

## Chapter 16

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\***Cross References** – Health and Sanitation, ch. 20; Soil Erosion and Sedimentation Control, Section 22-391 et seq.

## Chapter 16.

### ENVIRONMENT

#### ARTICLE I. IN GENERAL

**Secs. 16-1 – 16-25. Reserved.**

#### ARTICLE II. NUISANCES\*

##### DIVISION 1. GENERALLY

#### **Sec. 16-26. Powers and Duties of Superintendent of Department of Sanitation; Investigation; Inspection**

The superintendent of the department of sanitation is hereby authorized and directed to:

- (1) Investigate the condition of private property where an accumulation of trash, junk, or filth, or a growth of grass, weeds, vines or underbrush, and other unsanitary or unsafe conditions create a public health hazard or a general nuisance to those persons residing in the vicinity.
- (2) Investigate the condition of private property where an accumulation of other debris not set forth in subsection (1) of this section, including, but not limited to, offal, animal carcasses, manure, decayed food matter, old lumber and building materials, or stagnant water, creates a public health hazard or a general nuisance to those persons residing in the vicinity.
- (3) Enter upon such private property for the purpose of making inspection; provided, however, that such entry shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, if any.
- (4) Make appropriate reports of his findings to the city manager when any investigation and inspection reasonably reveals that a public health hazard or a general nuisance to those persons residing in the vicinity exists by virtue of the conditions found.
- (5) Present evidence to the city manager at the hearing provided for in Section 16-28.  
[Code 1968, Section 12-1(a)]

#### **Sec. 16-27. Report of Nuisance or Health Hazard to City Manager.**

Whenever a request is filed with the superintendent of the department of sanitation by an public official, or by at least five residents of the municipality, charging that any private property within the corporate limits of the city constitutes a public health hazard or a general nuisance to those residing in the vicinity by virtue of the conditions existing upon the property as more fully set forth in section 16-26, or whenever it appears to the superintendent of the department of sanitation, on his own motion, that any private property located within the corporate limits of the city creates a public health hazard or a general nuisance to those persons residing in the vicinity by virtue of the conditions existing upon the property as more fully set forth in section 16-26, the superintendent of the department of sanitation shall, if his preliminary investigation disclose a basis for such charges, cause his written report of the conditions to be filed with the city manager.

[Code 1968, Section 12-1(b)]

**\*Charter Reference** – Authority to abate nuisances, Section 14.

**Cross References** – Buildings and building regulations, ch. 8, litter, section 30-26 et seq.

**State Law Reference** – Nuisances, O.C.G.A. Section 41-1-1 et seq

### **Sec. 16-28. Notice of Hearing served to Property Owner.**

(a) If, upon receipt of a report as provided in Section 16-27, the city manager finds reasonable cause that such conditions exist, the city manager shall cause written notice specifying such conditions to be served upon the owner of the property, any person in possession thereof, and upon each party in interest, affixing a date not less than ten nor more than 30 days from the date of service of such notice for a hearing on the question before the city manager. Such notice shall further provide the owner of the property, any person in possession thereof, and any parties in interest the right to file an answer to the complaint and to appear in person, or by an attorney, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling, but the city manager shall entertain such evidence as shall lead to substantial justice in the particular case.

(b) The complaint and the notice of hearing shall, in all cases, be served upon the owner of the property, upon each person in possession of such property, and upon each party in interest, and a return of service signed by the superintendent of the department of sanitation, or his duly designated agent, or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint and notice of hearing was served upon each owner, each person in possession of the property, and upon each party in interest, personally or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person who owns the property, is in possession thereof, or is a party in interest.

(c) If any of the owners and parties in interest shall reside out of the municipality, service shall be perfected by causing a copy of such complaint or orders to be served upon such party by the sheriff or any lawful deputy of the county of the residence of such party, or such service may be made by any citizen, and the return of such sheriff or lawful deputy or the affidavit of such citizen, that such party was served either personally or by leaving a copy of the complaint and order at the residence, shall be conclusive as to such service.

(d) Nonresidents of this state shall be served by publishing the notice once a week for two successive weeks in a newspaper printed and published in the city or, in the absence of such newspaper, in one printed and published in the county and circulated in the city in which the dwellings, buildings, or structures are located. A copy of such complaint or orders shall be posted 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.

(e) If either the owner or any party in interest is a minor or an insane person or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside the city or is a nonresident, he shall be served as a nonresident as provided for in subsection (d) of this section. or as set forth in this subsection. If such minor or insane person or person laboring under disabilities has no guardian or personal representative, or if such minor or insane person, or if such minor or insane person lives outside the municipality or is a nonresident, service shall be perfected by serving such minor or insane person personally or by leaving a copy at the place of his residence which shall be sufficient evidence as to the service of such person. In the case of other persons who live outside

of the city or are nonresidents, service shall be perfected by serving the judge of the probate court of the county wherein such property is located who shall stand in the place of, and protect the rights of, such minor or insane persons, or appoint a guardian ad litem for such person.

(f) If the whereabouts of any owner or party in interest is unknown and the owner or party of interest cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the service of such complaint or order upon such persons shall be made as provided for nonresidents in subsection (d) of this section, or service may be perfected upon any person holding himself out as an agent for the property involved.

(g) A copy of such complaint or orders shall also be filed in the proper office for the filing of lis pendens notice in the county in which the dwelling, building, or structure is located, and such filing of the complaint or its orders shall have the same force and effect as other lis pendens notices provided by law. Any such complaint or orders or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the city clerk.  
[Code 1968, Section 12-1(c)]

**Sec. 16-29. Determination of remedial action; abatement.**

If, after such notice and hearing as provided in this article, the city manager determines that the property is in such a condition as to create a public health hazard or a general nuisance to those residing the vicinity, the city manager shall determine the remedial action deemed necessary to abate such public health hazard or general nuisance and to comply with the minimum standards set forth in this Code. The city manager shall state the findings in writing in support of the decision and shall issue and cause to be served upon the property owner, any person in possession thereof, and any party in interest, an order to bring the property in conformity with the minimum standards set forth in this Code within 30 days.  
([Code 1968, Section 12-1(d)]

**Sec. 16-30. Abatement by City; Lien.**

(a) If the owner of the property should fail to comply with the order of the city manager to abate the public health hazard or general nuisance to those residing in the vicinity, the superintendent of the department of sanitation shall cause work to be done necessary to restore the property to a safe, clean and inoffensive condition. The cost of such shall be a lien against the real property upon which such cost was incurred. Such lien shall attach to the real property upon the payment of all costs incurred in connection with the abatement of the public health hazard or general nuisance to those residing in the vicinity, and an itemized statement of the total sum of the costs shall be filed in the office of the city clerk on a lien docket maintained for such purposes.

(b) The marshal of the city shall enforce the collection of any amount due on such lien for costs incurred in connection with the abatement of the public health hazard or general nuisance to those residing in the vicinity, in the same manner in which tax liens are enforceable.  
[Code 1968, Section 12-1(e)]

**Sec. 16-31. Limitations.**

Nothing contained in this article shall be construed as preventing the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain

under the laws of the state, nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state.  
[Code 1968, Section 12-1(f)]

**Sec. 16-32. Additional Remedies of City.**

Nothing contained in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.  
[Code 1968, Section 12-1(g)]

**Secs. 16-333 – 16-55. Reserved.**

**DIVISION 2. JUNKED AND ABANDONED MOTOR VEHICLES\***

**Sec. 16-56. Purpose.**

It is hereby declared to be the purpose of this article to protect the public health, safety and welfare of the residents of the city by eliminating the storage or accumulation of junk which would otherwise be harmful to and dangerous to the public health, safety and welfare of the residents of the city and which would further constitute an unsightly nuisance.  
(Code 1968, Section 12-31)

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**\*State Law References** – Authority to provide by ordinance for removal and disposal of junked vehicles, O. C. G. A. Section 36-60-4; when police officers may remove vehicles, O.C.G.A. Section 40-6-206; abandoned motor vehicles, O.C.G.A. Section 40-11-1 et seq.

**Sec. 16-57. 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:

*Abandoned Motor Vehicle* means a motor vehicle or trailer:

- (1) Which is left unattended on a public street, road or highway, or other public property for a period of at least ten days and when it reasonably appears to the police department that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle; or
- (2) Which has been left unattended on private property for a period of not less than 60 days without anyone having made claim thereto.

Any unregistered vehicle on premises not owned or occupied by the owner of the vehicle shall be deemed to have been abandoned.

*Inoperable Condition* means a condition that prevents its use for the purpose for which it is originally manufactured.

*Junk* means any mechanized equipment, machinery appliance, scrap metal, or other scrap material which has been located on the property for a period of 30 days or longer in an inoperable condition, other than motor vehicles or trailers.

*Junk motor vehicle* means a motor vehicle or trailer, including parts thereof, which has been discarded, dismantled, wrecked, scrapped, ruined or junked, including an unserviceable motor vehicle which constitutes a health hazard or unsightly nuisance.

*Owner* means the owner, lessor, lessee, security interest holders, and all lien holders as shown on records of the department of revenue, and, as used in this article, may apply to any person.

(Code 1968, Section 12-32)

**Cross Reference** – Definitions generally, Section 1-2.

**Sec. 16-58. Storage; License Required.**

No person shall deposit, store, keep or permit to be deposited, stored or kept in the open upon public or private property a junked motor vehicle, or parts thereof, unless a license for storage has been obtained from the proper authority, pursuant to the license ordinance and zoning laws of the city.

(Code 1968, Section 12-33)

**Sec. 16-59. Removal Required after Written Notice.**

The owner of any junked motor vehicle shall remove the vehicle within seven days after being ordered to do so in writing by the police department, or by the owner, lessee, or occupant of the premises where the vehicle shall be found. If the owner of the vehicle is not known or cannot be readily ascertained, written notice may be given by attaching the notice to the vehicle.

(Code 1968, Section 12-34)

**Sec. 16-60. Failure to remove; unattended motor vehicles.**

(a) Upon failure of the owner of a junked motor vehicle to remove the vehicle within the time limit described in section 16-59, the police department shall forthwith cause the vehicle to be removed from the premises to a garage or other place of safety.

(b) Any police officer who finds a motor vehicle unattended on a public street, road or highway, or other public property for a period of ten days, shall be authorized to cause such motor vehicle to be removed, if such police officer reasonably believes that the person who left such motor vehicle unattended does not intend to return and remove such vehicle.

(c) Any police officer who finds a motor vehicle which has been left unattended on a public street, road or highway, or other public property shall be authorized immediately to cause such motor vehicle to be removed to a garage or place of safety when such vehicle causes a threat to public health or safety.

(Code 1968, Section 12-35)

**Sec. 16-61. Lien for Removal or Storage.**

Any person who removes or stores any motor vehicle, pursuant to this article, shall have a lien on such vehicle for the reasonable fees connected with such removal or storage, provided such person has complied with the requirements of O.C.G.A. Section 40-11-1 et seq.

(Code 1968, Section 12-36)

**Sec. 16-62. Junk on Premises; Notification by Building Inspector.**

Upon receipt of notice in writing from the building inspector for the city, the owner or person in possession of any premises upon which is located any junk shall, within 30 days, either repair such junk and place it in operable condition, cause such to be removed from the premises and disposed of in a manner so as not to constitute a violation of any other ordinances of the city, and so as not to constitute a nuisance, or submit to the building inspector a plan satisfactory to that official for placing such junk in an operable condition within a time deemed by the building inspector to be reasonable under the circumstances.

(Code 1968, Section 12-37)

**Sec. 16-63. Failure to Comply; Penalty.**

Any person failing to comply with the provisions of Section 16-62 shall be tried in the municipal court and, upon conviction, shall be punished in accordance with Section 1-9.

(Code 1968, Section 12-38)

**Sec. 16-64. Violation and Abatement.**

Any junk remaining on premises in violation of the terms of this article, after the procedures prescribed in this article have been followed, is hereby declared to be harmful and dangerous to the public health, safety and welfare and is hereby declared to be a nuisance. The abatement of such junk shall be accomplished by the building inspector, and the cost of the removal shall be assessed against the owner or person in possession of the premises, and the city manager of the city shall be authorized and directed to issue an execution against the owner or person in possession of the premises for the amount expended in the removal of the junk. In furtherance of the authority and purposes contained in this article, the city council shall have authority to contract with private individuals and firms for the removal of such junk if the junk remains on the premises in violation of the terms of this article after the procedures prescribed in this article have been followed.

(Code 1968, Section 12-39)

**Sec. 16-65. Exemptions.**

Nothing contained within this article shall be deemed to apply to any motor vehicle or parts thereof which shall be located within the confines of any junkyard complying with the laws of this state relating to the licensing and regulating of motor vehicle junkyards.

(Code 1968, Section 12-40)

**Sec. 16-66 – 16-74. Reserved.**

**DIVISION 3. TIRE STORAGE**

**Sec. 16-75. Purpose.**

(a) It is hereby declared to be the purpose of this section to protect the public health, safety and welfare of the residents of the city by regulating the storage and/or the accumulation of tires which

would otherwise be harmful to and dangerous to the public health, safety and welfare of the residents of the city and which would further constitute an unsightly nuisance.  
(Ord. No. 2126, Section 1, 5-3-04)

**Sec. 16-76. Regulations for Tire Storage.**

(a) All persons, organizations, or businesses desiring to store old or damaged tires shall make application annually for a tire storage permit from the office of the city clerk. The application shall include information necessary to determine if the applicant can meet the regulations enumerated in this section. A fee may be set by the council from time to time.

(b) No person, organization, or businesses shall deposit, store, keep or permit to be deposited, stored or kept in the open upon public or private property more than 500 old or damaged tires at any one time. The number of old or damaged tires stored upon a property may be less than 500 if the city determines that the property is of insufficient size for adequate storage ensuring the health and welfare of the residents of the corporate limits.

(c) Old or damaged tires should at a minimum be maintained out of public view and in a manner that does not create an attractive nuisance to children or create health hazards for the general public. If necessary a business may be required to place old or damaged tires within a building or fence for storage. The enclosed areas shall be constructed of materials that sufficiently screen the tires from public view and/or rainfall.

(d) Old or damaged tires should be disposed of and removed from the property at a time not to exceed 27 days from receipt, purchase, or exchange. The individual, organization, or business shall be responsible for maintaining sufficient records showing date received, purchased, or exchanged. The intent of this paragraph is to ensure that tires are disposed of in a timely manner.

(e) Individuals, organizations, or business owners shall be responsible in accordance with state law for maintaining a record of the number of tires disposed of, including when and where they were shipped.

(f) Used tires for resale shall be stored within a building.  
(Ord. No. 2126, Section 1, 5-3-04)