34-35. Abatement by city.

(a) If the owner, agent or tenant fails to abate a nuisance in the time specified, or if the owner, agent or tenant cannot be served with notice, the chief of police may take steps to abate the nuisance at city expense. The chief of police shall keep record of the expenses and cost of abating same; and the costs shall be billed to the owner, agent and tenant for collection.

(b) If the bill is not paid within 60 days, the amount due shall constitute a lien against the property, which shall attach to the real property when the city files its lien in the real property records of the county superior court, attaching an itemized statement of the costs of abatement. The lien shall be enforced as a tax lien, and the owner shall have the right of redemption as provided for tax liens by state law.

(c) Other city departments shall assist the chief of police as is necessary in abating nuisances under this section.

(Code 1991, § 11-2-5; Ord. of 4-21-97, § 3)

Sec. 34-36. Nuisance per se, exception; summary abatement.

Nothing contained in this article 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.

(Code 1991, § 11-2-6)

Sec. 34-37. Offense; penalty.

It is an offense for any owner, agent or tenant to maintain or allow a nuisance to exist. Each day a nuisance is continued shall constitute a separate offense.

(Code 1991, § 11-2-7)

Secs. 34-38--34-70. Reserved.