

Title 9 of the Ball Ground Code

TITLE 9

Offenses

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CHAPTER 1

General Offenses

Editorial Note: Municipalities are prohibited by law from enacting ordinances covering matters which have been preempted by general law and are prevented from regulating conduct which has been made a violation of any criminal law of the state. See O.C.G.A., Sec. 36-35-6 (a)(2); Ga. Const. of 1983, Art. III, Sec. VI, Para. IV.

State Law Reference: Abandonment of airtight containers, O.C.G.A., Sec. 16-11-100; fireworks, O.C.G.A., Sec. 25-10-1 et seq.; disorderly houses, O.C.G.A., Sec. 16-11-44; peeping toms, O.C.G.A., Sec. 16-11-61; gambling, O.C.G.A., Sec. 16-12-20 et seq.; cruelty to animals, O.C.G.A., Sec. 16-12-4; criminal trespass, O.C.G.A., Sec. 16-7-21.

9-1-1	Disorderly conduct.
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Sec. 9-1-1 Disorderly conduct.

It shall be unlawful and disorderly conduct for any person to:

(1) Act in a violent or tumultuous manner toward another, whereby a reasonable person would be placed in fear of safety for life or limb;

(2) Place the property of another in serious danger of being destroyed or damaged;

(3) Use fighting words directed toward another, who becomes outraged and thus creates a turmoil;

(4) Violently interfere with another's pursuit of a lawful occupation; or

(5) Congregate with others to halt the flow of vehicular or pedestrian traffic and refuse to clear the way when ordered by lawful authority to do so.

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Sec. 9-1-2 Public drunkenness.

It shall be unlawful for any person to be on the streets of the city or in any public place in an intoxicated and disorderly condition.

Sec. 9-1-3 Noise; creating unnecessary noise.

(a) The creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the city is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(1) Horns. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, while not in motion except as a danger signal if another vehicle is approaching apparently out of control, or, if in motion, only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of that device for an unnecessary or unreasonable period of time.

(2) Musical instruments. The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or any persons in the vicinity, except this section shall not apply to schools of music between the hours of 7:00 a.m. and 10:00 p.m.

(3) Voices. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 12 midnight and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or any persons in the vicinity.

(4) Noisy vehicle. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in any manner as to create loud and unnecessary grating, grinding or rattling, or other noise.

(5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authority.

(6) Exhausts. To discharge into the open air the exhaust of any stationary steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

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(7) **Construction work.** The erection (including excavating), demolition, alteration or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday except in cases of urgent necessity, and then only with a permit from the city, which permit may be granted for a period not to exceed 60 days while the emergency continues.

(8) **On streets of institutions requiring quiet.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

(9) **Loudspeakers on vehicles.** The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(10) **Animals, birds.** The keeping of any animal or bird which shall disturb the comfort or repose of any persons in the vicinity by making long, continual or frequent noise.

(c) None of the foregoing terms or prohibitions shall apply to or be enforced against:

(1) any vehicle of the city while engaged upon necessary public business;

(2) excavations or repairs of bridges, streets or highways, by or on behalf of the city, county or state during the night season, when the public welfare and convenience renders it impossible to perform that work during the day; nor shall the same apply to work performed by public utility companies under like conditions and circumstances, or when there is urgent necessity therefore; and

(3) the reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(d) The prohibitions shall not be applicable to any parade, celebration or performance for which a written permit has been obtained prior thereto from the city clerk.

(e) It shall be unlawful to use, maintain or operate loudspeakers, sound trucks, amplifiers or other mechanical or electrical devices for increasing the volume of sound, upon the streets, sidewalks, parks or other public places of the city; provided that nothing in this section shall apply to the United States of America, the state, the county nor the city, nor to public agencies.

Sec. 9-1-4 Posting signs on poles without consent.

It shall be unlawful for any person to post or display in or upon any bridge any sign or advertisement, or to post or display upon any telegraph, telephone or electric company's pole, or upon any public property or the

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private property of any person any bills, signs or advertisements without the consent in writing of the owner thereof.

Sec. 9-1-5 Weapons; discharge in city.

It shall be unlawful for any person to discharge a firearm, including pistol, rifle and shotgun, or to shoot an air gun, including BB gun and pellet gun, within the city, except by law enforcement officers in the line of duty, and the military when on drill or parade, or at a funeral in honor of the dead; provided, however, it shall not be unlawful for any person to shoot a BB gun upon private property if that person shall have first obtained the express permission of the owner of that property to do so.

Sec. 9-1-6 Littering.

No person shall throw, dump, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles, wood shavings, brush, tree trimmings or any other form of discarded materials, litter, or waste matter of every kind and description. (Ord. of 5/6/86)

State Law Reference: Authority to prohibit littering, O.C.G.A., Sec. 16-7-48.

Cross Reference: Refuse collection and disposal, Sec. 4-2-1 et seq.

Sec. 9-1-7 Criminal trespass by motor vehicle.

(a) A person commits the offense of criminal trespass by motor vehicle when the person, after having been requested not to do so by a law enforcement officer or by the owner or an authorized agent of the owner, parks or stands an occupied or unoccupied motor vehicle in, or repeatedly drives a motor vehicle through or within, a parking area which is located on privately owned property and is provided by a merchant, a group of merchants, or a shopping center or other similar facility for customers if:

(1) The parking area is identified by at least one sign as specified in this paragraph, and if the parking area contains more than 150 parking spaces then by at least one such sign for every 150 parking spaces, each such sign containing the following information in easy to read printing:

a. notice of the elements of the crime of criminal trespass by motor vehicle;

b. identification of the property which is reserved for customers' use only;

c. identification of the merchant, group of merchants, or shopping center or other similar facility providing the parking area; and

d. warning that violators will be prosecuted; and

(2) The motor vehicle is parked, is standing, or is being operated other than for the purpose of:

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a. transporting some person to or from the interior of the place of business of a merchant identified by the sign or signs in the parking area or to or from the interior of the shopping center or other facility so identified;

b. making use of a telephone, vending machine, automatic teller machine, or other similar facility located in the parking area;

c. meeting the requirements of a situation in which it has unexpectedly become impossible or impractical for the motor vehicle to continue to travel on the public roads; or

d. carrying out an activity for which express permission has been given by the owner of the parking area or an authorized representative of the owner.

(b) Any person violating any of the provisions of this Article shall, upon conviction, be punished as provided in 1-1-5 of this Code.

State Law Reference: Local authority to adopt provisions, O.C.G.A., Sec. 16-7-29.

Sec 9-1-8 Loitering

(a) A person commits the offense of loitering or prowling when he is in a place at time or in a manner not usual for a law abiding individual under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(b) Among the circumstances which may considered and determined in whether alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for the offense under this Code Section, offer the person an opportunity to dispel any alarm or immediate concern, which would otherwise be warranted, by requesting a person to identify himself and explain his presence and conduct.

(c) Any person violating any of the provisions of this Article shall, upon conviction, be punished as provided in 1-1-5 of this Code.

Sec 9-1-9 Public Drinking or Consumption of Alcoholic Beverages Prohibited.

(a) It shall be unlawful for any person to consume alcoholic beverages while on or in any public way, or upon any way that the public has the right of access to, to include parking areas open to the general public.

(b) It shall be unlawful for any person to consume alcoholic beverages upon any City owned property.

(c) Any person violating this section shall be subject to penalty pursuant to Section 1-1-5, Code of Ordinances, City of Ball Ground. -

Chapter 2

Nuisances

State Law Reference: Similar provisions, O.C.G.A. 41-1-1

9-2-1	Definition
9-2-2	Enumeration
9-2-3	Prohibited generally
9-2-4	Issuance of summons
9-2-5	Order for abatement
9-2-6	Special provision for old, unused, striped, junked automobiles
9-2-7	Nuisances constituting imminent danger
9-2-8	Services on non residents and others
9-2-9	Other powers preserved
9-2-10	Penalty

Section 9-2-1 Definition.

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

Nuisance means anything within the city that causes harm, 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 an ordinary, reasonable person. Any such nuisance may be abated as provided in this article.

Section 9-2-2 Enumeration.

- (a) The various nuisances described and enumerated in this section shall not be deemed to be exclusive but shall be in addition to all other nuisances described and prohibited in this Code.
- (b) The following are declared to be nuisances:
 - (1) Things interfering with peace or comfort. Sounds, animals or things that interfere with the peace or comfort or disturb the quiet of the city.
 - (2) Obnoxious, offensive odors. The emission of obnoxious and offensive odors; the tainting of the air rendering it offensive or unwholesome so as to affect the health

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or comfort of reasonable persons residing in the neighborhood.

- (3) Discharging of offensive matter. The placing or throwing or discharging from any house or premises or flow from or out of any house or premises, of any filthy, foul or offensive matter or liquid of any kind, into any street, alley or public place, or upon any adjacent lot or ground.
- (4) Water pollution. The obstruction or pollution of any watercourse or source of water supply in the city.
- (5) Emission of dense smoke. The emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the city so as to cause disturbance or discomfort to the public. For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart, as published and used by the United States Geological Survey, shall be the standard for such grading; and smoke shall be defined and declared to be dense when it is of a degree of density of number three on the chart, or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.
- (6) Debris on vacant lots. Any vacant lot whereon debris is permitted to accumulate and remain in such a manner as to create a fire hazard or other hazard to the public health, safety and welfare.
- (7) Nonconforming structures and machines. Any building, business, thing, machine, or machinery erected, repaired, conducted, maintained, operated or used contrary to or in violation of any of the fire and safety regulations of this Code, state law or city ordinance.
- (8) Filthy animal enclosures. Any enclosure or other area in which any animals are kept, including but not limited to dog kennels or runs and other animal or fowl pens wherein manure, dung, filth or litter is allowed to accumulate.
- (9) Dead animals. The carcass of any dead animal of any kind on any premises within the city.
- (10) Depositing trash, garbage and refuse on private or public property. The depositing and leaving on private or public property of trash, garbage, refuse, scrap building materials, paper, cardboard containers, brick, cement, rubbish, tree residue, cans, containers, or any other rubbish or trash that is a menace to public

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health and safety in the city or which unreasonably annoys others.

- (11) Unoccupied buildings. Unoccupied buildings that are not properly whitewashed or cleansed.
- (12) Unsafe vehicles, machinery and equipment. Unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, maintained on the premises for a period of 30 days or more (except in licensed junkyards). The absence of a license plate for the current year and/or the absence of a current annual motor vehicle registration shall be prima facie evidence that such vehicle is junked.
- (13) Gutters or spouts. Any gutter or spout that conveys filth into any street, lane or alley of the city.
- (14) Any trees, shrubbery or other plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city.
- (15) Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent those activities.

Section 9-2-3 Prohibited generally.

It shall be unlawful for any person to maintain or permit the existence of any nuisance on any property within the city.

Section 9-2-4 Issuance of summons for abatement.

Whenever any nuisance exists within the city, or whenever any condition shall exist on any property within the city that is required or subject to be demolished, removed or abated under any of the ordinances of the city, and the owner or other responsible person refuses or fails after reasonable notice to demolish, remove or abate the nuisance, the chief of police, or the officer having responsibility for enforcement of this article, may issue a summons and cause the summons to be served upon such owner or other person responsible for such condition, describing the condition complained of and specifying the ordinances or parts of ordinances claimed to be violated, and requiring such person to appear before the municipal court judge at a time, date and place specified in the summons, to show cause why such condition should not be demolished, removed or abated.

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Section 9-2-5 Order for abatement.

- (a) If the municipal judge at the hearing required by section 9-2-4 determines that a condition exists as alleged that constitutes a nuisance or that a condition exists which under this Code or the ordinances of the city requires or is subject to demolition, removal or abatement, the judge shall issue his order and judgment so finding and shall order the property owner or other responsible person to demolish, remove or abate the condition within a period of time to be fixed by the judge. The order shall provide how the condition is to be abated, including, but not limited to, rehabilitation or demolition of any buildings or structures located on the property in questions. The order shall further provide that if the property owner or other responsible person shall fail to comply with the order within the time specified, the city shall be authorized to proceed without further notice to demolish, remove or abate such condition and to take whatever actions deemed necessary to demolish, remove or abate such condition; and the expense shall be charged against the owner of the property in question and shall be a lien against the property upon which the condition existed, ranking equally with the lien for city taxes. In addition, the court may impose punishment as outlined in Section 1-1-5 upon conviction.
- (b) Execution shall issue for such costs as in the case of city taxes, and the procedure for the enforcement of the execution shall thereafter be the same as in the case of city taxes

State law reference - Authorization and procedure for abatement of nuisances in cities, O.C.G.A. 41-2-5.

Section 9-2-6 Special provisions for old, unused, striped, junked automobiles.

- (a) Unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, maintained on the premises for a period of 30 days or more (except in licensed junkyards) within the corporate limits of the city is a nuisance.

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- (b) The owners, tenants, lessees and/or occupants of any lot within the corporate limits of the city upon which the storage of property is made, and also the owners and/or lessees of the property involved in such storage shall jointly and severally abate the nuisance by the prompt

removal of the property into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the city, or otherwise by removing it to a location outside the corporate limits.

Section 9-2-7 Nuisances constituting imminent danger.

Whenever any condition shall exist which constitutes an immediate and grave hazard to public health and safety requiring immediate action, the condition may be abated or otherwise remedied summarily and without following the procedures set forth in sections 9-2-4 and 9-2-5.

Section 9-2-8 Services on nonresidents and others.

Whenever it shall be necessary for the city to proceed under sections 9-2-4 and 9-2-5 and the owner of the property or other responsible person resides outside the city limits, or cannot be found after diligent search, service of the notice required by section 9-2-5 shall be made by posting a copy of the notice on the property involved, and by publishing the notice in a newspaper having general circulation in the city once a week for four consecutive weeks, the last notice to be not longer than ten days nor less than one day prior to the hearing. Where the address of the person to be served is known, or where there is a last known address, a copy of the notice shall also be mailed to the person at such address by certified mail. In all cases where personal service cannot be made upon such person within the city limits, the case shall proceed as quasi in rem, and the execution shall issue in rem.

Section 9-2-9 Other powers preserved.

Nothing in this article shall in any way affect the power and authority of the municipal judge to punish for any violations which the conditions may constitute, nor shall it affect the power and authority of the municipal judge to punish by contempt the failure to comply with his order.

Section 9-2-10 Penalty.

Any person who shall violate any provision of this chapter shall, upon conviction, be punished as provided in Section 1-1-5 of this Code

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CHAPTER 3

Animals

Cross Reference: Noise created by animals, Sec. 9-1-3(b) (10).

ARTICLE A

General Provisions

- 9-3-1 Bird sanctuary; wildlife.
- 9-3-2 Fowl or livestock running at large prohibited.
- 9-3-3 Enclosures for animals and fowl.
- 9-3-4 Definitions
- 9-3-5 through 9-3-10 reserved.

ARTICLE B

Dogs and Cats

- 9-3-11 Running at large prohibited.
- 9-3-12 Collar and tag.
- 9-3-13 Vicious dogs.
- 9-3-14 Barking dogs.
- 9-3-15 Suspected rabid animals.
- 9-3-16 Impoundment; authorized.
- 9-3-17 Same; disposition of animals.
- 9-3-18 Cruelty to Animals
- 9-3-19 Penalties

ARTICLE A

General Provisions

Sec. 9-3-1 Bird sanctuary; wildlife.

(a) The entire area embraced within the corporate limits of the city is designated as a bird sanctuary.

(b) It shall be unlawful to trap, hunt, molest or kill any wild bird or to rob any wild bird's nest; provided, however, if nuisance birds such as starlings are found to be congregating in such numbers in a particular locality so as to constitute a nuisance or a menace to health or property in the opinion of the mayor and council, those birds may be destroyed as humanely as possible, under the supervision of the police department, in such numbers and in such manner as is deemed advisable by the mayor and council.

(c) It shall be unlawful to trap, hunt, molest or kill any other wild game in the city except by order of the Chief of Police.

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Sec. 9-3-2 Fowl or livestock running at large prohibited.

It shall be unlawful for any owner or person in control of any domestic fowl or livestock to allow that domestic fowl or livestock to run at large within the city.

Sec. 9-3-3 Enclosures for animals and fowl.

Any housing or enclosure used for the keeping of animals or fowl shall be well drained, free from accumulations of animal excrement and objectionable odors, and otherwise clean and sanitary.

Sec 9-3-4 Defintions

ABANDONMENT: It shall be unlawful to abandon any domestic animal.

ANIMAL: Any living organism, except a plant, bacterium or human, which can move voluntarily and have specialized sense organs, including domesticated animals and fowl.

ANIMAL CONTROL CENTER: Those facilities designated by the governing authority for the housing and care of animals pursuant to this ordinance.

ANIMAL CONTROL DEPARTMENT: The Cherokee County Animal Control Shelter.

BOARD OF HEALTH: The Cherokee County Board of Health.

DIRECTOR: The Director of the Cherokee County Animal Control Shelter.

OWNER: The person who has title to or the right to possession of an animal, including without limitation the caretaker or custodian of any animal or any person harboring or having control of an animal.

SHERIFF: The Cherokee County Sheriff's Department.

VICIOUS ANIMAL: Any animal which constitutes a physical threat to human beings or other animals by virtue of one or more attacks of such severity as to cause property damage or physical injury. An animal is also considered to be vicious if it makes an unprovoked attack on other animals or on human beings or on physical property.

Secs. 9-3-5 through 9-3-10 reserved.

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ARTICLE B

Dogs and Cats

Sec. 9-3-11 Running at large prohibited.

No owner of any dog or cat shall permit, or anyone having a dog or cat in his possession and control shall permit, such dog or cat to be out of control and unattended off the premises of the owner or upon the property of another person without permission of the owner or person in possession. It shall be the duty of every owner of any animal, or anyone having an animal in his possession or custody, to insure that it is enclosed by way of a fence or other enclosure or is restrained by chain or leash or in some physical manner or under control by a competent person so that it cannot wander off of the real property limits of the owner, possessor or custodian except as hereinafter provided, it being the intent of this section that all animals shall be prevented from leaving while unattended the real property limits of their owners, possessors, or custodians. A dog or cat shall be determined to be "under control" if it is controlled by a leash, is at heel, or is beside a competent person and obedient to that person's commands, or is within a vehicle being driven or parked on the streets, or is within the property limits of the owner.

Sec. 9-3-12 Collar and tag.

No owner of a dog or cat shall allow such dog or cat in any area in the city without a collar which shall have attached a valid and current vaccination tag as required by the laws of the State of Georgia. It shall be the duty of each dog or cat owner to provide a collar with an inoculation tag for each dog or cat, except when such dog or cat is under immediate control of the owner, or is participating in a dog or cat show exhibition.

It shall be unlawful for any person to attach a vaccination tag to any dog or cat for which it was not issued, or to remove a vaccination tag or collar from any animal without the consent of its owner or custodian.

Sec. 9-3-13 Vicious dogs.

(a) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious dog on the streets of the city or in any other public places therein, at any time, unless and in addition to the other requirements of this article such dog shall be securely muzzled to effectively prevent it from biting any person or other animal.

(b) Any dog that has attacked and bitten a person without provocation or has attempted to bite a person without provocation shall be deemed a vicious dog.

Sec. 9-3-14 Barking dogs.

No person shall keep or harbor a dog which, by loud and frequent

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barking, howling, helping, growling, or any other noise causes serious annoyance to any of the people of the city. Such dog shall be impounded upon written complaint of two or more citizens living within 500 feet of any property upon which such dog is confined, pending a determination that the dog is creating a serious annoyance.

Sec. 9-3-15 Suspected rabid animals.

Notwithstanding any other provision of this article, whenever the county health office, the rabies inspector or an officer or agent of the city shall receive information that any person has been bitten by a dog or cat reasonably suspected of being rabid, the county health office, the rabies inspector or officer or agent of the city, shall be required to have the dog or cat confined for a period of eight (8) days. It shall be unlawful for any person having knowledge that any person has been bitten by such dog or cat to refuse to notify promptly one or more of the officers mentioned in this section. All persons shall comply with the orders of the officials of the Cherokee County Health Department in the handling and treatment of such dogs or cats. Any dog or cat confined under this section shall be housed at the Cherokee County Animal Shelter. Any expense incurred in the handling of any dog or cat, under this section, shall be borne by the owner of the dog or cat.

Sec. 9-3-16 Impoundment; authorized.

Any and all dogs or cats found running at large or otherwise in violation of this article shall be immediately impounded by the city or its duly authorized officers or agents. In the event that the owner or one in possession of a dog or cat is not known and such dog or cat is upon the streets, alleys, sidewalks, public places, and/or premises of another, any law enforcement officer or agent or employee duly authorized by the city shall be authorized to take possession of such dog or cat and impound it in accordance with the rules and regulations now or hereinafter provided by law or ordinance for the detention, control and disposition of dogs or cats impounded pursuant to said law or ordinance applicable. All impounded animals will be taken to the Cherokee County Animal Shelter, and from that point all rules, regulations, fee's and procedures as adopted by Cherokee County in the operation of the animal shelter shall apply to such an animal, as if those rules, regulations, fee's and procedures were included herein in their entirety.

Sec. 9-3-17 Same; disposition of animals.

(a) Any dog or cat seized or impounded under any provision of this article shall be detained by the Cherokee County Animal Shelter. The officers, agents and employees of the city shall notify the owner of such dog or cat, if he is known or can be reasonably ascertained, that the dog or cat has been impounded. The owner of any dog or cat impounded may reclaim the dog or cat upon payment of the following:

(1) a per day boarding charge as established from time to time by the shelter to cover the cost of housing and feeding the animal;

(2) the cost of a rabies inoculation and tag where the owner cannot provide proof of currently effective inoculation; and

(3) a fee for redemption of the animal in the amount to be

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established by the Cherokee County Animal Shelter:

(b) All animals impounded and taken to the Cherokee County Animal Shelter shall be boarded, adopted out, disposed of, or returned to their rightful owner in accordance with the policies and procedures of the shelter.

Section 9-3-18 CRUELTY TO ANIMALS.

a. Whoever willfully or maliciously kills, abuses, maims or disfigures any animal or willfully or maliciously administers poison to another animal or exposes any poisonous substance with intent that the same shall be taken and swallowed by such animal shall be in violation of this ordinance.

b. Whoever overloads, overdrives, tortures, torments or deprives an animal of its necessary sustenance or shelter or beats, mutilates, or kills any animal or causes the same to be done, or carries in or upon vehicles or otherwise any animal in a cruel or inhumane manner shall be deemed in violation of this ordinance.

c. Whoever confines an animal and fails to supply sufficient quantities of wholesome food and water, or who keeps any animals in any enclosure without wholesome exercise and change of air, or abandons to die any animal shall be deemed in violation of this ordinance.

d. No person shall:

(1) Own, possess, keep or train any animal or fowl with the intent that such animal shall be engaged in an exhibition of fighting.

(2) Build, make, maintain or keep a pit on premises owned by him or occupied by him, or allow a pit to be built, made, maintained or kept on such premises for the purpose of an exhibition of animal fighting.

(3) In any manner encourage, instigate, promote or assist in an exhibition of animal fighting.

(4) Charge admission, be an assistant, umpire or participant or be present as a spectator to any exhibition of animal fighting.

e. Any animal control officer shall impound any animal found to be cruelly treated.

Sec. 9-3-19 Penalties.

Any person violating any of the provisions of this article shall, upon conviction, be punished as provided in section 1-1-5 of this code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

**CHAPTER 4
ABATEMENT OF NUISANCES GENERALLY**

STATE LAW REFERENCE: Abatement of Nuisances, O. C. G. A. § 41-2-7 through 41-2-17.

Section 9-4-1	Duty of Owners
Section 9-4-2	Designation of Building Inspector
Section 9-4-3	Filing of Complaint
Section 9-4-4	Processing of Complaint
Section 9-4-5	Authorization to Investigate
Section 9-4-6	Issuances of a Summons
Section 9-4-7	Right to Respond
Section 9-4-8	Determination by Municipal Court
Section 9-4-9	Reasonable Cost and Value
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Section 9-4-1 Duty of Owner

It shall be the duty of the owner of every dwelling, building, structure, or property within the City of Ball Ground to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City of Ball Ground, and in conformance with the applicable ordinances set forth in the Code of the City of Ball Ground, Title 1 thru 10, which regulate and prohibit certain 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 the above-referenced codes or ordinances;

Section 9-4-2 Designation of Building Inspector

The building inspector for the City of Ball Ground is hereby designated and appointed to exercise the powers prescribed within this section as well as Title 1 thru 10 of the Code of the City of Ball Ground.

Section 9-4-3 Filing of Complaint

Whenever a request is filed with the building inspector for the City of Ball Ground by the Mayor and City Council for the City of Ball Ground, the Board of Health and Safety, or by at least five (5) residents of the City of Ball Ground charging that any dwelling, building, structure, or property is unfit

for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and is being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the building inspector for the City of Ball Ground shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the building inspector's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the building inspector may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure.

Section 9-4-4 Processing of Complaint

The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the building inspector to abate the alleged nuisance. Complaints shall be served at least fourteen (14) days before the hearing date. The building inspector shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three (3) days of filing the complaint and at least fourteen (14) days prior to the date of the hearing. The building inspector or other public officer may determine, under other sections of this code, 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 dwellings, buildings, or structures; or of other residents of the City of Ball Ground. Such conditions may include the following (without limiting the generality of the foregoing):

- (a) Defects therein increasing the hazards of fire, accidents, or other calamities.
- (b) Lack of adequate ventilation, lights, or sanitary facilities;
- (c) Dilapidation;
- (d) Disrepair;

(e) **Structural defects; and**

(f) **Uncleanliness.**

The building inspector for the City of Ball Ground or other public officer may determine, under the other sections of this code, that a dwelling, building, or other structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report from any law enforcement agency and evidence of drug crimes being committed.

Section 9-4-5 Authorization to Investigate

The building inspector for the City of Ball Ground or other public officer is hereby authorized to investigate the dwelling conditions in the City of Ball Ground 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. Further the building inspector or other public officer as authorized to administer oaths and affirmations, to examine witnesses, and to receive evidence. Additionally, the building inspector or other public officer is authorized to enter upon the 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.

Section 9-4-6 Issuance of Summons

The summons shall notify the interested party that a hearing will be held before the Municipal Court for the City of Ball Ground at a date and time certain. Said hearing shall be held not less than fifteen (15) days or more than forty-five (45) days after the filing of said complaint in the Municipal Court for the City of Ball Ground.

Section 9-4-7 Right to Respond

The interested parties shall have the right to file an answer to the complaint, and the interested parties shall have the right to appear in person or by attorney and offer testimony at the time and place fixed for said hearing.

Section 9-4-8 Determination by Municipal Court

If, after notice and hearing, the Municipal Court for the City of Ball Ground determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support of such determination and shall

issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order;

- (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
- (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with the applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

Section 9-4-9 Reasonable Cost and Value

For purposes of this section, the court shall make its determination of “reasonable costs in relation to the present value of the dwelling, building, or structure” without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court’s determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser certification as provided in Chapter 39A of Title 43, Qualified Building Contractors, or Qualified Building Inspectors without actual testimony presented. Costs of repair, alterations or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations.

Section 9-4-10 Failure to Comply

If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the building inspector for the City of Ball Ground may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or

demolished. Such abatement action shall commence within two hundred seventy (270) days after the expiration of time specified in the order for abatement by the owner.

Section 9-4-11 Posting of Property

The building inspector for the City of Ball Ground shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words: “This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes for the City of Ball Ground or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful.”;

Section 9-4-12 Lien Against Property

The amount of the cost of demolition, including all court costs, appraisal fees, administrator costs, and other expenses incurred by the City of Ball Ground, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such costs was incurred.

Section 9-4-13 Appeals

Review of a court order requiring repair, alteration, improvement or demolition of a dwelling, building, or structure shall be by direct appeal to the Superior Court.