

ARTICLE IV. - NUISANCES

DIVISION 1. - GENERALLY

Sec. 36-196. - 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:

Closing means causing a dwelling, building, or structure to be vacated, placarded, and secured against unauthorized entry.

Drug crime means an act which is a violation of the state Controlled Substances Act, O.C.G.A. §§ 16-13-1 et seq., 16-13-20 et seq.

Dwelling, building, or structure.

- (1) The term "dwelling, building, or structure" means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design.
- (2) The term "dwelling, building, or structure" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, or harvesting of crops, livestock, or poultry.

Inspector means the building and health inspector or the code enforcement officer of the city.

Nuisance means 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. Nuisances include, but are not limited to, any act or omission to act to perform a duty, or the suffering or permitting of a condition or thing to exist, which act, omission, condition or thing:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
- (4) Is offensive to the senses;
- (5) In any way renders others persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Nuisance per se means an act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings, or such nuisance as declared to be a nuisance per se herein.

Occupant means any person over eight years of age living, sleeping, cooking, or eating in, or having actual possession of, a dwelling.

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest means:

- (1) Persons in possession of said property and premises;
- (2) Persons having of record in the county in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot,

tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the state bar;

- (3) Persons having paid an occupational tax to the city for a location or office at the subject building or structure; or
- (4) Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

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

Public authority means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

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

Public officer means the officer, or any agent of such officer, who is authorized by O.C.G.A. § 41-2-1 et seq. to exercise the powers prescribed by this article.

Public records means deeds, deeds of trust, security deeds and other instruments of record in the office of clerk, county superior court, or any and all other pertinent records used to determine what persons could have any interest in the real property in question.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Standard codes means the laws, regulations and minimum standards adopted by the city which promote the safety and welfare to the public with respect to the construction and maintenance of buildings and dwellings within the city as presently published or as hereafter may be from time to time amended, modified or otherwise changed.

(Ord. of 1-8-1990, § I)

Sec. 36-197. - Enforcement.

The public officer shall be responsible for the administration and enforcement of this article, and said officer shall be the special projects coordinator of the city. In the event that the office of the special projects coordinator shall be vacant, then and in that event the code enforcement officer or the building inspector of the city shall serve as said public officer.

(Ord. of 1-8-1990, § VI; Ord. of 2-10-1997)

Sec. 36-198. - Declaration of nuisance.

It shall be unlawful for any person or business, owner or lessee, tenant, or other having possession, ownership or control of private property to cause, permit, maintain or allow the creation of a nuisance.

Secs. 36-199—36-219. - Reserved.

DIVISION 2. - BUILDINGS^[2]

Footnotes:

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State Law reference— Ordinances relating to repair, closing and demolition of dwellings unfit for human habitation, O.C.G.A. § 36-61-11; county or municipal ordinances relating to unfit buildings or structures, O.C.G.A. § 41-2-9; authority to demolish structures where drug crimes are committed, O.C.G.A. § 41-2-7.

Sec. 36-220. - Definitions.

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

Applicable code. The term "applicable code" means:

- (1) Any optional housing or abatement standard provided by state law as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
- (2) Any fire or life safety code applicable under state law or adopted by ordinance or resolution of the city; and
- (3) Any building code adopted by the city, provided that such building or minimum standard code for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed, unless otherwise provided by law.

Resident means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

Sec. 36-221. - Duties of owners.

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 city, 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.

Sec. 36-222. - Enforcement.

The public officer, inspector, city manager or other designee, after determining that any building, structure, dwelling or other conditions may constitute a nuisance, may nonetheless deviate from the strict provisions of abatement provided in this article, based upon the inspector's finding that one of the following criteria exists which creates a hardship which warrants a decision not to abate a nuisance:

- (1) That the type of structure, topography of the land, or other unusual circumstances means that the normal time period for abatement of any such nuisance should be extended; or
- (2) That due to health, mental, physical infirmity or similar serious medical problems of the owner, or serious and dire financial circumstances of the owner and/or the requirements of abatement, the inspector determines to grant a moratorium, or additional period of time, or otherwise modify the requirements of abatement to suit the particular circumstances of the occurrences.

Sec. 36-223. - Determinations by public officer.

- (a) The public officer may determine, under existing ordinances, that a dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwelling, buildings, or structures; or of other residents of the city. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair;
 - (5) Structural defects;
 - (6) Uncleanliness; and
 - (7) Other additional standards which may from time to time be adopted and referenced herein by ordinance amendment.
- (b) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

Secs. 36-224—36-254. - Reserved.

DIVISION 3. - OTHER NUISANCES

Sec. 36-255. - Abandoned appliances, furniture, vehicles, and other items.

- (a) It shall be unlawful for any person to have in that person's possession or under that person's control upon any premises owned or occupied by that person, which premises are frequented by or accessible to children for playing or other purposes, the items set forth below:
- (1) Any icebox, refrigerator or similar device, abandoned or not being put to the use for which it was intended, which is equipped with any lock or locking device by which the door on such icebox, refrigerator or similar device, when closed, cannot be opened from the inside, or which impedes or makes more difficult the opening of the door from the inside thereof.
 - (2) Any motor vehicle, abandoned or not being put to the use for which it was intended, which is equipped with any lock or locking device by which the windows or doors on the vehicle when closed, cannot be opened from the inside, or which impedes or makes more difficult the opening of the door from the inside thereof.
 - (3) Any household or kitchen appliances that have been abandoned or are not being put to the use for which they were intended, including, but not limited to, clothes washers and dryers, dishwashers, bathtubs, water heaters, toilets, air conditioning or heating units, stoves, ovens, microwave ovens, and other similar such appliances, if said items are physically located or placed outside any structure on the property.
 - (4) Any household furniture customarily intended for indoor use that has been abandoned or is not being put to the use for which it is intended, including, but not limited to, chairs, sofas, couches, loveseats, entertainment centers, desks, tables, or other similar such furniture items, if said items are physically located or placed outside any structure on the property. This subsection shall not include porch or patio furniture, or other furniture customarily placed on the exterior of a residence or other structure.
- (b) The items set forth in subsections (a)(1)—(4) of this section shall be considered nuisances as a matter of law.

(Ord. of 1-8-1990, § III)

State Law reference— Similar provision, O.C.G.A. § 16-11-100.

Sec. 36-256. - Obstruction of natural flow of water.

Any person who shall, by the erection of a dam or other obstruction, prevent the natural flow of water, causing it to collect in pools upon any lot or in any street or alley, or who shall allow any such dam or obstruction to continue on any property owned or controlled by him, after knowledge of its existence, or who shall do or cause to be done any work the effect of which will be to cause the damming up or collection of water in pools, shall be guilty of the offense of maintaining a nuisance, and such action shall be unlawful. This section shall not prevent persons owning or controlling property from filling up such lots as they may desire, if sufficient draining is provided across such lots for such natural flow. This section shall not prevent such change of the grade of any street as may be for the public interest.

Sec. 36-257. - Storage of malodorous commodities.

It shall be unlawful and shall constitute a nuisance to keep uncured hides or other malodorous commodities to the annoyance of any citizen or to keep such within 300 yards of the dwelling or place of business of any citizen of the city.

Sec. 36-258. - Obnoxious gases or odors.

It shall be unlawful for any person to burn in any furnace, grate, boiler, fireplace or upon any open land within the limits of the city any substance containing rubber, zinc, lead, sulfuric acid or any other substance which emits poisonous or obnoxious gases, fumes or smoke. Such conduct shall be considered a nuisance as a matter of law. This section shall not be construed so as to prohibit the burning of those substances within an enclosed structure and provided those gases, fumes or smoke are not allowed to escape from the enclosure in which those substances are burned in a state which would pollute the air or is harmful or injurious to the health and welfare of the citizens of the city.

Sec. 36-259. - Wells, cisterns, pits, holes to be covered, enclosed or filled.

- (a) The maintaining upon the premises by the owner or any person occupying such premises of wells, cisterns, pits and other holes in the earth where such are not securely covered or enclosed shall constitute a nuisance, and it shall be the duty of all persons owning or occupying those premises within the city to keep those wells, cisterns, pits and other holes in the earth on such premises securely covered or enclosed, so as to prevent injury therefrom to the person or property of others.
- (b) Old and unused wells shall be filled by the owners or agents in charge of the property upon which the wells are located. It shall be the duty of the inspector to give notice as provided in this article to any person having such a well to abate it.

State Law reference— Abatement of hazard from abandoned well or hole, O.C.G.A. § 44-1-14.

Sec. 36-260. - Junk motor vehicles and motor vehicle parts.

- (a) It shall be unlawful for the owner, occupant or tenant of any lot, tract or premises in the city to suffer, permit or allow any junk motor vehicle or vehicle parts to be parked, abandoned or maintained upon the property. It shall likewise be unlawful for any person to cause or maintain such a junk motor vehicle or vehicle parts to remain upon the real property or upon the property of another.
- (b) No junk motor vehicle shall be in such a condition as to constitute a health hazard or an unsightly nuisance, notwithstanding the fact that such junk vehicle may be located upon private property. Any such vehicle shall constitute a public nuisance per se, except that it shall not be a nuisance to maintain, in an otherwise lawful manner:
 - (1) Any motor vehicle in an enclosed building;
 - (2) Any motor vehicle on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise;

- (3) Any motor vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles in conformance with the zoning ordinances of the city;
 - (4) Any motor vehicle that is properly maintained as an antique vehicle pursuant to any laws or regulations of the state governing such vehicle.
- (c) Except in circumstances where the public health and safety require summary abatement before the municipal court, the inspector shall give written notice to the owner of the vehicle or the person in possession, charge or control of the real property that, in the opinion of the inspector, the vehicle meets the definitional requirements of a junk motor vehicle and that a nuisance has been created by such responsible party. Upon such lawful notice being given, the procedures contained in this article, and as generally provided in division 4 of this article, shall control the potential abatement of the alleged nuisance.

State Law reference— Authority to provide by ordinance for removal and disposal of junked vehicles, O.C.G.A. § 36-60-4; when police officers may remove vehicles, O.C.G.A. § 40-6-206; abandoned motor vehicles, O.C.G.A. § 40-11-1 et seq.; removal of improperly parked cars, O.C.G.A. § 44-1-13.

Sec. 36-261. - Accumulations in yards, garages or carports prohibited.

It shall be unlawful for the owner or occupant of any lot, tract, parcel of land or other premises in the city to maintain a yard, lawn, garage, carport, or other area on the exterior of any structure on the property in such a manner as to allow the accumulation of rubbish, trash, refuse, junk, or other abandoned materials, metals, lumber or other things, thereby creating an unsightly or unsafe condition or visual blight.

Sec. 36-262. - Accumulation of stagnant water.

It shall be unlawful for the owner or occupant of any lot, tract, parcel of land or other premises in the city to allow water to accumulate and become stagnant.

Sec. 36-263. - Disposal of animal and vegetable matter.

It shall constitute a nuisance per se and shall be unlawful to place or throw or cause another to place or throw, in or upon any street, or public or private property of another, any dead bird or animal, tainted meat, decayed fruits or vegetables, human or other excrement. Nothing herein contained shall prohibit the discharge of human excrement into the sewer system of the city, or the placing of the above-named objects in suitable containers at curbside for garbage pickup.

(Ord. of 1-8-1990, § III)

Sec. 36-264. - Excessive weeds and grass, trees, and shrubs.

- (a) All exterior property areas shall be kept free of excessive weeds and grass.
- (b) Small tracts of land, whether improved or unimproved, within the city, shall be kept cut, clipped or controlled through necessary means as frequently as needed to insure that weeds, rank grass and noxious growths do not exceed a height of 12 inches.

"Small tracts" are defined as building, lawns, sidewalk neutral strips, walkways, gardens, decorative landscaped areas, and unimproved lots of two acres or less.

- (c) Grass areas abutting and within 50 feet of city streets shall be kept mowed to a height not exceeding ten inches.

- (d) Large tracts, larger than two acres, shall be cut, clipped, or controlled through necessary means to a height not exceeding 18 inches.
- (e) Large tracts adjacent to improved residential property shall be kept clipped to the same standards as small tracts within 100 feet of such improved residential property.
- (f) Any tract maintained in a natural state or as a wilderness area may be exempt from cutting except for the requirements of the provisions thereof.
- (g) All trees and shrubs shall be maintained to not imperil public health or safety, or cause damage to any structure, premises, or utility services.

(Ord. No. 2012-011, 8-13-2012)

Secs. 36-265—36-289. - Reserved.

DIVISION 4. - ABATEMENT

Sec. 36-290. - Abatement cumulative to other remedies.

It is the intent of the city council that nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of any local enabling act, or ordinance or regulation nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by any other law or ordinance, legislation, or regulation.

Sec. 36-291. - Authority for issuance of citations.

The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this section.

Sec. 36-292. - Summary abatement.

- (a) The public officer shall have the power to order the removal and abatement, without hearing, of those things which are declared either by common law or by the statute law to be nuisances, or which are nuisances per se and from their nature indisputably are so.
- (b) Any requirement for service of notice to abate a nuisance, which may be summarily abated, may be complied with by the mailing of such notice by certified mail, return receipt requested, to the last-known address of the person so to be notified.

(Ord. of 1-8-1990, § IV)

Sec. 36-293. - Notice to abate.

Except in urgent circumstances, involving nuisances per se, where the public health and safety require an immediate hearing, or in a summary abatement proceeding in the municipal court of the city, the public officer, upon his own motion, or upon a request by a public authority or upon a request by at least five residents of the municipality, if his preliminary investigation discloses a probable basis for a finding that an alleged nuisance exists, said public officer shall give written notice of any alleged nuisance in the form of a complaint and notice to abate a nuisance.

(Ord. of 1-8-1990, § IV)

Sec. 36-294. - Form of complaint and notice.

The complaint and notice to abate a nuisance issued under the provisions of this division shall contain:

- (1) An order to appear at a hearing to be held before the public officer or his designated agent at a place within the municipality, fixed not less than ten days nor more than 30 days after the serving of the complaint;
- (2) A statement that the owners and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint;
- (3) A statement that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;
- (4) The location of the nuisance, if the same is stationary;
- (5) A description of what constitutes the nuisance;
- (6) A statement of acts necessary to abate the nuisance;
- (7) A statement that if the owners and any parties in interest do not appear at the hearing fixed in accordance with this provision, and if the nuisance is not abated within the prescribed time set out in said complaint, the city will abate such nuisance and assess the cost thereof against such person.

(Ord. of 1-8-1990, § IV)

Sec. 36-295. - Findings and determination; service.

- (a) If, after such notice and hearing, or the waiver in writing of such hearing by the owner and all interested parties, the public officer determines that the alleged nuisance does constitute a nuisance under the provisions of this division, he shall state in writing his findings of fact in support of such determination and shall issue and caused to be served upon the owner thereof the following:
 - (1) In all cases of nuisance except those involving any dwelling, building or structure declared unfit for human habitation, or for commercial, industrial or business, an order ordering the abatement of the nuisance, the actions necessary to abate said nuisance and the prescribed time in which said abatement is to be accomplished.
 - (2) In all cases of nuisance involving any dwelling, building or structure declared unfit for human habitation, or for commercial, industrial or business use or involving any dwelling, building or structure which is vacant, dilapidated and being used in connection with the commission of drug crimes, the following:
 - 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 value of the dwelling, building or structure, an order requiring the owner or parties in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to render it fit for human habitation or for current commercial, industrial, or business use or to vacate and close the dwelling, building, or structure as a human habitation; or
 - b. If the repair, alteration, or improvement of the said dwelling, building, or structure cannot be made at a reasonable cost in relation to the value of the dwelling, building, or structure, an order requiring the owner or parties in interest, within the time specified in the order, to remove or demolish such dwelling, building, or structure.
- (b) In no event shall the city require removal or demolition of any dwelling, building, or structure except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half the value

such dwelling, building, or structure will have when repaired to satisfy the minimum requirements of this section.

(Ord. of 1-8-1990, § IV)

Sec. 36-296. - Failure of owner to abate; abatement by city.

- (a) If the owner or parties in interest fail to comply with an order to abate a nuisance, then said public officer may cause such nuisance to be abated and in all cases involving any 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; and the public officer may cause to be posted on the main entrance of any building, dwelling, or structure so closed a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use; the use or occupation of this building for human habitation or for commercial, industrial, or business use is prohibited and unlawful."

- (b) If the owner fails to comply with any order to remove or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be removed or demolished; provided, however, that the duties of the public officer, set forth in this division and this section, shall not be exercised until the city shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this division with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation or unfit for its current commercial, industrial, or business use, which property or properties shall be described in the ordinance.

(Ord. of 1-8-1990, § IV)

Sec. 36-297. - Costs of abatement.

The amount of the cost of said abatement, or in all cases involving dwellings, buildings or structures such vacating and closing or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs by the municipality and the filing of an itemized statement of the total sum of said costs by the public officer in the office of the city clerk on a lien docket maintained by said clerk for such purposes. If the dwelling, building, or structure is removed or demolished by the public officer he shall sell the materials of such dwellings, buildings, or structures and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

(Ord. of 1-8-1990, § IV)

Sec. 36-298. - Collection of liens for abatement costs.

The city may enforce the collection of any amount due on any lien created under this division in the following manner:

- (1) As to all nuisances, except those involving dwellings, buildings or structures, said lien shall be filed, proven and collected as provided for by law, and shall bear interest at the legal rate thereafter until satisfied.
- (2) As to all nuisances involving dwellings, buildings or structures, the city may enforce the collection of any amount due on such lien for removal or demolition of dwellings, buildings, or structures only in the following manner:

- a. The owner or parties at interest shall be allowed to satisfy the amount due on such lien by paying to the municipal corporation, within 30 days after the perfection of said lien, a sum of money equal to 25 percent of the total amount due and by further paying to said municipal corporation the remaining balance due on such lien, together with interest at the rate of seven percent per annum, in three equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed;
- b. Should the property upon which such lien is perfected be sold, transferred, or conveyed by the owner or parties at interest at any time prior to the termination of the said three-year period, then the entire balance due on such lien shall be due and payable to the county or municipal corporation; and
- c. Should the amount due on such lien, or any portion thereof, be unpaid after the passage of said three-year period, or upon the occurrence of the contingency provided for in subsection (2)b of this section, the municipal corporation may enforce the collection of any amount due on such lien for alteration, repair, removal, or demolition of dwellings, buildings, or structures in the same manner as provided in O.C.G.A. § 48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title, or interest in or lien upon said property.

(Ord. of 1-8-1990, § IV)

Sec. 36-299. - Manner of giving notice in abatement proceedings.

- (a) Complaints or orders issued by a public officer pursuant to this division shall, in all cases, be served upon each person in possession of said property, each owner, and each party in interest; and the return of service signed by the public officer or his agent or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint or orders was served upon each person in possession of said property, each owner, and 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 in possession, owner, and party in interest.
- (b) 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 or parties by the sheriff or any lawful deputy of the county of the residence of such party or parties 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 or parties were served either personally or by leaving a copy of the complaint or orders at the residence shall be conclusive as to such service.
- (c) Nonresidents of this state shall be served by publishing the same once each week for two successive weeks in the newspaper designated as the legal organ of the county. 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.
- (d) In the event 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 municipality or is a nonresident, he shall be served as provided for in subsection (c) of this section or this subsection in such cases. If such minor or insane person or person laboring under disabilities has no guardian or personal representative or in the event 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 municipality 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 person or appoint a guardian ad litem for such person.

- (e) In the event the whereabouts of any owner or party in interest is unknown and the same 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 in the same manner as provided in subsection (c) of this section or service may be perfected upon any person holding itself out as an agent for the property involved.
- (f) A copy of such complaint or orders shall also be filed in the proper office or offices 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 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.

(Ord. of 1-8-1990, § IV)

Sec. 36-300. - Enforcement powers of public officer.

In the enforcement of this division, the public officer shall be authorized:

- (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 this division; and
- (5) To delegate any of his functions and powers under this division to such officers and agents as he may designate.

(Ord. of 1-8-1990, § IV)

Secs. 36-301—36-318. - Reserved.