

CHRONIC NUISANCE PROPERTY

AN ORDINANCE TO AMEND CHAPTER 27, ARTICLE 9, SECTION 3 AND ARTICLE 7, SECTION 7 OF THE CODE OF DEKALB COUNTY, GEORGIA, AS REVISED 1988 TO ADD REGULATIONS FOR CHRONIC NUISANCE PROPERTY AND FOR OTHER PURPOSES.

Chapter 27 Article 9.1.3 CHRONIC NUISANCE PROPERTY IN DEKALB COUNTY

WHEREAS the DeKalb County Board of Commissioners is vested with authority to regulate land use through the adoption of planning and zoning ordinances which reasonably relate to the public health, safety, morality and general welfare of the County and its citizens; and

WHEREAS, the Board of Commissioners finds that certain properties, through repeated violations of noise, parking, and other public safety regulations, may create ongoing disruptions that negatively impact surrounding neighborhoods, strain County resources, including Police, Fire, Code Enforcement Services, and undermine the general welfare, health, and safety of the public; and

WHEREAS, the County has authority under its Police Powers and Home Rule Authority granted by the Constitution of the State of Georgia to abate nuisances, recover costs, and regulate land use and business activity; and

WHEREAS the County desires to implement a structured mechanism to exercise this authority; and

WHEREAS, the County seeks to align its planning and zoning ordinance with enforcement practices, including the establishment of administrative fees to ensure compliance and deter continued nuisance activity; and

WHEREAS, the County seeks to establish clear definitions for Chronic Nuisance and Chronic Nuisance Property to ensure consistent interpretation, enforcement, and administrative action.

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NOW THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and be it hereby ordained by the Authority of same, that Chapter 27 of the Zoning Ordinance of DeKalb County, is hereby amended as follows:

PART I ENACTMENT

By amending Article 9, Section 3 (Defined Terms) of Chapter 27, of the Zoning Ordinance of DeKalb County to establish the definition of Chronic Nuisance, Chronic Nuisance Property, and Nuisance Incident; and by amending Article 7, Section 7 to establish enforcement, violation, and administrative fees as follows:

Section. 9.1.3. – Definitions.

Chronic Nuisance. A pattern of repeated nuisance incidents and or violations associated with a property that adversely impacts the public health, safety, or welfare, as evidenced by the frequency and documentation of such incidents within the timeframes established in this section and section 7.7.19 of Chapter 27.

Chronic Nuisance Property. Any parcel, dwelling, or structure on which three (3) or more documented nuisance incidents and or violations occur within any one hundred eighty (180) day period, or five (5) or more documented nuisance incidents occur within any twelve (12) month period, as documented by County departments.

Incident, Nuisance. Any documented violation of County ordinances or applicable state law occurring on or associated with a property, including but not limited to:

- Disorderly conduct, loud parties, or unlawful gatherings
- Repeated noise ordinance violations
- Alcohol or drug related offenses
- Assaults or disturbances requiring law enforcement response
- Code violations affecting public health or safety
- Illegal commercial activity in a residential zone (including unpermitted short-term rentals)

Responsible Party. The property owner, operator, manager, business license holder, lessee and or any person or entity exercising control over the property or activities conducted on site.

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Sec. 7.7.19 Chronic Nuisance Property Enforcement

- a. The Director of Planning and Sustainability, or designee, is authorized to administer and enforce the provisions of this section and shall serve as the central administrative coordinator for implementation of the Chronic Nuisance Property provisions.

The provisions of this section shall be administered and enforced through coordinated interdepartmental action by the County, including but not limited to the following departments, divisions, or their successor counterparts:

- i. Planning and Sustainability
- ii. Code Compliance
- iii. Police Services
- iv. Fire Rescue
- v. Sanitation

Sec. 7.7.20. Notice of Violation and Designation

- a. The first documented nuisance incident shall constitute a formal written warning notice by one (1) or more of the departments, divisions, or their successor counterparts listed in this subsection.

The written notice shall:

- i. Identify the documented nuisance incident(s)
- ii. Inform the responsible party that continued violations may result in designation as a Chronic Nuisance
- iii. Provide information regarding applicable corrective actions and compliance requirements

The County may require the responsible party to undertake and maintain reasonable measures necessary to prevent the reoccurrence of nuisance activity.

Such corrective measures may include, but may not be limited to:

1. Immediate termination of any unlawful use, activity, tenancy, occupancy, or operation occurring on subject property

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2. Return the property use to compliance with this code and all other applicable provisions
 3. Preparation and implementation of a security and or on-site management plan
 4. Provision of on-site security personnel, property management, or other operational controls
 5. Implementation of additional corrective measures reasonably related to the nuisance activity identified by the County
 6. The responsible party shall comply with all corrective measures within the prescribed time by the County. Failure to comply with these requirements shall constitute a separate violation of this Code, and each day such noncompliant condition continues may be deemed a separate offense.
- b. Upon the second (2nd) documented nuisance incident within any one hundred eighty (180) day period, the County shall issue a separate written warning notice to the responsible party reminding them of the prior warning and clarifying that a repeat incident will result in the designation of the subject site as a Chronic Nuisance Property; siting this section.
- c. Upon the third (3rd) documented nuisance incident within any one hundred eighty (180) day period, the property may be designated as a Chronic Nuisance Property by the Director of Planning and Sustainability, or designee.

A written notice shall be issued to the responsible party, as defined in section 9.1.3 of Chapter 27, stating that, per the definition of Chronic Nuisance Property, the repeated pattern of violations at this property has jeopardized the general welfare of the public and burdened County resources. Cost recovery measures and administrative fees will be assessed, as set forth in this section. The responsible party shall be notified of such designation and associated fees in a written notice along with a prescribed time by which payment shall be remitted.

- d. The designation of a Chronic Nuisance Property, and any associated administrative fee, shall be subject to appeal under Section 7.5.7 of this Chapter.

Sec. 7.7.21. Administrative Fees

- a. Upon designation of a property as a Chronic Nuisance Property, the County is authorized to recover all reasonable costs and administrative fees incurred in responding to nuisance activity. Such costs may include, but are not limited to, expenses associated with first responder services, enforcement actions, inspections, and coordination across County departments. Fees shall be assessed based on either the actual costs incurred or a standardized fee schedule adopted by the County for administrative efficiency.

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Administrative fees may include, but are not limited to:

- i. Police service response
 - ii. Code compliance and Code Enforcement response
 - iii. Fire rescue service dispatch and response
 - iv. Administrative coordination, incident recording, documentation filing, notice preparation, and any costs associated with action taken against any County issued licenses, permits, approval or entitlement associated with the property or use
- b. Such costs may be assessed against the responsible party as an administrative fee per response, per incident, and billed directly to the responsible party and where authorized by law against the property
- c. Failure to pay assessed fees within the time prescribed by the County may result in additional enforcement action as authorized by this Code and applicable law
- d. The Department of Planning and Sustainability may impose administrative fees and other escalating corrective measures, including, but not limited to the following:
- i. For the first documented incident, an administrative fee of one-thousand dollars (\$1,000.00)
 - ii. For the second incident, an administrative fee of one thousand five hundred dollars fee (\$1,500.00)
 - iii. For the third incident, an administrative fee of two thousand five hundred dollars (\$2,500.00)
- e. The total administrative fees shall not exceed five thousand dollars (\$5,000.00)

Sec. 7.7.22. Revocation of Licenses, Permits and Entitlements

- a. In addition to any other measure authorized by this Code, where a Chronic Nuisance Property is operated as a business, and or commercial use, the County may pursue action against any license, permit, approval, or entitlement associated with the property or use.

Such actions may include, but are not limited to:

- i. Suspension or Revocation of Business License held by the responsible party in connection to the property pursuant to Section 46 of Chapter 15

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- ii. Prohibition on reapplication for any revoked business license, permit, or land use approval for a period of not less than twelve (12) months and not more than twenty-four (24) months from the effective date of revocation
- iii. Revocation of Special Land Use Permit (SLUP), special exception or other land use approval associated with the subject property
- iv. Zoning classification may be restored by the County, where nuisance activity is materially inconsistent with the basis upon which a recent rezoning approval was granted
- v. The designation of a Chronic Nuisance Property, and any associated administrative fee, shall be subject to appeal under Section 7.5.6 of this Chapter.
- vi. Any suspension, revocation, denial of renewal, or other action taken with respect to a business license pursuant to Chapter 15 of this code shall be subject to appeal in accordance with Section 15-46.
- vii. Any revocation of a Special Land Use Permit (SLUP), special exception, other land use approval, or zoning classification under this chapter shall be subject to appeal in accordance with Section 7.4.10 of Chapter 27. associated with the subject property

Sec. 7.7.23. Property Liens and Collections

- a. Any unpaid fines, administrative fees, response costs, or other charges assessed pursuant to this section may constitute a debt owed to the County.
- b. The County may collect such unpaid balance by any lawful means available, including but not limited to:
 - i. Recording a lien against the subject property
 - ii. Collection activity in the same manner as other debts, fees, or charges owed to the County
 - iii. Referral for civil collection as permitted by law

PART 2: All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

PART 3: The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the DeKalb County.

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PART 4: It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances, DeKalb County, Georgia.

PART 5: This Ordinance shall become effective immediately on the date of adoption by the board of commissioners and approval by the chief executive officer.

PART 6: Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

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