

AN ORDINANCE
TO BE ENTITLED

AN ORDINANCE TO AMEND DIVISION II, CODE OF
GENERAL ORDINANCES, PART 9, OFFENSES, CHAPTER 2,
NUISANCES, ARTICLE C, NUISANCE ABATEMENT CODE,
OF THE CODE OF THE CITY OF SAVANNAH, GEORGIA
(2003); TO REPEAL ALL ORDINANCES IN CONFLICT
HEREWITH AND FOR OTHER PURPOSES

WHEREAS, the legislature of the State of Georgia adopted a state nuisance abatement law in order to empower local communities to combat negative impacts of unfit buildings and structures under O.C.G.A. § 41-2-7 et seq.;

WHEREAS, the legislature, effective July 1, 2001, amended O.C.G.A. § 41-2-7 et seq. to further clarify nuisance abatement procedures and to provide further due process of law;

WHEREAS, it is the desire of the Mayor and Aldermen of the City of Savannah, Georgia, as the duly elected governing authority of the City, to adopt a nuisance abatement ordinance in compliance with the provisions of the state nuisance abatements code pursuant to O.C.G.A. § 41-2-7 et seq.;

BE IT ORDAINED by the Mayor and Alderman of the City of Savannah in regular meeting of Council assembled and pursuant to lawful authority thereof:

SECTION 1: The Code Of The City Of Savannah, Georgia (2003) is hereby amended by deleting former Division II, Part 9, Chapter 2, Article C, “NUISANCE ABATEMENT CODE” and inserting in lieu there of a new Article C which shall be entitled “PROPERTIES WHICH ARE PUBLIC NUSIANCES” and which new article shall read as follows:

ARTICLE C: PROPERTIES WHICH ARE PUBLIC NUSIANCES

Sec. 9-2051. – Findings of the existence of nuisance structures.

- (a) The Mayor and Alderman of the City of Savannah as the governing authority of the city, finds and declares that within the city there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are not in compliance with applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance to be in force within the city; or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the city and the state; and that the public necessity exists for the Repair, Closing, or demolition of such dwellings, buildings, or structures.

- (b) It is further found and declared that within the city there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the city and a public necessity exists for the Repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Moreover, the Mayor and Alderman of the City of Savannah find that there exists in the city dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with Applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the city, or vacant, dilapidated dwellings, buildings, or structures in which Drug Crimes are being committed. Finally, it is the intent of the governing authority to invoke the procedures hereafter codified for private property which constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.

Sec. 9-2052. – Nuisance abatement procedures.

- (a) **Continued use of other laws and ordinances.** It is the intent of Mayor and Alderman of the City of Savannah that nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of any local enabling act, charter, ordinance or regulation, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by any other law or ordinance, legislation, or regulation.

- (b) **Definitions.**

- 1) **“Applicable codes”** means: (a) any optional housing or abatement standard provided in Chapter 2 of Title 8 of the Official Code of Georgia Annotated as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (b) any fire or life safety code as provided for in Chapter 2 of Title 25 of the Official Code of Georgia Annotated; and (c) any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in Official Code of Georgia Annotated Chapter 2 of Title 8 after October 1, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.
- 2) **“Closing”** means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

- 3) **“Drug crime”** means an act which is a violation of Official Code of Georgia Annotated Article 2 of Chapter 13 of Title 16, known as the Georgia Controlled Substances Act.
- 4) **“Dwellings, buildings, or structures”** means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outbuilding or accessory structures, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwellings, buildings, or structures" shall not mean or include any farm building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.
- 5) **“Governing authority”** means the Mayor and Alderman of the City of Savannah.
- 6) **“Interested Parties”** means any one or combination of the following:
 - (A) Owner;
 - (B) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
 - (C) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
 - (D) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the county courthouse or by the clerk of the court. Interested Parties shall not include the holder of the benefit or burden of any easement or right of way whose interest is properly recorded which interest shall remain unaffected; and
 - (E) Persons in possession of said property and premises.
- 7) **“Owner”** means the holder of the title in fee simple and every mortgagee of record.
- 8) **“Public authority”** means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the municipality, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.
- 9) **“Public Officer”** means the officer or officers who are authorized by O.C.G.A. § 41-2-7, O.C.G.A. § 41-2-8, and O.C.G.A. §§ 41-2-9 through 41-2-17 and by ordinances adopted under O.C.G.A. § 41-2-7, this City Code section, and O.C.G.A. §§ 41-2-9 through 41-2-17 to exercise the powers prescribed by such ordinances or any agent of such officer or officers.

- 10) **“Repair”** means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the Applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.
- 11) **“Resident”** means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

(c) **Duties of Owners; appointment of Public Officer; procedures for determining premises to be unsafe or unhealthful.**

- 1) It is the duty of the Owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwellings, building, structure, or property in conformance with Applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.
- 2) The Mayor and Alderman of the City of Savannah appoint or designate the City Manager, and his/her designees as Public Officer(s) to exercise the powers prescribed by this article.

(d) **Other remedies not precluded.**

- 1) The Public Officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in courts of competent jurisdiction prior to issuing a complaint in rem as provided in this article.
- 2) Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 9-2053. – Procedures; notice; hearing; appeal.

- (a) Whenever a request is filed with the Public Officer by a Public Authority or by at least five Residents of the city of Savannah 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 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 Public Officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.

- (b) If the officer'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 Public Officer 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. 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 Public Officer to abate the alleged nuisance. The summons shall notify the Interested Parties that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the city where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in court. The Interested Parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.
- (c) If, after such notice and hearing, the court 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:
- i. 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
 - ii. If the Repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with 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.

For purposes of this article, the court shall make its determination of “reasonable cost 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 classification as provided in Chapter 39A of Title 43, of the Official Code of Georgia Annotated, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of Repair, alteration, 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 in force in Savannah, Georgia.

- (d) If the Owner fails to comply with an order to Repair or demolish the dwelling, building, or structure, the Public Officer may cause such dwelling, building, or structure to be Repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the Owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence. The Public Officer 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 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.”

- (e) If the Public Officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The Public Officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.
- (f) The amount of the cost of Repair, closure or demolition, including all court costs, appraisal fees, administrative costs incurred by the city and its municipal tax collector or city revenue officer, 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 cost was incurred.

Said lien shall attach to the real property upon the filing of a certified copy of the order requiring Repair, closure, or demolition in the office of the Clerk of Superior Court of Chatham County, Georgia and shall relate back to the date of the filing of the lis pendens notice required under subsection (c) of O.C.G.A. § 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of Chatham County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

- (g) Upon final determination of costs, fees, and expenses incurred in accordance with this article, the Public Officer responsible for enforcement actions in accordance with this article shall transmit to the appropriate municipal tax collector or city revenue officer a statement of the total amount due and secured by said lien, together with copies of all notices provided to Interested Parties. The statement of the Public Officer shall be transmitted within 90 days of completion of the Repairs, demolition, or closure. It shall be the duty of the appropriate municipal tax collector or city revenue officer, who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A., Chapter 4 of Title 48; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The municipal tax collector or city revenue officer shall remit the amount collected to the City of Savannah.
- (h) Enforcement of liens pursuant to this article may be initiated at any time following receipt by the municipal tax collector or city revenue officer of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this article.
- (i) The redemption amount in any enforcement proceeding pursuant to this article shall be the full amount of the costs as finally determined in accordance with this article together with interest, penalties, and costs incurred by the Governing Authority, municipal tax collector, or city revenue officer in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. Sections 48-4-80 and 48-4-81.
- (j) The municipal tax collector or city revenue officer shall collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. § 41-2-7 et seq. unless such costs are waived by resolution of the city. Any such amount collected and retained for administration shall be deposited in the general fund of the city to pay the cost of administering the lien.
- (k) The city may waive and release any such lien imposed on property upon the Owner of such property entering into a contract with the city agreeing to a timetable for

rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

- (l) In addition to the procedures and remedies in this article, the Public Officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and seek to enforce such citations in a court of competent jurisdiction prior to issuing a complaint in rem as provided in this article.
- (m) Nothing in this Code section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 9-2054. – Determination by Public Officer that under existing ordinances dwellings, buildings, or structures are vacant and sample conditions of nuisances.

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

- 1) Defects therein increasing the hazards of fire, accidents, or other calamities;
- 2) Lack of adequate ventilation, light, or sanitary facilities;
- 3) Dilapidation;
- 4) Disrepair;
- 5) Structural defects;
- 6) Uncleanliness; and
- 7) Other additional standards which may from time to time be adopted and referenced herein by ordinance amendment.

The Public Officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of Drug Crimes based upon personal observation or report of a law enforcement agency and evidence of Drug Crimes being committed.

Sec. 9-2055. – Powers of Public Officers.

The Public Officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article and O.C.G.A. Section 41-2-7 through 41-2-17, including the following additional powers:

- 1) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current

commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of Drug Crimes;

- 2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- 3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- 4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the ordinances; and
- 5) To delegate any of his functions and powers under this article to such officers and agents as he may designate.

Sec. 9-2056. – Service of complaints and the filing of a notice of lis pendens.

- (a) Complaints issued by a Public Officer pursuant to this article shall be served in the following manner: At least 14 days prior to the date of the hearing, the Public Officer 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 business days of filing the complaint and at least 14 days prior to the date of the hearing.
- (b) For Interested Parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in Chatham County once a week for two consecutive weeks prior to the hearing.
- (c) A notice of lis pendens shall be filed in the office of the Clerk of Superior Court of Chatham County, Georgia. Such notice shall have the same force and effect as other lis pendens notices provided by law.
- (d) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this article on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Sec. 9-2057. – Appeal; Injunctions.

Where the abatement action does not commence in the superior court, review of a court order requiring the Repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the Superior Court of Chatham County, Georgia under O.C.G.A. § 5-3-29.

Any person affected by an order issued by the Public Officer may petition to the superior court for an injunction restraining the Public Officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the Public

Officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 days of the posting and service of the order of the Public Officer. De novo hearings shall be had by the court on petitions within 20 days. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this ordinance.

Sec. 9-2058. – Eminent Domain.

Nothing in O.C.G.A. Sections 41-2-7 through 41-2-17 or this article shall be construed as preventing the Owner or Owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state. Procedures under this article shall not constitute the exercise of the power of eminent domain by the city.

Sec. 9-2059. – Appropriations; grants; donations.

The city is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this article.

Sec. 9-2060. – Code of Georgia.

Any reference to the Official Code of Georgia Annotated or O.C.G.A. shall include any amendment to a cited section as subsequently adopted.

SECTION 2:

The preamble to this ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

SECTION 3:

All parts, portions, sections, paragraphs, sentences, clauses, and phrases of this ordinance are each hereby declared to be severable and if any such part, portion, section, paragraph, sentence, clause, or phrase of this ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect any remaining parts, portions, sections, paragraphs, sentences, clauses, or phrases thereof and the Mayor and Alderman of the City of Savannah, Georgia hereby declare that had they known that any such provision was or would be invalid, they would not have adopted that portion or part of the ordinance but would have nevertheless adopted the remaining portions thereof.

SECTION 4:

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

ADOPTED AND APPROVED: _____

MAYOR

CLERK OF COUNCIL