CHAPTER 21

PROPERTY MAINTENANCE ORDINANCE

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ARTICLE I. GENERALLY

Section 21.1 Purpose.

This article is enacted for the purpose of establishing minimum standards governing the use, occupancy, condition, and maintenance of property, dwellings, buildings, and structures; establishing minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings, buildings, structures, and surrounding premises safe, sanitary, and fit for human use and habitation; promoting and protecting the public health and safety through the control of weeds and grass which constitute a fire hazard; fixing certain responsibilities and duties of owners, operators, and occupants of dwellings; authorizing the inspection of dwellings and structures; providing for the condemnation of all buildings and structures deemed unfit for human use and habitation and providing for removal of such buildings at public expense after hearing; and for other purposes.

Section 21.2 Definitions.

Accessory structure means a structure, the use of which is incidental to that of the primary dwelling or structure and which is attached thereto or located on the same lot. "Accessory structure" includes, but is not limited to, any portable, demountable, or permanent enclosure, shade structure, and carport or garage.

Alter or *alteration* means any change or modification in construction.

Applicable codes mean:

1. 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 general nuisance law, relative to the safe use of real property;

2. Any fire or life safety code as provided for in Chapter 2 of Title 25 of the Official Code of Georgia Annotated; and

3. Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A., Chapter 2 of Title 8, after October 1, 1991, 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.

Approved means approved by the City.

Basement means a portion of a building located partly underground, but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Boardinghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which the owner or operator rents space to five or more persons with one or more meals regularly served as part of the rental or for a separate charge.

Cellar means that portion of a building having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

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

Dangerous structure means any of the following:

1. Abandoned or vacant structure that constitutes a hazard to the health or safety of persons who may come on or near the property on which the structure is located and which is not fenced in or otherwise protected to reasonably prohibit public access thereto.

2. A structure that is severely damaged by fire, storm or other natural or manmade causes and which has remained in such damaged condition for a period of six months or more and which constitutes a hazard to the health or safety of persons who may come on or near the property on which it is located.

3. A structure that is in a condition of being partially constructed and construction thereon has ceased for a period of 12 months or more and which constitutes a hazard to the health or safety of persons who may come on or near the property on which it is located.

4. Any combination of the foregoing which would constitute a hazard to the safety and welfare of any person living or property located adjacent thereto.

Department means the Office of the Mayor, the Office of the Planning and Building Inspection Official, the City Police Department, the Office of the Environmental Code Enforcement Officer of the City, or such other department as may hereafter be designated to enforce the provisions of this article.

Director means the Planning and Building Inspection Official or the representative thereof. When a department other than the Office of the Planning and Building Inspection Official is designated to enforce this article, the term means the director of that department or the designee of

such director.

Domestic sewage disposal system means a sewage disposal system designated or intended to dispose of domestic sewage which includes byproducts of domestic activities.

Drug crime means an act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, as amended from time to time, known as the Georgia Controlled Substances Act.

The words *"dwellings, buildings, or structures,"* used singly or in conjunction with each other, mean any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The terms 'dwellings, buildings, or structures' shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating, whether or not such unit is occupied or vacant.

Egress means a means of exit from a structure or dwelling unit.

Extermination means the control or eradication of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

Family means two or more persons living together, whether related by blood, marriage, or adoption, and having common housekeeping facilities.

Floor space means the total area of all habitable space in a building or structure.

Flush water closet means a toilet bowl flushed with water under pressure with a water-sealed trap above the floor level.

Garbage means putrescible animal and vegetable wastes resulting from the preparation, cooking, and serving of food and the storage of produce, tin cans, glass containers, and newspapers.

Governing authority means the Mayor and Council of the City of Blakely.

Grade means the average elevation of the ground adjoining a building or structure.

Habitable room means any room or enclosed floor space used or intended to be used for

living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

Heated water means water which has been heated sufficiently to ensure a temperature of not less than 120 degrees Fahrenheit at the outlets.

Inspection warrant means a warrant authorizing a search or inspection of private property where such search or inspection is necessary for the enforcement of any of the provisions of this article.

Interested party means (a) the 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, provided, the term "interested party" 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.

Junked vehicle means any wrecked or non-operable automobile, truck, or other vehicle or any vehicle which does not bear a current license plate.

Maintenance means the act of keeping buildings, structures, and equipment in a proper condition so as to prevent their decline or failure.

Manufactured home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development (HUD) and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq.

Mobile home means a detached single-family dwelling unit, designed for long-term occupancy, which has been prefabricated and then transported to its site or to a sales lot on its own wheels and requires only minor work before occupancy, such as connection to utilities or a foundation.

Multiple dwelling means any dwelling which is designed, built, rented, leased, let, or hired out to be occupied or which is occupied as the home or residence of more than two families living independently of each other, each doing its own cooking in such dwelling. 'Multiple dwelling'

includes a flat or apartment.

Municipality means any incorporated city within the State of Georgia.

Occupant means any person over one year of age living, sleeping, cooking, eating, or having actual possession of a dwelling or rooming unit.

Operator means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are let.

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

Plumbing means the practice, materials, and fixtures used in the installation, repair, extension, and alteration of all piping fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting systems and the public or private water supply systems within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, repair, extension, or alteration of storm water, liquid waste, or sewerage and water supply systems of any premises to their connection with any point of public disposal or other approved terminal.

Premises means a lot, plot or parcel of land, including dwellings, buildings, or structures thereon.

Proper or *properly* means in accordance with the general provisions of this article and in accordance with standards of cleanliness, stability, and safety as required by this article.

Property means land and whatever is erected or growing upon or affixed thereto.

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.

Public officer means the officer or officers who are authorized by O.C.G.A. § 41-2-7 through and including § 41-2-17, this ordinance, and by ordinances adopted under O. C. G. A. §§ 41-2-7 through and including 41-2-17, to exercise the powers prescribed by such ordinances or any agent of such officer or officers.

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.

Resident means any person residing in the jurisdiction where the property is located on or

after the date on which the alleged nuisance arose.

Rooming house means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

Safety means the condition of being free from danger and hazards which may cause accidents or disease.

Sanitary sewage disposal system means a sewage disposal system designed and intended to dispose of sanitary and domestic wastes including all liquid and solid wastes from the flush toilet, lavatory, bathtub or shower, and clothes washing machine.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Trash means nonputrescible solid wastes, consisting of combustible and noncombustible materials such as, but not limited to, paper, cardboard, yard clippings, wood, glass, crockery, and similar materials.

Unfit for human habitation means designation of dwellings or dwelling units as so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that such create a serious hazard to the health or safety or which lack illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public.

Unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not necessarily for cooking or eating purposes.

Unsanitary condition means the presence of a condition which is conducive to the spreading of disease or illness, or is conducive to harboring insects, rodents, or other pests.

Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

Water and sewer system includes private wells, public water utility mains, private septic tanks, sewage disposal systems, and public sewer mains.

Workmanlike condition of maintenance and repair means that such maintenance and repair shall be made in a reasonably skillful manner and in accordance with the requirements of all applicable ordinances.

Section 21.3 Article Remedial.

This article is remedial and shall be construed to secure the beneficial interests and purposes thereof, through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, rooming houses, buildings, structures, premises, or properties.

Section 21.4 Scope and Application.

a. Every building, dwelling, or structure in the incorporated area of the City, whether occupied or vacant, shall conform to the requirements of this article, irrespective of when such building may have been constructed, altered, or repaired. Every such building, structure, and premises shall be subject to and conform with the requirements of this article. When a unit is vacant, the full application of the article may be held in abeyance for an indefinite period, provided the exterior complies with this article, the interior has been cleaned of trash, rubbish, and debris, and the unit has been secured in a manner approved by the City and is maintained in that closed and inaccessible manner until it is fully repaired. Where applicable, this article also governs the condition of unimproved property.

b. Repairs and alterations in restoring a building to its condition previous to damage or deterioration, or altering such building in conformity with this article in such manner as will not extend or increase an existing nonconformity or hazard may be made with approved materials similar in kind to those of which such building is constructed.

c. The provisions of this article shall apply to any building, equipment, appliance, or system installed, altered, repaired, maintained, or used in the City except as may be otherwise specifically provided for by statute or ordinance.

d. Where repairs, alterations, construction, maintenance, and work required to meet the provisions of this article are regulated and/or required to be permitted by other ordinances, such repairs, alterations, construction, maintenance, and work shall be done only in accordance with those ordinances.

Section 21.5 Violations.

A person who violates a provision of this article or fails to comply with this article is guilty of an offense punishable as provided in the City Code. The owner of a building, structure, or premises, where anything in violation of this article shall be placed or shall exist, and all persons who may have caused or assisted in causing the commission of such violation, shall each be guilty

of a separate offense.

Section 21.6 Penalties.

Any person, firm, or corporation that shall do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon conviction of a violation in Municipal Court shall be subject to a fine and/or imprisonment in accordance with the City Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

Section 21.7 Unsafe, Unsanitary, etc., Structures Prohibited.

All dwellings, buildings, or other structures which are unsafe, unsanitary, or otherwise dangerous to human life or which, in relation to existing uses, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment are unlawful.

Section 21.8 Weeds, Junk, etc., Prohibited.

a. Persons shall keep their property free of those weeds and underbrush which create a health menace, fire hazard, or an unsafe or unsanitary condition as well as trash, garbage, junked vehicles, junked or abandoned appliances, or other things thereon which constitute a violation of the provisions of this article.

b. It shall be unlawful for the owner, operator, or occupant of a dwelling, rooming house, building, or structure to use the premises of such property for the open storage of any junked vehicles, appliances, glass, building material, building trash, or similar items. It shall be the duty and the responsibility of such owner, operator, or occupant to maintain the premises of such property and to remove from the premises all junked items as listed in this subsection, including, but not limited to, weeds, dead trees, trash, and garbage, upon notice from the City.

c. Owners and occupants of property shall not permit weeds or grass within 150 feet of any building or structure to grow on such property to a height exceeding 18 inches.

d. Owners and tenants of property or structures abutting a street, sidewalk, lane, or parking area on which the property or structure abuts shall maintain the property or structure clean and free of garbage and trash; however, City maintenance responsibility for public rights-of-way shall not be diminished by this section.

e. Where parking in open areas is used jointly for the benefit of two or more owners or tenants, the responsibility for maintaining these parking areas free of the items prohibited by this section shall be the joint and severable responsibility of the owners and tenants of these premises.

f. It shall be unlawful and a violation of this division for the owner of any private property and/or the person in possession thereof to cause or allow one or more junked vehicles

and/or junked appliances as defined in this division to remain on such property for more than 60 days without being repaired and placed in operable condition and, in the case of junked vehicles, with a current license plate. Whenever the department finds that such a conditions exists, the department shall give to the owner and the person in possession of the property upon which such vehicle and/or appliance is located the notice required by Section 21.23 of the property maintenance and in the manner required by that section that such vehicle and/or appliance is declared to be a junked vehicle and/or appliance, having remained on the property for more than 60 days in an operable condition without being repaired and placed in operable condition, and/or, in the case of vehicles, without a current license plate, and that its presence on the property is unlawful and a violation of this division and that within 30 days from the receipt of the notice the owner and/or the person in possession of the property is required to remove such vehicle and/or appliance from the property, or within such period of time shall cause the vehicle and/or appliance to be repaired and placed in operable condition and, in the case of vehicles, provided with a current license plate, or removed from the property. Any such person failing to comply with such notice shall be guilty of an offense punishable as provided by Section 21.5 of the property maintenance ordinance, and each day such failure continues shall be a separate offense punishable under this division, and the department shall cite and prosecute for all such offenses. Vehicles remaining on the property in violation of this section are declared to be nuisances, and the department shall proceed to pursue all available remedies to abate such nuisance and to cause the condition to be remedied.

Section 21.9 Compliance Prerequisite to Utility Services for Substandard Dwelling.

Electrical utility service shall not be reconnected to any vacant building or dwelling unit which is unfit for human habitation and has been without electrical utility service until such building or dwelling unit has been brought into compliance with this article.

Section 21.10 Demolition of Structures.

a. Demolition of any structure shall not begin until all utilities are cut off and capped at the street.

b. All debris, trash, litter, rubbish, rubble, and foundation exposed above the ground level shall be removed from the premises.

c. Any excavation or other depression must be filled to existing grade with clean dirt containing no more than 25 percent stone or masonry and all filled areas must be adequately sloped and drained.

Sections 21.11 - 21.19 Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Section 21.20 Enforcement Generally.

a. The department shall enforce the provisions of this article. Authorized agents of the department are vested with the police power necessary for the purpose of issuing charges and prosecuting persons charged with violating this article.

b. The department shall receive applications and issue permits and certificates required by this article. The department shall make necessary inspections to see that the provisions of this article are met. The department shall enforce all laws relating to the construction, alteration, repair, installation, erection, removal, demolition, use, location, and maintenance of properties, buildings, equipment, appliances, or systems, except as may be otherwise provided for in other ordinances or regulatory measures. The department shall, when requested by proper authority, or when the interests of the City so require, make investigations in connection with matters referred to in this article and render written reports on the same. The department shall issue notices or orders as may be necessary to enforce compliance with this article, to remove illegal or unsafe conditions or to secure the necessary safeguards.

Section 21.21 Coordination of Enforcement.

Inspection of premises and the issuing of orders in connection therewith under the provisions of this article shall be the exclusive responsibility of the department. Wherever, in the opinion of the director, it is necessary or desirable to have inspections of any condition by any other department, the director shall arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders. An order for correction of any violation under this article shall not be issued without the approval of the director, who shall have the responsibility before issuing any such order to determine that it has the concurrence of any other department or official of the government concerned with any matter involved in the case in question.

Section 21.22 Civil Liability.

No officer or member of the City Council or employee of the City, charged with the enforcement of this article in the discharge of duties, shall be rendered liable personally; and such officer, member, or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this article.

Section 21.23 Notice of Violations, etc.

a. Upon receipt of information that property, premises, buildings, systems, appliances, or equipment covered by this article are unsafe, or are otherwise in violation of the provisions of this ordinance or other ordinances of the city relating to the condition of property and premises, the

department shall cause to be made an inspection. If it is found that an unsafe condition exists, the department shall cause a written notice to be served as hereinafter provided.

b. The notice shall include the following:

1. An enumeration of conditions which the department has determined are in violation of this article.

2. An enumeration of remedial action required for each determined violation.

3. A specified period of time within which such remedial action shall be completed, such period of time for completion to be determined by the department as the period of time reasonably required under the known circumstances for the completion of the remedial action.

4. A statement adequate to notify the person served that a failure to comply with the provisions of this article within the time specified in the notice is unlawful and the penalty for such failure.

c. A copy of such notice shall be filed in the office of the director.

d. Notice shall be deemed perfected if served upon the owner or occupant as may be appropriate in any of the following ways:

1. In person.

2. By certified mail with return receipt attached and posting a copy of the notice upon the property.

e. Whenever the department determines that property, buildings, systems, appliances, or equipment, or any work in connection therewith that is covered by this article is being erected, installed, altered, repaired, stored, maintained, or demolished in violation of this article, the department shall serve a written notice or order upon the person responsible therefore directing the discontinuance of such illegal action and the remedying of the condition that is in violation.

f. In case such notice or order is not complied with, the department may issue a citation for violation of this article or may request the City Attorney or other proper prosecuting authority to institute an appropriate action or proceeding at law or in equity to correct or remove such violation, or restrain the execution of work thereon, or prevent the use of any building, system, appliance, or equipment in violation of this article or of any order or direction made pursuant thereto.

g. A purchaser, transferee, lessee, or mortgagee who has actual or constructive knowledge of the issuance of a notice shall be bound by such notice as of the date of such sale, transfer, lease, or mortgage.

Section 21.24 Inspections.

a. Inspections required under the provisions of this article shall be made by the department. Upon evidence of probable cause and presentation of proper credentials, authorized agents of the department may enter, at reasonable times, any building, structure, or premises in the City in order to enforce this article.

b. Any property, building, equipment, appliance, or system installed, constructed, erected, altered, repaired, maintained, or used in the City shall be subject to inspection by the department.

c. No official or employee of the department making inspection of properties for the purpose of determining the necessity for repairs or corrections shall have any financial interest, directly or indirectly, in any repairs or corrections which may be required by this article.

Section 21.25 Inspection Warrant.

a. The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this article. The warrant shall authorize the director or agents thereof to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this article.

b. Inspection warrants may be issued by the Municipal Court when the issuing judge is satisfied that all of the following conditions are met:

1. The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.

2. The issuing judge determines that the issuance of the warrant is authorized by this article.

c. The inspection warrant shall be issued only if it meets all of the following requirements:

1. The warrant is attached to the affidavit required to be made in order to obtain the warrant.

2. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant

authorizes an inspection.

3. The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.

4. The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Section 21.26 Owner's Right of Entry.

Every occupant of a building, dwelling, or dwelling unit shall give the owner thereof, or the owner's agents or employees, access to any part of such building, dwelling, or dwelling unit, or its premises, at all reasonable times, for the purpose of maintenance, improving or making such repairs or alterations as are necessary to effect compliance with the provisions of this article, or with any lawful rule or regulation adopted pursuant to the provisions of this article.

Section 21.27 Records.

The department shall keep comprehensive records of applications received, permits and certificate issued, inspections made, reports rendered, and notices or orders issued. All such records shall be open to public inspection at office hours observed by the department but shall not be removed from the office of the director.

Section 21.28 Stopping Work.

Whenever the department determines defective or illegal work is performed in violation of a provision or requirement of this article, it shall order, in writing, all further work to be stopped until such defective or illegal work is corrected.

Section 21.29 Placarding Premises.

a. The department may place a dated and signed placard on property which is in violation of this article, and notify the owner of such property by certified mail, return receipt requested, to the owner's last known address that the building has been placarded. Such notice shall specify the reason therefor and the owner's right of appeal as provided in this chapter. Such placard shall contain the following words:

> "The City of Blakely has declared this building dangerous and unfit for human habitation. The use or habitation of this building is prohibited and unlawful."

b. It shall be unlawful for a person or persons to occupy the dwelling, structure, or premises or for an owner to allow occupancy of a dwelling, structure, or premises which has been placarded, if such dwelling, structure, or premises is, or becomes, vacant after placarding or, in all

events, within 60 days from the date of placarding unless the violation has been corrected.

c. The posting of the placard and the recording of same in the records of the department shall be notice to the general public that it is unlawful for any owner to allow the dwelling or structure to be occupied, as provided herein. No further notice shall be required to be given to any subsequent owner.

d. It shall be unlawful to deface, alter, destroy, cover, or remove such placards. The department shall remove the placards when compliance with this article has been effected.

e. If the owner and/or parties in interest fail to comply with an order to vacate and close the dwelling, building, or structure and clean the premises, the department may proceed under Section 21.31 et seq. hereof.

Section 21.30 Correction of Violation by City at Expense of Property Owners--Generally.

In the event the owner and/or parties in interest fail to comply with an order to vacate and close and/or repair or demolish the dwelling, building, or structure and/or clean the premises, or remedy any other condition found to exist in violation of this ordinance or any other relevant ordinance of the City, any further proceedings against the interested parties and/or the property shall be conducted in accordance with the provisions of Section 21.31 et seq., as herein amended. In addition thereto, the department may, in addition to other remedies, issue a citation for violating any requirements or provisions of this ordinance.

Section 21.31 Duties of Owners; Appointment of Public Officer; Procedures for Determining Premises to be Unsafe or Unhealthful.

a. It is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

b. The Mayor and Council appoint or designate the Planning and Building Inspection Official of the City of Blakely or his/her designee(s) as public officer(s) to exercise the powers prescribed by this ordinance.

c. Whenever a request is filed with the public officer by a public authority or by at least five residents of the City charging that any property, dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and/or is not in compliance with applicable codes or exists in violation thereof, 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. If the officer determines from investigation or inspection 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 and file in the Municipal Court 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 property, 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 the Municipal Court 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 or any of them 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.

d. 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, or that there exist on the property other conditions which are in violation of this ordinances or other relevant ordinances of the City, 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. In cases involving structures or buildings on the property, 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 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 said dwelling, building, or structure and all debris from the property.

For purposes of these two sub-paragraphs, 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. The 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 O.C.G.A., 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 the jurisdiction.

3. In cases involving violations other than buildings or structures on the property, the court shall order the owner or other person before the court to abate the condition by mowing, cutting, or removal, as the case may be.

No officer or member of the City Council or employee of the City, charged with the enforcement of this article in the discharge of duties, shall be rendered liable personally; and such officer, member, or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this article.

e. If the owner or other person before the court fails to comply with an order to repair or demolish the dwelling, building, or structure, or to abate the condition, as the case may be, the public officer may cause such dwelling, building, or structure, to be repaired, altered, improved, to be vacated and closed, and/or demolished, or the conditions existing in violation abated as provided in said order. Such abatement action shall commence within 270 days after the expiration of the 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 and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

f. 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 the City 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.

g. The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the City, 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.

1. The lien provided for in the foregoing paragraph shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, demolition, or other abatement in the Office of the Clerk of the Superior Court of Early County and shall relate back to the date of the filing of the lis pendens notice required under Section 21.33 of this chapter. The Clerk of the Superior Court of Early County, as required by O.C.G.A. § 41-2-9(b)(1), shall record and index such certified copy of the order in the deed records of Early County and shall 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.

2. Upon final determination of costs, fees, and expenses incurred in accordance with this ordinance, the public officer responsible for enforcement actions under this ordinance shall transfer to the City tax collector 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, closure, or other action. It shall be the duty of the City tax collector to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48 of the Official Code of Georgia Annotated; provided, however, that the limitation of O.C.G.A 48-4-78 which requires 12 months of delinquency before commencing any tax foreclosure shall not apply. The City tax collector shall remit the amount collected to the governing authority of the City.

3. Enforcement of liens pursuant to this ordinance may be initiated at any time following receipt by the City tax collector of the final determination of costs in accordance with this ordinance. 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 chapter.

4. The redemption amount in any enforcement proceeding pursuant to this ordinance shall be the full amount of the costs as finally determined in accordance with this ordinance together with interest, penalties, and costs incurred by the governing authority and/or the City tax collector 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. §§ 48-4-80 and 48-4-81.

5. The City may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county or municipality 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.

6. 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 under O.C.G.A. § 5-3-29.

7. The public officers designated herein may, in addition to the powers herein granted, issue citations for violations of state minimum standard codes, option 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 a court of competent jurisdiction prior to issuing a complaint in rem as provided in this ordinance.

8. Nothing in this ordinance 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.

Section 21.32 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 its current commercial, industrial, or business use if he or she 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 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;

7. The existence of other conditions of the premises which are in violation of this ordinance or other relevant ordinances of the City, such as, without limitation, the existence of weeds, junk, garbage, and trash on the premises which affect the health and/or safety of the property and/or the occupants of the premises and/or other persons residing in the City.

8. 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.

Section 21.33 Service of Complaints.

Complaints issued by a public officer pursuant to this ordinance shall be served in the following manner:

a. 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 identity and address 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 a copy 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 any interested party 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 such 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 in the

county in which the dwelling, building, or structure is located at the time of filing the complaint in the appropriate court. 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 section 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 of the proceedings.

e. Enforcement of the lien shall be in accordance with O.C.G.A. § 48-4-7, as well as other applicable provisions of this ordinance and state law. In the event of conflict between any of the provisions of this ordinance and state law, state law shall govern.

Section 21.34 Powers of Public Officers.

The public officers designated in this ordinance shall have the following 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 exazminations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

4. To delegate any of his or her functions and powers under this ordinance to such officers and agents as may be provided by the City.

5. The department is authorized to utilize the in rem enforcement and abatement procedures, including the lis pendens, the issuance of liens and the recording and collection of same, provided by Sections 21.32 through l.35 inclusive of this ordinance in all cases where there exist on the property junk, weeds, grass, junked or abandoned appliances, junked or abandoned automobiles, garbage, trash, or any other conditions which are in noncompliance with or in violation of this ordinance, or any other applicable ordinances, codes, or laws; and the provisions of said sections shall apply fully to the abatement of such conditions.

Section 21.35 - 21.39 Reserved.

ARTICLE III. STANDARDS FOR DWELLINGS, BUILDINGS, AND STRUCTURES

Section 21.40 Compliance.

No person shall occupy as owner-occupant, or let or sublet to another for any use or occupancy, any dwelling, building, or structure, or any portion thereof, which does not comply with the provisions of this article.

Section 21.41 Sanitary Facilities.

a. Generally. Every dwelling, building, and structure shall contain not less than a lavatory and a water closet, all in good working condition and properly connected to an approved water and sewer system. Every dwelling unit shall, in addition, contain a kitchen sink and a tub or shower connected as aforesaid. Every plumbing fixture and wastewater pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

b. Location. All required plumbing fixtures shall be located within the dwelling, building, and structure and be accessible to the occupants of same. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user.

c. Hot and cold water supply. Every dwelling, building, and structure shall have connected to the lavatory and, where applicable, to the kitchen sink, tub, and shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

d. Water heating facilities. Every dwelling, building, and structure shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount to be drawn at every required kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than 120 degrees Fahrenheit.

e. Heating facilities. Every dwelling, building, and structure shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms and bathrooms to a temperature of at least 70 degrees Fahrenheit therein at a distance three feet above floor level under ordinary minimum winter conditions. Where a gas or electric central heating system is not provided, each dwelling, building, and structure shall be provided with sufficient fireplaces, chimneys, flues, or gas vents whereby heating appliances may be connected so as to furnish a minimum temperature of 70 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions.

f. Cooking and heating equipment. All cooking and heating equipment and facilities shall be maintained in a safe and good working condition.

Section 21.42 Electrical Systems.

All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used and installed, and connected to the source of electrical power in accordance with the adopted electrical code of the City.

Section 21.43 Light and Ventilation.

a. Electrical lights and outlets required. Every dwelling, building, and structure shall be wired for electric lights and convenience receptacles. Every habitable room of such dwelling shall contain at least one floor or wall-type electric convenience outlet. Every kitchen, bathroom, bedroom, corridor or hallway, and porch shall contain at least one supplied ceiling or wall-type electric outlet. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.

b. Light in public halls and stairway. Every public hall and stairway in every dwelling, building, and structure containing five or more units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

Section 21.44 Exterior and Interior of Structures.

a. Foundation. The building foundation walls, piers, or other structural elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon. In the case of a mobile home, the undercarriage of the mobile home shall be completely enclosed by the foundation or stand, or by a permanent skirt if no foundation or stand is utilized.

b. Exterior walls. The exterior walls shall be substantially weather tight, watertight, and shall be made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

c. Roofs. Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

d. Means of egress. Every dwelling, building, and structure shall have safe, unobstructed means of egress with a minimum ceiling height of seven feet leading to a safe and open space at ground level.

e. Stairs, porches, and appurtenances. Every inside and outside stair, porch, and any appurtenance thereto of every structure used for human habitation shall be capable of supporting the load that normal use may cause to be placed thereon and be maintained in sound condition and good repair.

f. Protective treatment. All exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.

g. Windows and doors. Every window, exterior door, and basement or cellar door and hatchway shall be substantially weather tight, watertight, and rodent proof and shall be kept in sound working condition and good repair.

h. Windows to be glazed. Windowpanes or an approved substitute shall be maintained without holes.

i. Window sash. Window sash shall be properly fitted and weather tight within the window frame.

j. Hardware. Every exterior door shall be provided with proper hardware and maintained in good condition.

k. Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling. Each door available as an exit shall be capable of being easily opened from the inside.

l. Interior floor, walls, and ceiling. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

m. Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

n. Structural supports. Every structural element shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

Section 21.45 Sanitation.

a. Sanitation. Every owner of a dwelling, building, and structure containing two or more units shall be responsible for maintaining in a clean and sanitary condition the shared or common areas and the premises thereof.

b. Cleanliness. Every occupant of a dwelling, building, and structure shall keep in a clean and sanitary condition that part of the dwelling, building, and structure and premises thereof which such person occupies and controls or which is provided for such person's particular use.

c. Garbage disposal. Every occupant of a dwelling, building, and structure shall dispose of garbage and any other organic waste, which might provide food for rodents, and rubbish in a clean

and sanitary manner by placing such in the garbage disposal facilities or garbage or rubbish storage containers.

d. Extermination. Every occupant of a dwelling, building, and structure shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Notwithstanding the foregoing provision, whenever infestation is caused by failure of the owner to maintain a dwelling, building, and structure in a reasonable ratproof and insect proof condition, extermination shall be the responsibility of the owner.

e. Grading and drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any dwelling, building, and structure located thereon.

f. Use and operation of supplied plumbing fixtures. Every occupant of a dwelling, building, and structure shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof."

Sections 21.46 - 21.50 Reserved.