

Decatur County

Comprehensive Nuisance Ordinance

Table of Contents:	Page Number
Table of Contents	1
Purpose & Intent	2
Jurisdiction	2
Definitions	2
Examples	5
NUISANCES PROHIBITED	6
Health Code	6
Warning to Abate	6
Contents of Warning	6
APPEALS	7
PROVISIONS FOR SPECIFIC NUISANCES	7
Animals	7
Abandoned Vehicles	7
Removal of Abandoned Vehicles	7
Junk Yards	7
Standards for Determining Fitness for Dwellings	8
Trees and Other Vegetation	8
Noise	8
Litter	10
Prima Facie Case	10
DISCHARGING OF FIREARMS WITHIN RESIDENTIAL ...	10
PENALTY PROVISIONS	11
Violations which are Misdemeanors	11
Public Nuisances	11
Infractions	11
Included Offenses	11
Erection of Continuance of Nuisance	12
SANITATION FEE FOR COLLECTION & REMOVAL OF TRASH ...	12
CODE ENFORCEMENT PROGRAM & CITATION	13
Owner Warning	13
Unknown or Absent Property Owner Warning	13
Public Notification	13
Warning Sign	14
Department Abates Public Nuisance	14
Vacating the Public Nuisance Order	14
COSTS AND REIMBURSEMENTS	14
Recovery of Costs	14
Subrogation Rights	14
Exhibit A	16
Ordinance	17

PURPOSES & INTENTS

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe, and well-kept community can stabilize or increase property values, provide a healthy environment, and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions, and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Ordinance to encourage a clean, healthy, and satisfying environment; one free of nuisances, eyesores, and unhealthy, unsafe, or devaluating conditions. To this end, this Ordinance seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties against a person's actions or property constituting a violation of the conditions of this ordinance.

JURISDICTION

This ordinance applies to all the unincorporated areas of Decatur County and in all cities per approval of the County Commission and adoption of this ordinance by the city, provided, however, that any section of the ordinance that has a counterpart in an ordinance of the city shall not be enforced by the County in said city.

DEFINITIONS

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

Abandoned Vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

- (a) Has been left unattended upon a highway, street, or alley or other public right-of-way outside a designated parking space for a period of one hundred twenty (120) hours; or
- (b) Is left unattended on a property owned or operated by the County for more than twenty four (24) hours without consent; or
- (c) Is left on private property for longer than two (2) hours without the consent of the owner, occupant, or lessee of the property; or
- (d) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.

Berm: A raised mound of earth or other materials (e.g. wood, tires, metal, concrete), used especially as a barrier to prevent a projectile from departing the property when shooting firearms.

County: "The county" or "County" shall mean Decatur County, Georgia.

Department: The Decatur County Sheriff's Department is responsible for the enforcement of this ordinance and may be referred to as "the Department".

Dilapidate: To cause or allow (a structure, automobile, etc.) to fall into a state of despair, as by misuse or neglect (often used passively).

Dwelling: Any building or structure or part thereof used and occupied for human habitation or occupation or intended to be used, including any outbuilding and appurtenances belonging thereto or usually enjoyed therewith.

Enforcement: The provisions of this article shall be administered and enforced by the Code Enforcement Officer under supervision of the Decatur County Sheriff or his authorized designees or Building Official, under supervision of the Planning Director. The provisions of this article shall be in consistency with O.C.G.A. § 41-1-7, which exempts agricultural and forest lands and facilities from certain provisions of this ordinance.

Junk: Litter, debris, rubber, waste materials of any kind, dead animals, used or unserviceable automobile and machinery parts, scrap, salvage, or used and non-functional furniture and appliances, used and non-functional tools, equipment, and implements.

Junk Vehicle: An abandoned motor vehicle that does not display a current license plate or tag, updated vehicle registration, valid insurance coverage, and that:

- (a) is wholly or partially dismantled or wrecked; or
- (b) cannot be self-propelled or moved in the manner in which it was intended; or
- (c) is disabled and/or in an inoperative condition if it is not moved for a time period of thirty (30) days, except it is enclosed within a garage or other building or behind an opaque fence that completely obstructs the view.

Junk Yard: A lot or parcel, whether enclosed or not, used for the collection, storage, keeping, sale, abandonment, or resale of junk vehicles including scrap metal, rags, paper, or other scrap materials, used lumber, salvage house wrecking, and other structural steel material and equipment, or other dismantling, demolition or abandonment of any junk vehicles, or other machinery, appliances or parts of appliances.

Kennels: Any facility, structure, or shelter established for the boarding (overnight) of domestic animals, limited to five or more dogs and/or cats of four months of age or older. Breeding and training of dogs and/or cats and the sale of puppies and/or kittens to the public are classified as kennel activities.

Manufactured Home: A home that was factory built in the U.S.A. to the HUD Title 6 construction standards which took effect June 15, 1976 and displaying a certification Label and Data Plate.

Mobile Home: A mobile home is a factory-built home that was built before June 15, 1976, and not built to a uniform construction code. HUD presumes these homes to be unfit for habitation.

Modular Home: A home that is factory-built and constructed in compliance with the International Building Code and/or International Residential Code 2006.

Note: A manufactured home, a mobile home, or a modular home shall be in compliance with the requirements set forth in the Section 3.2-2 of Decatur County Land Development and Construction Regulations pertinent to conformity with the applicable Federal, State, and County regulations.

Nuisance: Anything that causes injury, inconvenience, or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect general public.

Occupant: Any person who occupies real property, whether with or without any right, title, or interest in the property, and any person in possession or charge of such property, in the event the owner resides or is located elsewhere.

Operate: To perform a function that includes to ride in or on and control the operation of a vehicle, as defined below.

Owner: Any person, persons, organization, or corporation that owns, in whole or in part, the land, structure, or other property or is the purchaser of the property under contract or deed.

Public or Private Property: The right-of-way of any public road or street, any property owned or operated by Decatur County; any public playground, body of water or watercourse, recreation area; residential or farm property; or privately owned land, parcels of land, buildings, or structures; or any other property not designated or approved by state or county authority as a landfill.

Sport Shooting Range: An area designated and operated by a person for the sport shooting of firearms and not available for such use by the general public without payment of a fee, membership contribution, or dues or by invitation of an authorized person, or any area so designated and operated by a unit of government, regardless of the terms of admission thereto, as defined by O.C.G.A. § 41-1-9(a)(2).

Vehicle: Any device designed with an internal combustion engine for motorized transportation of persons or property over public right-of-ways.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

Weeds: As used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature;

- (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles or any other creature which either may or does constitute a menace to public health, safety, or welfare of the community;
- (e) Weeds or indigenous grass on or about residential property, which, because of its height, has a blighting influence on the neighborhood.
- (f) Any such weeds and indigenous grass shall be presumed to be a nuisance if grown to a height higher than allowable in this ordinance.

EXAMPLES

Nuisances are, but not limited to, the following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

- (a) On residential properties, weeds or grass allowed to grow to a height of twelve (12) inches or greater on the average, except Bahia grass, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin, or cause brushfire, on property of less than five acres for which the primary use is not agriculture. In any event, no weed growing in one property, in any height, shall cross a property line entering another property or public right-of-way.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) On residential properties, dead or dying trees or other vegetation which may cause a hazardous situation if they fall.
- (d) Accumulation of standing water, or rubbish, trash, refuse, junk, construction debris, other abandoned materials, metals, appliances, tires, furniture, lumber, or other such items.
- (e) The keeping or maintenance of one or more abandoned vehicles visible in public or in a manner inconsistent with this Ordinance.
- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (g) Any building or other structure which is in such a dilapidated condition or structural instability that it is unfit for human and/or animal habitation, not in compliance with Decatur County Building Code, that creates health or safety hazards for the neighborhood or the community, or kept in such a condition that promotes and harbors the breeding of rodents, vermin, mosquitoes, or other harmful insect, or is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard, except buildings or structures on farms with a minimum setback area of one hundred (100) feet from an adjoining residential property line.
- (h) The storage or maintenance of mobile homes which are abandoned and/or unoccupied, or are not connected to legal sewage disposal facilities, except those located at a mobile home sale facility. There shall be presumption that a mobile home is abandoned and/or unoccupied if it is unoccupied for a time period of one hundred eighty (180) days or more, unless an extension is issued by the County.
- (i) A manufactured home, mobile home, or modular home in a condition which presents a substantial danger or hazard to public health, safety, or welfare because it is unused by

owner; is uninhabited or uninhabitable because of deterioration, or decay; subjects adjoining property to danger or damaged by storm, soil erosion, or persons seeking temporary hideout or shelter.

- (j) An unsecured opening caused by improperly abandoned cistern, well pit, sewage, water and/or sewage treatment system, unused or non-maintained swimming pool, mine shaft, or tunnel.
- (k) All noises which may annoy or inhibit others in their enjoyment of the use of their property, except the noises from existing agricultural lands.
- (l) All disagreeable or obnoxious odors or stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench, including smoke from fires except where permitted.
- (m) The pollution of any public well, stream, lake, canal, or sewage disposal discharging onto the surface of the ground or backing up into structure or body of water, dead animals, dairy waste, industrial wastes, usage of a vehicle to store industrial waste, agricultural wastes, or other substances.
- (n) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law.
- (o) Any method of human excrement disposal which does not conform to the provisions of local ordinances, or state or federal law.

NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a nuisance, as defined or more specifically described in this Ordinance.

Health Code. Any nuisance, violation, infraction, or inconsistency with any of the provisions of Health Department, Health and Safety, Health Code, and General Hazards or violating any provision of any permit, license or exception granted thereunder or failing to comply with any of the requirements thereof shall be processed in accordance with O.C.G.A. § 31-12-8 by the Decatur County Environmental Health Department.

WARNING TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of Decatur County, the Code Enforcement Officer shall give written warning to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance to abate the nuisance.

CONTENTS OF WARNING

The warning to abate a nuisance, issued under the provisions of this Ordinance, titled as Local Ordinance Violation Warning, shall contain the following:

- (a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
- (b) The location of the nuisance, if the nuisance is stationary;
- (c) A description of what constitutes the nuisance;

- (d) A statement of acts necessary to abate the nuisance; and
- (e) A statement that if the nuisance is not abated as directed, the County will file an action in Decatur County Magistrate Court to abate the nuisance.

APPEALS

A warning issued by the Code Enforcement Officer may be appealed by the owner (or occupant) within ten (10) days from the date of receiving a warning by filing a written request with the Decatur County Magistrate Court. In the event of an unknown or absent property owner, the appeal shall be filed within thirty (30) days from the day of posting of the warning sign under Unknown or Absent Property Owner section of this Ordinance.

PROVISIONS FOR SPECIFIC NUISANCES

Animals. In addition to the animal nuisance policies in this ordinance, further policies are set forth in the Animal Control Ordinance, adopted by the Decatur County Board of Commissioners on October 14, 2008.

Abandoned Vehicles. It shall be unlawful to keep or maintain any abandoned vehicles as defined by this Ordinance, and any abandoned vehicle is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.

Removal of Abandoned Vehicles. Upon investigation, the County Code Enforcement Officer or the County Administrator may order the removal of a junk vehicle as defined in this ordinance after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burden imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:

- (a) Protection of property values;
- (b) Promotion of tourism and other economic development opportunities;
- (c) Indirect protection of public health and safety;
- (d) Preservation of the character and integrity of the community;
- (e) Promotion of comfort, happiness, and emotional stability of area residents.

The County may require any person requesting the removal of a junk vehicle from private property to indemnify the County against any loss, expense, or liability incurred because of the removal, storage, or sale of the junk motor vehicle.

Junk Yards. Junk yards shall be required to keep all junk and junked vehicles a minimum of ten (10) feet from any property line at all points and for this area to be fenced with no portion of the fencing to be closer than ten (10) feet to the property line. Fencing may be substituted by use of natural vegetation, landscaping, planting, object, opaque fences, or other appropriate means, including relocating inventory on site to utilize an existing natural screen or screenable portion of the site to obstruct the junk vehicles from being visible from outside the junk yard. Properties

inconsistent with this ordinance, at the approval date of this ordinance, must be brought into conformity within twelve (12) months.

Exemptions. The Junk Yards provision shall not apply to service stations, repair shops, garages, or car sales establishments except for junk vehicles on premises that create a health hazard. The presence of junk vehicles will require compliance under this Ordinance.

Standards for Determining Fitness for Dwellings. The County may determine that a dwelling is unfit for human habitation if it finds that conditions exist in a dwelling which are dangerous or injurious to the health, safety of the occupants of the dwelling, the occupants of neighboring dwelling or other residents of the County, including defects increasing the hazards of fire, accident or other calamities, lack of adequate ventilation, lack of sanitary facilities, dilapidation, disrepair, structural defects, uncleanness, inconsistency with requirements of County enforced codes, or any other cause which would be detrimental to the health, safety of occupants dwelling therein.

Trees and Other Vegetation. It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two roads or streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

Noise: It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in Decatur County. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health, or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises that constitute a public nuisance in violation of this Ordinance, and which shall be abated.

- (a) The keeping or maintenance of any domestic animal which, due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance, if the animal is closer than five hundred (500) feet from the property line adjoining residential property.
- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.
- (c) The use of any siren other than police, fire, ambulance, or emergency vehicle.
- (d) The use or operation of any musical instrument, radio, stereo, loud speaker, or sound amplifying and reproduction device playing so loudly that is audible from a distance of fifty (50) feet or more from the source of the sound.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public safety, and then only with a permit from the Code Enforcement Officer, or his designee.

- (f) The creation of excessive noise on any street adjacent to any institution of learning, court or religious congregation while the same is in session, or within one hundred fifty (150) feet of a hospital which unreasonably interferes with the operation of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
- (i) The use or operation of any vehicle that is in a state of disrepair or creating loud, unusual, unreasonable, or unnecessary noise through grinding, rattling, backfiring, or other noise so as to disturb or interfere with the peace and quiet of other reasonable persons of ordinary sensibilities. Such a sound that is audible at a distance of two hundred (200) feet from the origin of sound shall be presumed to be a violation of this provision if an individual rides a vehicle continuously past, around, or near an inhabited dwelling place so as to disturb or unduly annoy the inhabitants.
- (j) The use or operation of a vehicle with internal combustion engine that creates dust closer than two hundred (200) feet from the property line adjoining residential property, other than regular passage through a public dirt road.
- (k) While occupying any public right-of-way, no person shall operate any noise-creating device or internal combustion engine for the purpose of drawing attention to the source of the noise. The prohibition of this section shall include, but not be limited to, discharging fireworks or any exploding device, firing a starter pistol, sounding a bell or whistle, or rapid throttle advance (revving) of an internal combustion engine.

Exemptions: Noise from the following sources or causes shall be exempt from noise provisions of this ordinance:

- (a) Expression or communication protected by the First Amendment to the Constitution of the United States.
- (b) Any activity or conduct the regulation of which has been preempted to the State of Georgia.
- (c) Noise created by safety and protection devices such as burglar alarms, fire alarms, and emergency pressure relief valves as long as it is no more than fifteen minutes.
- (d) Noise from air conditioners, when functioning in accordance with the manufacturer's specifications, manufacturer's standard mufflers and noise reducing equipment, and in proper operating condition consistent with standards promulgated by the American Refrigeration Institute.
- (e) Noise originated from aircraft in flight, and sounds from airports that are directly related to flight operations.
- (f) Noise caused by organized sporting events, religious, educational, civic associations or other organized group activities, when such activities are conducted on improved property that is designed for and generally used for such purposes, including bandshells, amphitheaters, stadiums, parks, schools, churches, athletic fields, racetracks and accessories thereto; provided, however, that such uses of property are otherwise permitted by applicable County ordinances.
- (g) Noise resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergencies.

- (h) Any other noise resulting from a temporary activity permitted by law and for which a license or permit has been granted by the County.

Any one of these enumerated nuisances would be a misdemeanor and could be prosecuted in the Magistrate Court of Decatur County just as the violation of any other ordinances.

Litter. Whenever any litter, which is dumped, deposited, thrown or left on public or private property or in a recycling facility in violation of this ordinance or of the rules and regulations promulgated under this ordinance, is discovered to contain any article or articles, including, but not limited to, letters, bills, publications or other writings which display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a presumption that such person has violated this article. Violations to the Littering regulations of this ordinance shall be enforced in conjunction with already approved, adopted, and in-effect ordinances in consistency with O.C.G.A. § 41-2-17.

Enforcement of littering shall be consistent with O.C.G.A. § 40-6-248.1(d), when organic debris is being transported from farm or field to storage, or from storage to feedlot.

Prima Facie Case. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, trailer, wagon, wheelbarrow or other conveyance in violation of this ordinance or the rules and regulations promulgated by the Decatur County Board of Commissioners under this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this ordinance.

- (a) It shall be unlawful for any person to burn or attempt to burn or cause to be burned any material of any nature in any container belonging to or used by the County for residential solid waste collection purposes.
- (b) It shall be unlawful for any person to dump or bury or cause to bury or cause to be dumped or buried any garbage, refuse or rubbish anywhere in the unincorporated areas of Decatur County, other than in the manned disposal site provided.
- (c) It shall be unlawful to burn or cause to be burned any garbage, refuse, rubbish or paper in a barrel or other such container anywhere in the unincorporated area of the County.

DISCHARGING OF FIREARMS WITHIN RESIDENTIAL SUBDIVISIONS AND DEVELOPMENT, AND WITHIN A CERTAIN PROXIMITY TO A RESIDENCE

- (a) It shall be unlawful for any person to use, discharge, or shoot any firearm, handgun, pistol, rifle, shotgun, or an air rifle which projects with a velocity of greater than five hundred (500) feet per second, within an area of the unincorporated portions of the County which is developed as a residential subdivision or residential development, or within two hundred (200) linear feet from any property line in a property of less than five (5) acres, except in defense of personal property as otherwise authorized by the general law of this state, or after obtaining a written permit from the sheriff, or his designee. An appropriate berm shall be in place so as to prevent a projectile from crossing any property line.

- (b) The subsection (a) shall not apply to certified peace officers while in the course of their employment as peace officers on duty.
- (c) A person committing a violation of this section shall, upon conviction, be punished as provided by Magistrate Court of Decatur County.

Exemptions: No rules, regulations, statutes, or ordinances relating to noise pollution, or noise abatement adopted or enacted by Decatur County shall prohibit conduct at a sport shooting range, which conduct was lawful and being engaged in one year prior to the adoption or enactment of such rules, regulations, statutes, or ordinances in compliance with O.C.G.A. § 41-1-9(b) & 41-1-9(d).

PENALTY PROVISIONS

- (a) Violations which are Misdemeanors. It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of the Decatur County Comprehensive Nuisance Ordinance. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Decatur County Comprehensive Nuisance Ordinance shall be guilty of a misdemeanor, unless such violation is otherwise in the Decatur County Comprehensive Nuisance Ordinance as an infraction. Any person convicted of a misdemeanor under the provisions of the Decatur County Comprehensive Nuisance Ordinance shall be punishable by a fine of not more than one thousand dollars (\$1,000.00). Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of the Ordinance is committed, continued, or permitted by such person and shall be punishable accordingly by the Decatur County Magistrate Court.
- (b) Public Nuisances. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of the Ordinance shall be deemed a public nuisance and may be summarily abated as such by the County, and each day such condition continues shall be regarded as a new and separate offense.
- (c) Infractions. Any violation of this ordinance deemed to be an infraction shall be punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision of the Ordinance within one (1) year;
 - 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision of the Ordinance within one (1) year.

The penalties and fines shall be paid to the Decatur County Magistrate Court or other courts as applicable.

A misdemeanor violation may be changed to an infraction at the discretion of the Magistrate Court.

- (d) Included Offenses. Any act or omission made unlawful shall include causing, permitting, aiding, abetting, suffering, or concealing the fact or such act of omission.
- (e) Erection or Continuance of Nuisance: Any person who shall erect or continue after notice to abate a nuisance which tends to annoy the community, injure the health of citizens in general, or corrupt the public morals shall be guilty of a misdemeanor, in accordance with O.C.G.A. § 41-1-6.

SANITATION FEE FOR COLLECTION AND REMOVAL OF TRASH AND/OR ARTICLES OF PERSONAL PROPERTY FROM THE RIGHT-OF-WAY AND/OR PUBLIC PROPERTY

- (a) Any owner(s) of real property who causes trash and/or abandoned articles of personal property to be deposited in the right-of-way and/or on public property which results in the County being required to remove such trash and/or personal property shall be charged the following sanitation fees:
 - (1) Fifty dollars (\$50.00) for the removal of the first item of trash and/or abandoned article of personal property plus landfill tipping fees; and
 - (2) An additional one hundred dollars (\$100) for each pick-up truck load of such trash and/or abandoned articles of personal property removed after the first pick-up truck load.
- (b) The owner(s) of the property which fronts on the right-of-way or which fronts on the public property who causes trash and/or abandoned articles of personal property to be deposited in the right-of-way and/or public property involved shall be responsible for the payment of all such fees. Payment shall be due within thirty (30) days of the removal of the trash and/or abandoned articles of personal property.
- (c) Should any sanitation fee imposed by this section not be paid within the thirty (30) day time period set forth in subparagraph (b) above, the person, firm, or corporation liable for the fee shall be subject to and shall pay interest charges of ten (10) percent per month for each month or portion thereof in which the same remains unpaid.
- (d) In addition to any other remedies provided by law for the collection of the sanitation fee set forth in this section, the officer charged with the collection of the fee shall be authorized to issue executions against the delinquent property owner(s) for the amount of the fees due, plus accrued interest. Such executions shall constitute a lawful lien against the real property of the property owner(s).
- (e) At any time within two (2) years after any sanitation fee imposed under this section becomes overdue and/or delinquent, the Board of Commissioners of Decatur County may bring an action in a court of competent jurisdiction in the name of Decatur County against the person, firm, or corporation liable for the fee to collect the amount delinquent, together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- (f) In addition to the remedies for the collection of the sanitation fee imposed herein, a civil penalty may be imposed of up to five hundred dollars (\$500.00) for any failure to pay the

sanitation fee established by this section. This civil penalty may be imposed by any court of competent jurisdiction over the enforcement of the ordinances of Decatur County, Georgia. Such civil penalty may be enforced by the contempt power of the court.

CODE ENFORCEMENT PROGRAM & CITATION

The steps listed below identify the procedure used to carry out the goals of this program primarily directed toward the elimination of aesthetic and safety violations.

Owner Warning. Upon declaration of a public nuisance, the Department shall give written warning of its determination and orders to abate the nuisance to the owner, occupant and property agent, if applicable. This warning shall be served in person, by regular mail, or by an officer authorized to serve a warrant and contain the following:

- (a) Property location by street address, parcel identification number, or other property description.
- (b) Information identifying the nature of the public nuisance on the property.
- (c) A summary of the owner's and occupant's responsibilities under this Ordinance.
- (d) Specific orders for abatement or remediation of the public nuisance.
- (e) A date for completion of the abatement not to exceed thirty days following the receipt of the notice unless a shorter time is required due to the Department's further determination that the immediate abatement is necessary to protect public health and safety. In such cases, the reason for a shortened abatement period shall be specified.
- (f) Information regarding a right of appeal as provided in this Ordinance.
- (g) Information that if the threat to the public is not abated or removed in accordance with the terms of the notice, the Department will have the public nuisance abated or removed at the expense of the owner under the provisions of this Ordinance, or other applicable state or local law.

Unknown or Absent Property Owner. In the event the owner of the property is unknown or absent and has no known representative upon whom the notice can be served, the Department shall post a written or printed warning on the property stating that, unless the threat to the public is abated or removed within thirty (30) days, the Department will have the public nuisance abated or removed at the expenses of the owner under the provisions of this Ordinance, or other applicable state or local law.

Public Notification. The Department shall provide information in writing about the public nuisance declaration and potential hazard(s) to the following persons as applicable and appropriate:

- (a) City/County Victim Services;
- (b) Local Law Enforcement Agency;

- (c) Keep Decatur County Beautiful;
- (d) Other state and/or local authorities that may have public or environmental protection responsibilities.

Warning Sign. The Department shall post a warning sign when deemed necessary to further protect the public and safety. The warning sign, as attached as Exhibit A, shall be posted at the entrance(s) of the structure or property and contain the information sufficient to alert visitors or returning occupants to the site that it may be dangerous to enter and that entry is prohibited unless authorized by the Department or the law enforcement agency posting the sign. Any person other than the Department or its designated agent that removes a warning sign shall be in violation of this Ordinance for a penalty in the Infraction section.

Department Abates Public Nuisance. If the owner, property agent or occupant, fails or neglects to comply with the requirements in the notice provided under Public Notification Section of this Ordinance, then the Department may abate or remediate the public nuisance described in the warning. The Department will recoup such costs as necessary to abate the public nuisance as provided in section Recovery of Costs of this Ordinance.

Vacating the Public Nuisance Order. Upon Department verification of proper abatement, remediation or removal at the site, the Department shall issue written notice to those persons served notice under Owner Notification or Unknown Property Owner sections of this Ordinance that the public nuisance order is vacated. Notice shall also be provided, as applicable and appropriate, to those persons provided information under provisions of this Ordinance.

COSTS AND REIMBURSEMENTS

Recovery of Costs. If the Department is required to remove, abate or remediate a public nuisance, the County shall make every reasonable effort to recover costs incurred in removal, abatement or remediation in a civil action. The cost of enforcement action under this Ordinance may be assessed and charged against the real property on which the public nuisance was located. The County shall extend the cost as assessed and charged against said real property.

When the estimated cost of abatement and remediation exceeds seventy-five percent (75%) of the County Assessor's last market value of the structure, the County Administrator or designee, is authorized to notify the property owner of the County's intent to remove and dispose of the affected property instead of proceeding with abatement and remediation. For motor vehicles, the County will use the Kelley Blue Book value or equivalent in determining market value.

Nothing herein precludes or limits the County from seeking recovery of costs through other methods allowed by federal or state law.

Subrogation Rights. Nothing in this Ordinance is intended to limit the subrogation rights of any party and the owner occupants. The County shall maintain the right to recover costs, referenced in this section, from persons contributing to the damage.

In summary, this process has been developed not only to furnish the County a means to obtain code compliance, but to protect the rights of anyone identified as being in violation of a County code, as well. For further information regarding code enforcement, or to report an issue for review by the Code Enforcement Officer, please contact the Sheriff's Department at: (229)248-3044, or 911.

WARNING!

**THIS PROPERTY IS IN VIOLATION OF
THE DECATUR COUNTY**

NUISANCE ORDINANCE

**DUE TO THE AMOUNT OF OUTDOOR
STORAGE, THIS PROPERTY HAS BEEN
DETERMINED TO BE UNSAFE.**

THIS PROPERTY IS IN VIOLATION AS:

- ☐ A HARBORAGE FOR VERMIN
- ☐ A SOLID WASTE VIOLATION
- ☐ A JUNKYARD BECAUSE OF JUNKED CARS, ABANDONED
MANUFACTURED HOMES, OR OUTDOOR STORAGE
- ☐ AN ENVIRONMENTAL NUISANCE

Exhibit A

Decatur County

Comprehensive Nuisance Ordinance

WHEREAS, the Decatur County Commission intends to protect its citizens from conditions which endanger life, limb, or property, or which destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence; and

WHEREAS, Decatur County receives numerous calls and complaints regarding trash, noise, abandoned vehicles and other sources of threats to the public safety health, welfare, and environment commonly known as "nuisance"; and

WHEREAS, the Decatur County Board of Commissioners has determined a comprehensive nuisance ordinance is in the interest of the safety, health, and welfare of residents, visitors and property alike.

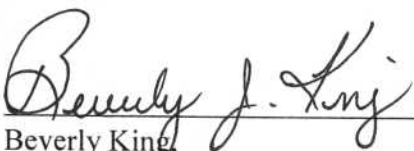
NOW, THEREFORE, BE IT ORDAINED, that the Decatur County Board of Commissioners enact the following ordinance to be called Decatur County Comprehensive Nuisance Ordinance. In the event that a provision of this ordinance is found in conflict with a provision in any other County ordinances, the more stringent provision supersedes. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

That this Comprehensive Nuisance Ordinance adopted, hereby, shall take effect and be in full force and effect as of the date of approval:

on this 21st day of April, 2009.



H. Palmer Rich,
Chairman, Board of the Commissioners



Beverly King,
County Clerk