

MANSFIELD ORDINANCE TO ADDRESS NUISANCE UNFIT PROPERTY; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES. BE IT ORDAINED BY MANSFIELD MAYOR AND COUNCIL, AND IT IS SO ORDAINED.

Section. 1 Jurisdiction

The Municipal Court (via the Magistrate Court by Agreement) shall have jurisdiction to try issues concerning the existence and abatement of public nuisances within the geographical limits of the City in accordance with the provisions of OCGA tit. 41, Ch. 2.

Section. 2 Determination of Necessity; Power Conferred

A. This is adopted per the authority granted by OCGA 41-2-1, *et seq.* for the purpose of maintaining the health and cleanliness of the City, 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. It is found and declared that in the City there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and/or not in compliance with the 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 that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

B. It is found and declared that 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.

C. Whenever the Code Enforcement Officer finds that there exist dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and 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 where 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, power is conferred upon the City to exercise its police power to repair, close, or demolish such dwellings, buildings, or structures in the manner provided in this article.

D. All the provisions of this article and OCGA 41-2-8 through 41-2-17, including method and procedure, may also be applied to private property where 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. 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 article.

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

1. Investigate the conditions in the City 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;
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 the purposes of this Article; and
4. Delegate any of his functions and powers under this Article to such officers and agents as he may designate.

### Section. 3 Definitions

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

1. Applicable Codes.

Any optional housing or abatement standard provided in OCGA tit. 8, ch. 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 codes as provided for in OCGA tit. 25, ch. 2; and any building codes adopted by the City, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed, unless otherwise provided by law.

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

3. Code enforcement officer means officer authorized by this article to exercise the powers prescribed by this article or any agent of such officer or officers and/or any officer who is in charge of any department or branch of the City, county or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the City.

4. Drug Crime. An act which is a violation of OCGA tit. 16, ch. 13. art. 2, known as the Georgia Controlled Substances Act.

5. Dwellings, Buildings, or Structures. 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.

6. Governing Authority. The Mayor and Council of the City of Mansfield, Georgia.

7. Municipality. The City of Mansfield, Georgia.

8. Owner. The holder of the title in fee simple and every mortgage of record.

9. Parties in Interest.

a. Persons in possession of such property and premises;

b. 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 structure is situated or upon which the public health hazard or general nuisance exists, based upon a fifty (50) year title examination conducted in accordance with the title standards of the State Bar of Georgia;

c. Persons having paid an occupational tax to the City of Mansfield for a location or office at the subject building or structure; or

d. Persons having filed a property tax return with the Mayor and City Council as to the subject property, building, or structure.

10. Public Authority. Any member of a governing authority, or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or city.

11. Repair. 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.

12. Resident. Any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

#### Section. 4 Procedures for Abatement of Nuisances

A. It is the duty of the owner of every dwelling, building, structure, or property in the City to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the jurisdiction, 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. It shall be unlawful and a misdemeanor for any owner, whether directly or through an agent, to own any 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; 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.

C. The Code Enforcement Officer is designated and appointed to exercise the powers prescribed by this article. When a request is filed with Code Enforcement by any public authority

or by at least 5 residents of the City charging that a 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 commission of drug crimes; or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions, Code Enforcement shall make an investigation or inspection of the dwelling, building, structure, or property.

D. If the Code Enforcement 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 Code Enforcement 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.

E. The complaint shall:

1. Identify the real property by appropriate street address and tax map reference;
2. Identify the owner and parties in interest;
3. State with particularity the basis for the action;
4. Contain a statement of action sought by Code Enforcement to abate.

F. The summons shall: notify the owner and parties in interest 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 or more than 45 days after the filing of such complaint in the Municipal 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.

G. 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 is 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 showing the following:

1. If the repair, alteration, or improvement of the 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 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. 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 state appraiser classification as provided in OCGA 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 jurisdiction; or

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.

4. Notwithstanding the requirements and findings and in addition to the above paragraphs 1 and 2, the Municipal Court may levy a fine up to the amount of \$1000.

H. If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the Code Enforcement Officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Time during any court stay on abatement shall not count toward said 270 days. The Code Enforcement 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".*

I. If the Code Enforcement 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 Code Enforcement 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.

### Section. 5 Establishment of Lien

- A. 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.
- B. The lien provided for in this article 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 the county where the real property is located and shall relate back to the date of the filing of the *lis pendens* notice required under this article. 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, and within 90 days of the repair, demolition or closure, the Code Enforcement Officer shall forward a copy of the order and a final statement of costs to the City Clerk and to the county tax commissioner.
- C. It shall be the duty of the City Clerk and/or 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 OCGA tit. 48, ch. 4, provided, however, that the limitation of OCGA 48-4-78, which requires 12 months of delinquency before commencing a tax foreclosure, shall not apply. The City Clerk and/or the county tax commissioner shall remit the amount collected to the City. 30 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.
- D. The City Clerk and/or tax commissioner shall collect and retain an amount equal to the cost of administering a lien authorized by this article unless such costs are waived by resolution of the City. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
- E. The City may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the City agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
- F. The redemption amount shall be the full amount of costs as determined above, plus interest, penalties and costs incurred by the City and the tax commissioner and the enforcement of such lien. Redemption of property from the lien shall be per OCGA 48-4-80, 81.
- G. A review of the court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by a *de novo* proceeding in the superior court under Code Sections 5-3-4 and 5-3-5.

### Section. 6 Service of Complaints

Complaints issued by the Code Enforcement Officer per this article shall be served in the manner in this Section. In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, or structure within three (3) 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 be served in one of the following ways:

(1) At least 14 days prior to the hearing, the Code Enforcement Officer shall send the complaint and summons via certified mail, return receipt requested, or statutory overnight delivery to all interested parties whose identity and address are reasonably ascertainable. 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 the sheriff's advertisements appear in the City once a week for two consecutive weeks prior to the hearing.

(2) Copies of the petition shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any.

A notice of *lis pendens* shall be filed in the office of the clerk of Superior Court of the county 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.

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.

#### Section. 7 Standards for Determination of Nuisances

A finding of noncompliance of any building, fire, health, sanitation, or life safety code, regulation or ordinance adopted by the Mayor and Council shall constitute *prima facie* evidence that a public nuisance exists.

The code enforcement 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 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 dilapidation and specified code violations, plus without limiting the generality of the preceding, the following conditions are subject to abatement:

- A. Defects increasing the hazards of fire, accidents, or other calamities, including improper storage of materials on the premises;
- B. Lack of adequate ventilation, light or sanitary facilities;
- C. Dilapidation and disrepair, including those structures which have been damaged by fire, wind, or other causes such that the external structure and roof have been destroyed or structural members weakened;
- D. Sanitation problems and general uncleanliness, including improper keeping of pets and animals on the premises, and improper disposal of human and animal waste;
- E. Accumulation of trash, weeds (having a height of twelve inches [12"] or more), debris, junk as defined, filth, standing or stagnant water, and other unsafe conditions; weeds are further

defined to include un-mowed lawns, excessive growth of underbrush when determined to be in non-compliance by Code Enforcement and as specifically defined and described in the Code.

F. 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 such municipality such as:

- (1) Disrepair, structural defects or uncleanliness;
- (2) 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;
- (3) Due to their unsafe condition the supporting structure and/or nonsupporting enclosing or outside walls must be replaced;
- (4) 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;
- (5) 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 City;
- (6) 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);

G. Vacant dwellings, buildings, or structures in which drug crimes are being committed;

H. 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. 8 Revenues, Grants and Donations to Repair, Close or Demolish Unfit Structures

The City 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.

State law reference - Similar provisions, OCGA 41-2-15.

#### Sec. 9 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 Article 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."

B. If such finding is contested by the occupants of the structure, then the code enforcement officer shall request an immediate hearing before the judge of the municipal 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 Article.

#### Sec. 10 Construction of this with Charter and Other Laws, Ordinances, Regulations

Nothing herein shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of the Charter or its ordinances or regulations,



nor to prevent or punish violations thereof; and the powers conferred herein shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

Sec. 11

If any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjunction shall in manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally part thereof. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

THEREFORE, BE IT RESOLVED, that the Mansfield City Council does hereby ordain, resolve and enact foregoing Ordinance for the City.

Adopted after a first reading on March 11, 2024, a second reading April 8, 2024, and a third reading on this 13<sup>th</sup> day of May, effective this date.

MANSFIELD CITY COUNCIL

BY:



Mayor

ATTEST:



(City Clerk)

