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## **CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS**

### **ARTICLE VIII. UNFIT BUILDINGS AND PROPERTY**

#### **Sec. 14-71. Purpose and authority.**

This article is adopted per the authority granted by O.C.G.A. §§ 41-2-1 et seq. for the purpose of maintaining the health and cleanliness of the unincorporated areas of Effingham County, and to ensure safe and sanitary conditions in private property by establishing a method for enforcing minimum standards. This section is necessary for the public health, safety and welfare.

#### **Sec. 14-72. Definitions.**

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

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

*County* means the unincorporated areas of Effingham County, Georgia.

*Dwellings, buildings or structures* means any building or structure or part thereof used and occupied for human habitation, 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 term does not include any farm, any building or structure 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.

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

*Parties in interest* means persons in possession of such property and all persons and entities who have any interest in such dwelling, building or structure, or the property on which it is situated, based on the records of the public officer and of the county courthouse, and based on a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia, and any party who has filed a notice per O.C.G.A. § 48-3-9.

*Public authority* means any housing authority officer or officer in charge of any department or branch of the county or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county.

*Public officer* means the building inspector, health department officer, the county manager, or any other county representative approved by the county manager, who are authorized to exercise the powers prescribed by this section, or any agent of such officer or officers, or any other officer or officers appointed by the county manager for purposes of this section.

*Repair* means altering or improving a dwelling, building, structure or property to bring it into compliance with the applicable regulations 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, structure or property.

*Vacancy* means the use of a structure or property is discontinued in excess of 30 consecutive days.

**Sec. 14-73. Findings and applicability.**

- (a) It is found and declared that there exist in the unincorporated areas of Effingham County dwellings, buildings, structures, and properties which are unfit for human habitation or for commercial, industrial or business uses and not in compliance with the applicable standard codes or optional building, fire, life safety, or other codes adopted by the county; or in violation of general nuisance law and which constitute a hazard to the health, safety, and welfare of the people; and that a public necessity exists for the repair, closing or demolition of such dwellings, buildings or structures. It is further found and declared that where there is 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 and a public necessity exists for the repair of such condition or the cessation of such use. This county should exercise its police power to repair, close or demolish said dwellings, buildings or structures and/or cause the repair of such conditions or the cessation of such use in the manner provided in this section.
- (b) All the provisions hereof may also be applied to private property where there is 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. A finding by any governmental health department, health officer or building inspector that such property is a health or safety hazard shall constitute prima facie evidence that such property is in violation of this section.

**Sec. 14-74. Unlawful to own structures or property not compliant with this section.**

- (a) It is the duty of the owner of every dwelling, building, structure or property in the county to construct and maintain such dwelling, building, structure or property in conformance with this section and all applicable codes in force in the county including such regulations 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 regulations.
- (b) It shall be unlawful and a misdemeanor for any owner to own any dwelling, building, structure or property which: is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes, or 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 is otherwise in violation of this section.

**Sec. 14-75. Enforcement procedure.**

- (a) When a request is filed with the public officer by a public authority or at least five residents of the county charging that any dwelling, building, structure or property is unfit for human habitation or for commercial, industrial or business use or when it appears to the public officer (on his or her own motion) that any dwelling, building, structure or property is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes, or 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'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, or is vacant and being used in connection with the commission of drug crimes, or constitutes an endangerment to the

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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. The following described action shall then be taken.

The officer shall issue and cause to be served upon the owner and any parties in interest in such dwelling, building, structure or property summons and a complaint containing a notice that a hearing will be held in magistrate court not less than 15 days nor more than 45 days after the serving of the complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or by attorney, and give testimony at the place and time fixed in the complaint.

The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; 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.

- (b) If, after the hearing, the court determines that the dwelling, building, structure, or property under consideration is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes; or 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 its findings of fact in support of such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order:
- (1) If the repair, alteration, or improvement of such dwelling, building, structure, or property can be made at a reasonable cost in relation to the present value of the dwelling, building, structure, or property, requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling, building, structure, or property 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 such dwelling, building, structure, or property 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, structure, or property, requiring the owner within the time specified in the order, to remove or demolish such dwelling, building or structure and all debris from the property.
  - (3) If the court finds there is a condition or use of real estate other than addressed above, which renders adjacent real estate unsafe or inimical to safe human habitation and the court further finds that such use is dangerous and injurious to the health, safety and welfare of the people and that a public necessity exists for the repair of such condition or the cessation of such use, the court may order 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, and the order may require the abatement of the public health hazard or general nuisance to eliminate the endangerment to the public health or safety.

For the purposes of this Code section, 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 O.C.G.A. tit. 43, ch. 39A, 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 county.

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- (c) If the owner fails to comply with an order to repair, alter, improve or demolish the dwelling, building, structure, or property, or to abate the nuisance to eliminate the endangerment to the public health or safety, the public officer may cause such dwelling, building, structure, or property 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. Time during any court stay on abatement shall not count toward said 270 days. The public officer shall cause to be posted on the main entrance of the building, dwelling, structure, or property 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."

- (d) The amount of the cost of any repair, alteration, improvement, removal or demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, 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 cost was incurred. Credit for salvaged materials sold, per subsection (e) below, shall be given. Such lien shall attach to the real property upon the filing of a certified copy of the order in the office of the clerk of Effingham County Superior Court and shall relate back to the date of the filing of the lis pendens notice required under this section.

The clerk shall record and index such order in the deed records 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, and shall continue in force until paid. After filing the order with the clerk, and within 90 days of the repair, demolition or closure, the public officer shall forward a copy of the order and notice given to the owner and parties in interest and a final settlement of costs to the county tax commissioner.

It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property per O.C.G.A. §41-2-9, and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. tit. 48, ch. 4; 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 tax commissioner shall remit the amount collected to the county. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as interest and penalties on unpaid real property ad valorem taxes.

- (e) If the dwelling, building or structure is removed or demolished by the public officer, reasonable efforts shall be made to salvage and sell reusable materials at private or public sale, and the proceeds of such sale shall be credited against the cost of the removal or demolition, and proper records shall be kept showing application of sales proceeds. Such sale may be made without public advertisement and bid. The public officer and county shall have no liability related to such sale, including due to defects. Nothing in this section shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (f) The county may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county 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.
- (g) The redemption amount shall be the full amount of costs as determined above, plus interest, penalties and costs incurred by the county and the tax commissioner in the enforcement of such lien. Redemption of property shall be per O.C.G.A. §§ 48-4-80, 48-4-81.

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## **Sec. 14-76. Standards for determination by public officer.**

The public officer may determine that a dwelling, building, structure, or property 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 if he or she finds that conditions exist in or on such building, dwelling, structure, or property which are dangerous or injurious to the health, safety or welfare of the occupants or of other residents. Such conditions may include without limitation:

- (1) Dilapidation and non-compliance with applicable codes;
- (2) Defects increasing the hazards of fire, accidents, or other calamities;
- (3) Lack of adequate ventilation, light, or sanitary facilities;
- (4) Other conditions exist rendering such dwellings, buildings, structures, or property unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the county such as:
  - a. Disrepair, structural defects or uncleanness;
  - b. The interior walls or other vertical structural members list, lean or buckle so that a plumb line passing through the center of gravity of the structural members falls outside of its base so as to create a hazardous condition to the occupants of the structure or the population of the surrounding area;
  - c. Due to unsafe condition the supporting structure or nonsupporting enclosing or outside walls must be replaced;
  - d. The floors or roofs have improperly distributed loads or oversized loads or are so weakened as to be unsafe for their present or intended use;
  - e. The structure has been damaged by wind, fire or other causes so as to imperil the safety or the health of the structure's occupants or of the people of the county;
  - f. There are abandoned wells, shafts, basements or excavations, abandoned refrigerators or motor vehicles, or any structurally unsound fences or any lumber, trash, fences, debris or vegetation, or any condition which may cause lack of safe ingress or egress to the structure(s);
- (5) Vacant dwellings, buildings, or structures in which drug crimes are being committed;
- (6) There exists 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.

## **Sec. 14-77. Powers of public officers.**

The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this section, including, among others granted herein, the power to:

- (1) Investigate the dwelling conditions in the county in order to determine which dwellings, buildings, structures, or property therein are unfit for human habitation or are unfit for current commercial, industrial, or business use, and not in compliance with applicable codes, or are vacant and being used in connection with the commission of drug crimes, or endanger the public health or safety as a result of unsanitary or unsafe conditions;

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- (2) 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;
  - (3) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out this section;
  - (4) Delegate any of his functions and powers under this section to such officers and agents as he may designate.

**Sec. 14-78. Service of complaints or orders upon parties in interest and owners of unfit buildings or structures.**

- (a) Complaints issued by a public officer pursuant to this section shall be served in the following manner. A copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing. A copy of the complaint and summons shall also be served in the following way:

At least 14 days prior to the hearing, the public officer shall send the complaint and summons certified mail, return receipt requested, or statutory overnight delivery to all interested parties whose identity and address are reasonably ascertainable. Copies of the complaint shall also be mailed first-class mail to the property address to the attention of the occupants of the property, if any.

For any owner or party in interest whose mailing address is unknown, a notice stating the date, time, and place of hearing shall be published in the newspaper in which sheriff's advertisements appear once a week for 2 consecutive weeks prior to the hearing.

- (b) A notice of lis pendens shall be filed in the office of the clerk of the Effingham County Superior Court at the time of filing the complaint. Such notice shall have the same force and affect as other lis pendens notices provided by law.
- (c) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

**Sec. 14-79. Use of revenues, grants and donations to repair, close or demolish unfit buildings or structures.**

The county may 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 this section.

**Sec. 14-80. Deteriorated structures and premises as nuisances.**

- (a) All structures and/or the surrounding property of the structures which are determined to be in violation of this chapter are hereby declared to be public nuisances. In those instances, where there is an imminent threat to life or safety, the public officer shall be authorized to immediately post the structure as "unsafe for human habitation."

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- (b) If such finding of the public officer is contested by the occupants of the structure, then the public officer shall request an immediate hearing before the judge of the magistrate court in order to secure an order requiring any occupants of the unsafe structures to vacate. The public officer shall then proceed as set forth in this section.

**Sec. 14-81. Construction of this section and other laws, ordinances and regulations; appeal.**

Nothing herein shall abrogate or impair the powers of the courts or of any department of the county to enforce any provisions of its ordinances or regulations, nor to prevent or punish violations thereof; and powers conferred herein shall be in addition to and supplemental to powers conferred by any other law or ordinance. Appeal from magistrate court shall be per the Superior and State Court Appellate Practice Act (O.C.G.A. § § 5-3-1 to 5-3-21).