

**STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST**

**ORDINANCE NO.**

1 **AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF**  
2 **STONECREST AMENDING CHAPTER 7 - BUILDINGS AND CONSTRUCTION,**  
3 **ARTICLE V. - UNSAFE BUILDINGS OF THE CITY OF STONECREST CODE OF**  
4 **ORDINANCES BY CHANGING THE ARTICLE TITLE TO UNFIT BUILDINGS AND**  
5 **STRUCTURES, REMOVING THE EXISTING TEXT OF THE ARTICLE AND ADDING**  
6 **NEW TEXT; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING**  
7 **ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE**  
8 **DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.**

9 **WHEREAS**, the City of Stonecrest, Georgia (the “City”) is a municipal corporation  
10 created under the laws of the State of Georgia; and

11 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council  
12 (“City Council”) thereof; and

13 **WHEREAS**, the City Council shall have the authority to adopt and provide for the  
14 execution of such ordinances, resolutions, policies, rules, and regulations, which it shall deem  
15 necessary, expedient, or helpful for the peace, good order, protection of life and property, health,  
16 welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City  
17 of Stonecrest and may enforce such ordinances by imposing penalties for violation thereof; and

18 **WHEREAS**, the governing authority of the City finds and declares that within the City limits  
19 there is the existence or occupancy of dwellings or other buildings or structures which are unfit for  
20 human habitation or for commercial, industrial, or business occupancy or use and not in

21 compliance with applicable state minimum standard codes as adopted by ordinance or operation  
22 of law or any optional building, fire, life safety, or other codes relative to the safe use of real  
23 property and real property improvements adopted by ordinance in the City or general nuisance law  
24 and which constitute a hazard to the health, safety, and welfare of the people of the City and the  
25 State, and that public necessity exists for the repair, closing, or demolition of such dwellings,  
26 buildings, or structures; and

27 **WHEREAS**, it is the intention of the governing authority to adopt an ordinance to comply  
28 with and does comply with O.C.G.A. § 41-2-9(b) as a finding that conditions as set out in O.C.G.A.  
29 § 41-2-7 exist within the City (“Public Nuisance Ordinance”); and

30 **WHEREAS**, ARTICLE V. - UNSAFE BUILDINGS of CHAPTER 7 - BUILDINGS AND  
31 CONSTRUCTION is the City’s existing Public Nuisance Ordinance; and

32 **WHEREAS**, the City Council desires to adopt new provisions in place of ARTICLE V. -  
33 UNSAFE BUILDINGS of CHAPTER 7 - BUILDINGS AND CONSTRUCTION to be  
34 established as the City’s new Public Nuisance Ordinance.

35 **NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR**  
36 **AND COUNCIL OF THE CITY OF STONECREST, GEORGIA and by the authority**  
37 **thereof:**

38 **Section 1.** The Code of Ordinances, City of Stonecrest, Georgia is hereby amended in  
39 **Chapter 7 - BUILDINGS AND CONSTRUCTION ARTICLE V. - UNSAFE BUILDINGS**  
40 changing the article title to unfit buildings and structures and removing the existing text and  
41 replacing with new text as set forth in the provisions attached hereto as Exhibit A and made a part  
42 by reference.

43        **Section 2.** That the amended ordinance be read and codified as follows with added text in **red**  
44 **font, bold and underlined** and deleted text in **red and strikethrough** font.

45        **Section 3.** The preamble of this Ordinance shall be considered to be and is hereby incorporated  
46 by reference as if fully set out herein.

47        **Section 4.** (a)        It is hereby declared to be the intention of the Mayor and Council that all  
48 sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their  
49 enactment, believed by the Mayor and Council to be fully valid, enforceable, and constitutional.

50                    (b)        It is hereby declared to be the intention of the Mayor and Council that, to  
51 the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or  
52 phrase of this Ordinance is severable from every other section, paragraph, sentence, clause,  
53 or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor  
54 and Council that, to the greatest extent allowed by law, no section, paragraph, sentence,  
55 clause, or phrase of this Ordinance is mutually dependent upon any other section,  
56 paragraph, sentence, clause, or phrase of this Ordinance.

57                    (c)        In the event that any phrase, clause, sentence, paragraph or section of this  
58 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
59 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the  
60 express intent of the Mayor and Council that such invalidity, unconstitutionality or  
61 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional  
62 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or  
63 sections of this Ordinance and that, to the greatest extent allowed by law, all remaining phrases,  
64 clauses, sentences, paragraphs and sections of this Ordinance shall remain valid, constitutional,  
65 enforceable, and of full force and effect.

66            **Section 5.** The City Clerk, with the concurrence of the City Attorney, is authorized to  
67 correct any scrivener’s errors found in this Ordinance, including its exhibits, as enacted.

68            **Section 6.** All ordinances and parts of ordinances in conflict herewith are hereby expressly  
69 repealed to the extent of the conflict only.

70            **Section 7.** The effective date of this Ordinance shall be the date of its adoption by the  
71 Mayor and Council unless otherwise stated herein.

72            **Section 8.** The Ordinance shall be codified in a manner consistent with the laws of the  
73 State of Georgia and the City of Stonecrest.

74            **Section 9.** It is the intention of the governing body, and it is hereby ordained that the  
75 provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of  
76 Stonecrest, Georgia and the sections of this Ordinance may be renumbered to accomplish such  
77 intention.

**SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

**[SIGNATURES ON FOLLOWING PAGE]**

**ORDINANCE NO.**

**CITY OF STONECREST, GEORGIA**

\_\_\_\_\_  
**Jazzmin Cobble, Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**City Attorney**

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**EXHIBIT A**

**ARTICLE V. UNSAFE BUILDINGS**

**Sec. 7-231. Finding of existence of nuisances.**

- (a) — The governing authority of the City finds and declares that within the city limits 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 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 in 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 public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.
- (b) — It is further found and declared that in the City where 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. The governing authority of the City finds that there exist 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 structures 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, and private property exists, constituting 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.
- (c) — It is the intention of the governing authority that this article shall comply with and does comply with O.C.G.A. § 41-2-9(b) as a finding that conditions as set out in O.C.G.A. § 41-2-7 exist within the City.

(Ord. No. 2017-03-03, § 7-231, 3-19-2018)

**Sec. 7-232. Continued use of other laws and ordinances.**

It is the intent of the Mayor and City Council 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, or 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.

(Ord. No. 2017-03-03, § 7-232, 3-19-2018)

**Sec. 7-233. Definitions.**

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

*Applicable codes* means:

- (1) — Any optional housing or abatement standard provided in O.C.G.A. § 8-2-1 et seq. as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;

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- (2) ~~Any fire or life safety code as provided for in O.C.G.A. § 25-2-1 et seq; and~~
- (3) ~~Any minimum standard codes provided in O.C.G.A. § 8-2-1 et seq., 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.~~

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

~~*Drug crime* means an act which is a violation of O.C.G.A. § 16-13-20 et seq., known as the Georgia Controlled Substances Act.~~

~~*Dwelling, building, or structure* 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 outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwelling, building, or structure" 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.~~

~~*Governing authority* means the Mayor and Council of the City of Stonecrest, Georgia.~~

~~*Municipality* means any incorporated city within the State of Georgia.~~

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

~~*Parties in interest* means:~~

- (1) ~~Persons in possession of said property and premises;~~
- (2) ~~Persons having of record in the County in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia;~~
- (3) ~~Persons having paid an occupational tax to the Governing Authority for a location or office at the subject building or structure; or~~
- (4) ~~Persons having filed a property tax return with the Governing Authority as to the subject property, building, or structure.~~

~~*Public authority* means any member of a Governing Authority, any housing authority office, or any office 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. § 5-41-2-7, 41-2-8 and 41-2-9 through 41-2-17 and by this article adopted under O.C.G.A. § 5-41-2-7, 41-2-8, and 41-2-9 through 41-2-17 to exercise the powers prescribed by this article 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.~~

(Ord. No. 2017-03-03, § 7-233, 3-19-2018)



**Sec. 7-234. Duties of owners; appointment of public officer; procedures for having premises declared unsafe or unhealthful.**

- (a) ~~It is the duty of the owner of every dwelling, building, structure, or property within the City 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 City Manager shall appoint or designate the City Code Enforcement Officer, City Fire Marshal (if applicable), City Fire Chief (if applicable), City Police Chief, Building Inspector, and their designees as public officers to exercise the powers prescribed by this article.~~
- (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 dwelling, building, or structure 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. 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 owner and parties in interest in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and the 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. The summons shall notify the owner and parties in interest that a hearing will be held before the Stonecrest Municipal Court, at a date and time certain. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in court. The owner and parties in interest 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, the Court shall state in writing 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 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 such dwelling, building, or structure and all debris from the property.~~

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~~For the 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 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 state appraiser classification as provided in O.C.G.A. title 41, chapter 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 jurisdiction.~~

~~(e) 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, improved, vacated and closed, or demolished. 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 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 monies 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 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 such cost was incurred.~~

~~(h) Process for administering, collecting or waiving lien.~~

~~(1) The lien provided for in subsection (g) of this section 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 in DeKalb County and shall relate back to the date of the filing of the lis pendens notice required under O.C.G.A. § 41-2-12(g). The Clerk of Superior Court shall record and index such certified copy of the order in the deed records of DeKalb 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. After filing a certified copy of the order with the Clerk of Superior Court, the public officer shall forward a copy of the order and a final statement 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 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 tax, including specifically O.C.G.A. § 48-4-1—48-4-81; 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 governing authority of the City. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.~~

~~(2) The tax commissioner 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 County. Any~~

~~such amount collected and retained for administration shall be deposited in the general fund of the County to pay the cost of administering the lien.~~

~~(3) The City may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality agreeing to a timetable for rehabilitation of the real property of the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.~~

~~(i) 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.~~

~~(j) 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 the Municipal Court prior to issuing a complaint in rem as provided in this article.~~

~~(k) 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.~~

~~(Ord. No. 2017-03-03, § 7-234, 3-19-2018)~~

**~~Sec. 7-235. Determination by public officers that dwellings, buildings or structures are vacant and sample conditions of nuisances.~~**

~~(a) 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 dwelling, 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; and~~

~~(7) Other additional standards, which may from time to time be adopted and referenced herein by ordinance amendment.~~

~~(b) 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.~~

~~(Ord. No. 2017-03-03, § 7-235, 3-19-2018)~~

**~~Sec. 7-236. Powers of public officers.~~**

~~The Public Officers designated in this article 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 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 this article; and~~
- ~~(5) To delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.~~

~~(Ord. No. 2017-03-03, § 7-236, 3-19-2018)~~

~~**Sec. 7-237. Service of complaints and other filings.**~~

- ~~(a) Complaints issued by a Public Officer pursuant to this article shall be served in the following manner:
  - ~~(1) 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.~~
  - ~~(2) 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.~~
  - ~~(3) 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 DeKalb County once a week for two consecutive weeks prior to the hearing.~~~~
- ~~(b) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided above 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.~~

~~(Ord. No. 2017-03-03, § 7-237, 3-19-2018)~~

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Chapter 7 - BUILDINGS AND CONSTRUCTION

Article V. -UNFIT BUILDINGS AND STRUCTURES

Sec. 7-231. - Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section.

Applicable codes means any optional housing or abatement standard provided in O.C.G.A. Title 8, Chapter 2 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; any fire [or life] safety code as provided for in O.C.G.A. Title 25, Chapter 2; and the minimum standard codes provided in O.C.G.A. Title 8, Chapter 2, 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.

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

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

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 outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this article, the term "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.

Graffiti shall have that meaning ascribed to it in O.C.G.A. Title 17, Chapter 15A-2.

Governing authority means the Mayor and Council of the City of Stonecrest, Georgia.

Interested party means:

1. The "owner";
2. Persons in possession of said property and premises;
3. 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;
4. Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9; and
5. Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the municipality or records maintained in the county courthouse or by the clerk of court; provided, however,

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.

Municipality or City means the City of Stonecrest, Georgia.

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

Public authority means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county, or state) relating to health, fire, life safety, building regulations, or to other activities concerning dwellings, buildings, or structures, or use of private property within the city.

Public officer means the City Manager or his/her designee.

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.

Sec. 7-232. - Duty of owners of real property and structures thereon.

It is the duty of the owner of every dwelling, building, structure, or private 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 laws and ordinances which regulate and prohibit activities on private property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or to use private property in violation of such codes, laws or ordinances.

Sec. 7-233. - Declaration of public nuisance.

Every dwelling, building, or structure within the City which (i) is constructed or maintained in violation of applicable codes in force within the City; (ii) is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces; (iii) poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe; (iv) is vacant and used in the commission of drug crimes; (v) is occupied and used repeatedly for the commission of illegal activities, including facilitating organized crime or criminal enterprises, after written notice to the owner of such activities conducted therein; (vi) is abandoned; or (vii) otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, is hereby declared a public nuisance. Every private property within the City on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including the zoning ordinance of this city, is hereby declared to be a public nuisance. Property which may be deemed esthetically substandard or deteriorating shall not meet the definition of a public

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nuisance unless the overall condition or use of the property results in impaired health, safety, transmission of disease, infant mortality, or crime.

Sec. 7-234. - Powers of public officers or his/her designees.

A. In carrying out their duties pursuant to this article, the public officers or their designee(s) to whom their authority is assigned shall, in addition to those powers otherwise conferred upon or delegated to them by the Charter and other ordinances of the City, be empowered to:

1. Investigate and inspect the condition of dwellings, buildings, structures, and private property within the city to determine those structures and property uses in violation of this article. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists.
2. Retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveys, accountants, and attorneys.
3. Appoint and fix the duties of such officers and employees of the city as they deem necessary to carry out the purposes of this chapter; and
4. Delegate any of their functions and powers under this article to such officers, employees, and agents as they may designate.

B. In addition to the procedures set forth in this article, the public officers or their designee(s) may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions declared to constitute a public health or safety hazard or general nuisance, and to seek enforcement of such citations before the municipal court prior to issuing a complaint in rem as provided in this chapter. Nothing in this chapter 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 other summary proceedings.

Sec. 7-235. - Complaint in rem in municipal court; procedure; lien; appeal.

A. Whenever a request is filed with a public officer by a public authority or by at least five (5) residents (each living in a different household from the others) of the municipality 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 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 make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his or her findings. Such officer shall be guided in his or her investigation by documenting conditions, which include but are not limited to:

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 by failure to conform to applicable codes and ordinances;
5. Structural defects which render the structure unsafe for human habitation or occupancy;
6. Uncleanliness (in an unsanitary state); and/or
7. The presence of graffiti which is visible from adjoining public or private property.

B. If the public 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 shall file a complaint in rem in the municipal court of the city 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 in such dwelling, building, or structure, as well as a lis pendens to be filed in the Superior Court of DeKalb County. 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 county or municipality 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 the proper 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 the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

1. If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling,



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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 city violation; and if applicable, to secure by closing 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 such dwelling, building, or structure and all debris from the property.

For purposes of this 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; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building, or structure shall not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the graffiti. 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. Title 43, Chapter 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 jurisdiction.

- D. If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days of 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 subsection C of this section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action shall 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 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 such cost was incurred.
- G. The lien provided for in subsection F 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 in DeKalb County and shall relate back to the date of the filing of the lis pendens notice required under subsection B. The clerk of superior court shall record and index such certified copy of the order in the deed records of the 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. After filing a certified copy of the order with the clerk of superior court, the public officer shall, within 90 days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.
- H. 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 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. § 48-4-5; 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; provided, further, that 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. The tax commissioner may initiate enforcement of liens imposed under this section at any time following receipt of the final determination of costs from the public officer. 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.
- I. The tax commissioner shall remit the amount collected to the governing authority of the municipality whose ordinance is being enforced. The tax commissioner may retain an amount equal to the cost of administering collection of the lien. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
- J. The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the 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.
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**K. 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.**

**Sec. 7-236. - Service of complaints or orders upon owners and parties in interest.**

**A. Summons and copies of the complaint shall be served in the following manner:**

- 1. In all cases, 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;**
- 2. At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons shall also be mailed by first-class mail to the property address to the attention of the occupants, if any;**
- 3. 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 such county once a week for two consecutive weeks prior to the hearing; and**
- 4. A notice of lis pendens shall be filed in the office of the clerk of superior court in which the dwelling, building, structure, or property is located at the time of filing the complaint in municipal court.**

**B. The public officer shall cause an affidavit of service to be filed of record in the municipal court prior to the hearing showing compliance with the service requirements of this section. Such affidavit shall constitute a prima facie showing of minimum procedural due process and shall constitute sufficient proof that service was perfected.**

**C. Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on every 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.**